

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15892 of Unfoldment, Inc., as amended, pursuant to 11 DCMR 3108.1, for a special exception under Subsection 306.1 to establish a youth rehabilitation home of eight youths and a rotating staff in the basement of the principle structure and cottage in an R-2 District at premises 3825 South Capitol Street, S.W. (Square 6129, Lot 826).

HEARING DATE: November 10, 1993
DECISION DATE: December 1, 1993

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject site is located on the west side of South Capitol Street between Xenia Street and Holly Place, and is known as 3825 South Capitol Street, S.W. The site is in the R-2 zone district.

2. The site consists of approximately three acres of land area with 145 feet of frontage along South Capitol Street. The site abuts a 27-foot wide paper street at the rear (2nd Street, S.W.) and rises in elevation from South Capitol Street.

3. The site is wooded, and is improved with a two-story plus basement, detached single-family dwelling containing six bedrooms, three kitchens, and three and one-half baths. A separate one-bedroom cottage is located near the main house. Six off-street parking spaces are provided with access from unimproved 2nd Street to Xenia Street.

4. Abutting the site to the north is a U.S. Park Police substation, and further north and west are large parcels of wooded unimproved land owned by the U.S. Government. Immediately to the west of the site is unimproved 2nd Street. Immediately south of the site are two churches on the north side of Xenia Street in the R-2 District. The area south of Xenia Street and west of South Capitol Street and Martin Luther King Jr. Avenue is developed with single-family detached dwellings in the R-2 and R-5-A Districts. East of the site across South Capitol Street are apartment structures. Further east is a mix of multi-family and single-family detached and semi-detached structures in the R-5-A District, southeast of the site is a C-2-A District beginning at the intersection of South Capitol Street and Martin Luther King Jr. Avenue.

5. The R-2 District permits matter of right development of single-family detached and semi-detached dwellings with a minimum lot area of 3,000 square feet, a minimum lot width of 30 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet. A youth rehabilitation home is permitted as a special exception in an R-2 zone district with the approval of the Board under the provisions of Section 306 of the Zoning Regulations.

6. The pertinent provisions of Section 306 are the following:

- 306.1 Youth rehabilitation homes, adult rehabilitation homes, or substance abusers' homes for one (1) to eight (8) persons, not including resident supervisors and their families, shall be permitted in an R-2 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.
- 306.2 There shall be no other property containing a community-based residential facility for five (5) or more persons in the same square.
- 306.3 There shall be no other property containing a community-based residential facility for five (5) or more persons within a radius of five hundred feet (500') from any portion of the subject property.
- 306.4 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 306.5 The proposed facility shall meet all applicable code and licensing requirements.
- 306.6 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.

7. By Board Order No. 15560, dated November 19, 1991, the applicant was granted the right to establish a community center for Unfoldment, a nonprofit community based education organization. The applicant, Unfoldment, purchased the subject property in 1988 and presently occupies the property as it's administrative offices.

8. The applicant proposes to establish a youth rehabilitation home of eight (8) male youths ages 13 to 18 years and a rotating staff of 18 full-time, and six part time volunteers. The program will be operated in the basement of the main house and the cottage.

The basement of the house has a separate outside entrance and contains a large room, one full bath and two small rooms. The cottage contains a living and dining room, kitchen, one bedroom and one full bath.

9. The applicant testified that the program would operate 24 hours a day, 365 days a year. The youths would be adjudicated by the court system, and as part of the Jerry M. Consent Decree, they would be placed in the proposed residential facility as an alternative to placement in Cedar Knoll. The youths will be referred from the Youth Services Administration (YSA) of the D.C. Department of Human Services. The applicant stated that the youths referred will not have had committed violent crimes.

10. The applicant testified that its contract with YSA provides for a six-month period for each youth to remain in the program. The applicant stated that it was encouraging the City to allow for an additional six months in an aftercare status because the initial period may be too short. The applicant further stated that YSA was requiring that the youths would not be allowed to leave the premises without a staff person and that contact with the community would be minimal. YSA was also requiring that the youths be educated on the premises and that a full time teacher be hired. The teacher will be bilingual and certified through the D.C. Public School system.

11. The first 90 days of the program will be for orientation, visitation will not be permitted. After the orientation phase, visitation will be allowed on Saturday and Sunday for approximately three hours.

12. The applicant testified that the youths will be involved in housekeeping aspects of the program. The youths will be able to plan and prepare meals and perform job functions. Other activities include supervised leisure and recreation activities (including field trips); free time, on-site school and homework time, and; an enterpreneurial program. Television and radio are supervised by staff who select videos and music.

13. The applicant testified that the administrative offices of Unfoldment, Inc. presently operating on the first and second floors of the main building have a staff of five full time persons and operate from 9:00 a.m. to 6:00 p.m., Monday through Friday. If the application is approved, the office function would continue.

Rooms on the first floor will be shared with the youth rehabilitation program for educational and other activities.

14. Three shifts will be used to staff the facility with at least two full-time counselors on duty at all times. The applicant testified that the total number of persons at the facility at any one time will be 18. The staff will consist of:

Ten (10) full time counselors

Three (3) part time counselors

One (1) full time teacher

One (1) part time recreation specialist

One (1) part time nurse (20 hours per week)

One (1) part time clinical psychologist

One (1) full time cook

One part time project director

One (1) ethicist (morals and values)

One (1) administrative position (secretary/clerk)

The applicant stated that their approach to staffing is to blend professional and experienced persons by hiring persons with degrees in social work and backgrounds in education, and hiring graduates of Unfoldment's Lorton program who have been in the community for at least three years and who have demonstrated a seriousness about turning themselves around.

15. A consultant with the National Center for Health Fitness, a detective with the Metropolitan Police Department and a former inmate of the Lorton Detention Center who graduated from Unfoldment's Lorton Program, testified to the quality of the organization and staff, and the effectiveness of the Unfoldment program.

16. The applicant testified that with respect to security, the main house and cottage have internal alarm systems, the property is fenced and that arrangements had been made with the 7th District Police and the neighboring Park Service substation to make periodic visits to the site. The applicant also stated that efforts will be made to close the unimproved portion of 2nd Street at the rear of the site to better secure the property and to prevent dumping that is presently occurring. A fence and gate would be erected with a bell to gain entrance to the site.

17. The applicant testified that trash collection will occur once per week. Bottled water will be delivered twice per week and food pick-up will be twice per week by an Unfoldment van that will be kept on-site.

18. The applicant testified that up to six parking spaces are provided on-site. An average of six staff drive to work and other staff will use public transportation. On visiting days staff will park on the street to allow visitors to park on-site. The applicant further stated that the youths will not be allowed to have vehicles at the site.

19. The applicant testified that the proposed facility was discussed with neighbors within a 500-foot radius of the site by way of an open house. It was also stated that the applicant attended meetings of Advisory Neighborhood Commissions 8C and 8D.

20. The Office of Planning (OP) by memorandum dated November 2, 1993, and testimony at the hearing recommended approval of the application with the following conditions:

- a. The approval of the special exception in this case shall be valid for a period of five years.
- b. The maximum number of youths residing at the facility shall not exceed eight.
- c. The maximum number of full time staff members shall not exceed 18.
- d. The maximum number of individuals at the home at any one time (including clients served) shall not exceed 18.
- e. Delivery of water shall be made to the home twice monthly.
- f. Commercial trash collection shall take place once weekly.
- g. The applicant shall establish and maintain formal liaison with ANC 8C.

The OP was of the opinion that the applicant met its burden of proof relative to the zoning relief being sought in this case. The subject youth rehabilitation home would be located on a large lot and would be well-buffered from the surrounding neighborhood. As a result, the facility would not create objectionable impacts on the area in terms of traffic, noise or other objectionable conditions. Clients at the home would be supervised at all times and would have minimal interaction with the community. The faci-

lity would operate under contract with the D.C. Department of Human Services which would require it to meet all code and licensing requirements. In addition, there are no other community-based residential facilities for five or more persons in the subject square or within a 500-foot radius from any portion of the subject property.

21. The Department of Public Works (DPW), by memorandum dated November 4, 1993, concluded that the application will have little or no measurable effect on the transportation system in the area. DPW indicated that South Capitol Street is a principal arterial street where parking is not allowed on weekdays during the rush hours. Vehicular access to the site is only from a private roadway (extension of 2nd Street into the property) off Xenia Street. To operate the facility, approximately 18 full time staff persons will be employed over a 24-hour period. It should be noted that parking is available on-site in the back of the property. In addition, the applicant has a van to transport the youths for outside field trip activities. In DPW's judgement, the transportation needs of the proposal can be satisfied by the on-site parking supply and the available van.

22. The Metropolitan Police Department (MPD), by letter dated October 19, 1993 does not oppose the application. The MPD concluded that the application will not affect public safety in the immediate area or generate an increase in the level of police services now being provided.

23. Advisory Neighborhood Commission (ANC) 8C by report dated November 2, 1993 voted in favor of the application. Through testimony at the public hearing, the ANC representative stated that it supported the recommendation of the Office of Planning and cited the following additional reasons in support of the application: a) The site is isolated from the larger community; b) the proposed use is similar to the previous use of the site; c) the applicant has been an active participant in the community and has a positive reputation, and; d) only minor complaints from residents regarding trash in the area of 2nd Street have been registered.

24. An Advisory Neighborhood Commissioner who is also an employee of the Youth Services Administration of the Department of Human Services, testified in support of the application citing the City's need to establish youth residential care homes because of the Jerry M. Consent Decree and the manner in which the Board has recently approved similarly facilities in other areas of the city.

25. A resident of 3616 Horner Place, S.E. testified in opposition to the application. The resident raised a notice matter and requested that the proceeding be postponed or the case

dismissed. He indicated the placard posted on the property had the incorrect time of the public hearing as 9:30 a.m. instead of 2:00 p.m.

He testified that he opposed the application on the grounds that there was a proliferation of group homes in the Congress Heights community, that the subject site is historic and should be preserved, that the neighborhood suffers from a high crime rate presently, that occupants of the group home will bring crime with them into the community, and wondered whether the applicant is covered by insurance if it is found that a resident of the facility commits a crime.

The applicant responded to the claims by stating that the subject property is not historic and that the District government requires liability insurance to cover acts of its staff and clients.

26. A written statement was filed into the record by a resident of 3912 2nd Street, S.W. in opposition to the application because of parking concerns and the fear of the facility bringing strangers into the community where crimes have occurred. No other letters of support or opposition were filed into the record.

FINDINGS OF FACT:

1. The Board finds that while the incorrect time appeared on the placard posted on the property, no real harm occurred. All other forms of notice cited the correct time and place except the posted placard that had all the correct information except the time. The party who raised the issue did appear and participated in the public hearing. Likewise, any person who may have been interested in the application would have appeared at or inquired of the Office of Zoning about the hearing and would have been given the correct time of the public hearing.

2. The Board finds the subject site appropriate for the proposed facility. Its size, location and character offer some isolation from the larger community that will minimize any adverse impacts due to traffic, noise or operations.

3. There is no other property containing a community-based residential facility for five or more persons in the same square or within a radius of 500 feet from any portion of the site. The Board does not find a proliferation of facilities in the area of the site.

4. Six off-street parking spaces are provided on the site.

5. The Board agrees with the recommendation of Advisory Neighborhood Commission 8C.

6. The Board agrees with the reports of the Office of Planning, the Department of Public Works and the Metropolitan Police Department.

7. The Board finds that the subject site will not undergo any drastic physical changes. The applicant proposes to retain the site substantially in its present condition.

8. The Board finds that clients of the facility will be under constant supervision. The Youth Services Administration is requiring that the youths be educated on-site and that they not leave the facility without a staff member to accompany them. The level of supervision contemplated will significantly reduce any risk that the youths will adversely affect the community with criminal acts, or visa versa.

9. The Board finds that some apprehension is present in the community despite the applicant's community reputation and efforts to inform the community of its program. The Board finds that there is a need to continue and improve communications between the community and the applicant through a formal structure.

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 a youth rehabilitation home for eight youths on property located in an R-2 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 of 11 DCMR 306 governing youth rehabilitation home.

The Board concludes that the applicant has met the burden of proof. The Board concludes that the applicant will provide adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees, and visitors.

The Board concludes that the proposed facility will meet all applicable code and licensing requirements.

The Board is of the opinion that 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.

The Board concludes that while there were claims of a number of other facilities located in the Congress Heights community, the Board is bound by the Zoning Regulations which allow facilities to be approved if they are not within 500 feet of each other or within the same square.

The Board concludes that the application has been referred to and reviewed by the Office of Planning and other relevant District of Columbia departments and agencies, all of whom either recommended approval or offered no objection to approval of the application.

Finally, the Board concludes that granting the application is in harmony with the general purpose and intent of the Zoning Regulations and Map, and that it will not tend to 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.

1. Approval shall be for a period of FIVE YEARS.
2. The maximum number of youth residing at the facility shall not exceed eight.
3. The maximum number of full time staff shall not exceed 18. The number of staff on the premises shall be sufficient to provide 24-hour supervision of the residents and to respond to emergencies at all times.
4. The maximum number of individuals on the premises at any one time, including clients served, shall not exceed 18.
5. No more than two truck deliveries shall be made to the premises per week.
6. Commercial trash collection shall occur at least once per week. Any outdoor trash containers shall be screened from view.
7. The grounds of the facility shall be kept free of refuse and debris at all times. Landscaping shall be maintained in a neat and healthy growing condition.
8. The applicant shall provide the residents of the area with the telephone number of an appropriate

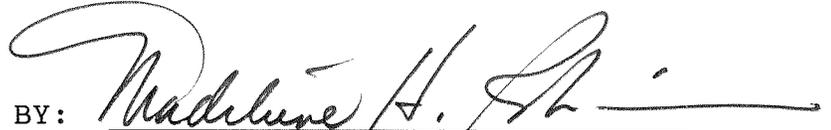
contact person who can be reached on a 24-hour basis to report any problems with any activity or conditions at the subject facility.

9. The applicant shall establish and maintain a community liaison program consisting of representatives of the facility, the ANC, and the neighborhood. The applicant shall conduct meetings of the community liaison group at least four times yearly. Notice of the meetings shall be given to the ANC and the owners of all property within 200 feet of the site. The applicant shall be responsible for keeping minutes of all meetings and providing quarterly reports of its activities. The applicant shall file copies of all minutes and quarterly reports with the Board at the time of filing an application for continuance of the special exception relief.

VOTE: 5-0 (Craig Ellis, George Evans, Laura M. Richards and Angel F. Clarens to grant; William B. Johnson to grant by absentee vote).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: _____

JAN 25 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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."

BZA APPLICATION NO. 15892
PAGE NO. 11

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, 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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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15892

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JAN 25 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:

Kemi Morten
Unfoldment, Inc.
2605 Wade Road, S.E.
Washington, D.C. 20020

William Lockridge, Chairperson
Advisory Neighborhood Commission 8-C
3125 Martin Luther King Jr. Avenue, S.E.
Washington, D.C. 20032

Je Phunneh Lawrence, Esquire
3616 Horner Place, S.E.
Washington, D.C. 20032

Lawrence Guyot
507 U Street, N.W.
Washington, D.C. 20001


MADELIENE H. ROBINSON
Director

DATE: JAN 25 1994