

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

JANUARY 20, 2004

+ + + + +

The Public Meeting convened in Room 220 South,
441 4th Street, N.W., Washington, DC 20001, pursuant
to notice at 9:30 a.m., Geoffrey H. Griffis,
Chairperson, presiding.

BOARD OF ZONING MEMBERS PRESENT:

GEOFFREY H. GRIFFIS,	Chairperson
RUTHANNE MILLER	Vice-Chairperson
DAVID ZAIDAIN	Board Member, NCPC

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY,	Deputy Secretary
BEVERLEY BAILEY,	Zoning Specialist

D.C. OFFICE OF CORPORATION COUNSEL:

MARY NAGELHOUT, ESQ.

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

9:37 a.m.

CHAIR GRIFFIS: Good morning, ladies and gentlemen.

I call to order the 20th of January, 2004 Public Meeting of Board of Zoning Adjustment for the District of Columbia.

My name is Jeff Griffis, Chairperson. Joining me today the Vice Chair Ms. Miller Representing the National Capital Planning Commission is Mr. Zaidain. And we have a scheduled absence from our member Mr. Etherly. And no Zoning Commissioner is with us at this time.

Copies of today's agenda are available to you.

I'm going to be very brief because we have two things to do this morning. First of all, is a public meeting. Public meetings are those which we deliberate on cases that we've already heard. We have one to deal with and we will move on from that, and then I will give my full openings for the hearing, for which I assume most of you are here for today.

However, there are several things that you should note prior to us proceeding, and I will

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1 repeat this again. However, I would ask that
2 everyone please turn off cellphones and beepers at
3 this time so we don't disrupt the proceedings.

4 The public meetings and public hearings
5 before the Board of Zoning Adjustments are recorded.

6 And they are now being recorded in two fashions.
7 First of all, we do have a court reporter that is
8 creating a full transcript of our proceedings. And,
9 secondly, we are being broadcast on the website of
10 the Office of Zoning, so that there is a live
11 transmission of these proceedings.

12 Accordingly, of course, we ask that
13 everyone refrain from any disruptive noises or action
14 in the hearing room. And, also, most importantly if
15 you are going to address the Board, you're willing to
16 speak into a microphone. The microphone should be
17 off, but I will get into that further as we call the
18 public hearing.

19 With that, is there any preliminary
20 matters for the public meeting? And if not, why
21 don't we call the first case for a deliberation and a
22 decision.

23 MR. MOY: Yes. Good morning, Mr.
24 Chairman.

25 CHAIR GRIFFIS: Good morning.

1 MR. MOY: Members of the Board.

2 The first case for decision is
3 Application 17080 of Asian American LEAD, pursuant to
4 11 DCMR ? 3104.1, for a special exception to allow
5 the establishment of a community center under section
6 209, in the R-4 District at premises 1323 Girard
7 Street, N.W. (Square 2855, Lot 828).

8 On December 9, 2003 the Board completed
9 testimony on this case application and scheduled its
10 decision for January 20, 2003 in a special public
11 meeting. The Board requested the following post-
12 hearing documents:

13 Proposed conditions and any summary
14 remarks from the applicant and party opponent,
15 including a corrected agreement between the Easter
16 Seal Foundation and the applicant regarding the
17 rental parking spaces. And that was submitted by the
18 applicant, dated December 29, 2003. And that's in
19 your case folder as Exhibit 42.

20 And that completes my briefing, Mr.
21 Chairman.

22 CHAIR GRIFFIS: Very well. Thank you
23 very much. And good morning to you, Mr. Moy and also
24 to Ms. Bailey with the Office of Zoning who is with
25 us today.

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1 Board Members, I know that we've all sat
2 through this, heard the full case and now have
3 reviewed the case and begun our deliberations on it.

4 And I'd like to have our discussions start with,
5 first of all let me give a quick outline.

6 There was some difficulty as we started
7 the public hearing on this case in terms of how they
8 were granted a certificate of occupancy. Of course,
9 this wasn't an appeal but came directly to us under
10 the special exception criterion, of which we did have
11 a party in opposition that had evidenced numerous
12 concerns.

13 I go back to the transcript and note that
14 they have indicated that they were not in opposition
15 to this going in and being present. However, it did
16 raise substantial concerns of which we need to see
17 whether they have been addressed and can be
18 alleviated or mitigated.

19 Several of the problems and concerns were
20 the programming and what the clients or kids would be
21 doing when it was open or not open.

22 There was also fire and life safety
23 issues that were brought up.

24 Parking, obviously, was a big issue.

25 The peace and quiet, tranquility,

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1 etcetera, was also raised during the hearing.

2 I think that with the party opposition's
3 case presentation as well as the applicant's and in
4 addition to some of the neighbors public testimony
5 and also written testimony, I think the application
6 is complete in terms of our understanding of the
7 issues. And I do not believe that there's anything
8 of question out there as to impacts. And so with
9 that, I think we can begin our deliberation on this,
10 and I'd open it up to any other Board Members for
11 comments at this time.

12 Not having any other comments then, Ms.
13 Miller?

14 VICE CHAIR MILLER: Well, I'm ont sure.
15 You want to get into -- if we're discussing impacts
16 at this time, I would say that parking was a major
17 concern. And I think that was well addressed at the
18 hearing.

19 It was determined that the premises
20 required six parking spaces and they were
21 constructing four spaces behind the building, I
22 believe, and one for handicapped on the side which
23 took care of five spaces. And they have a binding
24 agreement with Easter Seals to lease two parking
25 spaces in their lot, I believe through April of this

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1 year and then a letter from the Director of Easter
2 Seals saying that they intend to continue providing
3 those parking spaces to AA LEAD.

4 There was concern about adequacy of fire
5 escape. And we heard testimony that the Fire Marshall
6 had indeed inspected the premises and said it was
7 found to be safe.

8 I think there was concern about adult
9 supervision of the clients at all times during the
10 hours of operation, and that was addressed at the
11 hearing.

12 I think we can get into the test then for
13 the special exception. I think that's basically were
14 the impacts.

15 I think we can do this under motion. I
16 would move to grant Application 17080 of Asian
17 American LEAD pursuant to a letter in DCMR ? 3104.1,
18 for a special exception to allow the establishment of
19 a community center under section 209, in the R-4
20 District at premises 1323 Girard Street, Northwest.

21 BOARD MEMBER ZAIDAIN: I'll second.

22 CHAIR GRIFFIS: Thank you.

23 Is the motion conditioned at all?

24 VICE CHAIR MILLER: I would propose that
25 it be for a five year period after which the

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1 applicant would come back to the BZA for renewal.
2 And that two parking spaces -- well, that there be a
3 binding parking agreement for at least two parking
4 spaces in existence at all times.

5 BOARD MEMBER ZAIDAIN: That would be off
6 site?

7 VICE CHAIR MILLER: Off site, right.

8 CHAIR GRIFFIS: And what about on site?

9 VICE CHAIR MILLER: On site I think we
10 heard testimony and there's evidence in the record
11 that there are four spaces that are going to be
12 provided in the back.

13 CHAIR GRIFFIS: Five, isn't it?

14 VICE CHAIR MILLER: Well, my
15 understanding is four in the back and then one on the
16 side.

17 CHAIR GRIFFIS: Oh, I see.

18 VICE CHAIR MILLER: So they have space
19 for five parking spaces on site.

20 CHAIR GRIFFIS: Okay. Are you offering
21 that as a condition also that they provide the five
22 spaces on site and two off site?

23 BOARD MEMBER ZAIDAIN: But do we need to
24 have -- according to the plan that was submitted.

25 CHAIR GRIFFIS: That's true. So what

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1 you're saying is that condition would be recommended
2 because they are required, because that's what's been
3 submitted?

4 BOARD MEMBER ZAIDAIN: That would be my
5 understanding.

6 CHAIR GRIFFIS: Okay.

7 BOARD MEMBER ZAIDAIN: I mean, we can be
8 safe.

9 VICE CHAIR MILLER: I would concur with
10 that.

11 CHAIR GRIFFIS: Do those conditions meet
12 with your second, Mr. Zaidain?

13 BOARD MEMBER ZAIDAIN: They do.

14 CHAIR GRIFFIS: Very well. Let's
15 continue then. We have a motion before us, it's been
16 seconded, it has two conditions attached to it.

17 Ms. Miller, anything in addition?

18 VICE CHAIR MILLER: I would say that just
19 in general we heard evidence in the record meeting
20 the requirements of 209.1 which permit a community
21 center in this zone provided it meets the tests of
22 209.

23 209.2 says that it be not for profit, and
24 this is a 501(e)C organization.

25 209.3 provides no articles of commerce

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1 for sale in the center. And it's in the record that
2 no commercial activity will take place on the
3 property.

4 209.4 says a community center shall not
5 become objectionable in a resident's district because
6 of noise or traffic.

7 Office of Planning found that it had no
8 objections based on these criteria.

9 We heard evidence in the record that the
10 program is going to cater to a small underserved
11 population which resides in the immediate
12 neighborhood, for the most part.

13 It's located on a bus route and within
14 walking distance of Metro's Green Line.

15 And there's no objection from DDOT. They
16 found no adverse impact on traffic projected.

17 The prior use of this building was as a
18 church, which did provide similar activities.

19 209.5 provides that the use of the
20 community center shall be reasonably necessary or
21 convenient to the neighborhood in which it is
22 proposed to be located.

23 I think we can go back to 209.2 and
24 209.4. While the Asian American community is
25 scattered throughout the District, a large

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1 concentration of this population does live in the
2 neighborhood. And it's convenient to others because
3 of the proximity to Metro.

4 And it is meeting a need. We heard
5 testimony that there was 5,000 Vietnamese refugees
6 legal immigrants who are in need of many of the
7 services that are being provided by this
8 organization.

9 So that's meeting the requirements of
10 209.

11 They also have to meet the requirements
12 of 2101.1, which is the parking schedule. And it was
13 determined that the main assembly room of this
14 building is 412 feet of useable space for seating,
15 which required the six parking spaces, and we've
16 addressed how they were going to meet their parking.

17 3101.4 test for special exception. In
18 general, I think that this has been found that it's
19 in harmony with the general purpose and intent of the
20 zoning regulations and zoning maps and will not tend
21 to effect adversely the use of neighboring property
22 in accordance with zoning regs and zoning maps.

23 I think that we did hear testimony that
24 addressed the concerns about any adverse impacts, and
25 I don't find any existing in light of the conditions

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1 that we're accepting.

2 So, that's my analysis.

3 CHAIR GRIFFIS: Very complete. Thank you
4 very much.

5 Mr. Zaidain?

6 BOARD MEMBER ZAIDAIN: I'll just follow
7 up on that. I concur with Ms. Miller's analysis of
8 the test.

9 I thought it was interesting when going
10 through this we don't see 209 special exceptions a
11 terrible amount of the time. But one of the aspects
12 of that is 209.2 which talks about the social benefit
13 and the welfare of the program. So actually being
14 able to hear that type of testimony and have it be
15 specifically relevant to the case I thought was
16 pretty interesting, whereas it's not usually
17 something that we have to get into in these special
18 exceptions.

19 We did hear some testimony from the
20 opposition talking about the numerous similar type
21 uses in the area, you know, of social welfare type
22 uses. There's nothing in 209 that specifically gives
23 us a standard by which to evaluate that. In other
24 special exception cases it limit its uses when the
25 similar uses are located within, say, a 1,000 feet of

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1 the site. And that's not --

2 CHAIR GRIFFIS: That's a community-based
3 residential facility.

4 BOARD MEMBER ZAIDAIN: Right. I couldn't
5 think of the specific one off the top of my head, but
6 that's true. And that standard is not there in 209.

7 So we kind of have to make a judgment call and sort
8 through the testimony on whether or not there's a
9 tipping point here. And I don't think that that was
10 established. I think the use of it.

11 So, I'm happy to vote for the motion.

12 CHAIR GRIFFIS: Excellent. And then I
13 don't recall in the completeness of all that whether
14 the ANC was mentioned, but they were in favor, ANC-
15 1B, which was Exhibit 22. And they had voted for
16 approval.

17 Okay. Anything else? Not hearing any
18 other comments, we have a motion before us that's
19 been seconded and conditioned. And I would ask for
20 all those in favor signify by saying aye.

21 ALL: Aye.

22 CHAIR GRIFFIS: And opposed?

23 MR. MOY: The staff would record the vote
24 to grant the application as three-zero-two on the
25 motion of Ms. Miller, the Vice Chair seconded by Mr.

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1 Zaidain. And supporting the motion the Chairman.

2 We have Mr. Etherly, a Board Member who
3 is recused from the case and a Zoning Commission
4 member not present and not voting.

5 CHAIR GRIFFIS: Thank you very much.

6 Anything else for us in the Special
7 Public Meeting this morning?

8 Any other business for us in the public
9 meeting this morning?

10 MR. MOY: That's it for this morning on
11 the special meeting, sir.

12 CHAIR GRIFFIS: Good. Then let's
13 conclude with the Special Public Meeting the 20th of
14 January.

15 (Whereupon, at 9:51 a.m. the Special
16 Public Meeting was adjourned.)

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