

Government of the District of Columbia

OFFICE OF ZONING



441 4TH STREET, N.W.
SUITE 210
WASHINGTON, D.C. 20001
(202) 727-6311

MEMORANDUM

TO: Property Owner and/or Lessee

FROM: Jerrily R. Kress, FAIA
Director

DATE:

RE: BZA Appeal No. 16839

Please be advised that an appeal has been filed with the Board of Zoning Adjustment arguing a decision of the Zoning Administrator (ZA) affecting property owned and/or leased by you located at 5507 - 14th St., N.W. You are hereby encouraged to participate in the hearing process in this matter, including obtaining legal or other representation to assure that your interests in this matter are addressed. Coordination with the ZA's attorney is suggested. The approximate hearing date in this matter is MARCH 25, 2002.

Please call the Office of Zoning on (202) 727-6311, if you have any questions about the foregoing, including the finalized date of the public hearing in this matter.

cc: PAMELA COLEMAN
HERMAN BROOMFIELD
Ra'ouf M. Abdullah

RECEIVED
OFFICE OF ZONING
2002 JAN 30 AM 10:05

rev. 1/15/02

BZA
Case No. 16839
Exhibit No. 37

Board of Zoning Adjustment
District of Columbia
CASE NO.16839
EXHIBIT NO.37

16839 ^{Ed}

BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

APPEAL.

NOTE: See reverse side of this form for filing
instructions, filing fees and information
required by the Board.

DO NOT MAIL.

DO NOT MAIL.

TO THE BOARD OF ZONING ADJUSTMENT:

Pursuant to Sections ³¹⁰⁰ 3105 and ³¹⁰¹ 3106 of the Zoning Regulations of the
District of Columbia, an appeal is hereby taken from the admini-
trative decision of Michael Johnson, Zoning Administrator

(Name of administrative officer and title)

August 31, 2001

made on May 7, 2001 and , to the effect that a certificate
(Date of decision)

of occupancy was issued at 5507 - 14th NW
See Attachment

Premises affected are located at 5507 - 14th Street, NW (see attachment)
(Street Address)

Lot(s) 10 , Square(s) 2800

In the District of Columbia, in Zoning District C-2-A

Present Use of Property: General Office prior to issuance of 5/7/01
certificate of occup

Proposed Use of Property: Child Development Center

Owner of Property: Pamela Coleman

Address of Owner: 4200 Wisconsin Ave., NW

Name and address of appellant, if other than owner:

ANC 4A, 7600 Georgia Avenue, NW

John J. Chagnon, ANC 4A07 authorized representative

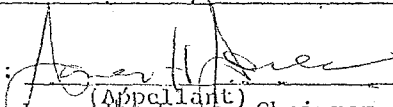
State manner in which appellant is aggrieved by administrative
decision: Appellant's members live in close proximity to the site
Property values, congestion, parking, traffic patterns, security
and quality of life will be and has been adversely affected.

State briefly the allegations of error in administrative decision:

Statement attached

Relevant Sections of the Zoning Regulations:

Statement Attached

Date: 1/3/02 Signature: 
(Appellant)
James H. Jones, Chairman ANC 4A

*If appeal is filed by agent of the appellant, Form 1 (notice
of appeal) shall be accompanied by a letter signed by the appellant
authorizing the agent to act on his behalf in this appeal.

TO BE NOTIFIED OF HEARING AND DECISION:

Name: John J. Chagnon, ANC 4A07

Address: 5603 - 14th Street, NW

Zip Code 20011 Phone No. 202-722-1922

ANY APPEAL THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRU-
CTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

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.

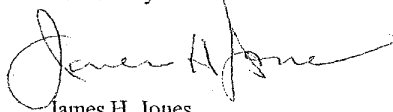
Upon proper motion, with a quorum present, at the Commission's June 5th 2001; a regularly scheduled meeting (first Tuesday of the month) with notice of the meeting to the public voted unanimously to appeal the decision of the Zoning Administrator. The BZA dismissed appeal 16752 by a Final Order dated 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.

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 cursive script, appearing to read "James H. Jones".

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.

OK

BUILDING PERMIT

PERMIT NO. B439818

Lot 9 Square 2800

TOTAL PERMIT FEE: \$

(Owner)

FILING FEE \$

No

DATE _____

FEE PAYABLE

\$ 140.00

FOR INSPECTIONS CALL 727-7562

Value \$

No. of Bldgs.

Length

Height

No. of Stories

Zone

6-2-2

To be occupied as

Height of terrace above grade

Address of owner

Deposit No.

Amount \$

5511 14TH ST. N.W.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

B:

B. CLARK

DIRECTOR

PERMIT

FILE COPY

DAY TREATMENT PROGRAM

Permit Clerk

40.00
#REF! 03-10/31/01 at 12:35 PM C:\11
Received 203 \$5 Amount **\$140.00
E#2601215 BUILDING MATERIALS & EQUI

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:

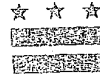

JERRILY R. KRESS, FAIA
DIRECTOR

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 1991, 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



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): 16T & 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: 7,552	OCCUP. LOAD:	EXPIRATION DATE: NONE
DESCRIPTION OF USE CHILD/ELDERLY DEVELOPMENT CENTER/30 PERSONS/ AGES 22-85 YEARS OLD AND 7 STAFF MEMBERS				FEE : \$522.00
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 premises 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		

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