

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 16138 of The Presbyterian Home, pursuant to 11 DCMR 3108.1, for a special exception under Section 218 to increase an existing community residence facility by the addition of 102 units in an R-1-A District at premises 3050 Military Road, N.W. (Square 2287, Lot 807 and a portion of Lot 5).

**HEARING DATES:** September 18 and October 30, 1996

**DECISION DATE:** December 4, 1996

**DISPOSITION:** The Board **GRANTED** the application by a vote of 5-0 (Laura M. Richards, Herbert M. Franklin, Sheila Cross Reid and Angel F. Clarens to grant; Susan Morgan Hinton to grant by absentee vote).

**FINAL DATE OF ORDER:** September 30, 1997

**RECONSIDERATION ORDER**

The Board granted the application at its public meeting of December 4, 1996. The order was issued on September 30, 1997. On October 10, 1997, Abutters of the Presbyterian Home, opposing parties to the application, filed a timely motion for reconsideration of the Board's decision pursuant to 11 DCMR 3332.

Under Subsection 3332.4, a motion for reconsideration shall state specifically the respects in which the final decision is claimed to be erroneous, the grounds for the motion and the relief sought.

The movant maintained that the Board should reconsider its decision to grant the special exception to operate a CRF because in the final order the Board concluded, without any supporting analysis, that "[t]he program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location." (BZA Finding of Fact #2, at p. 7). The movant argued that the Order failed to specifically identify what the program goals of the District of Columbia are with respect to the CRF at issue in this case. The movant noted that these goals are specified in the Ward 3 Plan of the D.C. Comprehensive Plan, which identifies the program goal of the District for human services to the elderly as providing "food and shelter to needy populations, but of a size or in settings that avoid adverse effects on surrounding property uses. The ward can host numerous facilities without impact if those facilities are consistent with the area's low density character." 10 DCMR Subsection 1408.3(d) (emphasis supplied by movant).

The movant stated that this Board is required to ensure that “the objectives and policies of the District elements [of the Comprehensive Plan] are considered in . . . special exception, variance, and other decisions.” Council Report on Bill 5-282, D.C. Comprehensive Plan Act of 1984, at 52 (Jan. 17, 1984). The movant argued that the September 30, 1997 Order shows no evidence that any consideration was given to whether or not the proposed CRF will further the objectives and policies of the District, as set forth in the D.C. Comprehensive Plan, much less whether a lower-density facility would further such policies as well, if not better.

The movant argued that the Board’s conclusion in the September 30, 1997 Order, that “[t]he program goals and objectives of the District cannot be achieved by a facility of a smaller size at the subject location,” is clearly erroneous, and lacks support in the record. While the record indicates that there may be a demand for the type of facilities provided by the proposed CRF, there is nothing in the record indicating that this CRF will serve the City’s “needy populations,” or otherwise achieve the program goals and objectives of the District. Accordingly, the movant maintained that the Board may not approve the proposed CRF since there is no evidence to support a finding that “the program goals and objectives of the District 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.” 11 DCMR Subsection 218.7. Therefore, this Board may not approve any CRF unless it is consistent with the low density of the area.

The final argument made by the movant (in the subject motion), related to matters not part of the record, and therefore irrelevant for purposes of considering a motion for reconsideration.

By letter dated October 20, 1997, the applicant, (respondent herein) through counsel, opposed the motion for reconsideration and requested that the motion be denied by the Board.

The respondent argued that the Board did not err in granting the application with regard to the program goals of the District. The respondent pointed out that the Home serves the elderly population of the District of Columbia in Ward 3, the Ward that contains the highest percentage of elderly residents in the District of Columbia. The respondent stated that there is a demonstrated need for housing for seniors in Ward 3 and that the number of depositors speaks for itself. It was noted that the Ward 3 plan specifically cites the objective of expanding housing opportunities for the elderly in the ward (Section 1200.303(d)(2) and providing zoning flexibility for the production of new housing especially for the elderly (Section 1200.303(d)(34)). In the respondent’s view the project clearly supports these objectives.

The respondent further argued that the Home serves those in need, and noted that 20 percent of the Home’s residents receive financial assistance. Over \$300,000 annually is spent on financial assistance, and the members of the Presbyterian faith are admitted to the Home without regard to financial means. The Home’s charitable mission allows for these substantial subsidies. For all of the reasons stated, the Home requested that the Board deny the motion for reconsideration.

No other responses were received in support of or in opposition to the motion for reconsideration.

Upon consideration of the motion and the response thereto, the Board concludes that it did not err in granting the relief requested in the application. The Board concludes that the population being served by the Presbyterian Home is the elderly population in this area, that there is a need for elderly housing of all kinds. The record shows that there is a waiting list at the site and that other facilities in the area were full or nearly full.

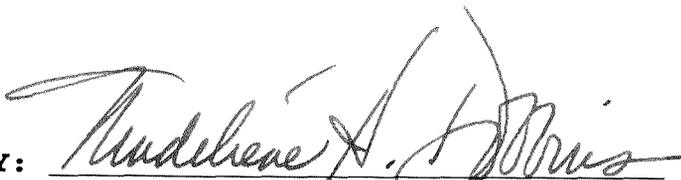
Therefore, the Board is of the view that it did not err in finding that the program goals could not be achieved by a facility of a smaller size is not erroneous.

In light of the foregoing, the Board hereby **ORDERS** that the **MOTION** for **RECONSIDERATION** be **DENIED**.

**DECISION DATE: November 5, 1997**

**VOTE: 4-0** (Sheila Cross Reid, Susan Morgan Hinton, and Laura M. Richards to deny; Herbert M. Franklin to deny by absentee vote).

**BY ORDER OF THE BOARD OF ZONING ADJUSTMENT**

**ATTESTED BY:**   
**MADELIENE H. DOBBINS**  
**Director**

**Final Date of Order:**                     FEB 13 1998                    

UNDER 11 DCMR 310.1, "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."

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 16138**

As Director of the Board of Zoning Adjustment, I certify and attest that on FEB 13 1998 a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Allison C. Prince, Esquire  
Wilkes, Artis, Hedrick and Lane  
1666 K Street, N.W., Suite 1100  
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Darryl Stephens, President  
Concerned Neighbors of the Presbyterian Home  
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Washington, D.C. 20015

A handwritten signature in cursive script, reading "Madeliene H. Dobbins".

**MADELIENE H. DOBBINS**  
Director

FEB 13 1998

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