

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18471-A¹ of Universalist National Memorial Church, pursuant to 11 DCMR § 3103.2, for a variance from the use requirements under § 350.4, to allow the continued use of theater performances on the basement level of a church in the DC/R-5-B District at premises 1810 16th Street, N.W. (Square 177, Lot 802).

HEARING DATE: March 22, 2016
DECISION DATE: March 22, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 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”) 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a report and resolution in support of the application, dated March 14, 2016. The ANC’s report indicated that at a duly noticed and regularly scheduled public meeting on March 9, 2016 at which a quorum was in attendance, the ANC voted unanimously (7-0-0) in support of the application. (Exhibit 19.)

The Office of Planning (“OP”) submitted a timely report dated March 15, 2016 recommending approval of the application with the Applicant’s proposed revised conditions. (Exhibit 20.)

The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 21.)

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 use variance from § 350.4. The only parties to this application were the Applicant and the ANC which was in support of the application. No parties appeared at the public hearing in opposition to this

¹ The Applicant was originally granted use variance relief for a theater use for a three-year period in BZA Order No. 18471 in 2013.

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application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

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 use variance from § 350.4, 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 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.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, 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 is hereby **GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

1. This approval shall be for a period of **SIX (6) YEARS** beginning on the date upon which the order became final.
2. The total number of “performances” by the residential theater shall be limited to 60 per year. Performances shall include only formal theater-sponsored and benefitted scheduled events in which tickets are advertised and offered in advance to the general public. Performances shall not include Church-sponsored and benefitted events, theater auditions, rehearsals, and dress rehearsals which are not open to the public and tickets are not sold or offered, and other small scale and customary theater developmental activities, including free workshops, readings, open houses and other fundraising activities and other development activities for theater professionals and the public.
3. For outside residential theater performances, seating shall be limited to 75.
4. The current residential theater, Spooky Action Theater, or any subsequent residential theater, shall not sublet this space to other theaters or organizations. Such restriction shall be included in the lease between the Applicant and the residential theater.
5. Public access to the theater for the general public, staff and performers shall be limited to the main entrance to the Church on 16th Street. Access from the alley shall be limited for ADA purposes and service activities.
6. For Friday and Saturday night performances, the residential theater shall seek to make arrangements for off-street parking for staff, performers, and patrons.
7. During the times of residential theater performances, the Applicant shall ensure that the gathering of people outside the premises of the Church during pre-performance waiting,

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intermissions, smoke-breaks, or post-performance socializing shall not disturb the peace, order, or quiet of the residential neighborhood.

8. The Applicant shall remove any trash associated with the residential theater performances no later than the day after the performance.
9. The Church shall meet with the ANC annually to discuss any concerns and the need to implement any new mitigation measures.
10. The Church shall create a mission for charitable and educational activity in which the rental theater shall be a participant.

VOTE: 4-0-1 (Anthony J. Hood, Marnique Y. Heath, Frederick L Hill, and Jeffrey L. Hinkle to Approve; one Board seat vacant).

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

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

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: March 29, 2016

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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.

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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.