

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR



August 17, 2015

Via Email PDF

Lyle M. Blanchard
Greenstein DeLorme & Luchs, P.C.
1620 L Street, N.W. - Suite 900
Washington, D.C. 20036-5605

Re: 205 C Street, NE – Square 757, Lot 846 (the “Subject Property”)

Dear Mr. Blanchard:

You have requested my determination regarding the permitted use of the first floor of the property located at 205 C Street, NE (the “Subject Property”) for a private club, based on the prospective occupant’s intended use in your letter of July 17, 2015 to me [see attached]. The Subject Property is located in the R-5-B/CAP zone district in which a “Private Club” is permitted as a matter-of-right, except when the use is a service customarily carried on a business (11 DCMR §330;.5(i)). Your client, the FCNL Education Fund (“Education Fund”), pursuant to the description below, intends to use the first floor of the Subject Property as a private club. I have determined that the described intended use would indeed qualify as a private club pursuant to the Zoning Regulations.

The Zoning Regulations define a “Private Club” as follows:

“Club, private -- building and facilities or premises used or operated by an organization or association for some common avocational purpose such as, but not limited to, a fraternal, social, educational, or recreational purpose; provided, that the organization or association shall be a non-profit corporation and registered with the U.S. Internal Revenue Service; goods, services, food, and beverages shall be sold on the premises only to members and their guests; and office space and activities shall be limited to that necessary and customarily incidental to maintaining the membership and financial records of the organization.” (21 DCR 1465) (11 DCMR §199.1).

This definition consists of three (3) essential elements: (1) the Property must be used for avocational purposes (with some accessory office space permitted), (2) by a non-profit organization; and (3) where goods and services are provided to its members and guests.

August 17, 2015

You have represented to me the following: The Education Fund is a 501(c)(3) non-profit organization with 11,991 members nation-wide in fiscal year 2014. Education Fund was incorporated in the District of Columbia on 1982. The Education Fund's purpose is to seek to educate members of the Religious Society of Friends and other citizens with respect to issues in those areas which touch upon and the concerns and causes the Friends have at heart.

You have represented to me that The Educational Fund intends to use the first floor space for Quaker education including planned programming in response to requests from Quaker groups and FCNL legislative priorities for grassroots organizing. The space is also designed to provide a setting to host Quaker worship or interfaith gatherings and for more formal meetings or dinners with guests who are members of the broader community. The Education Fund will not allow partisan or political fund-raising in this space as those activities are not consistent with its programs and mission.

The 205 C Street, NE Property will not be used in any way as the "headquarters" for the Education Fund or for any administrative or lobbying functions. 205 C Street is adjacent to the office building owned and operated by FCNL Education Fund at 245 Second Street, NE. Office space for the Education Fund is located in the 245 Second Street, NE property where it has been located since the 1970s. You have also represented that the two buildings, 205 C Street and 245 Second Street, NE, are not physically connected by a door.

You have represented to me that the existing four apartment units at 205 C Street, NE will remain and will be located only on the second and third floors of the Property. These units are accessed by stairs via a common front hallway. The Education Fund will not operate the apartments as a hotel or inn and there are no sleeping accommodations on the first floor. There will be no Education Fund employees living or working in the first floor of the Property except as necessary for club administrative purposes, such as maintaining the Property and welcoming and accommodating Education Fund members and guests or supervising meetings, gatherings or dinners held on first floor of the Property. The Education Fund may occasionally allow its guests to hold gatherings in the first floor of the Property.

In determining whether or not a proposed use will comply with the three essential elements to the definition of a private club, my office relies on several previous decisions and cases, both from the D.C. Court of Appeals and from the Board of Zoning Adjustment [BZA]. These precedents include the Association for Preservation of 1700 Block of N Street NW vs. BZA, 384 A.2d 668 (D.C. 1978), in which the Court of Appeals held use by the YMCA as a private club, finding that its educational and recreational activities were avocational in nature. In BZA Application No. 13279 of the Cosmos Club, the BZA held that the Cosmos Club was a private club and that inherent in that private club use would be dining assembly and lodging facilities as accessory uses. In BZA Application No. 13740 of the University Women's Club, the Board described the subject private club in that case to include educational programs for members, weekly meetings, luncheons, and transient housing for members, with fifteen rooms for overnight stays. Finally, BZA Application No. 14113 of the National Republican Club noted dining, receptions, seminars, and conferences as legitimate private club functions.

August 17, 2015

The most direct guidance on this issue can be found as part of the District's submissions in BZA Appeal No. 18090, a case which was ultimately dismissed on procedural grounds. In the District's Pre-hearing Statement for Appeal No. 18090, DCRA counsel strongly supported my decision to allow private club use by the Airports Council International. The description of the proposed use in the ACI case is very similar to that proposed here by the Education Fund. In any event, each case stands on its own merits, and the Education Fund clearly meets the three-part definition of "private club." The Education Fund is a non-profit organization, the proposed principal use as described herein is clearly avocational in nature, and the goods and services provided will be limited to Education Fund members and guests.

For these reasons, I have determined that if used principally for the purposes described above, the Education Fund's proposed use for the first floor of the Subject Property will be considered a "private club" and will therefore be permitted as a matter-of-right use of the Subject Property.

You have also requested determinations with respect to two parking issues at the Subject Property regarding whether (1) the two existing parking spaces that serve the apartment use of the building can remain although they are non-conforming in terms of size and (2) the private club use of the first floor triggers a requirement for additional parking. Based on the information you have provided, I have determined that the two non-conforming parking spaces satisfy the parking requirement for the four apartment units and that pursuant to the two part test in Section 2120.3 of the Zoning Regulations the private club use does not require additional parking spaces to be provided on the Subject Property.

You have represented and provided documentation that the current garage pre-dates the current 1958 Zoning Regulations and that the HPRB has granted permission to raze the garage building as part of its concept review of the proposed building renovations (HPA 15-304). The dimensions of the garage are 17'5" ft. wide by 18'2" ft. long. If the garage is razed, I have determined that the two (2) parking spaces (8'8" ft. by 18'2" ft. each) provided within the footprint of the garage will satisfy the parking requirement for the four apartment units as long as the two parking spaces are preserved in their current location on the Property.

You have represented that the Historic Preservation Office of the Office of Planning has confirmed that the building is considered a contributing structure to the Capitol Hill Historic District with respect to parking. Pursuant to Section 2120.3 of the Zoning Regulations, a historic resource and any additions thereto are exempt from the requirement of Section 2100.4 to provide additional parking as the result of a change in use and from the requirement of 2100.6 to provide additional parking as a result of an increase in intensity of use, except that parking shall be required for any addition where: (a) the gross floor area of the historic resource is being increased by 50% or more, and (b) the parking requirement attributable to the increase in gross floor area is at least four (4) spaces. Based on your representations as to gross floor area of the current building and proposed renovations and the confirmation from the Historic Preservation Office of the Office of Planning that the building is a contributing structure to the Capitol Hill Historic District, I conclude that the total GFA of the building will increase by 24% and the

August 17, 2015

change in use of the first floor of the building is a 42% increase in GFA devoted to the new private club use. There is no change to the number of apartment units as the result of the proposed renovations, so the two existing parking spaces continue to satisfy the number of parking spaces required for four (4) apartment units in the R-5-B zone district. Therefore, I have determined that there is no requirement for additional off-street parking based on the above information and documentation you provided.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachment: Letter of 7-17-15 from Lyle M. Blanchard

File: Det Let re 205 C St NE to Blanchard 8-17-15