



SUPPLEMENTAL REPORT

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: July 5, 2011

SUBJECT: MODIFICATION REQUEST - BZA Case No. 17540 & 17541 (210 and 214 South Carolina Avenue S.E.)

I. RECOMMENDATION

Capitol Hill Day School (the “Applicant”) proposes to modify an existing Board of Zoning Adjustment (BZA) order (Applications Number 17540 and 17541) to make internal and external changes to approved plans and to alter certain conditions of approval.¹ The Office of Planning (OP) has no concerns with the Applicant’s proposed interior and exterior modifications. The Applicant is no longer pursuing an approved addition, and the application proposes only minor modifications to existing building features that “do not pertain to or affect FAR, building height, yard, court, parking or any other zoning issues or requirements.”² However, OP is concerned with the proposed conditions found in the application’s Exhibit E. The application does not provide evidence demonstrating that certain previous conditions applicable to the 214 South Carolina Avenue building (hereinafter, the “214 Building”), as contained in BZA Order Number 16120 (hereinafter, the “1996 Order”, see attached), are no longer necessary.

OP recommends approval of the proposal as a minor modification, subject to the reinstatement of the previous conditions related to the 214 Building as listed below, or the adequate demonstration by the Applicant that the conditions are no longer relevant. Specifically, OP identifies below the previous conditions for further consideration:

- The hours of class instruction shall not exceed from 8:00 A.M. to 4:30 P.M., Monday through Friday.
- The number of students in the building at any one time shall not exceed thirty.
- Evening use of the premises shall be limited to Board and Committee meetings and shall occur no more than eighteen times per year.
- Existing on-street parking in front of the subject building shall not be restricted.

II. BACKGROUND

Prior to Applications Number 17540 and 17541 (hereinafter, the “2007 Order”), which the Applicant here proposes to modify, the Applicant was permitted to use two different buildings under separate special exception approvals for school purposes:

- The Applicant has used the main school building (the Dent Building) at 210 South Carolina Avenue (hereinafter, “210 Building”) as a private school pursuant to a special exception granted by the Board in 1979. The special exception did not have a term limit, although limitations were placed on the number of students and faculty/staff, hours of operation, and parking.³

¹ The BZA approved a new expiration date for the validity of the consolidated order of June 11, 2011. See 17540-A and 17541-A (2009).

² Application Submission dated June 1, 2011, page 3.

³ See Applications No. 12860 (1979) and 14780 (1988).



- The use of a row building at 214 South Carolina Avenue – which is separated from the Dent Building by about 26' – as part of the school was permitted by special exception beginning in 1991.⁴ The permission was limited to a five-year term. The school use was renewed in 1996 for a ten-year term. The 1996 Order approved the school use of the 214 Building subject to the following conditions:
 1. Approval shall be for a period of TEN YEARS.
 2. No classroom or tutorial space shall be located above the first floor level.
 3. The hours of class instruction shall not exceed from 8:00 A.M. to 4:30 P.M., Monday through Friday.
 4. The number of students in the building at any one time shall not exceed thirty.
 5. Evening use of the premises shall be limited to Board and Committee meetings and shall occur no more than eighteen times per year.
 6. The applicant shall maintain a community liaison and shall meet with concerned neighbors and other interested parties, including the local ANC representative, a minimum of four times per year. All property owners within 200 feet of the site shall be notified in advance of such meetings and shall be invited to attend.
 7. Existing on-street parking in front of the subject building shall not be restricted.⁵

In the 2007 Order (Applications Number 17540 and 17541), the Board approved plans for a physical expansion of the school and the redistribution of school operations within the newly enlarged facility. Acknowledging the creation of a more cohesive school campus, the Board stated that it “intends that, until such time in the future as a change is requested, or required, these two subject properties be viewed as a single private school... ” As a consequence, the Board specifically subsumed the 214 Building into the unterm special exception granted to the 210 Building (Application Number 12860). The Board further adopted a consolidated list of conditions to apply to the entire school campus.⁶ As seen below, among the list were several conditions (No. 2, 3, 5, and 7) that affected the use of the 214 Building. The italics reflect OP commentary about how the conditions modified the 1996 Order:

2. At the beginning of the next academic year (*i.e.*, September) after the issuance of a valid Certificate of Occupancy for the Addition, use of the 214 Building shall be limited to administrative offices and support functions in conjunction with the School’s use of the Dent Building. (*Imposed new use restrictions on the 214 Building*).
3. The total number of students enrolled in the School shall not exceed 255. (*Removed the limitation on the number of students permitted in the 214 Building at any one time*).
5. No more than forty-three (43) faculty and staff members shall be employed at the School. (*Removed the limitation on the number of faculty and staff permitted in the 214 Building at any one time*).
7. The normal hours of operation of the School shall be from 8:00 a.m. to 6:00 p.m., Monday through Friday. (*Removed the limitation on the hours of operation permitted in the 214 Building*).

The Board also removed 214 Building-specific conditions relating to a term-limit, evening uses, and on-street parking previously provided in the 1996 Order.

Subsequent to the 2007 Order approving the school expansion, the Applicant decided not to pursue the addition.

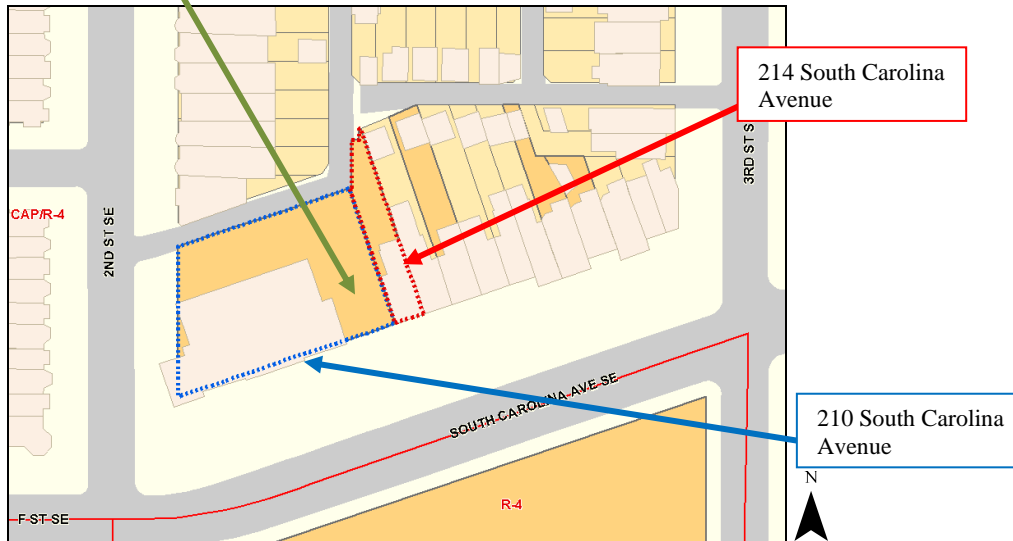
⁴ See Application No. 15486 (1990). See also earlier denial of Application No. 14739 (1988).

⁵ The conditions were mostly identical to conditions adopted pursuant to the 1990 Order (Application No. 15386).

⁶ See BZA Application No. 17540 & 17541, page 2.

III. MAPS AND IMAGES

Approximate location of approved addition in Application No. 17540 & 17541 (not constructed)



Aerial view of subject properties



View of the subject block looking north across South Carolina Avenue

IV. PROPOSED MODIFICATIONS

In the submission dated June 1, 2011, the Applicant requested modifications to the 2007 Order conditions:

1. *Changes to building interior and exterior and the school grounds.* The changes include interior remodeling, the replacement of a skylight, the creation of a barrier-free entry at the rear on the north elevation, the replacement of stairs with a sidewalk, and the insertion of a retaining wall separating the walkway from the raised parking area. Proposed modifications are shown in Exhibit D.
2. *Changes to the 17540 and 17541 conditions of approval, as seen in Exhibit F.* The Applicant proposes to remove references related to the approved addition (not constructed) as well as a related reconfiguration of accessory parking. The Applicant retained in entirety some conditions (No. 3, 4,

5, 7, 8, 13, and 15), struck certain conditions (No. 1, 2, 10, 11, and 12), modified certain conditions (No. 6, 9, and 14), and added a condition (shown in Exhibit E, number 1).

V. OP ANALYSIS OF THE MODIFICATIONS

OP has no concerns related to the application’s request for changes to the Building interior and exterior as shown in Exhibit D. The proposed modifications do not appear to have any zoning consequence. In addition, any historic preservation or public space issues would be reviewed as part of separate regulatory processes if necessary.

OP is not opposed to many of the proposed modifications to conditions which reflect the removal of school addition references. However, based on a review of earlier orders applicable to the subject site, OP has concerns regarding conditions related specifically to the use of the 214 Building. OP understands that the issue of the impact of the 214 Building’s use was the subject of considerable discussion at prior BZA hearings. It also appears that the construction of the school addition, and the resulting redistribution of school operations, was expected to permit a less impactful use in the 214 Building. The 2007 Order included the following condition – that the 214 Building would be “limited to administrative offices and support functions in conjunction with the School’s use of the Dent Building.” The Board reasoned that the school’s neighborhood impact could “even be somewhat reduced with the cessation of student use of the 214 Building.”⁷

The Applicant now proposes to modify the approved conditions to again allow student use of the 214 Building. The following table provides: (1) a list of conditions from the 1996 Order, (2) an examination of how the conditions were addressed in the 2007 Order; and (3) the Applicant’s proposed conditions.

1996 Order	2007 Order	Applicant’s proposed modifications
Approval shall be for a period of TEN YEARS.	<i>Eliminated</i>	<i>No reinstatement of condition proposed</i>
No classroom or tutorial space shall be located above the first floor level.	<i>Eliminated</i>	<i>Applicant proposes to reinstate this condition</i>
The hours of class instruction shall not exceed from 8:00 A.M. to 4:30 P.M., Monday through Friday.	<i>Eliminated</i>	<i>No reinstatement of condition proposed</i>
The number of students in the building at any one time shall not exceed thirty.	<i>Eliminated</i>	<i>No reinstatement of condition proposed</i>
Evening use of the premises shall be limited to Board and Committee meetings and shall occur no more than eighteen times per year.	<i>Eliminated</i>	<i>No reinstatement of condition proposed</i>
The applicant shall maintain a community liaison and shall meet with concerned neighbors and other interested parties, including the local ANC representative, a minimum of four times per year. All property owners within 200 feet of the site shall be notified in advance of such meetings and shall be invited to attend.	<i>Adopted</i>	<i>Applicant proposes to retain this condition</i>
Existing on-street parking in front of the subject building shall not be restricted.	<i>Eliminated</i>	<i>No reinstatement of condition proposed</i>

OP recommends approval of the proposed minor modification subject to the reinstatement of earlier conditions related to the 214 Building or the Applicant adequately demonstrating why certain restrictions on the use of the 214 Building are no longer needed. While the reinstatement of a term limit may not be

⁷ See Applications No. 17540 and 17541 of Capitol Hill Day School, page 12.

necessary, the Applicant should address the proposed elimination of the following conditions found in the 1996 Order:

- The hours of class instruction shall not exceed from 8:00 A.M. to 4:30 P.M., Monday through Friday.
- The number of students in the building at any one time shall not exceed thirty.
- Evening use of the premises shall be limited to Board and Committee meetings and shall occur no more than eighteen times per year.
- Existing on-street parking in front of the subject building shall not be restricted.

JS/pg
Paul Goldstein, Case manager

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16120 of Capitol Hill Day School, pursuant to 11 DCMR 3108.1, for a special exception under Section 206 to continue to operate a private school of 30 students in pre-kindergarten through eighth grade and five staff, basement through the second floor in a CAP/R-4 District at premises 214 South Carolina Avenue, S.E. (Square 765, Lot 802).

HEARING DATE: July 10, 1996
DECISION DATE: July 10, 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) 6B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 6B. ANC 6B, 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 following **CONDITIONS**:

1. Approval shall be for a period of **TEN YEARS**.
2. No classroom or tutorial space shall be located above the first floor level.
3. The hours of class instruction shall not exceed from 8:00 A.M. to 4:30 P.M., Monday through Friday.

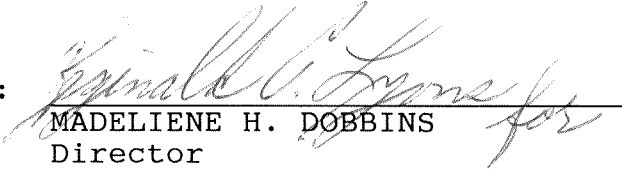
4. The number of students in the building at any one time shall not exceed thirty.
5. Evening use of the premises shall be limited to Board and Committee meetings and shall occur no more than eighteen times per year.
6. The applicant shall maintain a community liaison and shall meet with concerned neighbors and other interested parties, including the local ANC representative, a minimum of four times per year. All property owners within 200 feet of the site shall be notified in advance of such meetings and shall be invited to attend.
7. Existing on-street parking in front of the subject building shall not be restricted.

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.

VOTE: 4-0 (Angel F. Clarens, Susan Morgan Hinton, Sheila Cross Reid and Laura M. Richards to grant).

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

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: JUL 26 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.

BZA APPLICATION NO. 16120
PAGE NO. 3

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.

ord16120/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



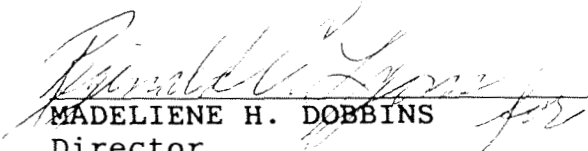
BZA APPLICATION NO. 16120

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUL 26 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:

Steven L. Cymrot
419 East Capitol Street, S.E.
Washington, D.C. 20003

Lyle Schauer
Zoning Committee
Capitol Hill Restoration Society
P.O. Box 15264
Washington, D.C. 20003-0264

Peter J. Waldron, Chairperson
Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, S.E., #108
Washington, D.C. 20003



MADELIENE H. DOBBINS
Director

Date: JUL 26 1996