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A Limited Liability Partnership Including Professional Corporations

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December 7, 2004

VIA HAND DELIVERY

RECEIVED
D.C. OFFICE OF ZONING
2004 DEC -7 PM 2:50

Mr. Geoffrey Griffis, Chairman
District of Columbia Board of Zoning Adjustment
441 4th Street, N.W., Suite 210 South
Washington, D.C. 20001

Re: BZA Application No. 17256
Pilgrim A.M.E. Church

Dear Chairman Griffis:

Please find enclosed:

1. Affidavit of Posting, and
2. Application Preliminary Statement and proposed witness list.

Please contact me if you require any further information.

Sincerely,

Garland H. Stillwell

Enclosures

Document #: 1448167 v.1

BZA
Case No. 17256
Exhibit No. 32

Board of Zoning Adjustment
District of Columbia
CASE NO. 17256
EXHIBIT NO. 32

Form 145
(Revised 04/29/02)

Case No. 17256

BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

AFFIDAVIT OF POSTING

Notice: See other side of affidavit form for instructions.

DISTRICT OF COLUMBIA, ss:

(Name or person posting the property)

Shelley Mack , being first duly sworn, do hereby depose and say that:

I, *(Name or person posting the property)* Shelley Mack , posted *(no, or posters)* 2 zoning poster(s)

("Notice of Public Hearing") furnished by the Director of the Office of Zoning on private property known as

(address or premises)		*(date or posters)*		*(time or posting)*
612 17TH Street, N.E. (Square 4540, Lot 289)	on	12/3/04	at	

The zoning posters were placed in plain view of the public on the street frontages as listed on this affidavit below, I ~~have~~ maintained the posting notice by checking the signs every five days, and ~~by~~ posting new notices as necessary.

I have taken, or authorized to be taken (no. of photos) 2 photograph(s) of the zoning posters where they have been placed.

The photographs (not to exceed 8 ½ X 11?), attached hereto, clearly show each zoning poster as seen by the public.

The photographs, are numbered and correspond to the following street frontages:

Photograph No.	Street Frontage
1.	17th Street, N.E.
2.	Rosedale Street, N.E.

Signature Shelley Mack

Subscribe and sworn to before me this *(date)* 3RD day of *(month)* Dec. *(year)* 2004

(seal)

(signature) Mary S. Carr

Notary Public, D.C.

My commission expires on: *(date)* 03-14-06

RECEIVED
D.C. OFFICE OF ZONING
2004 DEC -7 PM 2:56

BZA
Case No. 17256
Exhibit No. 32A



#1 12/3/04



#2 12/3/04

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Pilgrim A.M.E. Church
for Variance Relief

BZA Application No. 17256
Public Hearing: December 21, 2004
ANC 6A

STATEMENT OF THE BURDEN OF PROOF

This is an application of the Pilgrim A.M.E. Church (the "**Applicant**" or "**Pilgrim**"), pursuant to 11 DCMR for a special exception (Subsection 216) to allow a church program use in the existing Pilgrim A.M.E. Church Building and for two variances (Subsections §404.1 and §403.2) to allow for a zero-foot rear yard in an R-4 zone and lot occupancy relief for the proposed church program use (Lot 289 in Square 4540, the "**Property**"), as shown on Exhibit K of this application.

I.
Nature of Relief Sought

The Applicant seeks to locate in the church, the executive functions of an existing church program use, established in a prior Board of Zoning Adjustment ("**BZA**" or " **Board**") case. The Board in case No. 16917 unanimously approved a special exception for Pilgrim to allow church programs (job placement counseling, meetings, bible study, sermons, youth ministry and conferences) in a former non-conforming grocery store in the R-4 zone. This request will require new construction. The construction is an addition to the existing church located at 612 17th Street. N.E. in the rear yard. The addition will be as long as the width of the current church, which results in exceeding the maximum lot occupancy and a zero-foot rear yard. The additional space is required to house the executive level components of specified church program functions known as the Job Connections Ministry of the church and will include an elevator to provide handicapped access. The Job Connection Ministry is a program funded and sponsored by the

BZA
Case No. 17256
Exhibit No. 32B

District of Columbia, Department of Human Services. As reflected in a letter by Jason Perkins-Cohen, Chief, Office of Performance Monitoring for the Department of Human Services (Exhibit 1), the Job Connection Program must have adequate facilities to conduct private assessments of clients, executive functions of the Job Connection program, group counseling sessions, classroom training and staff space in order to serve the clients under the grant. Presently, the existing church building lacks adequate space to accommodate this component. There is no additional space in the existing church building to accommodate these required uses. As reflected in Exhibit 2, Pilgrim maximizes all of the space in its current 4,104 square foot building for worship services and the other components of the church outreach ministries, which benefit the immediate Rosedale community. The zoning variance being sought will allow for a zero-foot rear yard in the R-4 zone and lot occupancy relief for the proposed addition. The special exception being sought will allow for the expansion of the church program functions into the addition, and better serve functions of the previously approved BZA Order 16917 for Pilgrim A.M.E.'s special exception use of their 1671 Gales Street address for primary client service.

Existing Conditions:

Lot: 289 Square: 4540 Lot Area: 7,800sq.ft. Building Area: 4,104 sq. ft.

Zoning: R-4:	Min.Req'd	Proposed
Lot Width	60 ft.	60 ft.
Height of Building	40 ft.(Maximum)	18 ft./2 Stories
Min. Lot Area	4,000 sq. ft.	7,800 sq. ft.
Floor Area Ratio	N/A	N/A
Percent of Lot Occupancy	60%	64%
Rear Yard	20 ft.	0 ft.
Side Yard	8 ft.	8ft.
Front Yard	0 ft.	0 ft.
Loading Berth	N/A	N/A

Proposed Building (Addition) Statistics:

First Floor:	870 sq. ft.
Second Floor:	870 sq. ft.
Total	1,740 sq. ft.

II.
Jurisdiction of the Board

The Board of Zoning Adjustment ("**BZA**" or "**Board**") has jurisdiction to grant the variance relief requested herein pursuant to § 8 of the zoning Act, D.C. Code, 2001 Ed. § 6-641.07(g)(2) and (g)(3).

III.
Background

Description of the Property and Surrounding Area

1. The principal Pilgrim A.M.E. church building is located along 17th Street at the corner of 17th and Rosedale Street, N.E.
2. The subject property is located at the end of a set of row houses along Rosedale Street, N.E. at the intersection of 17th Street, N.E. (Square 4540, Lot 289).
3. It is occupied by a two-story structure that was used as a church for the past 80 years.
4. The lot contains 7800 square feet and is rectangular with a width of 60 feet and a depth of 130 feet.
5. The side of the property abuts a 10-foot wide public alley.
6. Across the alley is a similar set of row houses facing on Kramer Street, N.E.
7. Across 17th Street is an elementary school and across Gales Street is a set of row houses.
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.

IV.
Applicant's Requested Church Program Uses

1. The underlying church programs which will be managed in the proposed addition 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.

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

3. The applicant states that staff of the church program will not increase.

4. The applicant currently conducts a church program use call the "Job Connection" program at premises identified as 1671 Gales Street, N.E. (Square 4540, Lot 191). The clients which are served by this D.C. Government sponsored program go to the 1671 Gales Street, N.E. property for service. This application will permit the executive and administrative functions of the "Job Connection" program to be facilitated in the Church in a more secure setting which permits the staff and program executives to meet with more privacy. For example, sensitive staff or board meetings cannot be accommodated at 1671 Gales Street. Also, meetings relating to financially sensitive issues cannot be accommodated at that location. There is no room in the church to accommodate these activities because of heavy use of the basement assembly room by various religious gatherings associated with Pilgrim A.M.E. Church, such as Bible study, prayer groups and related religious counseling.

Impacts on the Zone Plan and the Public Good

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

6. 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.

7. 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).

8. 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."

9. This development is not inconsistent with these goals as the church will not increase its staff and the additional space will not be used for client services. Additionally, the addition will not increase the seating capacity of the church and will not trigger the need for additional off-street parking.

Zoning

10. The subject property is in the R-4 zone.

11. The R-4 District's primary purpose is to stabilize existing residential neighborhoods that have primarily been developed with row dwellings.

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

Overall, the Applicant is not seeking any major changes to the operating conditions. The relief sought by the Applicant will allow the administrative and executive functions of the Job Connection to be conducted more effectively and more securely inside the church.

V.

The Application Meets the Requirements for Special Exception and Variance Relief Under 11 DCMR §3103.2

1. 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- I 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 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 subject to this application will be conducted within the existing church building.

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. The congregation seating capacity will remain unchanged and no new staff are proposed. 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 ", with a

potential line of dedication. 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 nor display any sign that does not meet the requirements of paragraphs (b) through (e) of this subsection.

2. The applicant, Pilgrim A.M.E. Church has been in the Rosedale community for close to 80 years.

3. The existing Church structure covers almost the entirety of the lot area.

4. The applicant lists seven programs that will be conducted in 612 17th 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.

5. These include church ministry counseling, church-related meetings, conferences and seminars, bible study and youth ministry activities. The special exception will permit the executive functions for those uses to be conducted in a secure manner, such as accounting and financial planning.

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

7. 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.

8. The church plans 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.

The Application meets the requirements for variance relief under Section 3103.2 of the Zoning Regulations. The burden of proof for area variance relief is well established. The applicant must demonstrate that the Property is affected by an exceptional or extraordinary situation or condition, that the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. *Palmer v. District of Columbia Board of Zoning Adjustment,* 287 A. 2d *535, 541* (D.C. 1972). The Application meets the three-part test for area variance relief.

<u>The Property Is Affected By An Exceptional Or Extraordinary Situation Or Condition</u>

Pilgrim's existing church is only 4,104 square feet and sits on a 7,800 square foot lot. There is no space to expand the existing church structure without creating a building with a non-conforming profile against the existing row houses. Expansion in to the rear yard is the only option and will permit the church addition to remain within the profile of setbacks and building heights of the existing row houses in view along Rosedale Street.

Strict Application Of The Zoning Regulations Will Result In Potential Difficulty To The Applicant

The applicant will not be able to provide central management of the existing church program uses currently at 1671 Gales Street if the requested zoning relief is not granted. Because of the nature of the source of the Church programs such as the D.C. Government-sponsored Job Connection, some executive functions having to do with payroll and other financial services required of the program would be more secure at a separate location. Additionally, there is no immediate office space near the church that would enable it to closely manage the church programs as it can do now in its current location.

Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

Pilgrim has operated as a church in the Rosedale Community for 80 years. Based on its experience, the Applicant believes that the proposed changes will not be of a substantial detriment to the public good or frustrate the goals of the Zoning Regulations in any way. While the project does involve physical or structural alteration to the existing structure, the addition will not have a major impact on the profile of the surrounding areas. The proposed building height will not exceed 40 feet and the width of the building will be consistent with the existing row houses in Rosedale. Thus, the proposed changes to the operating conditions will not create any objectionable noise or other impact on surrounding properties, and the requested variance

relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan.

VI.
Community Outreach

The Applicant has met with area residents regarding the proposed modifications to the operating conditions and has obtained letters of support (Exhibits G and H). The Applicant will continue to meet with individual neighbors and will present its application to Advisory Neighborhood Commission 6A at one of its regularly scheduled meetings in the near future.

VII.
List of Witnesses expected to Testify

The following witness are expected to testify at the public hearing on behalf of the Applicant:

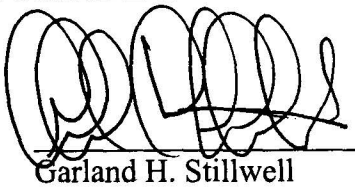
1. Rev. Dr. Lois A. Poag-Ray, Pastor
2. Richard Hines, AICP

VIII.
Conclusion

For all of the above reasons, the Applicant is entitled to the requested variance and special exception relief in this case.

Respectfully submitted,

Shaw Pittman LLP

By: 
Garland H. Stillwell

IX.

Exhibits in Support of the Application

(Filed with the original application)

DESCRIPTION	EXHIBIT
Application Form 120	A
Self-certification Application Form 135	B
Statement of Existing and Intended Use of Building	C
Statement of conformance to Applicable Zoning Regulations	D
List of Owners of Property Within 200 feet of Subject Site	E
Copy of Current Certificate of Occupancy	F
Letter of Support from ANC6A	G
Letter of Support from Neighboring Property Owners	H
Architectural Drawings and Elevations	I
Photographs of the Subject Property	J
D.C. Office Of Surveyor Plat	K
Letter of Authorization	L
Decision and Order of Board of Zoning Adjustment No. 16917	M