GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

Application No. 16593 of St. Luke's Episcopal Church, pursuant to 11 DCMR 3104.1, for a special exception under Section 214 to re-establish and operate an accessory parking lot for 30 parking spaces in an R-5-B District at premises 1514-1520 Church Street, N.W. (Square 194, Lot 819).

HEARING DATE: September 5, 2000
DECISION DATE: September 5, 2000 (Bench Decision)

SUMMARY ORDER

The Applicant, Saint Luke's Episcopal Church, seeks a special exception under 11 DCMR 214 to re-establish and operate an accessory parking lot consisting of 30 parking spaces in an R-5-B District at the vacant property owned by the church at 1514 - 1520 Church Street, N.W.

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, by mail to Advisory Neighborhood Commission (ANC) 2B and to owners of property within 200 feet of the site. The Applicant posted three zoning posters on the lot.

The site of the application is located within the jurisdiction of ANC 2B. ANC 2B, which is automatically a party to this application, submitted a letter of approval requesting that the application be approved for two years (Exhibit No. 39). The ANC also recommended that the following conditions accompany the approval: 1. the lot would be used for church activities only; 2. all access would be from the alley and the entrance on Church Street would be closed and the sidewalk and curbs restored; 3. additional trees should be planted at the Church Street entrance to complete the screening; and, 4. the fence on the east side of the property should be removed.

As directed by 11 DCMR 3119.2, the Board required the applicant to satisfy the burden of proving the elements, which are necessary to establish the case for a special exception pursuant to 11 DCMR 3104.1 and 214. The Board received a petition, in addition to oral and written statements of opposition. The residents were requesting that the parking lot be closed. The persons in opposition indicated that the parking lot, and other nearby properties that are owned by the church, are poorly maintained; that the applicant has had a history of non-compliance with the previous conditions imposed by the Board; that the subject property is zoned for

BZA Case No. 16593 Exhibit No. 51

Board of Zoning Adjustment
District of Columbia
CASE NO.16593
EXHIBIT NO.51

residential use and commuter and satellite parking should not be allowed for facilities such as the Carnegie Institute and the Source Theater; that the Board denied the Applicant's request for use of the lot in 1997 because of deficiencies at the site; and, that the Applicant should consider developing the site for a more appropriate use because for over 40 years it has been used for parking.

The Applicant discussed the following as important considerations for approval of the application:

- The parking lot meets the design and construction requirements of Chapter 23 of the Zoning Regulations;
- The site has been used since 1959 for parking (approximately 40 years). It was closed in 1997 after the Board denied the Applicant's request for permission to continue using the lot for commercial parking;
- The church has new leadership. The governing body is committed to maintaining the parking lot in good condition, and establishing and sustaining a cooperative relationship with the residential community;
- Saint Luke's Episcopal Church does not have on-site parking. Therefore, the use of the subject property for parking is essential to the church's operation and to alleviate the shortage of parking in the neighborhood;
- The Applicant has undertaken considerable upgrading of the lots since 1999, to include providing new landscaping and making arrangements for a landscape maintenance contract, and entering into a contract for cleaning and regular litter collection;
- The asphalt on the P Street side between the parking lot and the sidewalk would be returned to green space;
- Parishioners have not been able to use the lot over the last several years which has caused a tremendous hardship;
- The Applicant does not plan to return the lot to commercial use;
- Over the years, neighborhood residents have used the site for parking during the evenings and on the weekends;
- The Applicant intends to establish a community relations committee that would meet throughout the year with residents;
- Improved signage would be provided; and,
- Approval of the site for parking would not adversely affect neighboring properties.

The Board received a substantial number of letters in support of the application. In addition, residents of the neighborhood and parishioners attended the public hearing in support of the application.

The Board was persuaded that the Applicant had made good faith efforts toward improving the conditions at the lot and that it would have no harmful impacts on the neighborhood. The Board is of the opinion that the Applicant's pledge to establish a community liaison committee could have a positive effect on the Dupont Circle Neighborhood as the group works on parking and traffic issues.

The Board carefully considered the recommendation of ANC 2B. Although the Board did not agree with all of the conditions recommended by the ANC, it was given the "Great Weight" to which it is entitled. The Board did not adopt the ANC's recommendation that the Church Street entrance to the lot be closed since this is the primary entrance to the lot, has long-standing usage, and provides safe and easy access. Limiting access to the alley entrance would likely result in congestion.

Based upon the record, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3104.1, that the requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property. It is therefore **ORDERED** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for **FOUR YEARS** and shall run concurrent with Application No. 16594.

2. The lot shall only be used for church activities.

3. The fence on the east side of the property shall be removed.

4. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.

5. Bumper stops shall be maintained for the protection of all adjoining buildings.

6. No vehicle or any part thereof shall be permitted to project over any lot or building line or over the public space.

7. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

8. No other use shall be conducted from or upon the premises, and no structure shall be constructed, unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

9. Any lighting used to illuminate the parking lot shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

Chapter 32 of the Zoning Regulations sets forth provisions with respect to enforcement and penalties for violations of the Regulations. Section 3205 requires compliance with conditions in orders of the Board and provides that if a building permit or certificate of occupancy has been issued pursuant to a decision of the Board to approve a special exception, then each condition to the approval of that special exception shall be treated as a condition to the issuance of the building permit or certificate of occupancy as well. 11 DCMR §3205.3. The failure to abide by the conditions, in whole or part, shall be grounds for the revocation of any building permit or certificates of occupancy issued pursuant to this order.

Pursuant to 11 DCMR 3101.6, the Board has determined to waive the requirement of 11 DCMR 3125.3 that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3 – 0 (Sheila Cross Reid, Kwasi Holman and Anne Renshaw to approve.)

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

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: NOV 21 2000

PURSUANT TO D.C. CODE SEC. 1-2531 (1999), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1999), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 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 3130.3, THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS SUCH USE IS ESTABLISHED WITHIN SUCH PERIOD.

BAB/MS 11.16.00

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Office of Zoning

BZA APPLICATION NO. 16593

As Director of the Office of Zoning, I hereby certify and attest that on NOV 21 2000 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Jerry A. Moore, III, Esquire
Arter & Hadden
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ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director