

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18208 of Capital Hill Day School, as amended, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the parking requirements under section 2101.1, a special exception to allow the temporary placement and use of modular classrooms from May 2011 to March 2012, for a private school under section 206, and a special exception under section 2516* to locate more than one principal building on a lot in the R-5-B District at premises 1000 5th Street, S.E. (Square 881-W, Lot 800).

HEARING DATE: May 17, 2011
DECISION DATE: May 17, 2011

**Note: At the public hearing, the Board accepted the Applicant's request to amend the application to include special exception relief under § 2516, given that the Applicant had notified and discussed the amendment with the community.*

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2.

The Board of Zoning Adjustment ("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") 6D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6D, which is automatically a party to this application. ANC 6D submitted a report expressing no objection to the application. The Office of Planning ("OP") submitted a report in conditional support of the application.

Variance Relief:

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 § 2101.1. 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.

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BZA APPLICATION NO. 18208
PAGE NO. 2

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from § 2101.1, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty 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.

Special Exception Relief:

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 relief under § 2516. 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.

Based upon the record before the Board and having given great weight to the ANC and the OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2516, 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. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 10 - PLANS, be **GRANTED, SUBJECT to the CONDITIONS below**. These conditions include those that the Board deems applicable from the previous orders – Nos. 17540 and 17541.

1. The total number of students enrolled in the School shall not exceed 255.
2. The educational program offered by the Applicant shall not extend beyond a day program and an after-school program for pre-kindergarten through eighth grade students (except for a summer camp that serves the same grade levels and is also subject to all other conditions set forth in this Order).
3. No more than forty-three (43) faculty and staff members shall be employed at the School.
4. The Applicant shall provide parking spaces on the subject property to accommodate twenty (20) automobiles during normal (i.e., daytime) hours of operation and three (3) school buses after hours as shown on the site plan at Exhibit 31, in File No.

17540. During the day, if the school buses are not in use, they shall be parked behind the Dent Building or in an alternative off-site, off-street location.

5. The normal hours of operation of the School shall be from 8:00 a.m. to 6:00 p.m., Monday through Friday.
6. Evening and weekend functions and activities for gatherings of twenty-five (25) or more persons shall be limited to those functions and activities that are customary to an elementary school, such as theatrical or musical productions, back-to-school nights, science, math and art fairs, and similar activities, and shall not exceed, on average, more than two (2) per month.
7. The Applicant shall provide faculty and staff with incentives, such as the MetroCheck program, to encourage the use of public transportation or to carpool to and from the subject property.
8. The Applicant shall maintain a community liaison and shall meet with concerned neighbors and other interested parties, including the local ANC representative, a minimum of four times per year. All property owners within 200 feet of the subject property shall be notified in advance of such meetings and shall be invited to attend.
9. All temporary structures shall be removed from the site by May 31, 2012.
10. The School shall enter into a contract for off-street parking for 29 faculty and/or staff parking spaces, effective prior to the 2011-2012 school year.
11. The School shall continue to offer pretax benefits for transportation expenses up to the amount authorized by law.
12. The School shall park its three buses in a rental parking facility for the duration of the construction.

VOTE: **4-0-1** (Nicole C. Sorg, Lloyd J. Jordan, Peter G. May and Jeffrey L. Hinkle to Approve; Meridith H. Moldenhauer not present, not voting)

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

A majority of the Board members approved the issuance of this summary order.

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

FINAL DATE OF ORDER: MAY 31 2011

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.

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 PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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, OR

BZA APPLICATION NO. 18208
PAGE NO. 5

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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BZA APPLICATION NO. 18208

As Director of the Office of Zoning, I hereby certify and attest that on MAY 31 2011, 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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