

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13777, of the Holy Temple Church of Christ, Inc., pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3101.42 to operate an elementary school and an evening adult education/high school equivalency program and for a variance from the on-site parking requirements (Sub-section 7202.1) in an R-4 District at the premises 435-439 12th Street, S.E., (Square 992, Lot 825).

HEARING DATE: June 23, 1982  
DECISION DATES: August 4 and September 1, 1982

FINDINGS OF FACT:

1. The subject property is located at the northeast corner of the intersection of E and 12th Streets and is known as premises 435-439 12th Street, S.E. It is in an R-4 District.

2. The subject site is developed with a large brick church building which occupies nearly all of the lot area. The church consists of a main sanctuary with a basement and an education center which is four stories high.

3. North of the site are row dwellings in the R-4 District. East of the site across 12th Street is Watkins Elementary School in the R-4 District. Southeast of the site across E Street is Sheltons Market grocery store in the C-2-A District. South of the site across E Street is a public park area followed by the Pennsylvania Avenue commercial corridor in the C-2-A District. West of the site are row dwellings in the R-4 District.

4. The applicant proposes to use the education center for an elementary school and an evening adult education/high school equivalency program.

5. The elementary school will have a maximum enrollment of 100 students with six teachers, operational Monday through Friday between 8:30 A.M. and 3:00 P.M.

6. The evening adult school will have a maximum enrollment of fifty adults with three teachers, operational Tuesday and Thursday evenings from 6:30 P.M. to 9:00 P.M.

7. The building is large enough to accommodate both schools during the hours they will be operated. Restrictions proffered by the applicant and to be imposed by the Board as to hours of operation and number of students will minimize adverse effects because of noise and number of students.

8. Under the Zoning Regulations four parking spaces will be required for the elementary program and seven spaces for the evening adult school. The applicant can provide no on-site parking. The applicant seeks a variance from the parking requirements.

9. Because of the lot occupancy of the existing building, there is no outdoor space available on the lot to provide the required parking. There is no practical way to provide parking on the site or in the building.

10. The applicant has made arrangements to provide parking for the schools off the site. As to the elementary school program, the Church has entered into a lease with an Exxon service station located at 1201 Pennsylvania Avenue, S.E., one block from the subject site, granting the Church six parking spaces between 8:00 A.M. and 4:30 P.M., Monday through Friday for a period of three years. As to the evening adult program, the Church has entered into a lease with Frager's Hardware Store located at 1113-15 Pennsylvania Avenue, S.E., one block from the subject site, for twelve parking spaces between 6:15 P.M. and 6:30 A.M., Monday through Saturday and all day on Sundays for a period of two years. The applicant also has a lease with the Salvation Army permitting the Church to lease ten parking spaces between 8:00 A.M. and 10:00 P.M., Monday through Friday for a period of two years. The Salvation Army is located at 1211 G Street, S.E., two and one half blocks from the subject site.

11. The parking spaces provided by the applicant are sufficient to meet the normal needs of the schools. The area is also well served by public transportation, including bus routes on Pennsylvania Avenue and Metrorail at Eastern Market and Potomac Avenue.

12. The Office of Planning and Development, by report dated June 18, 1982, recommended that the application be approved. The OPD reported that the applicant's proposal to operate an elementary school and evening adult school meets the criteria of Paragraph 3101.42 and Sub-section 8207.2 of the Zoning Regulations which requires findings that no objectionable conditions impact on the adjoining and neighboring property. As to the parking variance, OPD believed that the applicant is faced with a practical difficulty in placing the required parking on-site. The OPD was of the opinion that the applicant should provide the

required number of spaces for the programs elsewhere off-street so as to negate any objectionable traffic problems on the surrounding streets. The Board concurs in the OPD recommendation.

13. The Capitol Hill Restoration Society by letter of June 21, 1982, reported that it supported the special exception since the proposed use represented a substantial potential benefit to the community. It further reported that while the Society found no opposition to the proposed use from the affected neighbors, it should be pointed out that no advance notice of this application was received by the neighbors the Society was able to reach the Society's telephone call was their only notice. On the application for a variance from the parking requirement that accompanies the request for a special exception, the Society took "no position". Again, this was based on a lack of any opposition from the neighbors.

14. There were many letters in opposition to the application. There were also many letters in favor of the application. The basic grounds for the opposition were increased parking problems, additional noise and confusion and that the Church has not been a good neighbor. The opposition alleged that the Church is noisy with its many late activities and that the new proposals will further add to these problems. The opposition complained that the Church members double park and use up parking places that should be available to people who live in the community. The main concern was a new traffic impact on the community.

15. The Church, in response to the opposition's concerns, replied, by letter of June 18, 1982, that it realized it had contributed to parking problems in the past, and pledged to help alleviate previous problems and not add to them in the future. As set forth in Finding No. 8, the Church leased available parking spaces in the neighborhood. The Church further stated its intention to end its services earlier, to exit the neighborhood in a quiet and orderly manner and to supervise its students so that they don't create litter in the area. The Church further indicated that there will be a representative of the Church on the site twelve to eighteen hours a day, seven days a week, to help enforce its commitments. The Board finds that the Church has made a reasonable good forth effort to respond to the concerns raised by the opposition.

16. Advisory Neighborhood Commission 6B, by letter of June 22, 1982, reported that at its meeting on Tuesday, June 15, 1982, and with a quorum present, it voted 6 yeas, 5 nays, to support the application with the following conditions:

1. The elementary school will not have over 100 pupils and 6 teachers.
2. The adult/evening school will not have over 50 students and 3 instructors.
3. The applicant must rent or have available 6 off-street parking places.
4. The application is granted for a period of two years.

The ANC heard much testimony both in committee and at the commission meeting. There were neighbors both for and against the application. Neighbors testified that a parking problem already exists and that the evening school would only add to this problem. The applicant offered to find at least six off-street parking spaces to at least have parking for staff. Neighbors questioned where the elementary school children would play. The applicant stated that agreement had been reached to use the playground at Watkins and Buchanan Schools, both within short walking distance. There was no question that the Church could not physically handle both schools. The opposition centered around the anticipated parking problems with the evening/adult school. The ANC felt that both sides compromised and that the conditions reached at the ANC meeting would benefit both factions. The ANC would also like the applicant to return before the Board of Zoning Adjustment in two years, to give the neighbors and the community the opportunity to re-evaluate the situation and determine that the application does not have an adverse affect on the community.

17. The Board concurs in the ANC recommendation except as to the time period for the grant. The Board is of the opinion that a three year period is more appropriate because that is the length of time for the basic lease of the elementary school program with the aforementioned Exxon station for parking.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception and a variance. The special exception can be granted provided the applicant meets the requirements of Paragraph 3101.42 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof. The schools are not likely to be objectionable because of noise, traffic or number of students. Adequate parking has been secured off-site. As to the variance, the Board concludes that this is an area variance, the granting of which requires proof of a practical difficulty inherent in the property itself. As found, the subject structure occupies nearly all of the lot

area. No on-site parking can be provided. The Board concludes that the practical difficulty exists. The Board further concludes that as hereinafter conditioned the relief can be granted without effecting adversely the use of neighboring property and without substantial detriment to the public good.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. The Board concludes that the applicant has reasonably met the concerns of the opposition, and that the application can be approved for an initial three year period. An assessment of the schools as actually operated can be made at the end of that period.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of THREE YEARS from the date of this Order.
2. Approval shall be limited to the operation of the schools by the Holy Temple Church of Christ, Inc.
3. The elementary school shall have a maximum enrollment of 100 students and a maximum of six teachers. Its hours of operation shall not exceed from 8:30 A.M. to 3:00 P.M., Monday through Friday.
4. The adult education/high school equivalency program shall have a maximum enrollment of fifty adults and a maximum of three teachers. Its hours of operation shall not exceed from 6:30 P.M. to 9:00 P.M., Tuesday and Thursday only.
5. Parking shall be provided in accordance with the applicant's letter of August 23, 1982, marked as Exhibit No. 52 of the record.

VOTE: 4-1 (Lindsley Williams, Connie Fortune, and Charles R. Norris to GRANT; William F. McIntosh to GRANT by PROXY; Douglas J. Patton OPPOSED).

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

ATTESTED BY:

  
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STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: SEP 24 1982

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.