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Advisory Neighborhood Commission 6B

November 27, 2001

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EXECUTIVE SECRETARY
Calvin Gilbert

Board of Zoning Adjustment
441 4th Street, NW
Washington, DC 20004

Re: BZA Appeal # 16791; Boys Town

Dear Board Members,

At its regularly scheduled and properly noticed meeting on November 13, 2001, ANC 6B voted 10-0-0 (7 being a quorum) to adopt the enclosed Report as its official position relative to the previously captioned Appeal.

Commissioners Kenan P. Jarboe (Chair) and Ann Black (Chair, Planning and Zoning Committee) and Mr. Calvin Gilbert (ANC 6B Executive Secretary) will attend the December 4, 2001 hearing. As stated in previous correspondence, all three of these persons are authorized to represent ANC 6B in this matter.

Please call 202/543-3344 for further information.

Very truly yours,

Calvin H. Gilbert
Executive Secretary

Enclosure

Cc:
David A. Clark, Director, DCRA
Michael D. Johnson, Zoning Administrator
Charlotte Parker, Esq., Office of Corporate Counsel
Wilbert Hill, Chair, SCSD
Father Flanagan's Girls and Boys Home

BZA
Case No. 16791
Exhibit No. 36

Board of Zoning Adjustment
District of Columbia
CASE NO.16791
EXHIBIT NO.36

Advisory Neighborhood Commission (ANC) 6B

REPORT

Appeal Before the Board of Zoning Adjustments

By

Southeast Citizens for Smart Development, Inc.

BZA Docket Number 16791

Date: November 13, 2001

Re: Appeal of Final Decision, dated August 30, 2001 by Michael D. Johnson, Zoning Administrator to Board of Zoning Adjustments

Site: 1300 Block, Potomac Ave., SE
Washington, DC 20003

Developer: Father Flanagan's Boys Home
Boystown, NE 68010

On November 13, 2001, at its regularly scheduled and properly noticed monthly meeting, this Report was adopted regarding the zoning issue under appeal (BZA Docket Number 16791) by Southeast Citizens for Smart Development, Inc. (SCSD)

This proposed construction by the Omaha Developer, Boys Town, of a group home, also called a Community Based Residential Facility (CBRF) has been at issue for the past 18 months. During that time, many ANC 6B constituents have appeared before various government agencies, including this ANC, in opposition to the project. This ANC, through correspondence to the BZA (et al), dated October 20, 2001, joined the appeal and request for Stay of Execution of permits already issued.

There are three points which require your consideration. First is the issue of the Zoning Administrator's decision to allow the Developer to construct the proposed Community Based Residential Facility (CBRF), as the first phase of site development, as a facility for a total of 24 long term residents and 8 live-in caretakers as a matter of right. The Developer is seeking to circumvent existing zoning law by claiming each of the four proposed town homes is a separate entity even though all four will be built

and administered in the aggregate. Furthermore, they will be developed by the same organization, contained in the same complex, with a uniform set of rules, employees, contractors, and administrative systems.

Second, 11 DCMR, Section 721.5 prohibits the establishment of more than one CBRF housing 7-15 residents per square not one per lot as determined by the Zoning Administrator.

Third, the Zoning Administrator's Final Decision did not apply construction limitations set forth in 11 DCMR, where pre-existing facilities lie within 500 feet of the proposed construction. The proposed project imposes an impermissibly high concentration of CBRFs in this neighborhood. Presently, there is a CBRF operated by D.C. Healthcare, Inc., operating a 24-hour residential program for eight developmentally challenged individuals at 901 14th Street, SE. This existing facility is directly across the street, and within 500 feet of, the Developer's proposed group home. The D.C. Healthcare facility, which has operated at that location since 1990, constitutes a pre-existing facility. Therefore, neither the Developer nor the BZA may ignore the requirement to apply the 500-foot rule. The BZA must

rule against the Developer in order to avoid setting a precedent leading to a greater concentration of CBRFs in this neighborhood than the law allows.

After due deliberation of this matter it is the conclusion of ANC 6B that the Decision of the Zoning Administrator is in error and must be reversed to avoid setting a dangerous precedent. The spirit of the zoning law does not anticipate the construction of several contiguous buildings by the same developer but rather provides for the control of the density of CBRFs. Even if this CBRF were viewed as four separate group homes, the Developer will administer all four as a unit and will operate all four in the aggregate by utilizing a single access to the property, servicing all four under single maintenance and vending agreements and operating all units under a single service contract with the city government. Furthermore, should the BZA allow the Developer to move forward with the proposed construction construed as four separate units, it stands to reason that, since the Developer has purchased a parcel of nine lots, a total of nine CBRFs could be constructed on the parcel as a matter of right, existing CBRFs notwithstanding. This thinking is clearly in violation of the spirit and the letter of the zoning law.

ANC 6B Report
BZA # 16791 (Boys Town)

It sets a dangerous precedent regarding future construction of CBRFs by this and other developers.

The ANC also concludes that this project requires a Special Exception particularly since this is only the first phase of the proposed compound and sub-division of the property would circumvent existing checks and balances intended to control the density of such facilities in the residential neighborhoods of the District of Columbia.