

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14681, of the National Presbyterian Church, pursuant to 11 DCMR 3108.1, for a special exception under Section 206 to establish a private elementary school with a maximum of 260 students and 40 faculty and staff as an addition to an existing school building in the R-1-B District at premises 4101 Nebraska Avenue, N.W., (Square 1724, Lot 805).

HEARING DATE: September 30, 1987
DECISION DATE: September 30, 1987 (Bench Decision)

FINDINGS OF FACT:

1. The site, known as premises 4101 Nebraska Avenue, N.W., comprises 12 acres and is located at the southeast corner of the intersection of Nebraska Avenue and Van Ness Street, N.W. The site is located in an R-1-B District which extends in all directions from the site.

2. The site comprises 12 acres owned by the National Presbyterian Church. The site is improved with a church, a school building and administration building.

3. The school was established at the site in 1969 and provides instruction for approximately 185 students at levels ranging from pre-school through grade six. Thirty faculty members and staff personnel are associated with the school.

4. The School's curriculum has been expanded to include art, music, physical education, science and library programs. Because of this growth and diversification, and the unavailability of space in the school building, the fourth through sixth grade classes and one of the pre-school sections must meet in one of the church buildings separate from the school and playground.

5. As captioned above, the applicant proposes to construct an addition comprising a 7,800 square foot classroom building, a 4,746 square foot gymnasium/multi-purpose auditorium and a 1,650 square foot lobby area. The total size of the addition will be approximately 14,196 square feet. The proposed addition will adjoin the school building and provide a courtyard for greenspace. The exterior facade will harmonize with the existing structure in design and

color. The addition is intended to integrate the old and the new in a manner that will have a minimal affect on the existing greenspace and open quality of the site.

6. The design and location of the proposed addition will blend harmoniously with the existing buildings. The addition will be located on the interior of the site between the existing administration building and school building.

7. The expansion is intended to accommodate the existing programs and to eliminate crowding. The maximum enrollment in the enlarged building will be 260 students with 40 faculty and staff members. The increase in enrollment will permit a rounding out of class sizes.

8. The expanded facilities will allow for curriculum expansion to include more physical education, theatre and other activities and to allow for a consolidation of the entire program into a single building. The current separation of the students in grades four, five and six from the main school building and playground prevents its complete integration of these students into the school environment.

9. A school has existed on the site since 1953. The school does not generate a substantial amount of traffic. Many of the trips that are generated by the school do not coincide with the morning and evening peak hours. Major school events tend to occur in the middle of the day and on evenings and weekends.

10. Section 2101 of the Zoning Regulations requires the provision of two parking spaces for every three teachers or other employees. With a total staff of 40, this yields a requirement of 28 spaces. In addition, the church requires 110 spaces. The total number of spaces required for the current use is therefore not less than 138. The site contains a total of 409 parking spaces of which 188 are subject to daytime use by employees of NBC. If the 188 spaces are entirely deleted from the calculation, the remaining 221 spaces are well above the statutory requirement of 138 spaces. After typical business hours, use of the 188 spaces are added to this total. The site provides more parking than will be needed by the school including the addition. The extensive parking provided on the site ensures that traffic impact related to the use is minimal.

11. Advisory Neighborhood Commission (ANC) 3E by letter dated May 18, 1987, stated that in its meeting on May 14, 1987, it voted unanimously to support the application of the National Presbyterian School to build additional classrooms and an activity center at the school. The Board concurs with the recommendation of the ANC.

12. Several persons attended the hearing to express their support of the application.

13. There were no parties or persons in opposition to this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires substantial evidence that the applicant has complied with the requirements of Sub-section 3108.1 and Section 206 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof. The location and the program are not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions. Ample parking is provided at the site to accommodate students, teachers and visitors.

The Board further concludes that the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and it will not affect adversely the use of neighboring property.

The Board concludes that it has accorded the ANC the "great weight" to which it is entitled. Accordingly, it ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Construction shall be in accordance with the plans marked as Exhibit No. 19A of the record.
2. Enrollment shall be limited to a total of 260 students with 40 faculty members and staff.

VOTE: 4-0 (Maybelle T. Bennett, Paula L. Jewell, Charles R. Norris, and Carrie L. Thornhill to grant; William F. McIntosh not present, not voting).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FEB 26 1988

FINAL DATE OF ORDER: _____

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14681order/BJW27

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16169 of the National Presbyterian Church, pursuant to 11 DCMR 3108.1, for a special exception under Section 206 to allow an addition to an existing private school in an R-1-B District at premises 4101 Nebraska, N.W. (Square 1724, Lot 805).

HEARING DATE: November 6, 1996

DECISION DATE: November 6, 1996 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3E and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3E. ANC 3E, which is automatically a party to the application did not submit a written statement related to the application.

As directed by 11 DCMR 3324.2, the Board has 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 206. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, 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. It is therefore ORDERED that the application is GRANTED, SUBJECT to the CONDITION that construction shall be in accordance with plans marked as Exhibit No. 6 of the record.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 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.

BZA

CASE No. _____

EXHIBIT No. 23

BZA APPLICATION NO. 16169
PAGE NO. 2

VOTE: 3-0 (Angel F. Clarens, Sheila Cross Reid and Laura M. Richards to grant; Herbert M. Franklin and Susan Morgan Hinton, not present, not voting).

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

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER:

NOV 18 1996

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), 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 (1987), 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 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16169/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16169

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 18 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed below:

Allison C. Prince, Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

Paul Strauss, Chairperson
Advisory Neighborhood Commission 3E
P.O. Box 9953
Friendship Station
Washington, D.C. 20016

Jane B. Harter, Headmaster
National Presbyterian School
4101 Nebraska Avenue, N.W.
Washington, D.C. 20016-2735


MADELIENE H. DOBBINS
Director

NOV 18 1996
Date: _____

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18426 of The National Presbyterian Church, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception to allow the physical expansion of an existing private school to include a three story addition and increase in the student enrollment cap to 320 and the facility and staff cap to 70 individuals under section 206, and a variance from the side yard requirements for a temporary modular trailer under section 405, in the R-1-B District at premises 4120-4124 Van Ness Street, N.W. (Square 1724, Lot 805).

HEARING DATE: November 2, 2012
DECISION DATE: November 2, 2012

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

The Board of Zoning Adjustment (“Board”) 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”) 3E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. ANC 3E submitted a report in support of the application. The ANC report indicated that at a regularly scheduled and duly noticed meeting on October 11, 2012, with a quorum present, the ANC voted 5-0-0 to support the Applicant’s request. (Exhibit 31.) The Office of Planning (“OP”) submitted a report in support dated October 23, 2012 (Exhibit 30) and testified at the hearing in support of the application. The District Department of Transportation submitted a letter of no objection. (Exhibit 29.) Prior to testimony, the Applicant requested and the Board granted Expert witness status to Bill Spack for Architecture and reconfirmed prior approval to Daniel Van Pelt for Transportation.

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dc0z@dc.gov

Web Site: www.dcoz.dc.gov

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18426
EXHIBIT NO. 37

BZA APPLICATION NO. 18426

PAGE NO. 2

proving the elements that are necessary to establish the case, pursuant to § 3103.2, for side yard requirements for a temporary modular trailer from § 405, Side Yards. No parties appeared at the public hearing in opposition to this 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 and ANC reports filed in this case, the Board concludes that in seeking a variance from § 405, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under § 206, Public and Private Schools and Staff Residences. No parties appeared at the public hearing in opposition to this 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 and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 206, 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. It is therefore **ORDERED** that this application, pursuant to Exhibit 28 – Revised Plans, be **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Student enrollment shall not exceed 320 from nursery school through sixth grade.
2. The number of staff shall not exceed 70.
3. School hours and days of operation shall be Monday through Friday from 7:30 to 8:30 AM for before-school care; from 8:30 AM to 4:15 PM for academic purposes; and from 3:15 to 6:00 PM for extracurricular classes and after-school care. Interior athletic facilities may be used until 9:00 PM as authorized by the school. Occasional school related evening events are otherwise permitted on campus after 6:00 PM.
4. A minimum 47 parking spaces shall be allocated on-site for school staff and employees.

BZA APPLICATION NO. 18426
PAGE NO. 3

5. Generally students shall be dropped off between 7:30 and 8:30 AM and picked-up between 3:15 and 3:30 PM with the following exceptions: children in the half-day program shall depart between 12 noon and 12:15 PM; children in an extracurricular class activity shall depart between 4:15 to 5:30 PM; and children in after-school care shall depart between 3:15 and 6:00 PM.
6. The school shall implement the following Transportation Demand Management (TDM) strategies:
 - a. Designating a TDM coordinator.
 - b. Educating parents on TDM measures available at the beginning of the school year.
 - c. Incentivizing car-pooling through faster drop-off and pick-up.
 - d. Adding a ride-matching component to the school website that integrates Google maps with the School's directory to show ridesharing opportunities. The school may supplement this effort with SchoolPool from the Metropolitan Washington Council of Government (MWCOG) which allows parents to create on-line profiles that can be used to find other parents for trip-sharing.
 - e. Subsidizing public transit and walking/cycling for employees which include:
 - i. SmarTrip Cards (sic) valued at 50% or 100% of the commuting cost via Metrobus or Metro rail, depending on how much the recipient employs transit in their commute.
 - ii. Equivalent stipends for walkers and cyclists.
 - f. Participating in the District's Safe Routes to Schools program.
 - g. Incorporating "semi-regular" walk/bike to school days that incentivize biking and walking for students.
 - h. Monitoring vehicle trip generation and the mode split for students and employees independently, and providing this information to the District Department of Transportation (DDOT) on an annual basis.
7. The use of school play areas and athletic facilities shall be limited to activities supervised and run by the school and/or The National Presbyterian Church.
8. Placement of the planned 36 x 60-foot modular structure shall be in accordance with the approved plans.
9. No more than 30-60 days after issuance of the Certificate of Occupancy for the final phase of the approved construction: the temporary modular building shall be removed from the required side yard setback along the southern boundary; and the variance relief approved under (this application) shall expire.

VOTE: 3-0-2 (Lloyd J. Jordan, Marcie I. Cohen, and Nicole C. Sorg to APPROVE; No other member present and one vacant seat.)

BZA APPLICATION NO. 18426
PAGE NO. 4

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

The majority of the Board members approved the issuance of this order.

ATTESTED BY: 

SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: November 13, 2012

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 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL 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.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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.

BZA APPLICATION NO. 18426

PAGE NO. 5

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 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Order No. 18426-A of The National Presbyterian Church, Motion for Modification of Approved Plans in Order No. 18426, pursuant to § 3129 of the Zoning Regulations.

The original application was pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception to allow the physical expansion of an existing private school to include a three story addition and increase in the student enrollment cap to 320 and the facility and staff cap to 70 individuals under § 206, and a variance from the side yard requirements for a temporary modular trailer under section 405, in the R-1-B District at premises 4120-4124 Van Ness Street, N.W. (Square 1724, Lot 805).

HEARING DATE (Original Application):	November 2, 2012
DECISION DATE (Original Application):	November 2, 2012
FINAL ORDER ISSUANCE DATE (No. 18426):	November 13, 2012
HEARING DATE FOR MODIFICATION:	November 19, 2013
MODIFICATION DECISION DATES:	November 5, 2013 and November 19, 2013

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF APPROVED PLANS

BACKGROUND

On November 2, 2012, the Board of Zoning Adjustment (the “Board” or “BZA”) approved The National Presbyterian Church’s (the “Applicant”) original request for a special exception to allow the physical expansion of an existing private school to include a three-story addition and increase in the student enrollment cap to 320 and the facility and staff cap to 70 individuals under § 206, and a variance from the side yard requirements for a temporary modular trailer under § 405, in the R-1-B District at premises 4120-4124 Van Ness Street, N.W. (Square 1724, Lot 805). The approval was given pursuant to nine enumerated conditions. BZA Order No. 18426, approving the original request, was issued on November 13, 2012. (Exhibit 37.)

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail dcoz@dc.gov

Web Site BOARDOFZONINGADJUSTMENT.DC.GOV

CASE NO. 18426-A

MOTION FOR MODIFICATION

On October 22, 2013, the Applicant filed a Request for a Minor Modification of Plans approved by the Board on November 2, 2012, in Order No. 18426, pursuant to 11 DCMR § 3129 together with a Certificate of Service providing notice by hand delivery or first class mail to the other parties in the case, the Office of Planning (“OP”) and Advisory Neighborhood Commission (“ANC”) 3E, the affected ANC. (Exhibit 40.) Then, on October 28, 2013, the Applicant submitted a supplemental Request for Minor Modification, which included a full set of plans for the proposed modification project. (Exhibit 41.)

The Applicant is requesting to modify its already approved plans by proposing new construction for an approximately 1,800 square foot two-story addition instead of the three-story addition previously approved in 2012. In 2012, the Board had approved a special exception to construct a three-story classroom addition that would fill and extend into an existing open courtyard. The Applicant’s modification calls for phasing the approved construction by postponing the third-story construction to the school building and converting the Church administrative space into classroom space and proceeding with the courtyard portion as a two-story infill rather than a three-story structure. Thus, the Applicant proposes to add a two-story classroom addition to the west side of the existing Education Building and delay the approved third-floor construction to a later construction phase when funding is available. (See site plans, Exhibits 40 and 41.) According to the Applicant, the new proposal does not affect the previously approved zoning relief or require any additional relief or other changes in the application. Also, the approved nine conditions to Order No. 18426 would remain unchanged.

This case had originally been placed on the November 5, 2013 Public Meeting agenda. At the public meeting on November 5th, the Board found that the modification was not minor and moved the case to the November 19, 2013 Public Hearing agenda for a public hearing, per § 3129 of the Zoning Regulations.

Pursuant to § 3129, the Board conducted a public hearing on the requested modification on November 19, 2013. At the public hearing, the Applicant requested a waiver of the posting requirements, as the Board’s scheduling of the public hearing 14 days after the November 5th public meeting meant that the property, which had been posted, was posted for all but one day of the required 15-day time period. The Applicant also testified that an affidavit of posting was filed. (Exhibit 43.) The Applicant also testified that the modification proposal had been presented to the ANC, which had unanimously voted to support the request. The Board granted the requested waiver.

The other parties submitted reports on the Applicant’s request for modification. OP filed a timely report dated October 29, 2013, stating that it supported the Applicant’s request to modify the approved plans. (Exhibit 42.) The affected ANC, ANC 2E, which was a party in support to the underlying case, filed a resolution report dated November 18, 2013, in support of the modification request. The ANC’s report indicated that at a duly noticed and scheduled

BZA APPLICATION NO. 18426-A

PAGE NO. 3

public meeting on November 14, 2013, with a quorum present, the ANC voted 4-0-0 to support the modification request. (Exhibit 45.)

Based upon the record before the Board and having given great weight to the OP and ANC reports submitted, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3129, that the requested modification 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. No parties opposed this modification. Accordingly, a decision of the Board to grant this modification would not be adverse to any party.

The Board concludes that the Applicant's proposed Modification of Approved Plans is well supported and consistent with requirements of § 3129 of the Zoning Regulations and represents a modification that does not change the material facts the Board relied upon in approving the original application

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.

It is therefore **ORDERED** that this application for Modification of Approved Plans be **GRANTED, SUBJECT TO THE MODIFIED PLANS AT EXHIBIT 41**. In all other respects, Order No. 18426 and the conditions approved therein remain unchanged.

VOTE ON ORIGINAL APPLICATION ON NOVEMBER 2, 2012: 3-0-2

(Lloyd L. Jordan, Marcie I. Cohen, and Nicole C. Sorg, to APPROVE, No other member present and one vacant seat)

VOTE ON MODIFICATION OF APPROVED PLANS IN ORDER 18426 ON NOVEMBER 19, 2013: 3-0-2

(Lloyd J. Jordan, Robert E. Miller, and S. Kathryn Allen to APPROVE, Jeffrey L. Hinkle, not present or voting; one Board seat vacant.)

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

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

ATTESTED BY: 
for
SARA A. BARDIN
Director, Office of Zoning

BZA APPLICATION NO. 18426-A

PAGE NO. 4

FINAL DATE OF ORDER: November 27, 2013

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17602-A of The National Presbyterian Church, pursuant to 11 DCMR Section 3104.1, for a special exception to establish a child development center under Section 205 (16 children, ages infant to 4 years, and 5 staff), in the R-1-B District, on the first floor of the multi-purpose building, at premises 4101 Nebraska Avenue, N.W. (Square 1724, Lot 805).

HEARING DATE: May 8, 2007

DECISION DATE: May 8, 2007 (Bench Decision)

DECISION DATE ON CLARIFICATION: July 31, 2007

CORRECTED SUMMARY ORDER¹

SELF-CERTIFIED

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

The Board 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) 3E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. ANC 3E submitted a report in support of the application. The Office of Planning (OP) also submitted a report in the application.

As directed by 11 DCMR Section 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Section 3104.1, for special exception under section 205. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

As indicated above, this is an application for a child development center in an existing building at The National Presbyterian Church. The Applicant represented that priority enrollment will be offered at the child development center based on a three-tiered system. The first tier will consist of children of faculty and staff of the school; the second tier will consist of children of families of the church and school; and the third tier will consist of children from the general public, with

¹ This order amends the order issued on May 17, 2007, to clarify that the third tier of enrollment will consist of children from the general public with preference given to children of families residing within the boundaries of ANC 3E.

BZA APPLICATION NO. 17602-A

PAGE NO. 2

preference given to children of families residing within the boundaries of ANC 3E. In addition, two parking spaces will be designated for the staff of the child development center (Exhibit No. 33). Finally, the play area for the children will be located behind the building.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Sections 3104.1 and 205, that the requested relief can be granted 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 Section 3101.6, the Board has determined to waive the requirement of 11 DCMR Section 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. The maximum number of children shall not exceed 16, ages infant to four years old.
2. The hours and days of operation shall be 7:30 a.m. to 6:00 p.m., Monday through Friday.
3. The total number of staff shall not exceed 5.

VOTE: **5-0-0** (Ruthanne G. Miller, Marc D. Loud, Curtis L. Etherly, Jr. and John A. Mann II (by absentee ballot) to approve, the Zoning Commission member not present, not voting)

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

Each concurring member approved the issuance of this order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: May 17, 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

BZA APPLICATION NO. 17602-A

PAGE NO. 3

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.

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, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



BZA APPLICATION NO. 17602-A

As Director of the Office of Zoning, I hereby certify and attest that on August 7, 2007, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Allison C. Prince, Esq.
Christine A. Roddy, Esq.
Pillsbury Winthrop Shaw Pittman, LLP
2300 N Street, N.W.
Washington, D.C. 20037-1128

Laurelle Sheedy Mathis
Chief Financial Officer
The National Presbyterian Church, Inc.
4101 Nebraska Avenue
Washington, D.C. 20016

Chairperson
Advisory Neighborhood Commission 3E
3737 Devonshire Place, N.W.
Washington, D.C. 20008

Single Member District Commissioner 3E05
Advisory Neighborhood Commission 3E
3737 Devonshire Place, N.W.
Washington, D.C. 20008

Matthew LeGrant
Acting Zoning Administrator
Dept. of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, D.C. 20002

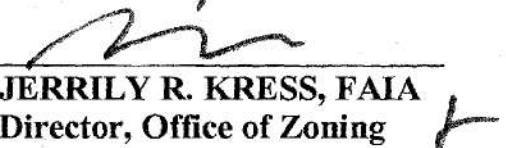
BZA APPLICATION NO. 17602-A
PAGE NO. 2

Mary Cheh, City Councilmember
Ward Three
1350 Pennsylvania Avenue, N.W., Suite 108
Washington, D.C. 20004

Harriet Tregoning, Director
Office of Planning
801 North Capitol Street, N.E., 4th Floor
Washington, D.C. 20002

Jill Stern, Esquire
General Counsel
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.E., Suite 9400
Washington, D.C. 20002

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning

TWR

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



BZA Application No. 20992
National Presbyterian Church, Inc.
4101 Nebraska Avenue, N.W. (Square 1724, Lot 805)

HEARING DATE: November 29, 2023
DECISION DATE: November 29, 2023

SUMMARY ORDER

RELIEF REQUESTED.¹ The application requests the following relief in order to expand an existing child development center and add an additional 16 children and 4 staff members, to an existing, detached church building in the R-1B (formerly R-1-B) zone:

- Special Exception under Subtitle U § 203.1(h), pursuant to Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 15.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commissions ("ANCs") 3A, and 3E, the "affected ANCs" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (the "Board") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. ANC 3A's report indicated that at a regularly scheduled, properly noticed public meeting on November 14, 2023, at which a quorum was present, ANC 3A voted to support the application (Exhibits 25 and 25A). The ANC report raised no issues or concerns. ANC 3E (the adjacent ANC) did not submit a report to the record for this application.

¹ Effective August 25, 2023, the Zoning Commission approved text amendments that established new zone district names and reorganized the zoning regulations. (See Zoning Commission Orders 18-16 and 19-27.) While the original application was filed prior to August 2023 and included the old zoning provisions, this order reflects the new changes that were in effect at the time of the Board's vote.

BZA ORDER NO. 20992

PAGE NO. 2

OFFICE OF PLANNING (“OP”) REPORT. OP submitted a report recommending approval of the application with conditions related to operations. (Exhibit 23.) The Board adopted the conditions as part of this order.

DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT. DDOT submitted a report recommending approval with conditions to the record (Exhibit 22). The Board did not adopt the conditions as part of this order.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION (“OSSE”) REPORT. OSSE submitted a report to the record recommending approval of the application. (Exhibit 19.)

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the Applicant has satisfied the burden of proof for the requested relief:

- Special Exception under Subtitle U § 203.1(h), pursuant to Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibits **10** and **20B** (pick-up and drop-off areas) of the record², as required under Subtitle Y §§ 604.9 and 604.10, subject to the following **CONDITIONS**:

1. The maximum number of children shall not exceed 32, ages infant to four years old.

² Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any such application that would require additional or different zoning relief from what is granted by this Order.

BZA ORDER NO. 20992

PAGE NO. 3

2. The hours and days of operation shall be 7:30 a.m. to 6:00 p.m., Monday through Friday.
3. The total number of staff shall not exceed nine.

VOTE: 3-0-2

(Frederick L. Hill, Chrishaun S. Smith, and Tammy M. Stidham to APPROVE; Lorna L. John not present, not participating; one Board seat vacant)

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: December 13, 2023

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.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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.

BZA ORDER NO. 20992

PAGE NO. 4

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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.

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 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.