

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15741 of the Congregation Carmelite Sisters of Charity, pursuant to 11 DCMR 3108.1, for special exceptions under Sections 220 and 220.2 to establish an emergency shelter of fifteen (15) women and their children within 1,000 feet of other community-based residential facilities of five (5) or more persons in an R-1-B District at premises 4200 16th Street, N.W. (Square 2645, Lot 6).

HEARING DATE: September 9, 1992  
DECISION DATE: October 7, 1992

ORDER

SUMMARY OF EVIDENCE:

1. The property which is the subject of this application is located at 4200 16th Street, N.W., on the northwest corner of 16th and Upshur Streets N.W. The lot is developed with a two-story plus basement, single-family, detached residential structure located in an R-1-B District. The lot on which the house is sited consists of 8,450 square feet in land area at a width of 65 feet.

2. Sixteenth Street N.W. in the vicinity of the site is developed with single-family, detached houses, interspersed with several churches. Grace Lutheran Church is located one block north of the subject site, and the National Memorial Church of God is located one block south of the subject site. A number of other institutions are also located in the area. The general character of the area is primarily residential. Upshur Street to the west of 16th Street N.W. is developed with single-family, detached residential structures, whereas rowhouse development is located to the east of 16th Street N.W.

3. The R-1-B District in which the subject site is located permits matter of right development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet.

4. The property is currently owned by the applicant, the Congregation Carmelite Sisters of Charity. The organization plans to sell the property to Hannah House, Inc. For purposes of this order Hannah House will be referred to as "the applicant".

5. Hannah House proposes to establish an emergency shelter for five women and 10 children, pursuant to the special exception provisions of 11 DCMR 220. The applicant maintains that all of the requirements of Section 220 are met by the application.

Section 220 provides as follows:

**220 EMERGENCY SHELTERS (R-1)**

- 220.1 Use as an emergency shelter for five (5) to fifteen (15) persons, not including resident supervisors and their families, shall be permitted in an R-1 District if approved by the Board of Zoning Adjustment in accordance with the conditions specified in Subsection 3108 of Chapter 31 of this title, subject to the provisions of this section.
- 220.2 There shall be no other property containing a community-based residential facility for five (5) or more persons in the same square and no other property containing a community-based residential facility for five (5) or more persons within a radius of one thousand feet (1,000') from any portion of the property.
- 220.3 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 220.4 The proposed facility shall meet all applicable code and licensing requirements.
- 220.5 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 220.6 The Board may approve more than one (1) community-based residential facility in a square or within one thousand feet (1,000') 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.
- 220.7 The Board may approve a facility for more than fifteen (15) persons, not including resident supervisors and their family, only if the Board finds that the program goals and objectives of the District 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.
- 220.8 The Board shall submit the application to the Director of the Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the D.C. Department of Public Works, Human Services, and Corrections and, if a historic

district or historic landmark is involved, of the State Historic Preservation Officer.

6. The applicant requests relief from Subsection 220.2 which prohibits the establishment of the proposed facility within the same square or within a radius of 1,000 feet from another CBRF for five or more persons. The applicant stated that the property located at 1613 Taylor Street, N.W. is located within 1,000 feet of the subject site. The Taylor Street property has a certificate of occupancy on file for a "CRF/MR - for six (6) residents."

The applicant maintains that this is the only community residence facility within 1,000 feet of the site that has a certificate of occupancy. In a letter dated August 18, 1992, the Chief of the Zoning Review Branch acknowledged the applicant's statement and agreed with this assessment of the status of nearby CBRFs.

7. The Executive Director of Hannah House, Kelly Sweeney, testified about the proposed program. She stated that the current mission is to provide shelter to homeless women in a safe, structured and caring environment. The goal is to help each woman meet her potential. She noted that Hannah House currently operates a facility for 15 women at 612 M Street, N.W. The 16th Street facility will be generally based on the M Street model except for the additional goal of helping women stay together with their children as they work to rebuild their lives.

The new facility will house an average of 5 women and 10 children. The facility will operate under the "THEIRS" Program - an acronym for togetherness, housing, employment, independence, recovery and self awareness. The program will operate on a 24-hour basis and the anticipated length of stay is approximately nine months.

The women will be referred to the program by a social worker or a professional who has worked with them. Acceptance into the program depends a great deal upon each woman's level of seriousness about herself and her progress. Women who are in recovery must be committed to a sober lifestyle. Hannah House then conducts an extensive interview about the woman and her employment and mental health history, her goals and interests, as well as her interest in the program. The women are also assessed by a volunteer psychiatrist when they first move into the house.

During the first month of their stay the women will focus on recovery and self awareness. They will meet with a case manager and begin setting their goals. Most of the women referred to the facility will be addicted to drugs and/or alcohol. Women who are in recovery must attend seven Narcotics Anonymous or Alcoholics Anonymous meetings every week. If they are involved in any sort of

aftercare, treatment, or counseling program, they are required to attend those meetings as well. They also must remain drug free during their entire stay in the program. The applicant conducts random urine tests, and those found to be positive are immediately asked to leave the facility.

The residents will do volunteer work in the community. Some of the organizations include So Others Might Eat, the National Women's Law Center and the American Lung Association.

In the second and third months, the residents will begin working towards the goals that they have outlined, whether that involves enrolling in a training program, looking for part-time work or going directly into full-time work. This depends on their level of skill upon entering the facility.

When the women start working, they are required to place up to 20 percent of their money into a savings account. Once they have reached their savings goal, this money can be used in their search for outside housing for their children and themselves.

8. The applicant's engineer testified that the structure is suitable for group residential use. He testified that the house had been used as a residence for a religious community of up to 16 Carmelite Sisters. Recently it was used as a residence for priests.

The engineer testified about the layout of the house and the proposed improvements. He stated that the basement will contain offices surrounding a play area. There is also a full bathroom, an electrical meter room and a mechanical room. On the first floor is the 16th Street entrance to the house. There is a living room, a dining room near the doorway, and a second eating area toward the rear of the house. Next to this eating area is the kitchen. Beyond the kitchen is a utility room which will be used to expand the kitchen facilities. The second floor currently has five bedrooms and two bathrooms. The applicant intends to subdivide the largest of the bedrooms into two other rooms and make up a suite area. In the attic, there is another bathroom in the attic. There are three small bedrooms, one large bedroom and a storage area in the attic. The applicant plans to redivide this area to create two two-bedroom suites. The house will contain a total of 10 bedrooms for residents, three family units will have a suite of two bedrooms, and one family unit will have a suite of three bedrooms. Two additional bedrooms will be created - one for a woman with a young child and one for staff. There are four bathrooms in the house and the families will share the living room, dining room and kitchen areas. The engineer testified that the facility will meet all applicable code and licensing requirements.

9. With regard to the exterior of the site, the engineer

testified that the property is bordered on the east and south by 16th and Upshur Streets, respectively. To the west, the property is bounded by a public alley. On the north, there is a single-family residence. He stated that there is a two-car garage at the rear of the site. The rear yard of the property is enclosed by a six-foot high chain-like fence. Most of the yard will be used as a play area for children and for the enjoyment of their mothers.

10. Off-street parking: The applicant maintains that the two-car garage will meet the parking needs of the facility. The applicant stated that the residents will not be allowed to own cars, therefore, they will not need parking accommodations. The applicant stated that there will be three full time staff and three part-time staff. They will work in shifts. Some of the staff are expected to use public transportation. For those who drive, the off-site spaces are available. Also, there is two-hour parking on Upshur Street for nonresidents and parking is allowed on 16th and Upshur Streets N.W. in the evenings and on weekends.

Many area residents appeared at the hearing to express their opposition to the application. In addition, a representative of the Rock Creek East Neighborhood League testified in opposition to the application on behalf of the organization. While these opponents appreciated the goals of the applicant, they felt that the facility should not be located in their community for a number of reasons.

With regard to the issue of parking, the opponents were concerned that the two on-site spaces will be inadequate to meet the needs of the facility's staff and visitors. They pointed out that parking is very limited in their neighborhood and the applicant's use of the streets for parking will adversely affect parking conditions for area residents.

11. Traffic and Transportation: The applicant maintains that the area will not be adversely affected due to traffic associated with the site. The applicant's engineer testified that he is familiar with the 16th Street traffic. He noted that the facility's residents will not use cars. He also noted that if some of the staff use public transportation, the impact on traffic will be less.

The applicant expects that trips in and out of the facility will be as follows: Two to three trips per day for employees using cars to come to work, one trip per week for shopping, one to two trips per week for deliveries, one trip per day for tutors or volunteers, and one trip per day for miscellaneous activities. Additionally, trash will be picked up once per week, fathers will make arrangements to pick up and drop off their children and there will likely be one meeting per month by a Board Committee of three to five participants. These meetings are usually held between 6:00

and 8:00 in the evenings. The applicant stated that based on these estimates and data available from the Institute of Transportation, the facility will generate approximately ten daily trips - about the same number of trips per day as a single-family residence.

With regard to transportation, the applicant testified that there are 18 to 26 buses per hour during the week at rush hour. During the remainder of the day, there are six to eight buses per hour. On the weekends there are two to eight buses per hour. Therefore, public transportation service to the site is excellent.

Opponents to the application testified that the Hannah House will have an adverse impact on traffic in the community. They believe that the applicant has underestimated the number of trips likely to occur. The estimation of one shopping trip per week and two van deliveries per week for 15 people is inconsistent with the statement that for an average single-family home, there would be about ten vehicle trips per weekday. Opponents stated that with 15 people it appears that many more vehicle trips would be made to the site, especially when one includes miscellaneous trips, trash collection, volunteers coming and leaving, tutors, counselors, and fathers picking-up and dropping-off children. Opponents estimate 52 and one half trips will occur on weekdays and they believe this will increase traffic congestion in the area.

12. Operations: The applicant maintains that there will be no adverse impact on the area as a result of operations at the site. The applicant noted that the facility will operate under rules that govern the daily lives of the residents. They will be required to pursue their goals of recovery and stabilization. They will be required to clean their living space and help maintain the property. The residents will not be allowed to have male visitors. The fathers of the children will not be allowed to visit residents at the facility. They may pick their children up for visits away from the facility.

Opponents are concerned that most of the women who will reside at the facility will be recovering addicts. Opponents believe that these women may have had troubled pasts and they may have people in their lives that will come to the facility and disrupt the community. Opponents are concerned that the applicant will not be able to control such disturbances by nonresidents of the facility.

13. Noise: The applicant testified that the area will not be adversely affected due to noise at the facility. The applicant noted that the facility is located very close to their neighbor's home at 4204 16th Street to the north of the subject property. To minimize any noise and maximize privacy for their neighbors, the applicant does not plan to permit the north side of the residence to be used by the residents. Secondly, to buffer the play area from this neighbor, the applicant plans to retain the fenced

enclosure between the house and the garage and proposes to use the area as a vegetable or a flower garden. Thirdly, the applicant stated that they will contact their neighbors and work with them to develop a plan for additional landscaping and/or fencing along the common rear and side yard property lines. Any improvements agreed upon will be implemented at the applicant's expense.

Opponents expressed a concern that adverse noise impacts will result from ten children playing outdoors. One witness testified that young children like to scream, often for no reason at all.

Responding to this concern, the applicant testified that most of the children will be infants, toddlers or children younger than five years of age. Therefore, they will be inside the house most of the time. Second, many of the children will be enrolled in day care or in other facilities off the premises. The applicant stated that the children will be supervised whenever they play outdoors. Also, the applicant stated that they do not plan to have extensive playground equipment in the back yard because of issues related to insurance. The lack of such equipment should help to keep noise levels down.

14. **Trash:** The applicant testified that the trash will be stored in four supercans. The supercans will be kept inside the back gate and rolled out on appropriate days. Trash will be collected twice a week by a private collection company, Eastern Waste Industries. A representative from this company informed the applicant that the truck that will be used to collect the trash will be smaller and quieter than large dumpster trucks. Pick-ups would be scheduled between 7:00 a.m. and 3:00 p.m. on weekdays only. These pick-ups will not cause additional neighborhood disruption because the city currently picks up trash after 7:00 a.m.

15. **Similar Facilities:** Advisory Neighborhood Commission (ANC) 4A, submitted a report dated August 28, 1992 recommending denial of the application. The ANC opposes the application for the following reasons:

- (a) To allow the proposed facility within a radius of 1,000 feet from an existing community-based residential facility located at 1613 Taylor Street, N.W. will compromise and negate the protection provided under Subsection 220.2 of the Zoning Regulations. Under this provision, surrounding property owners and residents are to be protected against the proliferation of CBRFs in R-1-A and R-1-B zoned areas.

The ANC stated that in addition to the CBRFs located at 1613 Taylor Street, N.W., there are at least two facilities operated by Oxford House within a radius of 1,000 feet of the

subject site one located at 4000 17th Street, N.W., and the other located at 1746 Taylor Street, N.W.

(b) There are a large number of structures in the area occupied by organizations and religious groups. These structures are used for other than single-family residential purposes. They include: (1) 1611 Upshur Street - a transit housing facility of 15 people for the Unification Church of Washington located directly behind the subject site; (2) Three very large structures built formerly for single-family occupancy: 4218 16th Street, occupied by the Scientology Center, a facility occupied by a nonresidential group, and another unit of the Unification Church; and (3) a dancing school approved by the Board located at 4201 16th Street. ANC-4A pointed out that within 1,500 feet along 16th Street north and south of the site, there are 20 non-single-family occupied structures. ANC-4A believes that to locate the proposed emergency shelter at 4200 16th Street will further impact negatively on the single-family residential character of Square 2645.

(c) The subject structure occupies 50 percent of the lot and is located within five feet of the adjacent property - a single-family dwelling owned by an elderly couple. If the proposed use is allowed, owners of adjoining and adjacent single-family dwellings will be subjected to the noise of 10 children at play and the noise of traffic generated by operation of the facility.

16. Cumulative Impact: One opponent to the application, who resides at 1618 Taylor Street, testified about the cumulative impact of locating the proposed facility within 1,000 feet of another facility. The witness stated that he lives directly across the street from the 1613 Taylor Street facility where severely retarded and disabled persons reside. He stated that he has heard screaming and other loud noises coming from this facility during the day and at night. The screaming starts when they wake up in the morning and it resumes when they return to the facility at the end of the day.

The opposing neighbor testified that he considers Taylor Street a commercial area because when buses come to the Taylor Street facility to pick-up the residents, the bus drivers sound the horns early in the morning. This, he feels, is inconsiderate of nearby residents. The witness further testified that these commercial buses are often left parked on Taylor Street where there is two-hour residential permit parking. Residents have asked the facility operators to move the buses to the lot's rear parking area but they will not do so.

17. Another neighbor residing at 4010 16th Street testified that he lives about 100 steps from the Taylor Street home. He testified that he has been awakened by screaming coming from the facility. He stated that he is disturbed by the noise on a regular basis. He stated that others in the community have also heard the screams and he believes that people nearby are adversely affected by such screams because they enter one's psyche.

18. The witness testifying on behalf of the Rock Creek Neighborhood East League stated that there is a drug market just a few blocks from the proposed facility. The neighborhood is also experiencing such criminal activity as burglary, vandalism, car theft and assault. She stated that to address these problems it is necessary to know who belongs in the neighborhood and who does not. Facilities such as the one proposed, make this difficult because of the constant traffic and turnover of residents. She stated that these new non-traditional uses will decrease the quality and value of the neighborhood.

19. Other area residents testified in opposition to the application on the grounds that Ward 4 has its share of community residence facilities and the non-single-family uses are eroding the character of the neighborhood that appealed to them years ago.

20. Councilmember Charlene Drew Jarvis submitted a statement in opposition to the application urging the Board to consider the intent and purpose of the zoning laws as they relate to CBRFs in residential communities. She expressed the belief of many of her constituents that the proposed use would not be in the best interest of their neighborhood and that it is inconsistent with the intent and purpose of the R-1 District regulations.

21. Councilmember Linda Cropp also submitted a statement expressing opposition to the application. She was primarily concerned with the fact that there are already 15 community-based facilities in the area. She asked the Board to balance the competing interests of the city's residents and to recognize the potential impact that this proposed facility may have on the community.

22. Three witnesses testified in support of the application. The first witness, a minister and friend to residents at the currently operating Hannah House facility, testified that the women that are served need the support of Ward residents and adjacent communities. He believes that it would enhance their family structures to be in a non-hostile environment. He stated that he has worked with Hannah House residents and these women have potential.

23. Another supporting witness who chairs the Program Development Committee of the Mayor's Task Force on Homelessness, testi-

fied that the proposed placement of Hannah House in Ward 4 is consistent with the recommendation of the task force to establish smaller facilities that actually address the needs of homeless people - something that larger hotel-like shelters have failed to do.

24. Terry Lynch appeared at the hearing on behalf of the Downtown Cluster of Congregations. He expressed support for the application for the following reasons: - Hannah House has a reputation for being a good neighbor; the proposal is to provide responsible management, 24-hour operation and comprehensive services to a small number of clients - standards that are often advocated by many who seek reform of homeless facilities; and the facility will operate at least initially without D.C. funding.

Finally, he noted that Hannah House proposes to take reasonable property management measures that will encourage a quiet and peaceful neighborhood.

This supporting witness recommended that a community advisory board be established and that Board of Zoning Adjustment review would occur every three years.

25. The Office of Planning (OP), by memorandum dated September 1, 1992 and through testimony at the hearing, recommended conditional approval of the application. OP noted the proposed use and physical characteristics of the property.

OP stated that the subject property is located within 1,000 feet of three other community-based residential facilities (CBRFs) as identified by the Zoning Administrator. These facilities are located at 1616 Varnum Street, N.W., 1613 Taylor Street, N.W., and 4217 16th Street, N.W. However, OP noted that the 1616 Varnum Street facility was never opened. Therefore, the certificate of occupancy for this facility has expired. The applicant has indicated to OP that the 1613 Taylor Street facility for six residents has not been licensed and, therefore, may be illegal. The 4217 16th Street facility has a certificate of occupancy for personal care for less than five persons. The present facility, if approved, would serve an additional five women and 10 children in this area.

OP was of the view that the existing structure is large enough to accommodate 15 persons, noting that the structure was most recently used a religious community as a residence for its members.

OP stated that the residents of the proposed facility would be thoroughly screened before participating in the program and would be required to follow strict rules of conduct. Because of the nature of the facility proposed and the limited number of clients, OP is of the opinion that the impacts generated would not be

extensive and would not be adverse to the surrounding area. Therefore OP recommended approval with the following **CONDITIONS**:

1. No exterior signage for the proposed facility shall be permitted with the exception of a plaque, not to exceed 144 square inches, indicating the name of the facility.
2. The number of women and children residing at the facility shall not exceed 15.
3. The number of children shall not exceed an average of two children per woman resident.
4. The children shall always be supervised while playing outdoors.
5. Outdoor play equipment for the children shall be provided as approved by the Board.
6. The number of staff at the subject premises, excluding volunteers, shall not exceed three at any one time.
7. Screening and landscaping at the subject site shall be provided and maintained as approved by the Board.
8. Supercans for trash collection shall be provided at the rear of the property near the alley. Trash collection shall be arranged at least twice a week on weekdays between 7:00 a.m. and 3:30 p.m.

**FINDINGS OF FACT:**

Based on the evidence of record, the Board finds that:

1. There are several community-based residential facilities within the neighborhood of the site.
2. Neighbors living near the 1613 Taylor Street facility have been disturbed by the noise traffic and operations of this facility.
3. It is likely that noise, traffic generation and operation of the proposed facility will create some problems for area residents.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the evidence of record, the Board concludes that the applicant is seeking a special exception to establish an emergency shelter for 15 women and their children at property located in an R-1-B District.

The granting of such a special exception requires a showing through substantial evidence on the record that the proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and Map and that it will not tend to affect adversely the use of neighboring property in accordance with said regulations and map. The application must also comply with the provisions of 11 DCMR 220 regulating emergency shelters.

The Board concludes that the applicant has failed to meet this burden of proof. The Board is of the opinion that the proposed facility and the 1613 Taylor Street facility will have a cumulative adverse effect on the area in terms of noise, traffic and operations. Therefore, the application fails to meet the requirements of 11 DCMR 220.6.

The Board is also of the opinion that to approve another non-single-family residential facility for the area would impair the zone plan for the R-1-B District, given the number of group residential facilities currently operating in the area.

The Board concludes that it has accorded great weight to the recommendation of ANC-4A that the application be denied. However, the Board does not base its decision on the fact that there are an overwhelming number of churches, clinics, schools and other such nonresidential uses in the area. The Board notes that some of the uses enumerated by the ANC may be there as a matter of right or with special exception approval. The Board's opinion focuses only on the CBRFs located nearby.

In light of the foregoing, it is hereby ORDERED that the application is DENIED.

VOTE: 4-1 (Angel F. Clarens, Sheri M. Pruitt, Paula L. Jewell and Carrie L. Thornhill to deny; Maybelle Taylor Bennett opposed to the motion).

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

ATTESTED BY:



MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER:

JUL 14 1994

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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."

ord15741/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15741

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUL 14 1994 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:

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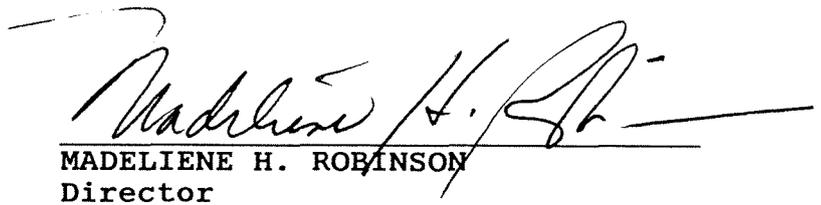
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MADELIENE H. ROBINSON  
Director

DATE:                     JUL 14 1994