

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - February 17, 1971

Appeal No. 10619 Washington Metropolitan Area Transit
Authority, appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried with Mr. McIntosh
abstaining, the following Order of the Board was entered at the
meeting of February 23, 1971.

EFFECTIVE DATE OF ORDER - March 12, 1971

ORDERED:

That the appeal for further processing under Article 75
of the Zoning Regulations to erect operations control center
for rapid rail system with roof structures in accordance with
Section 3308 at 5th, 6th, F and G Streets, N.W., lot 17,
Square 487 be granted conditionally.

FINDINGS OF FACT:

1. This appeal was filed with the Board of Zoning Ad-
justment for further processing according to the provisions
of Section 7501 of the D. C. Zoning Regulations. Under this
appeal, the Board requested to approve the final plans for
an office building, housing the administrative offices of
the Authority, rentable tenant space, the operations control
center for the rapid transit system, underground parking
garage, a chiller plant and cooling towers for the building
and a chiller plant and cooling towers for subway stations in
the vicinity.

2. In accordance with the provisions of Section 7501 the
Zoning Commission of the District of Columbia on July 14, 1969
granted preliminary approval to the project in Z. C. Case
No. 69-15. On January 21, 1971 the Zoning Commission gave its
final approval to the designed plans and use limitations as
submitted by the applicant in Z. C. Case No. 70-28 (See
Exhibit No. 19).

Appeal No. 10619

Page 2

March 12, 1971

3. "The National Capital Planning Commission, at its meeting on May 1, 1969, recommended favorably to the Zoning Commission on the preliminary application . . . to allow construction of an operations control center building" as attested by letter dated May 5, 1969 from the National Capital Planning Commission Director, Mr. Charles H. Conrad (Z. C. Exhibit No. 16, Z. C. Case No. 69-15).

4. The Commission of Fine Arts on April 4, 1970 approved the building plans subject to the submission of "samples of the exterior materials for final review" as attested by the form signed by their secretary, Mr. Charles H. Atherton (Exhibit No. 7, Z. C. Case No. 70-28).

5. Mr. Arthur P. Davis, architect-member of the Board of Zoning Adjustment, gave his approval to the plans and specifically roof structures by signing the plans on February 12, 1971 (Exhibit No. 2A).

6. On December 17, 1970, Mr. Daniel H. Shear, General Counsel to National Capital Planning Commission, wrote to the Zoning Commission recommending dismissal of Z. C. Case No. 70-28 for lack of jurisdiction (Exhibit No. 21, Z.C. Case No. 70-28). On December 9, 1970 Mr Shear also wrote to the Board recommending dismissal for lack of jurisdiction (Exhibit No. 12). In response to this recommendation, the Board deferred action and through Mr. Arthur B. Hatton, Executive Director of Zoning Commission, requested an opinion from the D. C. Corporation Counsel on the question of jurisdiction on December 29, 1970 (Exhibit No. 13).

7. On February 8, 1971, Mr. C. Francis Murphy, Acting Corporation Counsel, D.C., rendered an opinion that the Board of Zoning Adjustment does have jurisdiction to entertain the appeal of the Washington Metropolitan Area Transit Authority for further processing under Article 75 of the Zoning Regulations (Exhibit No. 16).

Appeal No. 10619
Page 3
March 12, 1971

8. On February 18, 1971 Mr. G. Franklin Edwards, Acting Chairman of the National Capital Planning Commission, addressed a letter to the Board requesting they continue deferral of action on Appeal No. 10619 until the Commission determines, following receipt of the recommendation of its General Counsel, whether to submit the issue to the Comptroller General.

9. There was no other objection to the granting of this appeal registered at the public hearing.

OPINION:

The question of jurisdiction between the Zoning Commission, Board of Zoning Adjustment, and National Capital Planning Commission is an academic matter having nothing to do with the location, design, or use of the building and is a matter which can be referred to an impartial arbiter as an academic matter at a later date. The Board having received the opinion from the Corporation Counsel, D.C., that it has jurisdiction hereby accepts jurisdiction.

The Board has reviewed the plans submitted by the Authority and finds them to be completely consistent with the plans approved by the Zoning Commission. We therefore approve the total project subject to the following conditions:

a. The plans submitted for building permit shall be consistent with the plans submitted to the Board and hereby approved.

b. The use of the building shall be limited as prescribed by the Zoning Commission, "The occupancy of the building shall be limited to offices for the Washington Metropolitan Area Transit Authority (WMATA), the housing of control equipment for WMATA, offices for private or public organizations having a direct working relationship with WMATA, and offices for other permissible Special Purpose uses."

Appeal No. 10619
Page 4
March 12, 1971

c. Before construction permits may be issued, the Authority shall record a covenant with the District of Columbia for the development and use of the property in accordance with this approval of the Board.

d. The Board retains jurisdiction over this project, and if there are to be any modifications to the plans for use of the project in the future, such modifications shall be reviewed and approved by the Board in accordance with provisions of Section 7501 of the D. C. Zoning Regulations.

The Board reserves the right to direct revocation of the occupancy permit upon a proper showing that any terms or conditions of this Order have been violated.

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

ATTESTED:

By:



PATRICK E. KELLY
Secretary of the Board

THAT THE ORDER IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DIRECTOR OF INSPECTIONS WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - February 17, 1971

Appeal No. 10619 Washington Metropolitan Area Transit
Authority, appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried with Mr.
McIntosh abstaining, the following AMENDMENT in the Order of
the Board was entered at the meeting of February 23, 1971.

EFFECTIVE DATE OF AMENDMENT - December 1, 1971

ORDERED:

That the appeal for further processing under Article 75 of
the Zoning Regulations to erect operations control center for
rapid rail system with roof structures in accordance with
Section 3308 at 5th, 6th, F and G Streets, NW., Lot 17,
Square 487, be amended.

This Order shall be amended by adding Condition "e" to
read:

e. That attended parking is permitted in the
proposed Operations Control Center Building.

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

ATTESTED:

By: _____

GEORGE A. GROGAN
Secretary of the Board

THAT THE AMENDMENT IN THE ORDER OF THE BOARD IS VALID FOR
A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING
AND/OR OCCUPANCY PERMIT IS FILED WITH THE DIRECTOR OF INSPECTIONS
WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS
ORDER.