

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17703-A of Sidwell Friends School, as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception from the private school requirements under § 206, to increase the size of an existing education campus and number of students and staff in the C-2-A/R-1-B District at premises 3825 Wisconsin Avenue N.W. (Square 1825, Lot 816 and 818).

HEARING DATES: January 26, 2016, March 1, 2016, and March 29, 2016²
DECISION DATE: March 29, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3.) This application was self-certified. 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") 3F and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3F, which is automatically a party to this application. The ANC submitted a report recommending approval of the application subject to conditions. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on February 23, 2016, at which a quorum was present, the ANC had voted unanimously (6-0-0) in support of the

¹ Implicitly, in its Pre-Hearing Statement (Exhibit 22) and confirmed orally at the March 1st public hearing, the Applicant amended the application by withdrawing its request for a variance from the height requirements of § 400.9. The caption has been changed accordingly.

² This case was postponed from the Public Hearing agenda of January 26, 2016 and heard on March 1, 2016. The case was scheduled for decision on March 15, 2016, but was removed from the Public Meeting agenda and scheduled for a limited scope hearing to address the Applicant's proposed condition No. 6 on March 29, 2016.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

BZA APPLICATION NO. 17703-A
PAGE NO. 2

application with conditions. (Exhibit 32.) The ANC Chair testified at the March 1 public hearing in support of the application and the agreed-upon conditions, but noted that the ANC did not have DDOT's report when it passed its resolution.

The Office of Planning ("OP") submitted a timely report indicating that OP recommended approval of the application with conditions. (Exhibit 28.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application with conditions (Exhibit 29) and testified in support of the application at the hearing. DDOT noted that its proposed conditions differ slightly from those proposed by the Applicant. The Board found that, because the Applicant's Transportation Management Plan ("TMP") measures would allow for flexibility and would allow for DDOT's suggestions to be adopted in the future as additional measures if they were needed, the Board adopted the Applicant's proposed conditions.

At the March 1 hearing, the Board granted party status requests from Van Ness Street Coalition and Springland Farm Community LLC, both of which indicated that they are proponents of the project, but wished to raise concerns for the record. (Exhibits 23 and 24.) At the Board's request at the March 15 public meeting, all parties submitted supplemental filings specifically addressing the Applicant's proposed Condition No. 6. Van Ness Street Coalition proposed revised language for Condition No. 6 that would prioritize two recommended improvements. The Board considered post-hearing submissions from the Applicant, the Van Ness Street Coalition, and Springfield Farm Community LLC regarding revisions to the proposed conditions, but ultimately, the Board adopted the Applicant's version of its 10 proposed conditions.

At the March 1 hearing, three neighbors also testified in support of the application and traffic mitigation measures, but raised issues regarding the current traffic conditions for the record.

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 a special exception from the private school requirements under § 206. 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 ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 206, 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.

BZA APPLICATION NO. 17703-A
PAGE NO. 3

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 PLANS AT EXHIBIT 22A, AND WITH THE FOLLOWING CONDITIONS:**

1. The Project shall be constructed in accordance with the plans prepared by Ennead Architects, LLP and marked in the record as Exhibit No. 22A.
2. The Applicant shall fully implement and comply with the Transportation Management Plan ("TMP") including the Transportation Demand Management, Operations Management and Monitoring Subparts of the Plan contained in the Applicant's Pre-Hearing Submission, dated February 16, 2016, marked as Exhibit No. 22C of the record.
3. The provisions of the TMP that the Applicant implements shall include, but not be limited to:
 - a. Relocation of Middle School drop-off and pick-up from its existing location on 37th Street, N.W. to Wisconsin Avenue, N.W. as soon as practicable but no later than the beginning of construction of the Lower School;
 - b. The site plan of the Lower School be configured to allow a queuing capacity of 58 cars as shown on the plans marked as Exhibit No. 22A and 22B of the record;
 - c. A reduction of all vehicular traffic to the School by 30%;
 - d. A requirement that no more than 220 morning peak hour trips (which is equivalent to 110 vehicles entering and exiting the site during AM peak hour or during any sixty-minute morning period), and no more than 180 afternoon peak hour trips (which is equivalent to 90 vehicles entering and exiting the site during the PM school peak hour or during any sixty-minute afternoon period) be generated by the proposed Lower School facility (as determined based on inbound plus outbound traffic counts) as verified by traffic monitoring conducted on representative school days at the 37th Street and Upton Street driveways to The Washington Home Site at the Applicant's expense;
 - e. The Applicant commits to continue to work with the neighborhood through periodic meetings to ensure any traffic concerns by either party can be addressed in a timely manner;
 - f. The hiring of a Metropolitan Police Officer consistent with the Metropolitan Police Department regulations to control traffic at the intersection of 37th and Upton Streets during the Lower School's pick-up and drop-off periods;

BZA APPLICATION NO. 17703-A
PAGE NO. 4

- g. The Applicant will work to secure approval from the District Department of Transportation (“DDOT”), as soon as practicable after the Middle School pick-up-drop-off is relocated to Wisconsin Avenue, to change the signage along the west side of 37th Street between Quebec and Tilden Streets to read “No Stopping, Standing or Parking, 8:00 AM to 4:00 PM School Days.”
4. The maximum enrollment for the entire school upon the issuance of a Certificate of Occupancy of the new Lower School building shall be 1150 students. Provided that the Applicant meets the standards and requirements of the Monitoring Subpart of the TMP for two consecutive school years, it may increase student enrollment to 1200 students. Provided that, after increasing enrollment to 1200 students, the Applicant meets the standards and requirements of the Monitoring Subpart of the TMP for two additional consecutive years, it may increase student enrollment to 1250 students.
5. The maximum number of faculty and staff for the entire school upon the issuance of a Certificate of Occupancy for the new Lower School building shall be 250. The maximum number of faculty and staff may be increased to 260 if after successfully meeting the standards and requirements of the Monitoring Subpart of the TMP for two consecutive years after initial occupancy of the new Lower School building.
6. Prior to the issuance of a Certificate of Occupancy for the Lower School facility at 3720 Upton Street, N.W., the Applicant shall either:
- (a) Construct some of the capital improvements recommended by the DDOT in its report to the BZA (Exhibit No. 29 of the record) subject to DDOT determining which of those improvements are necessary or desired for life/safety of District residents up to a monetary value of \$100,000; or
 - (b) Place \$100,000 into an escrow fund to contribute to said capital improvements as determined necessary or desired by the DDOT for life/safety of District residents.
- If, after five years after the issuance of the Certificate of Occupancy said improvements are not constructed, the money shall be released back to the Applicant.
7. As shown on the plans marked as Exhibit No. 22A of the record, the Applicant shall maintain the existing vegetation and green buffer at the corners of the site at 37th and Upton Street, N.W.; the Project’s fencing shall be consistent with the design and locations as shown on the plans marked as Exhibit No. 22A of the Record; and the community will have access to the green space, on hours/days that School is not in session.
8. The Applicant shall abide by the following construction constraints:

BZA APPLICATION NO. 17703-A
PAGE NO. 5

- a. Construction shall be limited to the hours of 7:00 AM – 5:00 PM on weekdays; and 8:00 AM – 5:00 PM on Saturdays;
- b. There shall be a limit on Saturday exterior construction work no more than 10 Saturdays during the construction period. Interior construction work on Saturdays shall be permitted during the entire construction period provided that there shall not be deliveries of material or equipment to the site on Saturdays beyond the 10 Saturdays aforementioned. Notice shall be given to the ANC and neighborhood representatives at least two days in advance of exterior Saturday work;
- c. Vehicles belonging to construction personnel and construction vehicles will not be permitted to park on neighborhood streets;
- d. The staging or queuing of construction vehicles such as dump trucks and tractor trailers will not be permitted on neighborhood streets before 7:00 AM weekdays and 8:00 AM Saturdays;
- e. All truck traffic will use an approved circulation from Quebec Street to 37th Street to Upton Street out to Wisconsin Avenue to minimize the impact on the adjacent neighborhood streets provided that such plan is approved by DDOT;
- f. At the completion of each work day, the construction site will be cleared of litter and debris and all construction materials and machinery will be left in an organized manner; and
- g. Sidewalk around the perimeter of the site shall be kept clear and clean throughout the period of construction;

9. All faculty, staff and students who drive to the School shall park on campus.

10. The Applicant may construct the Project in two phases. The first phase (Phase I), shown on the plans in the record as Exhibit No. 22A, will involve the construction and renovation of the existing Washington Home building and grounds for the Lower School, a building permit application for which shall be filed within two years of the effective date of this Order. The second phase (Phase II), encompassing the improvements proposed for the Applicant's existing campus (the remainder of the Project as shown on the plans in the record as Exhibit No. 22A) shall be started within five years of completion of Phase I.

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Anita Butani D'Souza³, and Michael G. Turnbull, to APPROVE; and Jeffrey L. Hinkle, not participating or voting.)

³ Board Member Butani D'Souza announced on the record that she had read the full record before participating in the vote.

BZA APPLICATION NO. 17703-A
PAGE NO. 6

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: April 1, 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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR 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

BZA APPLICATION NO. 17703-A
PAGE NO. 7

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.