GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16622 of Sasha Bruce Youthwork, Inc, pursuant to 11 DCMR § 3104.1, for a special exception under subsection 335.1 to continue the operation of a youth residential care home for 5 additional residents, for a total of 15 residents, and rotating staff in an R-4 District at premises 1022 Maryland Avenue, N.E. (Square 961, Lot 803).

NOTE: The Board amended and approved the application under subsection 303.1 of the Zoning Regulations, not subsection 335.1.

HEARING DATES: **October 24, 2000[1] and November 8, 2000**
DECISION DATE: **December 5, 2000**

DECISION AND ORDER

Preliminary and Procedural Matters

Request for Party Status: The Board received requests for party status from Joshua B. Halpern and the Capitol Hill Restoration Society, represented by Lyle R. Schauer. Under 11 DCMR § 3106.3, the Board may grant a person party status only if that person "has clearly demonstrated that his or her interests will be more significantly, distinctively or uniquely affected in character or kind or kind" by the proposed zoning relief than those of the general public.

The Board determined that Joshua B. Halpern, through testimony and submission (Exhibit No. 23) should be granted party status. The reasons are: the rear of Mr. Halpern's property is located in close proximity to the site; the rear of the site has direct view into Mr. Halpern's yard and residence; and, there is an approximate 10 to 15 foot separation between the two buildings. The Board granted party status to Mr. Halpern.

The Board agreed with the Capitol Hill Restoration Society that they would be uniquely affected by the proposed action because the nature and size of the facility would directly affect members of the Society who reside in the neighborhood. The Board granted party status to the Society.

Request to Waive the Filing Fee: The applicant requested that the filing fee be waived, and identified the following reasons for the request: (1) the facility is a nonprofit organization

[1] At the October 24, 2000 public hearing, the Board determined that it did not have sufficient time to hear the case. The hearing was postponed to November 8, 2000.

#49

Board of Zoning Adjustment
District of Columbia
CASE NO.16622
EXHIBIT NO.49

created for civic purposes; (2) the program is the only one in the city that provides emergency shelter to young people on a 24-hour a day basis; (3) the program is committed to providing services to young people who are in any government system but are homeless, abandoned or neglected and need shelter, protection and guidance; and, (4) the filing fee would be a tremendous hardship for the applicant (Exhibit No. 6).

The Board determined that the filing fee could not be waived because the applicant did not meet the criteria identified in the Zoning Regulations under subsection 3180.4.

Purpose and Description of the Facility: The name of the facility is Sasha Bruce House. It is a youth shelter whose mission is to provide housing and intervention to youths between 11 and 17 years old who are in a crisis. The shelter stabilizes a young person's immediate crisis and provides access to ongoing services. The focus of the facility is to preserve families while protecting the well being of the children and to facilitate alternative placements when family unification is not possible. The applicant feels that the residents should not be disconnected from the community in which they live. The young people receive shelter, food, supportive services, and counseling at the facility. The young people are not violent offenders with criminal records. There has been an overwhelming demand for the services that Sasha Bruce provides in the city. Many of these services were formerly provided by governmental agencies, which are no longer available.

The facility is short-term. Young people stay for an average of 14 to 21 days, during which time they are assigned household chores and learn skills in home living. Both males and females reside in the home. The young people attend school during the day and participate in a variety of activities and group counseling sessions after school. They also receive a wide range of support services, and family counseling is emphasized. The staff works on a rotating basis and consists of 17 people. There are three shifts of staff. They are 7:00 am to 3:00 pm, 2:30 pm to 10:30 pm, and 10:00 pm to 7:00 am. Volunteers assist at the site. The house includes dormitory style bedrooms, in addition to a living room, a dining room, a kitchen, counseling space and recreation area. Three on-site parking spaces are available (Exhibit Nos. 25 and 27).

The applicant operates an after-care program from the site for approximately 10 youths. The after-care program is for young people who have completed the residential portion of the program, but return for additional support. They are on the premises between the hours of 4:00 p.m. to 6:00 p.m.

Certificate of Occupancy No. B132492 established the use in 1983. The C of O was issued to the applicant to operate a "Youth Rehabilitation Home For 10 Residents" (Exhibit No. 8). The applicant is requesting zoning relief under subsection 303.1 of the Zoning Regulations, not subsection 335.1.

Zoning: The site is zoned R-4. The R-4 District permits matter-of-right development of residential uses, including detached, semi-detached and row single-family dwellings and flats. Conversion of existing buildings to apartments is permitted for lots with a minimum lot area of 900 square feet per dwelling unit. A youth residential care home is permitted, as a matter-of-right, in the R-4 District for up to eight persons. The facility is permitted for 9 to 15 persons, not

including resident supervisors or staff and their families, if approved by the Board of Zoning Adjustment in accordance with the provisions specified sections 3104 and 303 of the Zoning Regulations.

Office of Planning Report: The Office of Planning reviewed the application and recommended that the Board approve the applicant's request (Exhibit No. 25). The Office of Planning's reasons for recommending approval of the application were:

- The applicant is requesting a modest increase in the number of young people residing on the premises;
- There are no other community-based residential facility within the subject square;
- There are no other community-based residential facilities within 500 feet of the site;
- Parking for employees and visitors to the property is adequately provided for by three on-site parking spaces at the rear of the building;
- There is not a great demand for on-site parking since the staff works on a rotating basis and the young people do not have automobiles;
- The existing facility is licensed by the Department of Health;
- The building is large enough to accommodate an additional five youths and is capable of meeting all applicable building, fire and health code licensing requirements;
- The facility was established at the site since 1976 and has not had a negative impact on the community; and,
- The facility meets the zoning standards for approval and is in harmony with the general purpose and intent of the Zoning Regulations and would not adversely affect the use of neighboring property.

The Office of Planning noted that occasional noise from the site is limited to the children playing outside. Sometime ago, there was a complaint from neighbors concerning trash. To address the issue, the applicant built an enclosed area for the storage of trash cans and contracted with a private trash company for pick-up service three times weekly.

Advisory Neighborhood Commission: The site is located in Advisory Neighborhood Commission (ANC) 6A07. Two letters were received from the Single Member District Commissioner of 6A07 indicating that the applicant had met with the community and that additional dialogue is necessary (Exhibit Nos. 31 and 47). The ANC Commissioner indicated that residents attending the meeting expressed opposition to the application.

Capitol Hill Restoration Society: Mr. Lyle R. Schauer stated that the Society supports, conditionally, the application. Mr. Schauer emphasized that it was essential that the facility be approved under the section of the Zoning Regulations dealing with youth residential care homes (§303.1) not rehabilitation and substance abusers' homes (§ 335.1).

Opposition: Residents within close proximity of the site submitted a petition asking the Board to deny the applicant's request. (Exhibit No. 32) The residents indicated that the existing facility has negatively impacted the surrounding residential neighborhood. The ongoing problems over a long time has been trash in front of the building produced by the young people who reside in the facility; the site's trash dumpster is open and unsecured, thus an area of rodent infestation;

teenagers associated with the site have been seen drinking alcohol from parked cars; the teenagers have been, on several occasions, out of control outside of the facility without proper supervision; and, the facility's staff has not reached out to the community.

The Board received a letter requesting that the Board deny the applicant's request from Councilmember Sharon Ambrose, Ward 6. The Councilmember indicated that there are many problems associated with the site including: (1) compliance issues concerning other programs being run out of the facility, especially during after-school hours; (2) noise and litter surrounding the facility; (3) problems with teenage alcohol consumption, rowdy and disruptive behavior; (4) improper storage of garbage; and (5) the current staff at the facility is not adequately handling the problems with the 10 teenagers they now serve (Exhibit No. 41).

Mr. Halpern, party to the case, testified that the facility has been disruptive, not only to him personally, but to the community. Mr. Halpern indicated that the program director has been disingenuous about the number of residents who live at the home. He cited a manual entitled "Emergency Food and Shelter Directory" which list the facility as having a capacity of 15 beds, when the facility is only licensed to have 10 beds (Exhibit No. 39). Mr. Halpern indicated that there is another community-based residential facility within 500 feet of the site, Madison's Women's Shelter. He also stated there are other social service-type of facilities in close proximity to the site; namely, Goding School, which is used as a special education facility and Finley Boxing Club. These institutional facilities create excessive impacts on the neighborhood.

Issues:

The file documents the following as the major issues of the case:

- Noise – The residents of the home play basketball regularly in the yard, which creates a tremendous amount of noise. This activity, where as many as 10 young people can participate simultaneously, is very disruptive to the abutting property owners. In addition, the young people who attend the after-care program also contribute to the outdoor noise.

- Disruptive Behavior of the Residents – The young people are disrespectful to the residents of the community, partly because they are not adequately supervised.

- Litter – Trash is not being properly stored at the site. The lids of trash containers are not properly secured creating rodent problems. Trash overflows in the existing dumpsters. The grounds of the facility are unkempt. The public space surrounding the site contains debris.

- The Institutionalization of the Neighborhood – The many existing institutional facilities create a shortage of on-street parking spaces, increased litter and a constant flow of people in and out of the neighborhood.

Response of the Applicant to the Neighborhood's Concerns: The applicant, with the Board's guidance, outlined the following steps that would be taken to ameliorate the issues at the site:

- Establish a Community Liaison Committee to give residents the opportunity to discuss and rectify problems as they occur and to provide continuous dialogue;
- Provide increased supervision of the young people;
- Relocate the basketball hoop so that it would no longer be disruptive to the abutting property owner;
- Erect a fence between the site and the abutting property to buffer noise and the activities of the facility;
- Plant evergreens and shrubbery on the property;
- Provide trash pick up three times weekly to prevent overflow in the dumpsters;
- Reiterate to the staff the importance of supervising the youths who are responsible for taking trash to the dumpster and stressing the importance of closing the dumpsters' doors;
- Emphasize to staff the need to remove debris, daily, from around the perimeter of the premises; and
- Revise the house rules to state, "All youth must be respectful of the neighbors and the community". (The rules are reviewed at the time of intake of each youth and are reviewed on a regular basis.)

FINDINGS OF FACT

1. The site is located in Square 961 on Lot 803 at premises 1022 Maryland Avenue, N.E. The irregularly shaped site is located on the northwest corner of 11th Street and Maryland Avenue, N.E., in the Ward 6 section of the city. Square 961 is triangular in shape. The site occupies a significant portion of the eastern portion of the site. Single-family row dwellings occupy the western portion of the square. The property contains a land area of 14,994 square feet.

2. The site is developed with a three-story, detached large building. The building occupies approximately one-fourth of the site; the remaining portion is used as open space. Three parking spaces are located on the site. The front of the property is flat and the rear slopes significantly.

3. The site is located in a residentially zoned community. A majority of the buildings surrounding the site are single-family row houses. Apartment buildings, schools and churches are interspersed throughout the area.

4. The applicant is proposing to increase the number of persons residing in the home by five. The applicant has a Certificate of Occupancy for ten residents and has housed them on the

site for 17 years. Housing the additional five young adults at the site would not require an expansion of the building.

5. The applicant initiated a series of actions to rectify the problems identified by the residents who are opposed to the application. The applicant established a Community Liaison Program as a vehicle to address difficulties which may arise between the residents of the facility and those in the neighborhood; relocated those on-site activities which could cause a disturbance away from the abutting property; improved the physical appearance of the grounds of the site by planning evergreens and shrubbery; initiated new policies to encourage better communication between the residents of the facility and the neighborhood; and, committed to better management of the trash collection and receptacles.

6. No one who testified in opposition to the application requested that the facility be closed. The testimony indicates that the service provided by the facility serves a critical need in the District of Columbia. The opposition primarily wanted the facility to operate and be maintained more efficiently.

7. The residents of the home are young adults who receive shelter, food, support service and counseling when they are having difficulty at home. The young people are not violent criminal offenders with a record. The facility's purpose and mission is to provide a safe place for youths in a crisis, in a neighborhood setting.

8. The Board received reports from Advisory Neighborhood Commission 6A; however, they do not meet the requirements identified in subsection 3115.1 of the Zoning Regulations. Specifically, the ANC did not have a quorum at the meeting when the applicant discussed the application with the community, and the chairperson and vice-chairperson did not sign the report received by the Board.

9. The site meets and exceeds the number of on-site parking spaces required by the Zoning Regulations.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under the Zoning Act of June 20, 1938 (52 Stat. 797, as amended; D.C. Code § 5-424 (g)(2)(1994)), to grant special exceptions as provided in the Zoning Regulations. Sasha Bruce Youthwork, Inc. applied under 11 DCMR § 3104.1 for a special exception under 11 DCMR § 303.1 to continue the operation of a youth residential care home facility for five additional residents, for a total of 15 residents, and rotating staff. The notice requirements of 11 DCMR § 3113 for the public hearing on the application have been met.

Under § 303.1 of the Zoning Regulations, youth residential care homes or community residence facilities for 9 to 15 persons, not including resident supervisors or staff and their families, are permitted in an R-4 District if approved by the Board of Zoning Adjustment in accordance with the conditions specified in § 3104. The Board may grant a special exception where in the

judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property. In order to grant a special exception to permit the youth residential care home to increase the number of residents by five at the site, the Board must find that the proposed use is not likely to become objectionable to neighboring property because of noise, traffic, operations, or the number of similar facilities in the area.

The Board finds that the applicant has operated the youth residential care home from the site for 17 years. The applicant has demonstrated, during that time, that the facility can co-exist with its neighbors. None of the persons who expressed dissatisfaction with the facility wanted it to close. The residents of the neighborhood who expressed opposition to the application wanted the facility to operate more efficiently.

The Board finds that increasing the number of residents at the home by five people would not created adverse impacts on the neighborhood. The issues that were of significant concern were noise, litter, the behavior of the young adults who reside in the home, the institutionalization of the neighborhood, and compliance with regulatory requirements. The applicant took action to address the concerns of the residents by doing the following: created a Community Liaison Committee that will be responsible for dealing with problems that may arise in the neighborhood; relocated on-site activities away from the abutting residential properties; erected a fence to buffer noise and other on-site activities; provided improved landscaping; increased the frequency of trash pick-up; cleaned and secured the trash area; committed to walking the perimeter of the site daily to pick-up trash; revised the house rules so that each youth knows that he/she has a responsibility to be respectful of the neighbors and the community. The Board did not receive any evidence that the applicant was not in compliance with the regulatory requirements for operating the existing facility. The building and its grounds are large enough to accommodate the increase.

The record reflects that there is a community-based residential facility within the subject square and within 500 feet of the site, a women's shelter. The Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood. Both facilities have co-existed for sometime and provide a vital service to the neighborhood, and the community at large. Neither of these facilities provides service to residents who are involved with the criminal justice system.

The Board is required to give "great weight" to the recommendation of the Office of Planning. The Board considered and agreed with the OP's assessment that applicant has met the burden of proof for granting the special exception. OP acknowledged that the applicant took action to address the issues that were brought to its attention by residents of the neighborhood. The Board accorded OP the "great weight" to which it is entitled.

The Board was unable to give "great weight" to the written report of Advisory Neighborhood Commission 6A because it did not meet the requirements identified in § 3115.1 of the Zoning Regulations.

For the reasons stated above, the Board concludes that the applicant has met the burden of proof for granting the special exception to increase by five the number of residents residing in the home. It is hereby **ORDERED** the application be **APPROVED** with the following **CONDITIONS:**

1. Approval shall be for **THREE YEARS**.
2. No more than 15 residents shall reside in the facility, at any one time.
3. Staff shall be provided as required by the licensing process.
4. The facility shall operate 24-hours daily, seven days per week.
5. The applicant shall comply, and build on, the house rules that have been implemented.
6. The applicant shall maintain the established Community Liaison Program. The liaison group shall meet bi-monthly. The applicant is responsible for notifying the members of the liaison and the neighborhood of meetings.
7. The applicant shall maintain two on-site parking spaces.
8. The appropriate trash receptacles shall be provided. The receptacles shall be secured and trash shall be removed from the premises three times per week.
9. Trash shall be picked up from the perimeter of the premises daily.
10. The applicant shall provide vermin abatement, as needed.

VOTE: 3-1-1 (Sheila Cross Reid, Rodney Moulden, Robert Sockwell to approve; Anne Renshaw opposed to the motion; Carol Mitten, not present not voting.)

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

Each concurring member has approved the issuance of this Order.

JERRILY R. KRESS, FAIA
Director

MAR 16 2001

Date of Approval:_____

PURSUANT TO 11 § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

BAB/2.16.01

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

BZA APPLICATION NO. 16622

As Director of the Office of Zoning, I hereby certify and attest that on MAR 16 2001 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 the matter, and who is listed below:

Deborah Shore & Catherine Jackson
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ATTESTED BY: Jerrily R. Kress
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