

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15555 of Ann Cullen, pursuant to 11 DCMR 3107.2 and 3108.1, for a variance to allow an addition to a structure which currently exceeds the maximum lot occupancy requirements [Sub-section 2001.3(a)], a variance from the 10,000 square feet of gross floor area requirement (Sub-section 218.1), and special exceptions pursuant to Section 218 and Sub-section 218.5 to allow for the modification of an existing building and to establish its use for purposes of a nonprofit organization, or in the alternative, a special exception under Section 3003.1 for a change of nonconforming use from chancery to offices for a nonprofit organization in an R-3 District at premises 2110 Leroy Place, N.W., (Square 2531, Lot 29).

HEARING DATE: September 25, 1991

DECISION DATE: November 6, 1991

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property is located on the south side of Leroy Place between Phelps Place and Connecticut Avenue and is known as premises 2110 Leroy Place, N.W. It is zoned R-3.

2. The site is irregularly shaped, with a frontage of 45.48 feet along Leroy Place, a depth of 116.74 feet along the public alley to the east, a width of 7.49 feet at the south, and a depth of 113.33 feet along the western property line. The site has a lot area of approximately 2,928 square feet.

3. The site is currently developed with a four-story plus basement semi-detached brick building which was constructed circa 1939. The site slopes to the rear exposing the basement level of the structure and requiring a retaining wall to separate the rear yard from the adjoining public alley to the east.

4. The area surrounding the subject site is developed with a mix of uses, primarily residential, with several chanceries and nonprofit organizations. To the north across Leroy Place are four-story row dwellings and a nine-story Quality Inn Hotel. To the east, fronting on the west side of Connecticut Avenue is St. Margaret's Episcopal Church at Connecticut and Bancroft with low rise structures north of the church to Leroy Place in the R-5-C District. The east side of Connecticut Avenue is zoned C-3-C. Immediately to the west of the site is the Chancery of the Embassy of the Republic of New Guinea and rowhouse structures. Several chanceries and offices for nonprofit organizations are also located in the row dwellings fronting on Leroy Place.

5. The applicant has owned the property for 52 years. The property was occupied by the Chinese government from at least 1945 to 1950, and most recently by the Italian Military Attache from 1953 to 1990. The building has been vacant for approximately one year.

6. The Italian Military Attache terminated its lease with the applicant on May 31, 1990, needing a larger facility for its operations. Since that time, the applicant has searched for an appropriate tenant for the site. In the summer of 1990, the applicant found the Council for Early Childhood Professional Recognition (the "Council"), a nonprofit organization established to promote high quality education and care for young children. The Council sponsors and administers voluntary professional approval programs such as voluntary credentialing programs for persons working with young children and accreditation programs for childcare centers.

7. The applicant entered into a lease in September 1990 to rent the subject site to the Council. The Council is currently located two blocks south of the subject site on Connecticut Avenue, and intends to use the subject site to relieve its existing crowded conditions to provide sufficient room for the orderly and efficient conduct of business.

8. The applicant proposes to renovate the interior of the building and to add an enclosed fire stair to the rear of the building, requiring the addition of a fourth floor porch. The design has received conceptual design approval from the Historic Preservation Review Board, which found that the renovation proposed, along with the addition, was compatible with the Historic District and that "the project will enhance the historic character of the residence and its surroundings".

9. The subject premises has been used for office purposes for approximately fifty years. The most recent office use of the site by the Italian Military Attache employed approximately forty full-time staff; had approximately fifteen to twenty visitors on a daily basis; had approximately fifteen to twenty deliveries daily; and hosted many evening parties and events. No on-site parking was provided. All of the employees drove to the site and parked on Leroy Place or nearby residential streets. Three on-street parking spaces were reserved for diplomatic use.

10. The applicant testified at the public hearing that the subject building is not appropriate for residential use since the front of the building overlooks the Quality Inn Hotel parking lot, the west side abuts the Guinean Chancery and the east side faces an alley which abuts the back yards, dumpsters and parking lots of the buildings along Connecticut Avenue.

11. The applicant testified that, based on conversations with brokers, the average rents in the area for a building this size are approximately \$4,000 to \$6,000 a month, an amount which would not even cover the existing mortgage of the building, much less the costs of renovating it for residential use. The applicant testified that the brokers indicated that the best use of the building would be as a chancery or for nonprofit office use.

12. The applicant's expert architect and historic preservationist testified at the hearing that the subject site is not a desirable residential site, especially not for a house of the size and layout of living space over five-stories that would occur by converting the subject building to residential use. The subject site is perched high above the alley, overlooking the backs of the properties fronting along Connecticut Avenue. There is no on-site parking existing or practically available for construction. There is a very limited and irregularly configured outdoor area available for on-site recreation and open space.

13. The applicant's architect stated that to provide a second means of egress, which is required by the Building Code, necessitates a technical variance. The architect testified that even if the building were to be converted to residential use, it is likely that the building officials would require either a second means of egress or that the building be provided with sprinklers for safety reasons. Therefore, even if the building were to be converted to residential use, the applicant would be required to seek the same area variance relief. The second means of egress needs to be physically located a certain distance away from the existing stairs, and therefore, the only realistic place to locate the second means of egress is on the back of the building as proposed.

14. The applicant's architect testified that the existing square footage of the building is over 10,000 square feet. Because of the grade changes around the perimeter of the building, the perimeter wall method was used to calculate the gross floor area of the basement level. The perimeter wall method is the traditional method that the Zoning Administrator uses. The architect explained that the use of the perimeter wall method proceeds from the definition of gross floor area in the Zoning Regulations. That definition includes a basement that has a dimension greater than four feet between the adjacent grade and the underside of the structure of the floor above. The architect stated that the Zoning Administrator's original memorandum included no assignment of gross floor area for the basement level, which he believes should have been included.

15. The proposed porch addition, which will house the fire stair, is a small infill addition and does not result in an increase in the existing lot coverage. The addition will not be visible from the street, will not enlarge the building footprint, and will not extend beyond existing walls. The addition will allow for the maintenance of the interior of the existing historic structure while bringing the structure into compliance with safety regulations. The requested variance relief is necessitated because of the structure's existing nonconformity with respect to lot occupancy. The location of the existing stairs in the middle of the building creates a practical difficulty upon the owner in terms of locating the required fire stairs in conformance with the code requirements for the building. The previous chancery use was exempt from building code requirements.

16. Because of the small footprint and triangular shape of the existing building, the configuration of space over five floors, and the location and size of the main staircase, the existing structure does not lend itself to today's living style which typically involves an assembly of rooms including a family room, kitchen and living room located on the same floor. In addition, the triangular shape, the size of the rooms, and the existing high ceilings and main stairs would make it difficult to divide the existing spaces into smaller rooms.

17. The proposed tenant is a nonprofit, tax exempt organization founded in 1985 by the National Association for the Education of Young Children (NAEYC). Between 1985 and 1987, the Council identified itself as a subsidiary of NAEYC. In 1987, the formal tie with NAEYC was severed, and the Council became an independent organization. The national credentialing program that the Council offers is unique in that it represents a collaborative effort between the Federal Government and the child care profession to maintain high standards of quality for caregivers of young children. The Council's representative testified that the Council issues credentials for child care providers based upon an on-site evaluation of the caregiver's skills at the day care programs or early childhood centers where the caregivers work. The credentialing program administered by the Council is conducted primarily by telephone and by mail and operates more like a licensing agency than a membership organization.

18. The Council has been located in the Dupont Circle area since 1986, and would like to remain in the area. The Council has little need for a high profile address and for accessibility for walk-in clients and, therefore, is seeking an informal office setting in the Dupont Circle area. The Council has outgrown its existing space. The Council currently has 20 full-time and five part-time staff members, totaling 25 individuals in the current space. The Council anticipates limited growth, and believes that

it will become an organization with a maximum staff size of roughly 35. Visitors to the site are infrequent and board meetings are generally held off-site, therefore, creating little impact on traffic and parking in the area.

19. No goods, chattels, wares or merchandise will be commercially created, exchanged or sold on the premises except for the possible sale of publications, materials, or other items related to the purposes of the nonprofit organization.

20. All but four of the existing employees of the Council use public transportation. The four drivers currently use off-street parking, and to ensure that the practice continues, the Council has pre-arranged additional leased off-street parking for any employees in the future that might decide to drive to work. A letter from the Council to one of the parking garage operators in the area was submitted for the record and is marked as Exhibit No. 62T of the record.

21. The representative of the Council described the deliveries related to its office operation. The Council receives office supplies once a week and periodically receives publications from its off-site storage facility. The publications are published by a major printer and stored off-site. The Council has other types of office supplies that require less frequent deliveries. It also has maintenance and repairmen who come in on a regular basis.

22. With respect to mail, the representative of the Council testified that, on average, there are two or three messenger pick-ups per week and roughly 40 packets and 500 letters mailed out of the office per day. The Council publishes a newsletter three times a year. The representative testified that, if permitted to occupy the subject site, the Council would require that deliveries be made through the alley.

23. The applicant's expert traffic consultant, in his report and testimony presented at the public hearing, described the existing traffic flow and parking in the area. He testified that, with the relocation of the Council to the subject site, there should be no significant change in travel patterns and no effect on current operating conditions. He compared the former Italian Chancery use to the proposed use, and concluded that the use by the Council would have less of an impact on parking and traffic in the area than the former use. The Italian Chancery had three diplomatic parking spaces reserved in front of the building, which are now available to the neighborhood. He indicated that the Council does not generate any large truck movements since its deliveries are principally made by vans or small commercial vehicles. The anticipated deliveries would have no adverse impact

on traffic conditions. Whereas, the Italian Military Attache had frequent visitors throughout the day, the proposed occupant would have virtually no daily visitors. The previous user generated 25-30 vehicle trips per hour; the proposed user will generate 2-3 vehicle trips per hour. With provision for off-street parking, no change in traffic patterns, and a limited number of deliveries by small vehicles, the use of the subject site by the Council would be appropriate from a traffic engineering viewpoint.

24. The Office of Planning (OP), by memorandum dated September 18, 1991, and by testimony presented at the public hearing, recommended conditional approval of the application. OP concluded that the applicant is proposing an addition to an existing structure, which is required for compliance with the city codes. The proposed addition has been approved in concept by the Historic Preservation Review Board. The gross floor area of the structure, after the addition, would be more than 10,000 square feet. OP noted that the addition is minor, and the existing gross floor area of the structure is not far below 10,000 square feet. The property is located at the edge of an R-3 District and abuts an alley which can be used for mail deliveries, thereby reducing the impacts on residential properties to the west. OP recommended approval with the following conditions:

- a. That the use be restricted to the administrative offices of the applicant, and large meetings and conferences be conducted off-site.
- b. That the activities of the facilities be restricted to normal business hours.
- c. That the number of employees not exceed a maximum of 35, including part-time employees.
- d. That the applicant make specific arrangements to provide off-site parking for all employees that drive to work.
- e. That all deliveries be made from the alley through the basement door and not from Leroy Place.

OP was further of the opinion that the relief requested under Section 218 is more applicable in this case than the alternative requested under the provisions of Section 2003, which relate to change of nonconforming use. OP noted that the subject building has been used continuously as a chancery since prior to May 12, 1958. In order to convert it for residential use, major alterations to the interior of the building would be required. OP noted that if mail and other deliveries are restricted to the basement, the impact of the proposed facility on the residential properties to the west would be ameliorated considerably. OP testified at the public hearing that the subject case is one where

the intent of Section 218, namely, to preserve large residential buildings, would be served.

25. Advisory Neighborhood Commission (ANC) 1D, by resolution dated September 12, 1991 and by representative at the public hearing, opposed the granting of the application. The issues and concerns expressed by the ANC include the following:

- a. The proposed office use would have adverse traffic, parking, loading, delivery and noise impacts on the residential area;
- b. The Office of Planning (OP) has proposed the deletion of the provisions of 11 DCMR 218 regarding nonprofit office use in buildings over 10,000 square feet in historic districts in order to protect the integrity of residential neighborhoods;
- c. Many buildings containing over 8,500 square feet are used for residences in Sheridan-Kalorama and are marketable for such use;
- d. The Zoning Administrator has determined that the subject structure contains less than 10,000 square feet of gross floor area and, therefore, does not qualify for special exception relief under Section 218.
- e. The proposed use is not a neighborhood facility;
- f. The ANC does not want to create a precedent for conversion of large residential buildings to office use in the neighborhood;
- g. There are alternative sites available for office uses in appropriately zoned areas.
- h. Office uses create nighttime vacancy and associated security problems compared to residential uses.
- i. There are no effective enforcement mechanisms to ensure that traffic and parking impacts will not create a problem.

26. Advisory Neighborhood Commission (ANC) 1C, by letter dated September 16, 1991, supported the position taken by ANC 1D in opposition to the granting of the application.

27. By letter dated September 5, 1991 and by its representative at the public hearing, the Sheridan-Kalorama Neighborhood Council indicated its concern with the issues of office encroachment on an historic residential area, traffic disruption on

the short, narrow one-way street and adjoining alley, and parking pressures generated by an office complex with as many as 35 employees. The Council stated that the application does not qualify for relief under the current regulations and would not warrant special exception relief in any case.

28. By letter dated September 17, 1991, the Kalorama Citizens Association supported the position of ANC 1D in opposition to the granting of the application. The Association indicated its concurrence with the ANC position that sufficient office space is available in the adjoining business district and that the proposed intrusion of office space into a residential area has not been justified.

29. By letter dated September 3, 1991 and by its representative at the public hearing, the Preservation Committee of the Sheridan-Kalorama Historical Association indicated that the proposed alterations to the existing structure appear to have a minimal effect on the building's historic fabric, therefore, the Committee saw no reason to oppose the concept before the Historic Preservation Review Board. The Committee specifically noted that its approval could not be construed to extend to any zoning or land use issues associated with the property, as those issues are outside of the scope of the Committee's review mandate.

30. The Committee of 100 on the Federal City, by testimony presented at the public hearing, opposed the granting of a special exception. The Committee's opposition was based on the Office of Planning's preliminary recommendation to eliminate Section 218, as well as the Committee's view that the request for special exception fails to meet the standards of either Section 218 or 2003. In addition, the Committee testified that approval of the special exception would be contrary to D.C. Law 8-129, the Comprehensive Plan Amendments Act of 1989, which included numerous generalized land use map changes and language clarifying the need to protect residential neighborhoods from commercial encroachment.

31. The owners of the property located at 2120 Leroy Place opposed the granting of the application. In addition to the issues and concerns expressed by the ANC, their opposition was based on the following:

- a. The 2100 block of Leroy Place is overwhelmingly residential and an office intrusion would destroy its character and that of the entire Sheridan-Kalorama area;
- b. There are many structures in the Sheridan-Kalorama area as large as the subject building which are used as residences.

- c. Based on conditions at the proposed tenant's current location, deliveries to the proposed office use are far more extensive than the applicant has suggested.
- d. The existing conditions relative to blocking the public alley are worse than suggested by the applicant, in part, because of parking in the alley and behind buildings fronting on Connecticut Avenue. The proposed use would further worsen existing conditions.
- e. Increased traffic generated by the proposed use would destroy the peace and quiet of the neighborhood and endanger its residents.
- f. The subject property has been allowed to deteriorate and become unkept.
- g. The owners of 2120 Leroy Place offered to purchase the subject premises for the sum of \$700,000 and proffered a cashiers check for \$50,000 pending settlement.
- h. The proposed addition is not required by the Building Code but rather is a subterfuge crafted to meet the 10,000 square feet requirement.

32. The opponents' architect testified that the subject building is viable for residential renovation. The architect estimated that the cost to renovate the building for residential purposes would be between \$375,000 and \$450,000, or approximately \$58 per square foot. The architect also testified that the lower level of the building could accommodate parking for three to four cars. On cross-examination, the architect testified that, with respect to parking in the lower level of the building, he had studied neither the turning radius nor talked to the staff of the Historic Preservation Review Board. Additionally, he testified that his estimate had not included either a sprinkler system for the building or a secondary means of egress.

33. Numerous other area residents submitted letters to the record and/or testified at the public hearing in opposition to the application. The opposition generally reiterated the issues and concerns expressed by the ANC with respect to adverse impacts on traffic and parking; the abundance of available existing office space in the general area; the adverse effects of using the subject alley for deliveries; the lack of initiative by the owner with respect to maintenance of the premises; the existence of similarly sized residences in the area; the ability to restore the subject structure to residential use; and the negative impacts of office use on the character of the existing residential area.

34. Ward 1 Councilmember Frank Smith by letter dated September 17, 1991, supported the position of ANC 1D and area residents in opposition to the application.

35. At the conclusion of the public hearing on the application, the Board left the record open to receive the following:

- a. Excerpts from a diplomatic listing relevant to the subject premises;
- b. Tax assessment records for the subject premises;
- c. The applicant's response to the testimony of the opposition's architect relevant to costs for conversion of the subject premises to residential use;
- d. A brief on why special exception relief should be denied from counsel for the opposition;
- e. A recalculation of the gross floor area of the subject structure by the Zoning Administrator's office; and
- f. Responses by parties to post-hearing submissions.

36. By memorandum dated October 23, 1991, the Zoning Administrator indicated that, based on meetings with the representatives of the applicant and a subsequent site visit, a recalculation of the existing gross floor area of the subject building resulted in a total of 9,572.59 square feet of gross floor area. The Zoning Administrator indicated the gross floor area of the subject building with the proposed addition is 9,990.49 square feet. The Zoning Administrator further indicated that proposed regrading of the site would have increased the basement area to be counted toward the applicable gross floor area for a total of 10,404.39 square feet with the proposed addition. However, the applicant indicated to the Zoning Administrator that the regrading proposal had been abandoned.

37. By letter dated November 4, 1991, counsel for the applicant responded to the Zoning Administrator's memorandum as follows:

- a. The applicant continues to support its architect's calculations which indicate that the existing structure and the proposed building including the enclosed firestair addition exceed 10,000 square feet in gross floor area. The applicant contends that the existing gross floor area is 10,161.4 square feet and the proposed gross floor area would be 10,717.74 square feet.

- b. The discrepancy between the applicant's calculations and those of the Zoning Administrator is the result of the difference in where the theoretical lines were drawn for purposes of the perimeter wall method calculation.
- c. The applicant does not plan to regrade the site as originally proposed. However, the applicant would be willing to make minor regrading changes to ensure that the gross floor area of the building, as proposed, would exceed 10,000 square feet if so directed by the Board.
- d. The deviation in gross floor area is minor and the applicant has sufficiently demonstrated the basis for the granting of necessary variance relief.
- e. The 10,000 square feet requirement is an arbitrary number intended as a guide or reference point, not as an inflexible rule.

38. By correspondence dated October 23, 1991, the applicant submitted its post-hearing submission, as follows:

- a. Response to opponent's cost of residential conversion estimate --
  - i. The estimate was based on a one-half hour inspection of existing site conditions;
  - ii. The estimate does not follow the C.S.I. format used by most systematic contractors; and,
  - iii. The estimate does not include many large line items such as the cost of painting, any roof work, or the provision of a sprinkler system or fire stair.
- b. Response to issue re: existing residential building --
  - i. The language of the Zoning Administrator's memorandum provides special exception relief for residential "buildings", not "uses". The subject building is residential by virtue of the applicable zoning. In addition, the structure was originally built for single-family residential purposes.
  - ii. If the purpose of the special exception is to further preservation by permitting nonprofit use, it would be unreasonable to assume that the conversion of a residential use to a

nonprofit organization would be permitted while the substitution or continuance of an existing nonresidential use would not.

- iii. The Board has previously approved applications under the subject section which allowed the establishment of nonprofit organizations in buildings which had previously contained nonresidential uses.
- c. Diplomatic List -- The relevant portions of the May 1991 Diplomatic List submitted by the applicant confirms that five chanceries are located on the subject block which are used as offices for foreign governments and are not purely residential buildings.
- d. Tax assessors information -- The applicant submitted copies of the assessment record cards for properties fronting on Leroy Place which indicate that only one structure in the block, 2118 Leroy Place contains in excess of 10,000 square feet of gross building area. The average gross building area for structures on the block is approximately 5,700 square feet.

FINDINGS OF FACT:

1. The proposed use is permitted by special exception. A special exception is a use which generally is predeemed to be compatible with other uses in the same zoning district. A nonprofit office use, as proposed in this case, would not adversely affect the various uses of neighboring properties, based on its location, its separation from other residences by public alleys and streets and an existing chancery use, and its long history of chancery office use.
2. The Board decides applications on a case-by-case basis, and the granting of this application, therefore, will not set a precedent allowing intrusion of nonprofit office uses in the neighborhood.
3. In BZA Order No. 13419, dated December 21, 1981, the Board found that the inclusion of the 10,000 square feet minimum cited in Section 218 was based on the Zoning Commission's finding, at that time, that buildings of such nature have gross floor areas in excess of 10,000 square feet. In so

finding, the Zoning Commission did not intend that buildings of such nature could never have less than 10,000 square feet. This area requirement, similar to other area requirements in the Zoning Regulations such as the 900 square foot minimum lot area requirement, can be waived. Its purpose is to establish a standard of reference, not an inflexible rule. The proposed addition of the fire stair is necessary to ensure the fire safety of the building and is not proposed merely to increase the size of the structure in an attempt to meet the 10,000 square feet standard.

4. The requested variance relief requires the showing of an exceptional condition inherent in the property which creates a practical difficulty upon the owner. The exceptional conditions relevant to the subject site include its irregular shape, steeply sloping grade, the large size and physical configuration of the existing building and its previous history of chancery use.
5. The proposed nonprofit office use is less intense than the previous chancery use in terms of number of employees, traffic generation and on-street parking impacts. The impacts of the proposed use on nearby residential uses are minimal due to the physical separation of the premises from residential uses and the conditions hereinafter imposed by the Board. Enforcement of the conditions hereby imposed by the Board are addressed through the Zoning Regulation Division of the D.C. Department of Consumer and Regulatory Affairs.
6. The OP's proposal to delete the provisions of 11 DCMR 218 regarding nonprofit office use in buildings over 10,000 square feet in historic districts has not been formally proposed to or enacted by the Zoning Commission and is therefore irrelevant in the instant case. The provisions of 11 DCMR 3202.6 and 3203.9 allow for further processing of Board decisions based on the Zoning Regulations in effect on the date that its decision was promulgated.
7. The Board has previously applied the provisions of 11 DCMR 218 to residentially zoned buildings which were not devoted to residential use at the time of the Board's consideration of the cases. The Board believes that the intent of the Zoning Regulations

was to permit both the conversion of residential uses and the continuance of nonresidential uses subject to Board review and approval.

8. As to the issues regarding nighttime office security, the Board finds that the reinstatement of a viable use will alleviate the security impacts presently presented by an existing vacant building. The Board notes that such security problems may be more properly addressed by the Metropolitan Police Department.
9. The application was advertised for alternate relief under Section 2003.1 to allow for Board consideration of a special exception to change an existing nonconforming use from chancery to offices of a nonprofit organization. Evidence was presented by parties to the case to support or oppose the granting of relief subject to the relevant criteria. Because the Board finds that the applicant meets the special exception and variance criteria necessary for the proposed nonprofit office use and modifications to the existing structure, the Board will not address the specifics relative to 11 DCMR 2003.1.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception and a variance. As to the special exception, the expected occupant of the building, the Council for Early Childhood Professional Recognition is a tax exempt nonprofit organization founded in 1985. The existing historic building is located within the Sheridan-Kalorama Historic District. The Board concludes that the proposed use, as hereinafter conditioned, will not adversely impact the use of neighboring properties and that the proposed use is in harmony with existing uses and structures in the area, several of which include higher intensity residential and institutional uses. No commercial merchandise will be manufactured, sold or exchanged on the subject premises except for publications related solely to the purpose of the nonprofit organization, leasing the subject premises. The proposed modifications and additions to the building are minor in nature, are necessary to bring the structure into compliance with the requirements of the Building Code, and have been reviewed and approved in concept by the Historic Preservation Review Board. The traffic impacts generated by the proposed tenant are expected to be significantly less than that of the previous tenant and the provision of off-site parking appears adequate to address the needs of employees of the proposed use. The Board also concludes that the size and shape of

the site and the location of the existing structure on the site makes its physically impossible to provide parking spaces on the subject site.

The Board concludes that the requested variance from the 10,000 square feet of gross floor area requirement is an area variance, the granting of which requires the showing of a practical difficulty upon the owner inherent in the property itself. The Board concludes that the proposed addition is minor in nature and is required for compliance with District Codes. The Board notes that the existing gross floor area of the structure is very close to 10,000 square feet and that the deviation is minor and the proposed addition will increase the gross floor area of the structure to less than ten square feet short of the 10,000 square-foot requirement and is necessary to ensure the fire safety of the building. The Board concludes that the site is exceptional because of its size, shape, topography and the configuration of the existing building on the site. The site's triangular shape, steeply sloping grade, large building size for the site, previous history of chancery use and interior configuration combined, make the site exceptional. Additionally, the Board concludes that the application, as conditioned below, can be granted without impairing the intent, purpose and integrity of the zone plan. The Board is of the opinion that the 10,000 square-foot figure is arbitrary, and that its purpose was to establish a standard, not an inflexible rule. The Board concludes that it is not reasonable to consider the building for single-family purposes due to its size, configuration and history, and that the variance will ensure the preservation of and continued use of the existing structure.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107 and 3108 and that the requested relief as hereinafter conditioned, can be granted without substantial detriment to the public good and as in harmony with the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board concludes that it has accorded the report of the Advisory Neighborhood Commission the "great weight" to which it is entitled. It is therefore **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS**:

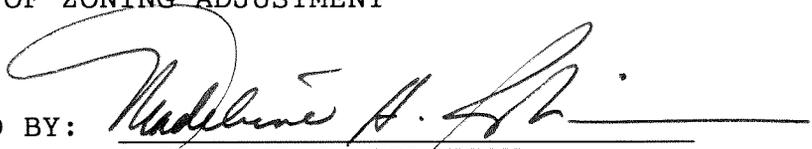
1. The number of employees at the subject site shall not exceed thirty-five.
2. The hours of operation shall be restricted to normal daytime business hours.
3. The applicant shall lease off-street parking spaces to accommodate the needs of employees who drive to the site.

4. All large meetings and conferences shall be conducted at a location other than the subject site.
5. All deliveries shall be made through the basement door located adjacent to the public alley. No deliveries shall be accepted through the Leroy Place entrance.
6. The applicant shall establish and maintain a community liaison program, in cooperation with the Advisory Neighborhood Commission, which shall provide a forum for addressing issues and concerns of the facility and its neighbors as necessary.

VOTE: 4-0 (Paula L. Jewell, Charles R. Norris and Carrie L. Thornhill to grant; John G. Parsons to grant by proxy; Sheri M. Pruitt not voting, not having heard the case).

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

ATTESTED BY:

  
MADÉLIENE H. ROBINSON  
Acting Director

FINAL DATE OF ORDER: \_\_\_\_\_

JUN 24 1992

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15555

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 24 1992 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:

Andrea P. Salley, Esquire  
Whayne S. Quin, Esquire  
Wilkes, Artis, Hedrick & Lane  
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BZA APPLICATION NO. 15555

PAGE NO. 2

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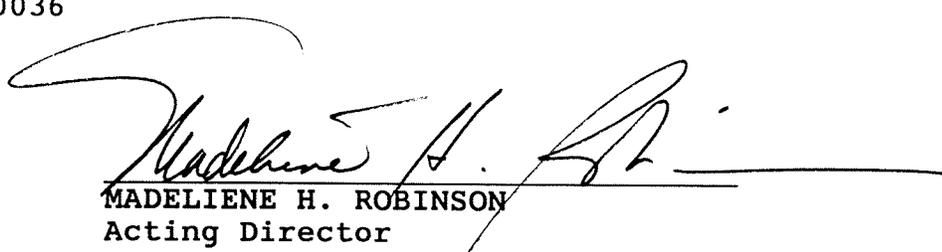
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