

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 [Subsection 2001.3(b)], a variance from the 10,000 square feet of gross floor area requirement (Subsection 218.1), and special exceptions pursuant to Section 218 and Subsection 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

DISPOSITION: The Board GRANTED the application by a vote of 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).

FINAL DATE OF ORDER: June 24, 1992

RECONSIDERATION ORDER

The Board granted the application, subject to six conditions, by its order dated June 24, 1992. On July 6, 1992, counsel for Kindy French and Emanuel Friedman, parties in opposition to the application, filed a timely motion requesting the Board to reconsider its decision on the application and to reopen the record in the case. On July 29, 1992, counsel submitted a supplemental memorandum in support of the motion.

In support of the motion for reconsideration, counsel for the opposition noted the following:

- a. The opposition has been informed that the proposed nonprofit organization no longer seeks to lease the subject premises.
- b. The opposition has become aware that the applicant has listed the property for sale for chancery or residential use.

- c. The opposition has become aware that the applicant has appealed to the D.C. Board of Equalization and Review to have the subject property reassessed as residential, as opposed to commercial property, for tax purposes.

Based on the foregoing information, counsel for the opposition argued that the Board's decision should be reconsidered and dismissed as moot because the Board's decision and the conditions placed upon its approval of the case were based on the circumstances set forth relative to the use of the subject premises by the Counsel for Early Childhood Professional Recognition. Counsel for the opposition was of the opinion that any change in the tenant of the site which is not permitted as a matter-of-right must be reviewed and approved by the Board through the special exception process.

Counsel for the opposition further argued that the applicant's post-hearing attempts to have the property reassessed from commercial to residential and to list the property for chancery or residential purposes nullifies the arguments presented in support of the applicant's case to the effect that the subject premises are unsuitable for residential use.

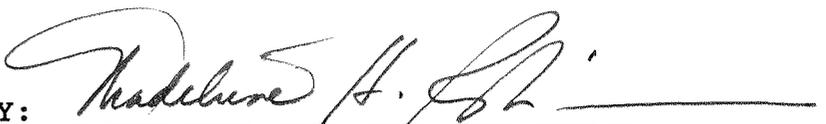
By letter dated July 24, 1992, counsel for the applicant opposed the motion for reconsideration. Counsel for the applicant argued that the motion for reconsideration states no basis upon which it could be granted; that the order of the Board is not moot; and that such action would be inappropriate and inconsistent with previous Board actions.

Upon consideration of the motion, response thereto, the evidence of record and its final order, the Board concludes that it made no error in deciding the application. The motion of the opposition does not state any basis upon which the Board's decision on the application was in error. The contention of the opposition that the Board's decision should be rendered moot are based on allegations of changes in circumstances which are beyond the scope of the record considered and acted upon by the Board. The Board notes that its decision to approve the use of the subject premises for use by a nonprofit organization subject to the specified conditions applies generally to its use by any nonprofit organization which complies with the conditions imposed by the Board. The Board further notes that its approval of the use of the premises is permissive and not mandatory. If the project does not proceed within the timeframe specified in the Regulations, then the Board's approval would expire and the applicant could not proceed under the existing Board order. Accordingly it is hereby **ORDERED** that the motion for **RECONSIDERATION** is **DENIED**. The Board's order dated June 24, 1992 shall remain in full force and effect.

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VOTE: 3-0 (John G. Parsons, Paula L. Jewell and Carrie L. Thornhill to deny; Angel F. Clarens and Sheri M. Pruitt not voting, not having heard the case).

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

ATTESTED BY: 
MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: AUG 28 1992

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."

15555Order/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO.

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 28 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:

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BZA APPLICATION NO. 15555 ATTESTATION SHEET
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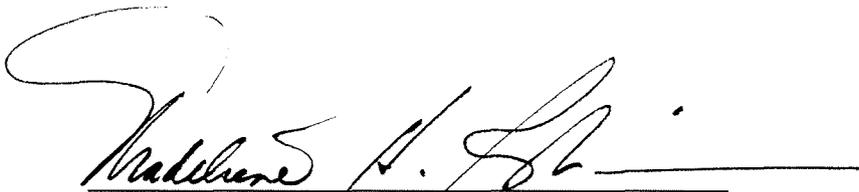
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MADELIENE H. ROBINSON
Acting Director

DATE: _____ AUG 28 1991

15555Att/bhs