GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16917 of Pilgrim A.M.E. Church, pursuant to 11 DCMR § 3104.1 for a special exception to allow church programs (job placement counseling, meetings, bible study, seminars, youth ministry, and conferences) under section 216 to allow a church program in a former non-conforming grocery store in the R-4 District at premises 1671 Gales Street, N.E. (Square 4540, Lot 191).

Note: The Board voted to consider the application exclusively under special exception section 216, instead of the alternative variance relief sought by the applicant.

HEARING DATE: **October 1, 2002**
DECISION DATE: **October 1, 2002**

DECISION AND ORDER

RELIEF SOUGHT: Pursuant to 11 DCMR § 3104.1, for a special exception to allow church programs (job placement counseling, meetings, bible study, seminars, youth ministry, and conferences) under section 216, a church program in a former non-conforming grocery store at premises 1671 Gales Street, N.E.

The existing structure at 1671 Gales Street, N.E. was formerly a non-conforming grocery store in the R-4 zone. The applicant proposes interior renovation and construction that will provide a multi-purpose building for its religious and community ministries. The applicant is represented in these proceeding by Linowes and Blocher LLP, through Garland H. Stillwell, Esquire. After a public hearing, the Board granted both the special exception and the variance.

PRELIMINARY AND PROCEDURAL MATTERS

Notice of Application and Notice of Hearing. By memorandum, dated July 16, 2002, the Office of Zoning provided notice of the filing of the application to the District of Columbia Office of Planning; District of Columbia Department of Transportation; Advisory Neighborhood Commission (ANC) 6A, the ANC for the area within which the property that is the subject of the application is located, and the Ward 6 Council Member.

The Board scheduled a hearing on the application for September 24, 2002. At the request of the Board and with the concurrence by the applicant, the application was postponed until October 1, 2002. Pursuant to 11 DCMR § 3113.13, the Office of the Zoning, on July 16, 2002, mailed the applicant, the owners of all property within 200 feet of the subject property, and ANC 6A notice of the public hearing. The applicant timely filed an

Board of Zoning Adjustment
District of Columbia
CASE NO.16917
EXHIBIT NO.36

Affidavit of Posting, which indicated that on September 5, 2002, three zoning posters were placed on the property; two on Seventeenth Street and one on Gales Street in plain view of the public (Exhibit No. 25).

Requests for Party Status. There was one request for party status in this case by Callahan Development Corporation (Exhibit No. 26). However, no representative from Callahan was present at either the September 24, 2002 or on the October 1, 2002 public hearing. See letters from the Applicant to the development corporation (exhibit No. 30). The request for party status was denied.

Applicant's Case. The applicant presented testimony from Reverend Dr. Lois Poag-Ray, Senior Pastor for Pilgrim A.M.E. Church.

D.C. Office of Planning (OP) Report. In its report, dated September 12, 2002, OP recommended approval of the requested special exception and variance. OP also recommended a three-year limit to allow Board review of the case and that the church program use be limited to the following uses:

1. Church ministry counseling;
2. Church-related meetings, conferences, and seminars;
3. Bible study;
4. Job placement counseling;
5. Youth ministry activities;
6. Community-oriented forums; and
7. Single-day health and well-being forums and events, such as blood drives, blood pressure checks, and glaucoma screening.

D.C. Division of Transportation (DDOT) Report. In its report, dated September 23, 2002, DDOT states that it has no objection to the requested zoning relief.

ANC Report. No ANC report was filed by ANC 6A. The applicant reported that a public meeting of the ANC 6A occurred on July 11, 2002 and with a quorum present, the ANC voted to support the application.

Persons in Support of the Application. Reverend Dr. Lois Poag-Ray, Senior Pastor of Pilgrim A.M.E. Church, owner of the property.

Persons in Opposition to the Application. No one except Callahan Development Corporation expressed opposition.

Closing of the Record. The record closed at the conclusion of the public hearing with the exception of the requested submission of documentation establishing the tax-exempt status of Pilgrim A.M.E. Church and correspondence by the applicant requesting the submission of an official ANC 6A report.

Decision Meeting. At October 1, 2002 public hearing, the Board approved the application, voting 5-0-0.

FINDINGS OF FACT

The Subject Property and the Surrounding Area

1. The subject property is located at the end of a set of row houses along Gales Street, N.E. at the intersection of 17th Street, N.E. (Square 4540, Lot 191).

2. It is occupied by a two-story structure that was used as a grocery store for the past 50 years.

3. The lot contains 910 square feet and is rectangular with a width of 14 feet and a depth of 65 feet.

4. The rear of the property abuts a 10-foot wide public alley.

5. Across the alley is a similar set of row houses facing on Kramer Street, N.E.

6. Across 17th Street is an elementary school and across Gales Street is a set of row houses.

7. The principal Pilgrim A.M.E. Church building is located one block south along 17th Street at the corner of 17th and Rosedale Street, N.E. North, up 17th Street half a block and across the street is the parking lot for Peace Baptist Church.

8. The area is characterized by row houses and institutional uses and is just south of the Benning Road commercial corridor and the Hechinger Mall.

The Proposed Project

9. Pilgrim A.M.E. Church proposes to cover the existing structure at 1671 Gales Street, N.E. to a church program use.

10. The programs proposed are:

    a. Church ministry counseling;
    b. Church-related meetings, conferences, and seminars;
    c. Bible study;
    d. Job placement counseling;
    e. Youth ministry activities;
    f. Community-oriented forums; and
    g. Single-day health and well-being forums and events, such as blood drives, blood pressure checks, and glaucoma screening.

11. The programs will serve the Rosedale community as well as church members.

12. The applicant states that staff of the church program will not exceed 25% of the volunteers serving at the center.

13. The existing two-story structure will be preserved and renovated to develop two offices, several small meeting rooms and a small conference room.

Impacts on the Zone Plan and the Public Good

14. The subject site is designated Moderate Density Residential on the General Land Use Map.

15. The moderate density residential land use category includes row houses and garden apartments as the predominant uses and may also include, as appropriate uses, low density housing.

16. The Comprehensive Plan sets goals of stabilizing and improving churches that contribute to the character of the neighborhood and add to the livability of the community (Comprehensive Plan Section 102.3).

17. Such development should be encouraged if adverse impacts are minimized:

    1104.1 The policies established in support of the residential neighborhoods objectives are as follows:

    (k) Control the external negative impact of new non-residential areas by providing sufficient parking, loading areas, pick-up
    and drop-off access consistent with the activity level of the non-residential uses. With respect to permitted, non-residential uses, including schools, hospitals, churches, and clinics, this policy is designed to reduce the possible adverse impact of the non-residential uses on the residential area.

18. This development is not inconsistent with these goals as the church has adequate space for drop-off on Gales Street and flexibility to arrange for additional parking at the Peace Baptist Church parking lot, which has 45 regular parking spaces and 25 stacked spaces.

Zoning

19. The subject property is in the R-4 zone.
20. The R-4 District's primary purpose is to stabilize existing residential neighborhoods that have primarily been developed with row dwellings.

21. Church programs are permitted in the R-4 zone with a special exception under the requirements of § 216.

22. Section § 216 states:

Special Exception Analysis
Condition of § 216

216.1 Use of a program conducted by a church congregation or group of churches shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

The proposed program will be conducted by Pilgrim A.M.E. Church.

216.2 The church program shall not be organized for profit, but shall be organized exclusively for the promotion of the social welfare of the community.

The church does not intend to run its program for profit, but intends them to promote the social welfare of the community.

216.3 The part of the church program conducted on the property shall be carried on within the existing church building(s) or structure(s).

The proposed church program will not be conducted within the existing church building, but will be located in very close proximity to the church.

216.4 The staff conducting the program shall be composed of persons, at least seventy-five percent (75%) of whom volunteer their time and services.

The applicant states that except for the contract staff that will be responsible for the job placement counseling, the various programs will be conducted by volunteers and that staff will not exceed 25% of all volunteers serving at the center.

216.5 The operation of the program shall be such that it is not likely to become objectionable in the Residence District because of noise and traffic.

The activities proposed in the application are not likely to be objectionable because of noise. Traffic is not likely to be objectionable because of the

proximity of the church and the neighborhood serving nature of the programs. The proximity of the Benning Road and H Street corridor provides adequate vehicular access to the area. Special arrangements will be made when events are scheduled to permit parking in the Peace Baptist Church parking lot, which contains 45 regular spaces and 25 stacked spaces. It is anticipated that events will not exceed 24 per pear. In addition, excess parking is readily available along the frontage of the school across the street after school and on weekends. Commercial areas to the north are also endowed with large amounts of parking.

216.6 No signs or display indicating the location of the church program shall be located on the outside of the building or the grounds.

No signs indicating the church programs are proposed, however, the applicant does propose to affix lettering on the building, which will state "Pilgrim A.M.E. Church Multi-Purpose Center". Due to the community serving nature of the facility and the small size of the structure the sign should be small and unobtrusive. The Office of Planning recommends that the proposed sign meet the requirements of § 203.5 (b), (c) and (d).

203.5 A sign on a dwelling or building in which a home occupation is practiced shall be permitted, subject to the following conditions:

(a) A person may display one (1) exterior sign on a dwelling or other building in which a home occupation is practiced;
(b) The sign shall not exceed one hundred forty-four square inches (144 in.2) in area;
(c) The sign shall be flush-mounted;
(d) The sign shall not be illuminated;
(e) The sign may state only the name of the practitioner and the type of home occupation;
(f) The practitioners shall not display more than one (1) sign outside a dwelling or building; and
(g) The practitioner shall not display any sign that does not meet the requirements of paragraphs (b) through (e) of this subsection.

23. The applicant, Pilgrim A.M.E. Church has been in the Rosedale community for over 76 years; the current church site, a block away from the subject site, does not have additional space for expansion of the church's programs.

24. The existing property has been in commercial use for 50 years and the existing structure covers almost the entirety of the lot area.

25. The applicant lists seven programs that will be conducted in 1671 Gales Street, N.E., four of these are necessarily accessory to a church use and would normally be permitted as a matter-of-right in the church building.

26. These include church ministry counseling, church-related meetings, conferences and seminars, bible study and youth ministry activities. The strict interpretation of the zoning regulations does not permit them to extend this accessory use approximately 170' away onto a separate parcel.

27. These accessory uses functionally do not impact the intent or purposes of the zoning regulations.

28. The remaining three programs, job placement counseling, community-oriented forums, and single day health and well-being forums and events could be permitted as a special exception as church programs on the church site or as a community service center.

29. The purpose of a community service center use is to accommodate organizations created for the purpose of improving the social or economic well-being of the residents of the neighborhood in which the center is proposed to be located, which may include but not be limited to centers for job training, family counseling, consumer cooperative, and other facilities as are similar in nature and purpose.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1937 (52 Stat. 797, 799, as amended; D.C. Code §§ 6-641.07(g)(2) and (3) (2001)), to grant special exception and variance relief from the Zoning Regulations.

In reviewing special exception cases, the Board is required under D.C. Code § 1-309(d) (2001) to give "great weight" to the issues and concerns raised in the recommendations of the affected ANC. The Board is also required under D.C. Code § 6-623.04 both the ANC's and OP's reports and, as discussed below, finds their recommendations to approve the application persuasive.

Therefore, based upon the findings of fact and having given great weight to the ANC and OP reports, the Board concludes, as required for special exception relief under §§ 3104.1 and 216, that the proposed church program use will not materially impair the intent and purpose of the Zoning Regulations. As required under § 3104.1, the Board concludes that the requested special exception relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map, and will not affect adversely the use of neighboring properties.

Based upon the findings of fact and having given great weight to the ANC, DDOT and OP reports, the Board concludes that the proposed project meets the three-pong test for variance. Subject to compliance with the following conditions:

1. Approval shall be for THREE (3) years and may be renewed by the BZA for an additional THREE (3) years.

2. The church program use shall be limited to the following:

    a. Church ministry counseling.
    b. Church-related meetings, conferences, and seminars.
    c. Bible study.
    d. Job placement counseling.
    e. Youth ministry activities.
    f. Community-oriented forums.
    g. Single-day health and well-being forums and events, such as blood drives, blood pressure checks, and glaucoma screening.

3. The applicant shall provide THREE (3) parking spaces at the Peace Baptist Church located at 712-18th Street, N.E.

4. Any sign on the subject building shall be in conformance with subsection § 203.5(b)(c) and (d) of the Zoning Regulations.

VOTE: **5-0-0** (Geoffrey H. Griffis, David A. Zaidain, Anne M. Renshaw, Curtis L. Etherly, Jr., and James H. Hannaham to approve.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member approved the issuance of this Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: DEC 16 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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 PURPOSES OF SECURING A BUILDING PERMIT.

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.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. 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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, 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. cwm

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16917

As Director of the Office of Zoning, I hereby certify and attest that on DEC 16 2002, a copy of the foregoing Notice of Final Rulemaking and Determination and Order in BZA Application No. 16929 was mailed first class, postage prepaid, or delivered via inter-agency mail to each person and public agency who appeared and participated in the public hearing and who is listed below:

Garland H. Stillwell, Esq.
Linowes and Blocher
Tenth Floor
1010 Wayne Avenue
Silver Spring, Maryland 20910

Darry L. Walker, Chairperson
St. James Parish, 6A
1839 D Street, N.E.#2
Washington, D.C. 20002

Gregory J. Ferrell, Commissioner
Single Member District 6A12
618 – 19th Street, N.E.
Washington, D.C. 20002

Sharon Ambrose, Council Member
Ward Six
1350 Pennsylvania Avenue, N.W.
Suite 102
Washington, D.C. 20004

Robert Kelly, Zoning Administrator
Department of Consumer and
Regulatory Affairs
941 North Capitol Street, N.E.,
Suite 2000
Washington, D.C. 20002

Ellen McCarthy, Deputy Director
Development Review Division
D.C. Office of Planning
801 North Capitol Street, N.E.,
Suite 4000
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of the Corporation Counsel
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning