

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15930 of The George Washington University, pursuant to 11 DCMR 3108.1, for a special exception under Section 210 for further processing of an approved campus plan to construct a 93-unit student residence facility, and a special exception under Section 411 to locate a penthouse a distance less than its height from all edges of the roof in an R-5-D District at premises 2350 H Street, N.W. (Square 42, Lot 844).

HEARING DATE: March 23, 1994
DECISION DATE: April 6, 1994

DISPOSITION: The Board GRANTED the application by a vote of 4-0 (Craig Ellis, Laura M. Richards, George Evans and Angel F. Clarens to grant).

FINAL DATE OF ORDER: May 27, 1994

RECONSIDERATION ORDER

The Board granted the application by its order dated May 27, 1994, subject to ten conditions. By letter dated June 9, 1994, counsel for St. Mary's Episcopal Church, a party in opposition to the application, filed a timely motion for reconsideration of the Board's decision. In support of the motion, counsel argued that the Board's decision erred with respect to Condition No. 2 of its order, which reads as follows:

2. Deliveries shall occur only between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday; 9:00 a.m. and 6:00 p.m. on Saturday; and 9:00 a.m. and 2:00 p.m. on Sunday.

Counsel noted that the Church's representative at the public hearing expressed concern about the use of the public alley for deliveries, particularly with respect to the impact those deliveries would have on alley access to the parking at the rear of the church property during services conducted by the Church on Sundays. In addition, counsel noted that the resolution submitted by Advisory Neighborhood Commission (ANC) 2A also requested that deliveries to the residence facility not be allowed on Sundays. Counsel argued that Condition No. 2 allows for unrestricted deliveries to the residence facility from 9:00 a.m. to 2:00 p.m. on Sunday and, thus, does not respond to the issues raised by the Church and the ANC with respect to the use of the public alley for deliveries to the facility on Sundays.

By letter dated June 18, 1994, counsel for the applicant responded to the motion for reconsideration. Counsel for the applicant argued that the record is replete with testimony as to the number and size of vehicles which would make deliveries to the facility and the hours during which those deliveries would occur. Counsel for the applicant was of the opinion that the record in this case supports the Board's decision and that the Board committed no error in approving the application with the conditions as stated. However, counsel for the applicant, in deference to the Church's concerns, offered to restrict deliveries to the facility on Sundays. Counsel proposed that on those limited occasions when Sunday deliveries to the residence facility are necessary, the applicant will make arrangements to receive them from the 24th Street garage entrance or from the main entrance to the building on H Street. The applicant suggested that Condition No. 2 be amended by adding the following sentence"

"Sunday deliveries shall not be made via the public alley."

No other responses to the motion for reconsideration were received by the Board.

Upon consideration of the motion, the response thereto, the record in the case, and its final order, the Board concludes that its decision lacked specificity related to the use of the public alley for deliveries to the residence facility on Sundays. The Board notes that the record contains testimony from the applicant indicating its agreement that deliveries to the facility on Sundays would occur only in limited instances. The Board failed to incorporate such limitations in its conditioning of the final order. The Board concludes that the applicant's recommended amendment of Condition No. 2 is adequate to address the issues and concerns expressed by the opposition and the ANC relative to this issue.

Accordingly, it is hereby **ORDERED** that the motion for **RECONSIDERATION** of the Board's decision is **GRANTED**. The Board's original decision to grant the application with conditions shall stand except that Condition No. 2 of the Board's Order dated May 27, 1994 shall be amended to read as follows:

2. Deliveries shall occur only between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday; 9:00 a.m. and 6:00 p.m. on Saturday; and 9:00 a.m. and 2:00 p.m. on Sunday. No deliveries shall be made via the public alley at any time on Sundays.

In all other respects, the Order of the Board dated May 27, 1994 shall remain in full force and effect.

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DECISION DATE: July 6, 1994

VOTE: 4-0 (Angel F. Clarens, Craig Ellis, Laura M. Richards
and George Evans to grant).

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

ATTESTED BY:



MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: JUL 29 1994

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, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15930Order/SS/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15930

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact-that on JUL 29 1994 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:

Wayne S. Quin, Esquire
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006

Bradford A. Tatum
St. Mary's Episcopal Church
728 23rd Street, N.W.
Washington, D.C. 20037

Horie Williams
c/o Shirley C. Williams
2310 H Street, N.W.
Washington, D.C. 20037

Jean Swift, Chairperson
Advisory Neighborhood Commission 2A
1920 G Street, N.W., #100
Washington, D.C. 20006

A handwritten signature in cursive script, reading "Madeliene H. Robinson", written over a horizontal line.

MADELIENE H. ROBINSON
Director

DATE: JUL 29 1994

15930Att/bhs