

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19149 of Romi Satoh, pursuant to 11 DCMR § 3103.2,¹ for a variance from the off-street parking requirements under § 2101.1, to allow an existing church to use a separate lot for 13 parking spaces in the R-2 District at premises 4619 Quarles Street, N.E. (Square 5165, Lot 47).

HEARING DATES: December 22, 2015; January 26, 2016; February 23, 2016; April 14, 2016; June 14, 2016; and July 19, 2016

DECISION DATE: July 19, 2016

DISMISSAL ORDER

This application was submitted to the Board of Zoning Adjustment (“Board” or “BZA”) on October 29, 2015 by Romi Satoh (the “Applicant”). The Applicant requested a variance from the off-street parking requirements under § 2101.1, to allow an existing church to use a separate lot for 13 parking spaces in the R-2 District. The hearing for this application was originally scheduled for December 22, 2015 and was postponed four times at the request of the Applicant. (Exhibits 25, 27, 29, and 30.) A public hearing was held for this application on June 14, 2016; however, the Board continued the hearing to July 19, 2016 to provide the Applicant an opportunity to correct an issue with the notice posted on the property and to submit additional information to the record. The Applicant did not appear at the July 19, 2016 hearing, and at that time, the Board voted to dismiss the application on those grounds.

Notice of Public Hearing. Pursuant to 11 DCMR § 3113.13, notice of the original hearing date was sent to the Applicant, all owners of property within 200 feet of the subject site, the Advisory Neighborhood Commission (“ANC”) 7D, the D.C. Councilmember for Ward 7, and the District of Columbia Office of Planning (“OP”).

ANC Report. ANC 7D submitted to the record a written report dated May 11, 2016. The ANC’s report indicated that at a regularly scheduled, properly noticed hearing with a quorum present on

¹ This and all other references in this Order to provisions contained in Title 11 DCMR, except those references made in the final all-capitalized paragraphs, are to provisions that were in effect on the date this Application was heard and decided by the Board of Zoning Adjustment (“the 1958 Regulations”), but which were repealed as of September 6, 2016 and replaced by new text (“the 2016 Regulations”). The repeal of the 1958 Regulations has no effect on the validity of the Board’s decision or the validity of this order.

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May 10, 2016, the ANC voted 5-1-0 in favor of the application. (Exhibit 31.)

OP Report. OP submitted three reports to the record, each indicating that it does not have enough information from the Applicant in order to make a recommendation regarding the requested relief. (Exhibits 26, 28, and 34.) OP's second report noted that an additional variance under § 2100.6, to allow a load increase for an existing church without providing adequate parking spaces, is required for the church located on 1105 46th Street, N.E. (Exhibit 28.) The Applicant did not address this additional variance in her filings.

DDOT Report. The District Department of Transportation ("DDOT") submitted a report stating that, in light of the lack of information provided by the Applicant, it cannot support the requested relief. (Exhibit 24.)

FINDINGS OF FACT

1. On October 29, 2015, Romi Satoh (the "Applicant") filed a request for a variance from the off-street parking requirements under § 2101.1, to allow an existing church to use a separate lot for 13 parking spaces in the R-2 District at premises 4619 Quarles Street N.E. (Square 5165, Lot 47) (the "Subject Property").
2. The Office of Zoning ("OZ") originally scheduled this application for public hearing on December 22, 2015.
3. The hearing on this application was postponed four times at the request of the Applicant to the following dates: January 26, 2016; February 23, 2016; April 14, 2016; and June 14, 2016. (Exhibits 25, 27, 29, and 30.)
4. At the public hearing of June 14, 2016, the Board heard testimony from the Applicant, but continued the hearing to July 19, 2016 to provide the Applicant an opportunity to correct an issue with the notice posted on the Subject Property and to submit additional information requested by the Office of Planning ("OP") and District Department of Transportation ("DDOT").
5. The Board did not hear the merits of the case.
6. In advance of the continued public hearing on July 19, 2016, the Applicant communicated to OZ staff that she intended to withdraw the application. OZ staff requested that the Applicant file a written request for withdrawal to the record. No written request was filed.
7. Absent a written request for withdrawal of the application, the Board proceeded with the continued public hearing for this application on July 19, 2016.
8. At the public hearing of July 19, 2016, the Applicant failed to appear when the case was called.

CONCLUSIONS OF LAW

Pursuant to 11 DCMR § 3100.6, the Board shall not dismiss an application on the grounds of a procedural deficiency “unless, after due notice of the deficiency and expiration of a reasonable time as fixed by the Board, the deficiency has not been corrected, except that the Board may dismiss an application or appeal if the applicant or appellant fails to appear at a hearing without explanation.” Based on the Applicant’s failure to appear at the scheduled public hearing of July 19, 2016, the Board dismissed this application.

The Board is required to give “great weight” to the recommendation of OP. (D.C. Official Code § 6-623.04 (2012 Repl.).) In this case, OP was unable to provide a recommendation for the Board, based on a lack of information submitted by the Applicant.

The Board is also required to give “great weight” to the issues and concerns raised by the affected ANC in its written report. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)).) In this case, ANC 7D submitted a written report recommending approval of the relief requested. (Exhibit 31.) Because the ANC’s recommendation pertains to the merits of the zoning relief and the Board dismissed the case before reaching the merits, the Board cannot afford great weight to the ANC’s recommendation in this case. (*See Bakers Local 118 v. District of Columbia Board of Zoning Adjustment*, 437 A.2d 176, 179 (D.C. 1981) (The “great weight” requirement extends only to issues and concerns that are legally relevant.))

Accordingly, it is **ORDERED** that the application is **DISMISSED**.

VOTE: 4-0-1 (Anita Butani D’Souza, Marcie I. Cohen, Frederick L. Hill, and Jeffrey L. Hinkle to DISMISS; Marnique Y. Heath, not participating).

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: March 19, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.