

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18766 of New Southern Rock Baptist Church, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception from § 216, to allow a church outreach ministry program in the R-3 District at premises 4510 8th Street, N.W. (Square 3017, Lot 33).¹

HEARING DATE: June 3, 2014

DECISION DATE: June 3, 2014

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment ("Board" or "BZA") 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") 4C and to owners of property within 200 feet of the site.

¹ The Applicant withdrew its request for variance relief under § 216.3, as that relief was deemed not to be necessary based on how the Board had previously interpreted that subsection. The variance relief was requested in case the Board determined the phrase "existing church building(s)" only applied to the actual church building on Square 3104 and did not include the church property across the street where the church program was to be held. Subsection 216.3 requires the church program to be "carried on within the existing church building(s) or structure(s)." Here, the property where the church program is located is owned by the church and located across the street from the existing church building. The Office of Planning sought advice from the Zoning Administrator and the Office of the Attorney General ("OAG") as to the likelihood of the Board dismissing the case based on its reasoning in BZA Case No. 18418. OAG indicated to OP that the instant application could be distinguished from the previous one, both because the building would not be adjacent to the church and because the proposed programs are not accessory to the church use, but stand-alone programs for which separate certificates of occupancy would ordinarily be required. OAG also advised that the Board had previously discussed what constitutes a "church structure" in light of the requirement in § 216.3 in detail during the hearing for BZA Case No. 17458. In that case, the building that would house the church program was not the church itself, but was an auxiliary building owned by the church and located across an alley. The Board in that case ultimately held that no variance was needed, but relied largely on the fact that the building was "immediately adjacent" to the church. The Board noted that the church's ownership alone is not dispositive.

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The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. ANC 4C neither testified nor submitted a report regarding the application. The Applicant testified at the hearing that the ANC had reviewed the application and had voted unanimously to support it.

The Office of Planning ("OP") submitted a timely report on May 27, 2014, indicating that OP could not support the application. Among other issues, OP raised an issue about the Applicant needing to meet the requirements of § 216.6, which states that "[n]o signs or display indicating the location of the church program shall be located on the outside of the building or the grounds." (Exhibit 23.) OP noted that there is an existing sign on the front building façade of the subject property. At the hearing the Applicant promised to take the existing sign down and not to put up any other so as to be able to meet this subsection's requirements. The Board accepted the Applicant's promise on the record.

By its letter, dated May 27, 2014, the District Department of Transportation ("DDOT") indicated it had no objection to the Applicant's requests for special exception and variance relief. (Exhibit 24.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception from the requirements under § 216. No parties appeared at the public hearing in opposition to the 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 report filed in this case, the Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1 and 216 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. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED SUBJECT TO APPROVED PLANS AT EXHIBIT 10.**

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

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

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VOTE: **4-0-1** (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Michael G. Turnbull to Approve; S. Kathryn Allen, not present or 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 5, 2014

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.

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

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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.