

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14497 of the Coalition for the Homeless, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraphs 3101.44 3102.445 and 3101.446 to establish an emergency shelter for more than four persons, to approve more than one community based facility in a square or within 500 feet and to approve a facility for up to twenty-two men in an R-4 District at premises 4326 - 14th Street, N.W., (Square 2699, Lot 14).

HEARING DATE: October 15, 1986

DECISION DATE: November 5, 1986

FINDINGS OF FACT:

1. The site is located at the southwest corner of the intersection of 14th and Webster Streets, N.W. The site is known as 4326 14th Street, N.W.

2. The site is located within an R-4 District. The properties to the immediate north, west and south of the property are also within the R-4 zone District. Properties to the east and northeast of the site along the east side of 14th street are in the C-1 and C-M-1 Districts.

3. The land uses in the area surrounding the site are mixed residential, retail, commercial and public/community uses. The site is the northern end house located in a block of row houses on the west side of 14th Street between Webster and Varnum Streets. Rowhouses are located on both sides of Webster and Varnum Streets between 14th and 15th Streets. Two four-story multi-family apartment buildings are located approximately 200 feet from the site. Local retail establishments, such as a liquor store, a hair salon and a food market, are located to the north of the site along both sides of 14th Street. A gasoline service station lies approximately 500 feet to the north of the site at the northeast corner of the intersection at 14th and Allison Streets. The Sharpe Recreation Center lies to the southeast of the site. Roosevelt High School and McFarland Junior High School are located to the east of the recreation center/park. Powell Elementary School lies to the south of the recreation center/park on Upshur Street.

4. Pursuant to Sub-section 8207.2 of the Zoning Regulation's the applicant is seeking a special exception under Paragraph 3102.44, 3102.445 and 3102.446 to establish an emergency shelter for more than four persons, to approve more than one community based facility in a square or within 500 feet and to approve a facility for up to 22 men.

5. The site contains approximately 1875 square feet and is rectangular in shape. The land is improved by a 1910 semi-detached brick, three-story structure with full basement. A small brick storage shed is located in the rear yard of the premises. The main structure contains 20 rooms which are categorized as follows: seven bedrooms, three full bathrooms, five half bathrooms, one kitchen, one dining room, one recreation room in the basement, one staff office and one utility room.

6. The applicant has been operating an emergency shelter at the site without a valid Certificate of Certificate of Occupancy since approximately May 1, 1986. Sixteen men currently reside at the premises. The applicant testified that the operation of the facility began without proper authority as a response to a crisis level shortage of housing for homeless men in the District of Columbia.

7. The applicant, The Coalition for the Homeless, Inc., was incorporated on August 24, 1981 as a District of Columbia non-profit corporation. The Coalition was organized to eradicate the problem of homelessness by the implementation of comprehensive programs designed to address the root causes of the problem, instead of its symptoms. The Coalition's objective is to establish an effective means by which homeless individuals can realize independent living status and become economically contributing members of the community. The Coalition is committed to accomplishing this goal through the development of "transitional homes".

8. The proposed transitional home is not a typical "emergency shelter" which offers homeless persons nothing more than the bare-bones essentials of human existence -- a bed, a shower and a limited source of food, such as soup and a sandwich. An emergency shelter also is open to all homeless persons any of which may be admitted without formal screening procedure. In addition, an emergency shelter typically remains from between 5:00 P.M. to 7:00 P.M. until approximately 7:00 A.M. the next morning.

9. The Coalition's transitional home program offers its residents balanced meals, dental and medical care, as well as individual and support group counseling. The transitional program also provides the residents with financial management training, as well as assistance in securing gainful employment and independent housing. Residents of the Coalition's transitional homes are selected

by trained staff persons pursuant to rigorous screening procedures. To be eligible for admission, applicants must be at least 19 years of age, must be in good health and must not have been homeless for more than three years. Applicants must demonstrate that they are motivated to secure gainful employment and to reenter independent living. Applicants who meet these threshold criteria are given a complete physical and mental examination, and are then interviewed by the Coalition's employment and housing counselors to ensure that they are job-ready and employable. Each applicant must then attend an orientation session and ultimately sign a contract with the Coalition agreeing to abide by all house rules and program policies. Residents of the transitional home must seek, secure and maintain full-time gainful employment. The Coalition staff provides employment counseling and assists each resident in his job search. Once employed, each resident must contribute a percentage of his net salary to a participants' fund which is used to defray a portion of the expenses of running the program. The fund is also designed to provide the residents with a sense of financial responsibility in preparation for their return to independent living. After a resident secures gainful employment and demonstrates his readiness to be independent, the Coalition staff assists him in locating acceptable housing in the community. The Coalition staff continues to monitor the resident once he leaves the transitional home and reenters the community.

10. The faculty of the shelter consists of five full-time counselors and one part-time cook. The five counselors rotate shifts so that there is always at least one staff person on duty on a 24-hour basis. All of the counselors are trained in various forms of counseling and service aid techniques including, crisis intervention, first aid and cardiopulmonary resuscitation. Each staff member provides financial management, employment and housing counseling to the residents. They also serve as liaisons between governmental social agencies and the residents, and coordinate the daily operation of the house. The part-time cook is responsible for maintaining the kitchen, preparing dinners, light breakfasts and lunches which are packed for the residents to take to their jobs.

11. The problem of homelessness in the District of Columbia has reached crisis proportions and immediate and long-range remedial actions are needed to alleviate the problem.

12. The multiple bedrooms and bathroom facilities, large kitchen and office area make the structure particularly appropriate for housing the number of unrelated individuals for which approval is sought. The site is also desirable for the Coalition's purposes because it provides

the residents with a home-type environment instead of an institutional atmosphere of a school building or warehouse.

13. The Coalition's application sought Board approval for 22 residents at the site. The applicant subsequently determined that it can best assist its clients by assuming and maintaining a low staff-to-resident ratio. The applicant now seeks approval for only 16 residents. The applicant submits that the reduced number of residents will also help to minimize the impact of the use on surrounding property owners. There are currently four staff persons assigned to the transitional home (excluding the House Manager); the applicant seeks approval of 16 residents to obtain a staff-to-resident ratio of one to four.

14. Adequate parking exists on and in the immediate vicinity of the site. There is a paved area in the rear yard of the site abutting a public alley, which is sufficient to accommodate two cars. Curbside parking is available on 14th Street and Arkansas Avenue in numbers sufficient to accommodate the Coalition's staff and residents.

15. None of the 15 persons currently residing at the site owns an automobile. Public transportation is available at a level of service sufficient to serve the proposed use. Nearby Metro bus lines include Routes 50, 52 and 54, operating along 14th Street, N.W. Only two staff members drive vehicles to the site. Since the staff rotates shifts, these cars will not often be present at the site at the same times. The traffic and parking situation in the vicinity of the site will be further minimized by the Coalition's rule that residents are not permitted visitors at the premises. Contacts by the residents with family members and friends are encouraged, but such gatherings are to be held in public places or at the residence of the family member or friend.

16. The Coalition is performing all work required by the appropriate District of Columbia inspectors and agencies charged with enforcing the municipal codes. The Coalition anticipates that all such work will be completed in the immediate future. The Board believes that the Coalition will promptly perform any additional work which may subsequently be required by the District of Columbia inspectors or agencies.

17. The Coalition has strict rules and regulations pertaining to resident conduct at the property. These rules and regulations are strictly enforced. Violation of these rules and regulations can result in sanctions, including termination from the transitional home program. The rules and regulations forbid the use or possession of alcohol or illegal drugs on the premises and prohibit residents from

entering the Transitional Home if intoxicated. Any resident who is enrolled in a drug, alcohol or mental health program must continue to regularly attend such program while residing at the site. Smoking is permitted in social and dining areas only. No sexual activity is permitted on the premises. The rules also forbid the residents to possess any weapon, and require that all working and recreational tools must be stored in the staff office.

18. There is no evidence that the proposed use will generate noise beyond that typically experienced in a family oriented residential situation. The masonry construction of the premises should minimize any noise impact on neighboring properties. Excessive noise is also prohibited by the Coalition house rules.

19. The screening process for the transitional home begins when the Coalition's Networking Coordinator interviews a prospective resident who has been referred to the Coalition. Referrals come from various sources, including directors of traditional emergency shelters, church officials, social workers, employees of the District Council members. The Networking Coordinator interviews the prospective resident wherever he is presently residing. If the Networking Coordinator determines that the candidate is worthy of further evaluation, the Networking Coordinator invites him to submit a formal application to the Coalition. The application includes an authorization for release of medical and mental health information. Future residents will also be required to verify on their applications that they have no police record. The Networking Coordinator makes check-up phone calls to employers, emergency contact persons, social workers, personnel at alcohol and/or drug abuse treatment programs, medical personnel and military personnel, as applicable. The applicant's file is then reviewed by the Coalition's Field Program Monitor, who ascertains whether the Networking Coordinator has adequately investigated all of the information therein provided. The Field Program Monitor then refers the application file to the Mental Health Coordinator who schedules appointments and checks with the various staff members to make certain that the applicant promptly keeps all of his appointments. The applicant is then given complete physical and mental health examinations by the staff of the National Health Plan which submits a written report to the Coalition's Mental Health Coordinator for his review. That report shall henceforth include a recommendation of the National Health Plan as to whether the applicant should be accepted into the Coalition's transitional home program. The applicant's entire data package is then reviewed at a meeting of the full Coalition program staff, and a decision is made whether to accept the applicant into the program. The accepted applicant is then assigned to one of the Coalition's transitional houses in the District of Columbia, depending

upon such factors as the availability of space and the proximity of the house to the applicant's present job. The new resident is then given an orientation with the House Manager, during which he is issued a Coalition Handbook and copies of the Coalition's rules and regulations. The resident is requested to read these materials or, if unable to read, to listen to them on audio cassette. The new resident then signs a contract with the Coalition agreeing to abide by all Coalition rules and regulations.

20. During his stay at the transitional house, the resident attends weekly follow-up meetings with his house staff counselor who keeps an in-house file on the resident. The Health Coordinator follows up with any resident who is enrolled in an alcohol or drug abuse treatment program. If the client is employed, the house counselor places an initial call to the client's employer to ascertain whether he is still employed and to verify his salary, payday and hours. A house counselor calls the employer on a regular basis to document the client's job progress. If unemployed, the resident meets with the Coalition's Employment Coordinator and the staff of independent employment agencies on a regular basis in order to obtain employment. Any resident who is a Veteran meets with the Veterans' Coordinator on a regular basis. In addition, the House Manager reviews all in-house client files at least once a week. The House Manager and the house counselors meet at least twice a month to review, evaluate and assess the progress of all residents. The Field Program Monitor reviews all house files monthly. Each resident is accepted into the program for a period of 90-120 days. If a resident cannot find adequate housing within 120 days, due to reasons beyond his control, the Coalition will not relocate him. Instead, Coalition staff persons will continue to assist that person in obtaining adequate housing in the community. The Coalition staff continues to monitor "graduates" of the transitional program once they obtain gainful employment and acceptable housing in the community.

21. The Coalition's Board of Directors has passed a Resolution calling for the appointment of a staff member to monitor the exterior of the site and to patrol the block in which the site is located at regular intervals, particularly in the evening hours (6:00 to 11:30 P.M.)

22. The community liaison policy recently established by Resolution of the Coalition's Board of Director is intended to ensure satisfactory interaction between the Coalition and its neighbors. The Coalition's Board of Director has resolved that the Coalition shall appoint a community liaison representative who (1) shall attend regularly scheduled meetings of ANC 4C and all neighborhood citizens associations; (2) shall distribute a monthly newsletter/update to ANC Commissioners, applicable

neighborhood citizens' association officers and all property owners within a radius of 200 feet of the site and (3) shall be "on-call" on a 24-hour basis to supply information as may be required or requested by members of the community. The community liaison will also be charged with providing information deemed necessary to protect the public health, safety and morals, to any ANC commissioner or neighborhood citizens association officer who requests such information. In addition, the Resolution states that all regular meetings of the Coalition's Board of Director (the place, date and time of which shall be included in the monthly newsletter/updates described above) shall be open to the public. The Coalition's Board of Directors has further resolved that the Coalition shall respond in writing to any complaint received from ANC 4C or other nearby citizens' organizations within 30 days of receipt.

23. There are currently three community based residential facilities within 500 feet of the Coalition's transitional house. They were identified as 4100 and 4412 14th Street and an unspecified address in the 1400 block of Allison Street N.W. The certificate of occupancy for 4100 14th Street reflects that it was granted to Behavior Health Systems (CRRF) for operation of a community - based residential facility for four mentally retarded residents. The certificate of occupancy for 4412 14th Street reflects that it was granted for the operation of a CBRF for four residents, two staff and two children. These two facilities are permitted as a matter of right in the R-4 District.

24. By memorandum dated October 8, 1986, the Office of Planning (OP) reported that it cannot condone the applicant's disregard for the Zoning Regulations which it demonstrated by occupying the site without a valid certificate of occupancy. The OP recommended denial of the application on that basis.

25. By letter dated October 7, 1986 Advisory Neighborhood Commission (ANC) 4C reported its opposition to the application since it had concerns about the Coalition's unauthorized occupancy of the site, the character of the men who will temporarily reside at the facility, the quality of screening and evaluation conducted by the Coalition in selecting residents, the cumulative impact of the subject use and other CBRFs in the neighborhood, and the potential increases in parking and traffic congestion. The ANC also expressed concern that the use might not be in compliance with all applicable District of Columbia codes and licensing requirements.

26. In response to the OP memorandum and ANC report the Board finds that the applicant has indicated its intent to comply with all applicable code and licensing requirements. The record notes that by virtue of a Consent Order

entered by the District of Columbia Superior Court in the case of District of Columbia v. Kenney Martin, et al., CA No. 4015-86, the Coalition is enjoined from opening any additional CBRFs without valid Certificates of Occupancy. The Applicant has also submitted in the record a Resolution of its Board of Director which expressly states that the Coalition henceforth shall not occupy any structure in the District of Columbia without having first obtained a valid Certificate of Occupancy. Though the Applicant's prior practice is reprehensible, the Board believes that the matter has been adequately remedied by the Court's Order and the Coalition's statements, and does not form a basis for the denial of this application. The Board also finds that the screening and evaluation policies of the applicant have merit and are enforceable. The Board as stated below will condition the grant upon adherence to the policies proposed by the applicant. The Board also finds that because of the nature and function of the other CBRFs no adverse cumulative effects will result from the proposal. With regard to the OP memorandum, the Board finds that the Board's mission is limited to reviewing this application to determine whether it meets the applicable requirements of the Zoning Regulations. The Board must grant approval of all such applications which meet those requirements. It is not the function of the Board to prosecute alleged violations of the District of Columbia Building Code.

27. Many letters were filed in the record in support of the Coalition's application in this case. Letters of support were filed by several citizens who reside in the adjacent structure and in other buildings located in the immediate vicinity of the site. The letters of support generally recite that the problem of homelessness in the District of Columbia has reached severe proportions and requires immediate attention; that the Coalition's transitional home program is an innovative method for combatting the problem of homelessness; and the Coalition's transitional home at 4326 14th Street, N.W. has successfully blended into the surrounding neighborhood in an unobtrusive manner.

28. One citizen of the neighborhood testified in opposition to the Coalition's application. The citizen stated that he has caused a 10-unit building at 4306 Arkansas Avenue, N.W. to be renovated as a rental property. The citizen also resides at the renovated property. The citizen expressed concern about the potential impact on the value of his renovated property and the safety of the neighborhood.

29. Another neighbor of the site submitted a letter to the record and a neighbor testified at the hearing in opposition to the application on the grounds that citizens in the area would feel threatened by the location of the

shelter. The area is densely populated with the children and elderly.

The Board finds that with respect to the level of criminal activity in the area, the record does not support a finding that the Transitional home does now, or would as proposed, contribute disproportionately to that activity.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking special exceptions. The applicant must prove that it has complied with the requirements of 3102.44 and 8207.2 of the Zoning Regulations to obtain the relief requested. Paragraph 3102.44 states that the BZA may approve an emergency shelter for five to 15 persons not including resident supervisors and their family, provided that:

3102.441 There shall be no other property containing a community based residential facility for five or more persons in the same square and no other property containing a community based residential facility for any portion of the subject property.

3102.442 There will be adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees and visitors to the facility.

3102.443 The proposed facility shall meet all applicable code and licensing requirements.

3102.444 The facility will not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of similar facilities in the area.

3102.445 The Board may approve more than one community based residential facility in a square or within 500 feet only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations.

3102.446 The Board may approve a facility for more than fifteen persons, not including resident supervisors and their family, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District of Columbia.

The Board concludes that the applicant has met its burden of proof. No evidence has been presented that there are other CBRF's for five or more persons within a radius of 500 feet from any portion of the subject square. Adequate on-site and curbside parking exists to ensure that the operation of the transitional home will not adversely affect parking, traffic or transportation conditions in the neighborhood. The structure and proposed use will meet all applicable code and licensing requirements of the District of Columbia. The proposed use will not have an adverse impact on the neighborhood because of traffic, noise or operations. The cumulative effect of existing CBRFs in the neighborhood and the subject operation will not have an adverse impact on the neighborhood because of traffic, noise or operations; and the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location, and there is no other reasonable alternative to meet the program needs of that area of the District of Columbia. The Board further concludes that the approval of the relief requested will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to adversely affect the use of neighboring property. The Board further concludes that it has afforded to the ANC the "great weight" to which it is entitled.

Accordingly it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of THREE YEARS.
2. The number of residents shall not exceed sixteen.
3. The applicant shall institute and maintain a community liaison program as described in Exhibit No. 31B of the record.
4. The policies and house rules described in Exhibit Nos. 31, 31A, and 31E of the record shall be strictly enforced.
5. The subject premises shall be maintained at regular intervals in keeping with the surrounding neighborhood. The subject site and adjacent public space shall be policed on a daily basis.
6. The subject premises shall provide for security, exterior monitoring, and patrolling as described in Exhibit No. 31B of the record.
7. The type of program provided at the subject premises, including screening, evaluation, and support services, shall be as described in Exhibit No. 31 of the record.

VOTE: 4-0 (Patricia N. Mathews, Carrie L. Thornhill, Paula L. Jewell, William F. McIntosh to grant; Charles R. Norris not voting, not having heard the case).

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

ATTESTED BY: 
EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: JAN 16 1987

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."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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