

Before the Board of Zoning Adjustment, D.C.
February 9, 1972
PUBLIC HEARING - July 19, 1972

Application No. 11066 - The Boys' Club of Greater Washington,
Appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, Appellee.

Upon consideration of the Motion to Stay the Order of the Board of Zoning Adjustment, dated September 5, 1972, filed with this Board by counsel for David C. and Martha Stewart, on October 30, 1972, and upon consideration of the opposition to said Motion for Stay filed on behalf of the applicant on November 1, 1972, the Board, by unanimous vote on November 1, 1972, denied the Motion to Stay for the reasons hereafter stated.

FINDINGS OF FACT:

1. The Board in B.Z.A. Appeal No. 11066 by Order dated September 5, 1972, granted the application to construct a community center building pursuant to the provisions of Section 3101.45 of the Zoning Regulations.
2. From the exhibits contained in the file and the affidavits submitted in opposition to the Motion to Stay, the Board finds that proper notice was afforded the petitioners for the stay.
3. The Board has previously determined that the Georgetown Recreation Club which will lease and operate the property as a community building, is a local non-profit community organization. See Finding of Fact 15 in Order of September 5, 1972 and page 5 of the opinion of the Board dated September 5, 1972.
4. The Board, in its Order, found substantial basis to grant the appeal for a community building.
5. The petitioners for the stay have not shown that they will suffer irreparable injury unless the stay is granted. See Motion to Stay, pages 1 through 3, and attached affidavits.

6. As confirmed by the affidavit of Raymond P. deMember, President of the Georgetown Raquet Club, Inc., the only construction pursuant to the order of this Board that would occur before April, 1973, would be interior alterations and repairs limited to the existing building. Thus, there will be no perceivable change in the use of the property prior to April, 1973.

7. The community center facilities approved by the Board in Appeal No. 11066 are less intense than the past use by the Boys' Club since the past use utilized open athletic fields and served a far greater number of persons than will the approved use. The property is surrounded by commercial and institutional uses on the north, east and west and the actual activities are substantially removed from petitioner's house.

8. The grant of a stay would delay the interior construction of the proposed use and would result in substantial monetary losses to the applicant. Additionally, it appears from the affidavits submitted in opposition to the stay that there will be a serious, adverse social impact on the Boys' Club, the Georgetown community and perhaps the District of Columbia as a whole if the stay were granted. In this regard, we note that the Sales Contract calls for a settlement date on or before December 31, 1972, and that acquisition of property for the Boys' Club in another area of the city is dependent upon the sale of the subject property.

9. The Board is aware of the substantial need in the city for recreational facilities and, therefore, finds that it is in the public interest not to grant a stay.

10. The Board has reviewed the petition on appeal in the District of Columbia Court of Appeals and does not believe that the allegations of error are supported in any way by the record, realizing, of course, that the Board's findings and conclusions are subject to review by the courts. There was, for instance, no testimony that the petitioner's property value would be decreased by the proposed use, nor was there any testimony offered to rebut the conclusion that the Georgetown Recreation Club could be operated on a non-profit basis. In this regard, it should be noted that the

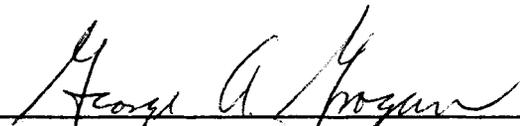
petitioners had full opportunity to offer evidence concerning every issue before the Board involved in an application for a special exception under Section 3101.45 at the July 19, 1972 public hearing. That such opportunity was available is clear from an examination of the transcript of the hearing and written documents submitted in opposition.

OPINION:

It is the opinion of the Board that the petitioners for the stay in the instant action have not demonstrated any likelihood of harm by the failure to grant the stay. On the other hand, on the basis of the affidavits before the Board and the record, that the grant of a stay would seriously harm the Georgetown Raquet Club, the Georgetown Recreation Club, the Boys' Club and the public. We have reviewed the record and conclude that there is no substantial basis alleged which is supported in the record that would indicate a likelihood of success of the petition on appeal in the District of Columbia Court of Appeals.

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

ATTESTED:

By: 

GEORGE A. GROGAN
Secretary of the Board

November 6, 1972

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARINGS -- February 9, 1972
and July 19, 1972

Application No. 11066 The Boys' Club of Greater Washington,
appellant

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee

On motion duly made, seconded and carried with Mr. Scrivener dissenting, the following Order of the Board was entered at the meeting of September 5, 1972.

EFFECTIVE DATE OF ORDER -- September 5, 1972

ORDERED:

That the application for a variance under the provisions of Section 8207.11 or special exception from the provisions of 3101.45 to permit a private recreational facility (community center building) including additions to existing building at 3265 S Street, N. W., lots 1010 and 964, Square 1299 is hereby conditionally granted as a special exception under the provisions of 3101.45.

FINDINGS OF FACT:

1. The present use of the property is for a community boys' club athletic facility with outdoor basketball and tennis courts, swimming pool and existing gymnasium and athletic facility building.

2. The application herein is for a recreational facility operation as a non-profit community athletic center building with indoor tennis, handball and squash courts, swimming pool and other appropriate athletic facilities.

3. The subject property, consisting of slightly more than four acres, is bordered on the west by commercial property on Wisconsin Avenue; on the North by commercial office buildings and parking lots; and on the east and south by Dumbarton Oaks.

Application No. 11066

September 5, 1972

Page 2

4. There is a narrow 120 foot entrance to the subject property on S Street adjacent to the commercial property bordering Wisconsin Avenue. Under present regulations and existing conditions this would preclude construction of more than two residences on the property.

5. Topographically the eastern one-fifth of the subject property has a steep elevation making it unsuitable for residences or buildings.

6. A sixteen foot sewer easement runs generally east and west through the entire north central portion of the subject property.

7. The land in great part is filled land, not suitable for residential construction.

8. The owners of the abutting commercial property on Wisconsin Avenue and to the north have no objections to the proposed variance.

9. Statements in support of the requested use were submitted by the Burleith Citizens Association, by adjoining property owners of Dumbarton Oaks, by the Neighborhood Planning Council, an organization responsible for carrying out programs for youth in Georgetown, by most of the residents on S Street and adjoining commercial property owners. Support and interest in membership in the proposed community club has been registered by several hundred residents within the immediate neighborhood of the subject property.

10. The proposed activities will be conducted for the most part within the existing building and proposed indoor tennis court building so that noise will not be a problem and should in fact be less than now exists with the present boys' club outdoor activities.

11. The Citizens Association of Georgetown presented testimony by its President, Peter Belin and Chairman of Zoning and Plans, Mrs. Harold B. Hinton, objecting to the application primarily on grounds of increased traffic and the number of indoor courts, although not objecting to a tennis club which was non-profit and on a proper scale with the neighborhood.

12. David Stewart, a resident of S Street, across the street from the subject property, presented testimony through an attorney objecting to the application primarily on grounds of increased traffic and concern for maintaining the open space although not objecting to a variance limiting use to a club, limiting the number of people at the facility at any one time, and limiting traffic.

13. The property is operated by the Boys' Club of Greater Washington.

14. The Boys' Club of Greater Washington has contracted to sell the property to the Georgetown Racquet Club.

15. The Georgetown Racquet Club has entered into an agreement with the Georgetown Recreation Club, a local non-profit community organization, pursuant to which the latter will lease and operate the property as a community athletic club with tennis, swimming and other athletic facilities.

16. This Board is authorized to grant permission for such use in accordance with Sections 8207.2 and 3101.45 of the Zoning Regulations.

17. The plans submitted by the applicant indicate that the proposed facility will not detract from the appearance of the neighborhood, but will be reasonably necessary and convenient to the neighborhood in which it will be located.

18. There is to be on site parking, in greater supply than presently exists at the location, and articles of commerce will not be sold on the property.

Application No. 11066

September 5, 1972

Page 4

19. The character of the proposed use is such that traffic congestion is not likely to be a significant problem.

20. Testimony by the applicant, not contradicted, was that the local community organization that will operate the facility is concerned with promoting the social welfare of the neighborhood and that meetings and consultations with individual residents as well as civic organizations have been held and will continue to be held to insure that the needs and desires of the neighborhood are met. An advisory board consisting of distinguished citizens of the community has agreed to help formulate policies concerning membership in and operation of the facility by the non-profit Georgetown Recreation Club.

21. The proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property.

22. The requested use is for a community center operated by the Georgetown Recreation Club which is not organized for profit but for the social welfare of the neighborhood. Articles of commerce will not be sold.

23. The proposed facility is not likely to become objectionable because of noise or traffic and the requested use is reasonably necessary and convenient to the neighborhood.

OPINION:

This request concerns a four acre lot comprising, in part, filled land with an entrance adjacent to commercial property and having a steep elevation in the eastern portion of the property with a sewer easement running the length of the property. Testimony and the written statement of Architect Richard Malesardi reveal the topographical and structural problems, relating to the steep elevation and the narrow entrance, making impractical its use for residential purpose.

The present use of the property is as a community boys' club athletic facility. The proposed community recreational facility with individual tennis, squash and handball play will be primarily indoors which should greatly reduce the noise factor for nearby residents from the present outdoor and indoor boys' team play.

There will be on site parking in accordance with the plans submitted and the testimony which should remove any problem of additional street parking and congestion in the neighborhood. Many who use the facility will be from the immediate neighborhood and within walking distance of the facility which should further reduce any problem of traffic congestion. Some 820 names of residents from the immediate neighborhood expressed support and interest in using the proposed recreation facility. Such a strong interest by immediate neighbors fully supports the neighborhood community center concept emphasized by the Zoning Regulations, as did testimony of witnesses on behalf of applicant testifying to meetings with neighborhood civic organizations and individuals to insure that neighborhood needs and desires are met. An advisory board of community citizens has agreed to help formulate policies of use and operation of the facility on a continuing basis.

That the proposed recreational facility will be operated for the social welfare of the neighborhood by a local non-profit organization is evidenced by the articles of incorporation of the Georgetown Recreation Club, the community advisory board, by the expression of intended use by some 830 residents in the immediate neighborhood, by the testimony of individual residents, as well as by the declarations of support from the Neighborhood Planning Council and the Burleith Citizens Association, which fully supports the conclusion that the proposed use is reasonably necessary or convenient to the neighborhood.

Objections of the Citizens Association of Georgetown presented by Peter Belin and Mrs. Harold B. Hinton were primarily related to traffic and the number of indoor tennis courts but the objections were stated as not opposed in principle to a tennis club which would be non-profit and on a proper scale with the neighborhood.

There was testimony that as many as 2,600 to 2,800 boys have belonged to the present Boys' Club and used the present facilities whereas the proposed facility will be used by several hundred people with perhaps 20 to 40 at any one time and it is our opinion that this is within the scale of the neighborhood.

The objections to the number of indoor courts and size and height of the facility is answered by the plans submitted which show the height will be less than the 40 foot maximum permitted in residential areas. Also the staggered construction of the proposed indoor facility and its placement behind the Dumbarton Oaks property will make it architecturally acceptable.

The use of the proposed facility will be by nearby residents within walking distance as well as by those with cars. The provision of on site parking and the limited recreational facilities available for use at any one time should not create traffic congestion on the street or at the entrance.

The objection of David Stewart, a resident across the street from the subject property was stated to be not in principle opposed to a recreational club, but expressed concern about traffic and lighting at the on-site parking area. It was suggested that such lighting could be shaded. The commercial establishments such as Safeway and Dart Drug referred to in Mr. Stewart's objections are on Wisconsin Avenue and have parking facilities with access from Wisconsin Avenue and should not be a factor in the traffic in and out of the proposed facility on S Street.

Other stated objections involved speculation as to the sale of commercial articles and other commercial operations which were denied by representatives of the applicant.

The Board is of the opinion that the proposed use will serve as a buffer between the commercial area on Wisconsin Avenue and the park and residential area to the east and south of the proposed facility. The Board is of the opinion, in view of all of the above, that applicant has shown that the proposed use will be by a local community organization and not for profit but for the social welfare of the neighborhood and that the

Application No. 11066

September 5, 1972

Page 7

use will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property.

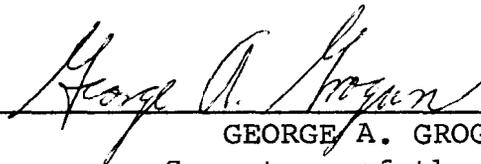
The Board in the application now before us specifically limits the use of any outdoor facilities to daytime uses and that in no event shall there be lighting of any sort to illuminate any outdoor activities. The Board specifically makes this condition part of this order because of the necessity not to disturb the neighborhood in any manner through noise or illumination of the subject property.

It is our conclusion that applicant has shown that no articles of commerce will be sold, that the facility will not be objectionable because of noise or traffic and that the facility is reasonably necessary or convenient to the neighborhood and we are therefore of the opinion that the application should be granted.

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

ATTESTED:

BY: _____



GEORGE A. GROGAN

Secretary of the Board

THAT 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 DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.