

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15280 of the Coalition for the Homeless, pursuant to 11 DCMR 3108.1, for a special exception under Section 334 to establish a temporary community service center in the basement, first and part of the second floor of a structure in an R-4 District at premises 2824 Sherman Avenue, N.W., (Square 2857, Lot 804).

HEARING DATE: April 18, 1990  
DECISION DATE: May 2, 1990

ORDER

FINDINGS OF FACT:

1. The proposed property is located on the west side of Sherman Avenue between Girard and Harvard Streets and is known as premises 2824 Sherman Street, N.W. It is zoned R-4.

2. The property contains 4,200 square feet of lot area with a frontage of 35 feet along Sherman Avenue and a depth of 120 feet. The property is generally rectangular in shape and has no topographic irregularities.

3. The property is currently improved with a two-story plus basement brick semi-detached structure. The premises was occupied as a "Clinic for Humans - Physician Professional Use" pursuant to Certificate of Occupancy No. B-3808, dated January 25, 1957.

4. The applicant testified that it has occupied the subject premises since 1986 for office and counseling purposes. The applicant erroneously believed that the current use was acceptable under the previously issued certificate of occupancy which permitted use as a clinic and doctor's office. The applicant is now seeking a special exception pursuant to 11 DCMR 334 to allow the continuation of the existing use.

5. Section 334 of the Zoning Regulations allows a temporary community service center to accommodate organizations created for the purpose of improving the social or economic well-being of the residents of the neighborhood in which the center is located if approved by the Board subject to the following criteria:

334.2 A temporary community service center shall be located so that it is not likely to become objectionable to neighboring properties because of noise or other objectionable conditions.

- 334.3 No structural changes shall be made except those required by other municipal laws or regulations.
- 334.4 The use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located.
- 334.5 A temporary community service center shall not be organized for profit, and no part of its net income inures to the benefit of any private shareholder or individual.
- 334.6 Any authorization by the Board to locate a temporary community service facility shall be limited to a reasonable period of time, but shall not exceed three (3) years. The Board may renew the authorization.

6. The applicant testified that the Coalition for the Homeless, Inc., was incorporated on August 24, 1981 as a District of Columbia non-profit corporation organized to eradicate the problem of homelessness by implementing comprehensive programs designed to address the root causes of the problem, instead of its symptoms. The organizations main 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 applicant accomplishes its objective through the use of transitional homes in which screened homeless residents live while saving money earned in gainful employment to eventually become financially independent and to lose the label of "homeless". The residents sign a contract upon entering the program promising to stay drug and alcohol free and to save 75 percent of their wages while participating in the program.

7. The applicant testified that although it operates both emergency homeless shelters and transitional homes throughout the City, it proposes to use the subject site for job counseling and case management on an individual referral basis, as well as offices for its staff persons, comprising in total the community service center. The use of the subject site to house the center is proposed in order to more efficiently achieve the goal of helping to eliminate the homeless problem in the District of Columbia and in the neighborhood in which the the proposed center would be located.

8. The applicant testified that the proposed staff would consist of ten full time employees and two interns. The twelve members of the staff would occupy the building during the hours of 8:30 a.m. to 5:30 p.m., Monday through Friday. No facilities will be provided for overnight occupants.

9. A representative of the applicant testified at the public hearing that the proposed temporary community service center would not be objectionable to neighboring properties because of noise or other objectionable conditions. The subject site is located next to a gasoline service station on the north and the applicant's own property on the south. He also noted that the previous doctor's office use established over 30 years ago for the subject site was a nonresidential use of the property, as is the proposed use. The subject site has not been used for residential purposes for over thirty years and does not immediately abut residential uses.

10. The applicant's representative testified that the daytime office/counseling use which is proposed would not interfere with the operations of the surrounding residences and businesses. The representative noted that adequate buffers exist to separate the subject site from neighboring properties. Two alley lots and a 15 foot wide alley separate the subject site from neighboring property to the west. Sherman Avenue, a four lane minor arterial, separates the subject site from neighboring properties on the east side of Sherman Avenue.

11. The applicant's representative testified that no complaints regarding the use of the site have been received during the three and one-half years that the applicant has occupied the subject premises. The applicant does not propose any change in the existing operational or structural characteristics of the subject premises.

12. The applicant's representative noted that the Coalition operates eight facilities for the homeless in the District of Columbia and that three of those facilities are located within approximately ten blocks of the subject site. The applicant's representative argued that the proximity of the homeless facilities in the immediate neighborhood to the subject site make the location of the facility at this location reasonably necessary and convenient to the neighborhood.

13. The applicant's representative testified that most of the people serviced at 2824 Sherman Avenue currently live in one of applicant's transitional homes, two of which are currently located within ten blocks of the subject site. He also noted that referrals to the subject site also come from the applicant's Irving Street shelter which is five and one-half blocks from the subject site. Therefore, the applicant's proposed use would serve all three of the applicant's residential facilities which are within a ten-block radius of the subject site which meets the standard in the Zoning Regulations of serving the neighborhood.

14. The applicant's representative testified that two types of clients use the subject site in conjunction with the transitional homes. The first type are people who originated in

the neighborhood of the subject site and are now living in the applicant's transitional homes; the second type are people who are referred to the applicant's program from other parts of the District, but reside in one of applicant's transitional homes in the neighborhood of the subject site. All of residents of the applicant's transitional homes hold that facility out as their legal residence for all purposes, including applying for driver's licenses, voter registration, and mail service, and are, therefore, residents of the community in which the subject facility is located.

15. As noted in Finding of Fact No. 6, the applicant is a nonprofit District of Columbia corporation organized solely for the purpose of alleviating the problem of homelessness in Washington. The applicant gets its funding from the Federal Government through the Veterans Administration, the D.C. Government through the Department of Human Services, the United Way Campaign and contributions from other private foundations. No income benefits any private shareholder or individual who is not a homeless participant in the program.

16. The applicant's representative testified that it is seeking special exception approval for a temporary community service center for the maximum period of three years, subject to the Board's renewal. He noted that the applicant's main objective, eradicating the homeless problem in the District of Columbia, is temporary by nature.

17. The applicant proposes to provide nine on-site parking spaces at the rear of the subject premises. Access to the parking spaces would be through an eight-foot wide private driveway which runs from Sherman Avenue to the rear of 2822 Sherman Avenue, then across the 2822 Sherman Avenue property to a gravelled parking area. The applicant's traffic expert testified that one-way driveway operation would create no traffic problems because the parking demand for employees would basically result in five cars arriving in the morning and leaving in the evening.

18. The applicant's traffic expert testified that, as evidenced by its operation at the subject site for several years, the facility has not had an adverse impact on the immediate area in terms of vehicular or pedestrian traffic. The site is well served by public transportation with eleven metrobus routes in the area. The on-site parking provided at the rear of the site exceeds the minimum number of parking spaces required by the Zoning Regulations and is adequate to meet the parking demand generated by employees of the facility.

19. The Office of Planning (OP), by memorandum dated April 11, 1990, recommended denial of the application. The OP was of the opinion that the proposed use is not in harmony with the general

purpose and intent of the Zoning Regulations and Map in that most of the clients of the facility do not reside in the community but must travel from various locations throughout the city. In addition, the OP was of the opinion that the immediate community is saturated with facilities which provide shelter and other social services to the homeless and other residents that are in need of assistance. In addition, the proposed facility would generate additional pedestrian traffic and, therefore, negatively impact the community.

20. By memorandum dated April 11, 1990, the Department of Public Works (DPW) offered no objection to the application. The DPW was of the opinion that the proposed use would not have an adverse impact on the transportation system in the neighborhood.

21. The Office of Community-Based Residential Facilities, by memorandum dated February 21, 1990, stated that it had determined that the use at the subject site is not a community-based residential facility (CBRF). The agency also indicated that the proposed facility would probably serve the population living in CBRF's. The memorandum listed six CBRF's which would probably be served by the subject facility.

22. The D.C. Fire Department, by memorandum dated March 8, 1990, stated that it had no objection to the proposed application. The agency noted that it had reviewed the proposed application to determine its impact on emergency operations. The agency also stated that fire prevention requirements for the facility will be determined at the time of the initial inspection for a certificate of occupancy.

23. The D.C. Metropolitan Police Department (MPD), by letter dated March 28, 1990, stated that based on its review of the application, the proposed facility would not require an increase in the level of police services currently being provided. Therefore, the MPD offered no opposition to the request for a special exception.

24. At the public hearing, the Board waived its seven-day filing requirement to accept the written report of Advisory Neighborhood Commission (ANC) 1B. By letter dated April 16, 1990 and testimony at the public hearing, ANC 1B opposed the granting of the application. The ANC's opposition is generally summarized as follows:

- a. The proposed facility would increase the existing inventory of institutional uses and contribute to the continued loss of residential properties in the area;
- b. The applicant should not be rewarded for its current illegal use of the property for the proposed purpose.

- c. The applicant did not satisfy the criteria necessary to meet the requisite burden of proof.

25. The Single Member District Commissioner for ANC 1B-05 testified at the public hearing in support of the application based on the vital services to the community provided by the applicant in dealing with transitional programs to help break up the cycle of homelessness.

26. Several persons testified at the public hearing in support of the application. The witnesses in support included two former clients of the Coalition who were originally from the immediate neighborhood of the subject facility, a resident of 2814 Sherman Avenue, a police officer who lives and works nearby, and the Single Member District Commissioner for ANC 1B-05. The support was generally based on the following:

- a. The facility provides a vital service to the neighborhood, providing for transitional programs which are on the leading edge of the policy for breaking the cycle of homelessness in the City.
- b. The subject site was restored from a deteriorated condition and has been well maintained since the applicant has occupied the premises.
- c. There has been no evidence of any adverse impacts on the immediate area caused by the operation of the subject facility.

27. Several community groups and residents opposed the application in correspondence contained in the record and by representatives at the public hearing. The opposition generally reflects the issues and concerns expressed by the Advisory Neighborhood Commission report, as well as the following concerns:

- a. The proposed use is for staff headquarters offices and incidental counseling of approximately 20 clients per week and, therefore, does not qualify as a temporary community service center.
- b. The proposed facility would not directly benefit the residents of the immediate neighborhood but would service clients from all over the city.
- c. The parking proposed to be provided at the rear of the site is inadequate and inappropriately located because access would be over an adjacent, separate lot.
- d. The applicant has a poor history of compliance with

zoning laws as evidenced by its operation at other sites in the District.

The community groups represented by testimony at the public hearing included the Ward 1 Council, the Columbia Heights Neighborhood Coalition, and the Residential Action Coalition.

28. In response to the issues and concerns raised by the ANC and the opposition, the applicant argued as follows:

- a. The proposed facility meets the criteria for a temporary community service center set forth in 11 DCMR 334. The facility provides both counseling and office space. Approximately one-third of the staff at the site and one-half of the floor space at the premises are allotted to the counseling component of the program.
- b. The proposed facility serves the residents of the applicant's transitional homes, 50 percent of which are located in the neighborhood of the subject site, as well as persons living at the La Casa Shelter and other neighborhood people who are eligible to take advantage of the service center. Therefore, the applicant believes the proposed facility directly benefits residents of the immediate neighborhood.
- c. The proposed facility has been used as medical offices for more than 30 years, therefore, the proposed facility would not result in a loss of a residential use in the area. The building would remain residential in appearance. The proposed use would act as a buffer between the 24-hour Amoco gasoline station and the residential community.
- d. The parking provided at the rear of the site is more than adequate to meet the demands generated by the proposed use. Access to the site over the adjacent lot at 2822 Sherman Avenue does not pose a problem because that property is also owned by the applicant and access will continue for as long as the use is permitted at the subject site.
- e. The applicant erroneously believed operation of the proposed facility was in compliance with zoning requirements based on the previous use of the property. When informed that the use was not in compliance, the applicant immediately filed for the necessary zoning relief.

- f. The operation of the other facilities cited by the opposition as being illegally operated by the applicant are being operated in compliance with all applicable requirements or are in the process of being brought into compliance with structural, electrical, zoning and fire regulations for operation as transitional housing identified for purposes of zoning as "boarding houses".

29. At its public meeting of May 2, 1990, the Board denied a motion made by the Capital Heights Neighborhood Coalition to strike the materials submitted by the applicant to rebut testimony in opposition given at the public hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires substantial evidence that the applicant has complied with the criteria set forth in 11 DCMR 334. The Board concludes that the applicant has failed to meet the requisite burden of proof. The Board concludes that the facility is located so as not to likely become objectionable in terms of noise or other objectionable conditions; that no structural changes will be made except those required by other municipal laws or regulations; and that the facility is not organized for profit and no net income inures to the benefit of any private shareholder or individual. However, the Board is not persuaded that the proposed facility constitutes a "temporary community service center" which is reasonably necessary or convenient to the neighborhood in which it is proposed to be located. Although the proposed facility provides services which are of substantial benefit to the city as a whole and the clients of its facilities in proximity to the subject site, the Board concludes that its focus is too broad to be considered as necessary and convenient to the neighborhood in which it is proposed to be located and, further, that the applicant's purpose of improving the social or economic well-being of its clients is focused on the city as a whole and only obliquely focuses on the residents of the neighborhood in which it is proposed to be located.

The Board concludes that it has afforded the ANC the "great weight" to which it is entitled. The Board further concludes that the requested special exception cannot be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will tend to adversely affect the neighborhood. It is therefore ORDERED that the application is hereby DENIED.

VOTE: 4-0 (John G. Parsons, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to deny; Charles

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R. Norris not voting, not having heard the case).

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

ATTESTED BY:

  
MADELIENE H. ROBINSON  
Acting Director

FINAL DATE OF ORDER: \_\_\_\_\_

MAR 18 1992

UNDER 11 DCMR 3103.1, "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."

15280Order/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15280

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 13 1992 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

John T. Epting, Esquire  
Wilkes Artis Hedrick & Lane  
1666 K Street, N.W.  
Suite 1100  
Washington, D.C. 20006

Jack White  
Coalition for the Homeless  
2824 Sherman Avenue, N.W.  
Washington, D.C. 20001

Dorothy Brizill  
1327 Girard Street, N.W.  
Washington, D.C. 20009

Gary Imhoff  
1327 Girard Street, N.W.  
Washington, D.C. 20009

Isaiah Cunningham  
417 U Street, N.W.  
Washington, D.C. 20001

Leon Donaldson  
2814 Sherman Avenue, N.W.  
Washington, D.C. 20001

Kathryn A. Eckles  
Residential Action Coalition  
1524 T Street, N.W.  
Washington, D.C. 20009

Patricia A. Aquah  
3520 13th Street, N.W.  
Washington, D.C. 20010

Mary Treadwell, Chairperson  
Advisory Neighborhood Commission 1B  
519 Florida Avenue, N.W.  
Washington, D.C. 20001

  
MADELIENE H. ROBINSON  
Acting Director

DATE: \_\_\_\_\_

MAR 18 1992

15280Att/bhs