# Government of the District of Columbia

OFFICE OF ZONING

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**MEMORANDUM**

TO: Board of Zoning Adjustment

THRU: Jerrily R. Kress, FAIA
Director

FROM: Richard S. Nero, Jr. RSN
Special Assistant

DATE: August 24, 2001

RE: BZA Application No. 16762 – Central American Resource Center

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The Applicant in the above-cited matter has requested, through the self-certification process, a use variance to use a portion (basement and first floor) of a vacant R-5-B zoned apartment building for as a non-profit office providing social services (legal services, etc.) to the immediate community. The remainder of the building will be used for residential apartments. The application has been advertised for a public hearing on September 9, 2001.

The Office of Planning, upon its review of the proposed office use, has suggested to the office of Zoning (OZ) that the Applicant appears to be eligible for special exception relief for a "Community Service Center" under section 334 (attached), as an alternative to the requested use variance. The burden of proof for the special exception is less onerous that the use variance test for office use in a residential zone.

The OZ contacted the Applicant regarding the alternative relief. The Applicant is not opposed to seeking special exception relief so long as the Board's order, if the application is approved, clearly permits the non-profit office use proposed for building permit and C of O purposes. The Board can amend the application at the time of the public hearing as the proposed use has not changed. The only change is the type of the relief being sought (special exception instead of use variance).

Attachment

BZA
Case No. 16762
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO.16762
EXHIBIT NO.23

## 332.1 USES SUBJECT TO BZA APPROVAL: GENERAL (R-4)

332.1 The following uses shall be permitted in an R-4 district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3108 of chapter 31 of this title:

(a) The uses permitted in an R-3 district under §322 of this title, not permitted as a matter-of-right under §330.5 of this chapter; and

(b) Telephone exchange, if declared necessary in the public interest by the Public Utilities Commission, and subject to requirements for setback, screening, or other safeguards as the Board shall deem necessary for the protection of neighboring property.

SOURCE: §3104.4 of Regulations effective May 12, 1958.

## 333 STORAGE AND PARKING ON ALLEY LOTS (R-4)

333.1 Storage of wares and goods, parking lot, parking garage, or public storage garage not otherwise permitted under provisions of this chapter, on an alley lot so recorded on the records of the Surveyor, District of Columbia, or recorded on the records of the District Finance Office, on or before November 1, 1957, shall be permitted in an R-4 district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3108 of chapter 31 of this title, subject to the provisions of this section.

333.2 No storage use authorized in this section shall be located in a building containing more than twenty-five hundred square feet (2,500 ft.$^2$) of gross floor area.

333.3 Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees.

333.4 The alley upon which the use is to be located shall be readily negotiable by any trucking necessary for the proposed operation.

333.5 The hours of active operation shall be arranged so as not to prove disturbing or otherwise objectionable to persons residing around the perimeter of the square in which located.

SOURCE: §3104.43 of Regulations effective May 12, 1958.

## 334 COMMUNITY SERVICE CENTERS (R-4)

334.1 A community service center to accommodate organizations created for the purpose of improving the social or economic well being of the residents of the neighborhood in which the center is proposed to be located which may include but not be limited to centers for job training, family counseling, consumer cooperatives, and such other facilities as are similar in nature and purpose, shall

be permitted in an R-4 District if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3108 of chapter 31 of this title, subject to the provisions of this section.

334.2 A community service center shall be located so that it is not likely to become objectionable to neighboring properties because of noise or other objectionable conditions.

334.3 No structural changes shall be made except those required by other municipal laws or regulations.

334.4 The use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located.

334.5 A community service center shall not be organized for profit, and no part of its net income inures to the benefit of any private shareholder or individual.

SOURCE: §3104.46 of Regulations effective May 12, 1958; as added by Case No. 63-63, August 14, 1964; as amended by Final Rulemaking published at 28 DCR 3482, 3495 (August 7, 1981); and by Final Rulemaking published at 31 DCR 6585, 6586 (December 28, 1984).

## 335 REHABILITATION AND SUBSTANCE ABUSERS' HOME (R-4)

335.1 Youth rehabilitation homes, adult rehabilitation homes, or substance abusers' homes for one (1) to fifteen (15) persons, not including resident supervisors or staff and their families, shall be permitted in an R-4 district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3108 of chapter 31 of this titles, subject to the provisions of this section.

335.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons in the same square.

335.3 There shall be no other property containing a community-based residential facility for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property.

335.4 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.

335.5 The proposed facility shall meet all applicable code and licensing requirements.

335.6 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.

335.7 The Board may approve more than one (1) community-based residential facility in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.