

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15386 of the Capitol Hill Day School pursuant to 11 DCMR 3108.1 for a special exception under Section 207 to allow a private school for 98 students in the basement through the second floor in a CAP/R-4 District at premises 214 South Carolina Avenue, S.E., (Square 765, Lot 802).

HEARING DATE: November 14, 1990
DECISION DATE: December 5, 1990

FINDINGS OF FACT:

1. The subject site is located in a CAP/R-4 District at premises known as 214 South Carolina Avenue, S.E.

2. The site is located in the Ward 6 neighborhood of Capitol Hill, in the Capitol Hill Historic District. The boundaries of the subject square are 3rd Street, S.E. to the east, 2nd Street, S.E. to the west, E Street, S.E. to the north and South Carolina Avenue, S.E. to the south. The site contains 2,302 square feet of land area. A 15-foot wide public alley abuts the property at the rear.

3. The lot is improved with a brick, two-story and basement row-dwelling constructed in 1913. The building was purchased in 1987 by the Capitol Hill Day School. It contains a basement unit and an upstairs unit and is currently leased as a two-family flat.

4. The Capitol Hill Day School is a private educational facility housed in the former Dent School located at 200 South Carolina Avenue, S.E. The school educates children from pre-kindergarten through the eighth grade. Pursuant to Board Order No. 14780, it can accommodate 225 pupils and a maximum of 38 staff. The facility is open between 8:00 A.M. and 6:00 P.M., Monday through Friday. School is in session from 8:30 A.M. to 3:00 P.M. for kindergarten through eighth grades and from 8:30 A.M. to noon for some pre-kindergarten students. There are 36 employees at the facility - 24 full-time and 12 part-time persons. There are 19 parking spaces provided on the existing site. The school has operated on this site since 1979.

5. By Order No. 14739, dated February 10, 1988, the Board denied the applicant's request to use the premises located at 214 South Carolina Avenue, S.E. to establish an elementary school. The Board concluded inter alia, that the noise and vibrations caused by the proposed use would be objectionable to the adjoining property owners. The Board also concluded that the expansion would be inconsistent with the purpose of the Zoning Regulations because it is ill-suited for this residential district and the proposal would adversely affect the use of adjoining property. There were also

issues raised by the neighbors that had not been adequately addressed by the applicant.

6. The applicant now proposes to use the space to expand the services of the main school. The facility will contain classroom space, space for tutorial work, a faculty resource area and rooms for administrative support. Upper grade students will use the building where classes in mathematics and the humanities will be held.

7. Section 207 of the Zoning Regulations provides as follows:

207.1 Use as a private school, but not including a trade school, and residences for teachers and staff of a private school, shall be permitted in an R-1 District if approved by the Board of Zoning Adjustment in accordance with the conditions specified in Section 3108 of Chapter 31 of this Title, subject to the provisions of this section.

207.2 The private school shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions.

207.3 Ample parking space, but not less than that required in Chapter 21 of this Title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

8. The applicant indicated that the application meets the requirements of the Zoning Regulations and that matters previously of concern to nearby property owners were resolved prior to filing this application. Their primary areas of concern are noise, parking, traffic, school buses, landscaping and neighborhood relations.

9. **Noise:** The applicant hired an accoustics engineer to assist with soundproofing of the building. He conducted tests and made recommendations on what the applicant could do to reduce or eliminate noise and vibrations resulting from use of the structure. The recommendations can be found in Exhibit No. 25 of the record. The applicant plans to follow the suggestions of the engineer so that the residents adjacent to the subject property will not be affected by the noise. The applicant also plans to use the second floor for administrative offices only. Since no classrooms will be located there, children will not use the stairs between the first and second floors.

10. **Traffic and Parking:** The applicant maintains that the

proposed use will not have an adverse affect on traffic in the area. At the beginning of the school year and frequently thereafter, parents are instructed on the procedures for dropping off and picking up students. In the morning, two upper grade students stand at the sidewalk to help open car doors and lead younger children into the building. An adult oversees this activity several times a week. The Director of the day school greets the children at the front door every morning and reminds the parents to comply with the procedures. This helps to alleviate traffic congestion around the school. Parents who must enter the school are instructed to find a legal parking space on the street. They are not allowed to park in the "No Parking" zone in front of the school. The applicant does not propose to increase the number of staff. Therefore, no parking spaces will be needed on the proposed site.

11. School Buses: The school owns two buses. They are to be kept on the school parking lot at all times except when in use for field trips. One-half hour before time to depart on a field trip, the buses are to park in front of the (Dent) school building for the children to board the bus. The children are released from the bus at the same location upon return. Because the school frequently makes field trips, there may be brief periods during the day when a bus is parked in front of the building, letting off one class and picking up another. The applicant will, however, make every effort to minimize the amount of time that the buses are located in front of the school.

12. Number of Students: The applicant has requested that 48 students be allowed to use the subject property. The applicant has proposed that a maximum of 30 students be located on the property at any one time. The applicant indicated however, that generally only about 15 students will actually attend class at the new location. The impact created by the number of students will therefore be minimal.

13. Landscaping: On three occasions, the applicant planted trees along the area bordering Second Street. On the first two occasions, the trees died. A new variety was planted the third time in October of 1990. The applicant is hopeful that the new plantings will fare better. Gardening and landscaping will be conducted regularly.

14. Other Objectionable Conditions: The applicant indicated that the residential appearance of the property will be retained. The subject property is located adjacent to the parking lot and playground of the existing day school. At the rear of the property there is a doorway at the basement level and at the first floor level. The basement level is approximately four feet (4') above the grade of the adjacent school playground. A staircase will be built to allow access from the playground level to the basement

level. The students will then use the stairs existing on the outside of the property to gain access to the first floor level. No stairs exist on the inside of the structure connecting the basement and first floor levels. To minimize the appearance of a school use, the students will enter and exit the property from the rear. The front door will be used for emergency purposes only. Access to the building will be across the school yard. The students will not be permitted to loiter on the outside of the property. No signs, plaques or holiday cut-out decorations will be placed at the front of the property. No changes will be made to the exterior of the site.

Approximately 18 times a year, the building will be used in the evenings for board and committee meetings. It will not be used on the weekends.

15. Neighborhood Relations: The applicant stated that the day school periodically sends out newsletters to inform neighbors of events at the school to which they are invited, and to inform them of parent association meetings to be held. The school has cooperated with the neighbors on projects related to Garfield Park and tree removal. The applicant proposes to establish a Neighborhood Advisory Council whereby members of the School's Administration and Board of Trustees will meet with neighbors to work together to develop ways to best serve the community and respond to neighbors' concerns.

16. In an attempt to address the neighbors' concerns the applicant proposes that the following conditions be placed on the use of the property:

- a. Approval will be limited to a period of 5 years.
- b. Classes will be conducted between 8:00 A.M. and 3:00 P.M.
- c. No classes will be conducted on the second floor.
- d. A maximum of 30 students will be permitted in the building at any one time.
- e. Evening use will be limited to Board and Committee meetings no more than 18 times per year.
- f. No weekend use.
- g. "No Parking" area in front of Dent will not be extended to the front of 214.
- h. CHDS will establish a Neighborhood Advisory Council to provide a forum for discussion of matters of concern to CHDS and its neighbors. The Council will include the

local ANC representative. The Council will meet at least quarterly and more often if necessary. All neighbors shall be notified in advance of such meetings and shall be invited to attend.

17. By memorandum dated November 7, 1990, the Office of Planning (OP) recommended that the application be denied. OP made several notations about the location and description of the subject property. The site is zoned CAP/R-4. The CAP overlay district permits development of uses that are consistent with the U.S. Capitol Master Plan to a maximum floor area ratio (FAR) of 1.8 and a maximum height of three stories/40 feet. The district is mapped in combination with the R-4 District which permits matter-of-right development of residential uses, including detached, semi-detached and row single-family dwellings and flats with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and maximum height of three stories/40 feet. A private school is permitted in the R-4 District, if approved by the Board of Zoning Adjustment. The site is located in a primarily residential neighborhood. The area contains rowhouses, flats and mid-rise apartment buildings. To the south, the southwest Freeway serves as a buffer between the moderately dense Capitol Hill neighborhood and much more intense development. The higher density development consists of industrial uses and multi-family apartment buildings. Other facilities that are close to the property include the Capitol Power Plant (a steam heating plant which provides power to the Capitol grounds), the Capitol South Metrorail Station, and two federal parks - Folger and Garfield. District of Columbia institutional facilities that are located close to the site include Brent Elementary School, the Giddings Elementary School building (the elementary school closed August 1990), and the Lenox building which houses administrative services/adult education classes. Private schools, such as Saint Peters at 3rd and E Streets, S.E., are also located close to the site. Except for the Capitol Hill Day School, all of the properties in Square 765 are used for residential purposes.

OP noted that in 1988, the Board denied the applicant's request to establish an elementary school at the subject site. Two of the Board's most significant findings were that the noise and vibration caused by the proposed use would be objectionable to adjoining property owners and that the expansion would be inconsistent with the purpose of the Zoning Regulations and Maps because it is ill-suited to the residential district for which it has been proposed. It would therefore adversely affect the use of adjoining property. OP agreed with the Board's analysis. In its report to the Board on that application, OP expressed two primary concerns. First, the existing Capitol Hill Day School and the subject property are separated by a 30-foot side yard. There is also a grade differential between the school and the residential properties adjacent to it. To allow the townhouse to be used as

proposed would eliminate the distinct separation of the school and residential properties. Such an encroachment into the residential portion of the block is undesirable. Second, the proposed use is likely to create adverse impacts on the adjoining residential area.

OP indicated that it continues to have these concerns. Although OP recognizes that acquiring additional space is critical to the growing needs of the school, it believes that the applicant's request would not be in the interest of the public good, and it would not be in harmony with the general purpose and intent of the Zoning Regulations and Map. The erosion of a residential use for the purpose of expanding an overcrowded institutional facility would be incompatible with the present and future development of the square in particular, and the neighborhood in general.

18. Responding to the concerns of the Office of Planning, the applicant noted that the factors that would create an adverse impact have been addressed in this application. The applicant also indicated that the day school is an important part of the life of the Capitol Hill community. Seventy-one percent of the students live on Capitol Hill while the remaining students attend the school because their parents work on Capitol Hill. The applicant stated that many people stay in the area because of the location of the school. The applicant also pointed out that the use of the townhouse is only temporary and that it will be returned to residential use.

19. The applicant stated that the current tenants are students who were informed of the owner's intentions for use of the property at the beginning of the rental period. The applicant promised to provide relocation assistance to these tenants.

20. The application was referred to the relevant governmental agencies. Responses were received from the Department of Finance and Revenue, the Metropolitan Police Department, the District of Columbia Public Schools, the Department of Public Works and the Department of Housing and Community Development. The housing department strongly recommends that all foot traffic between the two buildings be concentrated in the rear of the buildings, to the extent possible, and that a use covenant be established on the property, stating that if its use as a private school is discontinued, the premises will revert back to its previous use as a residential structure. The other cited agencies are not opposed to the applicant's request. The applicant has met each of the requests of the Department of Housing and Community Development.

21. Advisory Neighborhood Commission (ANC) 6B did not file a written report in the application, nor was a representative present at the hearing to present the views of ANC 6B.

22. The Capitol Hill Restoration Society, by letter dated November 13, 1990, expressed its support for the application with the conditions proposed by the applicant.

23. A neighbor residing at 146 - 11th Street, S.E. testified in support of the application. He stated that the kinds of contributions that the school makes to the health of the neighborhood is exemplary and that the school is a contributing factor to maintaining and enhancing the residential quality of Capitol Hill. In his view, given the temporary nature of the proposed use, the application should be granted.

24. A resident of 605 Pennsylvania Avenue, S.E., testified that the day school has great enrollment demands and it should be given an opportunity to use the property temporarily until it can reassess its position and relocate. He stated that the day school has been a terrific neighbor. It has spent considerable time, effort and resources maintaining its own property as well as the park across the street where the children play.

25. A resident of 535 - 2nd Street, S.E., testified that for young mothers like herself, it is very important for safety reasons to have the school located in the neighborhood.

26. One neighbor residing at 230 South Carolina Avenue, S.E., testified in opposition to the application. He was concerned that the ANC meeting did not have a quorum and the ANC, therefore, could not take a position on the application. He opposed having the school encroach upon the residential row of townhouses. He was also concerned about the availability of parking and the fact that the buses are often parked in front of the school for extended periods of time. This creates an unsafe condition in case fire trucks or other emergency vehicles need to park there.

27. A resident of 921 Pennsylvania Avenue, S.E., read into the record the statement in opposition of the single member district commissioner for ANC 6B-01. She opposes the application because, in her view, there is no meaningful or substantial change between this application and the previous one of two years ago. In addition to the issues already raised in the application, she expressed a concern over how safe the children will be if they use the stairs to access the new property in inclement weather. She also questioned whether the school's trash will be disposed of properly.

28. No other letters were received in support of or in opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and evidence of record, the Board concludes that the applicant is seeking a special exception to allow a private school in a rowhouse located in a CAP/R-4 District. The granting of such a special exception requires a showing through substantial evidence that the proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property. The provisions of Section 207 regulating private schools must also be met.

The Board concludes that the subject application differs materially from the previous application which was denied by the Board. The subject application is different in the following areas: use of the second floor, manner of access to the structure, number of students proposed and the temporary nature of the use.

The Board concludes that the applicant has met the burden of proof. The Board is of the opinion that schools are a vital part of a residential district and that they help to preserve and stabilize the residential character of a community. The Board is also of the opinion that because the proposed use is only temporary and the property will be returned to residential use, granting the application will not lead to an erosion of residential properties in the district. The Board therefore concludes that the proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Maps.

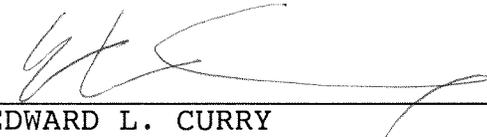
It is the Board's opinion that the applicant has taken adequate measures to minimize the impact of the proposed use on the surrounding area. The Board concludes that the use of the premises as a day school will not tend to adversely affect the use of neighboring property. The Board also concludes that the provisions of 11 DCMR 207 have been met. Accordingly, it is **ORDERED** that the application is hereby **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of **FIVE YEARS**.
2. No classroom or tutorial space shall be located above the first floor level.
3. The hours of class instruction shall not exceed from 8:00 A.M. to 3:00 P.M., Monday through Friday.
4. The number of students in the building at any one time shall not exceed thirty.
5. Evening use of the premises shall be limited to Board and Committee meetings and shall occur no more than eighteen times per year.

- 6. The applicant shall establish a community liaison and shall meet with concerned neighbors and other interested parties, including the local ANC representative, a minimum of four times per year. All property owners within 200 feet of the site shall be notified in advance of such meetings and shall be invited to attend.
- 7. Existing on-street parking in front of the subject building shall not be restricted.

VOTE: 3-1 (Charles R. Norris, Carrie L. Thornhill and Paula L. Jewell to grant; Sheri M. Pruitt abstaining; John G. Parsons opposed to the motion).

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

ATTESTED BY: 
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: MAY 10 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."

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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.

15386Order/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15386

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAY 10 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:

Steven L. Cymrot
410 A Street, S.E.
Washington, D.C. 20003

Hal Horan
230 South Carolina Avenue, S.E.
Washington, D.C. 20003

Catherine Peterson
3552 Brandywine Street, N.W.
Washington, D.C. 20008

Karen Walker, Chairperson
Advisory Neighborhood Commission
6B
921 Pennsylvania Avenue, S.E.,
#108
Washington, D.C. 20003

Caesar Marshall
921 Pennsylvania Avenue, S.E.,
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Don Denton
605 Pennsylvania Avenue, S.E.
Washington, D.C. 20003

Rita Koch
535 - 2nd Street, S.E.
Washington, D.C. 20003

Richard Wolf
146 - 11th Street, S.E.
Washington, D.C. 20003

A handwritten signature in cursive script, appearing to read "E. Curry", written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: MAY 10 1991

15386Att/bhs