

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Appeal No. 15909 of the Western Presbyterian Church, pursuant to 11 DCMR 3105.1 and 3200.2, from the decision of Joseph F. Bottner, Zoning Administrator made on September 3, 1993, to the effect that a variance must be obtained to provide food for the homeless on that portion of the premises located in the SP-2 District for a church in R-5-D and SP-2 Districts at premises 2401 Virginia Avenue, N.W. (Square 31, Lot 28).

HEARING DATES: January 19 and February 2, 1994
DECISION DATE: March 2, 1994

DISPOSITION: The Board DENIED the appeal by a vote of 4-0 (Angel F. Clarens, George Evans, Laura M. Richards and Maybelle Taylor Bennett to deny; Craig Ellis not voting, not having heard the case).

FINAL DATE OF ORDER: April 21, 1994

WITHDRAWAL ORDER

At its public meeting of March 2, 1994, the Board of Zoning Adjustment (BZA) denied the subject appeal and upheld the decision of the Zoning Administrator. Subsequent to the Board's public meeting and prior to the issuance of the final decision on the case on April 21, 1994, the appellant, Western Presbyterian Church et al., filed a complaint for declaratory and injunctive relief with the U.S. District Court for the District of Columbia. By memorandum order filed on April 15, 1994, the U.S. District Court granted a preliminary injunction and ordered that for the duration of the litigation, the District of Columbia, the Board of Zoning Adjustment of the District of Columbia, and the Department of Consumer and Regulatory Affairs of the District of Columbia, their officers, agents, servants, employees, and attorneys and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, be enjoined from enforcing the September 3, 1993 decision of the District of Columbia Zoning Administrator, the March 2, 1994 decision of the BZA and the District of Columbia Zoning Regulations to the extent those regulations interfere with the plaintiffs administering their program for providing food and substance to the poor, homeless and needy or otherwise inhibit the operation of the Western Presbyterian Church's homeless feeding program at 2401 Virginia Avenue, N.W., Washington, D.C., so long as such program is carried out in an appropriate and orderly manner and does not constitute a nuisance.

On May 31, 1994, the U.S. District Court for the District of Columbia ruled that the issuance of the written decision in the appeal was in violation of the preliminary injunction, dated April 15, 1994, and directed that the Board withdraw its written decision as soon as possible in order to restore the Board's position to that which existed prior to the issuance of the preliminary injunction. The Board's issuance of its written decision on April 21, 1994 followed the Board's normal procedure for memorializing its oral decision and was not intended in any way to violate the Court's preliminary injunction ordered April 15, 1994 in this case.

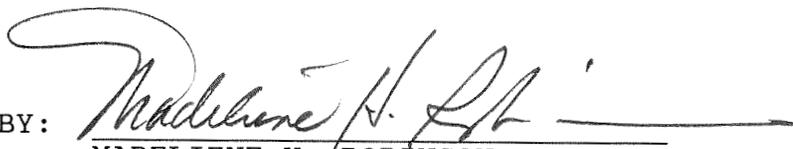
However, upon consideration of the court's May 31, 1994 determination, it is hereby **ORDERED** that the Board's written order in the subject appeal, dated April 21, 1994 is hereby **WITHDRAWN**, in compliance with the preliminary injunction ordered by the U.S. District Court on April 15, 1994. The Board's proceedings and decisions relative to the subject appeal which occurred prior to April 15, 1994 are not altered by the instant withdrawal of the Board's written order and, therefore, remains in full force and effect.

DECISION DATE: June 1, 1994

VOTE: 4-0 (Maybelle Taylor Bennett, George Evans, and Laura M. Richards to withdraw the written order; Angel F. Clarens to withdraw the written order by absentee vote; Craig Ellis not voting, not having heard the case).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: _____

JUN 2 1994