

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14165, of the Marjorie Merriweather Post Foundation of Washington, D.C., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3101.1) to construct a gardeners' office and tool storage addition to an accessory building of an existing museum in an R-1-A District at premises 4155 Linnean Avenue, N.W., (Square 2245, Lot 800).

HEARING DATES: September 19 and October 10, 1984
DECISION DATE: October 10, 1984 (Bench Decision)

FINDINGS OF FACT:

1. The subject application appeared on the preliminary calendar for the public hearing of September 19, 1984. The applicant had failed to post notice of the public hearing on the property. At the September 19, 1984, public hearing a representative of the applicant requested a waiver of the posting requirement and testified that she had notified all owners of adjacent property by letter. The Board ruled that this was insufficient notice and that the property must be posted for fifteen days in accordance with Section 302.3 of the Supplemental Rules of Practice and Procedure before the BZA. The hearing was continued until the public hearing of October 10, 1984, to allow adequate time for the property to be properly posted.

2. In BZA Order No. 12297, dated April 15, 1977, the Board granted the applicant permission through a use variance to use the subject site as a museum. Among other conditions, the approval was limited to a period of five years. In BZA Order No. 13668, dated April 12, 1982, the Board granted the applicant a permanent use variance to permit the operation of the Hillwood Museum at the site, subject to eight conditions specified in the Order. That order also authorized the construction of buildings to house Indian artifacts and a tearoom/gift shop.

3. The Board incorporates by reference all of the findings of fact and conclusions of law contained in the prior Order Nos. 12297 and 13668, copies of which are attached hereto.

4. The applicant now proposes to construct a gardeners' office and tool storage addition to an accessory building of the museum. The subject gardeners' office and open storage

area are the northernmost structures on the Hillwood grounds. The gardeners' office site is located behind the existing green-house. The gardeners' building is approximately sixteen feet by thirty feet in dimension. Attached to this building is an open storage area, approximately thirty feet by sixteen feet proposed to be roofed over as part of this application. Both the gardeners' building and open storage are located on steeply sloped ground facing Rock Creek Park. The gardeners' office is one story in height with a lower level. The building is constructed of masonry.

5. The extensive grounds of the Hillwood Museum are tended by a staff of ten full-time gardeners and part-time gardeners as needed. At present, the gardening staff is housed in a stable building. The space that the gardeners occupy is the space where they repair lawnmowers and other heavy equipment and where they use cleaning materials. There is no proper ventilation in the stable and the gardeners are exposed to fumes and other health hazards. The gardeners now eat lunch in the same room where they repair equipment and store noxious materials. There is no separate place where they can eat.

6. At present, the gardening staff uses a small bathroom that adjoins one of the exhibit buildings, resulting in a cross-over of visitors with the gardening staff. The one available rest room is not adequate and when all ten of the gardeners take their breaks, a line forms to use the facility.

7. In recent years the Hillwood Estate has acquired some modern equipment that it previously had not required for gardening and snow removal. There are more pieces and larger pieces of equipment. As a result, the applicant does not have adequate existing space to house the equipment and provide a break area for the staff.

8. The applicant proposes to provide a lunch room, office, storage and restroom facility for the gardening staff by renovating and converting an existing accessory building on the site. The subject building is a one story masonry structure with a lower level and an open storage area attached. The office and lunch facilities would be located on the first floor and the restroom, shower, storage and equipment room would be located on the second lower level. An enclosed stairway would be added to the structure to connect the two levels so that the gardeners would not have to go outdoors to travel from one level of the structure to another. The stair would be located where the outdoor storage area is now located and would be constructed of brick.

9. There is no other location on the property where the gardeners' staff facility could be provided. All other

buildings on the site are used for exhibits or some other type of storage, and the other buildings do not have plumbing available to provide the necessary facilities for the staff. At the proposed location, the stairway addition is a necessity for the health of the gardeners because in inclement weather they would have to go outside of the building to go downstairs to use the restrooms.

10. The proposed facility and its proposed addition will have no impact on the surrounding area because the location is not visible from outside the estate and the proposed facility will be small. The enclosed stair would involve only 150 square feet. The existing structure to be renovated is a small shed. The proposed location for the gardeners' facility is in a wooded portion of the site and is more than 300 feet from any property line.

11. The applicant would have preferred that this relief had been part of the permanent variance that was granted in 1982. Subsequent to that application, the applicant discovered that a facility for the gardening staff would be needed. Failure to include the gardeners' staff facility in the prior application was an oversight.

12. The proper functioning of the museum depends on providing the proper facilities for the staff. Without the proposed facilities, the museum and its grounds would not function as provided for in the use variance granted by the BZA in its prior orders No. 13668 and 12297.

13. The Office of Planning, by report dated September 10, 1984, recommended that the application be approved. The Office of Planning was of the opinion that if this variance were not granted that the applicant would be faced with an undue hardship from his inability to effectively use and maintain the property as a museum as permitted by BZA Order No. 13668. The Office of Planning recommended approval of this application on the grounds that the variance will not cause substantial detriment to the public good. The Board concurs with the reasoning and the recommendations of the Office of Planning.

14. Mr. Leon Brown testified on behalf of Advisory Neighborhood Commission 3F and the Forest Hills Citizens Association in support of the application. Mr. Brown is the owner/occupant of a residence directly across the street from the Hillwood Museum. The supporters in both organizations noted that the Hillwood Museum has been a good neighbor and that people in the area consider it an asset to the neighborhood. The variance for the gardening staff facility was considered by both organizations to be minor, inoffensive, and necessary to the proper functioning of the museum. Both organizations recommended approval of the application.

The Board concurs with the reasoning and the recommendations of ANC 3F and the Forest Hills Citizens Association.

15. Two letters of support were submitted to the record by neighbors. The support was based on the opinion that the proposed structure is a very modest addition which is required to meet the functional needs of the Hillwood Museum and its grounds. The neighbors in support noted that Hillwood has been an excellent neighbor and that its beautiful grounds and priceless art treasures are an asset to the neighborhood. The Board concurs with the neighbors in support.

16. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires a showing through substantial evidence of a hardship upon the owner arising out of some unique or exceptional condition in the property so that the property cannot reasonably be used for the purpose for which it is zoned. The Board must further find that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Maps.

The Board concludes that the use variance granted in BZA Orders No. 13668 and 12297 provided that the entire site should be used for the purposes of Hillwood Museum and its support functions. This use variance was made permanent in BZA Order No. 13668, which was issued on April 12, 1982. The area of the site on which the proposed gardeners' staff facility would be located is included in this permanent use variance.

The Board concludes that the relief requested for the proposed gardeners' staff facility and the proposed addition for an enclosed stair connecting the two levels of the facility is an adjunct to the use variance now in effect for the site. In order to provide for the effective functioning of the existing museum use as provided for in the prior orders of the Board, the relief requested is a necessary adjunct of the prior grant. If the relief requested is not granted, the owners of the subject property would experience a hardship in attempting to use the property for the purpose intended by the Board.

The Board further concludes that this use variance can be granted without substantial detriment to the public good and without substantial impairment to the intent, purpose

and integrity of the zone plan. The proposed facility is located in the interior of the wooded estate and is buffered from nearby properties by dense woods.

Accordingly, it is hereby ORDERED that the application is GRANTED.

VOTE: 4-0 (William F. McIntosh, Charles R. Norris, Douglas J. Patton and Carrie L. Thornhill to grant; Maybelle T. Bennett not present, not voting)

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

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

FINAL DATE OF ORDER: 3 DEC 1984

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 CONSUMER AND REGULATORY AFFAIRS.

14165order/LJPA

Before the Board of Zoning Adjustment, D. C.

Application No. 12297

Application No. 12297 of The Marjorie Merriweather Post Foundation of D. C., pursuant to Section 8207.11 of the Zoning Regulations, for a use variance from the strict application of Section 3101.1 of the Regulations to permit the operation of a museum in the R-1-A District at the premises 4155 Linnean Avenue, N. W., Lot 800, Square 2245.

HEARING DATE: January 25, 1977

DECISION DATE: April 6, 1977

FINDINGS OF FACT:

1. The subject property is located in the R-1-A District which is the most restricted residential zone in the District of Columbia. The purpose of the R-1 District is to protect quiet residential areas, to stabilize such areas and to promote a suitable environment for family life. For these reasons, there are only a few uses, besides residential and compatible uses, which are permitted in the R-1-A zone. Uses permitted as of right in the R-1 District include churches, embassies and public schools.

2. The subject property consists of a large estate of approximately 24.5 acres and includes the main residence building, miscellaneous dependency buildings on the estate, and several formal gardens, as well as other open space and woodland. The estate was the residence of the late Marjorie Merriweather Post. Mrs. Post developed the estate to be a museum for her collections centered on the art of 18th Century France and that of Imperial Russia. The collections include paintings, porcelain, glass, jeweled articles, textiles and furniture.

3. In 1968, Mrs. Post deeded the estate and collections to the Smithsonian Institution, subject to her retention of a life-time interest. Upon her death in 1973, the Smithsonian began preparations to operate the estate as a public museum. On July 1, 1976, the Smithsonian, being unable to resolve all of its operational problems, returned Hillwood and its collections to The Marjorie Merriweather Post Foundation of D. C. (the Foundation) and the estate of Mrs. Post. The Foundation has decided to operate the estate as a specialized public museum with the endowment left by Mrs. Post for this purpose.

4. Parking for more than 300 automobiles exists on the estate. Prior to Mrs. Post's death in 1973, the estate employed between 50 and 60 persons. When operated as a museum,

there will be approximately 14 employees performing administrative, curatorial, security, housing and building maintenance functions, six employees to tend the gardens and grounds, plus occasional temporary help for those purposes, and a volunteer docent staff of six.

6. The foundation plans to operate the museum on a pre-arranged group tour basis. Visitors will only be allowed on the grounds by arranging in advance a space on scheduled daily tours. Such daily tours will be limited to no more than eight (8), with each tour accommodating a maximum of 25 people. Each tour will be further broken down into three or four individual groups each accompanied by a trained guide. The hours of operation will be from 9:00 A.M., when the first tour will be scheduled, to approximately 6:00 P.M., five days a week. Current plans are to close Hillwood for maintenance on Tuesdays and Thursdays. All parking will be on the spaces already on the estate. These spaces are not visible from Linnean Avenue.

7. Hillwood will be used to display the art collections, gardens, and associated buildings which constitute the estate as a whole. The museum and grounds will only be used for such activities as directly support that purpose. Hillwood will not be available to any outside group for any type of social function.

8. This application has been reviewed by the Municipal Planning Office. That office has recommended conditional approval of the application. In addition, Advisory Neighborhood Commission 3-F, which encompasses Hillwood within its bounds, has adopted and submitted for the record a resolution supporting this application. The Forest Hills Citizens Association, which includes Hillwood within its area, at a general meeting on October 18, 1976, approved a resolution supporting the Foundation's application for a variance to operate Hillwood as a museum.

9. There was no opposition to the application and numerous letters of support were filed.

OPINION AND CONCLUSION OF LAW:

Based on the above Findings of Fact and the record, the Board is of the opinion that the requested use variance would be compatible with the R-1-A District. The proposed mode of operation of Hillwood will not constitute any greater intrusion in that residential district than uses permitted as of right such as churches, embassies and public schools. The requested variance will allow the preservation of this unique civic asset and its extensive grounds in their existing form.

The unique character of this museum, which could not be duplicated, derives from the combination of the collections, the buildings on the estate in which they are housed, and the surrounding gradens and grounds, all of which constitute a unified whole. The extraordinary and exceptional situation and condition of Hillwood results in peculiar and exceptional practical difficulties to and undue hardship upon the Foundation if the zoning regulations are strictly applied. Grant of a variance to operate the property as a museum will alleviate the hardship to the owners of the property, will not be a substantial detriment to the public good, and will not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations. Rather, it will be a positive contribution to the public good and promote the intent, purpose and integrity of the zone plan by promoting an attractive, livable and interesting city.

It is therefore ORDERED that the application be GRANTED FOR FIVE (5) years subject to the following conditions:

1. All parking shall be on the premises and not visible from public streets.
2. Visitors shall be admitted by appointment only.
3. No more than 200 visitors shall be allowed on any single day.
4. Visitors shall be limited to no more than 25 persons for each visitation period which shall be scheduled on a staggered basis during the hours of operation.
5. The museum shall open no earlier than 8:30 A.M. and no tour shall be scheduled to end later than 6:00 P.M.
6. The museum shall be open to the public no more than five (5) days a week.
7. The premises shall not be made available to any outside group for any type of social function.
8. Security for the premises shall be provided 24 hours a day, seven days a week.

VOTE: 3 and 1 - 0 (William F. McIntosh, Leonard L. McCants, Esq., Richard L. Stanton, and Lilla Burt Cummings, Esq.,) Lilla Burt Cummings, Esq., voting to grant for five (5)

years subject to conditions 1, 2, 3, 4, 5, 6, and
8 supra; condition seven (7) to be modified to state,
"There should be a reasonable use of the premises for
social functions!"

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

ATTESTED BY:



ARTHUR B. HATTON
Executive Secretary

FINAL DATE OF ORDER: April 15, 1977

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX
MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR
OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS
AFTER THE EFFECTIVE DATE OF THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13668 of the Marjorie Merriweather Post Foundation of D.C., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3101.1) to continue the operation of a museum and the construction of two buildings in an R-1-A District at the premises 4155 Linnean Avenue, N.W., (Square 2245, Lot 800).

HEARING DATE: February 10, 1982

DECISION DATE: February 10, 1982 (Bench Decision)

FINDINGS OF FACT:

1. By letter dated November 20, 1981, the applicant requested an expedited hearing on this case. The Board, at its public meeting of December 2, 1981, denied the request because it did not find the applicant's reasons to be of sufficient merit to warrant an advance of this application over other applications filed prior to this one.

2. The subject site is located between Linnean Avenue to the west and Broad Branch Road and Rock Creek Park land to the east. It is known as premises 4155 Linnean Avenue, N.W. It is in an R-1-A District.

3. The site consists of a large estate of 24.5 acres and includes the main residence building (the Hillwood Museum), gift shop building, dacha (the Russian Art collection), C.W. Post exhibit building and other miscellaneous buildings, formal gardens, open space and woodland.

4. In 1968, Mrs. Marjorie Merriweather Post deeded the estate and collections to the Smithsonian Institution, subject to her retention of a life-time interest. Upon her death in 1973, the Smithsonian began preparations to operate the estate as a public museum. On July 1, 1976, the Smithsonian, being unable to resolve all of its operational problems, returned Hillwood and its collections to the Marjorie Merriweather Post Foundation of D.C. The Foundation then decided to operate the estate as a specialized public museum with the endowment left by Mrs. Post for this purpose.

5. In BZA Order No. 12297, dated April 15, 1977, the Board granted the applicant permission to use the site as a museum. Among other conditions, the approval was limited to

a period of five years. The applicant is now seeking a permanent variance for the operation of the museum. In addition, the applicant is seeking a variance for the construction of two buildings to be accessory to the museum operation. The applicant plans to build a structure to house an Indian artifacts collection and a structure to serve as a tearoom gift shop. The Indian artifacts collection building is designed as a rough cut adirondack style cabin, built of log siding. The building will be located to the northeast of the existing Dacha building. The Indian artifacts collection building is proposed to be approximately thirty feet by fifty feet in dimension. The proposed tearoom/gift shop building will add a necessary service to the visitors of the estate not previously provided. The tearoom building would be constructed to blend with the other buildings on the estate, architecturally. The building will be a place for Hillwood visitors to rest, view the grounds and eat light refreshments served from a proposed kitchen. Restrooms will also be provided in the building. The building will be located in the center of the complex between the main residence to the west and an existing office building and parking area to the east.

6. There is adequate parking on the site for visitors and staff in compliance with Article 74 of the Zoning Regulations. There are two driveways leading to the parking area from Linnean Avenue. The applicant proposes to widen the driveway entrances and two bus bays will be provided in the parking area to eliminate bus-unloading impacts on Linnean Avenue and to discharge visitors closer to the museum. The site's heavy tree cover screens the development from neighboring properties and streets.

7. The Foundation will continue to operate the museum on a pre-arranged group tour basis. Daily tours will be limited to no more than eight. BZA Order No. 12297 limited the number of visitors to the site per day to 200 and the number of people per tour to twenty-five. The applicant proposes to increase the number of people per tour to thirty. The applicant does not propose to increase the number of visitors per day. Each tour group is separated into three or four individual groups, each group accompanied by a trained guide. The hours of operation will be from 9:00 a.m. to 6:00 p.m., five days a week.

8. Hillwood will be used to display the art collections, gardens, and associated buildings which constitute the estate as a whole. The museum and grounds will only be used for such activities as directly support that purpose. Hillwood will not be available to any outside group for any type of social function.

9. The Office of Planning and Development reviewed this application and recommended approval. The OPD was of the opinion that the previous Board findings in Order No. 12297 express the still valid hardship justification necessary to grant a use variance. The OPD further reported that the continued operation and construction of the two additional dwellings will not cause substantial adverse impacts on the surrounding area and will not substantially impair the intent, purpose and integrity of the Zoning Regulations. The Board concurs in the OPD report.

10. The applicant submitted a letter from Advisory Neighborhood Commission 3F dated September 15, 1981 in which the ANC recommending that the variance be extended on a permanent basis. However, the letter was unsigned. (Ex. #42-H-1). The Board is required by statute to give great weight to the issues and concerns of the ANC when the recommendation is reduced to writing and signed. This is not the situation in the subject application.

11. The Forest Hills Citizens Association, by letter dated November 9, 1981, supported the application on the grounds that the museum has proven to be an asset to the community and the requested tearoom and small shop will enable it to serve its clientele more generously.

12. There was no opposition to the application. Numerous letters of support were submitted for the record. Several neighbors appeared at the public hearing in support of the application. The basic grounds for support were:

- a. The museum is a unique and valuable cultural asset to the community.
- b. The use has existed for five years and has not presented a traffic problem or interfered with the residential character of the neighborhood.
- c. The proposed construction will enhance the enjoyment of the museum by visitors.
- d. Security at the museum adds to the protection of the neighborhood.

CONCLUSIONS OF LAW AND OPINION:

Based on the above Findings of Fact and the evidence of record, the Board is of the opinion that the requested use variance and the construction of two buildings would be compatible with the R-1-A District. The proposed continued operation of Hillwood and the construction of two buildings will not constitute any greater intrusion in that residential district than uses permitted as a matter of right such as churches, embassies and public schools. This

conclusion is based on the five year operating experience of Hillwood. A permanent variance will allow the preservation of this unique civic asset and its extensive grounds in their existing form. The construction of the tearoom and the small building to house an Indian artifacts collection will enhance the existing ambience of the site. The unique character of this museum, which could not be duplicated, derives from the combination of the collections, the buildings on the estate in which they are housed, and the surrounding gardens and grounds, all of which constitute a unified whole. The extraordinary and exceptional situation and condition of Hillwood results in peculiar and exceptional practical difficulties to and undue hardship upon the Foundation if the Zoning Regulations are strictly applied. Grant of a variance to operate the property as a museum will alleviate the hardship to the owners of the property, will not be a substantial detriment to the public good, and will not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations. Rather, it will be a positive contribution to the public good and promote the intent, purpose and integrity of the zone plan by promoting an attractive, livable and interesting city.

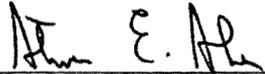
It is therefore ORDERED that the application be GRANTED subject to the following CONDITIONS:

1. All parking shall be on the premises and not visible from public streets.
2. Visitors shall be admitted by appointment only.
3. No more than 200 visitors shall be allowed on any single day.
4. Visitors shall be limited to no more than thirty persons for each visitation period which shall be scheduled on a staggered basis during the hours of operation.
5. The museum shall open no earlier than 8:30 a.m. and no tour shall be scheduled to end later than 6:00 p.m.
6. The museum shall be open to the public no more than five days a week.
7. The premises shall not be made available to any outside group for any type of social function.
8. Security for the premises shall be provided twenty-four hours a day, seven days a week.

VOTE: 5-0 (Walter B. Lewis, Douglas J. Patton, Connie Fortune, William F. McIntosh and Charles R. Norris to grant with conditions).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: APR 12 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.