

GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

SPECIAL HEARING

+ + + + +

TUESDAY

MARCH 6, 2001

+ + + + +

The Special Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:21 a.m., Robert N. Sockwell, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL                      Chairperson  
ANN RENSHAW                                      Board Member

NATIONAL CAPITAL PLANNING COMMISSION MEMBER PRESENT:

SUSAN MORGAN-HINTON                      Commissioner

COMMISSION STAFF PRESENT:

Sheri Pruitt, Secretary, BZA  
Paul Hart, Office of Zoning  
John Nyarku, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL PRESENT:

Marie Sansone, Esq.

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P-R-O-C-E-E-D-I-N-G-S

(9:21 a.m.)

CHAIRPERSON SOCKWELL: The hearing will please come to order. Good morning, ladies and gentlemen. This is the March 6th, year 2001 special public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Robert N. Sockwell, Chairperson. Joining me today on my far left is Ann Renshaw, and representing the National Capital Planning Commission is Susan Hinton, to my immediate left.

Copies of today's hearing agenda are available to you. They are located to my left near the door. All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us.

Upon coming forward to speak to the board, please give both cards to the reporter, who is sitting to my right. The order of procedure for special exceptions and variances is, one, statement and witnesses of the applicant; two, government reports, including the Office of Planning and the Department of Public Works, et al.

Three, the report of the Advisory Neighborhood Commission, the ANC. Four, parties or persons in support. Five, parties or persons in opposition, and six, closing remarks by the applicant.

1                   Cross-examination of witnesses is permitted by  
2 the applicant or parties. The ANC within which the property is  
3 located is automatically a party in the case.

4                   The record will be closed at the conclusion of  
5 each case, except for any material specifically requested by  
6 the Board, and the staff will specify at the end of the hearing  
7 exactly what is expected.

8                   The Sunshine Act requires that the public hearing  
9 on each case be held in the open before the public. The Board  
10 may, consistent with its rules of procedure and the Sunshine  
11 Act, enter in executive session during or after the public  
12 hearing on a case for the purpose of reviewing the record, or  
13 deliberating on a case.

14                   The decision of the Board in these contested  
15 cases must be based exclusively on the public record. To avoid  
16 any appearance to the contrary, the Board requests that persons  
17 present not engage the Members of the Board in conversation.

18                   Please turn off all beepers and cell phones, or  
19 set them to vibrate only at this time so as not to disrupt  
20 these proceedings.

21                   The board will now consider any preliminary  
22 matters. Preliminary matters are those which relate to whether

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1 a case will or should be heard today, such as a request for  
2 postponement, continuance, or withdrawal, or whether proper and  
3 adequate notice of the hearing has been given.

4 If you are not prepared to go forward with the  
5 case today, or if you believe that the Board should not  
6 proceed, now is the time to raise such a matter. Does the  
7 staff have any preliminary matters?

8 MS. BAILEY: No, Mr. Chairman, we do not.

9 CHAIRPERSON SOCKWELL: Okay. If not -- well, we  
10 do have a withdrawal.

11 MS. PRUITT: Yes, but that is for the afternoon  
12 agenda, and this is a special meeting that was continued.

13 CHAIRPERSON SOCKWELL: Okay. Then let us proceed  
14 with the first case or the case I should say.

15 MS. BAILEY: Application Number 16655 of Delores  
16 Flowers, pursuant to 11 DCMR 3103.2, for a variance from  
17 Subsection 2101 for parking of one space for each five units to  
18 allow the use of a rooming house of eight rooms.

19 This is an assisted living facility on the first  
20 through third floors and basement in an R-4 District, at  
21 premises 1313 Harvard Street, Northwest, Square 2854, Lot 85.  
22 All those wishing to testify, please stand.

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(All witnesses were sworn.)

CHAIRPERSON SOCKWELL: All right. Before we go forward, it has been determined that the use, be it rooming house or community-based residential facility, is a matter of right, and that the issue before us is parking, and that you are grandfathered for one of two spaces that you might require.

We are dealing with a one-space requirement for each five residential units. You may go forward.

MR. BLACKWELL: Good morning, Mr. Chairman and Members of the Board. First of all, I would like to give my apologies for Ms. Flowers not being able to attend today. She has pneumonia, and she is unable to attend.

CHAIRPERSON SOCKWELL: And please identify yourself.

MR. BLACKWELL: I am Stan Blackwell, and I am the administrator for the group home at 1313 Harvard Street, Northwest.

CHAIRPERSON SOCKWELL: Thank you.

MR. BLACKWELL: And once again I would like to apologize for Ms. Flowers not being able to attend because she has pneumonia. Earlier last week she had I.V.s, and she tried to make it today, but she just couldn't make it. So she gives

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1 her apologies.

2 CHAIRPERSON SOCKWELL: Let me just query the  
3 audience briefly. How many people are here to speak in support  
4 of this application?

5 (No audible response.)

6 CHAIRPERSON SOCKWELL: How many people are here  
7 to speak in opposition?

8 (No audible response.)

9 CHAIRPERSON SOCKWELL: There are no people in  
10 opposition at this time that are present, and so I would ask  
11 you to go to the salient points briefly.

12 MR. BLACKWELL: Briefly, we have placed our  
13 application for -- basically we started off with a rooming  
14 house application, and we changed that last month to an  
15 assisted living application.

16 And we were told last month that the Office of  
17 Planning had made a determination that we had filed it  
18 improperly and that it should have been filed as a CRF. So as  
19 an end-result, after having appeared here, the Board decided to  
20 send us back to zoning to have a determination made on what  
21 should be, a boarding or rooming house, or whether it should be  
22 a CRF.

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1                   At that particular time I personally met with Mr.  
2 Troy Diabello, and it was determined by the Office of Zoning  
3 that it should be made a CRF. At that particular point in  
4 time, I placed an application on behalf of Ms. Flowers, and we  
5 are back here.

6                   CHAIRPERSON SOCKWELL: Thank you. So will you  
7 just give us your particular reasons with regard to the parking  
8 variances being sought, and how that affects you, and the  
9 specifics that require you to request the variance, and the  
10 things that you know are the three-prong test for supporting  
11 such a variance.

12                   MR. BLACKWELL: Okay. Basically, we have what  
13 they call locked-in parking, and as a end result, we do not  
14 have any parking at that particular location.

15                   The problem that has basically arose is that we  
16 do not need parking because all of our clients -- and which  
17 they are all very independent first of all. Most of them  
18 either go to school, college, or work.

19                   We have clients that work a The Pentagon, at the  
20 Commerce Department, at the Labor Department, all over the  
21 City. And most of them take public transportation, or either  
22 they go to what we consider a day treatment center, which would

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1 be places such as Trinity College, Washington Hospital Center,  
2 and that type of thing at any point in time.

3 And we have transportation that comes through a  
4 van service that is door-to-door service. So all of our  
5 clients are very mobile, and all of them take public  
6 transportation, and not one of them has transportation or has a  
7 car, including the staff.

8 The staff subjects themselves to the same  
9 rigorous guidelines as the clients, and we basically take the  
10 public transportation system as the clients do. So there is no  
11 need for parking. Everyone is taking public transportation.  
12 We have presented some documentation to that effect to the  
13 Board at our prior meeting.

14 CHAIRPERSON SOCKWELL: And with regard to  
15 practical difficulty to you or to the operation should the  
16 variance not be granted?

17 MR. BLACKWELL: If the variance is not granted,  
18 then I am afraid that where we are at at that particular point  
19 in time is that we will more than likely wind up having to  
20 close down.

21 And that will be unfortunate, because many of our  
22 clients -- well, all of your clients who are disabled, all they

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1 want is an opportunity to have a fulfilling life, and to be  
2 able to operate within society as most normal people do.

3 And they have fought very strenuously, and they  
4 have went overboard to try and make a new life for themselves,  
5 and to become working members of society, instead of members of  
6 society that at present are just receiving Social Security  
7 checks.

8 And I would consider that an injustice to them.  
9 I, myself -- I am disabled my own self. I am one of the  
10 architects of this particular program, and it does work. I sat  
11 in a wheelchair for 2-1/2 years, and at the present, you know,  
12 I live there my own self.

13 At the present time our people are making great  
14 strides. They are going into their own apartments all over the  
15 City, and they do not cause the community any difficulty. They  
16 pay taxes, and over half of them, those that are not paying  
17 taxes, are strenuously seeking to pay taxes and to go back into  
18 the employment rolls.

19 And this being the nation's capital, and not just  
20 being the Capital of the nation, but I consider of the world, I  
21 think that they should be in the forefront as to showing the  
22 country which direction to take.

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1                   Because traditionally in the past what has  
2 happened is that people who have had impairments, whether they  
3 be mental, or whether they be physical, has always been put in  
4 the background. And as an end-result, what has happened is  
5 that the taxpayer has had to flip the bill.

6                   The only thing that these people are asking for  
7 is to give us a chance to flip our own bill.

8                   CHAIRPERSON SOCKWELL: All right. And I think  
9 you have already stated that because the staff generally does  
10 not drive, and because the users of the facility, the patients,  
11 do not drive, there is a limited impact, if any, on on-street  
12 parking and the traffic.

13                  MR. BLACKWELL: That's correct.

14                  CHAIRPERSON SOCKWELL: And I assume that that  
15 would be your statement with regard to no adverse affects?

16                  MR. BLACKWELL: That's correct.

17                  CHAIRPERSON SOCKWELL: Okay. If that is the  
18 extent of your testimony -- and is there anyone else to testify  
19 as part of the organization, as opposed to a person, say just a  
20 person from the community? Is there anyone else who is part of  
21 your team who is testifying specifically about the center?

22                  MR. BLACKWELL: I would like to introduce the

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1 director, which is Ms. Barbara Gibson.

2 CHAIRPERSON SOCKWELL: Fine.

3 MS. BAILEY: Ms. Gibson, were you sworn in?

4 MR. GIBSON: Yes. Good morning, Chairperson and  
5 Members of the Board. My name is Barbara Gibson and I am the  
6 director at 1313 Harvard Street, Northwest, Washington, D.C.

7 CHAIRPERSON SOCKWELL: Please go forward.

8 MR. GIBSON: Mr. Blackwell summed it up pretty  
9 well. The clients that we have there are outgoing clients. We  
10 don't have handicapped people there in the house at all where  
11 you have to have vans that come and stay on the premises.

12 The vans that do pick them up are from day  
13 treatment programs. They pull over and pick them up, and they  
14 keep going from door-to-door. The other means of  
15 transportation as Mr. Blackwell stated is Metro transportation,  
16 the Metro train, and the buses.

17 The majority of the clients there work, and/or  
18 are in school. We have clients getting their GEDs, and  
19 everybody is on the move. Everybody is motivated. It is not a  
20 laid back place at all.

21 It is the kind of house that everybody in the  
22 community likes, and everybody in our community is -- we have

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1 an open-house, and so everybody knows us there.

2 We are well-known in the neighborhoods, and our  
3 clients help the older residents out as far as senior citizens,  
4 as far as days like this when it is snowing, and putting down  
5 salt, and doing what they can to prove -- they are so busy  
6 trying to prove to everybody that they can be a part of the  
7 community again, and that is why we are here to help them.

8 And to speak to you on their behalf and our  
9 behalf to try and help stay in the neighborhood, and to go on  
10 and help the clients that we have.

11 CHAIRPERSON SOCKWELL: Thank you.

12 MR. GIBSON: You're welcome.

13 CHAIRPERSON SOCKWELL: Any further testimony?

14 MR. BLACKWELL: No, not at this time.

15 MR. GIBSON: No, sir.

16 CHAIRPERSON SOCKWELL: Thank you. Then we will  
17 go to government reports. We do have an Office of Planning  
18 report and a report from the Department of Public Works. And I  
19 am asking Ms. Hinton to hit the basic points of the OP report,  
20 and I will ask Ms. Renshaw to speak to the transportation  
21 report or DPW report.

22 COMMISSIONER HINTON: The Office of Planning

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1 filed their final report, dated January 31st, 2001. The Office  
2 of Planning recommends that the application be reamended as it  
3 is in front of us today, and that the revised application be  
4 approved.

5 Let me see if I can get some conclusion  
6 statements here. The Office of Planning notes that the relief  
7 requested is a variance from the parking regulations, and that  
8 the property needs relief from one space that is required.

9 In looking to whether the case meets the variance  
10 test with respect to this specific condition of the property,  
11 the Office of Planning says it does meet the test, noting that  
12 the property is landlocked, which means from the rear there is  
13 no access to this property to the alley that is wide enough to  
14 provide for a parking space or a vehicle.

15 With respect to practical difficulties, the  
16 Office of Planning notes that it does meet the test, and that  
17 the applicant purchased the property under the impression that  
18 there was a valid CFO for the sort of use that is existing on  
19 the site, and was unaware that in fact there was no CFO and  
20 that a variance was needed.

21 And the property has been -- there have been  
22 interior renovations made to accommodate the kind of use that

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1 is existing there. The third part is can the relief be granted  
2 without substantial detriment to the public good, and the  
3 Office of Planning says that it can.

4 And neither the residents nor the administrators  
5 have cars, and they do not need to have a parking space on the  
6 property, and that all of the residents use public  
7 transportation.

8 CHAIRPERSON SOCKWELL: Thank you. Ms. Renshaw.

9 BOARD MEMBER RENSHAW: We have from the  
10 Department of Public Works a memorandum from Kenneth Layden,  
11 administrator, concerning Case Number 16655, dated February  
12 2nd, 2001, and the memorandum addresses the transportation  
13 aspects of the proposal, and the second paragraph of the  
14 memorandum just reviews the subject property, and states that  
15 the parking requirement for the subject property is two parking  
16 spaces.

17 And it then goes on to say that the applicant is  
18 unable to meet the off-street parking requirements due to  
19 property size restrictions, and seeks a variance under Section  
20 3107.2.

21 The proposed use will not cause a large increase  
22 in traffic volume on neighboring streets. According, DOT has

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1 no objection to the application.

2 CHAIRPERSON SOCKWELL: Thank you. And, Ms.  
3 Renshaw, would you continue by just speaking to the Advisory  
4 Neighborhood Commission's report.

5 BOARD MEMBER RENSHAW: We do not have anything in  
6 the file from the Advisory Neighborhood Commission 1-B, but on  
7 December 21st of 2000, Lawrence Guyot, the chairperson, was  
8 sent a letter notifying the ANC that a public hearing has been  
9 scheduled for today, and describes the case, and advises the  
10 ANC that there are requirements on reports of the ANC.

11 But we have nothing in the file. However, the OP  
12 report states that the ANC has not had an opportunity to review  
13 the application filed as CBRF, and then went on to say,  
14 however, since the parking requirement for a CBRF are less than  
15 for a rooming house, the point about the correct filing  
16 category is probably irrelevant.

17 So have we given enough time to the ANC to take  
18 this matter before a public hearing and I would like to ask the  
19 applicant if you have been in touch with Lawrence Guyot, or any  
20 other member of ANC-1B?

21 MR. BLACKWELL: Originally, prior to the contact  
22 -- and I believe that is the new ANC for that particular area?

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BOARD MEMBER RENSHAW: Yes, it is.

MR. BLACKWELL: We have the older ANC at the house, and he did a tour, and that was the last time that we spoke to the ANC. Then when the elections came about, I think it was transferred over to him.

So I know that the ex-ANC did come directly to the house, and as far as I know, he had objections. So I don't really know at what point, because it went through two different administrations, two different ANCs.

But the prior ANC didn't have an objection, and I don't know exactly what this particular ANC's disposition is.

BOARD MEMBER RENSHAW: But you have not gone before the ANC under the CDRF?

CHAIRPERSON SOCKWELL: Remember that it is a matter of right.

BOARD MEMBER RENSHAW: Yes, correct.

MS. PRUITT: And also, Ms. Renshaw, just to refresh your memories here, the original hearing was scheduled for February 6th, and was in one part continued at the request of the ANC.

So they were here at that meeting and knew that it was continued to this date. And in fact I think we picked

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1 this date to allow them an opportunity to meet.

2 CHAIRPERSON SOCKWELL: So the assumption that the  
3 Board must make is that the Advisory Neighborhood Commission  
4 has had an opportunity to review the proposal, and is aware of,  
5 and participated in the recommendation for a continuance, and  
6 has not responded with a report.

7 So on that basis, we do not give the Advisory  
8 Neighborhood Commission great weight, which is a requirement  
9 under the laws by which we operate here at this point.

10 So that would conclude the government reports,  
11 unless you have any comment on either of those reports.

12 MR. BLACKWELL: No.

13 MR. GIBSON: No, sir.

14 CHAIRPERSON SOCKWELL: All right. Board Members.

15  
16 (No audible response.)

17 CHAIRPERSON SOCKWELL: All right. Then persons  
18 or parties in support, there is no one here to the best of my  
19 knowledge that was designated; and in terms of persons or  
20 parties in opposition to this case, is there anyone here who  
21 may have entered the room subsequent to my last request?

22 (No audible response.)

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1 CHAIRPERSON SOCKWELL: Then on that basis I would  
2 ask for closing remarks by the applicant, and I would assume  
3 that you would want those remarks to include a request for a  
4 bench decision and summary order?

5 MR. BLACKWELL: Yes. First of all, we would like  
6 to thank the Board for your patience and your cooperation,  
7 because --

8 CHAIRPERSON SOCKWELL: I think that goes in both  
9 directions, and we should thank you.

10 MR. BLACKWELL: We do want to say that we have  
11 done everything we could to comply with the regs, and the  
12 specifications for the government. We have tried to be a good  
13 neighbor to all of the community, and anything that the  
14 community has asked us to do we have tried.

15 We have tried to make an impact for the  
16 betterment of the community, and for a parking space that we  
17 wouldn't use one way or the other. I really hope that it won't  
18 be a deterrent for us to continue operating. Thank you.

19 CHAIRPERSON SOCKWELL: Thank you. From my point  
20 of view, I believe that you have come before us properly. You  
21 have borne with us in dealing with the issues of whether this  
22 was filed properly as a rooming house or a community residence

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1 facility.

2 And I believe that the issue of parking being  
3 dealt with the way that it is, that it is a matter of right use  
4 that you have operated is fairly simple to work with.

5 There has been no outcry against your facility.  
6 The advisory neighborhood commission had an opportunity to  
7 provide input and has not provided it, and so we assume that  
8 they have chosen not to.

9 The Office of Planning report speaks to each of  
10 the issues in your required proof for a variance, and has  
11 assessed that you meet the tests in all three cases.

12 And I believe that barring any objections from  
13 the Board that we can go forward with a vote. Do my board  
14 members have any questions?

15 (No audible response.)

16 CHAIRPERSON SOCKWELL: Then I move that the  
17 request for variance in Case Number 16655 for a variance to the  
18 parking regulations of the zoning ordinance under Section 2101,  
19 pursuant to Section 3107.2, be approved.

20 BOARD MEMBER RENSHAW: I second.

21 CHAIRPERSON SOCKWELL: All in favor?

22 (A chorus of ayes.)

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CHAIRPERSON SOCKWELL: Opposed?

(No audible response.)

CHAIRPERSON SOCKWELL: Let the staff record the vote.

MS. BAILEY: The vote is recorded as three to approve the application, motion made by Mr. Sockwell, seconded by Ms. Renshaw, Ms. Hinton for approval, and Ms. Sheila Cross Reid not present and not voting, for approval of an application to allow one parking space for a community-based residential facility at the address mentioned during the hearing process.

CHAIRPERSON SOCKWELL: Mr. Blackwell, and Ms. Gibson, I think your order will be ready within a couple of weeks, and we wish you a great deal of continued success with the facility and the services that it is providing to the community. And I hope that your relationship with the surrounding community stays good.

MR. GIBSON: Thank you.

MR. BLACKWELL: And we thank you very, very much. Thank you.

COMMISSIONER HINTON: Mr. Chairman, could I just add to the record that the Board is adopting the reasoning in the Office of Planning report regarding the condition of the

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1 property, and the hardship, and the impact to the zoning  
2 regulations.

3 CHAIRPERSON SOCKWELL: That's fine.

4 COMMISSIONER HINTON: Thank you.

5 CHAIRPERSON SOCKWELL: Thank you very much. That  
6 will conclude the items on the agenda for the special public  
7 hearing of March 6th, 2001.

8 (Whereupon, the hearing was concluded at 9:45  
9 a.m.)

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