

Case # 18070

 ANC 6B
Capitol Hill / Southeast

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703 D Street SE
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SMD 10 *Francis Campbell*
SMD 11 *Vacant*

March 15, 2010

Marc C Loud, Chairman
DC Board of Zoning Adjustment
441-4th Street, NW
Washington DC 20001

Dear Mr. Chairman:

On February 23, 2010, at its regular monthly meeting, properly noticed and with a quorum present, Advisory Neighborhood Commission 6B voted unanimously (9-0) to appeal the decision of the Zoning Administrator to grant a construction permit to the Airports Council International (ACI) to renovate the property at 136 D Street SE as a "private club". As a result, ANC 6B requests that the BZA withdraw the permit on the grounds that the Zoning Administrator incorrectly approved the request.

On December 8, 2009, ANC 6B was informed that construction was underway at 136 D Street SE. The Commission was alerted through an email from Michael Wilson, the homeowner of the abutting property at 138 D Street SE. Mr. Wilson advised the Commission that he had contacted DCRA and was informed that the permit was issued on the grounds that the Zoning Administrator had decided that the proposed use of the property qualified as an of-right "private club". Mr. Wilson reported further that the permit had not been posted when it was issued in September 2009 and instead was posted in early January 2010, well after construction started.

After researching the issue, ANC 6B scheduled the matter for consideration at its regular February meeting (originally scheduled for February 9 but postponed to February 23 due to the snow emergency). At our February meeting, the ACI representatives explained that ACI purchased the property in May 2008 for the purpose of creating a place where ACI members could stay overnight while in town on ACI business and thus avoid having to pay for expensive hotel lodging. The property was selected because of its ready access to Congress, and to the FAA headquarters building on Independence Avenue, the two primary locations where meetings are held that AGI members attend while in the city. In June of 2009, AGI requested a construction permit from DCRA, arguing that its proposed use of the property was as a "private club", a permitted use under the DC Zoning Code.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18070

EXHIBIT NO. 1

Board of Zoning Adjustment
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Among the uses that are permitted as a matter of right in an R-4 District are the following:

“Private club, lodge, fraternity house, sorority house, or dormitory, except when the use is a service customarily carried on as a business.” (11 DCMR Section 330.5(i))

Further, at Section 199.1, the DC Code define the term “private club” as follows:

“a building and facilities or premises used or operated by an organization or association for some common avocational purpose such as, but not limited to, a fraternal, social, educational, or recreational purpose; provided that the organization or association shall be a non-profit corporation and registered with the U.S. Internal Revenue Service; goods, services, food, and beverages shall be sold on the premises only to members and their guests; and office space and activities shall be limited to that necessary and customarily incidental to maintaining the membership and financial records of the organization.”

ANC 6B notes that the purchase and use of residential properties by for-profit and non-profit organizations for business purposes in the blocks adjacent to the House and Senate Office buildings has long been a problem. Notwithstanding periodic discussions with the Office of Zoning Administrator about this problem over the years by both ANC 6B Commissioners and representatives of the Capitol Hill Restoration Society, the city has declined to take action to block inappropriate uses of these properties in residential areas.

In this regard, the case of 136 D Street SE is particularly troubling because of the Zoning Administrator’s approval of the request to treat the proposed use as fitting the definition of a “private club”. ANC 6B’s discussion with the representatives from ACI convinced the Commission that the actual use intended for this property is as lodging for the Council’s members – in other words, as a hotel. The proposed use is thus “vocational” rather than “avocational” and thus does not meet the requirements of the code provision cited above.

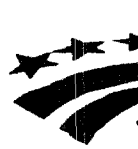
ANC 6B is concerned that if the ruling of the Zoning Administrator is not reversed, a new loophole of considerable size will have been opened up that could encourage other applications for “private clubs” in our neighborhood. For these reasons, ANC 6B seeks to appeal the decision of the Zoning Administrator and request that the Board of Zoning Appeals withdraw the permit.

Sincerely,



David F. Garrison
Commissioner, ANC 6B01
Chair, ANC 6B

CC: Airports Council International
Michael Wilson



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