

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16253 of Masjid Al-Islam, Inc., pursuant to 11 DCMR 3107.1, for a variance from the off-street parking requirements (Subsection 2101.1) for a church seating 250 in an R-5-A District at premises 4603 Benning Road, S.E. (Square 5352, Lot 41).

HEARING DATE: September 3, 1997
DECISION DATE: September 3, 1997 (Bench Decision)

ORDER

SUMMARY OF EVIDENCE

The property which is the subject of this application is located on the corner of Benning Road and C Street S.E. It is known as premises 4603 Benning Road, S.E. and it is zoned R-5-A.

The site is developed with a structure that contains one-story plus a basement. The applicant proposes to use the structure for a church seating 250 persons. Pursuant to 11 DCMR 2101.1, a minimum of 25 parking spaces would be required for the proposed use. The applicant is seeking a variance from the off-street parking requirements to allow the use with six parking spaces on site.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commissions (ANCs) 7A and 7E and to owners of property within 200 feet of the site.

Issues and Arguments:

1. Whether there exists a unique or exceptional situation or condition which creates a practical difficulty for the owner in complying with the Zoning Regulations?

The applicant argued that there are inherent physical characteristics of the property which create a practical difficulty for him in his ability to provide the required number of parking spaces for the proposed use. He testified that when the original plans for the existing building were submitted in 1982, they

were granted six parking spaces. These spaces were never striped or used, as construction of the building was never completed. Now that construction and renovation are again underway, the required number of parking spaces must be provided. However, he stated that because of the configuration of the building and the land space covered, there is only space for the originally designated six parking spaces. The applicant testified that access to these spaces would need a curb cut off of Benning Road or an entrance through the adjacent alley. Finally, the applicant testified that the building is complete and the remaining work only involves installation of the electricity and plumbing.

The Office of Zoning testified at the hearing and recommended approval of the application. With regard to the issue of uniqueness and practical difficulty, the Office of Zoning The Office of Zoning noted that the property does not have enough on site space to comply with the current requirements for parking. Therefore the Office of Zoning expressed the opinion that the inherent physical characteristics of the property create a practical difficulty for the applicant in his ability to provide the required parking related to the proposed use.

2. Whether allowing the variance from the parking requirements would be of substantial detriment to the public good?

One neighbor who resides at 4529 C Street, S.E. submitted a letter and appeared at the hearing to testify in opposition to the application. She testified that the subject lot will not accommodate six cars and she was concerned that allowing the church to operate without the required number of parking spaces would bring more parking onto C street, thereby creating a potential negative impact on the neighborhood. Finally, she testified that those who visit the area often park so as to block the driveways of residents on the street.

The applicant testified that currently the church has a congregation of about 100 people. He stated that about 100 people are expected to attend service on Fridays.

In response to the concern expressed by the opposing party, the applicant testified that he was in negotiations with the Greater Gospel Ark Temple to use their parking lot for overflow parking on Fridays between the hours of 12:00 noon and 3:00 p.m. The church is located one block away at 4551 Benning Road, S.E.

In a letter to the Board, dated September 3, 1997, the church (Greater Gospel) confirmed its willingness to allow the applicant use of their lot as requested by the applicant.

Finally, the applicant testified that he would inform members of his church of the available parking and caution them about blocking driveways in the neighborhood.

The Department of Public Works (DPW) is of the opinion that the requested relief of the parking requirement could result in some additional parking on the street on Fridays (between 12:30 and 2:00 p.m.), when the church has its major meeting. However, DPW believes that the required additional parking needs could be adequately met on adjacent streets. The area is well served by public transportation (metro bus and rail) which would reduce the anticipated need for additional off-site parking that could occur. DPW is of the opinion that the requested variance would not develop any area impacts that might be detrimental to the public good or would generate severe adverse impacts in terms of traffic, parking, noise, environmental quality or other objectionable conditions.

3. Whether granting the application would impair the intent, purpose and integrity of the zone plan?

The applicant maintains that the zone plan will not be impaired by allowing the church use without all of the required parking.

FINDINGS OF FACT

Based on the evidence of record, the Board finds as follows:

1. The church will be most heavily attended only on Fridays.
2. The parked cars can be accommodated on the street in the area near the site and by the parking lot at 4551 Benning Road, S.E.
3. The applicant will take measures to ensure that cars belonging to members of the church do not block driveways in the area.
4. The applicant will inform members of the church of the overflow parking arrangements.

CONCLUSIONS OF LAW AND OPINION

Based on the evidence of record, the Board concludes that the applicant is seeking a variance from the off-street parking requirements to allow a church at 4603 Benning Road, S.E., in an R-5-A District. The granting of such a variance requires a showing through substantial evidence on the record of a unique or

exceptional situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations. The Board must find that granting the relief would not be of substantial detriment to the public good and would not impair the intent, purpose and integrity of the zone plan. The Board concludes that the applicant has met this burden of proof.

The Board concludes that the applicant has demonstrated that the owner faces a practical difficulty resulting from an exceptional condition of the property. The Board is of the opinion that, given the measures to be taken by the applicant, allowing the parking variance will not be of substantial detriment to the public good. Finally, the Board concludes that granting the application will not impair the intent, purpose and integrity of the zone plan.

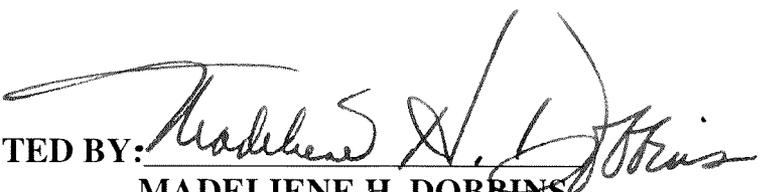
The Board concludes that the affected ANC's did not testify at the hearing or submit reports related to the application. Therefore, there are no ANC views to which "great weight" may be given by the Board.

In light of the foregoing, the Board hereby **ORDERS** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. The applicant shall provide additional parking at a convenient site.
2. The applicant shall inform members of the church of the available parking.
3. The applicant shall caution members against blocking driveways when they park in the neighborhood.

VOTE: 4-0 (Susan Morgan Hinton, Sheila Cross Reid, Laura M. Richards and Betty King to grant; Herbert M. Franklin not present, not voting).

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

ATTESTED BY: 
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: OCT 22 1997

PURSUANT TO D.C. CODE SEC. I-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY 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 TWO YEARS 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.

Order16253/POH/TWR/LJP

Ord16253

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16253

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 22 1997 a copy of the order entered on that date in this matter was mailed postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed blow:

Clarence Reams
5021 A Street, S.E.
Washington, D.C. 20019

Martharene S. Smarr
4529 C Street, S.E.
Washington, D.C. 20019

Angela Thompson – Murphy, Chairperson
Advisory Neighborhood Commission 7A
4310 Texas Avenue, S.E.
Washington, D.C. 20019

Mary D. Jackson, Chairperson
Advisory Neighborhood Commission 7E
5001 Hannah Place, S.E. #B
Washington, D.C. 20019

Attested By:

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

MADELIENE H. DOBBINS
Director

Date: OCT 22 1997

Attest/ljp