

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13970, of Juanita Meyers, et al., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.46, to use all floors and basement of the subject premises as a temporary community service center on behalf of the Cooperative Urban Ministry Center, Inc. in an R-5-D District at premises 1136 6th Street, N.W., (Square 449, Lot 29).

HEARING DATE: June 15, 1983
DECISION DATE: July 6, 1983

FINDINGS OF FACT:

1. The subject site is located on the west side of 6th Street between L and M Streets, N.W., and is known as premises 1136 6th Street, N.W. It is in an R-5-D District.

2. The site is rectangular in shape with approximately twenty feet of frontage on Sixth Street and a depth of approximately 116 feet. The site has a total land area of 2,105 square feet. It is improved with a brick, two story plus basement rowhouse. A garage is located at the rear of the site.

3. The structure will be vacant when the applicant occupies it. There are some roomers presently occupying the building.

4. The site is bounded on the north and south by single-family rowhouses, on the west by apartment buildings and on the east by 6th Street. Immediately to the east of the site across 6th Street are residential rowhouses, a number of which are vacant. Other uses along 6th Street in Square 449 include the Neighborhood Law Office No. 1, Galbraith AME Zion Church, and other law offices at 1100 6th Street, N.W. Along M Street, between 6th and 7th Streets, N.W. are St. Stephen's Baptist Church and the United House of Prayer. The land uses in the vicinity of the site are characterized by medium density, mixed-use development including an automobile body shop, a liquor store, a large parking lot, apartment buildings and rowhouses.

5. The applicant, on behalf of the Cooperative Urban Ministry Center, Inc., hereinafter referred to as the Center, proposes to use the premises as a temporary community

service center. The premises will be used to conduct workshops and counselling sessions on employment, alcoholism, nutrition and the like, for the poor and homeless. During the day, the building will house a staff director and approximately three full or part-time employees and volunteers. The site will also be used to store and distribute packaged food and used clothing. No food serving will be done on the premises. The house will not be used as an overnight shelter. The Center also proposes to provide a second bathroom and laundry facilities to accommodate its clients.

6. A temporary community service center is permitted if approved by the BZA subject to the conditions specified in Sub-section 8207.2 and Paragraph 3104.46 of the Zoning Regulations. Paragraph 3104.46 of the Zoning Regulations provides the following standards:

3104.461 Such use is so located that it is not likely to become objectionable to neighboring properties because of noise, or other objectionable conditions.

3104.462 No structural changes shall be made except those required by other municipal laws or regulations.

3104.463 The use will be reasonably necessary or convenient to the neighborhood in which it is proposed to be located.

3104.464 It is not organized for profit and no part of its net income inures to the benefit of any private shareholder or individual.

3104.465 That any authorization by the Board to locate such community service facility shall be limited to a reasonable period of time but not exceed three years. The Board may renew such authorization.

7. Sub-section 8207.2 provides in pertinent part as follows:

Pursuant to authority contained in the Zoning Act of June 20, 1938(52 Stat. 797), as amended, the Board is authorized to grant special exceptions as provided in the proceeding articles of these regulations where in the judgement of the Board such special exceptions 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 in accordance with said zoning regulations and maps subject in each case to the special conditions specified in said Articles.

8. There are a number of existing social service agencies in the subject area.

9. The Center will be open during the daytime only, from 9:00 A.M. to 4:30 P.M., Monday through Friday. The basement level will be a walk-in center, the first floor will be used as a reception and clothing distribution area, and the second floor will contain counselling rooms.

10. The Center is currently located at 716 7th Street, N.W. It was founded seven years ago by several downtown churches and the Lutheran Social Services. The Center seeks to move to the subject site due to an increased need for its services, especially in the fields of counselling and workshop training sessions. The Center draws its clients predominantly from the Northwest portion of the District, with a number coming from within a radius of ten to twelve blocks of the proposed site.

11. The Center was designed to meet emergency needs of the very poor and homeless. It is an agency of the Downtown Cluster of Congregations. The Center receives financial assistance from over a dozen churches and organizations. Food and clothing for distribution to Center clients are donated by members of supporting church organizations. Additional food is provided by the Capital Area Community Food Bank at a minimal cost, and some clothing donations are made by the local clothing stores and cleaning establishments.

12. The Treasurer of the Center testified that the Center conducted an extensive search for a suitable location for its functions. This search resulted in the contract to purchase a residential rather than a commercial building based on price, location and availability considerations. The subject contract is to purchase the premises for \$50,000. The Center has budgeted \$10,000 for repairs to the building, with donations of labor and materials whenever possible.

13. There will be no structural alterations to the building. The house is structurally sound, although it will need rewiring and new plumbing to meet the D.C. Building Code. Minor alterations are planned for the bathroom and kitchen facilities. None of these alterations will prohibit this building from being returned to a residential use in three years.

14. The Center anticipates it will serve or assist seventy-five to 100 persons per day.

15. The Center currently conducts its counseling and training workshops and food and clothing distribution at 716 7th Street, N.W., in a commercial district, and has never

received any complaints that its activities have resulted in any noise or otherwise objectionable conditions in the surrounding neighborhood. It wishes to move to the subject property in order to better serve the residents of the District.

16. The applicant argued that the use of the site by the Center would not generate any additional traffic or parking congestion on surrounding areas. The applicant suggested that the majority of visitors to the Center will live in the surrounding area and will arrive at the Center on foot or by mass transportation. Additionally, the people the Center serves cannot afford to own a car. There will be sufficient space at the rear of the building to provide parking for the small number of support staff.

17. The area immediately surrounding the site has limited unrestricted parking available. Sixth Street is a 100 foot wide, two-way street. Standing is prohibited on the east side of the street during certain periods of rush hours. There is also two-hour parking from 9:30 A.M. to 4:00 P.M., Monday through Friday. On the west side of the street, parking is controlled by the residential permit parking program. South of the site, L Street is one way westbound. There is two-hour parking from 7:00 A.M. to 6:30 P.M., Monday through Friday, on the north side of the street. Seventh Street is a two-way street located west of the site. There is one-hour metered parking on the west side of 7th Street from 9:30 A.M. to 6:30 P.M., Monday through Friday. On the east side of 7th Street, there is one-hour parking from 7:00 A.M. to 6:30 P.M., Monday through Friday. M Street is a two-way street located north of the site and Square 449. Parking is allowed on the north side at all times. Public transportation to the site is provided by the 70 Metrobus line with stops on 7th Street, N.W., west of the site.

18. The Office of Planning, by report dated June 8, 1983, recommended that the application be approved conditionally. The Office of Planning raised questions concerning the extent to which the Center would be willing to vacate the subject premises in three years having invested \$60,000 to purchase and improve the premises, the ease with which the subject structure could revert to a residential use at the conclusion of the Center's tenure, the potential adverse impacts associated with a daily pedestrian traffic flow of seventy-five to 100 persons, and the impact a temporary community service center would have on the future development of the neighborhood.

19. The Office of Planning concluded that the Center has sufficient notice and knowledge of the time limitations prescribed by Paragraph 3104.46 such that it must be willing to accept the financial risks inherent in a temporary use.

The Office of Planning noted that Paragraph 3104.46 clearly prohibits major structural changes, and the Center is on notice as to this requirement. The underlying zoning of the site precludes reuse for a nonresidential use which should serve as a deterrent to any nonresidential improvements. The Office of Planning noted that the daily flow of visitors to and from the site is perhaps the most onerous impact, but the Office of Planning staff was of the opinion that this impact can be ameliorated to a certain extent by regulating the Center's hours of operation. While this will not reduce the noise and/or volume of pedestrian traffic to the site, it would ensure that potential negative impacts will be limited to a clearly defined period of time. The Office of Planning also recommended a condition prohibiting the serving of meals or the provision of overnight accommodations, as these activities clearly exceed the scope of services envisioned by Paragraph 3104.46 of the Zoning Regulations. The Office of Planning reported that, while a temporary community service center must located in a less than optimum neighborhood in order to reach those individuals most in need of its services, when located in a residential district, such a center may, by virtue, of its nonresidential nature, discourage neighborhood investment. The Office of Planning recognized this as a potential problem, but believed that the limited duration of the proposed center's existence would pose little if any threat to the future development of the surrounding neighborhood.

20. On the basis of the analysis stated above, the Office of Planning recommended that this application be approved subject to the following conditions:

- A. Use of the premises as a temporary community service center shall be limited to the Cooperative Urban Ministry Center and such use of the subject premises shall not exceed three years.
- B. The hours of operation shall be limited to 9:00 A.M. to 5:00 P.M.
- C. No food shall be prepared or served on the premises.
- D. The premises shall not be used as an overnight shelter.
- E. There shall be no sign identifying the proposed use posted on the exterior walls of the structure. A small plaque would be acceptable.
- F. Loitering and/or outside activities shall be strictly prohibited.

The Board for reasons discussed below does not concur in the Office of Planning recommendation.

21. There were letters of support for the application based on the meritorious services the applicant provides. Two neighbors residing on the subject street appeared at the public hearing in favor of the application on the grounds that residents of the subject street needed and could use the counselling services.

22. Advisory Neighborhood Commission 2C, by letter dated June 8, 1983, recommended approval of the application but listed no reasons for that recommendation. The ANC further stated no issues and concerns for the Board to address.

23. There was opposition to the application at the public hearing and of record by neighboring property owners. Sixty residents, including forty-five from the 1100 block of Sixth Street, N.W., signed petition in opposition on grounds that the Center would create noise, congestion, trash, loitering, endanger neighboring property and create undue disturbance of the residents' family and work life. The opposition argued that for many years the neighborhood in and around the vicinity of 6th and M Streets had suffered from both physical deterioration and criminal abuse. However, in the last few years there has been considerable revitalization of this area resulting in an improvement in the living conditions for the residents. New building and the renovation of old buildings in this neighborhood has meant the gradual elimination of "hang-outs," and therefore reduced the number of alcohol dependents and undesirables who have in the past made the residents fearful to walk their streets in the daytime. Approval of the request to operate the subject community service center could provide a geographic focal point for the undesirable to assemble.

24. The neighborhood residents' opposition was based largely on their experience in dealing with the problems brought on by transients and observations of the problems created at existing centers, such as the current center operated by the Cooperative Urban Ministry Center, Inc. on Seventh Street, N.W.

25. The opposition further argued that the applicant had not presented any evidence of plans or procedures to mitigate the noise and other objectionable conditions created by operation of the center at 1136 Sixth Street, N.W. and the introduction into the residential neighborhood of seventy-five to 100 transients per day. The applicant had offered no plans for dealing with the problems created by loitering transients attracted to the center during the morning, evening, night and weekend hours when the center is closed and its workers have left the neighborhood.

26. The opposition further contended that the applicant had incorrectly stated that its clients will arrive at 1136 Sixth Street, N.W. by public transportation, car, or walking

Sixth Street is not served by public transportation in this area. The nearest southbound buses are on 9th Street, the nearest northbound are on 7th Street, and there are no nearby east or westbound buses. Therefore, 1136 6th Street, N.W. does not have readily available public transportation, as claimed and it appears that the majority of clients will arrive by walking.

27. The opposition noted that the proposed use of 1136 6th Street, N.W. would involve deliveries of food and clothing for distribution from this residence. Such deliveries would be made in the rear alley. This would create danger and congestion in that rear alley which is the fire and police access and is used by the Galbraith Church at 1114 6th Street, N.W. for various Church functions which include funerals, weddings, and school classes.

28. The opposition further argued that basically the applicants will be running a food distribution center, plus a counselling center in what is a residential neighborhood. The neighbors argued that such a facility would be and should be located in one of the many available commercial properties on commercial streets in the area.

29. Also, it was argued that the applicants had not demonstrated that the proposed use of 1136 Sixth Street, N.W. is reasonably necessary or convenient to the neighborhood, as required by Paragraph 3104.462. Similar services are provided by numerous other organizations within a several block radius of the proposed site. The opposition concluded that the proposed additional services are not reasonably necessary in the proposed area, and that an area where the need was greater could easily be found.

30. Lastly, it was intended that the modification of the subject structure would cause the displacement of existing tenants.

31. The Board finds merit in the arguments of the opposition except as to two: The applicant is seeking its relief through a special exception. Accordingly, the applicant has no obligation to seek a site that is commercially zoned. Secondly, the displacement of tenants is not within the purview of the Board. The District of Columbia Government provides in its other agencies for the protection of tenants rights. The Board, in all other respects, concurs with the arguments of the opposition.

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 proof that the applicant has met the requirements

of Paragraph 3104.46 of the Zoning Regulations, and that under Sub-section 8207.2 the relief 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. The Board concludes that the applicant has not met the burden of proof. The applicant has failed to establish through persuasive evidence that the proposed use is so located that it is not likely to become objectionable to neighboring properties because of noise, congestion and loitering. The applicant has presented no concrete plan or procedures to mitigate the objectionable conditions raised by the opposition. Secondly, the applicant has not established through persuasive evidence that the proposed use will be reasonably necessary or convenient to the neighborhood. The evidence of record reflects that there are several centers in the neighborhood offering some similar services as proposed herein. Also, it appears that the site does not have readily available public transportation, that the majority of clients will arrive by walking, and that the arrival and departure of seventy-five to 100 persons per day will represent a very intensive intrusion into this residential block. Accordingly, in view of the above reasons, it is ORDERED that the application is DENIED.

VOTE: 5-0 (Carrie Thornhill, Maybelle T. Bennett, William F. McIntosh, Douglas J. Patton and Charles R. Norris to DENY).

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

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

FINAL DATE OF ORDER: NOV 10 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."

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