GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

MEMORANDUM

April 10, 2000

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To: Sherri Puritt William, Secretary To the Board
Board of Zoning Adjustments (BZA)
DC Office of Zoning

From: Michael D. Johnson
Zoning Administrator

Subject: Request for Zoning Administrator's Review
BZA Application No. 16531 4801 Sargent Road, N.E.
(Father Flanagan's Boys Home)

The Board has requested, through the Secretary of the Board, my advice as to whether the subject application of Father Flanagan's Boys' Home requests the proper relief from the Board. The application requests a special exception under Section 303 to permit four residential care buildings, each housing no more than six persons.

I have reviewed the applicable Zoning Regulations, the order of the Zoning Commission originally adopting what is now section 303, and the decision of the Court of Appeals in *Speyer v Barry* (588A.2d 1147 DC App. (1991)). I have discussed the matter with members of my staff and with representatives of the applicant, who certified the relief to the Board. I have determined that the applicant has requested the proper relief from the Board, and that no other relief is required for the proposed use and development to proceed.

The application proposes the construction of four separate youth residential care homes, in a campus like setting on a 12+ acre property. The applicant will own the entire property and will set program requirements on an overall basis (as it does for all of its similar properties around the United States). Each home will be run by a married couple who will live on the premises and will supervise the daily living and care of the six individuals who is proposed to reside in each building. Additionally, each house will contain all of the facilities to accommodate the six youths and two adults (e.g.kitchen, living room, bedrooms and bathrooms) and the homes will not share facilities, in common.

Under Section 201.1(n)(1), in an R-1 District (and by extension in an R-2 District), a youth residential care home for not more than six persons, not including resident supervisors or staff and their families, is a permitted, matter of right use. If the subject property had been subdivided so that each of the houses was on a separate lot of record, no relief from the Board would have been required.

As a campus like facility, with the four proposed buildings, in addition to the existing emergency shelter which was approved by the Board in Application No. 15805, order dated August 31, 1993, the relief required from the Board is as advertised. I note that under Section 303.7, the Board must determine that "the cumulative effect of the {community based residential} facility will not have an adverse impact on the neighborhood because of traffic, noise or operations."

This case can be distinguished from the Hurt Home case, the one which was subject of the Court of Appeals decision in *Speyer v. Barry*. In that application, a single home was proposed to accommodate

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more than twenty residents. The Court found that a variance was required because, by special exception, the Board could approve no more than fifteen residents. In adopting the CBRF regulations, in Order No. 347, dated July 9, 1981, the Zoning Commission set out four principles it relied upon in amending the Regulations. One of those principles was:

> Smaller facilities, approximating the size and characteristics of families, should be encouraged, to lessen impact, increase compatibility and provide for true alternatives to institutional settings.

I believe that the use and development of the proposed application meets the legislative intent of the Zoning Regulations. If I may be of further assistance, please let me know.

cc: Lloyd J. Jordan,. DCRA Director
Armando M. Lourenco, BLRA Administrator
Edgar T. Nunley, Chief, Zoning Review Branch
Jerrilyn Kress, Director, OZ
Marie Sansome, Assistant Corporation Counsel
Steve Shur, Wilkes and Artis

MDJ/er/mdj
father flanigan/my/bza