

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15804 of Wilbert Rozansky, Ph.D., pursuant to 11 DCMR 3108.1, for a special exception under Section 357 to 358.7 to establish two youth rehabilitation homes for eight persons each within the same square and within 500 feet of other community-based residential facilities of five or more persons on the first and second floors, in an R-5-A District at premises 422-28 Mellon Street, S.E. (Square 5997, Lots S-10 and 11).

HEARING DATE: May 19, 1993
DECISION DATE: June 2, 1993

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property that is the subject of this application is located at 422 through 28 Mellon Street, S.E. The property is improved with a three-story structure. It is zoned R-5-A.

2. The R-5-A District permits matter of right development of single-family detached and semi-detached dwellings, and, with the approval of the Board of Zoning Adjustment, low-density development of general residential uses including rowhouses, flats and apartments. Youth rehabilitation homes, adult rehabilitation homes, and substance abusers' homes for one to 20 persons, not including resident supervisors and their families are permitted in the R-5-A District if approved by the Board of Zoning Adjustment.

3. The subject property is located in the Congress Heights neighborhood of Ward 8, in the southeast quadrant of the District of Columbia. Congress Heights is zoned to accommodate low-density apartment houses.

4. The subject site is located south of Saint Elizabeths Hospital in the general vicinity of Martin Luther King, Jr., Avenue and Portland Street S.E. Single-family detached dwellings are located close to the site. Apartment buildings, particularly garden apartments, are interspersed among the single-family dwellings. Commercial establishments that are neighborhood-oriented are located close to the site on Martin Luther King, Jr., Avenue.

5. The applicant proposes to establish two community-based residential facilities (CBRFs) for a total of 16 male youths between the ages of 16 and 21 years old. The program will be housed in two adjacent buildings. The first building is located at 422 to 424 Mellon Street, and the second at 426 to 428 Mellon Street, S.E.

6. Each building contains two adjoining two-story, three-bedroom structures, which will accommodate four youth per unit. The facilities would be established to provide community-based therapeutic treatment for male youth offenders.

7. The proposed youth rehabilitation homes would be under the management of JMC Associates, Inc. Funding would be provided by the District of Columbia Department of Human Services.

8. According to JMC, its program objectives are to (1) provide a safe and home-like environment for youth who require shelter, meals, and the provision of comprehensive health care for as long as it is required; (2) provide experienced staff who serve as role models for developing life skills and responsible patterns of behavior in preparation for independent living; (3) encourage and develop positive interpersonal relationships with adults, family members, if appropriate, and peers; (4) to access functioning and provide motivation in areas of work, social relations, emotional coping, and community living; (5) provide individual development and treat individual behavior problems that are personally or socially destructive; (6) coordinate service delivery with the family, educational, vocational, and recreational programs, and/or other participating agencies, if necessary; (7) develop and implement an individual treatment or social services plan that will increase the potential of each resident or individual in collaboration with Youth Services Administration officials; and (8) provide comprehensive program services, 24 hours per day, seven days a week, if necessary.

9. JMC Associates, Inc., seeks to accomplish its program objectives in a "homelike" environment. JMC would offer a comprehensive treatment plan to consist of: (1) medical, psychiatric and psychological assessments; (2) alcohol and substance abuse assessments; and (3) therapy counseling for individuals, group, and family. In addition, adjunctive therapies and staff development will be provided.

The applicant indicated that 16 full-time employees, 12 part-time employees and six consultants would be working at the site. The applicant indicated that the employees would include case managers, psychologists and therapists.

10. By memorandum dated May 12, 1993, the Office of Planning (OP), recommended conditional approval of this application. OP noted the location of the site and the proposed use. OP stated that the applicant is proposing to establish two community-based residential facilities that would provide services seven days per week for 24 hours.

OP stated that approximately 11 CBRFs are located within a one-half mile radius of the site. One of the 11 facilities is

located at 437 Mellon Street S.E. Another facility is located within 500 feet of the subject site at 423 Newcomb Street S.E.

OP stated that the Zoning Regulations required the applicant to provide at least two on-site parking spaces. The applicant indicated that two automobiles can park at the rear of each building. The applicant is capable of parking four automobiles on the site. Accordingly, the applicant is capable of meeting the parking requirement of the Zoning Regulations.

OP stated that it referred this application to the following District of Columbia government agencies:

- A. Department of Public Works;
- B. Department of Fire and Emergency Medical Services;
- C. Department of Human Services;
- D. Metropolitan Police'
- E. Office of Community-Based Residential Facilities.

OP is of the opinion that the applicant's proposal is in harmony with the general purpose and intent of the Zoning Regulations and Map. The proposed facilities would not adversely affect the surrounding residential neighborhood because of traffic, noise, operations, or the number of similar facilities in the area. Therefore, OP believes that the applicant meets the tests for special exception zoning relief. In addition, based on the number of facilities that JMC Associates, Inc. operates city-wide, the company has developed a track record for the operation of similar CBRFs in each quadrant of the District of Columbia.

Based on the foregoing discussion, the Office of Planning recommends approval of this application subject to the following conditions:

- A. Approval shall be for a period of **TWO YEARS**.
- B. The total number of people residing on the premises shall not exceed 16 persons at any given time.
- C. The premises shall be kept free of trash and debris at all times.
- D. Loitering shall not be permitted on or around the premises.
- E. On-site activities shall not be disruptive to neighboring property owners and residents.
- F. All landscaping shall be continuously maintained in good condition.

G. The applicant shall develop a security plan to be included as part of the record in this case.

H. The applicant shall develop and maintain a liaison arrangement with the Congress Heights community.

11. By memorandum dated May 13, 1993, the Department of Public Works (DPW) stated that information regarding off-street parking was not furnished with the application, because the applicant was unaware of this requirement. DPW noted that Mellon Street is a local street with no parking restrictions. In addition, if the staff of the youth homes were to individually park in the 400 block of Mellon Street, their vehicles would occupy approximately 20 percent of available parking spaces.

12. In a letter dated March 24, 1993, the Metropolitan Police Department informed Office of Planning (OP) that it plans to develop a number of physical security measures at the site. With appropriate security measures in place, the Metropolitan Police Department would be able to provide the level of protection necessary for those working at the site.

13. By memorandum dated March 17, 1993 the Fire Department has no objection to the application.

14. The Department of Human Services by letter dated December 1, 1992 requesting expeditious approval of the project in response to the Jerry M. Consent Decree.

15. The Office of Community-Based Residential Facilities was generally in support of the proposal with conditions similar to those proposed by the Office of Planning.

16. By report dated May 10, 1993 and by testimony at the hearing Advisory Neighborhood Commission (ANC) 8C stated its opposition to the application. The ANC indicated that its opposition was based on the following:

A. The area where the youth rehabilitation home is being proposed is a residential community comprised of mostly single-family homes. This facility, if approved, will greatly impact on the character of the community.

B. The street where the youth rehabilitation home is proposed has a history of being an open air drug market.

C. The accommodation of sixteen youths between the ages of 16 and 21 in a small area changes the concept of a group home to that of a mini jail or detention center.

- D. The Commission also believes that an individual community-based residential facility in the area will not enhance or improve the stability of our community. Our feeling is that it will have a negative impact because of the nature of the facility.

17. An Advisory Neighborhood Commissioner and an employee of the Youth Services Administration both testified in support of the application stating the following: a) that the facility was needed in the community to serve this particular population of youth; b) to comply with the Jerry M. Decree; c) youths in existing homes are not affected by existing drug activity; d) JMC is a reputable operator, and; e) the community must recognize the need for and begin to support these programs for the city's youth.

18. A resident of 443 Oakwood Street, the owners of 418, 420 and 427 Mellon Street and the ANC Commission of 8C-04 appeared to testify in opposition to the application for the following reasons:

- A. The subject site is located in a high crime and drug-infested area.
- B. High concentration of group homes.

19. At the close of the public hearing, the Board requested that the Office of Planning prepare a map identifying existing community-based residential facilities, their type and number of residents. The OP filed a supplemental report dated May 24, 1993 in response to the Board's request. The OP report indicated that an adult rehabilitation home of eight beds was located at 546 Newcomb Street, S.E.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. There are 11 other community-based residential facilities within 500 feet of the subject site particularly an adult rehabilitation home.
2. There are other community-based residential facilities with five or more persons located in the same square.
3. The Board agrees with the report of the ANC that these additional facilities will create a negative impact on the community.

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 to establish two youth rehabilitation homes for 16 persons on property located in an R-5-A District.

The granting of such special exception relief requires a showing through substantial evidence that the application can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the application will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The applicant must also meet the applicable provisions 11 DCMR 357 and 358 governing a youth rehabilitation home.

The Board concludes that the applicant has not met the burden of proof. The Board concludes that the facility will have an adverse impact on the neighborhood because of traffic, noise, operations, and the number of similar facilities in the area.

Finally, the Board concludes that granting the application would not be in harmony with the general purpose and intent of the Zoning Regulations and Map, and that it will adversely affect the use of neighboring property.

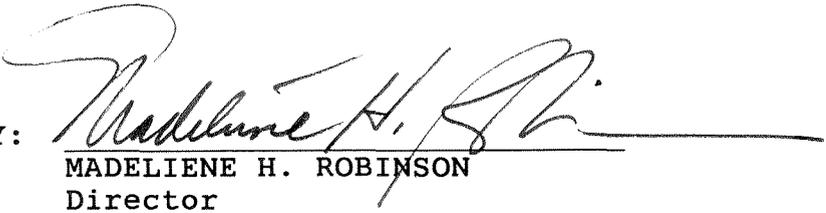
The Board concludes that it has accorded the views of ANC 8C the "great weight" to which they are entitled.

Based on the foregoing the Board ORDERS that the application is hereby DENIED.

VOTE: 3-0: (Sheri M. Pruitt and Paula L. Jewell, to deny; Carrie L. Thornhill to deny by proxy).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: _____

JUN 30 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."

15804Order/LH/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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BZA APPLICATION NO. 15804

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 30 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:

William Brockenberry
Administrator
Community Service Administration
Department of Human Services
3199 Stanton Road, S.E.
Washington, D.C. 20020

Synthia Smith
424 Newcomb Street, S.E., #3
Washington, D.C. 20032

Dr. Carla J. Burrell
4009 16th Street, N.W.
Washington, D.C. 20011

Constance Laurent-Roy
1656 Chimney House Road
Reston, Virginia 22090

Lisa Wall
152 U Street, N.E.
Washington, D.C. 20002

W. Rozansky
6109 Highboro Drive
Bethesda, Maryland 20817

Judith A. Phillips
41 Quincy Place, N.W.
Washington, D.C. 20001

John W. Davis
443 Oakwood Street, S.E.
Washington, D.C. 20032

Anita Shelton
1628 16th Street, N.W.
Washington, D.C. 20009

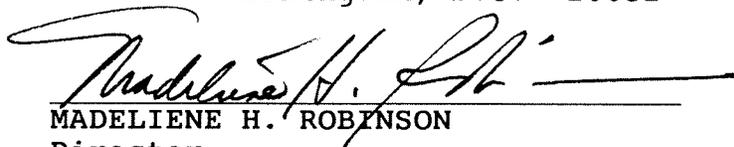
Jerome E. Smith
420 Mellon Street, S.E.
Washington, D.C. 20032

Vincent Phillips
427 Mellon Street, S.E., #1
Washington, D.C. 20032

Mary Cuthbert
3724 Horner Place, S.E.
Washington, D.C. 20032

Lewis C. Ecker, II, Chairperson
ANC 8A
2427-A Martin Luther King, Jr.,
Avenue, S.E., #108
Washington, D.C. 20020

William Lockridge, Chairperson
ANC 8C
3125 Martin Luther King, Jr.,
Avenue, S.E.
Washington, D.C. 20032


MADELIENE H. ROBINSON
Director

DATE: JUN 30 1994
15804Att/bhs