

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-5- by IFC CENTER, NORTHERN VIRGINIA, INC., under Section 3-103 & 3-003 of the Zoning Ordinance to permit a mosque and related facilities on property located at Shirley Gate Road, tax map reference 56-4((1))12B & 12C, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 21, 1985; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. The present zoning is R-1/R-C.
3. The area of the lot is 7.572 acres.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The maximum number of seats shall be 500, with a corresponding minimum of 125 parking spaces. There shall be a maximum of 175 parking spaces and the parking area may be modified within the confines of the existing parking area so that sufficient maneuvering room is provided as required by the Public Facilities Manual.

6. The graveyard shall meet all applicable provisions of Chapter 57 of the Code of Virginia.

7. The entrance to the site shall meet VDM&T standards and the entrance shall be aligned directly opposite Park Drive.

8. Dedication shall be provided along the entire frontage of the site. A right turn lane shall be provided at the site entrance. The amount of dedication and the length of the right turn lane shall be determined by the Director, DEM at the time of site plan approval.

9. Adequate sight distance shall be provided as required by the Director, DEM.

10. This use shall be subject to the provisions of the Water Supply Protection Overlay District (WSPOD). In addition, if any portion of the site located in the R-1 District drains into the Occoquan Basin, The BMP requirements of the WSPOD shall also be applicable.

11. A soil survey shall be provided as required by the Director, DEM.

12. Transitional Screening 1 shall be provided along all property lines. Existing quality vegetation shall be preserved and a limit of clearing and grading shall be established as determined by the Arborist, DEM. The barrier requirement shall be waived. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.

13. The standards for the parking lot lights shall not exceed 12 feet and the lights shall be directed onto the parking area in such a manner to prevent light or glare from projecting onto adjacent properties.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

During discussion of the motion, Mr. Hammack made a substitute motion that Mr. Hyland's motion be approved with following two additional development conditions. No. 14: That the ICNV be permitted to have only two employees; and no. 15: That only one person designated as a caretaker or Imam be permitted to reside at the facility on the site. Mrs. Day seconded the substitute motion.

Mr. Hyland objected to the substitute motion and indicated that staff looks at every application on its own merit and includes development conditions to guide the Board. Mr. Hyland stated that he had a problem with adding development conditions when comparing this application with previous mosque applications. He indicated that in order to be consistent, the Board would have to look at every application for a church. He was concerned that once the Board starts such a practice, it would have to be consistent. If the Board models this application after the Rt. 7 mosque, it was not being fair or equal in terms of any application of any faith. Mr. Hyland stated that the Board is anything but consistent. Staff has never advised the Board to examine applications against another. Mr. Hyland stated that this application is completely different from the Rt. 7 application. He further stated that every church application is completely different in the way the building looks, the access to the site, etc. He was concerned that the Board should feel constrained by a prior application which is the reason he was opposed to the substitute motion.

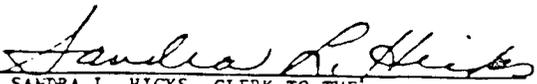
Chairman Smith stated that most church applications do not have more than one employee living on the site except for catholic churches. He stated that the living quarters are considered as part of the application or come in under separate application once the church has been constructed. Chairman Smith stated that the Board needs to be concerned about the number of people living on the site.

Mr. Hammack indicated that consistency is a virtue. He stated that in dealing with institutional uses, many of them have become active in recent years which raises a question as to whether they still remain compatible with the community. Mr. Hammack stated that he was not restricting the development conditions differently from any other other application. In this instance, the applicant has indicated that a certain number of persons would reside on the site. Mr. Hammack felt it was a proper restriction and there was not anything inappropriate about it.

The substitute motion failed by a vote of 3 to 3 (Messrs. DiGiulian, Hyland and Ribble)(Mrs. Thonen being absent).

The principal motion passed by a vote of 6 to 0 (Mrs. Thonen being absent).

A COPY TESTE:


SANDRA L. HICKS, CLERK TO THE
BOARD OF ZONING APPEALS