

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17964 of Emory United Methodist Church, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the height requirements under section 770, a variance from the floor area ratio requirements under subsection 771.2, a variance from the lot occupancy requirements under section 772, a variance from the loading facility requirements under section 2201, and a special exception for multiple roof structures and required setbacks under subsections 770.6(a), 777, and 411.11, to allow the construction of a new building containing church, office, retail, residential and recreation uses, in the C-2-A District at premises 6100 – 6120 Georgia Avenue, N.W. (Square 2940, Lots 801, 802, 808, and 813).

HEARING DATES: September 22, 2009 and December 15, 2009
DECISION DATES: January 26, 2010¹ and February 23, 2010

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5).

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 Commission (ANC) 4A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. The ANC filed a report, dated September 15, 2009, indicating that, at a duly-noticed, regularly-scheduled meeting at which a quorum was present, the ANC voted unanimously in support of the application on September 8, 2009. (Exhibit 23). The

¹ The Board granted an extension of time for its deliberations to allow the Applicant time to explore an alternate design proposal based on discussions with the National Park Service (NPS).

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Office of Planning (OP) submitted a timely report recommending approval of the application. (Exhibit 22). The District Department of Transportation (DDOT) submitted a report, dated December 9, 2009, recommending conditional support and requesting a Transportation Demand Management plan be provided. (Exhibit 39). Testimony and letters were filed in support of the application (Exhibits 25 (2nd attachment), 36, 43, 46, 51). The National Park Service objected to the project and submitted its recommendations to address its objections.² (Exhibits 27, 39, and 64). Testimony was heard and the record contains other letters and one petition (Exhibit 56) that were filed in opposition of the application. (Exhibits 31, 32, 33, 34, 37, 38, 41, 42, 44, 45 and 52³, 50, 54, 55, 57, 59, 63, 65, and 66)⁴.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, for a variance from the height requirements under section 770, a variance from the floor area ratio requirements under subsection 771.2, a variance from the lot occupancy requirements under section 772, and a variance from the loading facility requirements under section 2201. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 770, 771.2, 772, and 2201, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

In addition, as directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under subsections 770.6(a), 777, and 411.11. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

² The Applicant considered the NPS' recommendations for revising the project and proposed its own potential revisions to the project in response. Ultimately, the Applicant, after consulting with its architect and general contractor, found that the NPS' suggestions presented architectural, structural and financial challenges that it could not overcome. The Applicant did, however, revise its architectural plans in its January 19, 2010 submission and asked the Board to evaluate the application based upon the submitted plans, as revised by those revised elevations so submitted. (Exhibit 58).

³ Exhibit 52 is a corrected version of Exhibit 45.

⁴ The Board waived its rules and accepted several of these exhibits that were filed after the record was closed, having found that most of the additional filings were duplicative of already-submitted statements from the persons in opposition.

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Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 770.6(a), 777, and 411.11, 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.

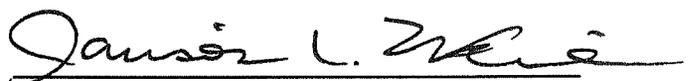
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibits 10 and 58 – Plans) be **GRANTED SUBJECT TO THE FOLLOWING CONDITION:**

1. The Applicant shall make available to the National Park Service the dedicated space of approximately 359 square feet in the new building identified as “gift shop” in Plan A-1-1 in Exhibit 10 for the purposes of a welcome center/gift shop to educate and promote the history of Fort Stevens to visitors and the community-at-large or any other use the National Park Service deems beneficial to their mission of education and welcoming.

VOTE: 3-1-1 (Meridith H. Moldenhauer, Nicole C. Sorg, and Anthony J. Hood to APPROVE. Shane L. Dettman to OPPOSE. Marc D. Loud was recused and therefore did not participate nor vote.)

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

The majority of the Board members approved the issuance of this order.

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 04 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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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.

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.

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, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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As Director of the Office of Zoning, I hereby certify and attest that on MAR 04 2010 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 and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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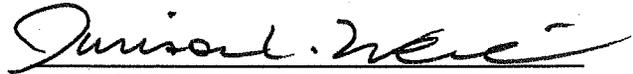
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ATTESTED BY:



JAMISON L. WEINBAUM

Director, Office of Zoning