

**TESTIMONY OF COMMISSIONER BOB MEEHAN BEFORE THE BZA ON BEHALF
OF THE DUPONT CIRCLE ANC 2B REGARDING CASE NUMBER 18471:
APPLICATION OF UNIVERSALIST NATIONAL MEMORIAL CHURCH, TUESDAY,
DECEMBER 11, 2012**

Good afternoon, members of the BZA. I am delighted to represent the Dupont Circle ANC 2B with regard to the application of the Universalist National Memorial Church (the UNMC) to rent part of the space of its auditorium to a non-profit, start-up performance theater as part of its efforts to meet its operational costs to stay in its building at 1810 16th St NW. At our monthly public meeting on November 14, 2012, ANC 2B approved on a vote of 9-0 a strong, but carefully restricted resolution, in support of this application. This vote was based on our findings focused on the following four issues:

1. Issue: Disturbance of peace, order, and quiet.

This matter came to my attention by staff of Councilman Jack Evans while I was attending the Democratic National Convention in Charlotte, NC. In response to a request for my advice, I suggested that the UNMC request a temporary use variance to cover the play in production; that the variance stipulate that entrance to performances be limited to doors on the front side (16th St side of the Church) and that doors on the alley to the rear of the church, where the disturbance of peace, order and quiet occurred, be off-limits; and that the ANC, the UNMC, and neighbors meet after the October productions to evaluate the impact of the temporary variance.

We met November 7, 2012. At that meeting, the neighbors declared that the restriction of patrons and performers to the front entrances had eliminated the disturbance of peace, order, and quiet. On that basis, I concluded that there was a basis to negotiate an agreement among all parties to back an ANC 2B recommendation to support the UNMC application. This is the first time in my 10 years on the ANC when we were able to see the impact of a potential variance before we voted on the application.

2. Issue: Financial hardship for the UNMC, as a result of the configuration of space, in finding renters to generate income to allow the UNMC to stay in its building.

The three variance criteria normally apply to requests to modify FAR or LOT occupancy ratios as a result of the unusual nature of the land or the difficulty of the existing structure. In the case of the UNMC, the hardship comes from a need to rent out additional space to help offset its operating budget. Currently, it is able to provide one office to a non-profit renter. The rest of the space is essential to the UNMC operations as a church. The vast majority of the space consists of the worship sanctuary and parlor on the first floor, a 225 person capacity auditorium in the basement, and considerable entryway, hallway, and stairway space. The auditorium is the only space that can be rented, but it must also be available for church needs. At first, the UNMC investigated the feasibility of remodeling to include a weekday pre-school. There are over 300 pre-school children in church-based facilities in our neighborhood. A feasibility study concluded that the UNMC could not afford the renovations necessary to accommodate a pre-school. The only other option was to consider a non-profit, community oriented performance theater that would lease space on an intermittent basis throughout the year.

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18471
EXHIBIT NO. 38

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Spooky Action Theater and the UNMC seemed like a good match. As a young theater, Spooky Action Theater set its sights on performances for no more than 75 people, which is one third the capacity of the auditorium, thereby causing minimal disruption of the UNMC's needs. Given the calendar of events for the UNMC, the limit of 48 performances per year for three productions could be accommodated among the weddings etal that the UNMC sponsors. In other words, ANC 2B saw the theater as filling in rather than displacing the UNMC's calendar while also providing crucial rent.

3.Issue: While there is no use by right for a non-profit theater like the existing Spooky Action Theater to operate in an R5-B zone, the Special Exceptions list that includes Non-Profit Organization uses for the R5-B zone does not specifically prohibit a non-profit theater from operating in an R5-B zone under this special exception as far as I could research.

I asked the director of the Office of Zoning if he could offer any guidance on how ANC 2B should address this application. He said that in this case the policy lies with the BZA. He said he expected that the UNMC would base its request on the special exception for non-profits. When I asked for BZA cases that dealt with this type of application, he gave me the web link to BZA cases.

I searched over 70 pages of BZA case listings representing over 400 cases using search words "church, performance theater, theater, arts, performing arts" and some combinations of these words. I downloaded at least 15 cases whose titles might be relevant. I found nothing relevant. Art galleries and artist studios including performance art came up but they are specifically mentioned as special exceptions.

On the basis of our research failing to find BZA cases that addressed this kind of application despite the numerous start-up theaters that had to operate out of non-commercial space in the 45 years that I've lived in DC and the numerous examples of churches selling tickets to special performance events, especially around the holidays, ANC 2B concluded that there may be a "Don't Ask, Don't Tell Policy" regarding start-up non-profit theaters in DC because of the difficulty of defining "theater" to suit different zoning situations.

Unlike art with charcoal and paints, the art of the theater has always been suspect in Western culture. When the great Greek playwrights of the Golden Age some 2,500 years ago, such as Euripides, were startling their audiences with themes on the human condition, the great philosopher Plato railed against this kind of art. Even today, there persists the idea of "legitimate theater." What other form of the arts struggles under this kind of discrimination?

When one adds to the art galleries, the schools, music centers, museums, doctors' offices, churches, community centers as well as all the additional non-profits, one sees that the R5-B zone is truly a mixed-use zone. In Dupont Circle, some blocks are 40% filled with art galleries, such as the 2000 block of R St and the 1600 block of 21st St.

One of the most important incubator performance theater locations in the city is 1742 Church St. On a block that is entirely R5-B sits the building known as The Church St Theater in a former school building. Attached is a web map picture of the lot. The zoning info, which I could not print, lists the address as R5-B, same as all the row houses on either side. The current occupant is the Keegan Theater Co. The UNMC application is not requesting that the whole building become a theater as in the case of 1742 Church. Spooky Action Theater doesn't sell about 200 tickets per show. Only up to 75 but more frequently less than 30. Spooky Action Theater doesn't have about 10 productions per year. Only three. Not a single residential unit is being displaced. With appropriate restrictions a Church community center could be an appropriate location for a small-scale start-up non-profit theater in the judgment of ANC 2B.

4.Issue: Increasing reliance of churches within our community on community support to stay viable and remain in our community.

ANC 2B is witnessing churches in our neighborhood, particularly on 16th St, coming increasingly under financial duress in their effort to maintain their presence and outreach to our community. More than 20 years of threats to landmark the Third Church of Christ Scientist to block its efforts to stay located where its ministry is at 16th and I Sts by redeveloping its lot nearly forced the collapse of the congregation until a Federal court intervened last year and forced the city to negotiate fairly with full ANC 2B backing. The First Baptist Church at 16th and O Sts needed significant FAR zoning relief to redevelop its parking lot on 17th St to generate the kind of income it needed to support all the major outreach programs it sponsors as well as to compensate for lower donations as parishioners aged. Now we have the UNMC at 16th and S Sts needing community support as represented by ANC 2B just to meet its operating budget.

Summation

Approving this use variance application with the restrictions incorporated in the ANC 2B resolution would not constitute a precedent for our neighborhood and would not displace a residence as hundreds of non-government organizations are. The Church St Theater at 1742 Church St NW already is the precedent. As a community center, the UNMC already sponsors all sorts of public events as a matter of right, including performance theater, as part of its programs. On the other hand, while commercial art galleries are okay, why not non-profit start-up performance theater selling tickets? ANC 2B recognizes the difficulty of defining what is theater that might be licensed in a community center located in a church in an R5-B. As a result, ANC 2B takes very seriously the concerns of the Office of Planning about theaters in residential zones. In negotiations among the neighbors, the UNMC, and the existing theater company, the ANC worked out a set of restrictions that:

**** Have proven to have already eliminated the disturbance of peace, order and quiet in the alley behind the church - the basis for the original complaint - not just from theater performers but also for all events sponsored by the UNMC.**

****Will restrain the growth of the theater beyond what's appropriate for this space by limiting 75 tickets per performance and 48 public performances over the course of a year as proposed in the original application for a use variance.**

****Will prevent the theater from becoming its own leasing agent for other theaters by the UNMC incorporating within its lease with the theater the prohibition of the theater subleasing its space.**

****Will require an agreement signed between the ANC and the UNMC and witnessed by at least three neighbors involved in this case that incorporates all the restraints contained in the BZA order as well as include responsibilities of the UNMC to police any gatherings outside the building associated with the theater performances, to provide off-site parking, and to clear public space of trash. Such an agreement is attached unless the BZA order itself incorporates these responsibilities.**

The UNMC is a valuable community center for our neighborhood. It is often the host of meetings of the Dupont Circle Citizens Association and the Dupont Circle Conservancy. It would be tragic if turning down this request resulted in the financial collapse of the UNMC with the potential sale of this property to an embassy. After all, this section of 16th St is covered by the diplomatic overlay. Then this neighborhood would suffer the same fate that the neighbors of the former Tutorsky mansion at 16th and Riggs Place now complain about from the embassy that bought that property. ANC 2B is convinced that this application for a use variance will do no harm to the residential nature of our neighborhood nor to the intent of the zoning regulations to protect R5-B zones.

Respectfully submitted by:

Bob Meehan, Commissioner
Dupont Circle ANC 2B03

Attachments:

1. Web map picture of the 1700 block of Church St showing 1742 Church, which houses a large theater in a R5-B zone
2. Proposed agreement between the ANC and the UNMC, to be witnessed by at least three neighbors incorporating the restrictions of a BZA approval order and other restrictions requested by the neighborhood

To be used/modified to fill in conditions not contained in the BZA order

**DRAFT AGREEMENT AMONG THE ANC, UNMC, AND NEIGHBORS CONCERNING THE
USE OF PERKINS HALL AUDITORIUM IN THE UNMC FOR THEATER
PERFORMANCES**

Pursuant to BZA Order _____ granting a restricted use variance to the
Universalist National Memorial Church (UNMC) to allow the UNMC to rent space in
its Perkins Hall Auditorium to a neighborhood-focused, non-profit performance
theater, the UNMC agrees to the following conditions,

- A. Total number of performances for theater (s) renting this space or any other space within the church building and/or grounds for which tickets are sold to the public or donations are sought which do not directly benefit the UNMC is limited to 48 per year.
- B. The current residential theater, Spooky Action Theater, or any subsequent residential theater, may not sublet this space to other theaters or organizations. Such restriction will be included in the lease between the UNMC and the residential theater.
- C. The lease between the UNMC and Spooky Action Theater, or any subsequent residential theater, will explicitly incorporate the restrictions of the BZA order and this agreement.
- D. For Friday and Saturday night performances, the residential theater will seek to make arrangements for off-street parking for staff, performers, and patrons.
- E. During the times of theater performances, the UNMC custodial staff will ensure that the gathering of people outside the premises of the church during pre-performance waiting, intermissions, smoke-breaks, or post-performance socializing will not disturb the peace, order or quiet of the residential neighborhood.
- F. The UNMC will remove any trash associated the theater performances no later than the day after the performance.

For the ANC:

For the UNMC:

William F. Stephens, Chair
Dupont Circle ANC 2B

David Gatton
Title

Bob Meehan, Commissioner
Dupont Circle ANC 2B03

Neighborhood Witnesses:

Addresses

Date

_____	_____	_____
_____	_____	_____
_____	_____	_____



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