

Page 429, May 21, 1985, Scheduled 8:30 P.M. case called at 9:00 P.M. (TAPES 1 & 2)

8:30 P.M. ISLAMIC CENTER, NORTHERN VIRGINIA, INC., appl. under Sect. 3-103 & 3-C03 of the Ord. for a mosque and related facilities, located Shirley Gate Rd., R-1/R-C, Springfield Dist., 56-4((1))12B & 12C, 7.572 ac., SP 85-S-005.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. She informed the Board that the applicants were seeking approval of a two plus acre graveyard; an office and prayer room; an administrative building; a cafeteria and library; a meeting room caretaker area; and a sunday school. Ms. Hamilton informed the Board that a graveyard is permitted by right for churches under the Virginia Code but could not be established within 250 yards of a residence without the consent of the property owner.

Ms. Hamilton revised development condition no. 8 to read as follows: "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.

In response to questions from the Board with respect to condition no. 6, Ms. Hamilton stated that if the applicant was unable to meet the 250 yard setback or obtain permission for the property owner, the graveyard would have to be reduced in size in order to maintain the required distance. The Board expressed concern about approving a plat in which a large area is designated for a graveyard which might not meet the required setback distance. If the applicant is not able to use this area for a graveyard and sells off the land, it would reduce the floor area ratio. Ms. Hamilton stated that the applicant could not reduce the land area from the special permit without a public hearing and could not violate the floor area ratio.

Mr. Tariq Mustafa of 8805 Bellwood Road in Bethesda, MD. represented the applicant. Mr. Mustafa informed the Board that the proposed mosque is to serve members of the Islamic faith who reside in the Washington, D.C. and Northern Virginia area. The congregation was formed three years ago and currently holds religious services at Jefferson High School off of Glebe Road in Arlington. The principal structure on the property will be the mosque.

In response to questions from the Board concerning the size of the proposed cafeteria, Mr. Mustafa indicated that the large eating area is necessary to accommodate large groups during high holy functions, prayers and social gatherings where food is served. The proposed administration building will be in keeping with the mosque and general administration and the prayer room will be used for special prayers for the deceased and last rites.

In further response to questions from the Board, Mr. Mustafa indicated that marriages could take place in or outside the mosque. The Board questioned the height of the minaret. Mr. Mustafa stated that the minaret has to be 60 feet high in order to be seen because the building itself is 50 feet high. The minaret is a symbolic symbol only. The Board indicated that in a previous special permit application, a minaret had been reduced to 45 feet in height because it was in a residential area.

Mr. Bilal M. Raschid of 307 Yoakum Parkway, No. 1726, in Alexandria, informed the Board that he is the architect for the mosque. He indicated that everything was designed to scale with the dome on the mosque being 40 feet high, the mosque being 50 feet high, and the minaret being 60 feet. He indicated that the minaret has to be higher than the dome and does not exceed the maximum building height for the zoning district. Another reason for its height is because it is located deep within the property and needs to be visible from the road.

The Board questioned Mr. Mustafa regarding the corporation, ICNV, Inc., and asked that he provide the Articles of Incorporation. In response to questions, Mr. Mustafa stated that the ICNV, Inc. is a non-profit organization and is independent of any other Islamic group. Mr. Mustafa agreed to provide the requested information.

Mr. Mustafa testified that the mosque would have regular employees such as the Iman, the caretaker, and Sunday school teachers. Only the Iman and one other person would reside on the site. Mr. Mustafa stated that adequate parking would be available on the site even when there were large gatherings. With an estimated 500 persons, only 125 parking spaces are required but the mosque has increased the parking to 175 spaces.

There was no one else to speak in support of the application. The following persons spoke in opposition: Mr. Lee Kanagy of 11519 Warren Lane and Mr. Don Phillips of 11308 Nancyann Way. Mr. Kanagy stated that he was not against the application but had some concerns regarding terrorist groups. In addition, Mr. Kanagy questioned whether the minaret would be used to call its members to prayer. He was assured that the minaret was symbolic and would not have any bells.

Mr. Phillips expressed concern that prior to the purchase of his property, he had reviewed the master plan and felt secure in the knowledge that the area would remain residential. He stated that since he did not border on the cemetery, it was not one of his concerns. However, with 500 people traveling to the site twice a year for religious events, he was concerned about the traffic impact on Shirley Gate Road. The traffic count listed in the staff report was based on 1983 figures. In response to questions from the Board, Mr. Phillips stated that he would prefer residential homes on the subject property rather than any other use as that is what is called for in the master plan.

Ms. Hamilton stated that the Transportation Report used 1982 figures. However the figure in the application used a rate of two vehicles per day per person which was provided by the applicant. The Board indicated that Shirley Gate Road is a bypass for the City of Fairfax and is scheduled to be widened. The Board questioned the applicant as to whether there would be any monuments in connection with the cemetery. Mr. Mustafa stated that the graveyard would contain the normal tombstones.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-S-005 by ISLAMIC CENTER, NORTHERN VIRGINIA, INC., under Section 3-103 & 3-C03 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

R E S O L U T I O N

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 VDH&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.

R E S O L U T I O N

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 Iman 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 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).
