

FRIENDS OF THE BABCOCK-MACOMB HOUSE

1317 G STREET, NW
WASHINGTON, DC 20005

November 30, 2007

BY FACSIMILE (202-727-6072) AND EMAIL

Clifford W. Moy
Secretary, Board of Zoning Adjustment
441 4th Street, NW, #200-210 South
Washington, DC 20001

Re: BZA Appeal #17663 – Proposed Findings/Conclusions

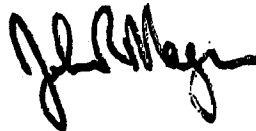
Dear Mr. Moy:

Attached are the proposed findings and conclusions of the Friends of the Babcock-Macomb House.

As discussed at the October 16 hearing, we are submitting these views within 26 days of the availability of the hearing transcripts. The October 16 transcript became available on November 6.

I am providing simultaneously, by email, a copy of this submission to DCRA and to SGI's counsel, Alison Prince.

Respectfully submitted,



John R. Magnus

Attachment

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17663

EXHIBIT NO. 27

Board of Zoning Adjustment
District of Columbia
CASE NO. 17663
EXHIBIT NO. 27

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

Friends of the Babcock-Macomb House,	)	
	)	
Appellant,	)	
	)	
vs.	)	Case No. 17663
	)	
Department of Consumer and	)	
Regulatory Affairs,	)	
	)	
Appellee.	)	

Appellant's Proposed Findings of Fact and
Conclusions of Law
Submitted November 30, 2007

APPEAL NO. 17663 of Friends of the Babcock-Macomb House, pursuant to 11 DCMR § 3112, from the March 2, 2007 administrative decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, finding that the proposed structure at 3417 Massachusetts Avenue, NW will be used a "house of worship."

HEARING DATES: October 9, 2007 and October 16, 2007

DECISION DATE: December 4, 2007

DECISION AND ORDER

Friends of the Babcock-Macomb House ("Friends") filed this appeal with the Board of Zoning Adjustment ("Board") challenging the March 2, 2007 determination of Zoning Administrator Bill Crews that the proposed building at 3417 Massachusetts Avenue, NW qualified as a "place of worship" and could therefore be built at that address as a matter of right. Friends also appealed two construction permits issued by the Zoning Administrator. The Board upholds Friends' challenge and reverses the March 2, 2007 determination.

PRELIMINARY MATTERS

The Parties

The parties to the proceeding are Friends, proceeding *pro se*; the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA"), represented by Shakira Picasant and Lori Parris; and Intervenor Soka Gakkai International ("SGI"), represented by Allison Prince of Pillsbury Winthrop Shaw Pittman. The Board granted SGI leave to intervene in the appeal. ANC 3C was an automatic party pursuant to 11

RECEIVED
 DC OFFICE OF ZONING
 NOV 30 2007 11:53

DCMR § 3199.1 and did not appear at either hearing, but a resolution adopted by ANC 3C opposing the project was entered into the record.

Motion to Dismiss

Prior to the October 9 hearing, the Intervenor filed a motion to dismiss the appeal, claiming it failed to state a claim and that certain elements were untimely. After allowing Appellant time to respond in writing, the Board considered the motion at the October 16 hearing, granting it with respect to certain permits and denying it with respect to the main claim on matter-of-right status.

ANC Report

The ANC did not prepare a separate report for this proceeding, but ANC3C Resolution No. 2005-006, Regarding the Proposal of Soka Gakkai International-USA (Jan. 25, 2005) was entered into the record. The Resolution stated that "all the SGI facilities across the country are identified as community, activity or culture centers but none are identified as churches"; that "the proposed building will contain a bookstore, conference rooms, classrooms, and offices where, among other things, SGI-USA's 'public affairs' activities will be conducted, with little of the total building being devoted to 'sanctuary' use"; that "SGI-USA has observed local zoning ordinances for its Maryland and Virginia 'community centers' by locating them in areas that have office or other commercial zoning and there is no reason for SGI-USA to expect that the District would depart from normal zoning practices"; and that "ANC 3C opposes the construction of the proposed SGI-USA building."

Testimony

Friends presented testimony from John R. Magnus. DCRA presented testimony from Acting Zoning Administrator Matthew LeGrant. Intervenor presented testimony from William Aiken, SGI's Public Affairs Director.

FINDINGS OF FACT

Background and Procedural Issues

1. The subject property is located at 3417 Massachusetts Avenue, NW, Square 1939, Lot 42 in the Massachusetts Avenue Heights neighborhood and in an area zoned R-1-B. Until 2004, it was not a separate property but rather the side yard of the Babcock-Macomb House, located at 3415 Massachusetts Avenue, NW which served (and still serves) as the Embassy of Cape Verde.

2. On February 5, 2004, the Mayor's Agent for historic preservation approved a subdivision of the Babcock-Macomb property, and the Embassy of Cape Verde promptly sold the now-separated property to SGI, a lay Buddhist organization.

3. SGI subsequently applied for a permit to construct a culture center on the property, labeling the proposed building as a "church." Churches can be constructed as a matter of right in neighborhoods zoned R-1-B pursuant to 11 DCMR 201.1(b).

4. On November 30, 2006, the Department of Consumer and Regulatory Affairs ("DCRA") approved a permit no. 98193 for "excavation, sheeting & shoring for foundation of new bldg per plans."

5. On December 11, 2006, DCRA approved permit no. 100009 for a "covered pedestrian walkway & temp. construction fence."

6. On March 2, 2007, the Zoning Administrator issued a determination accepting SGI's characterization of the proposed building as a "church or other place of worship," and the Department of Consumer and Regulatory Affairs ("DCRA") approved a construction permit on April 10, 2007.

7. On May 1, 2007, Friends timely filed this appeal.

8. The sole issue of this appeal is whether it was reasonable, as a matter of law and in light of the factual record before him, for the Zoning Administrator to find that the proposed building qualified as a "church or other place of worship" within the meaning of section 201.1(b).

SGI

9. According to SGI's own materials, the "fundamental purpose of the SGI-USA is the happiness of people. Its goals are to contribute to peace, culture and education based on the philosophy and ideals of the Buddhism of Nichiren Daishonin." See Appellant's Exhibit 4, at page 1.

10. The Preamble to the Charter of the Soka Gakkai International states "We, the constituent organizations and members of the Soka Gakkai International (hereinafter called SGI), embrace the fundamental aim and mission of contributing to peace, culture and education based on the philosophy and ideals of the Buddhism of Nichiren Daishonin." See <http://www.sgi-usa.org/thecsgiusa/aboutsgi/sgicharter.html>.

11. Among the purposes and principles enunciated in SGI's charter, which was adopted in 1995 and "sets forth the purposes and principles with which the SGI directs its movement for peace, culture and education," are the following:

- SGI shall contribute to peace, culture and education for the happiness and welfare of all humanity based on the Buddhist respect for the sanctity of life.
- SGI shall promote an understanding of Nichiren Daishonin's Buddhism through grass-roots exchange, thereby contributing to individual happiness.

- SGI shall, through its constituent organizations, encourage its members to contribute toward the prosperity of their respective societies as good citizens.
- SGI shall contribute to the promotion of education, in the pursuit of truth as well as development of scholarship, to enable all people to cultivate their characters and enjoy fulfilling and happy lives.

12. A descriptive section of SGI's website states: "The SGI aims to realize the absolute happiness (enlightenment) of individuals and the prosperity of each country by spreading understanding of the Buddhism of Nichiren Daishonin (1222-1282). Toward that end, the SGI engages in various activities to promote peace, culture and education based on Buddhism." See Appellant's Exhibit 4, at page 2.

13. The "Basic Guidelines" of SGI are:

- To work for the prosperity of society by being good citizens who respect the culture, customs and laws of each country;
- To promote humanistic culture and education based on the fundamental, humane principles of Buddhism; and
- To join efforts for world peace, for instance, with those of the United Nations by supporting the spirit of its charter thereby helping achieve the organization's ultimate goal of the abolition of nuclear arms and universal renouncement of war.

See Appellant's Exhibit 4, at page 2.

14. In describing its community centers and culture centers, SGI states that they are places where "members can study about Buddhism and pursue their movement for peace, culture and education." See Appellant's Exhibit 4, at page 3.

15. Although SGI has roughly 80 centers across the United States, this appears to be the first time it has sought to locate one in a residential neighborhood and concomitantly to invoke "church" status. When asked to identify an instance where one of SGI's culture centers has been located in a residential setting, like the setting for the proposed center here, Mr. Aiken was unable to do so. Oct. 16 Transcript at 364. The Board takes note in this regard of the statement by ANC 3C that "SGI-USA has observed local zoning ordinances for its Maryland and Virginia 'community centers' by locating them in areas that have office or other commercial zoning and there is no reason for SGI-USA to expect that the District would depart from normal zoning practices."

16. A section of SGI's website titled "History and Development of the Soka Gakkai International" states that the organization "was founded in order to promote humanistic education based on Buddhist principles." See <http://www.sgi-usa.org/thesgiusa/aboutsgi/histsgi.html>.

17. The website also states that SGI "has been able to flourish even more in its *secular* role contributing to peace, education and culture in concert with like-minded people." See Appellant's Exhibit 4 (emphasis added).

The Proposed Building

18. SGI's materials indicate that the proposed uses of the building fall into the following five categories: chanting, study, discussion and dialogue, planning meetings, and performance groups. *See* Appellant's Exhibit 1, at page 5.

19. The Board finds that of those proposed uses, only chanting sessions could in principle qualify as worship under Section 201.1(b) of the Zoning Regulations.

20. The Board finds that only the large sanctuary, the small sanctuary, and the chanting room could potentially have a primary purpose of worship. The fellowship room does not qualify as a room whose primary purpose could be worship because, as Mr. LeGrant testified, the room is "a place where people congregate together for a variety of activities. It is a place of assembly." Tr. at 251 (Oct. 16, 2007) (emphasis added).

21. The large sanctuary, small sanctuary, and chanting room together comprise an area of 2,300 square feet. Based on Mr. LeGrant's 11,247 square foot calculation of gross floor area (GFA), these three rooms account for 20% of the available space. Based on the 7,706 square foot denominator actually used by Mr. LeGrant in his analysis, these three rooms account for 30% of the available space.

22. Friends contest the denominator used by Mr. LeGrant, asserting it is too low, but the Board does not need to address that issue to resolve the appeal. None of the calculations yields a result in which the three rooms mentioned above account for 50% or more of the available space. The Board does, however, note that the only definition of floor area in the Zoning Regulations is for GFA, which is "the sum of the gross horizontal areas of the several floors of all buildings on the lot, measured from the exterior faces of exterior walls." The term GFA includes "basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment...; penthouses; attic space...; interior balconies; and mezzanines." 11 DCMR 199.1. In this case, the GFA is 11,247 square feet, and even including the fellowship room in the numerator, as Mr. LeGrant wrongly did, the total would be only 44% of the GFA.

23. The Board finds that most of the available space in the proposed structure has intended uses that do not consist primarily of "worship" for purposes of section 201.1(b). The Board therefore finds that the primary use of the building will be for assembly for purposes of study, discussion and dialogue, planning meetings, and performances. The Board further finds that this primary proposed use does not qualify the building as a "church or other place of worship" within the meaning of section 201.1(b), and that it was not reasonable for the Zoning Administrator to so label the building in his March 2, 2007 determination.

24. The Board finds that SGI is similar to other non-profit groups organized to promote a societal good, and in whose buildings the presence of spaces set aside for worship or other religious activity does not alter the primary non-worship use.

25. The fact that SGI has exempt status under I.R.C. section 501(c)(3) is not relevant to the zoning question. What matters is the predominant use of the proposed building, not the nature (including the tax status) of the permit applicant.

The Zoning Administrator's Determination

26. The March 2, 2007 determination involved a 2-part analysis. The first stage, an analysis of floor space, did not focus on "worship," but was limited to identifying rooms likely to be used for "religious assembly." Oct. 9 Transcript at 387 (referring to the rooms in question as "rooms that, in my mind, are associated with religious assembly"); Oct. 16 Transcript at 250 (asked whether he was "using religious assembly interchangeably with worship," Mr. LeGrant replied that "I was looking for places of religious assembly").

27. The concept of "worship" came into play only during a second stage of analysis that focused on the applicant itself and on comments that other groups had made in letters about the applicant. There was never a finding that any specific space in the proposed culture center had "worship" as a primary use. There was only a finding that four particular rooms had "religious assembly" as a predominant use, and then a separate finding, based on the "totality" of the evidence, that the building as a whole had "worship" as a predominant use. Both findings lack a sufficient legal and factual basis.

28. The first finding cannot stand because it was based on assumption. When asked whether he actually analyzed the likely use of these rooms ("what ... convinced you that those four rooms in terms of their use were predominantly going to be for religious assembly purposes?"), Mr. LeGrant replied that he had not done so: "I had to make an assumption at some point, that I did not do an analysis of those rooms beyond what was shown in the plans. ... I think they have a ... hypothetical schedule of use of those rooms, ... {b}ut I did not myself delve into the particulars of each room. So I had to make an assumption...." Oct. 16 Transcript at 260-61. Later he continued, in explaining why he had not taken into account the intensity with which rooms he had identified as "religious assembly" rooms would be used, that "at a certain point I have to accept {at} face value the assertion that a use is going to be used as characterized in the application." Oct. 16 Transcript at 314.

29. The first finding also selectively -- and impermissibly -- ignored relevant facts. For example, Mr. LeGrant confirmed that he had not taken account of the characterization by SGI's representatives of the sanctuary rooms being the "least used" spaces in the proposed structure, stating that this fact "did not figure into my analysis." Oct. 16 transcript at 313.

30. The Board also notes that the findings about "religious assembly" usage do not in any event speak to worship usage, and that a building exclusively devoted to religious assembly might conceivably have no worship use at all.

31. The second finding cannot stand because a reasonable Zoning Administrator could not have found a predominant "worship" use based on the record here. For one thing, the record itself did not speak to worship. Mr. LeGrant stated that

the information he consulted at the second, "totality of the evidence" stage of his analysis included the materials supplied by SGI and the extra letters. When asked "what did that information reveal?" he replied that "it revealed an organization that, in my mind, is organized for religious purposes." He said nothing about worship. Oct. 16 Transcript at 254. For another, the materials that did mention worship were created by the applicant specifically for purposes of the contested zoning review and were contradicted by other publicly-available information that had no such taint; Mr. LeGrant admitted that in the all-important second stage of his analysis, he had "assumed" the truth of what SGI had represented to him. Oct. 16 Transcript at 260-261. Mr. LeGrant also stated that he did not consider, or was not aware of, various critically important pieces of evidence that had been provided to the Zoning Administrator strongly suggesting that SGI's culture centers have no worship use, much less a predominant one. Oct. 16 Transcript at 276-277. For example, Mr. LeGrant said the fact that SGI is and portrays itself to the public as a "lay" organization "did not influence" his decision. Oct. 16 Transcript at 310. He further said he did not recall reading the materials provided to Zoning Administrator Crews regarding the separation of SGI from the Nichiren Shoshu sect of Buddhism. Oct. 16 Transcript at 312.

32. Because religious assembly is a broader category than assembly for worship, the ostensible link between the two prongs of the Zoning Administrator's analysis is no link at all. Mr. LeGrant testified that "over 50 percent of the program space was ... for religious assembly, and *that helped inform* my decision that, in fact, this was a place of worship" (Oct. 16 transcript at 246, emphasis added), and that "{t}he totality of the review has to ... conclude in whether this is indeed a place of worship, and the ... rooms labeled that I have classified as for religious assembly ... become *part of my analysis* as to whether the overall determination can be made" (Oct. 16 Transcript at 251, emphasis added). There was no finding, or even post-hoc explanation, as to why religious assembly would necessarily or even probably entail worship. The following exchange highlights the lack of connection between the two prongs of the Zoning Administrator's analysis:

A. Because I am not in a position to evaluate worship, I look for if there is a place for religious assembly, and that is what I found in these plans.

Q. Then how do you get to worship from there?

A. {T}here is a totality of the record that I looked at, including the purposes of the organization, the described usage for this building, the building plans, the permit applications. That totality led me to the conclusion that this was a place of worship.

Oct. 16 transcript at 321-322. Of course, merely invoking the "totality of the record" will not suffice to sustain a matter-of-right determination unless that "record" establishes worship as the predominant use. Here, it did not.

33. As to the 2-part analytical method itself, Mr. LeGrant clarified that it had been improvised for use in this case and is not used in other DC zoning proceedings.

Oct. 16 Transcript at 272-275. Whether or not this methodology might yield defensible determinations in other cases, it did not yield one here.

34. Mr. LeGrant specifically said the March 2 decision did not reflect the notion that a place of assembly can qualify as a "place of worship" under section 201.1(b) only if the primary reason for assembling there is to engage in worship. Oct. 16 Transcript at 288. The Board finds that a place of assembly can qualify as a "place of worship" only if the primary reason for assembling there is to engage in worship.

35. The Zoning Administrator erred in other ways as well. Mr. LeGrant stated that rather than evaluating the proposed building neutrally, in terms of which regulatory category was most applicable, the Zoning Administrator defined the question much more narrowly: "The context that I reviewed the plans was in the context of an assertion that says it's a place of worship. Therefore, I am going to look to that." Oct. 16 Transcript at 268. He continued that "I looked at the issue as is this a place of worship ... That was the key, crucial question before me, not to entertain other scenarios of uses." Oct. 16 Transcript at 280. The Board finds that the key question was indeed what regulatory category was most appropriate; that the Zoning Administrator erred legally in defining the question otherwise; and that in any event the regulatory category applicable in this case is not the "place of worship" category.

36. The Board further finds that worship is a distinct subcategory of religious activity, and that religious assembly cannot be equated with assembly for worshiping. To the extent that the Zoning Administrator's analysis confounded these concepts, that is an additional reason why his determination cannot be upheld. The hearing testimony suggested that such confounding may have occurred. For example, Mr. LeGrant stated: "The dominant use, to me, based on my analysis, is that of *assembly for religious purposes or for worship areas*. ... I came up with 56 percent of the areas of the major program rooms ... are associated with *this activity*. And so it allowed me to agree with Mr. Crews' determination that *this* was the predominant use of the structure." Oct. 9 Transcript at 382-383 (emphases added).

CONCLUSIONS OF LAW

The March 2, 2007 decision of Zoning Administrator Crews constitutes a determination made by an administrative officer in the administration and enforcement of the zoning regulations.

On appeal, the Board interprets and applies the zoning regulations in accordance with their plain meaning, taking into account the special provisions of 11 DCMR § 101. This appeal challenges the March 2, 2007 decision that the proposed building qualifies as a "church or house of worship" that can be constructed as a matter of right on a site zoned R-1-B.

The job of a Zoning Administrator is to "interpret () the Zoning Regulations in a strict manner which is the Cardinal Rule of Zoning Law and his function." *Appeal No. 11817 of John Hopkins University*, (February 25, 1975). Failure to carefully apply the

Zoning Regulations to proposed "matter of right" buildings would undermine the entire purpose of zoning requirements.

Contrary to Intervenor's arguments, the Board has the power and indeed obligation to determine whether the primary use of a proposed structure will be as a church or house of worship. The Board has decided such issues in the past. In *Appeal No. 12343 of Christian Embassy Inc.*, (May 17, 1977), the "sole issue presented by {the} appeal" was whether a proposed structure was "a church or other place of worship" within the meaning of the R-1-B regulations. In *Appeal No. 11817 of John Hopkins University*, (February 25, 1975) the Board denied a Certificate of Occupancy when the proposed use of a building, the Board found, would not have been as a church or place of worship. In *Appeal No. 10172 of St. James Lutheran Church - Meals on Wheels*, the Board denied zoning permission for a religious group to prepare meals and distribute them as "part of the divine command to feed the hungry and visit the lonely and poor." In *Application No. 12054 of the Protestant Episcopal Cathedral Foundation of the District of Columbia - Mount St. Albans* (Oct. 15, 1975) the Board required a 501(c)(3)-exempt organization to apply for a special exemption to enlarge a school, even though the school was religiously affiliated and had its own separate chapel building.

Worship is not defined in the D.C. Code or regulations. Section 199.2(g) of the zoning regulations directs one to the definition given in *Webster's Unabridged Dictionary*, where the term "worship" is defined as:

The act of paying divine honors to the Supreme Being; religious reverence and homage; adoration, or acts of reverence, paid to God, or a being viewed as God...To pay divine honors to; to reverence with supreme respect and veneration; to perform religious exercises in honor of; to adore; to venerate...To perform acts of homage or adoration; esp., to perform religious service.

Although the practice of most religions entails the act of worship, not all buildings owned or operated by religious organizations are places of worship. SGI is, moreover, a lay organization. It is associated with Buddhism, but that association does not suffice to establish (or even create a presumption) that a building owned or built by SGI is a place of worship. An organization's association with a particular religion, even if a building is dedicated entirely towards the practice or promotion of that religion, does not mean that the building is a church or place of worship for zoning purposes.

The Court of Appeals of Washington addressed this issue in *N. Pac. Union Conference Ass'n of the Seventh Day-Adventists v. Clark County*, 74 P.3d 140, 144 (Wash. Ct. App. 2003). In Washington state, a church is defined as a "building primarily used for religious worship." On appeal, Adventists asserted that the hearing officer "too narrowly interpreted a place of worship to be only a traditional church with a local congregation," maintaining that "worship must be broadly defined to include missionary work, education, charitable giving, communication, publication, and planning and growth activities" because they were "a vital part of the Church's worship program." *Id.* at 143-144. The court was not persuaded by the Church's proposed definition of worship, which included any activity that furthers a worship program, as this would allow a religious

organization to run any type of business and claim it advanced the purpose of the religious group. *Id.* at 145.

Other courts have held that even if a building is dedicated to performing religious services, those services or religious rites do not necessarily mean that a building is a "place of worship." The Superior Court of New Jersey found that the fact that a particular building was "devoted to the performance of certain religious rites by females did not make it a building set apart for public worship, as a church, in the common understanding of the meaning of that word." *Sexton v. Bates*, 85 A2d 833, 837-38 (N.J. Super. L. 1951). In the case of *B'Nai B'Rith Found. v. Walworth County Bd. of Adjustment*, the Supreme Court of Wisconsin found that an applicant's conference center, "which was to include programs for adults in current topics of interest to members of B'Nai B'Rith, primarily religious and educational" with "primary emphasis being placed on subjects involving the Jewish faith," did not meet the necessary zoning requirements to be considered a church. 208 N.W.2d 113 (Wis. 1973).

Throughout his testimony, Mr. LeGrant consistently confused religious assembly with worship. *See, e.g.*, Tr. at 243, 245-47, 250-51, 257-58 (Oct. 16, 2007). Specifically, he testified that for "purposes of the review . . . {he} was looking for places of religious assembly." Tr. at 250 (Oct. 16, 2007); *see also* Tr. at 267 (identifying rooms that "seemed to {him} to be most related to religious assembly and perhaps, *by extension*, the places where worship would occur") (emphasis added); Oct. 9 Transcript at 382-383 (quoted in para. 36 above).

This appeal, however, is not about religious assembly. As discussed above, SGI is a Buddhist organization. Any assembly by members of the group would therefore arguably be religious assembly. But not all religious assembly involves worship. Worship is a particular form of religious expression, and not all forms of religious exercise are worship. *See Bronx Household of Faith v. Board of Educ. of City of New York*, 492 F.3d 89, 103 (2d Cir. 2007). The D.C. Zoning Regulations clearly require worship, not mere religious assembly, to be the primary use of any building constructable as a matter of right in an R-1-B zoned district.

In *Appeal No. 12343 of Christian Embassy, Inc.*, (May 17, 1977) the Board denied a matter of right status for a building proposed by a 501(c)(3)-exempt religious organization because the organization did not intend to use the building as a church or other house of worship. The Board pointed out that uses which "may, in the eyes of the appellant's members constitute obedience to the deity" are not necessarily "acts of worship within the contemplation of the D.C. Zoning Regulations." In *Appeal No. 10172 of St. James Lutheran Church – Meals on Wheels*, the Board affirmed denial of zoning permission to prepare meals and distribute them as "a part of the divine command to feed the hungry and visit the lonely and poor." As these and other decisions of the Board make clear, there is a difference between religious assembly and worship – a difference that Mr. LeGrant ignored in his analysis of the property.

As discussed above, when asked for information regarding the proposed uses of its building, SGI listed five primary uses: chanting sessions, study sessions, discussion and dialogue, planning meetings, and performance groups. Given the operative

(dictionary) definition of worship, as well as the discussion of worship in the above-cited cases, we think it clear that of those five uses only the chanting sessions could potentially qualify as worship for purposes of the D.C. Zoning Regulations.

The Board therefore concludes that the Zoning Administrator's ruling is clearly wrong for each of the reasons set out below, each conclusion being an independent reason for reversing the Zoning Administrator's ruling:

- The proposed building does not qualify as a "church" under section 201.1(b).
- The proposed uses -- for study sessions, discussion and dialogue, planning meetings, and performances -- to which more than half of the gross floor area of the building is dedicated do not qualify as "worship" under section 201.1(b).
- Any worship use of the proposed structure is ancillary, and thus does not have the effect of qualifying the proposed structure as a "church or other place of worship" under section 201.1(b).

**MILLER
CHEVALIER**

RECIPIENT	COMPANY	PHONE NO.	FAX NO.
Clifford Moy	BZA		202.727-6072

FROM: John R. Magnus**PHONE:** 202.626.1474**DATE:** November 30, 2007

TRANSMITTAL CONSISTS OF THIS COVER PAGE, PLUS 6 PAGE(S)

M&C FAX ROOM:

Please return this fax to the desk of GAIL ANDERSON after transmittal.

Time Sent

Time Confirmed

Operator

CONFIDENTIALITY NOTE

This facsimile message contains a confidential communication subject to protection under the attorney-client privilege and/or the attorney work-product doctrine. The message is intended solely for the use of the individual or entity to whom it is addressed and should not be read by anyone other than the intended recipient. In the event of a transmission error, please notify us immediately by collect telephone call at the number shown above. Thank you.