

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17996-B of Protestant Episcopal Cathedral Foundation, on behalf of Beauvoir School, pursuant to 11 DCMR § 3104.1, for a special exception under section 206 to increase the number of faculty and staff of an existing private school to 109, in the R-1-B District at premises 3500 Woodley Road, N.W. (Square 1944, Lot 25).¹

HEARING DATE:	November 24, 2009
DECISION DATE:	November 24, 2009 (Bench Decision)
MOTION FOR RECONSIDERATION:	February 2, 2010
DECISION DATE:	February 2, 2010

SUMMARY ORDER ON RECONSIDERATION

Background.

On November 24, 2009, the Board of Zoning Adjustment (“Board” or “BZA”) approved the Applicant’s original request for a special exception under § 206 to modify an existing private school use to increase the number of faculty and staff to 109 from its previous level of 85, while keeping the student enrollment the same, e.g. 400. The Board heard and approved the original application on November 24, 2009 and on December 22, 2009, the Board issued BZA Order No. 17996, granting the relief requested under § 206, with conditions. The original application had requested relief for both the private school and the child development center located on the same site. During its deliberations, the Board separated the two requests for relief and issued two separate orders, each of which contained conditions. BZA Order No. 17996 addressed the special exception for the private school; the child development center is the subject of BZA No. 17996-A.

¹ The application originally filed as BZA No. 17996 was amended and bifurcated to reflect that the Applicant sought special exception relief for two different principal uses (private school under section 206 and child development center under section 205) at a single site. The Beauvoir School has been operating under BZA Order 16274 which authorized a private school under section 206 for up to 400 students and up to 85 faculty and staff. The Applicant is now asking to increase the number of faculty and staff to 109, while keeping student enrollment the same, e.g. 400. BZA Order No. 17996 and this order address only the modification of the existing special exception for the private school use; the child development center is the subject of BZA No. 17996-A.

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On December 30, 2010, the Applicant filed a timely motion for reconsideration of Condition No. 3 of the final summary order in Application No. 17996. (Exhibit 39). The Applicant maintains that Beauvoir School and Advisory Neighborhood Commission (“ANC”) 3C intended Condition No. 3 in Order No. 17996 to apply only to the proposed child development center, which was approved under a companion case in BZA Order No. 17996-A, and not the elementary school. By letter dated January 22, 2010, ANC 3C submitted its resolution dated January 19, 2010, clarifying that it recommended that Condition No. 3 be imposed in connection with the child development center. (Exhibit 40). The Board waived the requirements of 11 DCMR § 3126.5 to accept the ANC submission.

The Board determined that the Applicant had met its burden of proof under 11 DCMR § 3126 for reconsideration and accordingly granted the motion to remove Condition No. 3 from BZA Order No. 17996 as reflected below. In all other respects, this final summary order, modifying Order No. 17996, and the final summary order in BZA Application No. 17996-A remain the same.

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6).

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) 3C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3C, which is automatically a party to this application. ANC 3C filed a report, dated October 21, 2009, indicating that, at a publicly-noticed meeting held on October 19, 2009, at which a quorum was present, the ANC voted unanimously to support the application with conditions. The ANC also requested that the Board separate the enrollment and faculty maximum numbers for the elementary school and the child development center in its order.² The ANC’s report was filed on a timely basis and met the requirements of subsection 3115.1 of the Zoning Regulations. (Exhibit 28). The Office of Planning (OP) submitted a timely report recommending approval of the application with conditions as set forth in the OP report as well as subject to the recommendations of the District Department of Transportation

² The Board adopted this last ANC request to show the private school and child development center’s enrollment and faculty maximum numbers separately by means of issuing two separate orders: BZA Order No. 17996, which is modified by this order, to reflect the private school’s enrollment and faculty maximum numbers, with conditions, and BZA No. 17996-A for the child development center, again with conditions.

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(DDOT). (Exhibit 29). DDOT filed a report that recommended conditional approval of the application. (Exhibit 27).³

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 section 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 adverse to any party.

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 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.

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 be **GRANTED AS CONDITIONED**:

- 1) The number of students at Beauvoir School shall not exceed 400.
- 2) The number of faculty and staff at Beauvoir School shall not exceed 109.
- 3) The Applicant shall provide 126 parking spaces, 73 of which shall be designated for Beauvoir School and 48 of which shall be shared between Beauvoir School and the child development center (CDC) at the same location, and shall comply with the submitted parking plan.
- 4) On an annual basis, starting in October, 2010, the Applicant shall submit a report to ANC 3C showing the location of all the parking spaces on the entire PECF Close together with any changes to the 126 parking spaces that constitute the parking “bank” of Beauvoir School and the CDC.

³ The record also reflects that the Office of the State Superintendent of Education (OSSE), Compliance Care Licensing Unit, recommended that the application (as to the child development center) be granted. (Exhibit 24). Moreover, the site is a designated historic landmark and several buildings are on the National Register and the DC Historic Site list. (See, Exhibit 29).

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VOTE on Original Application (November 24, 2009): 4-0-1

(Marc D. Loud, Shane L. Dettman, Meridith H. Moldenhauer, Anthony J. Hood to APPROVE. No other Board members (vacant) present, or voting.)

VOTE on Motion for Reconsideration (February 2, 2010): 4-0-1

(Meridith H. Moldenhauer, Marc D. Loud, Shane L. Dettman, Anthony J. Hood to APPROVE. No other Board member participating, nor voting.)

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: FEB 05 2010

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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, 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,

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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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



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As Director of the Office of Zoning, I hereby certify and attest that on FEB 05 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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ATTESTED BY:


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