

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18236 of the Archdiocese of Washington, on behalf of the Shrine of the Most Blessed Sacrament, pursuant to 11 DCMR § 3104.1, for a special exception for continuation of a recreational playing field to serve an existing private school under § 206, in the R-1-B District, at premises 3637 Patterson Street, N.W. (Square 1863, Lots 824, 825, and 826).

HEARING DATE: July 19, 2011
DECISION DATE: September 13, 2011

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment (“Board” or “BZA”) 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”) 3G and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3G, which is automatically a party to this application. ANC 3G filed a report, dated May 14, 2011, which indicated that at a duly noticed and regularly scheduled public meeting on May 9, 2011, with a quorum of Commissioners present, the ANC voted, by a vote of 7:0, to support the application and recommended that a term greater than three years be granted. (Exhibit 24.)

The Office of Planning (“OP”) submitted a timely report recommending approval of the application for special exception, subject to conditions.¹ (Exhibit 29.)

Two requests for party status from adjacent neighbors were granted, one in opposition from Clay and Edna Wellborn and the other in support from Gail MacColl. (Exhibits 25 and 27.) At the public hearing, the Board granted the Applicant additional time to resolve outstanding issues and

¹ OP recommended the continuation of the use of the field, as previously conditioned in BZA Order No. 17718, but modified to reflect the Applicant’s request to change the hours of use from 10:00 a.m. to 9:00 a.m.

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concerns with the opposition party, Clay and Edna Wellborn. Having been assured that the separate user agreement they had with the Applicant remained in effect, although it would be modified to reflect changes in the hours of use based on this order, Mr. and Mrs. Wellborn, who initially opposed the application, reversed their position and submitted a letter to the record, dated September 9, 2011, to that effect. The letter memorializes that the Wellborns support the application, including the Applicant's request for a 10-year term.² (Exhibit 37.)

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 under § 206. The opposing party to the application withdrew their opposition as a result of working with the Applicant to address their concerns. 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, 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, 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. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED WITH THE FOLLOWING CONDITIONS**:

1. The recreational playing field may be used between 9:00 a.m. – 6:30 p.m., but in no event shall the field be used after sunset.
2. No more than 90 students shall be permitted to use the field at any given time.
3. The field shall be landscaped in accordance with the Illustrative Site Plan submitted with the subject application and dated February 2008. The applicant shall have the flexibility to substitute comparable planting based on availability, planting season and specific requests from adjacent neighbors.
4. The primary means of access to the field for students shall be the alley entrance. Kindergarten students shall have flexibility to use either Patterson Street or the alley entrance.

² There is a separate user agreement between the Applicant and the Wellborns that continues in force, as modified. That current agreement is attached to the Wellborn's letter in the record in which they indicate their support for the application and withdrawal of their opposition. (Exhibit 37.)

5. Gates shall be kept locked whenever the field is not in use by the school or other authorized party.
6. No permanent recreational structures such as baseball backstops, soccer goals, or basketball hoops shall be constructed on the field.
7. The field shall not be used for major athletic or sporting events, nor shall it be used by organized groups that are not a part of the school's educational and religious program.
8. No amplifiers, generators, compressors or other loud devices shall be used by the school on the field.
9. The school shall be permitted, but is not required, to use the field or make the field available to neighboring families during the hours of 10:00 a.m. and 6:30 p.m. on weekends, holidays or other times when school is not in session, subject to any rules and restrictions imposed by the school regarding security and noise levels.
10. The school shall be responsible for maintenance of the field, including maintenance of the landscaping and removal of trash and debris from the field and the adjacent sidewalk and alley.
11. Approval shall be for **TEN YEARS** from the effective date of this order.

VOTE: **5-0-0** (Michael G. Turnbull , Nicole C. Sorg, Meridith H. Moldenhauer, Lloyd J. Jordan, and Jeffrey L. Hinkle to GRANT.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

ATTESTED BY:



RICHARD S. NERO, JR.
Acting Director, Office of Zoning

FINAL DATE OF ORDER: **SEP 16 2011**

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.

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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.

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.

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.

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As Director of the Office of Zoning, I hereby certify and attest that on **SEP 16 2011**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Mary Carolyn Brown, Esq. and Kyrus L. Freeman, Esq.
Holland & Knight
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006

Clay and Edna Wellborn
5829 Chevy Chase Parkway, N.W.
Washington, D.C. 20015

Gail MacColl
3623 Patterson Street, N.W.
Washington, D.C. 20015

Chairperson
Advisory Neighborhood Commission 3G
P.O. Box 6252
Washington, D.C. 20015

Single Member District Commissioner 3G05
Advisory Neighborhood Commission 3G
3731 Northampton Street, N.W.
Washington, D.C. 20015

Mary Cheh, Councilmember
Ward Three
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ATTESTED BY:



RICHARD S. NERO, JR.
Acting Director, Office of Zoning