

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19271 of DGS of DC, as amended,¹ pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow 86 parking spaces to operate a public school in the R-2 District at premises 4800 Meade Street, N.E. (Square 5159, Lot 801).

HEARING DATE: June 7, 2016

DECISION DATE: June 7, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4 – original self-certification; Exhibit 30 – revised self-certification). In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 7C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7C, which is automatically a party to this application. The ANC did not file a report related to the application or participate in the hearing.²

¹ As originally filed, the Applicant sought a special exception under § 2108 for a reduction in the number of parking spaces. (Exhibit 4 - self certification.) The Applicant revised the relief requested to a variance from § 2101.1 – the off-street parking requirements. (See Exhibit 30 - revised self-certification.) The application is a request for an area variance under § 2101.1 to operate a public school where 142 parking spaces are required and 86 parking spaces are existing and proposed. (Exhibit 31.) The application for variance relief allows the Applicant the full reduction of parking spaces needed. The caption has been revised accordingly.

²The Applicant's representative testified at the hearing that the application was presented at a meeting of ANC 7C on May 12, 2016, but the ANC decided not to vote until the application was presented to the Deanwood Community Association ("DCA"). The Applicant also submitted a letter from the Single Member District ("SMD") Commissioner dated June 7, 2016 to the record. The SMD Commissioner's letter indicated that the Applicant presented the application to the DCA on May 23, 2016, that the SMD Commissioner for ANC 7C-07 was present, and that ANC 7C's formal vote was to occur on June 9, 2016 at the ANC's regularly scheduled meeting. (Exhibit 34.)

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The Office of Planning (“OP”) submitted a timely report dated May 31, 2016, in support of the amended relief for a variance from § 2101.1. (Exhibit 32.) OP testified that the 25% reduction allowed by § 2108 was not needed because the variance relief from § 2101.1 allows the Applicant the full reduction of parking spaces needed. Further, OP was of the opinion that the Applicant faces exceptional circumstances in that to meet the parking requirements, the Applicant would have to eliminate an athletic field, and such a change would interfere with the operation of the high school.

The District Department of Transportation filed a timely report dated May 31, 2016 expressing no objection to the application, and recommending two conditions for the application, one of which the Board adopted. (Exhibit 33.)

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. The only parties to this application were the Applicant and the ANC which did not attend the hearing or provide an official report. 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 averse to any party.

Based upon the record before the Board and having given great weight to the OP report 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.

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 the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 29 – UPDATED ARCHITECTURAL PLANS AND ELEVATIONS - AND SUBJECT TO THE FOLLOWING CONDITION:**

1. The Applicant shall provide wayfinding information on all media (website, flyers, mailers, etc.) used to advertise events at the auditorium to encourage the use of non-auto modes of transportation, and provide directions to the campus using transit and other non-auto modes.

VOTE: 3-0-2 (Marnique Y. Heath, Frederick L Hill, and Michael G. Turnbull to APPROVE; Anita Butani D’Souza, recused; Jeffrey L. Hinkle 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 order.

ATTESTED BY: _____

SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: June 14, 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 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 CONDITION 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 CONDITION IN THIS ORDER, IN WHOLE OR IN PART

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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 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.