

visitors to the Institute either live or work in the Adams-Morgan, Dupont Circle or Mount Pleasant neighborhoods and walk, ride bicycles or take public transportation to the Institute. Institute activities involving large groups of people are conducted off-site.

12. One parking space is required for use of the property as a temporary community service center. The existing building has a credit of one parking space. Therefore, the Institute is not required to provide any on-site parking spaces. There is a bus stop directly in front of the site. The subway stop is located approximately three blocks from the site.

13. The Institute has received no complaints about its operations.

14. The Office of Planning and Development, by report dated September 2, 1982, recommended that the application be approved. The OPD reported that the special exception request meets the conditions specified in Paragraph 3104.46 and the general purpose and intent of Sub-section 8207.2. Upon examination by the Board the OPD disclosed that, at the time of writing its report, it was not aware that the Institute had been operating at the site illegally. The OPD also did not evaluate the issue of "temporary" as viewed from the standpoint of the establishment of the Institute at the subject site since 1974. The Board for reasons discussed below, does not concur in the OPD recommendation.

15. There were some fourteen letters of record from community organizations and property owners in favor of the application based upon the services the Institute had offered to them and that the Institute was a good neighbor.

16. The Dupont Circle Citizens Association at the public hearing recommended approval of the application but for a period no longer than six months. The DCCA argued that the Institute has been providing services at the subject site for eight years and now seeks an extension for three additional years. Such use indicates that the center is not "temporary." The DCCA argued that the Institute's history evidences it to be a permanent not a temporary community service center. The DCCA also argued that the Institute's location at the subject site exacerbates the parking problems in the neighborhood at the present time and that the exacerbation will be increased if the Institute at a later date increases the number of employees to the maximum. Lastly, the DCCA argued that there is a shortage of housing in its area and that the subject structure should be returned to residential use after the temporary illegal use is terminated.

17. The Board concurs with the DCCA that the Institute's history on the subject site does not constitute a temporary but rather a permanent status. The Board does not find that one employee using a car exacerbates an existing parking problem. Also, a possible future impact is not before the Board. The Board concerns itself with the on-going operation with six employees. As to the housing issue, the applicant through a special exception relief has no burden to prove that the subject structure cannot be used for residential purposes.

18. Advisory Neighborhood Commission 2B by letter of September 3, 1982 reported that at its meeting of August 11, 1982 the Commission reviewed the above application. In discussion with staff members of the Institute for Local Self-Reliance, it was revealed that the use sought was basically an office. The ANC has vigorously opposed that kind of use in either residential or special purpose zones. In this case, the ANC took into account both the local meritorious social service aspects of the Institute and its plans to stay at the subject premises for not more than three years. The ANC supported the application based on the owner's agreement to:

- A. Relocate the offices at the end of the three year period if not before; and
- B. To convert the property to residential use at that time.

19. The Board is required by statute to give great weight to the written recommendation of the ANC based on its issues and concerns. The Board may agree that the Institute is doing great work in the District of Columbia and that such services are needed. The Board however, is guided by the Zoning Regulations. The applicant seeks his remedy through a special exception. The applicant must comply with the requirements of Paragraph 3104.46. Based on Finding No. 6 and 17, the Board finds that the Institute is clearly not a temporary community service center as required under Paragraph 3104.46. The fact that the Institute has local meritorious social service aspects is no ground for granting a special exception. The ANC's reasoning is not based on the Zoning Regulations.

20. The Zoning Regulations themselves do not define in Section 1202 a "temporary community service center." When a term is not defined, Sub-section 1201.2 requires that Webster's Unabridged Dictionary be used to find meanings. "Temporary" is defined as "lasting for a time only: existing or continuing for a limited time."

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 3104.46 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. In addition, an applicant for a special exception must also meet the definitional characteristics of the proposed use in order to even be considered under that category of special exceptions. A parking lot cannot be considered under the category of exceptions for a private school, and vice versa.

In this subject application, the applicant must establish that its proposed use is a "temporary community service center" (emphasis added). the Board concludes that the applicant has not met its burden of proof to establish that the proposed use is a "temporary" facility. The use has been in existence for eight years in one location and is proposed to stay on for three more years. Such use cannot be considered to have been operating for a limited period. The Board concludes that this issue is dispositive of this application.

The Board concludes that it has given to the issues and concerns of the ANC the great weight to which they are entitled. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune, Douglas J. Patton and Charles R. Norris to DENY; William F. McIntosh not voting, not having heard the case).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JAN 18 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "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."