

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15387 of the D.C. Department of Administrative Services, pursuant to 11 DCMR 3108.1, for special exception under Section 207 and 2116.5 to continue to operate a private school and to locate accessory parking spaces elsewhere than on the lot upon which the building is located to allow a non-profit private school for the arts of 500 students in the basement through the second floor in an R-4 District at premises 545 - 7th Street, S.E., (Square 877, Lot 800).

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

FINDINGS OF FACT:

1. The subject site of the school is located in the northwest corner of the intersection of 7th and G Streets, S.E. and is known as premises 545 - 7th Street, S.E. It is in the R-4 District.

2. The subject site has a lot area of approximately 3,162 square feet with a frontage of 66.66 feet along 7th Street and 37 feet along G Street. It is improved with a three story brick structure known as the B.B. French School.

3. The R-4 District which is devoted to residential use, with the exception of the property owned by the Christ Church, extends to the north and west of the subject site. The C-2-A District is located to the east of the site and the R-5-B District is to the south. A liquor store is located across G Street south of the subject site.

4. The subject building was originally known as the French Manual Training School. It was constructed in 1904 and was used for school purposes until 1942. In 1942, the property was leased to the Marine Corps until 1959. The Department of Highways and traffic used it for storage from 1959 to 1962. The premises were boarded up and vacant from 1962 until 1978.

5. In 1978, the Capitol Hill Arts Workshop (CHAW) received permission from the Government of the District of Columbia to use the premises as a private school. The permission was subject to receiving zoning approval and restoring the building.

6. By Order dated September 20, 1978, the Board approved BZA Application No. 12659 for a special exception to use the subject premises for the Capitol Hill Arts Workshop for a period of three years. By Order dated May 22, 1982, the Board approved Application No. 13631 for a special exception for the continuation of a private

school with increased enrollment and extended hours at the subject site and a special exception to locate required parking spaces on a lot other than that of the principal use until June 30, 1985.

7. CHAW has restored the subject building and continues to lease it. The Department of Administrative Services (DAS) is renegotiating a 5 year lease with the applicant for the continued use of the school. DAS has authorized CHAW to act on the government's behalf in this application.

8. CHAW hereby requests a special exception for the continued use of the subject structure as a community school for the arts consistent with the previous Order but with extended hours and an increase in the number of students. CHAW proposes to open the school at 8:00 A.M. to allow supervision of students arriving early. Class instruction will continue to begin at 9:00 A.M. CHAW proposes, however, to extend its hours of class instruction to 10:00 P.M., and to allow no more than twelve special events throughout the year, to end at 11:00 P.M. on a Friday or Saturday. CHAW requests that the maximum number of students allowed in the building at one time be increased to 60. Finally CHAW is requesting approval to continue to provide four parking spaces at the Christ Church at 620 G Street, S.E. rather than at the subject site.

9. Section 207 regulating private schools provides as follows:

207 Private Schools and Staff Residences (R-1)

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.

10. CHAW maintains that the requirements of Section 207 are met by this application. A representative of CHAW testified that over the last six months the school has met with Advisory

Neighborhood Commission 6B and the Capitol Hill Restoration Society (CHRS) about the application. CHAW has asked that the following condition be imposed on any approval of the application:

- a. Approval shall be for a period of five years.
- b. Operation of the facility shall be limited to the Capitol Hill Arts Workshop.
- c. The Arts Workshop shall have provided for its exclusive use during its hours of operation the required parking spaces at the Christ Church parking lot at 620 G Street, S.E.
- d. If parking at Christ Church is discontinued, CHAW shall immediately apply to the Board for relief.
- e. There shall be a maximum of 500 students enrolled at the school.
- f. There shall be a maximum of 60 students on the premises at any one time.
- g. All operations shall end no later than 10:00 P.M. A maximum of 12 special events per year held on Friday or Saturday may continue to 11:00 P.M.

Conditions a. - e. are the same as those in previous Orders. The last two conditions reflect the present proposals.

11. CHAW has received a letter from Christ Church granting permission to continue using the church parking lot for the four parking spaces.

12. CHAW indicated that there is a request for a maximum of 60 students because this number more accurately reflects the number of students likely to be present at the school during the after-school peak period between 3:30 and 6:00 P.M.

13. To address the concern over the lack of communication between the school and the community. CHAW submitted to the Board a Proposed Memorandum of Operations to be incorporated into the Board's Order. According to this document CHAW proposes to do the following:

- a. Improve communications by selecting someone from the immediate neighborhood as a member of the Board of Directors;
- b. establish a Neighborhood Advisory Council to meet quarterly or more often if necessary;

- c. remind the arts workshop participants to keep the noise level at a minimum;
- d. encourage staff to use the parking spaces provided at Christ Church;
- e. install a light in the basement entryway to discourage loitering in the area;
- f. continue efforts to have the Department of Public Works change the "No Parking - Entrance" sign in front of the school to reflect the hours of operation;
- g. maintain and update the operations list to continue to improve relations between CHAW and the immediate neighborhood;
- h. permit all regular activities on Friday and Saturday 9:00 P.M. to 10:00 P.M.; and
- i. limit the activities occurring Monday through Thursday between the hours of 9:00 P.M. and 10:00 P.M. to the following:
 - 1. Administrative functions, including Board of Directors, faculty and committee meetings
 - 2. Adult classes in art, writing, pottery, knitting, printmaking, playreading, acting technique, photography, jewelry making, and similar low-noise pursuits
 - 3. Set design and scenery painting
 - 4. Play rehearsals without live music

14. The Director of Education for the Arts Workshop testified that one of the major goals is to try to respond actively to the needs of the community as expressed by the school's members and the community at large. CHAW provides scholarships and community service performances. CHAW created a Pre-Kindergarten program in response to young mothers who wanted enrichment for their young children. To assist working parents, CHAW provided transportation to pick up children after school. CHAW also began outreach programs in response to an interest expressed by area schools. CHAW is now seeking to respond to an interest in the arts expressed by adults. The Director testified that, at present, the Drawing, Painting, Pottery, and Printmaking classes are all only two hours in duration (including set-up and clean up), rather than the

standard three hour class length at most art schools. She incated that these classes would benefit from an increase of time spent in the studio. But with the work schedule of most adults it is impossible to have the classes begin before 7:00 P.M. A 7:00 beginning time limits the classes to only two hours. This is one of the reason CHAW is requesting a one-hour extention of its hours of operation.

15. The Director further testified that they now have three nights a week of dance exercise which begins at 6:30 and ends at 7:30, making one of the main studios unavailable for class until 7:30. This means that it is not possible to have two levels of a dance discipline after 7:30 P.M.

Another aspect of the Workshop which the Director feels would be served is the theater program. Rehearsals, set painting, and costuming would all benefit from a longer block of time.

The Director believes that from an educational point of view the Workshop's extended hours would improve the quality of classes, performances, and exhibits, and further answer the needs of adults and children involved in the arts.

16. The Office of Planning (OP), by memorandum dated November 7, 1990 recommended approval of the application. OP pointed out that the site is located in a moderately dense residential community. However, to the east and north of the site, the land is zoned for Commercial use. Industrial zoning is found to the far south of the site.

In addition to the site's location in the Capitol Hill Historic District, there are historic landmark buildings located close to the site. The Marine Corps Commandant's House and Marine Barracks buildings are individually listed historic landmarks on the ground of the Marine Barracks Historic District.

The public schools closest to the site are Tyler Elementary School/Special Education Center, Brent Elementary School and Hine Junior High School. The Lenox building at 5th and G Streets, S.E., a facility of the District of Columbia Public Schools, houses administrative services/adult education classes.

OP noted that the community is well served by public transportation. The Eastern Market and Capitol South Metrorial stations and a variety of metrobus routes are located in the community.

The subject site is zoned R-4. The R-4 District 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 the

18 feet, a maximum lot occupancy of 60 percent, and a maximum height of three stories/40 feet. A private school is permitted in the R-4 District with approval from the Board of Zoning Adjustment.

OP is of the opinion that the applicant's proposed use of the site is in harmony with the general purpose and intent of the Zoning Regulations and Map. The workshop/school has occupied the subject site for 12 years, and based on the Board's records, the facility is a valued community resource. Further, the subject building was constructed as a school and was used as a school prior to 1958, with the exception of the previously identified periods of time. Accordingly, the workshop/school is capable of operation, within defined guidelines, so that it is not likely to become objectionable to adjoining and nearby properties because of noise, traffic, number of students or other objectionable conditions. And, because the site is not accessible by automobile, parking cannot be provided on-site.

Op noted that the liquor store, located to the immediate south of the site, has late evening hours on the weekend. To prevent any adverse impacts of the school on the community, the Office of Planning recommends approval of the application with the following conditions:

- a. Approval should be for a period of five years, concurrent with the lease agreement between the Capitol Hill Arts Workshop and the District of Columbia Department of Administrative Services.
- b. Operation of the facility should be limited to the Capitol Hill Arts Workshop.
- c. The workshop should provide, for its use, four parking spaces at the Christ Church parking lot at 620 G Street, S.E. during the approval period of this application. Such spaces should be reserved for exclusive use by the workshop, for all hours that the workshop is in operation.
- d. There should be no more than sixty students on the premises at any one time.
- e. There should be no more than sixty students on the premises at any one time.
- f. All instruction and special events should end no later than 10:00 P.M. Special events, including all open houses, receptions, special presentations and similar events, should occur no more than twelve times per year, and only on Fridays and Saturdays.

17. The Office of Planning referred this application to relevant District of Columbia departments and agencies. Responses were received from the Fire Department, the Metropolitan Police Department and the District of Columbia Public Schools. All of these agencies support the applicant's request.

18. By letter dated August 15, 1990, the Police Department stated that it does not appear that the change proposed by this application will affect public safety in the immediate area or generate an increase in the level of police services now being provided.

19. By memorandum dated October 3, 1990, the Department of Public Works noted the following: The site is located on 7th Street, S.E., which is a 30-foot wide local street with Residential Permit Parking (RPP) from 7:00 A.M. until 6:30 P.M. E Street is a 32-foot wide local street which also has RPP for the same hours. G Street is a 35-foot wide local street with unrestricted parking. It was also noted that parking will be provided at a nearby church. DPW is therefore of the opinion that the extended hours will have minimal impact on the parking supply.

DPW indicated that the site is in close proximity to the Eastern Market Metro Station and that the 52, 54, 91, 92 and 94 Metrobus routes operate in the vicinity of the site. DPW notes that the school operates as a neighborhood institution and that many participants will walk or use public transportation. DPW is of the view that extending the hours of operation will result in little additional traffic and therefore minimal impact on the local transportation system. DPW expressed no objection to the application.

20. By letter dated November 13, 1990, Advisory Neighborhood Commission (ANC) 6B expressed a number of issues and concerns regarding the application. The ANC stated the following:

- a. that the applicant's purpose is to continue the school's operation, as established by the Board in BZA Application No. 14330, on a more favorable basis to both the applicant and the neighborhood residents most affected;
- b. that immediate neighbors were particularly concerned about noise from classes and from unsupervised children outside the building before and after classes -- as well as the children's safety;
- c. that area neighbors were especially concerned about the overall efficacy of off-site parking, and the parking and traffic congestion resulting from school-associated activities during different times of the day and evening;

- d. that it was felt by a number of neighborhood residents that CHAW was exploiting the thrust of the Board's previous orders by wrongfully conducting activities which were not instructional, but also were not expressly prohibited;
 - e. that the reputation of the Capitol Hill Arts Workshop has been well established, and that its programs and productions were supported by a wide variety of persons, groups, and institutions from Capitol Hill and elsewhere;
 - f. that the period of CHAW's operation (12+ years) now required a formal arrangement between its managers and affected neighborhood residents; and
 - g. that the relief sought, as conditioned, can reasonably be granted without damaging the public good, or doing irreparable harm to the general purpose and intent of the Zoning Regulations and Maps.
21. ANC 6B expressed support for the application with the following conditions:
- a. that the **SPECIAL EXCEPTION** be granted for a period not to exceed five (5) years;
 - b. that the operation be limited to a private non-profit school for the arts;
 - c. that CHAW establish four reserved parking spaces at Christ Church;
 - d. that if parking at Christ Church is to be discontinued, CHAW must seek BZA approval for any alternate relief;
 - e. that maximum enrollment be set at 500 students;
 - f. that a maximum of 60 students be permitted on premises at one time;
 - g. that a building opening time of 8:00 A.M. be established with no classes beginning before 9:00 A.M. and with classes ending by 9:00 P.M. Friday through Thursday and by 10:00 P.M. Friday and Saturday. Use of the building at other times is restricted to administrative function except that twelve special events per year ending by 11:00 P.M. are authorized for Fridays or Saturdays only;
 - h. that one CHAW Board of Directors member be appointed from the immediate neighborhood;

- i. that CHAW establish a neighborhood advisory council to meet at least quarterly; and
- j. that the proposed memorandum of operations (attached) be implemented by CHAW.

22. The Board finds that nearly all of the conditions suggested by ANC 6B are conditions proposed by the school. However, the ANC does not want the school to extend its hours later than 9:00 P.M. Monday through Thursday. The ANC approved of the proposed hours for Fridays and Saturdays and for the twelve special events.

23. The Board finds that ANC 6B supports the Proposed Memorandum of Operations submitted by the school. This memorandum addresses the ANC's major concerns about the lack of communication with the neighbors, noise and parking.

24. The Capitol Hill Restoration Society (CHRS) submitted a report dated November 13, 1990. CHRS expressed conditional support for the application. The conditions delineated are the same as those proposed by the school except that CHRS would limit the approval to a period of two years instead of five years. CHRS indicated that there is a risk that CHAW will not be a good neighbor and that the conditions should be reviewed sooner than five years.

25. A neighbor residing next door to the school, at 541 - 7th Street, S.E. testified in opposition to the application. In her view, the hours of operation should not be extended Monday through Thursday, nor should the maximum number of students on site be increased to 60. She indicated that there is already inadequate on-street parking for the area residents. Allowing the classes to end at 10:00 would simply make parking spaces unavailable another hour.

The neighbor testified that there is a problem with noise created by the students outside. There may be as many as 16 classes scheduled per day, and when six classes are scheduled in any evening, there are six different arrival and departure times on the hour and half-hour. The students also make noise when they arrive at the school before it opens for class at 9:00 in the morning.

She is also disturbed by noise such as tap dancing and drums which come from inside the school during classes.

The safety of the children is another concern expressed by this neighbor. Children must cross the street to get to their cars because parents park across from the school when they pick up their children.

This neighbor testified in support of the ANC's position regarding the hours of operation for the regular activities and special events. She was of the opinion, however, that the Arts Workshop has gone beyond its child oriented arts program and it appears to hold special events on some Thursday nights, not just Fridays and Saturdays.

26. Another neighbor, residing at 529 - 7th Street, S.E., submitted written testimony in opposition to the extension of hours. She also pointed out that parking is a problem, especially for retired and elderly residents in the area during the early and late evening hours.

27. None of the neighbors testified in support of the application. Three letters were received in support of the proposal to extend the hours of operation. Two letters and a petition containing thirteen signatures were received in opposition to the proposal.

28. The Board finds that the Arts Workshop has addressed some of the concerns expressed by those in opposition to the application. To alleviate problems with noise, CHAW is proposing an 8:00 A.M. opening hour to allow the children to enter the building until classes begin. Additionally, only quiet activities will be scheduled for the later evening hours. Off-street parking spaces are provided to help alleviate parking in the area, and the school has established a means of communicating with the community on a continuous basis to address other concerns.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings and Fact and evidence of record the Board concludes that the applicant is seeking special exceptions to continue to operate a private school and to locate accessory parking at a site away from the subject premises. The granting of 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 applicant has met this burden of proof. The Board is of the opinion that the location and proposed increased hours of operation of the school are such that the school is not likely to become objectionable to adjoining and nearby property owners because of noise, traffic, number of students or otherwise objectionable conditions. The Board also concludes that the school is providing the required number of parking spaces at a site nearby.

It is the opinion of the Board that the use is in harmony with the general purpose and intent of the Zoning Regulations and Maps and that it will not tend to affect adversely the use of neighboring property.

The Board concludes that it has afforded ANC 6B the "great weight" to which it is entitled. Accordingly, it is **ORDERED** that the application is **GRANTED SUBJECT** to the following **CONDITIONS**:

1. There shall be a maximum enrollment of 500 students at the school. No more than fifty students will occupy the premises at any one time.
2. All instruction shall end no later than 10:00 P.M. Special events, including Board meetings, open houses, receptions, special presentations and similar events shall occur no more often than twelve times per year and only on Fridays and Saturdays.
3. The applicant shall have provided for its use four parking spaces at the Christ Church parking lot at 620 G Street, S.E. Such spaces shall be reserved for the exclusive use of the applicant during all hours that the facility is in operation.
4. In the event that the parking arrangement with Christ Church is discontinued, the applicant shall immediately apply to the Board for alternate relief.

VOTE: 5-0 (Charles R. Norris, Carrie L. Thornhill, Paula L. Jewell and Sheri M. Pruitt to grant; John G. Parsons to grant by proxy).

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

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

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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.

15387Order/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15387

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on July 12, 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:

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

E. Raye LeValley
635 G Street, S.E., #3
Washington, D.c. 20003

Mary M. Godfrey
541 - 7th Street, S.E.
Washington, D.C. 20003

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

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

EDWARD L. CURRY
Executive Director

2 1991

DATE: _____

15387Att/bhs