

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13317 of First Baptist Church of Washington, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the open court requirements (Sub-section 4305.1) for a proposed addition to the church in an SP-1 and SP-2 District at the premises 1326 - 16th Street, N.W., (Square 181, Lots 28-30, 855-858,861 and 852).

HEARING DATE: July 30, 1980

DECISION DATES: September 3 and October 1, 1980

FINDINGS OF FACT:

1. Prior to the hearing, the applicant requested the Board to consider a variance from the closed court requirement in addition to the open court variance requested in the original application. The closed court requirements for the SP District are set forth in Sub-section 4305.1, the same sub-section cited in the advertisement. The standard against which a variance is to be judged, Paragraph 8207.11 of the Regulations, is the same regardless of the variance requested.

2. The Zoning Review Branch originally determined that the relief required would be by way of a variance from Sub-section 4305.1 of the Zoning Regulations. The case was so advertised. Subsequent review by counsel for applicant and the Chief of the Zoning Review Branch revealed that relief could be granted as a special exception under Sub-section 4305.3, which allows waiver of the minimum court width requirements.

3. The Board allowed the applicant to present its case and reserved judgement on whether a special exception rather than variance relief was appropriate, until evidence was presented as to the applicant's compliance with the conditions of Sub-section 4305.3.

4. The subject property is located on the south side of O Street and includes all the property between 16th and 17th Street, N.W. Pursuant to Zoning Commission Order No. 282, dated June 14, 1979, all of the applicant's property included in this application except Lots 28 and 29 was rezoned from SP-2 to SP-1. Lots 28 and 29 continue to be zoned SP-2.

5. The property is presently improved with a three story plus basement brick building, fronting on 16th Street known as 1326 - 16th Street, N.W. The building is used as the First Baptist Church of Washington, and contains church and church office functions. The building was constructed in 1955. The remaining property to the west of the building is used as a surface parking lot.

6. The applicant proposes to build a Sunday School addition immediately to the west of the existing church facility. The gross floor area of the proposed addition is 31,439 square feet.

7. The land on which the Sunday School is proposed to be erected is presently utilized as a parking lot for members of the congregation. In BZA Appeal No. 13012, the Board granted approval for continuation of the lot for a three year period but denied the applicant's requested variance for operation of the subject lot as a commuter parking lot. The Board's determination in that case is the subject of an appeal in the District of Columbia Court of Appeals at present.

8. The proposed addition has been planned for several years. Actual construction has been delayed until such time as the congregation raised sufficient funds to pay for the building. The congregation is presently ready to go forward with the project. The applicant has been forced to hold its Sunday School classes in the chancel of the church itself and in space rented from neighbors, in order to meet the congregation's increased needs.

9. The proposed addition will match the existing church facility in style and building materials, and will have contiguous floor levels. It will contain Sunday School educational facilities for kindergarten through high school grades, a library, and some recreational and social facilities for church-related group meetings. It will also contain some office facilities for church staff members. However, none of the offices will face the interior courtyard proposed by the applicant, and the various facilities abutting the court will not all be used simultaneously. The proposed addition is neither an office building nor an apartment house. The proposed addition is an addition to the church.

10. The applicant does not anticipate future growth requiring increased lot occupancy. Rather, the proposed addition is designed to meet any possible future expansion needs by adding on one or two more stories. The proposed addition is well below the maximum FAR and height requirements.

11. The proposed east wall of the new addition would fully extend to the south lot line on the subject site, approximately 11.59 feet further south than the existing west wall of the church building. Since the existing church building was not built face-on-line to the south lot line, erection of the proposed addition would turn the space south of the existing building into a non-conforming open court at this juncture, measuring 11.59 feet in width rather than the thirty feet required pursuant to Sub-section 4305.1.

12. The lower two levels of the existing west facade of the church project further to the west than do the upper two stories of the existing church building. The proposed addition will enclose that area and make it a closed court. The upper portions of the proposed closed court are in conformance with the minimum court width requirements, measuring 30.5 in width. The length of the court is approximately fifty-one feet. However, the lowest level of the court will have a dimension of only 22.5 feet, less than the thirty feet normally required.

13. The southern lot boundaries of the subject site are irregularly shaped adjacent to a public alley, which runs north from Massachusetts Avenue and parallel to 16th Street, then turns ninety degrees and runs in a slightly zigzagged manner west towards 17th Street, N.W.

14. A landscaped pedestrian way exists between the existing church facility and the adjacent Australian Embassy building to the south of the subject site. The pedestrian way runs between 16th Street, N.W. and that point where the public alley turns from its north-south direction to run westerly out to 17th Street. This landscaped area lies jointly on the applicant's and the Australian Embassy properties and is maintained by an agreement between the applicant and the Embassy.

15. Substantial open space exists at the proposed juncture between the existing building and the new addition, because of the width of the public alley and the open space between the Australian Embassy and the existing church.

16. A representative of the owner of the Forest Industries Building, which abuts the alley opposite the proposed addition on the south, testified that it had no objection to the proposed addition.

17. The Board finds that the proposed addition will not adversely affect the light, air or ventilation of adjacent structures abutting the alley.

18. Since the length of the interior court is fifty-one feet, the actual square footage of open area on the lower level is about 1150 square feet, in excess of the minimum 900 square feet required by the Zoning Regulations.

19. The courtyard windows do not open on office spaces, but rather community areas such as library or classrooms; therefore, no intrusion on private areas occurs.

20. The project architect testified and the Board finds that as a result of the propose addition no apartment window will be located within forty feet directly in front of another window or within eighteen feet of a blank wall and no office window shall be located within thirty feet directly in front of a window nor within eighteen feet of a blank wall.

21. Representatives of ANC 2B and the Dupont Circle Citizen's Association appeared in opposition to the subject application. The ANC representative submitted written testimony to the Board. The ANC's concerns centered on possible utilization of part of the remaining area for parking and its desires to have the remaining portions of the lot instead be utilized for residential development. A representative of the Dupont Circle Citizen's Association stated that the proposed addition would interfere with the light, air and ventilation of the Forest Industries Building across the public alley to the south, in spite of the fact that a representative of the owner of that building appeared in support of the subject application.

22. The application was also apposed by the owner of property located at 1530 O Street, N.W. This owner objected to the Board considering any application from the subject applicant while the applicant continued to operate a parking lot in apparent violation of orders of the Board.

23. In responding to the issues and concerns raised by the individuals and groups in opposition, the Board finds as follows:

- (a) The issue before the Board in this application is whether to grant a special exception or variance to allow the applicant to construct an addition to the existing building with two courts which do not meet the normal minimum width requirements. Whether the applicant plans to develop the remaining portion of its property is not material or germane to the application.

- (b) The adequacy of light and air to the adjoining building has been dealt with in previous findings. In addition, the Board finds that the existing area between the two buildings, which is one of the courts in question, will not be decreased by the applicant.
- (c) The orders of the Board denying in total and in part two parking lot applications filed by the applicant have been appealed to the District of Columbia Court of Appeals by the applicant. Whether action is to be taken to force termination of those lots pending a decision by the Court on the appeals is not in the hands of the Board. The Board further notes that it is bound to decide a case on the basis of the requirements of the Zoning Regulations. The other actions and credibility of the applicant are not at issue herein.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that both requested variances deal with the same section of the Regulations. The Board concludes that all of the testimony and evidence presented was reasonably directed at both the special exception and variance issues. The Board concludes that sufficient notice was available to all parties of the issues at hand in this case.

Based on the evidence of record, the Board concludes that the applicant has met the conditions of Sub-section 4305.3 allowing the Board to grant a waiver of the minimum court width requirements of Sub-section 4305.1. Accordingly, the Board has addressed the applicant's request as one for a special exception pursuant to Sub-section 8207.2 rather than variance relief in accordance with the provisions of Paragraph 8207.11.

As to the open court, the existence of the landscaped area and the public alley between the abutting property to the south of the church creates open space allowing sufficient light, air and ventilation to and safeguarding the privacy of existing surrounding users.

As to the interior court, the greater width of the courtyard dimensions on the upper levels and the length of the court on all levels sufficiently safeguards the privacy of church members utilizing the existing and proposed facilities facing the proposed court. The overall square footage of open area in the court on all levels adequately provides light, air, and ventilation to the proposed public activity and class room facilities on the lower two levels.

Therefore, granting the special exception for both the open court and the interior court is in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely surrounding property use in accordance with the Zoning Regulations.

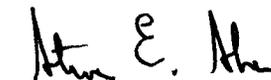
The Board has given great weight to the concerns by the ANC representative. The concerns expressed by both the ANC and the Dupont Circle Citizen's Association in opposition to this application centered on possible accessory parking use and future development of the remaining portion of the subject site. In particular, the ANC desired that those presently unbuilt portions of the subject site be used for residential development. These concerns not germane to the subject application. The use of this parcel by the applicant for church and related purposes is a matter of right. The applicant is under no obligation to sell off its property for residential development.

In light of the foregoing findings and conclusions, the Board concludes that it is not required to address the issue related to variance relief, since the applicant has met the requirements for the granting of a special exception. Accordingly, it is ORDERED that the application is hereby GRANTED as a special exception.

VOTE: 4-0 (William F. McIntosh, Charles R. Norris, Connie Fortune and Leonard L. McCants to grant, Theodore F. Mariani not voting not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 1 DEC 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13317, of First Baptist Church of Washington, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the open court requirements (Sub-section 4305.1) for a proposed addition to the church in an SP-1 and SP-2 District at the premises 1326 - 16th Street, N.W., (Square 181, Lots 28-30, 855-858, 861 and 852).

HEARING DATE: July 30, 1980

DECISION DATES: September 3 and October 1, 1980

DISPOSITION: The application was GRANTED as a special exception under Sub-section 4305.3 of the Zoning Regulations by a vote of 4-0 (William F. McIntosh, Charles R. Norris, Connie Fortune and Leonard L. McCants to GRANT; Theodore F. Mariani not voting, not having heard the case).

FINAL DATE OF ORDER: December 1, 1980

ORDER

The opposition filed a timely motion for Reconsideration and STAY of the Board's Order of December 1, 1980 granting the subject application. The basis for the motion for reconsideration was that the Board erred in granting the special exception since by so doing, the Board in effect rewarded the applicant for violating the Board's Orders Nos. 13012 and 13096. Those Orders denied applications by the same applicant to continue operations of parking lots on the very same lot which is the subject of this application and a lot within one block of the site. The opposition argued that approval of this application would not be in harmony with the statutory purpose of the Zoning Regulations. The opposition further requested the Board to enter an interim STAY on the effectiveness of the Board's Order until the motion for Reconsideration is considered by the Board to prevent the applicant from applying for and receiving permits while the motion was being considered. Upon consideration of the movant's motions and the applicant's response thereto, the Board concludes that the opposition raises no new issues which the Board had not previously addressed and that the Board committed no error in deciding the subject application.

The issues of the movant were presented thoroughly at the public hearing. No materially different evidence has been submitted in support of movant's motions that the Board had not considered previously. The issues were addressed in the Order. Accordingly, it is ORDERED that the MOTION for RECONSIDERATION is DENIED. The MOTION to STAY is therefore MOOT.

VOTE: (3-0 (William F. McIntosh, Charles R. Norris and Connie Fortune to DENY; Theodore F. Mariani and Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 23 JAN 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."