

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17880 of Progressive National Baptist, pursuant to 11 DCMR § 3104.1, for a special exception a private school (200 students, grades nursery through 6th) under section 206, in the R-5-A District at premises 601 50th Street, N.E. (Square 5194, Lot 824).¹

HEARING DATES: February 24 and June 9, 2009
DECISION DATE: June 9, 2009 (Bench Decision)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief (Exhibit 17).

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 the Applicant, Advisory Neighborhood Commission (ANC) 7C, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 7C, which is automatically a party to this application. While the Board did not receive a formal report from the ANC to which it could give great weight pursuant to Section 3115.1², the Board did receive a letter of support from the Chair of ANC 7C indicating support of the application (Exhibit 33). At the hearing, the Office of Planning (OP) gave its support for the application of the school. Previously, OP had submitted a report in which it indicated that it could not make a recommendation until it received additional information (Exhibit 30).³ Councilmember Yvette Alexander (Ward 7), who

¹ The Applicant amended the application by reducing the number of students from 300 to 200 and by indicating that the grades in the school would be nursery to sixth grade.

² The Applicant testified that the ANC was scheduled to consider the application at its June 11, 2009 public meeting, two days after the Board hearing and decision.

³ OP had indicated that it needed additional information before it could make a recommendation, including:

1. An inventory of current land uses and conforming parking resources on-site; and

BZA APPLICATION NO. 17880

PAGE NO. 2

represents the Ward in which the school is located, submitted a letter in support of the application (Exhibit 34).

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to 11 DCMR §§ 3104.1 and 206. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to OP, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3104.1 for a special exception under § 2514.2, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that the application be **GRANTED AS CONDITIONED**:

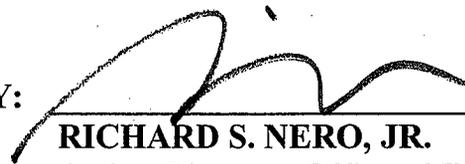
1. The Applicant shall designate 26 parking spaces for the exclusive use of the school.

VOTE: 3-0-2 (Shane L. Dettman, Anthony J. Hood, and Marc D. Loud, to approve; no other members present or voting)

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

A majority of Board members approved issuance of this order.

ATTESTED BY:



RICHARD S. NERO, JR.
Acting Director, Office of Zoning

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2. A table and site plan that explains where the parking required for existing and proposed uses would be located on the site.

OP gave its cautious support for the application after the Board clarified that the application was strictly limited to the expansion of the school's enrollment and did not involve other uses on the site.

FINAL DATE OF ORDER: JUNE 12, 2009

UNDER 11 DCMR § 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL BECOME EFFECTIVE UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

BZA APPLICATION NO. 17880
PAGE NO. 4

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER

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BZA APPLICATION NO. 17880

As Acting Director of the Office of Zoning, I hereby certify and attest that on June 12, 2009, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

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BZA APPLICATION NO. 17880

PAGE NO. 2

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ATTESTED BY:



RICHARD S. NERO, JR.

Acting Director, Office of Zoning