

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application NO. 14504, of the Coalition for the Homeless, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraphs 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 more than fifteen men in a R-4 District at premises 1318 Park Road, N.W., (Square 2843, Lot 39).

HEARING DATE: November 12, 1986
DECISION DATE: December 3, 1986

FINDINGS OF FACT:

1. The subject property is located at 1318 Park Road, N.W. on the south side of Park Road, between 13th and 14th Streets, approximately 200 feet west of the intersection of Park Road and 13th Street. It is located in an R-4 District.

2. The surrounding property to the immediate north, east and south of the subject property is in the R-4 District. Properties to the west and southwest of the subject property along 14th Street are in the C-2-A District. A C-2-A District is located to the northwest of the subject property along 14th Street. The area further east of the subject property along 11th Street is also in a C-2-A District.

3. The surrounding area contains vacant lots and large structures having multiple levels and a large number of bedrooms. Because of their size, many of the buildings have been and are currently being used as flats, rooming houses and for institutional uses, rather than as single family homes. To the west of the subject property is an old District of Columbia firestation that is currently used for nonresidential governmental purposes. Further to the west of the subject property on Park Road are commercial uses including a dry cleaning establishment, a Safeway supermarket with a parking lot and a paint store at the corner of Park Road, 14th Street and Kenyon Place. At the southwest corner of 14th Street and Park Road is a People's Drug Store adjacent to a Woolworth's department store. On the northwest corner of 14th Street and Park Road is the Riggs National Bank building. Along the 3300 block of 14th Street are abandoned buildings that appear to have been previously used for commercial purposes.

4. Pursuant to Sub-section 8207.2 of the Zoning Regulations, the applicant is seeking special exceptions under Paragraphs 3102.44, 3102.445 and 3102.446 to establish an emergency shelter for a maximum of 22 men in a square or within 500 feet of another community based residential facility (CBRF).

5. The lot, comprised of 3264 square feet, is rectangular in shape and is improved by a two-story brick structure with a full basement. The structure contains 20 rooms which are categorized as follows: Ten bedrooms, three full bathrooms, one half-bathroom (sink and toilet), a kitchen, a dining room, a living room, a staff office, a counseling room and a storage room. The structure is large enough to physically accommodate the 22 residents for which approval is sought.

6. The applicant, the Coalition for the Homeless, (hereinafter Coalition) has occupied the site without a valid Certificate of Occupancy since approximately May 1, 1986. Seventeen men currently reside at the property. Nine are employed on a full-or-part-time basis, six others are senior citizens who receive social security benefits and two are actively seeking employment.

7. The Coalition seeks approval for 22 men to better meet the needs of the residents by having no more than three persons in one bedroom and keeping a low staff-to-resident ratio; and to have as minimal an impact on the neighborhood as possible.

8. The Coalition 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."

9. The Coalition submitted evidence which demonstrated that the proposed transitional home is not an "emergency shelter" as that term is used in non-zoning parlance. A typical "emergency shelter" 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 all of whom may be admitted without formal screening procedures. In addition, an emergency shelter typically remains open only from between 5:00 P.M. and 7:00 P.M. until approximately 7:00 A.M. the next morning.

10. The proposed us is not open to and does not accept homeless men directly off the streets. All applicants to the Coalition's transitional home program at the site must be referred to the Coalition and must undergo an extensive screening process which takes approximately two weeks to complete.

11. Each of the current residents of the site formerly resided at the Anacostia Men's Life Center. Each of the residents successfully completed a screening/selection process before he was accepted to the subject transitional home. The screening process is summarized as follows:

- a. The Coalition's Network Coordinator interviews a prospective resident wherever the applicant is presently residing. To be eligible for admission, the candidate must be at least 19 years of age, must be in good health and must not have been homeless for more than three years. The candidates must demonstrate that they are motivated to secure gainful employment and to reenter independent living. If the candidates meet these threshold criteria, and if the Networking Coordinator determines that the candidates as worthy of further evaluation, the Networking Coordinator invites them to submit a formal application to the Coalition. The application includes a 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.
- b. 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.
- c. The Field Program Monitor then refers the application file to the Mental Health Coordinator who schedules appointments for the applicant with the staff of the National Health Plan, the Coalition's Employment Coordinator, the Coalition's Veterans' Coordinator (if applicable), and the Coalition's Housing Coordinator. 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.
- d. 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.

- e. 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.
- f. 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.

12. 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 Mental 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 Coalition's transitional program for a period of 90-120 days. If a resident cannot find 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.

13. The Coalition's transitional home program offers its residents balanced meals, individual and support group counseling, and access to dental and medical care. The transitional program also provides the residents with assistance in securing gainful employment and independent housing. Once accepted to the transitional home program, residents 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. It is contemplated that each resident will complete the program in an average of 90 to 120 days. The Coalition staff continues to monitor the resident once he leaves the transitional home and reenters the community.

14. The Coalition's house rules state:

- a. That no illegal drugs or alcohol are permitted in the house;
- b. That all residents who are under 56 years of age must either be employed or looking extensively for work;
- c. That all residents must perform their assigned house chores;
- d. That no visitors of the residents are permitted to the house.
- e. That no smoking is permitted above the first floor of the house;
- f. That stealing and physical and verbal abuse are prohibited; and
- g. That curfew is 11:30 P.M. Sundays through Thursday and 1:00 A.M. on Fridays and Saturdays.

15. The facility is staffed by 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 (CPR). Each staff member provides money budgeting, 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. The house remains open 24-hours per day in order to accommodate the constant needs of the senior citizens who reside there. The Coalition transports elderly residents by van each weekday to the Harvest House to participate in the S.O.M.E. (So Others May Eat) Program from 10:00 A.M. to 2:00 P.M.

16. The previous Certificate of Occupancy, No. B142083 dated May 14, 1985, reflects that the subject property was formerly used as a rooming house for unrelated persons. The subject property is also desirable for the Coalition's purposes because it provides the residents with a "home-type" environment, instead of an "institutional-type" atmosphere of a school building or warehouse.

17. A maximum number of 22 residents will provide a staff-to-resident ratio of approximately one to four. This level of occupancy will enable the Coalition to lodge no more than three residents in each of the two large bedrooms and no more than two residents in each of the eight smaller bedrooms.

18. None of the current residents or staff of the home possesses a motor vehicle and the vast majority of homeless persons do not own motor vehicles. Unrestricted curbside parking is available on both sides of Park Road and nearby 13th Street which should be adequate for any staff member or resident who may drive to the subject property in the future. Public transportation is available at a level of service sufficient to serve the proposed use. Nearby Metro bus lines include Route 50, which operates along 14th Street, N.W., and Route 60, which operates on 11th Street, N.W. The Columbia Heights Metrorail Station is planned to be constructed and opened within several hundreds feet of the property. 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 subject property. 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 a family member or a friend.

19. The home will establish a community liaison representative. The representative's duties include (a) attendance at regularly scheduled meetings of Advisory Neighborhood Commission (ANC) 1A and those of neighborhood citizens' associations; (b) preparation and distribution of a monthly newsletter/update to ANC Commissioners, applicable neighborhood citizens' association officers and residents within a radius of 200 feet of the subject property; and (c) being "on-call" on a 24-hour basis to supply information as may be reasonably required or requested by members of the community. The liaison will also be charged with providing information reasonably 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, regular meetings of the Coalition's Board of Directors (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 1A or other nearby citizens' organization within 30 days of receipt.

20. There are six CBRFs within 500 feet of the site:

- (1) 1309 Park Road - a group home for wards of the D.C. Government housing eight residents;
- (2) 3112 13th Street - a home for the mentally retarded housing eight residents;
- (3) 3218 13th Street - a youth residential care facility for non-adjudicated children housing eight residents;
- (4) 3518 13th Street - a youth rehabilitation home housing 14 residents;
- (5) 1300 Monroe Street - an emergency shelter housing 20 residents; and
- (6) 1300 Kenyon Street - a halfway house housing eight residents.

21. The Office of Planning (OP), by memorandum dated November 4, 1986 and by testimony at the public hearing, recommended denial of the application. The OP alleged that the the Coalition had occupied the subject property without a valid Certificate of Occupancy in contravention of the Zoning Regulations and on that basis recommended that the application be denied. The memorandum made no impact assessment nor did it contain the written report of any relevant District department or agency as contemplated by Paragraph 3102.447 of the Zoning Regulations. The Board finds that while the OP's objection to the Coalition's authorized occupancy of the house may have merit, it is not a factor which the Board may properly consider in determining whether this application should be granted. Other District agencies are charged with the enforcement of Certificate of Occupancy requirements. The Board has reviewed and analyzed the planning, land use and zoning evidence in the record and has reached a decision based on that evidence. The Board does take note of the fact that the Coalition's Board of Directors recently adopted a resolution that instituted a policy prohibiting the Coalition from occupying any structure in the future without first obtaining a valid Certificate of Occupancy.

22. Advisory Neighborhood Commission (ANC) 1A did not submit a written statement on the application.

23. 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 structures on the 1300 block of Park Road, N.W., including the dwelling adjacent to the subject property, as well as in other buildings located in the immediate vicinity of the subject property. Letters of support were also submitted by various religious and community organizations. 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 that the Coalition's transitional home at 1318 Park Road, N.W. has successfully blended into the surrounding neighborhood in an unobtrusive manner.

24. The Tubman Neighborhood Association ("Tubman") submitted a written statement in opposition to the subject application. Two representatives of Tubman also testified against the subject application at the public hearing. Tubman expressed its support for the Coalition's efforts to assist the homeless and did not object to the Coalition's transitional home program. Tubman did object to the Coalition's unauthorized use of the subject property. Tubman also expressed concern that the addition of the proposed use to an area already occupied by other CBRFs would have an adverse impact on the neighborhood. Tubman further expressed concern that the site is occupied although not in full compliance with all municipal codes and licensing requirements.

25. The Board, in addressing the concern of the opposition finds that the Coalition has indicated its intent to comply with all applicable code and licensing requirements and no certificate of occupancy may issue until full compliance is obtained. As the Coalition's Chairman of the Board of Directors testified, by virtue of a Consent Order entered by the Superior Court of the District of Columbia on July 28, 1986, in the case of District of Columbia v. Kenny Martin, et al., Civil Action No. 4015-68, the Coalition is enjoined from opening any other CBRFs without a valid Certificate of Occupancy. Though the Coalition's prior practice is reprehensible, the Board believes that the matter has been adequately remedied by the Court's Order and by the statements of the Coalition's representatives, and does not form a basis for the denial of this application. The Chairman of the Board further testified that the Coalition will continue to make improvements and work with the appropriate District inspectors and agencies to ensure that the subject property is safe and in compliance with applicable law.

The Board further finds that the Coalition's House Manager testified that the house rules for resident's conduct will be strictly enforced. Violation of these rules and regulations can result in sanctions, including

termination from the transitional home program and relocation to another non-Coalition facility. The rules and regulations forbid the use or possession of alcohol or illegal drugs on the premises and prohibit intoxicated residents from entering the subject transitional home. Any resident who is enrolled in a drug, alcohol or mental health program must continue to regularly attend that program while residing at the subject property. 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.

The Board, also finds that there is no evidence that the proposed use will generate noise beyond that typically experienced in uses that are permitted as a matter-of-right. The masonry construction of the premises should minimize any noise impact on neighboring properties. Excessive noise is also prohibited by the Coalition's house rules. Also, there is no probative evidence that the proposed use will contribute to incidence of criminal activity in the area. The House Manager testified that a staff member monitors the exterior of the subject property and patrols the block in which the subject property is located at regular intervals, particularly in the evening hours (6:00 to 11:30 P.M.) Conditions to an approval, requiring such an external security procedure, will reasonably protect the community from such activity. Also, there is no persuasive evidence in the record to support a finding that the applicant's use of the property has reduced, or will reduce property values in the surrounding neighborhood. Approval of this application would not alter the current land use pattern in Square 2843 or in the surrounding neighborhood. The Coalition's community liaison policy is intended to ensure a satisfactory level of interaction between the Coalition and its neighbors.

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 three special exceptions, approval of which requires proof that it has complied with the requirements of Paragraph 3102.44, 3102.445 and 3102.446, and Sub-section 8207.2 of the Zoning Regulations.

Paragraph 3102.44 allows an emergency shelter for five to 15 persons to be established 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 five or

more persons within a radius of 500 feet from 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. Adequate curbside parking and public transportation exists to ensure that the operation of the proposed use will not adversely affect parking, traffic or transportation conditions in the neighborhood. The subject property will meet all applicable code and licensing requirement of the District of Columbia. The proposed use will not have an adverse impact on the neighborhood because of traffic, noise or operations. Also, as conditioned below, the cumulative effect of the proposed use of the subject property and existing CBRFs in Square 2843, within 500 feet of 1318 Park Road, N.W. and elsewhere in the neighborhood 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 special

exceptions can be granted as being 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 Regulations and Maps.

It is therefore ORDERED that the application is hereby GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be for a period terminating on May 1, 1989.
2. The number of residents shall not exceed twenty-two.
3. The applicant shall institute and maintain a community liaison program as described in Exhibit No. 23 of the record.
4. The policies and house rules described in Exhibit No. 21 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 facility shall provide for security, exterior monitoring, and patrolling as described in Exhibit No. 26. of the record.
7. The type of program provided at the subject premises, including screening and evaluation of residents, and support services, shall be as described in Exhibit No. 21 of the record.

VOTE: 3-1 (Charles R. Norris, Carrie L. Thornhill and Paula L. Jewell to grant; William F. McIntosh opposed).

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

ATTESTED BY:


EDWARD I. CURRY
Acting Executive Director

JAN 30 1987

FINAL DATE OF ORDER: _____

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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