

ADVISORY NEIGHBORHOOD COMMISSION

4A

*7600 Georgia Avenue, N.W.
Washington, D.C. 20012*

January 4, 2001

James H. Jones
Chairman, ANC 4A

Board of Zoning Adjustment
441 4th Street, N.W , Second floor
Washington, D.C. 20001

Re: Appeal to BZA
Decision of Zoning Administrator

Dear Ladies and Gentlemen:

Please be advised that ANC 4A supported an Appeal to the BZA relative to the issuance of a certificate of occupancy six years ago at 5511 - 14th Street NW for the operation of a day treatment program. The ANC submitted a formal letter dated March 6, 1996 to the BZA in support of the appeal and in opposition to the issuance of a certificate of occupancy for a day treatment program. The BZA issued an order on November 27, 1997 that the certificate of occupancy for a day treatment program was issued in error.

Upon proper motion, with a quorum present, at the Commission's June 5th 2001; a regularly scheduled meeting (first Tuesday of the month) with notice of the meeting to the public voted unanimously to appeal the decision of the Zoning Administrator. The BZA dismissed appeal 16752 by a Final Order dated December 12, 2001 as a result of the Zoning Administrator issuance of new certificate of occupancy that voided the previously issued certificate of occupancy rendering the appeal moot.

Upon proper motion with a quorum present, at the Commission's December 4th, 2001, a regularly scheduled meeting (first Tuesday of the month) with notice of the meeting to the public voted unanimously to appeal the decision of the Zoning Administrator. The ANC's position remains unchanged that the Zoning Administrator has erred in issuing a certificate of occupancy for a Child/Elderly Development center at the subject site as more fully described in the appeal.

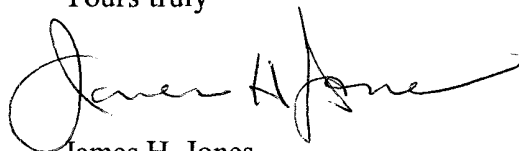
BZA
Case No. 16839
Exhibit No. 2

Board of Zoning Adjustment
District of Columbia
CASE NO.16839
EXHIBIT NO.2

Board of Zoning Adjustment
January 4, 2002
Page 2.

ANC 4A authorized John J. Chagnon to file and pursue the appeal as the ANC's designated representative before the BZA.

Yours truly

A handwritten signature in black ink, appearing to read "James H. Jones". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

James H. Jones
Chairman, ANC 4A

ATTACHMENT

Error in Administrative Decision:

Attached hereto is a copy of the original BZA Appeal filed six years ago for substantially similar terms relative the errors of the Zoning Administrator. Also attached is a complete copy of the BZA decision that established that a day treatment program was not a general office use.

The Zoning Administrator has clearly chosen to ignore the mandatory requirements to provide on site parking when a use is changed, expanded or intensified, all of which have occurred at the subject site, prior to the issuance of a certificate of occupancy. The prior appeal of the issuance of a certificate of occupancy resulted in a full contested case before the BZA. The Zoning Administrator has now read the BZA decision post issuance of a certificate of occupancy and has failed to see the relevance of a change in use at the site which was the core claim in the contested case by the former applicant, Better Treatment Centers, former owner Marvin Stein, attorney Leonard McCants (McCants, Dunbar), attorney Allison Prince (Wilkes Artis Hendricks & Lane), attorney Eric Jaffe (Law Office of Eric Jaffe). The sole and only purpose for the applicant's unwillingness to accept the change in use from one permitted use to another is specifically that the new use would require on site parking in order to be issued a certificate of occupancy. The Zoning Administrator has erred in ignoring the obvious requirement for on site parking as mandated by 11 DCMR §2101. The Zoning Administrator previously maintained that one permitted use in a C-2-A zone automatically allows any permitted matter of right use and that a change in use has no relationship to required parking spaces. The Zoning Administrator was mistaken and wrong and chose to issue a new certificate of occupancy for a use as a Child Development Center.

The issuance of the new certificate of occupancy is appealed herewith; however, a complete appeal is impossible at this time as the Zoning Administrator and DCRA's legal counsel have yet to make available the actual application despite numerous requests. The actual application or any copy thereof is not available in the certificate of occupancy file. DCRA has provided the appellant conflicting information as to the existence of an application for the new certificate of occupancy that resulted in C of O 18366.

Further, the Zoning Administrator had no authority to issue a Certificate of Occupancy that was knowingly issued under false pretense. The applicant has and continues to operate a day treatment facility for mentally retarded adults none of which are elderly or children. The applicant has and continues to employ more than seven staff members which was known at the time of the issuance of the C of O. The Zoning Administrator knew that the services provided were not for the elderly or children. In fact the C of O itself reflects that ages of the clients are from 22

years to 95 years. While the upper end of the age spectrum is clearly within the customary view of elderly, age 22 is hardly justifiable under any set of circumstances as elderly. DCRA staff stated that term “elderly” was not defined in the Municipal regulations and that Webster’s dictionary does not state an age for who is elderly. Inexplicably, DCRA has once again perverted the intent of the Municipal Regulations to advance the interests of an applicant. Even the most cursory review of Webster’s dictionary would have lead DCRA to the relevant definitions: Elderly - rather old, being past middle age; Middle Age - the period of life from about 40 to about 60. Accordingly, none of the applicant’s clients are elderly yet DCRA has identified that persons from age 22 and up are elderly for this applicant. It is fundamentally ridiculous for DCRA to contend that clients that are three years out of their teens (22 years old) are somehow converted by some unknown internal DCRA policy to be elderly.

DCRA took steps to withhold the information from the appellant and the BZA of the issuance of a new certificate of occupancy at the subject site. DCRA issued a building permit based on the representation that no change in use has occurred when DCRA’s own records reflect a change in use. DCRA has approved the subdivision of lots without notification to the ANC when the subject site was the subject of a BZA appeal. DCRA issued building permits based on a certificate of occupancy that had been revoked on a lot that apparently no longer exists and DCRA now takes the position that anyone 22 and over is elderly. The unmitigated bias demonstrated by DCRA calls into question the independence of the agency and the actions of the staff to advance the interest of an applicant.

Appellant incorporates by reference the administrative hearing files for Appeals 16066 and 16752.

Department of Consumer and Regulatory Affairs
 Building and Land Regulation Administration
 941 North Capitol Street N.E. room 2100
 Washington D.C. 20002
 Tel: (202) 442-4470 Fax (202) 442-4862

Government
 of the District
 of Columbia
 BLRA 94A

C of O

CERTIFICATE OF OCCUPANCY

PERMIT NO.

CO 18366

THIS PERMIT IS VALID ONLY FOR THE PREMISES
 OF THE PROJECT ADDRESS

DATE : 8/31/01

ADDRESS : 5507 14TH ST NW		FLOOR(S): 1ST & 2ND FLOORS	PRCLID : 2800 (square)	-0000-	0010 (000)
PERMISSION IS HEREBY GRANTED TO : CORPORATION : METRO DAY TREATMENT CENTER INC ID No.: 203873		TRADING AS : METRO DAY TREATMENT CENTER			
APPROVED USES : CHILD DEVELOPMENT CNTR			PREVIOUS USES : CHILD DEVELOPMENT CNTR		
TYPE : USE CHANGE	BZA NO. :	OCCUPIED SQ. FOOTAGE: 7,652	OCCUP. LOAD:	EXPIRATION DATE: NONE	
DESCRIPTION OF USE CHILD/ELDERLY DEVELOPMENT CENTER/30 PERSONS/ AGES 22-85 YEARS OLD AND 7 STAFF MEMBERS					FEE : \$555.00
THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, VALID ONLY for the premise at the above address or part thereof, and for the purpose(s) indicated above, and is NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.					
David A. Clark DIRECTOR		PERMIT CLERK: ADEMOLA SHITTU			

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Appeal No. 16752 of Advisory Neighborhood Commission 4A, pursuant to 11 DCMR §§ 3100 and 3101 from the decision of Michael Johnson, Zoning Administrator, for the issuance of a certificate of occupancy (#190720, dated May 7, 2001) for an adult development day program for mentally retarded persons, allegedly not meeting the parking requirements (section 2100) in a C-2-A District at premises 5511 14th Street, N.W. (Square 2800, Lot 9).

HEARING DATES: September 4, 2001; November 6, 2001
DECISION DATE: November 20, 2001

FINAL ORDER DISMISSING APPEAL

This case involves the appeal of Certificate of Occupancy No. 190720, issued on May 7, 2001, to the Metro Day Treatment Center, Inc., for the purpose of a "day program for mentally retarded persons, adult development." At the November 6, 2001, public hearing on this appeal, the Office of the Zoning Administrator advised the Board of Zoning Adjustment that a new certificate of occupancy, No. 18366, had been issued to Metro Day Treatment Center on August 31, 2001, to replace Certificate No. 190720. The issuance of the new certificate of occupancy voided Certificate No. 190720. Therefore, the instant appeal is moot. Pursuant to 11 DCMR § 3105.5, "Informal requests for advice or moot questions shall not be considered by the Board."

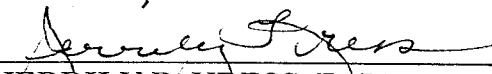
Accordingly, the Board hereby **ORDERS BZA Appeal No. 16752 DISMISSED as moot.**

VOTE: 4 - 0 - 1 (Geoffrey H. Griffis, David W. Levy, Anne M. Renshaw, and Anthony J. Hood (by absentee vote), to dismiss the appeal; the third mayoral appointee not present, not voting).

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

Each concurring member has approved the issuance of this Order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
DIRECTOR

FINAL DATE OF ORDER: DEC 12 2001

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME EFFECTIVE 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.

MS/BAB/12.12.01

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPEAL NO. 16752

As Director of the Office of Zoning, I hereby certify and attest that on DEC 12 2001, a copy of the foregoing Order in BZA Appeal No. 16752 was mailed first class, postage prepaid, to each party and public agency who appeared and participated in the public hearing and who is listed below:

John J. Chagnon
ANC 4A
5603 14th Street, N.W.
Washington, D.C. 20011

Douglass Sloan, Chairman Pro Tem.
Advisory Neighborhood Commission 4A
7600 Georgia Avenue, N.W., Suite 404
Washington, D.C. 20012

Pamela Coleman
4200 Wisconsin Avenue, N.W.
Washington, D.C.

Alan Bergstein
Office of the Corporation Counsel
441 4th Street, N.W., 7th Floor
Washington, DC 20001

Ra'ouf M. Abdullah
Assistant Corporation Counsel
Office of the Corporation Counsel
441 4th Street, N.W.
Washington, D.C. 20001

Herman Broomfield
Metropolitan Day Treatment Center, Inc.
5507 14th Street, N.W.
Washington, D.C. 20060

☆☆☆ GOVERNMENT
OF THE DISTRICT
OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91)

OK

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B439818

Date 10/31/01 (Type) ALTER AND REPAIR

Address of work 5511 14TH ST. N.W.

Permission is hereby granted to
METRO DAY TREATMENT CENTER INC.

(Owner)

who is authorized to perform the work described herein at the
address shown above in strict accordance with the conditions
stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

DIVIDE EXISTING SPACE TO CREATE LOADING AND PARKING FOR 3 VEHICLES PERMIT
PRIVATE PROPERTY ONLY. INSPECTION BRANCH 442-4641. 32301

Lot 9 Square 2800

TOTAL PERMIT FEE \$

FILING FEE \$

NO. DATE

FEE PAYABLE \$

140.00

FOR INSPECTIONS CALL 727-7562

Builder—

Width of Bldgs.

Length

Height

Value \$

No. of Bldgs

No. of Stories

Zone

C-2-A

Height of terrace above grade

To be occupied as

Projections:

DAY TREATMENT CENTER/CLUB

Address of owner

Deposit No.

Amount \$

5511 14TH ST. N.W.

By

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Permit Clerk

D. CLARK

DIRECTOR

P
E
R
M
I
T

STC # 0001 D.C. GOVERNMENT
DIR/DCRB CASHIER OFFICE
REG # 10/31/01
RECEIVED # 20395
FEE \$ 140.00
CL # 11
DEVELOPMENT & EQUITY

01-PP214 101

PRE-FILE NUMBERS		ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER	
D.C. No.:	O.G. No.:	C2A		By: _____	
P.A. No.:	S.L. No.:	Ward No.:	Receipt No.:	Date:	Receipt No.:

★ ★ ★ GOVERNMENT
OF THE DISTRICT
OF COLUMBIA
BLRA-33
(Rev. 10/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION; PERMIT PROCESSING DIVISION (727-7050)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY

(PRINT IN INK OR TYPE; DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

WARRANTY TO FILE
Date: _____

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

Address of Proposed Work: 5511 - 14TH ST. NW.		Suite No.:	2. Lot: 9	3. Square: 2800	4. Application Date: 10/30/01
Owner of Building or Property: RETRO DAY TREATMENT CENTER INC.		6. Address: (include Zip) 5511 - 14TH ST. NW		7. Phone: Work: 202 Home: 829-1707	
Agent for Owner: (if applicable) LJ FLETCHER		9. Address: (include Zip) COLLEGE PARK, MD 20740 9303 ST ANDREWS PL		10. Phone: Work: Home: 3019356565	

1. Type of Proposed Work (check all applicable boxes):

- | | | |
|---|---|--|
| ☐ New Building | ☐ Retaining Wall | ☐ Garage |
| ☐ Addition | ☐ Fence | ☐ Sign |
| ☒ Alteration and Repair | ☐ Shed | ☐ Other (Specify) _____ |
| ☐ Raze Building | ☐ Awning | |

2. Description of Proposed Work:

DIVIDE EXISTING SPACE TO CREATE LOUNGE & PARKING FOR 3 VEHICLES
PER PLANS

Private Property

13. Existing Use(s) of Building or Property: DAY TREATMENT PROGRAM / ADULT DEVELOPMENT		14. Ex. No. of Stories of Bldg.: 1	15. Ex. No. of Dwelling Units: 0	Official Use Only Miscellaneous FEE \$ By: _____ Date: _____	
16. Proposed Use(s) of Building or Property: DAY TREATMENT PROGRAM / ADULT DEVELOPMENT		17. Prop. No. of Stories of Bldg.: 1	18. Prop. No. of Dwelling Units: 0		
19. Starting Date of Work: ASAP	20. Completion Date of Work: 11-30-01	21. Method of Removing Construction Debris: ☒ Pick-up Truck ☐ Dumpster ☐ Other (specify): _____		22. Does the proposed work involve disturbing the earth or razing a building? ☐ Yes, answer q. 23 ☒ No, SKIP q. 23-27	
23. Is the area of disturbed earth more than 50 sq. ft. ☐ Yes, answer q. 24-25 ☐ No, SKIP q. 24-25	24. Soil Erosion Control Methods:	25. Area of Offsite Drainage: sq. ft.	26. No. of Footings or Columns: 0	27. Size of Footings of Columns: 8 sq. ft.	

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

Complete Section B if the proposed work is new building, addition or alteration. (Page 2)
Complete Section C if the proposed work is razing a building. (Page 2)
Complete Section D if the proposed work is a retaining wall. (Page 2)
Complete Section E if the proposed work is a fence. (Page 3)
Complete Section F if the proposed work is a shed/garage. (Page 3)
Complete Section G if the proposed work is an awning. (Page 3)
Complete Section H if the proposed work is a sign. (Page 3)

OFFICIAL USE ONLY				
	R	E	H	A
M				
P				
E				
F				
S				
W ☐ Yes ☐ No				
PLANS				
☐ No				
☐ Sm. ☐ Lg.				

190720

5/7/01
(date)

CERTIFICATE OF OCCUPANCY

Permission is hereby granted to METRO DAY TREATMENT CENTER, INC.
to use suites(s) _____ on the 1ST & 2ND floor(s)
of the building located on lot(s) 2800 square 9
known as premises 5511 14TH STREET N.W. for the following
purpose(s) DAY PROGRAM FOR MENTALLY RETARDED PERSONS. ADULT DEVELOPMENT.
NOT SEXUALLY ORIENTED 32402 [SU]

BZA # _____

EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE C2A

FEE \$ 42.60

D. CLARK

Director

Designee

98-0802PM5

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration

Occupancy Payer's Receipt

803694

This is Not a License

MetroDayTreatmentCenterInc
5511 - 14TH ST NW

Note: A Fee of \$50.00 is imposed
for Dishonored checks

Store # 0001
Reg. # 1
Receipt # 162655
ER22001216
CASHIERS OFFICE
OTR/DCRA
WASHINGTON, DC 20002
202-727-1000

treasurer

PINK—DCRA

68-0803PM5

WHITE—APPLICANT

CANARY—FINANCE & REVENUE

ACCT. # 05210101205081211061635
CHECK # 1635

THANK YOU AND HAVE A NICE DAY

Check Amount \$ 67.60

Change Due \$ 0.00

Total Sale \$ 67.60

Sub-Total \$ 67.60

Tax \$ 0.00

ER22001216 CERT. OF OCCUP. PERMITS
0 1 @ \$ 25.00 \$ 25.00
ER22001216 CERT. OF OCCUP. PERMITS
0 1 @ \$ 42.60 \$ 42.60

Store # 0001 Receipt # 162655
Reg. # 1 05/07/01 at 10:33
Cash in Clerk 7 Sale Clerk 7

S
D.C. GOVERNMENT
OTR/DCRA CASHIERS OFFICE
941 N. CAPITOL STREET NE
WASHINGTON, DC 20002
202-727-1000

ADVISORY NEIGHBORHOOD COMMISSION

4A

7600 Georgia Avenue, N.W.
Washington, D.C. 20012

June 6, 2001

Board of Zoning Adjustment
441 4th Street, N.W., Second floor
Washington, D.C. 20001

Re: Appeal to BZA
Decision of Michael Johnson, Zoning Administrator

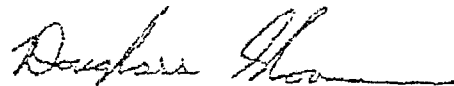
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Upon proper motion, with a quorum present, at the Commission's June 5th 2001 regularly scheduled meeting (first Tuesday of the month) with notice of the meeting to the public, voted unanimously to appeal the decision of the Zoning Administrator.

ANC 4A authorized John J. Chagnon to file and pursue the appeal as the ANC's designated representative before the BZA.

Yours truly



Douglass Sloan
Chairman Pro Temp. ANC 4A