

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15176 of the Somerset School, Inc., pursuant to 11 DCMR 3108.1, for a special exception under Section 207 to establish a private secondary school of 65 students and 8 teachers in the basement through second floors in an R-1-B District at premises 4842 - 16th Street, N.W., (Square 2654, Lot 34).

HEARING DATE: November 15, 1989  
DECISION DATE: December 6, 1989

FINDINGS OF FACT:

1. The subject site is located at the southwest corner of the intersection of 16th Street and Blagden Avenue, N.W. and is known as premises 4842 - 16th Street, N.W. It is in an R-1-B District.

2. The area in which the subject property is located contains buildings with a mixture of uses. Within 100 feet of the property on Blagden Avenue, in addition to residences, is the Zion Baptist Church, a day care center and a branch of the Metropolitan Police Boy's Club. In addition, there are numerous churches along Sixteenth Street in the immediate vicinity of the property. Sixteenth Street is a main corridor for traffic in and out of the District of Columbia.

3. The subject property is irregularly shaped, and almost triangular. The site slopes approximately eight feet from 16th Street to Blagden Avenue.

4. The subject property is improved by a large four-story structure with a stucco facade containing approximately 8,700 square feet of usable space. The site also contains a paved area to the south side and rear of the existing structure which provides parking for the vehicles.

5. The existing structure was built circa 1920 as a single family dwelling. The building subsequently was used as the embassy for the Haitian Government and a church prior to the establishment of the Somerest School at the premises in 1983 pursuant to BZA Order No. 13985.

6. BZA Order No. 13985, dated November 14, 1983, approved a special exception to establish the school at the subject site and a variance from the parking requirements. Condition (e) of the Order limited the approval of the parking variance to five years. The instant application seeks Board approval to continue the previously approved parking variance.

7. The Zoning Regulations require the provision of nine on-site parking spaces for the school. The applicant provides three parking spaces on site. Two of the spaces are used for parking school vehicles and the third space is reserved for visitor parking.

8. The enrollment at the school at the time of the public hearing was approximately forty students with five teachers. The maximum enrollment permitted at the facility is sixty-five students and eight teachers.

9. Students and teachers who drive to the facility park in the fringe parking lot at the Carter Barron Amphitheater/Tennis Stadium approximately two blocks north of the site. Approximately six to ten vehicles associated with the school are parked at the Carter Barron lot each day.

10. Students and teachers who drive to the facility are required to display a green and white "Somerset School" bumper sticker on vehicles driven to school. A fine is imposed by the school for any violations of the parking policy.

11. The applicant is unable to provide nine on-site parking spaces on site due to the irregular shape of the lot, the slope of the site, and the location of the building in relation to existing mature trees and other landscaping on the lot.

12. The Office of Planning (OP), by memorandum dated November 8, 1989, recommended that the application be conditionally approved. The OP was of the opinion that the applicant has met the requisite burden of proof. The OP recommended that approval be limited to three years, subject to the Conditions set forth in the Board's previous Order.

13. The subject property is located within the boundaries of Advisory Neighborhood Commission (ANC) 4C. By letter dated November 14, 1989 the SMD Commissioner of ANC 4C01 supported the granting of the application. The ANC Commissioner indicated that there have been no violations of the parking agreement by students or staff of the school and that the school has a positive impact on the community as a whole.

14. Advisory Neighborhood Commission (ANC) 4A, by letter dated November 7, 1989 and by representative at the public hearing, expressed its concerns related to the implementation of appropriate measures to ensure compliance with the conditions imposed by BZA Order No. 13985 with regard to landscaping and maintenance of the property. The ANC representative indicated that there was no objection to the continued use of the property for the school provided the applicant maintains the property in a well-kept condition.

15. The record contains a petition and several letters in support of the application from nearby residents and the Carter Barron East Neighborhood Association. The support was generally based on the positive impacts of the facility on the neighborhood and the lack of adverse impacts on parking in the area. The CBNA recommended that the conditions imposed in the Board's previous Order be continued.

16. The Rock Creek East Neighborhood League and the owner of the adjacent property at 4861 Blagden Avenue opposed the granting of the application. The opposition was generally based on the applicant's failure to landscape and fence the property in conformance with the conditions of the Board's previous Order, the storage of boats and derelict vehicles on site, and the failure of the applicant to keep the area free of trash and to maintain the property in keeping with the surrounding residential properties. The representative of the RCENL and the adjacent property owner both testified that they did not object to the use of the subject site for the school and that there was no problem with regard to violations of the parking arrangement. The adjacent property owner testified further that the applicant had made some efforts to improve conditions at the site since becoming aware of the concerns of the neighbors.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the foregoing Findings of Fact and evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires proof through substantial evidence of a practical difficulty upon the owner arising out of some exceptional or extraordinary condition inherent in the property itself. The Board further must find that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan.

The Board concludes that the applicant has met the requisite burden of proof. As found in the Board's previous Order, the irregular shape of the lot, the slope of the site, and the location of the building in relation to the existing mature trees and other landscaping on the lot restricts the number of spaces available on the site to three without variance relief for additional spaces. The Board concludes that this constitutes the practical difficulty. The applicant has instituted a parking policy requiring students and staff to park at the nearby Carter Barron Amphitheater parking lot which has proved satisfactory over the years. The Board is concerned about the implementation of all of the conditions of its previous approval and, therefore, believes that it must limit its approval to a period of five years in order to assess the impacts of the facility on the neighborhood. Accordingly it is hereby

BZA APPLICATION NO. 15176  
PAGE NO. 4

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

1. Approval shall be for a period of FIVE YEARS.
2. Three parking spaces shall be provided on-site with no enlargement of the existing paved area.
3. The conditions imposed in BZA Order No. 13985, dated November 14, 1983, shall remain in full force and effect.

VOTE: 4-0 (Charles R. Norris, Maybelle Taylor Bennett, Paula L. Jewell and William F. McIntosh to grant).

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

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER: AUG 16 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "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.

15176Order/SS/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15176

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 16 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Kathy Schlegel  
Somerset School  
4842 - 16th Street, N.W.  
Washington, D.C. 20011

Lela Y. Clayton  
4821 Blagden Avenue, N.W.  
Washington, D.C. 20011

Rosemary Wilson  
4861 Blagden Avenue, N.W.  
Washington, D.C. 20011

Judith Anderson, Chairperson  
Advisory Neighborhood Commission 4-A  
7600 Georgia Avenue, N.W., #205  
Washington, D.C. 20012

Charles Ostroskey, Chairperson  
Advisory Neighborhood Commission 4-C  
4020 - 8th Street, N.W.  
Washington, D.C. 20011

A handwritten signature in black ink, appearing to be "E. Curry", is written over a horizontal line.

EDWARD L. CURRY  
Executive Director

DATE: AUG 16 1991

15176Att/bhs