



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B**

November 19, 2012

Meredith Moldenhauer, Chairperson
Board of Zoning Adjustment
441 4th Street NW
Suite 210S
Washington, DC 20001
bzasubmissions@dc.gov
richard.nero@dc.gov
sara.bardin@dc.gov

Re: Approved resolution in Support of Universalist National Memorial Church (UNMC) application for a use variance to permit the operation of the non-profit Spooky Action Theater to stage performances in its space and to sell tickets to the public.

Dear Chairperson Moldenhauer,

At its regular meeting on November 14, 2012, the Dupont Circle Advisory Neighborhood Commission (“ANC 2B” or “Commission”) considered the above-referenced matter. With all of the Commissioners present, a quorum at a duly-noticed public meeting, the Commission approved the following resolution by a vote of (9-0).

Whereas the peace, order and quiet of neighbors in the immediate vicinity of the UNMC were disturbed by the patrons and staff using the rear alley entrance of UNMC during performances held by Spooky Action Theater as well as by other events open to the public sponsored by UNMC, and

Whereas as a result of the disturbances resulting from these events, neighbors logged a complaint that Spooky Action Theater was operating illegally as a commercial theater in a residential zone, and

Whereas the Office of Zoning sent out an inspector who confirmed that Spooky Action Theater was operating without a valid Certificate of Occupancy and that UNMC was renting space to a separately incorporated commercial theater without a use variance permitting this activity in an R-5B residential zone, and

Whereas UNMC filed an application for such a use variance and the Office of Zoning granted a temporary variance for the duration of the play that was scheduled for performances during October with the provision that Spooky Action Theater would have to use the front entrance of the UNMC for all activities, and

Whereas the neighbors observed that once Spooky Action Theater used the front entrances for its performances, there was no longer a disturbance of peace, order and quiet in the immediate vicinity to the rear of UNMC, and

Whereas the neighbors subsequently have indicated a willingness to support UNMC's application for a use variance to permit the continued operation of Spooky Action Theater provided that patrons and staff may only use the front entrances for performances, and

Whereas research by the ANC found a BZA case that explicitly stated that the R5B zone is designed to encourage some mix use such as non-profit organizations but could find no BZA cases that explicitly denied use variances for non-profit theaters like Spooky Theater in R-5B zones, though commercial art galleries and commercial artist studios are specifically permitted as special exceptions, and

Whereas UNMC presented a sheath of letters in support of the niche and quality of Spook Action Theater, including from artistic directors from nearby major performance theaters,

Therefore, the ANC resolves to support the UNMC use variance with the stipulation that UNMC amend its use variance application to:

- 1) Restrict to the front entrance of the Church all audience and staff coming to all public events held in the auditorium, whether sponsored by Spooky Action Theater or sponsored by the UNMC.
- 2) Restrict to the front entrance staff and performers coming to the Church for rehearsals or auditions
- 3) Restrict to the front entrance audience, staff and performers who leave the building for smoking breaks or intermissions.
- 4) Exceptions to these restrictions are ADA access, which is best accomplished through the alley entrance, deliveries of materials and equipment, and emergency exit
- 5) Limit attendance to productions by the theater renting space in the UNMC auditorium to 75, though other non-performance events sponsored by the theater or any event sponsored by the UNMC itself may use the full 225 person capacity of the auditorium.
- 6) Remove the restriction on the number of performances that may be held during a one-year period.

In addition, if the BZA issues an order in support of the UNMC's application, the ANC will subsequently negotiate an agreement among the neighbors, Spooky Action Theater, the UNMC and the ANC to address other issues such as number of performances per year, no-subleasing by Spooky Action Theater, noise from staff/performers/audience congregating outside the church, off-street parking, and litter.

Commissioners Bob Meehan (bob.meehan@dupontcircleanc.net), Mike Feldstein (mike.feldstein@dupontcircleanc.net), and Will Stephens (will.stephens@dupontcircleanc.net) are the Commission's representative in this matter.

ON BEHALF OF THE COMMISSION.

Sincerely,

A handwritten signature in blue ink that reads "William F. Stephens". The signature is written in a cursive style with a horizontal line extending from the end.

Will Stephens, Chair

cc: steve.calcott@dc.gov