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RICHMOND, VIRGINIA

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IN THE  
**Supreme Court of Virginia**  
AT RICHMOND

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RECORD NO. 921157

---

**GEORGE F. RILES, et al.,**

*Appellants,*

v.

**BOARD OF ZONING APPEALS OF THE  
CITY OF ROANOKE, et al.,**

*Appellees.*

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**JOINT APPENDIX**

---

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BOARD OF ZONING APPEALS

ROANOKE, VIRGINIA

The third day of October, 1972.

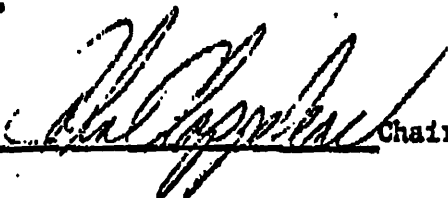
A RESOLUTION amending the Rules of Procedure of this Body,

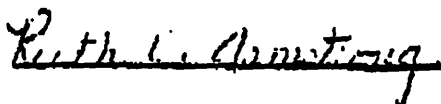
WHEREAS, the Board of Zoning Appeals deems it proper that its Rules of Procedure be amended to include a parliamentary authority to govern the proceedings of this Board,

THEREFORE, BE IT RESOLVED that the Rules of Procedure of this Body be amended by including therein as Art. XV the following:

ARTICLE XV. PARLIAMENTARY AUTHORITY

- maneu*
1. The rules contained in Roberts Rules of Order newly revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with the standing rules of the Board.

  
Chairman

  
Secretary



RULES OF PROCEDURE  
OF THE  
BOARD OF ZONING APPEALS  
Roanoke, Virginia

ARTICLE I. BOARD OF ZONING APPEALS

1. Purpose of Board of Zoning Appeals.

The Board of Zoning Appeals has been appointed by City Council as a Board of Appeals to act as a discretionary administrative body.

2. Jurisdiction.

The Board of Zoning Appeals may act on:

1. An interpretation of the Zoning Ordinance.
2. A request for a Special Exception
3. A request for a variance from the terms of the Zoning Ordinance in accordance with Powers and Duties of Board of Zoning Appeals, as set forth in the Zoning Ordinance.

ARTICLE II. OFFICERS:

1. The Board shall elect a Chairman, Vice-Chairman and Secretary at the first meeting held in each year to serve for one year or until their successors have been elected and qualified.
2. The Chairman shall preside at meetings of the Board and public hearings. He shall decide all points of order or procedure unless otherwise directed by a majority vote of the Board in session at that time; advertise all hearings; sign resolutions and any other important papers of the Board; administer oaths and compel the attendance of witnesses. He shall appoint committees, supervise the work of the Secretary and perform such other duties as may be necessary or incident to his office.
3. The Vice-Chairman shall perform the duties of the Chairman in the latter's absence or inability to serve.
4. The Secretary, subject to the provisions of the Zoning Ordinance, these rules or the direction of the Board and its Chairman, shall have responsible charge of the office and records of the Board; conduct all official correspondence of the Board; prepare and send out all notices required by these rules and the order of the Board; attend all meetings and all hearings of the Board; scrutinize all appeals and applications to see that these rules are complied with; keep the minutes and a permanent record of all the Board's proceedings; compile all required records and shall maintain the necessary files and a proper index. The Secretary shall prepare an agenda of the

appeals and applications to be heard by the Board at each meeting and shall notify each member of the Board of each regular meeting, as well as each special meeting, and shall furnish such detailed information as may be available relative to each question to be considered by the Board.

ARTICLE III. MEETINGS:

1. The office of the Board of Zoning Appeals shall be in the Municipal Building, City of Roanoke, Virginia, or such other suitable place as may be designated by the City Manager. Public hearings shall be conducted in the Council Room or in such other satisfactory space as may be arranged for in case of conflict in the use of the room.
2. Regular meetings of the Board for the hearing of appeals and applications shall be held on the first Tuesday after the first Sunday in each month, unless said Tuesday shall fall on a holiday, in which case the meeting shall be held the following day or on a date designated by the Chairman. If no appeals or applications are pending, no meeting shall be held.
3. Special meetings may be called by the Chairman or at the request of three Board members, and notice of such special meetings shall be mailed to each Board member at least 24 hours before the time set, except that announcement of a special meeting, at any meeting at which all members are present, shall be sufficient notice of such meeting.
- ✓ 4. Three members of the Board shall constitute a quorum for the transacting of business, but the concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official.
5. The order of business at all regular meetings of the Board shall be as follow  
    Call to order  
    Reading of appeals  
    Administering of Oaths  
    Hearing of appeals, evidence, examination of witnesses, etc.  
    Disposition of appeals  
    Unfinished business  
    Reports of committees.  
    New business
6. If all applications or appeals on the agenda for a regular meeting cannot be disposed of on the day set, the Board, on the affirmative vote of a majority of the members present, may adjourn the meeting and set a new date for public hearing or reaching a decision on the remaining appeals and applications. In such instances the Chairman shall set a new meeting date and no further public notice shall be required for the items remaining on the agenda.

ARTICLE IV. MINUTES AND RECORDS.

1. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating

such fact and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Board and shall be a public record.

2. The Minutes of each meeting shall be signed by the Secretary and all members of the Board present at the meeting.
3. The Orders of the Board shall be signed by the presiding officer and the Secretary.

ARTICLE V. PROCEDURE TO BE FOLLOWED IN FILING APPEALS.

1. Who May Appeal: Appeals to the Board may be made by any person aggrieved, or by any officer, department, board or bureau of the City affected by any decision of the Zoning Administrator, and by applicants for a Special Exception. No appeal or application will be considered by the Board if legal proceedings involving the appeal or application are pending or in progress.
2. Time in Which to Appeal: Notice of appeal, application for interpretation, Special Exception or a variance must be filed within thirty days after the date of the Zoning Administrator's interpretation or order denying a building permit or a certificate of occupancy.
3. Procedure to be Followed:
  - a. Each appeal shall be filed on the official application blank provided by the Board of Zoning Appeals, a copy of which shall serve as a notice of appeal or application to the Zoning Administrator. No application or appeal will be considered by the Board unless it is made on the official application form. The Zoning Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.
  - b. Each appeal shall be accompanied by a fee of ~~\$5.00~~ <sup>40.00? check</sup> to defray the cost of printing the required notices, said amount to be turned over to the City Treasurer in the manner prescribed by Roanoke City Council.
  - c. The applicant shall provide the Secretary with all information required by the application blank and any additional information and data as may be necessary to advise the Board fully with reference to the application for appeal, whether or not such information is required by the official application form.
  - d. Any communication purporting to be an appeal or application for variation or modification shall be regarded as a mere notice to seek relief until an official application form is filed by the applicant.
  - e. Each application properly filed shall be numbered serially and placed on the calendar of the Board. The appeal numbers shall



begin anew on January 1st of each year and shall be hyphenated with the number of the year in which the said application is filed. Applications shall be assigned for hearing in the order in which they are numbered, except that an appeal or an application may be advanced for hearing by the Chairman upon good cause shown.

- f. The Secretary shall prepare a legal notice of hearings which shall be published in one local newspaper of general circulation at least ten days prior to the date of the hearing. Exception may be made in any case to which, in the opinion of at least one Board member, special consideration should be given, provided there is sufficient time to comply with the requirements of the Zoning Ordinance and these rules. The Secretary shall notify the applicant and interested parties, as well as property owners in the immediate vicinity, of the date, time and place of the public hearing, and this information shall be mailed to such person at his last known place of business or residence. Said notices shall be prepared and mailed as soon after the application is advertised as the work of the Secretary will permit.

#### ARTICLE VI. INVESTIGATIONS.

Preceding each public hearing, the Board shall cause to be made by its own members and/or the Secretary, personal inspection of the properties in question, and such investigations of fact bearing upon such application. as will serve to provide all necessary information to assure that the action on each application is consistent with the intent and purpose of the Zoning Ordinance. Inspections may be made individually or in a group. The members of the Board may keep a record of the mileage of official inspections which shall be turned in to the Secretary for payment of mileage as provided for in the budget.

#### ARTICLE VII. PROCEDURE AT PUBLIC HEARINGS.

1. Public hearings shall be held before the Board at the time and place for which public notice has been given. The hearing shall be informal, and every effort shall be made to insure a full, prompt, complete and fair hearing for each party who has any rights in the subject; and in an effort to accomplish such a result, there need not be a strict enforcement of procedural methods required of those who desire to state their positions. The Board shall not permit lengthy questioning or unnecessary cross-examination by attorneys. To maintain orderly procedure, each side shall proceed without interruption by the other. Every person shall abide by the order and direction of the Chairman. Discourtesy or disorderly conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the Chairman deems necessary and proper.
2. Board Hearings shall be open to the public, but the Board may go into executive session for the purpose of discussing appeals and applications. Final decisions of the Board on appeals and applications shall be made in public hearing.

3. The applicant may appear in person or by agent or by attorney. In the absence of any personal appearance on behalf of the applicant, the Board may proceed to dispose of the matter on the agenda before it.
4. At a hearing of each appeal and application the order shall be as follows:
  - a. Applicant's presentation of request.
  - b. Evidence of property owners in favor of request.
  - c. Evidence of property owners opposing request.
  - d. Examination of witnesses.
  - e. Applicant's rebuttal.
  - f. Decision of Board.
  - g. Entering of decision on records of Board together with the reasons on which the decision was based.

#### ARTICLE VIII. FINAL DISPOSITION OF APPEAL.

1. The final disposition of any appeal or application before the Board shall be made within a reasonable length of time after the conclusion of the public hearing.
2. The decision of the Board shall be in the form of an order or a resolution which shall affirm, modify or reverse the refusal of a permit by, or any order or decision of, the Zoning Administrator. In case of an application for variation or modification, the resolution shall set forth that the application is denied or that it is granted with or without conditions, and said resolution shall specifically set forth what variations or modifications are permitted and what conditions, if any, shall be complied with.
3. A copy of said order or resolution shall be sent to the applicant and to the Zoning Administrator and a copy filed with the record of the appeal or application. Other copies may be sent to interested parties at the Secretary's discretion.
4. The Secretary may notify the applicant verbally of the Board's decision pending completion of the records of each case.
5. Any applicant may withdraw his appeal or application at any time prior to the call to order for the public hearing by the Board. Any request for withdrawal after the meeting has been called to order shall be granted only upon consent of the Board.

#### ARTICLE IX. REHEARINGS.

1. No rehearing of an appeal or application on which the Board has previously rendered a decision shall be held, except on motion made by a member of the Board to reconsider the previous decision, made not later than the first meeting succeeding the meeting at which the decision was rendered and carried by not less than a majority affirmative vote of the Board members present at the original hearing.
2. No motion for a rehearing shall be considered by the Board unless new evidence is submitted which, in the opinion of the Board, could not have been reasonably presented at the meeting at which the original hearing was held.

3. If a rehearing is granted, the case shall be put on the agenda for a rehearing, and the same procedure shall be followed as for a new appeal or application.

ARTICLE X. APPEALS FROM THE BOARD'S DECISION.

- 1.. Appeals from the Board's decision shall be made in accordance with the provisions of the Zoning Ordinance.

ARTICLE XI. RECOMMENDATIONS.

1. The Board may submit a recommendation for a change in the Zoning Ordinance whenever it has reason to believe that any provisions of the Ordinance are not in harmony with the public good. Such recommendation may be submitted either to Roanoke City Council or the City Planning Commission.

ARTICLE XII. RECONSIDERATION OF APPEALS PREVIOUSLY HEARD.

1. Having once considered and rendered a decision upon a request, the Board shall not reconsider substantially the same request for one year, except as provided in Article IX, REHEARINGS.

ARTICLE XIII. ADVICE.

1. No informal requests of applicants for advice or moot questions will be considered by the Board.
2. If legal advice is deemed necessary, the Board may ask the City Attorney for an opinion.

ARTICLE XIV. AMENDMENTS.

1. These rules, insofar as they do not conflict with the latest official copy of the Zoning Ordinance, may be amended or modified by a majority vote of the whole Board, provided that such amendment be presented in writing at a regular meeting and action taken thereon at a subsequent regular meeting.
2. The suspension of any rule of procedure may be ordered at any meeting by a unanimous vote of the Board members present.

Approved by the Board of Zoning Appeals,  
September 2, 1969.

ARTICLE XV. PARLIAMENTARY AUTHORITY - AMENDMENT

1. The rules contained in Roberts Rules of Order newly revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with the standing rules of the Board.



CITY OF ROANOKE BOARD OF ZONING APPEALS  
APPLICATION FOR SPECIAL EXCEPTION

Pursuant to provisions of Section 36.1-656, Code of the City of Roanoke (1979), as amended, this application is hereby filed with the Zoning Administrator and the Board of Zoning Appeals requesting that the Board grant a special exception to the provisions of the zoning regulations of the City of Roanoke, as described below.

Subject property 1919 Andrews Road, N. W. (1.3-Ac. tract)  
Applicant Roanoke Mental Hygiene Services, Inc.  
Applicant's address 301 Elm Avenue, S. W., Roanoke, Va. 24016  
Owner of property Daniel S. Wooldridge  
Owner's address P. O. Box 12127, Roanoke, Va. 24023  
Designated as Off. Tax No. 2350101  
Classified as Zoning District RS-3

I hereby request that the Board grant a special exception to the zoning regulations of the City of Roanoke, in accordance with the provisions of Section 36.1-90 (2) Code of the City of Roanoke (1979), as amended, in order to permit the following use to be made of the subject property.

Details of proposed use, including any variances requested \_\_\_\_\_

Applicant requests special exception to permit property in question  
to be used as a group home for substance abusers, with a variance from  
Section 36.1-560 to allow as many as 24 residents in lieu of the  
permissible eight. It is proposed that a building to house 14 persons  
would be constructed on the property. This building would be used in  
addition to the existing residence for the group home. The residents  
would be referred to this facility from other substance abuse agencies,  
the Courts, the Community Diversion Incentive program, the Department  
of Corrections. Residents would live at this location from six to nine  
months. The applicant has a contract for the purchase of the property  
subject to the granting of this request.

Filed with the Board of Zoning Appeals on this 19th day of  
March, 1991 for public hearing on April 9, 1991

*And P. Russell J*  
Applicant

Application accepted as submitted in accordance with provisions of Chapter 36.1-656, Code of the City of Roanoke (1979), as amended.

*Ruth C. Harrison*  
Secretary, Board of Zoning Appeals

It is proposed that the 24 residents now at Hegira House, 1301 Second Street, S. W., would be transferred to this location.

A Copy, Teste: *Don C. Brown*  
Paul C. Brown, Secretary of  
Roanoke City Board of Zoning Appeals

BOARD OF ZONING APPEALS

MINUTES OF MEETING

Roanoke, Virginia  
April 9, 1991

APPEAL NO. 32-91-A  
APPLICANT: Roanoke Mental Hygiene Services, Inc.  
PREMISES: 1919 Andrews Road, Northwest  
PRESIDING: L. Elwood Norris, Chairman, T. E. Roberts,  
Walter Wheaton, Richard Rife, Bob Coptly

Chairman: Roanoke Mental Hygiene Services Inc. for special exception to permit group home at 1919 Andrews Road with a variance to permit 24 persons in lieu of 8. Let's have everyone that is going to speak stand and raise your hands and don't speak later if you have not been sworn in, please. Alright. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth so help you God?

All: We do.

Chairman: Alright, if you all will be seated and let these gentlemen speak first. As these first people speak they must give their name and address to the secretary.

Mr. Altice: Members of the Zoning Board my name is Henry Altice and I am the director for Hegira House which is currently located at 1301 Second Street, Southwest operated under Mental Health Services of Roanoke Valley. The Roanoke Mental Hygiene Service, Inc. is a corporation that purchases property for the mental health services of the Roanoke Valley and it is a holder of property. I have several people who will be speaking about the concept that we're, hopefully, going to be putting in at 1919 Andrews Road, and we'll have some explanation of that property. This is an overview of a sight plan that was done by Oliver Stein and he will be helping me explain that in a few minutes. But let me speak a little bit, first of all, about who we are and what we do. Hegira House has been in operation at the corner of 2nd and Walnut in Southwest for 18 years, since 1973. During that time, we have addressed substance abusers with problems with drug addiction and alcohol addiction. Our program is one of the most strict and disciplined programs in the state of Virginia. We do not allow our clients to go anywhere in the community unless they have staff supervision or they're in the latter part of their treatment and are

capable of going in the community and behaving themselves accordingly. People cannot go and come in our program as they chose. Part of the structure of the program is that they have to learn to be responsible themselves, and responsible for their own recovery. They learn to demonstrate values in interacting with themselves as well as people in the community. We do not tolerate them going out and disrespecting people in the community. We do not tolerate them using drugs and alcohol, these behaviors will be dealt with and dealt with severely. Ultimately these people could, in fact, be sent to jail for some of these activities. We do weekly urinalysis tests as well as at random urinalysis tests to determine at another level whether or not these people are involved with drugs or alcohol. People who have been through a therapeutic community such as Hegira House have stated that it was harder for them than going through jail and going through prison. The program means a tremendous commitment to changing ones life. These people come in with their lives in total dysfunction because for their substance abuse addition, and when they leave our program and complete it and graduate and go back into the community they are production and constructive citizens in our city and in our community. Hegira House's reputation in the Southwest community has been one that has been very positive and has been one that has been very supportive to our community. There is no time that Hegira House has been seen as a nuisance. We do not have drug addicts hanging out on the corner. We do not have drug addicts hanging out around the house. As I have stated on numerous occasions, there are two groups of people that drug addicts despise in this city and one is the police and the other is the Hegira House program. Because what it means is that they either have to comply with our high values or they have to move on. And I know that there are a lot of people who are concerned about a program such as Hegira House coming into their community or close to their community. And I can understand that. That is something that would be a concern of mine. But I have a strong commitment on educating the community on what we do. I have a strong commitment on saying today what we're about and in talking with someone about our record in the Southwest community and in the city of Roanoke. Hegira House did not pick Northwest Roanoke because we wanted to be in Northwest Roanoke. We picked a site that was most feasible to us. This particular site provides a tremendous amount of privacy which is vital for us to be able to work with our clients. I think a lot of people think well we don't want Hegira House clients effecting our community. Also we have to be careful because the community can have an effect on the client because there are people

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*[Handwritten signature]*



in all areas of this city who are using drugs and abusing alcohol who can have a very negative effect on our clients. One of the things we are bound in is the federal confidentiality laws where the person is entitled to privacy and confidentiality in terms of their treatment. People who are familiar with AA and in AA knowing that Alcoholics Anonymous means anonymous, and we believe that the person has a right in their treatment to privacy and a right to be reflective and buy into their treatment so they can be constructive members of their community. If people have been reading the paper the last few days they've noticed that there are several articles about treatment. An editorial last night which I thought was extremely informative because what it stated was that even though you may deny treatment initially, and feel like it didn't have a cost, overall it has a tremendous cost on the community. Regrettably so, the city of Roanoke deals with a tremendous crack problem, a tremendous cocaine problem and a great alcohol problem. It spares no one. And I think that is one thing that Hegira House offers is an alternative for people to get their lives together other than having to be ultimately killed in the street, hopelessly addicted, overdose on drugs or end up spending long periods of time in prison. I don't work with pushers, I work with abusers. I work with people who are using the drugs, not the ones who are profiting from their sales. That is what we are committed to, to rehabilitate our citizens so they don't have to keep using the drugs and costing our community. I want to talk a little bit about some of the concerns that I would have and about some of the concerns that I have heard. Like I said, Hegira House is not something that addicts who are actually using drugs wants to be close to because it represents the very thing that they're scared of and that is being straight and having to look at their drug problem. We maintain a low profile in our community as much as possible. And in looking at traffic flow problems which would come out of this facility, as private as it is, would be minimal. We have one van that would carry our clients, we have 12 different staff cars that would only be going in and out of the facility on different shifts because we provide 24 hour a day coverage. We have limited visiting for the clients and that would present no problems, and other than general deliveries that would bring supplies into the program. Another issue that people probably have is client control and security. And that is true. That is something that I am concerned about. I believe that people initially in treatment need to have security, they need to have controls upon them because their life itself as lost control. Hegira House is licensed by the Department of Mental Health, Mental Retardation and Substance Abuse

7-3

*Patricia James*

Services and to go through the local licensure requirement for a program such as ours is a very rigorous task and it holds every part of our program accountable. We are also licensed by the Department of Corrections which also deals with the issue of security and we have close relationships with the Roanoke City Police Department and the various probation and parole and Department of Corrections officials to maintain that if anything does cause problems that we can deal with these individual instantly. We have stringent health, fire and safety requirements that we comply with so that the needs of the clients are met as well as the issue of safety is addressed. We have got an extremely professional staff. Six of my staff are certified counselors. All with different levels of degrees and experience. There is no program in the state of Virginia that has as many certified counselors on staff as I do. We provide 24 hour a day coverage 7 days a week. There's always a counselor on duty and present at the site to address any issues which may come up. Also, any person who comes into the program starts out at the bottom. There is no free lunch. They either have to start out on an operations crew where they clean up the facility and maintain its grounds to where they have to learn to cook food and maintain the kitchen. As time goes on, these people increase status and they learn to head these crews and ultimately they learn to become coordinators where they supervise these crews under staff supervision. To get these positions requires a lot of work and a lot of commitment to change. And to get these positions and maintain them, they have to support the concept of the program. And that is also maintaining our accountability because we believe that we, the staff, cannot change these people without the peer support of each other. We believe that they need to learn to say no and they need to learn to make responsible decisions on their own. If they could do that they would not, in fact, be involved in drug addiction. So they learn to support each other in the right way and instead of giving each other drugs they give each other support. So that we know what's going on with these people and they're not relapsing and they're not being a problem to the members of the program and the members of the community. The people who will be housed at 1919 Andrews Road will not be given unlimited access to the community. These people are the ones who will be staying in the in-house phase of the program while the re-entry, the latter phase of the program, people will still remain housed in our re-entry apartments in Southwest. So we believe in security. We believe that without security, privacy and confidentiality there is no way that our program can work. We believe in integrity, we believe in professionalism so that these clients can get the best

possible treatment available to them. We have been seen in many areas as one of the finest programs in the state of Virginia and in the east coast and it has been a model program for programs throughout the state of Virginia. To be a program for this length of time says a lot for who we are and what we are about. We do not want to come in and devalue a community or cause problems in the community, but rather to be a supportive part of that community. What I would like to do now, before I address some other concerns, is to talk a little bit about the facility and the site plan itself. Oliver and Mike Smith you could come up with me.

(Someone in the audience) Mr. Chairman, could you please limit these talks? It seems like they have all the time and by the time you get to us it could be 6 or 7:00.

Chairman: It's always the person asking the request gets to explain the request first. We'll give you all the time that you need.

Mr. Altice: OK, Oliver.

Mr. Stein: I'm Oliver Stein, a retired architect and I was asked to work with Henry Altice on preparing a site plan. There is a 14 acre site as illustrated here and the very nice existing residence on that. I think some of you have been out to see that. And they propose to add two buildings. One a general purpose or multipurpose building which is 27 1/2 feet wide and 56 feet long and that's basically a multipurpose room, dining hall sort of a building. We've located it in this location. This is the old existing building and this is the old existing garage and the multipurpose building is to the right and 40 feet this direction we've located the dormitory building

Chairman: And the creek is to the right, there?

Mr. Stein: The creek is, this is Lick Rock. You drive in off Andrews Road some quarter of a mile I think it is...

Chairman: Well now Andrews is going to be up here and 581 is ...

Mr. Stein: 581 is right in this location, parallel to Lick Run and it's just off drawing. And, of course, Valley View Mall is up here. And you drive in going toward the city's property and then into this driveway and this existing residence has been back there since,



I think, the late 1930's. The second building is here, that's the dormitory building, and that's 50 feet by 27 1/2 feet and they are Moducraft prefabricated buildings.

Chairman: Some of the board members could not find it, I think.

Mr. Stein: I have a picture of the site.

Chairman: A beautiful site and all that meadow down there in front goes...all that meadow down there in front....

Mr. Stein: Yes, there are a number of trees on the site, and...

Chairman: It's almost completely enclosed in trees, isn't it?

Mr. Stein: Yes, it is. It would, I don't think, be at all visible from the neighborhoods and it's about, the closest building is something like 125 feet to a property line.

Chairman: Alright.

Mr. Wheaton: Next Question. The line I see going up there over on this side of the line. That's the boundary?

Mr. Stein: Yes, this is Breakview Drive that dead ends up here.

Mr. Wheaton: That, that's the question I want to raise. There is no entrance from Lake View into that property?

Mr. Stein: No sir.

Mr. Wheaton: The street, the bottom there? No, coming down this way. Yes. There's no entrance there?

Mr. Stein: Springhill Drive.

Mr. Wheaton: Huh?

Mr. Stein: Springhill Drive.

Mr. Wheaton: It's a cul-de-sac there, isn't it?

Mr. Stein: No.

Mr. Wheaton: Dead end or cul-de-sac.

Chairman: It's a dead end.

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*AmC Lane*

Mr. Wheaton: I'm saying going into your property. Into the proposed property.

Chairman: Show him how you get into it.

Mr. Wheaton: The only way in is from Andrews Road?

Mr. Stein: Yes, sir.

Chairman: Next question.

Mr. Wheaton: Is there any barricade or anything along that line that separates that property? Just...

Mr. Stein: At this point there's a gate.... there's a fence along here. Just a regular...

Mr. Wheaton: Just a regular fence?

Mr. Stein: Just a regular fence, yes sir.

Mr. Wheaton: And Lick Run is on the North, so to speak?

Mr. Stein: This is generally North.

Mr. Wheaton: Right. OK.

All right it would be a good idea,... you might turn it around to let the neighbors see what it looks like.

Chairman: I think most people have driven down that 1,000 foot driveway, or whatever, you can drive down there, turn around and get back out.

Mr. Altice: Let me point out to them how you enter so they'll be oriented on this. Like they were saying before, 581 runs right here across the road and a part in the back. Back here is Andrews Road when you scale this, this part down here is in the water and when you go across this track, you get to these two lots. There is a private double drive all the way down to here and then turns in. All this is all wooded, very private. Even though there's a break in the foilage is there is a small gate used in the past to get in and out to a small trailer that used to sit back there and then this is all woods and creek down here and meadows and like this.

Audience: Is that a private road down there?

Mr. Altice: What this goes down to.. remember that water drainage catch basin that the City of Roanoke constructed which comes across 581 over to Valley View. That is what they've got is an entrance road to go down

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here and access that drainage catch basin in order to maintain it. The properties down here, is another large meadow before you get to 581 which is actually zoned manufacturing and I believe it's in trust to Dominion Bank. You can only really see it from the interstate.

Mr. Roberts: Is this the only entrance and exit you have?

Mr. Altice: Yes sir.

Mr. Roberts: Are there any plans to make this travel way a public road?

Mr. Altice: No sir. That's the whole glory of this, one way in, one way out.

Mr. Wheaton: In other words, all traffic has to go down that road.

Mr. Roberts: What's that gate used for? You see, there's a gate there.

Mr. Altice: That could even be closed off. It's been there a long time.....

Mr. Roberts: It's not in use, then?

Mr. Altice: No, sir.

(Unintelligible)

Chairman: Hold on just a minute. We need somebody's name.

Ms. Armstrong: Could I have your name?

Mr. Smith: Mike Smith with Progress Rush Realty

Chairman: And let's have your name and address.

Jeffrey Banks: Jeffrey Banks, 1826 Syracuse Avenue.

Chairman: She didn't quite hear you.

Dr. Banks: Dr. Banks.

Chairman: Dr. Banks. You live up on the cul-de-sac up there? Up on the hill?

Dr. Banks: Yes sir, 1826 Syracuse Avenue.

Chairman: Syracuse, OK. Alright. Let's try to refrain from asking questions. We're going to give

everybody a chance to come up here and ask questions into this microphone.

Dr. Banks: (unintelligible)

Chairman: I appreciate your letting us.....

Mr. Altice: I want to go on and keep Michael here, if I could and talk about property value and appearance. I know that's an issue people have, and rightly so. We have several facilities in the Roanoke Valley. 3605 Melrose Avenue, behind Rose Porsche Audi. We own that facility and we bought it for \$76,000 and it was recently assessed at \$104,000. We just did a major renovation on the detox center on Shenandoah Avenue which use to be a builders mart and it is now a very attractive facilities. We have other facilities on Reed Road and Niagra Road that we believe that are enhancing to the community. And we have also put countless thousands of dollars into the current facility that we are in. And maybe you could speak a little bit more about real estate values.

Mr. Smith: I know some of you have been wondering and thinking well we get this program in there, this facility, that it may damage our property values and I believe I can assure you that that is not going to be the case, because I have gone to the city and gone through their records and checked out some property values, ones that I could find multiple sales on, in the near area where Hegira House is currently located. And they have all reasonable gone up as you would expect real estate in any part of the city. There has been no decrease in values and no stagnation in values. They have all gone up to a very reasonable amount. In fact there is a 10 unit condo group that is right across the street from Hegira House and, just to give you some examples, unit 6 was bought at \$28,240 and later sold at \$41,000. It is currently assessed at \$46,500. There is another unit there that sold for \$22,900 and it sold later at \$28,950. And this is not a long time later.

Mr. Altice: This is a year.

Mr. Smith: This is a year or so later.

Mr. Altice: 86

Mr. Smith: And it's currently assessed at \$36,600. There is a piece of property which is directly across the street from Hegira House that was sold in November of 88 for \$65,000 and they made some improvements. Not a lot, just some. And it sold again in 1989 for

\$135,000. So surely, if Hegira House is a negative limiting factor then they would not have been able to have done this. Now I have other, which I don't think I'll need to go into, I have three or four others which show the same kind of property value increases. Plus Hegira House will be located so far back, so isolated, with no signs, not even a mail box that says "Hegira House" out in the regular neighborhood, you'll never know they're there.

Mr. Altice: I want to reiterate that, too, is that we have no intentions of having a mail box, we'll have a post office box and the 1919 Andrews Road sign that is currently on the post will be the type of sign that will remain, and nothing more. We do not, we have no need to have any major signs or any kind of thing that indicates where we are. I want to just read a couple of letters, very briefly and then I will give it to you for information, from people that are in our current community.

Dear Mr. Altice: This letter is to inform future neighbors of Hegira House of what they may expect from your groups presence in their community. My husband and I own a home on the next street down from Hegira House and operate our business two blocks from Hegira House. We have been in the neighborhood for over 20 years. Hegira House is one of the most well kept homes in all Southwest, the grounds are always well maintained and attractive. I have never seen anything that would be considered an eye-sore anywhere on their property. I have never heard loud voices of any nature coming out of this home. I have never witnessed any police action on this property or violence of any nature. I have actually felt safer knowing that they were there. I feel that the quality of the supervision at this facility acts as a form of crime prevention for the whole neighborhood. Hegira House also offers help in the community on weekends, they have car washes and offer extended automobile cleaning care. Many times I have called for help with yard work and other heavy duty work and never been refused help when it was available. If you have any further information which is needed, feel free to call me at 345-0047. And that is from Mrs. Pat George who owns the Roamer Restaurant on the corner from us.

This next letter is from Image Advertising which is right across the street from us. It's 1302 we're 1301. Dear Mr. Altice: This correspondence is in reference to the zoning hearing on the new proposed site at 1919 Andrews Road, Northwest. In the 13 years of being neighbors across the street, I have found your residents to be well behaved, well mannered and

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*W. C. Jones*



presenting no problem to the community. They keep the facility clean, orderly and are contributing members of the Old South West community. I have never had any kind of problems with Hegira House or any residents. I hope these statements are a help to you in your plans for the future. Sincerely, William H. Tangier, owner of the Image Advertising.

I also have a letter here which is far too much to read from Judge Trumpeter who is the chairman of the Roanoke Drug and Alcohol Abuse Council which is endorsing the program as well. And I would like to offer this information to you for your records, if I could please.

Chairman:            Alright.

Mr. Altice:       And also I have some letters written by other members of Northwest that are supporting our program, Family Services of Roanoke Valley has written a letter, Lee Hartman and Son, Airport Exxon, Quality Cleaners, Bob's Car Corner and Interstate Motors.

Chairman:           Alright, thank you Mr. Altice.

Mr. Roberts:      And you have discontinued your operation at the present location.

Mr. Altice:       That's correct.

Mr. Roberts:      And how is your operation financed?

Mr. Altice:       Our operation currently?

Mr. Roberts:      Yep.

Mr. Altice:       OK. We're currently financed through federal, state and local money to run the program as well as private fees. We do not own the current facility we're in, we're renting it and we would like to be able to own our own facility. However, we have been unable to really secure buying the facility we're at and also it requires a lot of work to get it renovated and we just don't have the money. We do have a capital campaign going on at this point that we would be able to purchase this facility that we're trying to get and we would be able to underwrite that. That would be coming from private donations which we do not say have federal, state or local money to buy that from public money.

Mr. Roberts:      The reason you want to move is to expand?

Mr. Altice:       No, no, we're staying at the same level, we're not expanding. What we're doing is moving for

our own security in terms of owning our own facility. We're also moving because we feel like the site would provide a much more therapeutic environment for our clients. And we'll also have to spend almost as much money on our current facility as what this facility costs to be able to get it to where it needs to be.

Mr. Roberts: How long have you been at your present facility?

Mr. Altice: We've there since March of 1973.

Chairman: And Mr. Miller have you ever had any complaints from Old South West?

Mr. Miller: I don't have any recorded complaints as I recall.

Ms. Armstrong: I don't remember any.

Chairman: OK.

Mr. Altice: That's all I have.

Chairman: You all are approaching half million dollars at this facility?

Mr. Altice: It looks like its going to cost \$440,000 to be able to upgrade the facility and get it the way we want it to be. The new buildings, I might add, will be, we're going to be putting up for bids and it will be consistent with the decor and the colors of the current facility so they will not devalue that property. We don't know who's going to do the work. Roger Craft gave us an estimate and some plans but that does not mean that they'll going to get it.

Chairman: You'll have to be careful or you might devalue the present house. That's a beautiful house.

Mr. Altice: It really is and we're real sensitive to that and we don't want that to happen. And we'll go out to bids and to local contractors to be able to do it and we would commit to the same color shingles, the same color siding and so forth that would be consistent with what we've got.

Chairman: You can't do that. That's a slate roof on that.

Mr. Altice: That's true for that, but also, if you look at the office building that's adjacent to it, it has grey shingles on it that would be consistent with that.

Chairman: Alright, sir.

Mr. Roberts: What are the disadvantages, if any, to being off, isolated, away from...you've been use to being downtown, you might say, and now you're out in the country. What are the advantages, pro and con, there?

Mr. Altice: Well, I think the advantages would be that it would give us the opportunity to clients not to feel so cramped in to feel be able to walk outside, to have groups outside. Statistics prove that people who have an opportunity to be able to sit out in the yard, be able to sit under the trees reflect those experiences are therapeutic. So we have, as I said earlier, a lot of times where we are people will try to come around and influence our people. They go to the Hop In or somebody will walk by or ride by because they know that one of their loved ones is there and it gives us an opportunity to not have to deal with that. Also, just that fact that there are people in the community who use drugs who don't even know them and that impacts our people, because someone who has been an alcoholic or drug addict knows that if they see someone else doing drugs that something they have to address. Because it can cause them to want to do that again. So it offers, in terms of the senior clients who are still in the community and going to school they can still be housed in the Southwest area.

Chairman: You spoke about control. I'm think that some of the folks in the audience might be wondering about the control, lack of it, whether it's sufficient or whether it's adequate, so forth.

Mr. Altice: Well, I can only say, I can only say that it is a very high structured, very highly intense and very highly supervised program. The fact that we are licensed by the Department of Corrections to be able to provide their security needs speaks in its own right. Because they do not just allow anyone to be able to house their people. And we have a tremendous amount of licensure issues and quality of care issues we have to address. But in addition, the very nature of therapeutic community and its intense accountability of where people are at all times with their physical presence and emotional presence and their behavior keeps the security at a high level as well.

Chairman: Alright, let's see if we can...Is that..

Mr. Altice: I had some other people I think who wanted to speak for us. That's all I have.

Chairman: That's all you have?

Mr. Altice: Yes.

Chairman: Well, let's go on, finish your group. Who else, or would you just as soon hear from some of these other folks first? (Background conversation) Do you all have a spokes person? Would you come forward and give you name and address? (More background conversation) Would you give us your name, please.)

Mrs. Banks: Doris Banks, 1823 Syracuse Avenue, Northwest. One thing I wanted to point out is we are not talking about Old South West, we are talking about an area that the neighbors have moved into and developed for single family living. The private road is in full view of my family room window and my kitchen sink. So it is very close in there. We the neighbors of 1919 Andrews Road are opposed to a special exception to permit a group home of substance abusers in our area. Such a facility would depreciate the properties not only in Willington Hills, but in Rose Mont, Sanford Hills, Tower Heights, Highland Manor, Heritage Acres and Fairlane. It would bring into our area a transient population which would jeopardize the safety of all the residents. Especially the elementary school children who travel unattended along Andrews Road and 19th Street to the Roanoke Academy for Mathematics and Science. Kennedy Park would provide a perfect haven for this type facility and we have had enough problems with Kennedy Park and last, but not least, it would very definitely put an end to any further single family development in the area. Since we wish to preserve the single family characteristics of our area and to protect the property values, we petition, we ask, we beg you to object to this exception. I have a petition here, I don't know if all names are one it or not, I have five pages and I would like to leave them with your secretary.

Chairman: We'd like to have that, yes. All these are people in the immediate area?

Mrs. Banks: Yes, and all sections.

Chairman: Alright. Moral Avenue, Cove Road, 22nd Street. Florida's is 3 or 4, 5 blocks away. It intersects...

Someone from the audience: With Andrews Road.

Chairman: It does? Almost as far as on the other side of Cove Road. On both sides? OK, alright, probably 70 or 80 petitions. Of course I wish there were all here to hear just exactly what is proposed.

Someone from the audience: May I make a comment?

Chairman: If you'll come up here and speak in this microphone. And give us your name and address, please. 7-14

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Mr. Wheaton: No.

Chairman: Can say what we want to say, the press isn't here today. But if anybody were to complain about this Hegira House, Old Southwest would have. You all go out and tell them and I'll deny I said it. They watch everything over there and I have never heard a single complaint.

Audience comment: That's why Old South West has better police protection than Northwest does.

Chairman: It's hard for us to talk one on one and we're not suppose to do that so if you all want to heard, let's come on up and go ahead. Would you come up, please? Would you give us your name and address, please?

Mr. Burks: Daryle Burks, 1529 Grayson Avenue.

Chairman: Alright Mr. Burks.

Mr. Burks: As I said, Old South West does have better police protection. You're speaking about a neighborhood that you asked about the media. The media is always talking about the Northwest neighborhood and the fact that there are open air drug markets there. You're putting people, substance abusers, in an area where they're in for more temptation. I grew up not far from this 1919 Andrews Road. I know the property like the back of my hand. Anybody can get on the property. I don't know what type of security the folks are talking about, but unless they're talking about erecting high fences, doing a lot of things, there's no way to keep those people out of there.

Chairman: To keep who out?

Mr. Burks: To keep drug dealers and everybody out. I grew up not far from there.

Chairman: You say what you like, but I don't see that problem.

Mr. Burks: I live not far from there now. I grew up not far from there, there are open air markets, different parts, where people sell drugs openly, drive by, go up to your car and try to sell you drugs.

Chairman: Did you hear Mr. Altice say there was 12 staff members and 24 hours...

Mr. Burks: Yeah, there are also staff members at other ... within the paper within the past couple of months

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*Butt Collins*

there have been people from a half-way house who robbed a credit union at Lewis-Gale Hospital past...

(tape ended at this point)

Mr. Rabb: Omar Rabb, 1325 Creston Street, Northwest. I formerly lived at 1543 Syracuse Avenue, Northwest. I'm a former graduate from Hegira House, the criteria, the structure, and I can speak to the facts. These people are to be commended for what they are trying to do. You have about 5,000 drug addicts in this city, maybe more, that would take. You need something in Northwest. You got a lot of drugs addicts over there. You may have them all over the city, but specifically, we need a treatment center by brave people, by people that have a great track records, by people that can rehabilitate and change behavior if its 10 out of 30, if its 40 out of 100, we need commendable people, we need professional people, we need this type of program in Northwest.

Chairman: I wish you all wouldn't try to divide the city. It's not for Northwest people, this is for anybody.

Mr. Rabb: I stand to be corrected. The entirety of the city. But what I'm trying to speak to...

Chairman: Because in South West, if it hadn't been for Southwest people, so let's try...

Mr. Rabb: I'm only trying to say we need a program, a program is needed all over the city for all residents of the city and I think that a job has been well done in SW and I think that if you had this home over here, this substance abuse home, it would reach a lot of people who may not want to leave Northwest to come to Southwest. You know, and I believe the location would serve the purpose for the city.

Chairman: You've seen the property?

Mr. Rabb: Yes, sir, I have. I use to live over there. I use to live in that area over there on Syracuse, 78, 79, 80, 81, 82, for about 5 years I lived over there in that area. And I'm only saying that I think the program, would be commended and worthwhile to have the program.

Chairman: Why would this be a better place than over in Southwest?

Mr. Rabb: I don't know if it would be a better place, but I think...

Chairman: Well, it's different because you're isolated over here and in Old South West you're right in the middle of traffic.

Mr. Rabb: I tend to agree with the therapeutic part. Isolation tends to bring out, to cause, the person can't, like Mr. Altice said, he can't go right next door to Hop In, he can't go right next door to the store, he's in a controlled environment and people respond to substance abuse treatment better in a controlled environment. And I know that because we had a program in a prison environment ran by Hegira House. I was in the program for 2 years and we had a 75% success rate come out of that program. And this in a prison.

Chairman: From your experience, did the inmates wander around all over Southwest or were they confined and looked after?

Mr. Rabb: The people in the program act as security along with the staff to take care of each other. They look after each other. They...

Chairman: They don't wander around through the neighborhood then?

Mr. Rabb: No, sir, no, sir.

Ms. Armstrong: Would you give me your last name again?

Mr. Rabb: R a b b.

Mr. Rife: Mr. Rabb, you said you've been through this program?

Mr. Rabb: Yes, sir.

Mr. Rife: At the Old South West location?

Mr. Rabb: No, sir. I went through the same principles of the program at unit 25 in Troutville, a prison environment. The environment is different, but similar.

Mr. Rife: I guess you can help me with this, then. It said in our information that typically someone is in this program for 6 to 9 months. And I believe Mr. Altice said that basically, for the majority of that time, they live at this facility. What do you do all day. I think these people are concerned that you've got people here who've had problems with substance abuses and they're just going to be wandering the streets and luring their children into trouble. And I guess that I want to know, and they want to know, what do you do all day?  
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*[Signature]*

day? Tell us all how you fill your time when you're in this program.

Mr. Rabb: You get up in the morning, you have groups to go to. You have educational groups, you have substance abuse groups and all of these groups are ran by a staff person and a lot of times when a person graduates from one level to another, like from the cleaning up of the building to the kitchen staff...I was a coordinator. I came through the whole program from clean up all the way through the coordinator level. Where as I helped run groups, also. But you have classes pretty much all day. You have house meetings where the 20 or 30 people, whatever it is in the program, come together and they air out their problems. You have three individual groups. Like the program I was in you had three groups, 10 people in each group and you meet, you talk, you bring out your problems, you deal with your behavior, you deal with your loved one, you deal with the crimes that was committed. Me, I liked to, I was check writer. I wrote checks to support by habit. A lot of people like to rob, a lot of people like to steal, a lot of people may even harm someone just to get money to buy drugs, or crack or cocaine, whatever the drug of choice may be. But a person in this program learns how to be themselves. They learn how to discard all of those negative behaviors and those negative personalities and it's a reformation process and you're constantly learning all day.

Chairman: Alright.

Mr. Lawrence: Members of the board, concerned citizens and observers, my name is Bill Lawrence and I am the reentry director of Hegira House. To specifically answer your question, Hegira House is a highly structured program. It involves a daily structure on work on the various crews that they have depending on the individual skill deficits that the individual may have. They could either learn how to fix things around the facility, they could learn kitchen preparation, food preparation from menus, menu planning and actually ordering food. For a period of time during the day they're working on the crew preparing breakfast, lunch and supper and in between they're attending therapy sessions. In the therapy sessions they're working on certain problems which are underlying to their substance abuse. It could range from family problems, problems with intimacy, problems with communities, such as employment, education. People who do not have GED are attending GED classes.

Mr. Rife: Off site or on site?

Mr. Lawrence: Off site. We also try to pool our community resources with TAP or Department of Vocational Rehabilitation or Virginia Western or the area colleges other than Virginia Western. During evening hours usually is involved with personal time when they're writing letters, making phone contacts with family or they're doing assignments. In the late evening time they're involved in groups. We tend to try to run at least two groups a day as well as the individuals having their individual family sessions. Family members are constantly involved in the treatment being that we see the addiction as well as the dependency of the chemical as a family problem so we try to constantly involve the family because we have found out that individuals that try to pick themselves up by their own bootstraps, using that theory, that it does not. OK, this problem of substance abuse is a community problem and has been addressed as an individual, community, family problem since the 60's. The fact is the state has deinstitutionalized the community of mental health has put half-way houses and treatment centers and cohabitation living such as the Oxford houses program, a new concept that's going to be introduced to the Roanoke Valley this year. A part of the reentry process, being that Hegira House is a very structured program, not just for the first day to the 9 months of in-house patient treatment, but they also have the out-patient treatment. That structure is where the individuals move from Hegira House facility move into our supervised apartments over in Old South West. There that person works out of a contract with Hegira House. That person must begin to clean up the mess that they made, either from fraudulent checks or debts, problems with employers, whatever. They must begin to integrate into the community, reunite with their family. A lot of ways that happens is through a contract, as I stated. But, specifically, they must find employment. No one can be in the reentry program without employment. Adequate, gainful employment. From there they must begin to repay their debt to society, whatever that debt may look like. Either they're in school, college or vocational training or they're working. From there they continue the family sessions, they continue to come back to the Hegira House program once a week for group therapy with myself and another staff person as well as I monitor them on a daily basis so that at no time are they free-loading in the community. I also would like to address one other concern, from a Hegira House point of view. Once we found out, and Hegira realized the possibility of 1919 Andrews Road was a reality, we began to realize, also that we needed to touch base with the community at large. So, therefore, we have established some PR committees whereby we will be contacting the community.

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Federal, State, and Local  
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hearing their concerns as well as setting up a interface relationship where we can give to them as well as receive from them. A part of that is that historically we have been willing to educate the community providing them with facts, facts about substance abuse rehabilitation, the addict himself, when he's chemically effected versus when he's in recovery. It's a different process all together. It's a different characteristics of behavior. You'll find the violence when the person is chemically effected. You'll find the humility when the person is in recovery, so there are different sets of behaviors that go along with that. People in Hegira House are in the recovery process the day they stepped in. And so we will be contacting the community and churches concerned with the local substance abuse problem in the Roanoke Valley as well as the Northwest area who began problem solving and began to make some interventions that can be viable to what to alternatives as to what we're facing today.

Chairman: Have you talked to any of these people here in the audience?

Mr. Lawrence: Not really. I talked to a few.

(Argumentative voices raised in the audience; lawyers and things like this, they're from the other group)

Mr. Roberts: One other question. Did you choose this place because of its suitability or because it's available?

Mr. Lawrence: I first made contact with the realtor on the site and it was suitable and very conducive for a healthy environment for rehabilitation. The serenity of it, the isolation of it, is very conducive.

Mr. Roberts: Thank you.

Chairman: You did look at several other places? You looked at a number of places?

Mr. Lawrence: No.

Chairman: This one just came up and looked ideal?

Mr. Lawrence: It looked very ideal.

Chairman: Alright.

Mr. Rife: I've got a couple of questions for Mr. Lawrence. Does the program run on weekends?

Mr. Lawrence: Seven days a week, 24 hours a day.



Mr. Rife: Do any of these people have jobs while they're in Hegira House?

Mr. Lawrence: While they're in the in-house phase they're not gainfully employed, however, we do allow them to go out into the community to do short contractual type work. Whether it is helping a neighbor out or to work for one day, probably as a dishwasher in a local business, if the business needs, and if we can afford to allow that person out of the facility. However, once they are in the re-entry phase they do find employment or school and their income is supplement through whatever means they have.

Mr. Rife: How does one get referred to your program?

Mr. Lawrence: Referrals are self-referrals through knowledge of the program, referred from the Department of Corrections, referred from the court systems as well as other mental health community agencies.

Chairman: Alright, Mr. Lawrence. Would you give your name and address, please.

Ms. Terry: My name is Mary Terry. I live in the Northwest area but not in the vicinity of the Andrews Road area. Personally I'm a chairman for a concerned citizens group in the Northwest area and we're looking at the drugs and other crimes that are going on within that area. Last night we had our regular meeting and we did discuss this issue. I guess the thing I would like to say to you is that the residents that are here do have a concern. They have worked hard for many years to establish their homes within a community that they actually feel safe with. I guess the things that I would like to say to the community people is you need to stop and think about what's not just now but what's facing us five to ten years down the road. And when I'm talking about that I'm talking about our young people who are out there who have gone through this program. I'd like the members of the Hegira House approximately how many blacks have gone through their programs and what is the black percentage of the participants that have gone through your program.

Chairman: Would you like to answer that, Mr. Altice?

Mr. Altice: Yes. As far as say how many blacks have gone through the program, there has been numerous blacks that have gone through the program. The majority of the participants now are black. That has been the case for a long time. When the program first started many years ago, there was a reluctance in the court system to refer blacks to treatment. They often sent blacks

7-23





identify some things in the community and be aware of some things in the community that perhaps somebody else may not see. And I see a lot of things going on that needs to be addressed. Once again, the problem is there. We cannot turn away from it, we cannot bury our heads, we cannot act as if it does not exist and Hegira House, to me, is a prime, prime example of one way of dealing with that. As a business owner, I have talked with a number of business owners in the community, procured the letters that the board has in possession now from some of the business in that area. We wholeheartedly, 100% support the program coming into that area. I want to say one other thing. Hegira House is a controlled environment. When a person comes to that program they are not made to come to there. They have to have a great deal of motivation to come into that program. They don't just walk in off the street and go into there, under some kind of false pretense. That does not happen. The standards are high, the ethics are high and it continues to be that way ever since I have come to know about the program. It has a lot to offer. If I can say anything to the community members, I beg of you, open your arms, embrace the program and use it to your potential. And the young folks with drug and alcohol problems. Thank you.

Chairman: Alright, sir. Any questions? Thank you. Your name?

Ms. Fuller: My name is Laverne Fuller Prunty. I live at 2201 Florida Avenue, Northwest. I think that everybody here realizes something needs to be done about the situation here as far as drugs are concerned. The program that we have heard outlined sound like it might be a means of dealing with such a program that is needed. But what we are saying to you is that we don't need that in our particular community. We feel that some other secluded area where you have lots of unused space may be more conducive to taking care of and helping the counselors to carry out their objectives. We're not saying that the program is not needed. We're not saying that your program may not be good. We simply want you to understand we just don't want it in that particular part of our neighborhood. We were given a park right across the street from that property and nobody walks in it, nobody rides bicycles in it, unless they are in groups or in numbers and you need to be out there when you late on Saturday nights or when it gets dark and hear those weird sounds that make you know that something dangerous is going on. That's within walking distance to the same place that you say would be a safe haven for the people who do not need that type of enticement. So we are asking that you

please find some other place that would be equally conducive to carrying out this worthwhile program. We just don't want it in our community. And the businessmen who want and own businesses, they go home at night. And I would just about say that you won't find any of them living in the community where we live. They are there by day, but they are gone by night.

Chairman: I think this gentleman lives on Ordway?

Mr. Brown: Yes, sir. But that's a long way away.

Ms. Prunty: That's about 2 miles away. Very few of them are in our community. Thank you.

Chairman: Alright. Thank you, Ms. Prunty.

Someone from the audience: I'd like to add Mr. Chairman that we have two of our current clients and families that live in the vicinity or a few blocks of this proposed facility.

Chairman: Your name?

Ms. Ennis: My name is Hugh Ennis. I live 1811 Syracuse Avenue, Northwest. I am quite familiar with the Hegira House and its program. I, through my agency, have referred people over a period of years. However, I also live in the same area where the proposed project is supposed to be placed. I understand my neighbors feelings and I echo everything Ms. Fuller has said. They don't feel safe because the park is there. It's not uncommon each night to hear semi-automatic fire in the park and the surrounding area. It's not uncommon for me to observe drug deals going down and I know this when I see it because I work with drug pushers and drug dealers every day. I think it's going to be unsafe for the community. While I feel fairly safe, I'm carrying a gun 24 hours a day, because I am authorized to do so. But it is not safe for these people. There's going to be too much temptation, we cannot control the drug pushers and drug addicts that are there already. We have and have had a problem for the last several years. So I'm asking that you take a good long look at this and let these people keep their homes the way they are now and let's work with the problem that we have now, let's work that out first.

Chairman: And your job is?

Mr. Ennis: I'm a U.S. probation and parole officer and pre-trial service officer assigned to the Western District court.

*Donic Jones* 7-27

Chairman: Alright, sir.

Mr. Ennis: Thank you.

Mr. Rife: Let me ask a couple of questions.

Chairman: Mr. Ennis?

Mr. Ennis: Yes, sir?

Chairman: Come here.

Mr. Rife: I'm thinking out loud and bear with me. It appears that there is a good deal of drug trade in Kennedy Park.

Mr. Ennis: That's right.

Mr. Rife: OK. Now, is it your fear or your suspicion that the residence of Hegira House will walk up this driveway and go over to Kennedy Park and buy drugs?

Mr. Ennis: Yes.

Mr. Rife: OK. As I understand it, they get a urine test every week and if they fail that urine test they're kicked out.

Mr. Ennis: That's true.

Mr. Rife: So, if they, indeed, do that, as I understand the program, then they get out of your neighborhood. They get kicked out.

Mr. Ennis: Yes.

Mr. Rife: OK, so that aspect of the problem kind of polices itself.

Mr. Ennis: But see the crime may have already been committed by the time they have a urine test.

Mr. Rife: Yes, but now...

Mr. Ennis: Or the transactions may have been completed by that time.

Mr. Rife: Right, and I guess the other side of the print thing is, if the sale of drugs in Kennedy Park is as open and bold as you say it is, and I don't doubt you for a second, what's, I don't see the different between somebody living a half mile away walking up to it and somebody getting in their car and driving up to it. I

7-28

*Don't know*



mean, I don't see that these people being located there necessarily makes Kennedy Park any worse.

Mr. Ennis: That's true. It's as easy to walk to a drug dealer and to drive to one. People do it all the time.

Mr. Rife: Now to me, I'm not really knowledgeable about how one buys drugs. But to me, I'd rather do it in a car where I can get away. On foot it seems to me I'm more susceptible to being caught.

Mr. Ennis: It depends on the area you're trying to get away from. Whether you're easily caught running or in a car. It depends on what the police or the DA are using to try to catch you.

Mr. Coptly: Mr. Ennis, I'm sitting here and wish I wasn't sitting here. Because I'm very uncomfortable with trying to make decisions, I'm a real strong believer in neighborhoods. Where do we put these things? Everybody that's come here, and I think everybody in the audience, and I don't want to speak for everybody, admits that we need to have these programs. This is real positive program. It doesn't deal in negatives. I live in a neighborhood. I can honestly say I would rather not have anything next to me other than fields and houses and those types of things, but is a community is Roanoke city, I mean, people want them in secluded areas we can't depend on other communities to deal with our problems. We have to deal with our own problems. Where do you suggest that we do this? Roanoke is not a place bless with, or whatever...where are we going to put them. I've got drugs in my neighborhood. We've got kids on our street that have problems and we have kids in every neighborhood, this is just a huge problem and we've got this 13 acre site sitting in the secluded area, a real rare find for our community, not that it just happens to be in your streets, or areas. But, where are we going to put them.

Mr. Ennis: To answer yours question, I'll answer it two ways, really. If you look at that 13 acre tract there are streets already next to it. And those streets and vacant spaces for about 200 homes that have not been built. About 6 or 7 have been built. The contractor that built it ran out of money, or whatever, then the recession hit. Nevertheless, I would prefer, basically, an isolated area. Maybe in the county.

Mr. Rife: The county won't take our problems. They won't take their own problems.

Mr. Ennis: Oh, I know that, but at the same time we have to look...although I make a living off of this, I have job security because people are drug addicts. It's nothing I'm proud of. It's just what I do for a living.

Mr. Rife: Well, thank you for your job.

Mr. Ennis: At the same time these people don't do that and they should have, they have a right to live the way they want to live and feel safe in doing so.

Chairman: Do you honestly believe that this house located in this area would increase the drug traffic in this area?

Mr. Ennis: Definitely. Sure it would because, you see, while there are so many, policy things at Hegira House, because I refer people there, some have graduated and some haven't. Some probably shouldn't have gone there in the first place because they couldn't cut it. Because the program they thought was too hard. Life was basically too hard for some of them so they didn't make it. I've had more failures than success. And it wasn't because the program wasn't good. It wasn't that at all. It was just because these people were psychologically addicted to the various drugs they'd been using and only about 5% of the people that use drugs every stop using drugs again in their life, of some kind, I know.

Chairman: But how would this increase the drug traffic in that area because this operation would be controlled.

Mr. Ennis: You can't control any operation but so much. There are drugs in a prison. I don't know of any prison where drugs aren't present. I don't know of any building where drugs aren't present. In this very building that we're in now somebody has used or is using drugs today. Illegally.

Chairman: But you think this would increase it?

Mr. Ennis: Sure. It would because we have drug trafficking now, you see. And we have a hard time getting the police to respond to that. Quite often I call the police and they don't do up there and sometimes they'll come to my house and I'll go up there with them and show them where the people are. By this time they're gone.

Chairman: But you're going to have drug traffic everywhere, so why would it increase?

*Don't know* 7-30

Mr. Ennis: I just explained that to you. These people mean well, the people at Hegira mean well, and they do a good job. And the people that go there go with good intentions of succeeding, of being successful in their program. But quite often they don't and they don't need any negative things near them to attract them from the program, or from their concentration.

Chairman: Alright, thank you Mr. Ennis. Your name, sir?

Mr. Woolridge: My name is Dan Woolridge. I live at 1919 Andrews and I cannot really speak authoritatively about drugs. That might be some relief to you. I came up here because I've lived there for approximately 11 years and there were some questions about the physical nature of the property and I've made some notes. The driveway is four and a half tenths of one mile long. It's not a quarter of a mile. There is a gate at the rear of the house. The gate was put there by me because there was no gate when I bought the place. There is no driveway back there, but it does give me an opportunity to put my travel trailer in a place where I like to keep it. That's the only reason that it's all grass, it's the only reason you can get in and out there. Anybody that wants to build a fence or lock the gate and throw the key away, there's no way to get in from there. There was a comment made about not having a mail box. That's not my choice and it's not Hegira House's choice. The good old postal service refuses to deliver to me because I am too isolated. They will not deliver mail, I live in the city of Roanoke, but they will not deliver mail to me. I must have a post office box because I'm too far off of any of their routes. And if you have any other questions about the physical layout of the property, I'm happy to answer. I put it up for sale about 9 months ago. I am approaching retirement, hopefully, one of these days. This is the only offer that I've received on the property. In return for that offer, I'm donating back the tractors and the equipment to maintain the property with. But I can't speak to the drug problem. There have been drug exchanges in my driveway. That's not a very happy circumstance. I hear Hegira House people say that with them there there would not be drug exchanges in the driveway. They claim they can keep that clean. I don't know if they can or they can't. That's what they tell me. But as far as the physical layout of the property, if I can answer any questions that you may have about the driveway or the boundaries or anything like that, I'll be happy to.

Chairman: It's just about as private a place as you can get if that's any help. If that's a help or a hindrance. You've enjoyed living there, haven't you?

Mr. Woolridge: Yeah, the neighborhood has changed over the years. It's gone this way.

Chairman: Well, I think that that fact that some houses were built there and not occupied a while...

Mr. Woolridge: In fact it was a number of years they were empty.

Chairman: I think one of the big builders tried to develop some of that area and, I don't know... but then there are nice homes in there, too. Alright, sir. You all have any questions? So this is the owner. He's not pushing one way or the other. Alright. Did you all have maybe one other person that needs to be heard or you think we've heard...

Mr. Charlton: My name is Tyrone Charlton. I live in the Northwest section of Roanoke. I'd like to say I've heard a lot of positives, a lot of negatives and don't seem to be getting anywhere. And really, you stop and think about it, we know the living, I'm just speaking of Northwest section right now. We want to live in the Northwest section. We have a drug problem there, and we got to address this drug problem. It's inherited. We inherited this drug problem. We didn't want it. It's here, it's there. We've got to do something about it and the treatment center, treatment is good. I worked in the Department of Corrections for 20 years as a correctional officer, and I worked around treatment. Treatment is good. But if you don't offer anything then it's not going to be. We've got to offer the treatment for the people that wants it. Everybody on drugs doesn't want to be on drugs. It's a sickness. It starts off as a high and it's a sickness. As doctors well know and as we well know, sickness has to be treated. Everybody is not successful. You treat people with cancer. Everybody don't live. Some of them die. Treat people with drugs, some make it, some don't. But I feel it's our obligation as citizens and humans and taxpayers that we ought to think this thing over, come together, and talk this situation out. Find out which is more positive or the negative and weight this situation out and see what we can do to bring this about. Thank you very much.

Chairman: Thank you, Mr. Charlton.

Mr. Wheaton: Mr. Chairman, I'd like to make one observation, or two. First one, I heard the issue of rezoning. We don't have the prerogative of at this level to do any rezoning. I think the issue at hand is a balance for special exception. We cannot zone or

issue any matters on zoning. Second issue I would like to address is, I wonder how much, or how much has been communicated between these two bodies here. This is a very vital matter here, I think, that maybe the people from the Hegira House and the people from the community need to sit down and see, talk, to communicate with one another. Maybe it's feasible. Maybe you don't know all the detail. Maybe he doesn't know all the details of your desires, your wishes and your concerns. Maybe we need to communicate. I sense that there has been no communication between the two issues, two bodies. I see where your point is, I see your concern for the welfare of your property. You're saying you don't want that thing in your neighborhood, but you don't know what that thing really is until you have communicated with somebody to find out what it is. I would certainly be one to recommend not to make a decision this evening as to how we address it, but however you whose spokes person meet with these people and sit down and see what they are about and come back after a time and see what we can resolve. That would be my thinking.

Chairman: Very short. Two words, three words.

Unidentified: That's something I'm a negative for on this further extension of this. For the reason why this was a hidden agenda that somebody picked it out of the papers, said look, tomorrow, look it here. We weren't suppose to know about this. They didn't come and contact the people in the community. We had no contact whatsoever. Which was a little unfair to us. If I come to your neighborhood try to do something I should get together with you and communicate.

Chairman: Let's ask the secretary. Did you send notices...

Ms. Armstrong: Yes, sir. We did our very best.

Chairman: We're suppose to send notices to, what? Within 200 feet of the property.

Ms. Armstrong: No, no, no. Adjoining.

Mr. Miller: Adjoining property.

Mr. Wheaton: Adjoining property.

Chairman: I can understand that. Well, anyway...

Unidentified: But anyway the fact is that we didn't they didn't intend to communicate with us. They're people all around here. You could have got some information to those folks if you'd wanted.

Chairman: I admit I've learned more about it today, too.

Mr. Wheaton: I have, too.

Unidentified: We just hate to lose this. Some of these people have \$75,000, \$125,000 invested here. What is it? If things break bad they got to find some way to get rid of their homes. This is wrong. You got doctors, lawyers, everybody. We got all kinds of unprofessional people. Teachers. And unfortunately I was a teacher I lost some of them, too, to drugs. Yes, I did. They just dropped dead. And its pathetic...

Mr. Roberts: I agree with Mr. Wheaton, I think we've had not enough communication here.

Mr. Wheaton: I certainly think so.

Chairman: I'd like to hear a motion. If you'd like to make a motion.

Mr. Wheaton: Mr. Chairman, I would offer a motion that a committee from the concerned neighbors neighbors of those petitioning would sit down with a committee from the Hegira House and talk about this thing some and set it over to for whatever time limit they need. 30 days or 60 days, or whatever, and come back and let us make a decision at that time. I don't think we ought to try and even attempt to make a decision this evening.

Mr. Roberts: If you want to make that a motion, I'll second it.

Mr. Wheaton: No, sir. I second, I offer that motion.

Chairman: Alright, let's have the time. 30 days, 60 days.

Mr. Wheaton: 60 days.

Ms. Armstrong: The June meeting?

Mr. Wheaton: June Meeting.

Mr. Copty: I'd like to say one thing, if out of school or not out of school. You know that there's a problem in the neighborhood, a very serious problem already. And we've got some experts who want to come into the neighborhood who just happen to be probably one of the most capable bunches to help take care of a problem in the neighborhood and as you all talk, hopefully you'll get together and talk, maybe instead of this being perceived as a negative for this community, if you all can get together and find some ways to make it a positive for the community. To interact and think of

some affirmative programs with which this is not just a 14 acre tract that's going to, you know, do what it's suppose to do, but it's going to be something that will permeate and get programs started through the community to clean up a problem. And that's my 2 cents.

Mr. Wheaton: Motion on the floor.

Chairman: Motion on the floor.

Mr. Roberts: I second it.

Mr. Wheaton: I second it and we have to stop it on...

Mr. Roberts: What?

Ms. Banks: I wouldn't like to leave you with the impression that the drugs are right around us. Kennedy Park is another drug place. We talk about Northwest the drugs are in our section, but they come into the park.

Chairman: I don't think you can limit this to Northwest.

Mr. Wheaton: There's a motion on the floor.

Chairman: Oh, we have a motion on the floor.

Mr. Riff: Let me point out one thing here.

Mr. Roberts: Discussion of the motion.

Mr. Riff: As I understand the motion before us, Hegira House is currently operating and they are not going to be in a bigger place here as far as the number of people they can serve. Now it's possible that this is a better place and I'm not convinced that this might not be a positive thing for this area. Now, now, and I think it's on Hegira House's duty here to educate you folks some and maybe convince you...

(Mechanical Failure, tape ended)

Due to a mechanical failure, the vote was not recorded. It passed unanimously and the chairman thereupon declared the motion carried and it was accordingly ordered that the request be continued until the regular meeting of the board in June.



April 8, 1991  
11 Walnut Avenue S.W.  
Roanoke, Virginia 24016

Dear Mr. Altizer,

This letter is to inform future neighbors of Heigera House, as to what they may expect from your group's presence in their community.

My husband and I own a home on the next street down from Heigera House and operate our business two blocks from Heigera House. We have been in the neighborhood for over 20 years.

Heigera House is among the most well kept homes in all of Old Southwest; their grounds are always well maintained and attractive. I have never seen anything that could be called an eyesore anywhere on their property.

I have never heard loud noises of any nature coming from this home. I have never witnessed any police action at this property or violence of any nature. I have actually felt safer knowing that they were there. I feel that the quality supervision of this facility acts as a form of crime prevention for the whole neighborhood.

Heigera House, also, offers help to the community; on the weekend they have carwashes and offer extended automobile cleaning care. Many times, I have called for help with yard work or other heavy duty work and I have never been refused help, if it was available.

If any further information is needed, please feel free to call me at 345-0047.

Yours truly,

Pat George

# IMAGE ADVERTISING

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April 8, 1991

Henry Altice, Director  
Hegira House  
1301 2nd Street, SW  
Roanoke, VA 24016

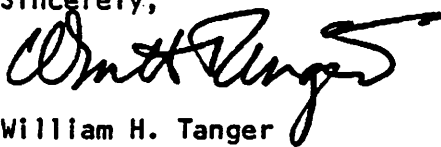
Dear Mr. Altice:

This correspondence is in reference to the zoning hearing on the new proposed site at 1919 Andrews Road, N.W.

In the thirteen years of being neighbors, just across the street, I have found your residents to be behaved and well mannered and presenting no problems to the community. They keep the facility clean and orderly and are contributing members of the Old Southwest community. I have never had any kind of problem with Hegira House or any of its residents.

I hope these statements are helpful to you in your plans for the future.

Sincerely,



William H. Tanger

TWENTY-THIRD JUDICIAL DISTRICT  
OF VIRGINIA

PHILIP TROMPETER, JUDGE  
315 W. CHURCH AVENUE  
POST OFFICE BOX 986  
ROANOKE, VIRGINIA 24005  
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COMMONWEALTH OF VIRGINIA

JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT  
FOR THE CITY OF ROANOKE  
JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT  
FOR THE COUNTY OF ROANOKE  
JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT  
FOR THE CITY OF SALEM

March 28, 1991

Henry Altice, Director  
Hegira House  
Mental Health Services of the Roanoke Valley  
1301 Second Street, S.W.  
Roanoke, VA 24016

**Re: Rezoning Request for Relocation of Hegira House**

Dear Henry:

At its last meeting, the Roanoke Valley Alcohol and Drug Abuse Council voted to officially endorse and support Mental Health Services of the Roanoke Valley's relocation of Hegira House to 1919 Andrews Road, N.W., in the City of Roanoke. I am writing this letter to you to further state that the Council not only acknowledges the fine work of the Hegira House Program for over 18 years, but it also feels that the move to the new facility would provide the citizens of Roanoke Valley even more enhanced services for addicted individuals.

The Council has been impressed that the Hegira House Program has been a good neighbor to the residents of Old Southwest, and that there have been no reports or complaints of improper or illegal activity associated with Hegira House. Treatment for drug addicted individuals is a very structured, carefully supervised and strictly monitored process at Hegira House. No doubt, this accounts for Hegira House's success as a responsible and highly respected program in the Roanoke Valley.

The Hegira House Program has long been supported by the agencies in the public and private sectors of our community, including the Court system. Residents of the program know that, as a condition of acceptance, nothing less than prescribed behavior and performance will be tolerated. There is no reason for anyone to fear the unknown about Hegira House, all because of its long record of success for its residents and for its peaceful co-existence with the community it serves.

Please know that each of the individuals and representative agencies which were appointed to the Roanoke Valley Alcohol and Drug

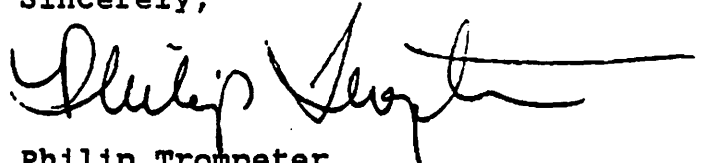
A Copy, Testes: *Patti C. Hanes* 8-3  
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals

Henry Altice, Director  
Hegira House  
March 28, 1991  
Page Two

Abuse Council support your agency's plans to move Hegira House to the more acceptable quarters at 919 Andrews Road, N.W., so that you may continue your fine work for our citizenry. Afterall, your program helps not only the individuals needing your direct care, but our community benefits by returning our own to a life of responsibility, gainful employment and meaningful contribution.

If there is anything I may do to assist you further in these efforts, please don't hesitate to contact me.

Sincerely,



Philip Trompeter,  
Judge, and Chairman of the  
Roanoke Valley Alcohol and Drug  
Abuse Council

PT:m

cc: Angie Williams, Coordinator



# Family Service of Roanoke Valley

90th Anniversary Year 1901-1991

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Roanoke City  
Board of Zoning

RE: The Relocation of Hegira House to the Northwest

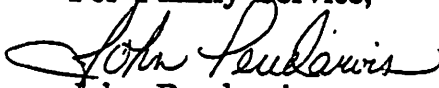
To whom it may concern:

Family Service would like to take this opportunity to express its support for the relocation of Hegira House to the northwest area of Roanoke.

For years, Hegira House has performed a valuable service to the community. The quality of its program, professionalism of its staff and contribution to the Old Southwest neighborhood have been recognized since its birth on Second Street. On a national level, its treatment program has been acknowledged as one of the most effective. Its graduates have become productive and committed community leaders.

In short, we would welcome Hegira House to our area. Indeed, their positive, stabilizing influence in the neighborhood would produce many benefits for residents and businesses alike.

For Family Service,

  
John Pendarvis  
Executive Director

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703 366-3493

703 366-3717

April 8, 1991

City of Roanoke  
Board of Zoning  
Roanoke, VA

Re: Hegira House Request for Zoning Approval for NW Roanoke

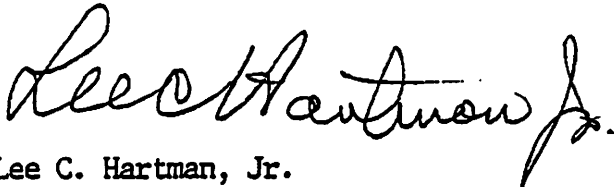
Dear Members of the Board:

As a business operating at 3236 Cove Rd. NW, we would be pleased to have Hegira House move into our neighborhood.

We feel that they are taking very positive action in helping our young people with drug and alcohol problems.

We urge that you approve their request.

Respectfully,



Lee C. Hartman, Jr.  
Vice President  
CEO



# AIRPORT EXXON

2825 HERSHBERGER RD. N.W.  
ROANOKE, VIRGINIA 24017



City of Roanoke,

To the board of zoning commissions:  
I am here at Airport Exxon at 2825 Hershberger  
Road N.W. Roanoke Va. 24017 I do here  
support the Hegira House and welcome  
them into our neighborhood. We  
support any drug and alcohol programs  
that may help our neighborhood.

Thank You,  
Bob - Van Dyke

ROBERT L. "BOB" VAN DYKE  
OWNER  
PHONE (703) 366-4986

Quality Cleaners  
3223 Cove Rd.  
Roanoke, Va. 24017  
703-366-4969

April 9, 1991

As a business owner in Northwest Roanoke  
I would support a Drug treatment center  
at 1919 Andrews road. I feel this would  
be a positive step to combat drug and  
alcohol addiction in Northwest Roanoke

Sincerely  
Sally C. Shepherd, Manager



Bob's Car Corner, Incorporated  
"The Walking Man's Friend"  
2610 Cove Road, N. W.  
Roanoke, Virginia 24017  
(703) 563-5857

To: Roanoke Bl. Zoning and Commite Members

Dear: Board Members

As a Business Owner in the  
North West Commitey. I fully  
Support the relocation of Huggins House  
To 1419 Andrew rd. I feel this is a  
Positive Step in the Community. To provide  
a desperately needed, of service to combat  
drug and alcohol addiction.

Sincerely,

Bob Peterson 8-9  
~~Eric Jones~~

Interstate Motors  
3237 Cove Rd. NW  
Roanoke, Va. 24017  
(703)563-8367

City of Roanoke  
Board of Zoning

Re: The relocation of Hegira House to 1919 Andrews Road, N.W.  
Roanoke, VA.

Dear Members of the board,

As a business owner located at 3237 Cove Rd. N.W.,  
I would like to take this opportunity to express my  
support for Hegira House relocating to 1919 Andrews Road N.W.

I strongly feel the Hegira program would be a  
positive asset to the Northwest Community and provide a  
desperately needed service to combat drug & Alcohol addiction.

Once again I strongly support and welcome Hegira  
House to the N.W. community.

Sincerely,  
Mary A. Brown  
T/A Interstate Motors

Interstate Motors  
3237 Cove Rd. NW  
Roanoke, Va. 24017  
(703)563-8367

A Copy, Teste.  
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals

8-10

BOARD OF ZONING APPEALS

MINUTES OF MEETING

Roanoke, Virginia  
April 9, 1991

The Board of Zoning Appeals met in regular session on Tuesday, April 9, 1991, in the Council Chamber, Municipal Building, and conducted a public hearing on the request of Roanoke Mental Hygiene Services, Inc.

PRESENT: L. Elwood Norris, Chairman, T. E. Roberts,  
Walter Wheaton, Richard Rife, Bob Coptly.

ABSENT: None

CITY OFFICIALS PRESENT: Ronald H. Miller, Zoning Admn.  
Steve Talevi, Asst. City Attorney

PREMISES: 1919 Andrews Road, N. W.

APPEAL NO. 32-91-A

CALL TO ORDER: The meeting was called to order by the  
Chairman, who presided.

SUBJECT:

The request of the applicant for a special exception, as provided under Section 36.1-90 (2), Zoning, to permit a group home, with variance from Section 36.1-540 to allow as many as 24 persons in lieu of eight.

PUBLIC HEARING:

Henry Altice appeared before the Board in regard to the application filed. Mr. Altice explained that the applicant proposes to purchase the property in question and move the occupants from Hegira House, 1301 Second Street, S. W., to this location.

Mr. Altice explained that Hegira House has been located in its present location for eighteen years and during that time they have developed the most structured and efficiently operated home for substance abusers in the State of Virginia. He assured the Board that the residents of the program do not cause any disturbance in the community.

Mr. Oliver Stein appeared and told the Board that he has prepared a site plan for the applicant which includes the addition of two structures on the subject property. One would be used for a multipurpose building and one for a dormitory. He explained further that the closest building would be 125 feet from a property line and that the entrance from Andrews Road is the only entrance into the property.

Dr. Banks, 1823 Syracuse Avenue, N. W., asked when the property owners would be allowed to speak since the applicants were using so much time, and the Chairman assured him that they would be given ample time to express their views.

Mr. Michael Smith, Progress Rush Realty, discussed property values and informed the Board that his investigation and research has shown that properties in the near vicinity of the present Hegira House have actually increased in recent years. He also read letters from property owners in the area who support the application and confirm that the residents of Hegira House have presented no problem to the community. Also presented was a letter from Judge Philip Trompeter, who is Chairman of the Roanoke Valley Alcohol and Drug Abuse Council, stating that the Council had voted to officially endorse and support Mental Health Services relocation of Hegira House to 1919 Andrews Road. His letter stated further that the Council not only acknowledges the fine work of the Hegira House Program for over 18 years, but it also feels that the move to the new facility would provide the citizens of Roanoke Valley even more enhanced services for addicted individuals.

Mrs. Doris Banks, 1823 Syracuse Avenue, N. W., then presented to the Board a petition consisting of five pages of signatures who oppose the requested special exception and gave her reasons for such opposition, a copy of which is filed with the records of this appeal.

Following Mrs. Banks, Mr. W. C. Prunty, 2201 Florida Avenue, N. W., Mr. L. H. Hamlar, 1827 Grayson Avenue, Mr. Burke, 1529 Grayson Avenue, N. W., spoke in opposition to the request, advising the Board that they strongly feel that the location of this home in their neighborhood would increase the drug problem, especially in Kennedy Park.

Mr. Omar Rabb, 1325 Creston Street, N. W., then testified that he went through a program similar to that of Hegira House in another locality and that he supported the program and the application.

Mr. Bill Lawrence, Reentry Director for Hegira House and a Mental Health employee, spoke in strong support of the request, offered further information as to the benefits of the program and described the daily activities of the residents, which include therapy, household chores, etc.

The next speaker was Mary Terry, who stated that she lives in the northwest section of the City but not in the vicinity of the property in question. She said that she is Chairman for the Concerned Citizens of Roanoke and asked how many blacks have come through the program at Hegira House and inquired as to the percentage of relapse. Mr. Altice responded that the majority at this time are blacks, that when the program first started fewer blacks were referred by the Courts, but that situation has changed. He stated that they have had a lot of successful blacks and that the percentage is about 50/50.

Mr. Gary Brown stated that he lives on Ordway Drive but that he has had a car dealership at the corner of Cove Road and Hershberger Road for four years. He informed the Board that he has actually seen drugs sold in the area, that Hegira House has a controlled program which he believes is needed in that section of the City and that he wholeheartedly supports the request.

Mr. Hugh Ennis, a U. S. Probation Officer, then spoke, advising the Board that he believed the location of the home in this area would increase the drug problem. Mr. Copty asked Mr. Ennis where he would suggest that these homes be located. Mr. Ennis replied that the large tract in question could be used for approximately 200 homes and that he would suggest that homes of this type be located in the County.

Mr. Daniel Woolridge, the owner of the property in question, approached the Board and advised that he was speaking only to bring information as to the property itself. He advised that the driveway into the property is .4 of a mile, that there is a gate at the rear of the house, no road at that point, and that the postal service will not deliver mail to the house because it is too isolated. He stated that he put the property on the market about nine months ago and that this is the first offer he has had.

Mr. Tyrone Charlton, 3419 Pittsfield Avenue, N. W., then spoke, saying that he knows there is a drug problem in the northwest section which has to be addressed and that he knows that treatment must be offered for the sickness. He stated further that he knows that everyone who is treated is not helped, but that he feels it is "our" responsibility to weigh the situation.

Mr. Wheaton then advised those in the audience that several references had been made to rezoning and he wished to make it clear that this Board has no authority to rezone property, only to grant a special exception for a particular use. Second, he observed that it appeared that there has not been much communication between the citizens of the area and the applicant. He suggested that it might be wise to defer action on this request until ample opportunity is given for meetings to attempt to arrive at a solution. Mr. Burke advised the Board that there has been no offer from the applicants to meet with the citizens.

THE MOTION:

A motion was made by Mr. Wheaton and seconded by Mr. Roberts that a committee from the community sit down with Hegira House and talk about the issue and come back to the Board in June, at which time a decision on the request could be made.

THE VOTE:

AYES: Messrs. Rife, Roberts, Norris, Wheaton, Copty.

NAYS: None

The Chairman thereupon declared the motion carried, and it was accordingly ordered that the request be continued until the regular meeting of the Board in June.

Chairman

W. L. Hunter

[Signature]

Richard A. Life

T. E. Roberts

Kathleen Gammeter Secretary



# Progress-Rush Co.

327 King George Avenue, S.W. / Phone (703) 345-1081  
P. O. Box 8128 / Roanoke, Virginia 24014



THIS CONTRACT, made this 27th day of December, 19 90, between  
Daniel S. & Betty M. Wooldridge hereinafter referred to as SELLER; and  
Roanoke Mental Hygiene Service, Inc. hereinafter referred to as PURCHASER;  
and PROGRESS-RUSH CO., hereinafter referred to as AGENT:

WITNESSETH: THAT FOR AND IN CONSIDERATION of the sum of Two hundred twenty seven  
thousand five hundred and 00/100----- (\$ 227,500.00 Dollars, paid and to be paid as follows,

to wit: \$ 2500.00 cash/check/note in hand on signing of this contract, paid by the PURCHASER to  
PROGRESS-RUSH CO., AGENT, to be held in escrow until final settlement, the receipt of which is hereby acknowledged.  
This contract is made subject to the PURCHASER obtaining/ ~~securing~~ Financing (Financing) loan in  
the principal amount of \$ 227,500.00 Balance of \$ 225,000.00 to be paid as  
follows on delivery of deed.

Cash at Settlement.

Seller to make tax deductible contribution of all major lawn and garden  
equipment, excepting one red riding mower.

PURCHASER agrees to buy and SELLER agrees to sell that certain lot or parcel of land with all appurtenances thereunto  
belonging, situated in the City/County of Roanoke, Virginia, and described as follows, to wit:  
Lot \_\_\_\_\_ Block \_\_\_\_\_ Map of \_\_\_\_\_ Sec. \_\_\_\_\_;

Address: 1919 Andrews Road NW Consisting of Dwelling, Outbuildings on  
Roanoke, VA 24017 appx. 13.36 acres. Tax Map #'s 2350101, 2350102  
2350103 & 2350106

Complete legal description to be furnished in the deed.

SELLER agrees to convey said property by deed with General Warranty and Modern English Covenants of Title, said deed  
to be prepared at SELLER'S expense, and SELLER agrees to pay SELLER'S Deed Tax. Other closing costs or prepaid items to  
be paid as follows: Buyer and Seller to pay own normal closing costs

PURCHASER agrees to make every effort to secure any loan to which this contract is made subject and to accept said loan  
when it is approved.

Included with the sale of the above real estate (if any in said property at signing of this contract unless otherwise stated) are  
the shades, venetian blinds, curtain and drapery rods, screens and screen doors, storm windows and doors, light fixtures, wall  
to wall carpeting, garbage disposal, dishwasher, laundry trays, awnings, electrical wiring connections for appliances, and all  
other items attached to the real estate and being a part thereof, including all shrubbery and planting on the premises.

Other property to pass: 2 refrigerators, range/oven, window a/c's, fireplace screen,  
carpeting and drapes

The risk of loss or damage to or destruction of any structure on the premises BY ANY MEANS until the deed of conveyance is  
delivered is assumed by the SELLER.

It is understood that the property is to be free and clear of all liens and indebtedness of every kind except the liens mentioned  
herein.

At settlement, SELLER is to furnish a certificate from a recognized termite exterminator showing subject house and  
property to be free of termites, and other wood destroying insect infestation. Should infestation be present, same is to be  
corrected at SELLER'S expense.

Possession to be given PURCHASER on Settlement

All rents, interest, taxes, insurance premiums, and fuel oil (if any) are to be pro-rated as of settlement and settlement is to be  
made on or before February 28, 1991, or as soon thereafter as the title can be examined and all necessary  
papers prepared, allowing a reasonable time for the correction of any defects reported by the title examiner.

SELLER warrants that at the time of settlement (or occupancy, whichever occurs first) all appliances, utilities and  
equipment, including heating, central air conditioning, electrical and plumbing systems, are in good working order.

Should either party hereto default in the performance of his part of this contract, the party so defaulting agrees to pay  
AGENT, the full commission stated in this contract.

Should the PURCHASER be the defaulting party, AGENT shall have the right to apply all monies held in escrow toward the  
costs incurred by reason of this contract and toward the AGENT'S commission due under this contract.

SELLER and PURCHASER agree that AGENT was only procuring cause for this contract.

SELLER agrees to pay to AGENT, for its services a commission on the sale price of the property at the following rate:  
6%

Both parties to this contract agree that the amount of the commission provided for in the  
contract is a reasonable fee based on the efforts of PROGRESS-RUSH CO., and its AGENTS, contractors and employees in  
securing this agreement.

THIS SALE IS SUBJECT TO THE FOLLOWING: 1. MHS/KV Board approval 2. Zoning and use  
permit obtainable 3. Ability to vacate current rental lease 4. Ability to  
procure needed financial resources

Approval of Roanoke Mental Hygiene Service, Inc. A Copy, Tester: Patil C. Hurne, Secretary of

The SELLER and PURCHASER hereby bind themselves, their heirs, successors, assigns, executors and/or administrators  
for the faithful performance of the Contract.

IN WITNESS WHEREOF the said parties to this contract hereunto have set their hands and seals the day and year first above  
written:

(seal) \_\_\_\_\_  
SELLER

(seal) \_\_\_\_\_  
SELLER

(seal) Michael L. Smith  
authorized representative Progress-Rush Co.

(seal) \_\_\_\_\_  
PURCHASER

(seal) Thomas Charon  
PURCHASER

(seal) Progress-Rush Co.  
listing company and AGENT



**SEPARATE ALL COPIES BEFORE SIGNING BELOW**

**FHA Clause:** It is expressly agreed that, notwithstanding any other provisions of this contract, the Purchaser shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the Seller has delivered to the Purchaser a written statement issued by the Federal Housing Commissioner setting forth the appraised value of the property (excluding closing costs) of not less than \$ \_\_\_\_\_, which statement the Seller hereby agrees to deliver to the Purchaser promptly after such appraised value statement is made available to the seller. The purchaser shall, however, have the privilege and option of proceeding with the consummation of the contract without regard to the amount of the appraised valuation made by the Federal Housing Commissioner. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the property. The purchaser should satisfy himself/herself that the price and the condition of the property are acceptable.

Seller \_\_\_\_\_ (SEAL) Purchaser \_\_\_\_\_ (SEAL)  
Seller \_\_\_\_\_ (SEAL) Purchaser \_\_\_\_\_ (SEAL)

**VA Clause:** It is expressly agreed that, notwithstanding any other provisions of this Contract of Sale, Purchaser shall not be obligated to complete the purchase of the property unless Purchaser is able to obtain a Veterans Administration guaranteed loan of not less than \$ \_\_\_\_\_. If Purchaser is unable to obtain such loan, the cash deposit, less any expense incurred for appraisal, photograph of the property, and credit report, shall be returned to Purchaser. However, Purchaser shall have the privilege and option of proceeding with the consummation of this Contract of Purchase without regard to the obtaining of any Veterans Administration guaranteed loan. The seller shall pay all discount points, inspection fees, financing statement recording fees, document preparation fees and photograph fees required by the lender to enable the purchaser to obtain his loan.

Seller \_\_\_\_\_ (SEAL) Purchaser \_\_\_\_\_ (SEAL)  
Seller \_\_\_\_\_ (SEAL) Purchaser \_\_\_\_\_ (SEAL)

BOARD OF ZONING APPEALS  
MINUTES OF MEETING

Roanoke, Virginia  
June 4, 1991

APPEAL NO. 32-91-A  
APPLICANT: Roanoke Mental Hygiene Services, Inc.  
PREMISES: 1919 Andrews Road, Northwest  
PRESIDING: L. Elwood Norris, Chairman, T.E. Roberts, Walter Wheaton,  
Bob Copt

Chairman:

Alright, the next request is that of, no its continued from April 9th of Roanoke Mental Hygiene Services, Incorporated for special exception to permit a group home at 1919 Andrews Road with a variance to permit as many as 24 persons in lieu of 8. Henry Altice, alright anyone that is going to speak for or against, you are to stand up and raise your right hand. Not to many. Everybody except The Roanoke Times & World News showed up to say a word. Do you all agree to tell the solemnly swear to tell the truth, the whole truth and nothing but the truth so help you God?

Persons

From

Audience:

We do.

Chairman:

Alright, if you all will be seated then and let this gentlemen start.

Mr. Altice:

Thank you, first of all I want to read an amendment we would like to make to our Motion. First we would like to establish a Community Advisory Board to serve the purpose of receiving any complaints in resolving any difficulties resulting from the presidents of the program in this area and take any requests from the neighborhoods, any of the programs for assistance and drug-alcohol abuse prevention in the neighborhood. And second, we would like to erect a fence on the perimeter of the property in which now a gate exists.

Chairman:

Whats the second one now?

Mr. Altice:

To erect a fence in the perimeter of the property where a gate now currently exists.

Secretary:

Can I have a copy of that amendment

Mr. Roberts:

Have you talked to the neighbors about these

Mr. Altice:

These are concerns that has been

Mr. Roberts:

Are they familiar with before this with what you

Mr. Altice:

We've talked about them in their community meetings, yes.

Mr. Roberts:

Their familiar with that then.

Mr. Altice:

Yes, Yes to some degree, yes.

Mr. Wheaton:

When you say a fence on the adjacent side,

Mr. Altice:

Uh huh

Mr. Wheaton:

That means wherever a property is adjacent to the property in question

Mr. Altice:

Uh huh, yes

Mr. Wheaton:

Now that property I understand goes all the way down uh to the interstate

Mr. Altice:

It goes down to the bottom of the hill where the creek is, not the interstate

Mr. Wheaton:

Yeah, down there

Mr. Altice:

Yes Sir

Mr. Wheaton:

That would be on the facing it would be on the right on the left side

Mr. Altice:

Yes

Chairman:

He's got a plat

Mr. Wheaton:

Yeah, I want to see where the fence is going to be

Mr. Altice:

We're proposing putting a fence up in this area here where these houses are

Mr. Wheaton:

Oh okay

Mr. Altice:

Not up, this is just woods if you take a look at this aerial photograph you'll see that where the red marks are cornerstones of the property. Putting a fence along here where these houses are because this area here is 13 acres of land this that's still unoccupied and there is a fence already along here at the present and this is unoccupied property through here

Mr. Coptly:

What kind of fence?

Mr. Altice:

That would be something that we would talk to the neighborhood community about and work with some agreement with them would be our proposal

Mr. Wheaton:

Another question, uh, what is the objective for the fence?

Mr. Altice:

Uh it is to deal with issues around security and people moving back and forth

Mr. Wheaton:

People meaning who?

Mr. Altice:

It would mean people from the community wandering into this property, people from our property possibly wandering out.

Mr. Wheaton:

Wandering out, okay.

Mr. Altice:

Yes Sir. Apparently we've been told that people to go through this property going to various places and this would have some deterrent on this as well

Chairman:

I think some kids probably cross there to go over to the mall

Mr. Altice:

Yes, that's what I've been told

Chairman:

Very dangerous on the highway, really ought to be stopped somehow.

Mr. Altice:

*Eric C. Jones* 17-3

Yeah in the course of my investigation I was told that, it was asked, that there's a gate right here to put a fence and right there is one of the neighbors

Mr. Wheaton:

There's a gate there now isn't it?

Mr. Altice:

Well, its a gate

Mr. Wheaton:

Something

Mr. Altice:

Yes Sir. Its sort of grown up with bushes and its not very functional.

Chairman:

Well I think that the fellow who lives there left a gate for children to use

Mr. Altice:

Yes he did

Chairman:

Whether thats a good idea or not

Mr. Altice:

He was one of the ones who told me about the traffic that went through there and built a barbed wire fence up there and he left a place where they could go back and forth

Mr. Roberts:

Do you propose to use the whole thirteen acres.

Mr. Altice:

Well, we're going to use the thirteen acres in terms of people being able to walk the property as a meditation or have athletic events and that sort of thing, but not in terms of building

Mr. Roberts:

You've developed that into a use concern with your patients

Mr. Altice:

Yes, we're going to use that just for that purpose. We're going to build two buildings as we proposed last time, but nothing other than that.

Chairman:

Alright, thank you.

Mr. Altice:

Also, in minutes from the last meeting it was the motion was made and seconded that a committee from the community sit down and talk with Hegira House and talk about this issue and come back to the Board in June at what time a decision for the request would be made. Uh, to my knowledge, uh, this group was never appointed definitely. Nobody every initiated any

contact with us in terms of meeting with us. On the other hand, we did do the following. We had an open house at Hegira House and also offered individual meetings for anybody in the community that wanted to come. We sent a letter of this to each person who signed the petition as well as sending 200 flyers in the immediate community for that purpose. Also, we discussed with individuals and various community groups our concerns during this time. We also planned three community meetings to be held at three different churches in close proximity to this proposed facility and announcements were made at all the local churches and sent to community groups. The first meeting was held at the Garden of Prayer No. 7, May 27 and about eight people attended. The second meeting was held at High Street Baptist Church on May 30, and approximately 40 people attended. The third meeting was held this past Sunday at Pilgrim Baptist and about 25 - 30 people, and these three churches pretty much surrounded the property. At that time there were a great deal of discussion about what the program is about and what are intentions are and what we do as well as a voicing of some concerns that the community has. I want to, well we kept records of these concerns and the most common ones are property value, program security and client freedom, threats to children of school age that will be moving through the park, bringing more drugs into the community, the lack of initial community involvement and why this neighborhood. I want to take just a couple of moments and respond to these if I could. First, in terms of property value, as we presented last time, Mental Health Services is as concerned about property value as anyone else and the history has been throughout uh since we've been operating in this city that are property value does not harm the property value of the community but actually enhances the community and we maintain our property in excellent condition. This is not only by our own concerns about the fact that we value what we own and respect what we own, we feel like that by owning and maintaining the property in the excellent manner helps in the rehabilitation of the people that we serve and also we have very stringent requirements on various state and local ordinances and regulatory boards that we must respond to. We also talked to the National Institute of Drug Abuse about this concern because it is a concern that they deal with all the time throughout the United States and they gave us some material that we distributed at the community meeting as well as having a video that they provided so that the people could understand a little more about what we were doing and what we were doing and the issue of property value for them is that they say that usually the property goes the way its going to go, the programs doesn't really have any impact on it one way or the other and thats nationwide. The program security and client freedom, we talked about that some last time that we were here and I can reiterate very quickly that our program because of its license regulations is very closely monitored, our clients do not have freedom to go where they want. If they do that they are in violation of the uh uh there probation and major program rules that could result in them being violated by the courts, they do not have that freedom to do so. The only clients that we have that have the freedom to pretty much go and come as they please are the clients that are housed on First Street here in Southwest and they are our after care clients, but none of those clients will be housed at Andrews Road. When they reached that level of the program they would move over into Southwest in that facility. Uh, we also have twenty-four hour a day coverage, the staff, there's somebody always on duty there, there's always somebody awake and answers the phone and who

A Copy, Teste: Patti C. Hanes 17-5  
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals

will do bedruns and dorm checks on the hour uh so that any kind of movement would be detected. We do not, we do a lot of work in terms of the next concern about threats to the children of the community. Our clients are highly educated in dealing with substance abuse and substance abuse addiction. That's part of their treatment process that they go through and many of them are mandated to do community service time and one of the services that we provide not only in the Northwest community, but other parts of the city, is talking to school children, talking to schools, being a part of community activities that the city puts on or local churches or interests groups. We feel like we have a message to give and we need to be a part of that and give back to the community. There has never been an incident in the history of our program that one of our clients has gone out and threatened or bothered or tried to involve a child into any kind of illegal activity. In terms of bringing more drugs into the community, I understand, I can understand all of these concerns, and I can understand this concern to and I think one of the issues that stands out to me is that people that are in Hegira House are like people that are in a hospital, they are like people that are in treatment for disease. Substance abuse addiction is a disease and they are in treatment. The people who are using drugs and going through the process of getting money to procure drugs are the ones that are doing criminal activities. These are the people that are not dealing with their disease. Those people are not at Hegira House. We do not have people that are actively using drugs at Hegira House, we do not have people that are involved in crimes in the community at Hegira House. That is not what happens in a treatment program. That happens when their on the street and and robbing and stealing to get what drugs they need. Also, we have a very tight system in terms of detecting whether or not they are using drugs and alcohol. We have, we do unannounced urinalysis tests at least weekly on every client when they come and come back from being on time out or being out on an outing, we do these as well so that we can determine what these people have been using. Also, if they have been, this could ultimately result in them being returned to the Court. Uh, we believe that the lack of initial community involvement, we believe that that was an initial mistake on our part, uh, one of the reasons why we want to amend our petition is that we felt like we should involve the community more into what Hegira House does and to deal with the problems that may arise from us being or concerns that arise from us being in the community and we would like to work with them to resolve those concerns. Why this community, uh, there are several reasons. In the past there have been requests made to Mental Health Services to put a drug program and other services in the Northwest Community, uh and that one reason why I think that this is feasible. Uh another primary reason and probably the most primary reason is that this facility, uh, in terms of the type facility, the location uh, the security purposes better fits our needs than anything that we've seen and we've looked and looked. Uh since we've talked we've had real estate agents look and see if there is anything comparable to this and to his knowledge there is nothing anywhere and in my years of being around this definitely seems to be uh unique property. Uh so, we, you know, we have addressed and listened to these concerns, we feel like we've made contact with a lot of people, I know there are a lot of people here who feel like we would be a negative in their community and I understand that uh, I feel like that there are a lot of people here who are somehow swayed in one way or the other and I think there are some that support us. I believe that if we are allowed to be in

this community a year or two from now that we will be seen in a different light. That we will be seen as not a threat to the community but rather someone thats helping deal with some of the problems that exist not only in the Northwest community but in the community at large. I know I was reading uh uh uh a memorandum that went out uh from the concerned citizens of a Roanoke community group talking about and using their words "the purpose of our meeting is to plan a focus on how we can provide positive activities for the youth and young adults in our community in order to divert them from the many crimes, drugs and illegal activities that are plaguing are neighborhood. We must reclaim our community's children and clean up our neighborhood of these many problems. We must come together in a black community and address these concerns." And some of their goals is to hold community meetings, discuss concerns of the community residents and business representatives, to identify resource facilities and existing programs in our community. So I think that its real clear that there is some need for support and there's some need for programs to address some of these issues in that city and particularly in the Northwest area. Uh, also I want to give you some copies of uh the material that we sent out, uh, this is also about where the location is and also a copy of the flyer thats being distributed throughout the community opposing Hegira House and while I take major concern with all six of these points and and and question their validity, I would like to point to number three that a facility in a neighborhood has been rejected in South Roanoke and far Northwest. Hegira House or Mental Health program has not been rejected in these areas and I have no idea where that came from and uh, I also think its quite interesting that a major focus uh in the last few years has been to say no to drugs and and that phrase has been uh distorted to say no its to say no to Hegira House which is in fact one of the premier drug programs in the Commonwealth of Virginia. So I thank you for your time I know there's some other people who want to say a few words, but we certainly hope you will give us the opportunity to relocate our program in this community.

Mr. Roberts:

You certainly made a good presentation and I would like to ask you a couple of questions. How are your clients referred to you?

Mr. Altice:

Our clients come from, they come from the courts, they'll come from the department of corrections, they'll come from other programs and some of them will come from off the streets themselves who just need treatment. Primarily they come from the courts.

Mr. Roberts:

I was going to ask you what point in treatment that you receive these, but you receive them right from the first day in some cases

Mr. Altice:

Yes, but we take no one who is actively addicted. If we get someone who is being referred to our program that is actively addicted to drugs, then they go to our detox center on Shenandoah Avenue before they come into the program. And thats what I was saying earlier, that these people are not participating in crime when they are in the program and they are not using drugs; they are going through a treatment process.



Mr. Roberts:

Now you made this presentation to a number of groups of people, probably a lot of these are included, what was the reaction, can you tell us anything about the reaction to your presentation at some of these churches and other

Mr. Altice:

I felt like the primary, at least the majority of reaction is of people who are concerned about these issues that I raised and the value of their property and they seem to be primarily concerned with the value of the property and very little I can say would change that. I see that a lot of other people, uh, on the other hand, there are people that are concerned about the problem of drugs in the community in dealing with that problem and also saw Hegira House in a different light once it was explained it was not a prison and it is not going to bring a lot more crime into the community and there were some people that were supportive of our program and and and spoke at these meetings. I felt like the first meeting at the Garden of Prayer No. 7 uh, we were not very popular. I feel like the meeting in High Street uh, we were still not very popular, but there were some people in our support, that was the meeting that this flyer was passed out, the meeting that was at Pilgrim last Sunday, in my opinion, if there was a vote that was taken at the presentation we would probably have been even or we would have won the vote. So thats that my opinion.

Mr. Roberts:

One of the main things we have to consider here is the compatibility with the neighborhood.

Mr. Altice:

Yes sir.

Mr. Roberts:

And of course now, the neighborhood in Southwest is a little different. Its part business and part residential. Up here its all residential. There's a little difference there, but the compatibility, I think thats the thing we have to consider. Thank you.

Mr. Copty:

We need an amendment to your

Mr. Wheaton:

Henry, I have another question. You stated in our dialogue concerning restrictions. I want to know whats the ratio of tenant to staff or staff to tenant, whats the ratio.

Mr. Altice:

About 2½ to 1.

Mr. Wheaton:

And they are the ones who uh provide the restrictions, the staff.

Mr. Altice:

Yes, they provide the yes they are the ones who make the restrictive decisions. Of course, Hegira House is a therapeutic community and a lot of what that means is that the client themselves provide support for each

other. They work their way up through the structure. They come in and they'll work on a kitchen crew or working in the year and as they continue to work their treatment and and become more involved in what they're doing, dealing with their issues, and showing more responsibility, they are given more responsibility in the program, where they'd answer the phones and they would head some of these crews. So they have jobs to lose and privileges to lose and they have a lot of and we teach that one of the main ways that they can stay clean and sober is that they need to be able to provide positive peer support. That's the very thing that they didn't have. So you have 2½ - 1 staff ratio plus you have a structured hierarchy system within the program that support is provided. So it doesn't become you and they, it becomes more our problem, a community problem within the community.

Mr. Wheaton:

Of course we're concerned first of all with the granting of the permission to have the house and then of course you've also requested permission to expand it from eight members to twenty-four.

Mr. Altice:

No we are not expanding, that's the current number that we have now. We would not be expanding, we would just be moving the same facility.

Mr. Wheaton:

You would be expanding it from the number allowed.

Mr. Roberts:

I didn't realize ya'll were going to keep your present location.

Mr. Altice:

No, we don't not for Hegira House, I don't have any idea, we're going to keep the apartment, the 12 unit apartment building that's on First Street. That's the one we'll keep.

Mr. Roberts:

Oh okay. I see.

Mr. Altice:

And that will be where the ones that will be living in the community, going to work, going to school. Although there is staff supervision there, it's not near as intense as in the other facility.

Mr. Copt:

And right now, this very program is being run out of Old Southwest.

Mr. Altice:

That's correct, it has been since March 3, 1973, and at that time it was a residential neighborhood when we first moved in there.

Mr. Wheaton:

Would you give me or the Board some highlights as to the problems that have been encountered in Southwest, or have there been any?

Mr. Altice:

Yes there were problems when we initially moved there and I think a lot of the problems were similar to what we are dealing with now and that is the lack of understanding as to what the program is and there is a lot of articles written in the paper and we were called dregs and that seemed to be the common statement for several years, uh, there were other programs that wasn't successful, not the same type program, and at times we were put in that group, but we was able to address that effectively. I think one of the ways that was done is because the community itself saw the differences in the programs and the the differences in the people and were able to speak to that concern. Uh, thats been our primary concern. The fact that we've had a program on that corner which is so close to the streets, its been miraculous that we've been able to adjust the way we have.

Mr. Wheaton:

You've been there about thirteen years, is that right?

Mr. Altice:

I've been there since 1974.

Mr. Copty:

The numbers, of the numbers for your program only, this program thats being moved to this location, the numbers of occurrences of police calls, problems with the law, uh, direct complaints with neighbors, are there

Mr. Altice:

I don't, I remember one time probably ten years ago we had a small band come there and the neighbors complained and we had to stop it, we do at times have to have parole officers and police officers come to the property, but in terms of having major scenes on the streets, thats never been an issue. Uh, nothing, I mean its nothing extraordinary. I mean when your dealing with the criminal justice system and the criminal population who has been involved and parole officers and police officers then there is going to have to be some interface, but nothing extraordinary and nobody in the community has suffered from that.

Mr. Roberts:

But how often would the police officers, police cars being seen going into this place, how often.

Mr. Altice:

Maybe once every two weeks.

Mr. Roberts:

That seldom?

Mr. Altice:

Uh huh. There are other programs in that community that deal with this issue a lot more than we do. Uh, but thats not something that happens very often. Sometimes you might have a Department of Corrections car or something bring someone to the program or a parole officer might come in a state car, but they look pretty much like a regular vehicle. In terms of the Roanoke police force coming, I'd say once every two weeks.

Mr. Roberts:

You wouldn't have a steady stream of police cars going in at one time.

Mr. Altice:

Oh no, no no. That just doesn't happen.

Chairman:

Alright, did you have any one else

Mr. Altice:

There are some others that are going to speak, I would just let people speak at random

Chairman:

Ordinarily we would let you all go on and do all of your speaking and we'd let some of these others folks, whichever

Mr. Altice:

That, that would be, lets lets let the process fall as it may.

Chairman:

Alright then if you'll have a seat. Do you all have one spokesperson, and lets limit it to a reasonable amount, who would like to speak? Alright now give your name and address to the secretary please

Ms. Williams:

Okay, I'm Angie Williams, I'm the coordinator for the Roanoke Drug & Alcohol Abuse Council. Did you say my address?

Chairman:

Yes.

Ms. Williams:

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Chairman:

Business address will be fine

Ms. William:

Excuse me.

Chairman:

Business address will be fine.

Ms. Williams:

Uh, its 520 19th Street, Southeast and thats 24013.

Chairman:

Alright Ms. Williams

Ms. Williams:

As I said I'm the coordinator for the Roanoke Drug & Alcohol Abuse Council. Uh back in 1989 the City Manager of Roanoke, Bob Herbert, appointed a seventeen member drug task force to begin to uh develop a

strategy to deal with the many problems of substance abuse and trafficking in our community. That task force wrote a report called Roanoke at Risk that contained 56 recommendations. One of those recommendations was that an affordable residential treatment and after care program that is holistic in its approach should be established in a predominantly minority community. Uh they believed that the reason is that including fear of the unknown, an inability to relate to nonminority counselors, unemployment or lack of transportation, that members of minority communities are often reluctant to seek help outside of their community. The court has written a letter that I believe you received at the April hearing on behalf of the Drug Council, uh, endorsing this move, praising the many years of good service that Hegira House has provided to the community. We believe that the move to Hegira House directly helps us with our objectives here, our recommendations that were in that task force report and in that providing the affordable adult residential treatment.

Mr. Roberts:

Did you have some input into the selection of this particular spot of the Hegira House.

Ms. Williams:

No I did not. However, I have been to Hegira House's location in Old Southwest, was given a tour there. It is a very well run facility. We, when Mr. Altice, told uh spoke to the Drug Council and told us that he has chosen the thirteen acre site, the treatment committee went out there and went on a tour of it one evening so that we could see the facility and we believe its as Mr. Altice told you a few minutes ago, its the best possible location, the thirteen acres, its rather secluded, its beautiful out there, I can't think of a better site.

Mr. Copty:

Are there any other, your in Southeast, I guess thats your office.

Ms. Williams:

Right, I'm located at Fallon Park Elementary.

Mr. Copty:

Are there any other drug outreach programs similar or dissimilar to this one in other communities or are there any other plans to institute this type or similar type of drug treatment facilities into residential communities.

Ms. Williams:

I don't know of any, but I'm just the coordinator for the Drug & Alcohol Abuse Council and there may be something that I don't know about that people in the treatment community may know more about.

Mr. Roberts:

Have you considered any alternate locations?

Ms. Williams:

Mr. Altice and Mental Health Services have been handling that. I'm just here on behalf of the Drug & Alcohol Abuse Council uh in support of the move uh. Hegira has been in the community for many years and uh has been a great service.

Mr. Roberts:

So, I see this Hegira House has a good track record and they've made a good reputation and established a good standing in the community and we appreciate that.

Ms. Williams:

Well thank you.

Chairman:

Thank you Ms. Williams. Alright, would you give your name and address please.

Ms. Kylie:

Yes, I'm Margo Kylie and I'm the Director of Substance Abuse Services for Mental Health Service of Roanoke Valley and our business address is 301 Elm Avenue, and its 24016. Um, I came forward because of the question of whether are there any plans to expand residential treatment facilities in any of the other communities, I would imagine that Mental Health Services that the council is involved with and Mental Health Services serves the cities of Roanoke and Salem and Counties of Roanoke, Botetourt and Craig and in our comprehensive plan we have primarily look to expanding nonresidential services and the reason for that is that we have a fairly good array of current residential services and we don't look forward to a big increase in state funding any time soon. So, uh, given the state of the Commonwealth and the current financial picture, we don't look forward to any expansion. That's not to say that we don't currently have waiting lists. We have waiting lists currently at all of our residential facilities. That includes our detoxification center and primary care unit on Shenandoah Avenue, our multi-lodge program which is located on Patterson Avenue and Hegira House. We also have waiting lists for prevention services and we also have waiting lists for outpatient services. Seventy percent of my division's clients come from Roanoke City and so we intend to focus our attention on the you know where the greatest uh number of our clients are from. I'd be pleased to answer any other questions you might have.

Mr. Roberts:

The need for this service is almost desperate then.

Ms. Kylie:

The need for this service is certainly desperate.

Mr. Copty:

Could we get your title again?

Ms. Kylie:

I am the Director of Substance Abuse Service for Mental Health Service of this Roanoke Valley.

Mr. Copty:

Well I think that the community is obviously concerned that this is a drug treatment program that's being located in their community and if I think what I don't know that it makes anybody any less or any more comfortable about that fact, but if other communities are also going to be seeing this or

are seeing these facilities, at least you don't feel so singled out as being the community that's having to take something that others are not going to.

Ms. Kylie:

Well our agency has residential facilities located all over the valley and we have residential facilities, we serve people with substance abuse problems, people with mental health problems and people with mental retardation. And we have facilities all over the valley, I mean our children's center program which is for severely emotionally disturbed children has just relocated to the City of Salem and our you know we have programs in Vinton and Roanoke County and so forth. Our goal, we don't have any in Craig yet, but our goal is to make our services accessible to the people who need the services and to provide services and places which are safe and secure and which provide the best possible rehabilitation for our people. I also wanted to correct Henry on one little thing. You asked if there had been any police complaints and in addition to the time we had the little band come to entertain the clients, we one time had a client in therapy who was expressing himself pretty loudly and a neighbor called because she thought somebody was being hurt. That was eleven years ago and that's the last complaint I remember. Any other questions?

Chairman:

Any other questions? Thank you.

Ms. Kylie:

Thank you.

Mr. Wheaton:

Is anybody else for, are you going to mix them up?

Chairman:

Your name and address.

Ms. Banks:

Doris Banks, 1823 Syracuse Avenue, Northwest

Chairman:

Are you the lady who wrote me a letter?

Ms. Banks:

Yes, I wrote each Commissioner.

Chairman:

Did you send a copy to the Board?

Ms. Banks:

I sent each Commissioner. I also have a petition an additional petition of 262 names that I would like to leave to submit to you.

Chairman:

Are these people in the immediate area or ten blocks away?

Ms. Banks:

They are from Tenth Street and LaFayette Blvd. and from Melrose and Fairland Lakes. Now we have some other people here who need to speak, we have Mr. Cooper, Mr. Riles, Ms. Carolyn Patterson, these are, and Mr. Dowall, Alfred Dowall, who is president of the FairLand Lakes Civic League. We have also gotten an endorsement from the Melrose Rugby Neighborhood Forum and both of those presidents are supposed to be present today. Opposition to exception of RS3 zoning at 1919 Andrews Road. Since our last meeting we have listened carefully to the Mental Health Services. We have listened to what they have said and to what they have not said. I have a problem understanding why a group who spent over \$200,000 federal funds for a home for only 24 residents when they have to my knowledge leased the Embassy Motel as a halfway house, two homes in Vinton and a home on Patterson Avenue. Now these are just the ones that I know about. I also don't understand with all the vacant property in Roanoke City, zoned for this type of facility, why they only looked at 1919 Andrews Road. Now, when they had their meeting at High Street Church, we asked them about this and they admitted that they had looked no where else. One property is a three story brick apartment building located less than two blocks from them. Also, there is a stately home on Cole and Hershberger Road, two doors from the interstate motors that could serve their purpose. We have no qualms with their program, but we are even more convinced that it just does not belong at 1919 Andrews Road in the center of our neighborhoods because it would have a negative effect on all the surrounding neighborhoods, especially the youth. It has an uncontrolled environment where the residents come and go at will and most of them are not only drug addicts, but have committed crimes of some type or other. We do not want a transient and criminal population from Roanoke County, Salem, Botetourt County, Craig, New York, Baltimore, wherever pummeled into our neighborhood every six months. It would jeopardize the safety of all our residents, especially our youth who travel along Andrews Road and our senior citizens \_\_\_\_\_ Park and last, but not least, the property in the whole midquadrant of Northwest would become worthless. As our city representatives I ask you, please protect our lives and our property by voting against this exception. Now, I would like to add to that, we have a very viable neighborhood group and if Mr. Wooldridge wants to get rid of his property, we want him to get rid of his property, but if I'm sure that they would appoint a committee to work up acceptable uses for their property. There is a lot of land over there. Thank you.

Chairman:

Your name and address.

Mr. Alcahad:

My name is Michael Karim Alcahad and I live at 1630

Chairman:

Just leave that there and we might ask someone else to sign it, yeah that'd be fine. Alright sir.

Mr. Alcahad:

My name is Michael Karim Alcahad and this property that we are speaking of is right behind my house and I'm pro and con you know for this uh Hegira House being brought into our community. One reason is that I think that



the Northwest section has enough to deal with as far as negative problems at this point without something else coming in to burden us, one one problem that we have is that this property, there be a lot of shooting going on over there at night, we call the police and by the time the police get there the people are gone, its just a lot of unnecessary problems, shooting, and you know my wife have to get up and my children is afraid of all this shooting going on and we think it would be too much right now as a burden not only on the grown-ups mind, but also on the children's mind. Now we now we are for treatment for people who are addicted to drugs, we are not against it, but we are saying is that we know these people need to go some where, we cant just eradicate we can't just kill them, but you see we have an all american city here, all of us need to join in and find a proper place for these people to go where every body will be comfortable and where every body will be able to live in peace. We think that this section over there is already enough going on without something else coming in at this point.

Chairman:

Alright thank you.

Mr. Roberts:

Is there any shooting going on over there now?

Mr. Alcahad:

Yeah, it goes on all the time, these people will tell you it goes on, you know I live, the property is like this and I live I live right behind right right behind the property and I have called the police on numerous occasions and they have came and they uh, and they take cars over there and they strip them down and they go over there and on one occasion a lady got attacked over there over there in that its a little side street that you go down, they go over in there, they go over in there and they just do all types of stuff in there.

Mr. Roberts:

Wouldn't the Hegira House improve that, it wouldn't get any worse?

Mr. Alcahad:

I think I think I don't think that it would improve it, but what we don't understand, people do not understand the situation of people coming in from correctional or or facilities. We have people who are con artists and they will come into the community you see with the idea of seeking help that would not only play on the people who was trying to provide them help but they would also play on and be parasites on the community. They would come in like they are really in need of help and then when if the help is not being provided that they want then they would seek some type of other avenue to leave their place or like the lady said wander off and then we'd have to be faced with it. And we have a nice school up there which is Roanoke Academy school, my children go there and we think that these children don't need to see this type of thing.

Chairman:

Alright thank you.

Mr. Alcahad:

Thank you.

Chairman:

Alright, who else, who else would like to be heard. Mr. City Attorney would you give them that

Mr. Cooper:

My name is Philipp Cooper. I live at 1933 Andrews Road. I recently built, are ya'll familiar with the area?

Mr. Roberts:

Yes we are, we've been there.

Mr. Cooper:

Uh, I have recently built a home, I've been in there a little over a year with a great investment to myself and my major concern naturally is the property value. Uh, it was stated that they as my understanding that they were approached with the offer to buy the house whereas they were not actually looking. I moved to that area thinking that it was one of the beautiful areas in the neighborhood to uh live and I do not appreciate thinking that I did this for no avail. Ten to fifteen years down the road when I attempt to sell this house and this organization is in the back of me, its directly in back of me on Andrews Road, I am very much concerned about the property value decreasing if I had to sell at a later date. Uh.

Chairman:

Let me ask you what would you consider the average value of the houses along Andrews Road.

Mr. Cooper:

The house that I built.

Mr. Roberts:

The average value.

Mr. Cooper:

The average value, \$70-\$80,000.00 present value now. My house is more than that.

Mr. Roberts:

I see, I thought some looked to me like they were almost a hundred.

Mr. Cooper:

Well, they have just increase the value this last year, its been appraised. My house increased \$10,000 in one year and I hope at a future date, just like Mr. Wooldridge now is contemplating selling his house at a profit and his land, I would like to do the same thing and I don't think anybody would necessarily come into that neighborhood and buy, thats my own idea so my primary concern is the property value by me moving into the neighborhood and that neighborhood maintains all of their property, its a beautiful neighborhood.

Mr. Roberts:

How long has your house been there?

Mr. Cooper:

February of last year, fourteen months. Brand new.

Chairman:

Alright Mr. Cooper thank you.

Chairman:

Alright sir, your name is

Mr. Dowall:

Alfred Dowall. Alfred T. Dowall, Sr.

Chairman:

Alright sir.

Mr. Dowall:

First of all the citizens of immediate and surrounding areas were not duly notified of the intention to establish Hegira House at the Andrews Road location. This was totally unfair to the people who have invested in homes and who anticipate the neighborhood would remain residential. The Hegira House, as you know is a business. We do not oppose agencies or institutions who attempt to rehabilitate persons who have encountered persons. We applaud your efforts, however, we do oppose your locating it at this particular area. Surely there are areas where this place can be located which would not generate any opposition from some of the residents. The owner of the property did not consider contacting the citizens of its community. He had simply just a lucrative motive. Had this matter been done in a matter whereby citizens could have expressed their views we would have been more sympathetic in assisting them in finding another location. The citizens of this area were educated about the program, some would feel threatened having heard reputations about institutions which are not as successful as yours. Again, may I remind you that I respect what you are doing, I'm sorry, we do not try to stand in your way, but we would like you to relocate in another area. Thank you.

Chairman:

Alright sir. Your name?

Mr. Shaw:

My name is Robert Shaw, um

Chairman:

Shaw

Mr. Shaw:

Yeah.

Chairman:

Alright.

Mr. Shaw:

I'm a recovering drug addict, I'm a graduate of Hegira House. Uh, I want to address a couple of concerns that I've heard raised up here, uh, the young man was talking about the criminal elements that's already in the

neighborhood, the shootings that go on, the drugs in the Northwest area. I live in Northwest, uh, like I said I am a graduate of Hegira House. I was in Hegira House program for eighteen months, I spent eighteen months there, um, its been my experience that Hegira House tends to be a positive in the community as opposed to a negative. Um, they have a positive effect on crime, criminals, drug activity, um, drug dealers, drug users, criminals, don't want to be anywhere near Hegira or Hegira clients because of its like my peers now are different than the peers I had when I was in the Northwest using drugs. I'm not about the same things then that I am now. Um, to those people who are still out there actively using drugs, doing crimes, I'm not what they want to be about. Neither are the residents of Hegira House. They don't want to be around those type people. Um, with their probation officers going and coming all the time as Henry Altice already said, um, I have two children in Roanoke Academy of Math and Sciences. I do volunteer work, I've helped coach some of the children over there. I worked with Mr. Cannaday at Roanoke Academy of Math & Sciences. Um, I think that Hegira is turning out model citizens. There graduates are business owners in the City of Roanoke, they are um, they are profitable citizens. I work, I hold a job, I work every day, I've worked for the last two and a half years. I think what they need is a chance. I realize that you all are going to have to make a decision and its going to either be its going to be popular with some people and unpopular with others, but I think what we have to look to is the future and Roanoke along with the rest of the country has a major drug problem and I think its time we stopped thinking about how its going to effect people now and give Hegira the chance to prove themselves and to better the community because I know they will better the community and I think I'm living proof of that.

Chairman:

Alright, thank you.

Mr. Copty:

You went to the Old, the old Southwest property.

Mr. Shaw:

Yes I did.

Mr. Copty:

Were their neighbors around there?

Mr. Shaw:

Yes there are.

Mr. Copty:

How did you interact with the neighbors, what type of, what went on, what type of

Mr. Shaw:

Yeah, yeah, uh in fact the neighbors in the community that were in there, uh, some of them even get to know you by name, you wash their cards, you go to yard work for them, things like this, you know. They provide, they provide jobs for some of the clients to you know make a little spending change this type of thing and the other, um. And you know like I said some of them I know of you know we're um on a first name basis, that type

of thing. So you know, they were, interacted in the community, um, I know I got sick. My addiction was community related. I was out here hurting the community, I got better in a community. You know my my treatment took place in a community and its my belief that's the way you treat it. You don't treat it out isolated somewhere. You have to you have to rehabilitate within the community.

Mr. Copty:

When you were there were there some of the citizens of Hegira House that took advantage of the neighborhood? Were there crimes, thefts, those the types of things and if there were what was the process that happened and so on and so forth. In other words, what did Hegira House provide any peril for the neighborhood when you when you went through the program.

Mr. Shaw:

Okay, um, there was never any, never any breaking into houses or anything like, nothing like that ever occurred. Um, those peoples, the clients that just aren't about that, you know maybe in their past when they were actively using, but it never happened when I was there. I'm going to be totally honest with you and I have going to tell you of an incident and how it was handled. There is a Hop In on the corner of Jefferson Street and Walnut Avenue, and there was a client once who went down there and took a pack of cigarettes or a soda or something like that. And the nature of the program, the program is built on honesty, responsibility and consistency. And basically what happened, the guy couldn't live with himself and and he told, he said I went down there and I didn't have any money and I took a soda. I believe what happened is he had to go back down there, take the soda back, pay for the soda, do some work for the people, I mean he was dealt with pretty severely, but that is the only incidence that I remember happening of anything negative in the community. Um, but I felt like it was dealt with appropriately by the staff at Hegira. And like I said as far as you know people's property or anything like that, no, not while I was there, never. In fact, I think those people think pretty highly of Hegira House.

Chairman:

Alright Mr. Shaw, I appreciate your remarks, thank you. Next gentlemen. Your name and address.

Mr. Hopkins:

My name is Howard Hopkins, I live at 1659 Syracuse Avenue, Northwest in the community that is we're talking about. I have the interests of the neighbors at heart in that we do want and have moved into a community that is relatively drug free, is a low crime area, and we would like to keep it at the rate. I did not know anything about Nigeria House when I heard that it would be that it was wanting to move into the area and I attended one of the community meetings, the one held at High Street Baptist Church on May the 30th. After listening to the way the Hegira house is conducted and uh the fact that the people who are in it voluntarily come in it wanting to get rid of their drug problems, uh, the security that is carried on through this house, I do not object to it moving into the area. I feel like it cannot be against us, but it will help us. So, my feeling is that we are not looking at something that is going to help tear our community down. But we have

drugs and if we don't do anything about it, its like weeds in your garden that you can never cut out, they will finally consume you. Thank you.

Chairman:

Thank you Mr. Hopkins. Alright, your name.

Ms. Lee:

My name is Dorothy Lee, 1546 Syracuse Avenue, Northwest. I am a resident in this area, we moved in the Rugby area in 1954 and have enjoyed the pleasure of a quiet and peaceful neighborhood. Of course, some things go on that can't be helped as in all other neighborhoods also. I'm saying no to the Hegira Institution because that is what it is and it is a business. This is a residential area and I think I and my neighbors would like to remain it as so. Thank you.

Chairman:

Alright. Name.

Ms. Patterson:

My name is Carolyn Patterson, I live at 2025 Andrews Road, directly in front of the property that is going to be coming, uh that we are discussing. Um, in a democratic process I have attended two of the three meetings that you mandated that the organization um hold, and we have discussed at length with the uh uh uh the persons responsible for Hegira House our concern. And at the last meeting at High Street, uh, the majority of the residents do not want this and they have expressed this to the concerned people. One or two people have spoken out for it as always in a democratic society. I ask the lady uh who was in charge of the program if she did not hear our wishes that night and she said yes. And I said do you not hear the majority of these people saying we do not want this facility in our area, she said yes. I said can you go back and talk to your people and tell them that the people do not want this in the area. Um, I did not, I don't remember her saying yes I will do that. I think that one of the main problems that we have is the fact that if the zoning is not granted, then we won't have a problem. Therefore, we are asking, I am asking you to not grant the zoning exception. Then the problem will not exist. As I have talked with people throughout this community and I have gathered these petitions, uh, the residents are totally opposed to this. I have been in and out of homes all over our area and they are totally opposed and if a democratic, uh, if democracy exists, and the petitions do stand, then the residents should prevail because you have the signatures there. We are opposed to the zoning whether it be Heironimus, whether it be a Hop In, Stop In or whatever. We don't want out are rezoned, we don't want to let this go. If we let this go, then we feel that in two years, they'll be another zoning hearing that we may not see or hear, and of course, I called Mrs. Armstrong, and she's here, and I said to Mrs. Armstrong, how did this get by the residents of this area and she explained to me that only the people that lived next to the property had to be notified. Well, nobody really lives next to it that much except one resident and she was notified because I called her and asked her. And I said, well this would have totally slipped us by if you had if if some of the people who are not concerned about who are concerned about our area had not notified us of this uh, of this plight. So I'm asking you the zoning board in a democratic manner to hear the plea of the people here, to look at your petitions that you have and let the will

of the people prevail. If you do that, we won't have no further problem. It is not the idea of the Hegira, all of us are supportive of what Hegira is trying to do, we are trying to preserve our neighborhood that is our big thing. We want to keep it a single area residential area. All of us have worked hard. My home, I've been there seventeen years, our properties are valued between \$80 - \$100,000.00. We don't want to have that change so we are asking you to prevail to let the zoning stand as it is and then we won't have this problem. Thank you.

Mr. Wheaton:

One observation we need to get clear. This Board does not have the prerogative of changing zoning. We are a board of zoning appeals. Zoning changes are made by another organization completely different from this, so we have no authority in changing zoning authority.

Ms. Patterson:

Well Mr. Wheaton, whatever you all do that will help the residents of this area, please do it.

Chairman:

Alright sir, your name and address.

Mr. Fizer:

Good afternoon, my name is Walton Fizer, Sr. I am co-president of the Melrose Rugby Neighborhood Forum, I am vice-president of Pro-Tech, Inc. and retired treasurer of Fizer Funeral Home. I am here not just only in those positions or former positions, but I am here surely for because of the fact that I'm a deeply concerned citizen and resident of that community. I feel like that I must say this. Although I don't know whether its permissible or whether it would sit well with some people, but I feel like I have to try to give you uh, or let you know of some of the fears that some of us have because of this particular type of project coming into our community. I have a son that is dead and buried because of drugs. Murdered by a drug addict. I have another guardian son that is dying from drugs and other related things to drugs. I am surely I am deeply concerned about the location of Hegira House in our community. I received a call from a Mr. Lawrence some time ago calling me as co-president of the Melrose Rugby Neighborhood Forum. I returned his call, I've never been able to talk to Mr. Lawrence. Our neighborhood forum sent representatives to some of the meetings, most all of the meetings that was held in the community and nothing was said that would guarantee our feelings of not being afraid of this situation over there at 1919 Andrews Road. We have uh, a particular type of fear at this particular point in our life our lives. Uh, as a predominantly black neighborhood, we have been on a modern day exodus for forty years here in Roanoke. Beginning with Northeast, Gainsboro, Northwest, Dean Wood Terrace and always wherever we get and we begin to try to build our community certain elements are allowed in our community that causes certain other people in our community to look at our community as something that it doesn't need, some of the nicer things. Gentlemen, we are hoping and praying that you all will please understand that we respectfully, with utmost respect request that you please do not allow this appeal to go through, that Hegira House will be located in our neighborhood. We than you very much.

Chairman:

Alright sir.

Mr. Banks:

My name is T. W. Banks 1823 Syracuse Avenue Northwest I don't want to repeat things that have already been said. I attended the meeting at the High Street Church there was one person who went along with Hegira House. Everyone else was against it. Also at this meeting, excuse me, we were told by some of the officials at Hegira House who were there that there would be an extension, I believe they said something about June. Also, at the meeting, excuse me, it was said that usually the inmates had a choice of either going to jail or coming into the program. Naturally, they are going to come into the program rather than go to jail. We do not want this house in our neighborhood. Nowhere have they gone where they have had positive approaches to it. Everyone is against it. So I do hope that you will see fit not to vote for it. Thank you.

Chairman:

Alright, sir. Your name.

Ms. Eads:

My name is Sharon Eads. 647 Albemarle Southeast. I am currently getting my associates degree at Virginia Western in mental health. This spring I was sent to Hegira House to do a counseling internship. I had never been to Hegira House before and I have to admit that I am basically addressing the fears that the gentlemen before last brought up. I had some fears and some preconceived notions, I had heard that it might be a difficult place. Uh, it took me about fifteen minutes of being there, actually on the premises, to realize that what I had formed my opinion on was all myth. The amount of effort that these young men and women put out every day and as the last gentleman said they don't get a choice between going to jail and going there. There is a screening process. These people have to go through a program of being screening, they have to be chosen as appropriate for this program. I am 5'3", I'm female, I weigh 115 pounds and I feel very safe there. The other thing that I feel is admiration. When I went there I didn't know what to expect. I watched these people every waking minute of the day working to transform their attitudes, their emotions, their behaviors and increasing their awareness to a level that is not found that often in the community. If anything, I've learned some humility from being around them. I don't think there is a person in this room who could do a month or two in that program that requires rigorous honesty, it requires paying attention all the time to your motives, your feelings and we don't just turn out rehabilitated socialized citizens that go out and participate in the community, I have seen, from what I have seen of the residents who go out, they enhance the community. Hegira is clean, its cleaner than my own home. Its well cared for, its a place of respect, I never hear anyone treat anyone rudely or disrespectfully. I've heard more rudeness in this room than I've heard in six weeks at that house, its not allowed. Its not allowed to get an attitude, its not allowed to look cross eyed at somebody. You have to deal with your stuff and take responsibility for growing up. I think that anyone who does have fear, ought to address it by going down there, meeting the residents and seeing what its like. To sit in these chairs and form opinions that are uneducated do not leave us in



a place to make proper decisions and my appeal is that if anyone is afraid to please go there, your fears will leave. Thank you.

Mr. Banks:

I just want to correct a statement that was made. That young lady said that I made up about going to jail or either going to Hegira House, that was told to us at that meeting at High Street, that's why I mentioned it, I didn't make it up. Thank you.

Chairman:

Alright, thank you. Your name and address please.

Mr. Dow:

My name is Douglas Dow. I live at 1537 Rugby Boulevard, Southwest

Chairman:

Mr. Dow, alright.

Mr. Dow:

I had not planned to say anything today I just thought I would come and listen to the discussion. But as I look around I see my friends here, retired friends. I lived on Rugby for 37 years and I'm not against any program that benefits humans, but we are in a residential neighborhood and I feel that another site should be found for this facility so should take care of people. I believe there is a time and place for everything. There is a time to help these people, but I feel there is a proper place to help them rather than a residential neighborhood. There are no businesses located in this area where we live and we've been a stable neighborhood for many years. As I look around and see some of my retired friends and this is where we want to stay. I think we've worked long enough to sit down and enjoy our retirement. Thank you.

Chairman:

Thank you.

Mr. Fizer:

In an explanation of my statement of fear. There are some people that might be working with the Mental Health Department or working at Hegira and they feel very safe because they say these are the rules. Uh, some people who are in those positions they might not have their children there each day, each waking hour of the day and all night and this makes a great difference. When you speak of educated guesses and noneducated guesses, uh, I can assure you as a father and as a parent, that my fears are well founded and if you were to take a uh a point of understanding about a the the the feelings about the people in this community and anywhere else, you'd find out that gee whiz, uh, there are lots of things in our community and uh, only an official level that gives us the rights as parents to be afraid, so please consider that.

Chairman:

Alright Mr. Fizer (Tape ends and new tape is inserted)

Rev. Fizer:

A Copy, Test: *Patricia Harris* 17-24  
Patricia Harris, Secretary of  
San Francisco City Board of Zoning Appeals

1919 Andrews where a lot of beautiful things have been said by those who are in favor of this home, but we believe, I believe that the bottom line is that our property value will be lowered and there is a possibility that uh, it would be a threat to our children and so we respectfully ask you to not to allow this home to be built there.

Chairman:

Alright, thank you Rev. Fizer. Your name.

Cynthia:

Good afternoon. My name is Cynthia and I am a graduate of Hegira House.

Chairman:

Did you get

Cynthia:

379 Highland Avenue Southwest

Chairman:

I thought did you say Cynthia?

Cynthia:

Yes sir,

Chairman:

What's your last name?

Ms. Brooks:

Brooks

Chairman:

Alright

Ms. Brooks:

Sorry

Chairman:

Ms. Brooks, go ahead.

Ms. Brooks:

Okay, Uh, I just want to speak briefly, I don't want to take up too much time or to keep going over the same things that uh, have already been stated, uh. I ultimately hear that a major concern is uh, or are fears and the risk of uh, uh people in the community's children and their safety, uh, and I also keep hearing Hegira and representatives of Hegira saying to you and I am a firm witness and its nothing that I've been told to say, this is something that is from my heart and something that is in true honesty, is that no, no Hegira people, residents of Hegira, clients of Hegira cause uh the things that you are perceiving, your fears uh uh that are going to be caused with your children. Uh, that has not been going on at the community that we are located right now in Southwest, uh as far as the drugs it has already been said, its in honesty, you know that drugs are not permitted there. Uh, I hear people saying well we already have this in our community, shooting and uh that children are doing this and people are

coming up here and saying that their own children have been exposed to drugs and are going through certain problems in terms of drugs, and I can't see why uh, for me I would just say uh uh I think I would I would want this in in in my community. I mean we are already dealing with the problem in the community. I do not think that and I know that Hegira would not uh enhance this problem. And and and in other words I'm saying that I think that it would be for the betterment of the community. In terms of property value and see when people keep saying, when I hear people keep saying that uh that uh that that that that this is not true, we're giving facts, we're giving statistics, we're giving information saying that this time to substantiate or trying to deal with some of these fears and people don't you know have have their own perceptions or whatever. They they don't want to hear that, but you know that's neither here nor there because you know I'm I'm sure that there are probably warranted fears. Uh, just like people have said also that Hegira is very structured. Uh, I was I was with Hegira uh approximately about three years, uh, in my treatment. My treatment was at least two years because of some mistakes that I made, uh, but I'm I'm for Hegira being in this community because we can all say well put it over here put it over there put it over there, but we as black people, we as white people, we as a minority period or however you want to see it, we are going to have to deal with this one way or the other. Thank you.

Chairman:

Just a very few more, lets. Alright sir, your name and address.

Mr. Gallaway:

I'm Dennis Gallaway, I live at 1033 Mercer Avenue, Northwest. And uh, I heard the lady say about being smart and I worked with the drug addicts and mental patients for 34 years at the Salem Medical Center, uh, I'm not afraid of a drug addict or uh uh the biggest concern is putting the Hegira House in the neighborhood. That's the biggest concern. I'm for this 100%, but not in our neighborhood. I mean its plenty property out on the out in the County or anywhere, but why should we have it in the neighborhood. Out on the highway out towards the garbage dump there's plenty of property out there, I mean open land where its opened up. And I understand that these people are coming from all over the different counties and out of the state too, and if they don't go by the rules, I mean this is my understanding, that they would be put out. I don't know for sure, this is just my, that they would be put out of the Hegira House and out on the street and then where would they go. But our big concern is not having it in our neighborhood.

Chairman:

Alright Mr. Gallaway. Alright, one or two more now. Your name please. Your name and address.

Ms. Saunders:

Good morning my name is Deborah Saunders. I live at 148 Rutledge, Salem, VA and I am here speaking on behalf of my mother. She lives on 2519 Springhill and other residents that are involved with this issue here today. First of all let me make it very clear that I am totally, I totally disapprove of this Hegira Home. Let there be no doubt that I feel this would be a terrible mistake for this to come into our neighborhood. I've grown up in

Roanoke, I've lived here all of my life with the exception of being away at school and I've lived at all areas of Roanoke and I truly feel that this is not a positive thing to come into you know our community. I do not feel that this would enhance our community in any way and in fact, to be blunt, I feel it would be a devastating blow to our community as a whole. I feel that we already have enough negative elements in our environment and I do not feel that we need any more things that would enhance a negative quality of our environment. Uh, I have several reasons personally and I am sure I am not alone in this feeling as you have heard today. Uh, my biggest concern for not wanting this in our neighborhood is the safety risk issue. Now we have heard from several people who are pro this house today uh who have tried unsuccessfully I may add to convince us that this uh is not a dangerous place that is that would in fact uh, in fact uh they've tried to make it sound like it is a safety issue for the people who would live in the homes and safety is a two way issue, but I am concerned for the safety of the residents who are already living in these environments in our community and I feel that you know I've listened to the gentleman as he tried to tell us uh some of the safety things that they have for this house and I was not convinced. You know, uh, it was very vague and a couple of other speakers got up and when they were addressed to the safety issues by you the Board members and the members are large, their answers were vary vague in my opinion and uh, not convincing at all. So I do not feel that they have convinced anyone here that they are safe to be in our environment. Also, uh, we talked about depreciation of people's homes and their lands, what about the depreciation of people's lives. I feel that you know that's gonna cause a lot of lives to you know have problems with their and uh you know I'm not happy with that at all. There's depreciation of homes and lives at stake here. Uh, also, um as the lady mentioned, Ms. Banks when she got up and spoke there are other sites that we would the Board to you know uh have these people to consider putting this home. There are other locations you know, uh it does not have to be Andrews road. We feel what is the rush with this. We need to meet we need to take time and not be in such a rush to put this home in our neighborhood. We are not happy with that and we feel you know that our feelings you know we're tax payers, we feel that that should be taken into consideration as well as any other neighborhood in this city. You know, uh, I uh, it was alleged that other neighborhoods have refused this, whether or not that is true is not up to me to prove, I can only speak for our neighborhood and our feeling, we do not want it and we would like for you to please if there is any justice in this system to please reject these uh desires to put this home in our neighborhood. Um, uh alright that is basically all I needed to say today I just could not sit there and listen to these pleas for this home anymore without getting up and speaking. Please you know, please listen to our plea and reject this plea for zoning RS3 at 1919 Andrews Road and you know like Ms. Banks and other speakers have said, we are willing to meet with these people, you know its not like we said, we've been hidden under the woodworks, a lot of people was not aware of you know the communicative things that they were trying to put out and you know I feel that they were you know very low key and I feel that if they are serious about trying to find a site, we're serious about trying to help them find another site, but please don't let it be 1919 Andrews Road. Thank you.

Chairman:

Lets, lets uh, we are going to start limiting this now to some facts or new facts, I think we've had enough opinions from probably both sides, but lets try to stay with facts.

Ms. McCadden:

I am Ester L.H. McAddden 2128 Mercer Avenue Northwest co-president of the Melrose Rugby Neighborhood Forum. I heard in the first opening statement that establish a community committee. I think its a little late. The community committee should have been established before this came to floor, this would have cut out some of this lengthy meeting we have here this afternoon. My organization received a letter that this zoning was being changed after your first hearing. We were not aware of this. If you are going to send us these communications in our neighborhood partnership groups I think we should get them before you have your first hearing. I also heard in the first opening statement that there were going to be two additional buildings built instead of one to the existing building. The letter that I received said there would be one additional building tot he existing building. He said that there would not be if I remember correctly not many more than what they have if I remember it says that they have eight. They are gonna move those eight and the building the one building to be constructed would house a total to make a total of 24. Alright, uh, I've heard some good things for Hegira. I've heard some good things for not Hegira. My thing is this, we have members in that community who were displaced from Northeast. Uh, the old cliché is you keep on pushing us till you push us in the river. We're tired of being pushed. It brings down to a breakdown of the community. I must say we have something else going on in my community that I will not say right now that's going to be another breakdown with my my organization's territory. Hegira is in Melrose Rugby Neighborhood territory. Some duplexes are being built in Melrose Rugby Neighborhood territory. Uh, don't give it all to us, let someone else share it. I have friends, I've taught some of these students who have been to Hegira House they have come out to be good, but all are not good, all in the others are not that. I'm not saying we're gonna throw them out, we need to do, but we should have sat down and talked about this and helped looked for some things before all of this came to this. It would have cut out some of this time here this afternoon.

Chairman:

Alright sir, your name.

Mr. Wooldridge:

My name is Dion Wooldridge, I live at 1919 Andrews and uh, I just have a couple of things to say. One, you have my sympathy, all five of you, you've got a real tough job and I just want people to realize that I've been getting a lot of flack, neighbors as far as two or three miles have accused me of breaking up the neighborhood and all this sort of thing. I want you to realize that my house went on the market over a year ago. Two of my neighbors were aware that it was on the market, its been on the multiple listing service, it has been listed with a real estate agent, there is no one who has made me an offer until this offer came along. Uh, it was accepted on a contingency basis based on what goes on with your body here. The only other thing I would like to say is that its really strange to me, two things are strange, there are a lot of people who are up here saying that there's gunfire in the immediate neighborhood all the time and there's other

people up here saying that it is a really great place to live and somewhere in between there must be the truth, I'm not sure exactly at what end of the spectrum its at, but it must be pretty tough for you people to try and figure this out and last of all. In the eleven years that I've lived there, excuse me ten, I have had a hard time getting people to come to the house because they can't find it. I'm talking about plumbers and electricians and cab drivers and limousine drivers and so on and so again I wonder sometimes, uh this house is not smack out there on the street, its back by Lick Run and I've lived there and if you have any questions for me please go right ahead.

Chairman:

Do any board members have any questions of Mr. Wooldridge?

Mr. Wheaton:

You said you had possibly maybe some other offers contingent upon this for your house.

Mr. Wooldridge:

No, what I said is that the offer that these people made is, this is the only offer that I've had.

Mr. Wheaton:

Uh huh.

Mr. Wooldridge:

And this offer is contingent upon the zoning appeal board.

Chairman:

Alright alright I I

Mr. Wheaton:

In other words there is not a contract.

Mr. Wooldridge:

There is a contract on the house, but the contract becomes null and void if they can not get the zoning variance, that's the substance of it. And for your information the contract is for ten percent under the real estate appraised value.

Chairman:

Alright thank you. Very brief, alright sir.

Mr. Pleasant:

My name is Thomas Pleasant. 1526 Grace Avenue, Northwest. Its not important how long I've lived there but I'm satisfied when I had that little house built there and I'm not satisfied with what I've heard here today. I've lived in the \_\_\_\_\_ and I didn't know anything about the until one gentlemen brought the flyer by my house on Sunday. And I sit down and read it and I looked at it and I said they're pulling a fast one over me and I said. I talked to my neighbor. He hadn't heard nothing about it. I always thought that before they make these big decisions that they let the people who was involved know about them and I hadn't heard nothing..

Chairman:

Lets lets just stop right here. This has been the same, unless you want to change the laws in the city, people were notified the same way they've been done the last thirty five years. There's been no difference. Maybe there wrong.

Mr. Wheaton:

Its been in the newspaper too.

Chairman:

Its been in the newspaper several times.

Mr. Pleasant:

....a man brought it by my house and knocked on my door and asked me would I please be there and its a little pink piece of paper. Now, they keep talking about they're going to build a fence. How tall are you going to build that fence. You know it could be a two foot three foot fence, but I know now ....

Chairman:

He said he'd cooperate with the people they wanted, I, what else can we say

Mr. Pleasant:

But all I'm interested in is the people walking in the park and I'm might afraid that when that thing is built the people that I see, the old citizens, older they myself they walk in that \_\_\_\_\_ Park, I'm might afraid early in the morning you won't see them anymore.

Chairman:

Well, of course this has been right on the street you know, here in Southwest for years and there is no fence around the present building.

Audience:

That area isn't residential

Chairman:

Fifty Fifty or Fifty Forty

Mr. Pleasant:

It appears to me like the lady said before me, I hate to keep on repeating, I know its been a long meeting. I don't know I've never worked before where we've been in a meeting this long and nobody had to go to the restroom

Chairman:

Yeah, but if you all talk much longer we're going to declare a recess.

Mr. Pleasant:

We have been railroaded, I don't know why because maybe we gonna get the new layer because they put it in the paper, I didn't see it, maybe someone else who reads the paper more than me. But nobody, if (inaudible), but happened to call me, but nobody called me nobody then when this gentleman come .... his son lived across the street from me he gave me that flyer Sunday evening and I know he was concerned because I'd never see him knock on my door before.

A Copy, Test: Paul C. Harbo 17-3  
Paul C. Harbo, Secretary of  
Roanoke City Board of Zoning Appeals

Chairman:

Alright, I think every body has been heard on both sides. Is everybody satisfied or have anything new that we don't know or that, I'm ready for a motion, any way upside down, sideways.

Mr. Wheaton:

In view of what I have heard here. And it has always been the opinion of the Board of Zoning Appeals to take seriously the citizens concern, we've done this many many times before. No disgrace or no down to the Hegira House. As I look at Section 36560 and it says to ensure the compatibility of these uses with the neighborhoods, that's what the ordinance says, it is with that thinking in mind I offer a motion that this uh, the request for Hegira House be denied.

Mr. Roberts:

I'll second the motion, but give me a chance.

Chairman:

Alright, we have a motion on the floor that the request be denied, is there a second to that motion.

Mr. Roberts:

Yes, I'd like to second the motion with a few remarks if I may. I'd like to compliment the proponents of the Hegira House for presenting a good, making a good presentation. I understand the situation a lot more now than I ever did before and I think that that organization is doing a great work in the city.

Mr. Wheaton:

I do to.

Mr. Roberts:

I think that they ought to be commended for it, that they ought to be encouraged to find another location if this one is denied and I think we ought to support them in every way we can. I'm looking at it from a selfish standpoint. I think the main apprehension of most of the people here is a decrease in property values and you can't blame people for that. They've spent there whole life's earnings on a house and they don't want it to be divided, I can understand that too. But he compatibility, the apprehension, the apprehension that these folks have about something coming into the neighborhood that they are fearful, I think we'd make mistake if we granted that place. So, I therefore, I second the vote.

Mr. Copty:

This is really a tough decision. I think that we've got a perfectly wonderful it sounds like program and its made and designed and the reason it works is that its in communities I mean this is the reason it works. And not just Northwest, we all, every community in Roanoke has a problem with drugs and every community in Roanoke should have a program like this. Every community in Roanoke should work to take care of its own problems an the problems of the rest of the communities. If we take the attitude that we do only what we the neighbors of a particular thing want, we will never have any programs, we won't have any sewage treatment plants, we won't have any, any anything that we would all rather not have next to us, but



we all only enjoy a good life because we have. So I think that I would probably not feel the way that this uh uh uh vote is going and that's the reason why and maybe I'm wrong, but I honestly think that if we turn this down, we are turning down probably one of the better things that we could do for the community. Not just for the Hegira house, but also for the people who will live around the Hegira House. Because their children will see the benefits of what a community can do with its problems, they will benefit from the pride that they will have, that they have taken in hand their problems. So I honestly think that this is something that we should perhaps do for the community. That's my feeling.

Chairman:

Alright, sir. You can just about tell how the votes going already.

Mr. Wheaton:

It could make a difference.

Chairman:

Alright if there are not other comments we'll call for a vote. It has been moved and seconded that a request be denied. All in favor signify by saying Aye.

Mr. Roberts:

Aye

Mr. Wheaton:

Aye

Chairman:

All opposed, no.

Mr. Copty:

No

Chairman:

No. Would you poll the Board please.

Secretary:

Mr. Roberts

Mr. Roberts:

Aye

Secretary:

Mr. Norris

Mr. Norris:

No

Secretary:

Mr. Wheaton

Mr. Wheaton:

Aye

Secretary:  
Mr. Copty.

Mr. Copty:  
No.

Chairman:  
Alright Mr. City Attorney, would you like to explain where we stand.

Mr. Talevi:  
Neither the special exception nor the variance has been granted because neither the special exception nor the variance received three votes in favor of it.

Mr. Wheaton:  
You explained that in the beginning didn't you.

Chairman:  
Yes, I just wanted to hear it. I just wanted everybody to understand it. Alright. If there is no other.

Mr. Wheaton:  
I think the audience ought to be informed.

Chairman:  
Just a minute one person please.

Mr. Talevi:  
I said neither the special exception nor the variance was granted because neither the special exception nor the variance received three votes in favor of it.

Chairman:  
Right, so in effect the request has been denied.

Mr. Talevi:  
The requests, both of them have been denied.

Chairman:  
Alright, now. They can take this to Court, that there prerogative or would have been yours. To a Court of Record. Seldom does this Board ever get overturned in Court, however, with a split decision the judge's can do whatever they want to do. We thank you good day.

# M H S rv

Chairman  
John M. Hudgins, Jr.

Vice Chairman  
Henry J. Sullivan, Ph.D.

Treasurer  
Daniel E. Karnes

Secretary  
Rita J. Glinzecki

Executive Director  
Fred P. Roessel, Jr., Ph.D.

Dear Resident,

The staff of Hegira House of Mental Health Services of the Roanoke Valley is aware of your concerns about our program being moved into the Northwest Community. We believe that our program will be an asset to the community and help combat the drug problem that currently exists. We also feel it is important that the members of the Northwest Community be aware of specifically what Hegira does, how it works and the security and accountability that is built into the program. Our staff is also concerned you may have questions that have never been answered about our facility and we are willing to answer your questions and concerns to the best of our ability.

In order to help accomplish this we would like to invite you to Hegira House so you can see first hand what happens here and address your questions to our staff.

We would like for this to take place on May 16, 1991, from 4:00pm-6:00pm. If you can attend please call and let us know you are coming. (703) 343-6332. If there is a more convenient time for you to visit, please call and we will attempt to make the necessary arrangements. If you cannot visit, but would like to discuss this issue, please call me.

Sincerely,



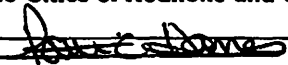
Henry L. Altice, CAC  
Director

HLA/gc

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MENTAL HEALTH SERVICES OF THE ROANOKE VALLEY  
HEGIRA HOUSE - 1301 Second Street, SW, Roanoke, Virginia 24016-4922 - Phone (703) 343-6332  
Serving the Counties of Botetourt, Craig and Roanoke and the Cities of Roanoke and Salem

A Copy, Teste:   
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals

THE HOUSE AT 1919 ANDREWS ROAD IS LOCATED IN THE MIDDLE OF 13+ ACRES

TO THE NORTH: WOODS AND EMPTY LAND

TO THE EAST: LICK RUN, EMPTY LAND, THE CITY DRAINAGE POND  
AND INTERSTATE 581

TO THE SOUTH: VIA THE DRIVEWAY THE HOUSE IS WELL OVER  $\frac{1}{2}$  MILE  
FROM THE NEAREST HOUSE, THE DISTANCE TO ANDREWS  
ROAD IS ALMOST  $\frac{1}{2}$  MILE VIA THE ONLY ROAD INTO THE  
PROPERTY THROUGH THE WOODS

TO THE WEST: THE NEAREST HOUSE IS OVER 500 FEET AWAY THROUGH  
DENSE WOODS AND THE WEST BOUNDARY IS FENCED.

Within the city of Roanoke there is probably no other property of  
any size that is any more secluded or better protected, the house  
itself is either difficult or impossible to see from any road or any  
other house.

BOARD OF ZONING APPEALS

AS A RESULT OF OUR MEETINGS WITHIN THE NEIGHBORHOODS WE WOULD LIKE TO AMEND OUR REQUEST FOR A SPECIAL USE PERMIT TO INCLUDE THE FOLLOWING TWO REQUIREMENTS:

FIRST, TO ESTABLISH A COMMUNITY ADVISORY BOARD TO SERVE THE PURPOSE OF RECEIVING ANY COMPLAINTS AND RESOLVING ANY DIFFICULTIES RESULTANT FROM THE PRESENCE OF THE PROGRAM IN THE AREA, AND TO TAKE ANY REQUESTS FROM THE NEIGHBORHOODS TO THE PROGRAM FOR ASSISTANCE WITH DRUG AND ALCOHOL ABUSE PREVENTION IN THE NEIGHBORHOOD;

SECOND, TO ERECT A FENCE IN THE PERIMETER OF THE PROPERTY IN WHICH A GATE NOW EXISTS.

BOARD OF ZONING APPEALS

MINUTES OF MEETING

Roanoke, Virginia  
June 4, 1991

The Board of Zoning Appeals met in regular session on Tuesday, June 4, 1991, in the Council Chamber, Municipal Building, and conducted a public hearing on the request of Roanoke Mental Hygiene Services, Inc., said hearing having been continued from April 9, 1991.

PRESENT: L. Elwood Norris, Chairman, T. E. Roberts,  
Walter Wheaton, Bob Coptly.

ABSENT: Richard A. Rife (Illness)

CITY OFFICIALS PRESENT: Ronald H. Miller, Zoning Admn.  
Steve Talevi, Asst. City Attorney

PREMISES: 1919 Andrews Road, N. W.

APPEAL NO. 32-91-A

CALL TO ORDER: The meeting was called to order by the  
Chairman, who presided.

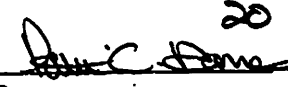
SUBJECT:

The request of the applicant for a special exception, as provided under Section 36.1-90 (2), Zoning, to permit a group home, with a variance from Section 36.1-560 to allow as many as 24 persons in lieu of eight.

PUBLIC HEARING:

Henry Altice appeared before the Board in regard to the application filed. He advised that as directed by the Board, the petitioners had conducted three meetings with the neighborhood involved in the request herein in an effort to resolve some problems and to promote a better understanding of the proposed use of the property. He explained that as a result of these meetings he would like to amend the request for a special exception to include the following two requirements.

First, to establish a Community Advisory Board to serve the purpose of receiving any complaints and resolving any difficulties resultant from the presence of the program in the area and to take any requests from the neighborhoods to the program for assistance with drug and alcohol abuse prevention in the neighborhood.

A Copy, Tests:  20  
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals

Second, to erect a fence in the perimeter of the property in which a gate now exists.

Upon being asked the type fence proposed and the purpose of the fence, Mr. Altice explained that he would discuss this with representatives of the neighborhood and work with them as to the type fence erected. He explained further that the purpose of the fence would be to secure the residents of the home and to discourage others from trespassing on their property.

Mr. Altice explained that from the meetings conducted he concluded that there were five areas of concern.

1. Property values.
2. Program security and client freedom.
3. Threats to children in the community.
4. Lack of initial community involvement.
5. Why this community?

Mr. Altice discussed each of these issues at length. He explained that it has been proven that property values in the area in which Hegira House is presently located have not been lowered due to its presence in the community. He advised that residents of the home are not free to roam the community, that they would not be a threat to children in the area. He stated that he realized it was a mistake on the part of the petitioners that the community was not involved in the initial planning for the home but that they had made an attempt to compensate for that by initiating meetings with the neighborhood. As to the reason for choosing the site in question, he advised that it has been determined that this property, which consists of some thirteen acres, is the most suitable in the area for the use proposed. He added that he believed that if they were allowed to locate in this community, that within a year the home would be seen as an asset and not a detriment to the area. He submitted for the Board's perusal and file copies of a letter distributed to the residents at the meetings and a flyer which was distributed to approximately 200 locations.

Ms. Angie Williams, Coordinator for the Roanoke Drug and Alcohol Abuse Council, spoke in support of the request. She referred to a Task Force of 17 members appointed by the City Manager in 1989 to make a study of drug abuse problems in the City. She stated that the Task Force has now evolved into 35 members of an on-going council

and reminded the Board that the Chairman of that Council has written a letter to the Board endorsing this move.

Ms. Marguerite Kiely, Director of Substance Abuse Services for Mental Health Services of Roanoke Valley, then spoke at some length giving further reasons for support of Hegira House.

Mrs. Doris Banks, 1823 Syracuse Avenue, N. W., then approached the Board and submitted a petition of over 200 signatures of persons opposed to the location of Hegira House at the site in question. She offered reasons for the opposition, many of which had been stated at the hearing in April and addressed by Mr. Altice in his opening address.

Mr. Dowe, President of Fairland Lakes Civic League, gave statements of objection to the request and stated that if the owner would like to meet with the neighborhood, he was sure they would be glad to appoint a committee to work out a use for his property.

Mikal Karim Alahhanm, 1630 Norris Drive, N. W., addressed the Board and expressed his opinion that he realizes that such facilities need to have a place, but that the northwest section has enough to deal with without something else coming to burden the residence.

Phillip Cooper, 1933 Andrews Road, N. W., stated that he recently built his home in the area of the property in question and that he is concerned with property values. He went on to say that he believed the location of the facility proposed would tend to lower property values in the area.

Alfred T. Dowe, 2711 Kirkland Drive, N. W., spoke in opposition and expressed the view that the fact that the community was not duly notified was totally unfair. He stated that he believed there are areas where such a facility would not be opposed.

Robert Shaw, a graduate of Hegira House, spoke in support of the request. He stated that the home would have a positive effect on the neighborhood. After being asked about the relationship of the community and the residents, he advised that in the southwest area of the City, where the home is now located, the relationship with residents is positive, that in some cases the residents of the community provided job opportunities for those living at Hegira House and that the residents caused no disturbance in the neighborhood. He cited one instance of a minor offense and related severe action by the Hegira House staff. He stated further that this was only one instance several years ago and that he has



known of no problems since that time.

Mr. Howard Hopkins, 1659 Syracuse Avenue, N. W., appeared before the Board and stated that while he has the interest of his neighbors at heart in that they have a community that is relatively drug free and they would like to keep it that way, after attending one of the meetings and learning the way Hegira House is operated, he does not object to their moving to the property at 1919 Andrews Road.

Dorothy Lee, 1546 Syracuse Avenue, N. W., advised that she feels that Hegira House is a business and that she would like to keep the neighborhood residential.

Carolyn Patterson, 2025 Andrews Road, N. W., spoke in opposition to the request, stating that she attended two of the three meetings conducted and that she detected that the people are trying to preserve the neighborhood and do not want this move. Therefore, she would ask the Board to let the will of the people prevail and to deny the request.

Walter Fizer spoke at length, stating that among other positions that he holds he is Co-President of the Melrose Rugby Neighborhood Forum, that he has had personal dealings with drugs within his family and that he would ask that this not be allowed in the neighborhood.

Mr. T. W. Banks, 1823 Syracuse Avenue, N. W., expressed strong opposition to the request regarding disturbance in the neighborhood, property values and asking that the Board deny the request.

Sharon Eves, 647 Albemarle Avenue, S. W., appeared and stated that in working on her associate degree in Mental Health she has had occasion to spend some time at Hegira House. This experience has convinced her that her preconceived notions regarding the facility were wrong and that it is an asset to the neighborhood. She spoke highly of the residents of the home and supported the request.

Douglas Dowe, 1537 Rugby Blvd., N. W. spoke in opposition to the request and suggested that another site should be found for the facility.

The Rev. Pullen, former pastor of Blue Ridge Baptist Church, spoke in opposition to the request, stating that he believed property values in the area would be lowered if the request is granted.

Cynthia Brooks, 379 Highland Avenue, S. W., spoke in

support of the request and advised that she is a graduate of Hegira House. She assured the neighbors that their children's safety would not be at risk and that the facility would have no detrimental effect on the neighborhood.

Dennis Galloway, 1033 Mercer Avenue, N. W., appeared and stated that he is 100 percent for the program, but not in that neighborhood.

Ms. Debra Saunders spoke in opposition and advised that she felt it would be a mistake and would have a devastating effect on the neighborhood if Hegira House were allowed to locate in this area, citing as one of her concerns the safety of the residents.

Mrs. Estelle McCadden, 2128 Melrose Avenue, N. W., spoke in opposition to the request.

Mr. Daniel Woolridge, owner of the property in question, spoke briefly and brought out some discrepancies in testimony. He also advised that the offer from Mental Health is the only offer he has had for the property. He mentioned that in the years he has lived at that location he has had problems with deliverymen, etc., being able to locate the site, indicating that it is so located that it is secluded from the community.

Mr. Thomas Pleasant, 1526 Grayson Avenue, N. W., then offered opposition to the request and stated that he did not know of the proposal until Sunday evening when a flyer was brought to his door.

Following testimony from those both in support and opposition of the request, the Board gave due consideration to all views expressed. While the site in question is of considerable size and somewhat secluded from the neighborhood, the concern of the property owners in the area was considered. It was obvious that the majority of the residents present felt that the facility would lower property values and would pose a threat to their neighborhood.

**THE MOTION:**

A motion was made by Mr. Wheaton and seconded by Mr. Roberts that the request be denied.

Mr. Wheaton explained that one of the issues for the Board's consideration in granting special exceptions is compatibility. He stated that in view of what he had heard at the public hearing from property owners he did not believe the proposed facility would be compatible with the neighborhood.

Mr. Roberts commended Hegira House for their program and for their presentation to the Board. He stated that he believed that due to the apprehensions expressed by property owners in the area, it would be a mistake to grant the request.

Mr. Coptly stated that this is a hard decision to make but that he sees in Hegira House a wonderful program and one that is needed in every community. He stated that every community in Roanoke has a drug problem and that if the Board takes the attitude that only the desires of the neighborhood are considered, we will have no such programs. Therefore, he would vote against the motion on the floor.

THE VOTE:

AYES: Mr. Wheaton and Mr. Roberts.

NAYS: Mr. Coptly and Mr. Norris.

ABSENT AND NOT VOTING: Mr. Rife

The Chairman thereupon declared the motion failed to pass. Therefore neither the requested special exception nor the variance was granted.

FINAL DISPOSITION OF APPEAL:

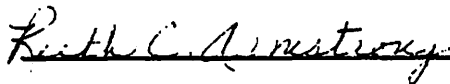
There being no further business in connection with this appeal, final disposition is hereby made of it.

 Chairman







 Secretary



L. Elwood Norris, Chairman  
T. E. Roberts, Vice Chairman  
W. L. Wheaton  
Robert R. Coptly  
Richard A. Rife  
Ruth C. Armstrong, Secretary

ORDER OF THE BOARD OF ZONING APPEALS

APPEAL NO. 32-91-A

Applicant: Roanoke Mental Hygiene Services, Inc.  
Premises: 1919 Andrews Road, N. W.

In accordance with the authority vested in the Board of Zoning Appeals, as set forth in Section 36.1-656, Zoning, City Code, to hear and decide applications for special exceptions, a public hearing was conducted on Tuesday, June 4, 1991, in the Council Chamber, Municipal Building, on the following request, said hearing having been continued from April 9, 1991.

The request of the applicant for a special exception, as provided under Section 36.1-90, Zoning, to permit a group home, with a variance from Section 36.1-560 to allow as many as 24 persons in lieu of eight.

Facts and conditions involved in said application were investigated by the Board, inspections of the property in question having been made prior to the public hearing date.

On April 9, 1991, the Board heard testimony from the petitioner and property owners in the area who were strongly opposed to having the facility located on the subject property. After due consideration, the Board deemed it wise to continue the public hearing for two months to allow time for the applicant and representatives from the community to discuss the issues and, hopefully, reach a solution to the problems discussed.

On this date the request was again presented, and the Board was advised that three meetings had been initiated by the applicant to give the community opportunity to discuss their concerns with moving Hegira House from its present location in the southwest section of the City to the subject property. However, the Board heard objections from sixteen property owners, and a new petition with 262 signatures of persons in opposition was submitted.

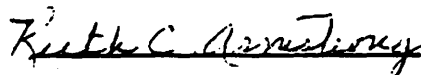
Upon consideration of testimony both from the petitioner and property owners in the area of the subject property, two of the four members of the Board present at the public hearing are of the opinion that the facility in question is not compatible with the character of the neighborhood surrounding the subject property. The other two members, while being sympathetic with the desires of the residents, note that the use is provided for in this district and are of the opinion that the request is reasonable and justified.

A motion to deny the request failed to pass by a majority of the Board. Therefore, the Chairman declared that neither the requested special exception nor the variance was granted.

IT IS THEREFORE ORDERED that the request herein is not granted.

BY ORDER OF THE BOARD OF ZONING APPEALS, this the 4th day of June, 1991.

 Chairman

 Secretary

BOARD OF ZONING APPEALS  
MINUTES OF MEETING

Roanoke, Virginia  
July 9, 1991

APPEAL NO. 32-91-A

APPLICANT: Roanoke Mental Hygiene Services, Inc.

PREMISES: 1919 Andrews Road, Northwest

PRESIDING:

L. Elwood Norris, Chairman, T.E. Roberts, Walter Wheaton, Bob Copt, Richard Rife

Chairman:

The next request is that of Roanoke Mental Health Services for a rehearing of application to permit the group home at 1919 Andrews Road. Alright sir, here's your attorney, you going to speak? Alright, do you swear to tell the whole truth and nothing but the truth so help you God?

Mr. Dodson:

Yes Sir.

Chairman:

Alright Mr. Dodson

Mr. Dodson:

Mr. Chairman and members of the Board and Mr. Altice and I are here representing the Roanoke Mental Hygiene Services, Inc. I have had distributed to you a four page memorandum that uh I think sets forth our position. The first thing I would like to call attention to is that your agenda refers to our request for a rehearing. That is not technically correct if you will notice the last line on page one of the memorandum, uh, our position is that the matter is still before the Board and can be acted upon as the Board sees fit either with or without a further hearing. Out point on the fact that its still before the Board relates to the two to two tie and our position is that that was not action on the part of the Board.

Chairman:

Alright sir, now just a minute. I don't have what you all have.

Mr. Dodson:

Its a four page memorandum.

Chairman:

Oh, I'm sorry, thank you. I'm sorry Mr. Dodson.

Mr. Dodson:

We have cited in that memorandum uh Roberts Rules of Order and the Rules of the House of Representatives upon which Roberts Rules of Order is

based and also the City Code and I think that what we are talking about is that it takes three votes to kill the request that uh we maintain is still before you. Now uh if we go to a rehearing then according to your rules its necessary to have some new evidence that couldn't have been presented before and in that regard I point out that we are raising this parliamentary point, but we are also raising the point that as of July 1, 1991, there went into effect in Virginia a Fair Housing Law an oddly enough that Fair Housing Law applies to the people that Roanoke Mental Hygiene Services, Incorporated ministers to. The Fair Housing in the beginning of course was a federal program and then we came along with a state program and what they were talking about in the beginning was discrimination on account of race, color, national origin, sex and so forth, but this new law that uh that uh went into effect July 1, 1991, covers what is defined as handicapped and that is something new in Virginia. They have defined handicapped uh to include uh millions with respect to a person a physical or mental impairment which substantially limits or one or more persons major life activities, a medical or psychological record of having such an impairment or being regarded as having such an impairment and then they go on and specifically provide that the term does not include current illegal use of or addiction to a controlled substance as defined in Virginia or federal law. In other words, they left out of the Fair Housing any drug addicts, but they did include the people who are being treated by Mental Health Services and the Mental Hygiene Services, Incorporated and I submit to you gentlemen that its a new ballgame. That whereas some years ago we were saying that you couldn't discriminate on account of race or national origins and things like that I think they have opened that up and I base that on the fact that there have been cases elsewhere in Virginia and in the United States that have attempted to protect these people that are in so-called halfway houses, you've heard that word used a lot. We are not dealing here with what you have been considering before non-violent offenders. Our people are non-violent offenders in a sense. But they are tied into drugs and alcohol and I think there's a very big difference between that type of person. We look to the City Code for the uh how you are to measure whether you grant a variance or not and the uh, City Code refers to compatibility and I think that concept was addressed at a previous hearing and in the City Code they say that the appropriateness of the application is to be considered on the following standards: the use is compatible with the character and appearance of the surrounding neighborhood by virtue of the type, bulk, location on the lot and the design and location of parking, signage landscaping and other outside activities or structures. Now this may be a lawyer's strict interpretation of the law, but I don't believe, I was not at the previous hearings, but I don't believe there was anything said about most of these things that are referred to in here and I don't know why there was such an opposition to what was endorsed by Judge Trompeter and the Roanoke Task Force on Drugs and so forth. This is considered, the work that our people are doing is considered to be a part of the war against drugs. But it does not put in jeopardy any neighbors and it hasn't put in jeopardy any neighbors in the area where they have operated and I submit to you that whereas at one time you might have been looking at the neighborhood and saying these people don't like people who have had alcohol problems or drug problems, but we can no longer uh, discriminate against them on housing. Now that's a little far fetched according to the city attorney here, but its not far fetched, its not gonna be far fetched, and I uh, think that's something that

you ought to consider, but we feel that you have heard uh, the story of uh the Hegira House and the problem that exists there is that they are crowded. Those people are within four walls all day long and the 13 acre tract that has been offered and is available is an ideal place for them to be treated. The other angle to it is that the house now occupied by Hegira House is one that is in bad need of capital improvement, the electrical system is outmoded, there is need of structural repair and the landlord is not willing to do this sort of thing and the Mental Health Services can't do it because they don't own the property. And I submit that we are urging you to take a great step to help the war against drugs and I don't believe your gonna find that the people who objected to it are gonna have any cause to object to it. And I can't answer specific questions, Mr. Altice can, and I'm happy to uh attempt to respond to anything you have on your mind.

Chairman:

Fair Housing is, those laws, we better be careful on that law. Pushing the wrong button. Uh, its an awesome thing to consider and what you are saying is that's true then the Board's going to need a lot of legal assistance, your not including something like this that we just heard, but your saying that someone on a treatment program cannot be, well I, we wouldn't necessarily be against those people, it was the it was the use of the property, so I don't, I'm not sure you can bring Fair Housing

Mr. Rife:

We're not refusing to house, there's people who are refusing to house thirty of them in one location and that's where zoning would come in

Mr. Wheaton:

Twenty-four.

Mr. Rife:

Twenty-four. On a single family residence zoned property we would refuse to allow a duplex. We're not preventing someone from living on that property we are regulating how that property can be utilized.

Mr. Dodson:

I'm not suggesting in any way you all are doing anything like that

Mr. Rife:

We're kind of

Mr. Dodson:

What I am saying there is that the new law dealing with housing is very general and if the effect of what a city is doing results in any discrimination of housing regardless of the absence of any attempt on the part of anybody, it gets to be a violation of the law, but that's not before you.

Mr. Rife:

If you said the, the uh, your present location, you could not conform with the Disabled Americans Disability Act, is that, I would believe that, I would believe that might be a reason you might have to move because that that is, your familiar with that Mr. Miller that Congress has recently



passed legislation on handicapped accessibility that its so broad as to be almost uninterpretable.

Mr. Dodson:

I know what your talking about.

Mr. Rife:

And it has been interpreted that any building anywhere has to be handicap accessible, not only to people passing through, but people who might work there, such as this podium would be illegal because you can't wheel a wheelchair up to it. I mean its that, if you represented to us that that is the situation Mental Health Services found themselves in I could buy that, but I don't see how Fair Housing would, I don't know are we allowed to have an opinion as to whether Fair Housing is applicable, Mr. Talevi, I mean, is that within our

Mr. Talevi:

First of all the Act that he is referring to he states becomes effective on July 1, 1991 and while I'm not uh stating whether the Act has any effect on this manner that is coming before the Board or not, I do think that the Act effective date comes subsequent to the Board's decision on June 4, 1991. Uh, I construe what you were saying Mr. Rife, is that notwithstanding, the status of the people, their condition was not the basis for their denial, and that would take us out from under any applicability that the Virginia Fair Housing Law or Act might have.

Chairman:

Alright, I'm willing to just drop the Fair Housing. Let's go to Roberts Rules and our Rules and see where we stand on that. Would you like to do that Mr. Thompson.

Mr. Thompson:

Yes sir, I have addressed that on the first part of this memorandum. (The tape runs blank)

Chairman:

We had a two two tie vote that it was not granted or not denied and it should be continued.

It should still be before you that's right

Chairman:

I don't know when we've ever had one.

Mr. Rife:

You know the planning commission has a rule where if you don't have a majority, not of members present, but a majority of the Board. If you don't have four votes, something does not pass the planning commission. I believe I'm correct on that.

Chairman:

Well I think that the closest thing you have to that is 36.1653 which says a concurring vote of three members of the Board shall be necessary to

reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass pursuant to this chapter.

Chairman:

That's right.

Or to effect any variation of this chapter. I think what they are saying is you have to have three votes to do it. And that, I think the Code takes precedent over Roberts Rules of Order and so forth.

Mr. Rife:

Our vote was to deny the petition, is that correct.

That's correct. The motion was denied.

Mr. Rife:

Since the motion didn't pass we denied the petition, and that's in essence what he is saying.

Mr. Rife:

And that we have in effect, not decided.

We didn't deny the position, we didn't pass it, but we haven't voted on it yet.

That's basically the position I take.

Chairman:

It does say that three members have to, only three have to be present, but all three have to vote to grant or deny it. Does it

Mr. Rife:

Does in indeed say that, I mean

I think it means that

Mr. Rife:

This is specifically talking about it. If Mr. Miller were to turn down someone and then they brought it to the Board to reverse his decision isn't it as opposed to making a request in general, but Mr. Miller referred to the Board.

Mr. Copty:

Mr. Talevi, what do you say to speak to all this

Mr. Talevi:

Mr. Copty. Let me try to start from square one. I have passed out to the Board a copy of Article 9 in the Board's Rules of Procedure. While Mr. Dodson, I'm not sure I fully appreciate how he is characterizing the memorandum that he has filed with the Board, I believe that a rehearing is what must be sought at this point. If Mr. Dodson or his client disagrees with how the decision was reached on June 4, I believe that there remedy is to appeal that decision or to seek a rehearing. Of course they can always

file another application that is substantially different than the previous application, that doesn't seem to be the approach that is being taken here. Having said that Section 1 provides that the motion for a rehearing must be held at this meeting. The first meeting succeeding the meeting at which the decision was rendered. It also provides that that motion must be carried by not less than the majority affirmative vote of the Board members present at the original meeting. Mr. Rife was not present at the June 4 meeting and, therefore, on a motion for rehearing, we are going to need three people who that it should be reheard. Now, the finding that the Board must make is contained in paragraph 2 of Article 9 and that says no motion for a rehearing shall be considered by the Board unless new evidence is submitted which in the opinion of the Board could not have been reasonably presented at the meeting in which the original meeting was held. Now, Mr. Dodson is contending that his new evidence consists of not only the Virginia Fair Housing Act, but also the new evidence of this position on the motion and whether it was correct and whether there was a lawful decision made on June 4. This Board must decide, actually the four members of the Board must decide whether that constitutes new evidence which could not have been reasonably presented at the meeting.

Chairman:

Alright, let's start right there for a minute. Give me the page uh, let me just read this section.

Mr. Wheaton:

What page are you on.

Chairman:

Uh, 34. Section 36.1653. (The Chairman reads silently and outloud, but in a manner that was inaudible for transcription) That last sentence, the concurrent vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant for any matter upon which is required to pass. A lawyer must have written that.

Mr. Rife:

The concurring vote of three members shall be necessary to decide

Chairman:

Alright in favor of

Mr. Rife:

The applicant on any manner

Chairman:

.....when you get reading it that way, 3034, that's it, unless...

The Board continues a discussion in very low monotones which proved regarding this section.

Chairman:

...or determination of any such administrative official. Steve does that mean to you whether it takes three to vote or not? To make any order legal?

Mr. Talevi:

Mr. Norris, I believe that at the last hearing the applicant had the burden to garner three votes in favor of his application. There was not three votes in favor of that application.

Chairman:

We never voted that way though, the question was to not grant it. It was to not grant the application.

Mr. Talevi:

That's correct, to deny the application.

Chairman:

Yes, to deny it. I need my own attorney I think.

Monotone discussion

Chairman:

Somebody use to correct me I think at times, was that you who said when I said a tie vote is noted, did you correct me that that wasn't right?

Mr. Talevi:

I don't recall if it was a tie vote or not and frankly, I don't recall correcting you Mr. Norris.

Chairman:

It must have been another attorney then. You haven't been here too long have you? Somebody corrected me, I guess... Alright.

Mr. Dodson:

If it please the chairman, our feeling is that we ought to be entitled to the vote of the five members of the Board. I mean I think that's the fair thing to do on something this important to the community.

Chairman:

I don't think there's anything that says, they could have asked for a continuation until five members were present and we could have decided whether or not to do that, but just to say that's not fair, I think we could have three members and have decided for it and it would have been just as legal. Um, I voted against the motion so I'm for it if that means anything, but you still need to prove to the Board that you have, that we were in error and of course, you can always go to Court to do that. Or, if you do have information that was not presented.

Mr. Talevi:

Mr. Dodson are there any other, I didn't mean to synthesize your argument to succinctly or to concisely, are there any other facts that you want to present at this time in support of a motion for a rehearing.

Mr. Dodson:

I'm not aware of any new facts that we can present unless Mr. Altice

Mr. Altice:

Well, one of the facts, that uh, two things I want to just mention. One again is that uh I left here disappointed needless to say about what happened and one of the things that bothered me most was that the motion was to deny and by your rules the motion was defeated and thats why I said to Mr. Dodson that I thought it was still no the table because the motion itself was denied, so thats a concern and I feel like it needs to be addressed. Uh, also, the fact that I think there are two issues that continue to happen there. One was the fact that there are no programs in Northwest Roanoke and the fact that the programs are continuing to be overloaded in other parts of the city and I think its only fair that there is equal distribution and I don't think that was clearly stated at the last time when we were here. As well as there was an alliance stated between us and the Embassy Halfway house which we were not a part of and are not a part of and that was never I felt clearly stated. So thats the other two pieces for me. And I wish I had needless to say asked for a five member vote.

That would have had the three votes here regardless?

Mr. Dodson The only new information it occurs to me is that I was told that the question was asked and not answered as to why it was necessary to move out of the present location of Hegira House and the answer to that I have mentioned here before is that that place is in bad shape and Mr. Altice can testify to that and the the uh, its owned by someone that is uh not well, that would not put any money into it to remedy the things that have to be remedied and in addition to that the the the uh people that are there are confined to those four walls and the alternative is this new location where they wouldn't be. Now that's that's I don't know that that information was brought before the hearing.

Chairman:  
It was

Mr. Altice:  
And the other thing if that is enforced we will lose our license eventually if we don't make these repairs so we're stuck in a \_\_\_\_\_ point to. We don't own the facility and we will eventually lose our license as a result of the plumbing and electrical...

Chairman:  
You'll lose your license as a result of what now

Mr. Altice:  
As a result of the plumbing and electrical work and the structural process and so forth and so that is an issue. And we have been looking for other sites since the last time and we really haven't had any luck. We've had some people offer us some property that was just vacant and no buildings on it and things of that nature, but we really haven't had any luck.

Chairman:  
Alright, uh,

Mr. Wheaton:

I'd like to raise a question on Section 2 here that we uh received. New evidence, I haven't heard any new evidence. New evidence that should be submitted. I haven't heard any new evidence yet.

Mr. Dodson:

Well the only new evidence that I can present to you is of a legal nature and uh, I don't know what there is, what basis there would possibly be for new evidence.

Mr. Wheaton:

If you read the whole sentence it says new evidence which, in the opinion in the Board, could not have been reasonably represented at the meeting at which the original meeting was held. I haven't heard that yet.

Mr. Dodson:

Well, we are we are not uh I I I haven't proceeded beyond the first point that we were asking for a reconsideration on the basis of the vote. It does say that for a rehearing you have to have new evidence, and uh, the only new evidence that I come up with is of a legal nature, and we can uh uh, and I will say this to you which I haven't mentioned in that memorandum, we were faced with the dilemma that your two meetings were more than thirty days apart and if we didn't file an appeal within thirty days, we lost our right to appeal, so we filed an appeal in the Court in order to cover that situation, but that was the reason it was done. We are not interested in an appeal, we would like for you all to go ahead and decide the question, and, and

Chairman:

Mr. Talevi, can the Judge order this Board to rehear it?

Mr. Talevi:

He could.

Chairman:

Take us to Court why don't you.

Mr. Dodson:

Well, well

Chairman:

I believe that would probably

Mr. Altice:

On the basis of a procedural error?

Mr. Talevi:

There would be

Mr. Altice:

We've got some standing is that the right term

Chairman:

He might interpret this to mean that we have to have three members to pass, we do have to have three members to pass on a motion, but Steve is

taking the course that a tie vote is a no vote, right? And I have been, I have been threatened by some attorney before on that, but that is the way I have taken that. So I say if a Judge says that's wrong, then we'd have to rehear it.

Mr. Talevi:

There would be some delay in the appeal and putting together the record and that sort of thing, but I think

Chairman:

Or if he simply requested that we rehear it before

Mr. Talevi:

Well, he, he

Chairman:

I think the Board would have to consider it

Mr. Talevi:

He would remand it, he or she would remand it to you.

Chairman:

Or of course, he could, the Court could reverse our decision which doesn't happen very often, but it was a tie vote so it may give you a better chance with the Judge.

Mr. Wheaton:

I'd still like by way of conversation Mr. Chairman

Chairman:

Wait a minute he's trying to whisper something to me. Your not supposed to do that. Go ahead, talk loudly.

Mr. Roberts:

Okay, I've looked at this house that Hegira now occupies, it looks like a substantial building. It looks like it could be restored, it looks like since Hegira has gotten along so well in that neighborhood, it keeps bothering me, why couldn't that be restored and the operations continue there.

Mr. Altice:

Well the trouble Mr. Roberts is one

Mr. Roberts:

You mentioned plumbing and electricity and so far and I know that costs a lot of money, but thats a beautiful building..

Mr. Altice:

It's a very beautiful building

Mr. Roberts:

I didn't mean to get a debate started, I'm just questioning in my own mind, I want to satisfy in my own mind

Mr. Altice:

Okay, the issue for that is again, that we wrestle with is that we don't own the property.

Mr. Roberts:

Can't you buy it.

Mr. Altice:

Well, we've tried to buy the property on several occasions and the man we are dealing with is elderly and he has a hard time remembering sometimes what the prices are and

Mr. Roberts:

Well, he's going to die one of these days

Mr. Altice:

I know and that's why we are trying to get a new place. His daughter apparently has a lot of influence on him and she wants to be able to get a I think move into the place herself. We are bound because the money we get from our various funding sources, does not allow us to spend in the neighborhood of \$150,000.00 - \$200,000.00 in renovations. We have a hard enough time putting food on the table. And we can't go to the Mental Hygiene Corporation to get the money or to a bank because we don't own the property. So we're stuck in a real bind and there's no way out and ultimately, something's going to happen to our landlord and we are going to be out and the other side of it is that if that is not preceded by the fact that we lose our license because we can't do what we need to do. If you look at the facility you'll see that a lot of the overhangs are in a bad state of repair, we've tried to get these fixed and in the past eighteen years there's been some work done, but not a lot, and the fact that the program is in the condition and is in part of the condition it is because of the residents and we've been able to juggle the money together. But there has been times when there were more monies available than there are now. So that's that, I hope it answers your questions. That's as honest as I can be to you.

Mr. Roberts:

I just wanted you to know why I was so bothered. I understand.

Chairman:

Alright, so if, well.

Mr. Talevi:

Mr. Chairman I think the thing to do now is to ask for a motion that the rehearing be granted.

Chairman:

On the basis of

Mr. Talevi:

Well, again the Board would have to find that there was new evidence that could not have been reasonably presented at the previous meeting.

Chairman:

And not on the basis of our voting



Mr. Talevi:  
Sir?

Chairman:  
And not on the basis of our voting as far as your concerned, because you've ruled that we voted right, on the two-two decision.

Mr. Rife:  
Your saying that procedurally we're correct on the vote.

Chairman:  
Is that what you're saying?

Mr. Talevi:  
I'm not sure I've made a ruling Mr. Norris, but again, I think at this point his remedy to question the correctness of that decision on June 4 is an appeal to the Circuit Court.

Chairman:  
You think that would be an appeal to the Circuit Court rather than to the Board itself.

Mr. Talevi:  
Uh, that's true, but again, if the Board believes that the the facts and when I say facts I am also including the two so-called legal arguments that Mr. Dodson has presented, if this Board believes that those facts constitutes new evidence which could not have been reasonably presented, then this Board may grant a rehearing. Again with Mr. Rife abstaining. Thats within the discretion of the Board.

Mr. Dodson:  
I don't understand, excuse me, why Mr. Rife has to abstain.

Mr. Talevi:  
Well, on a on a rehearing motion and decision, it says that uh

Chairman:  
I think just the members that were here.

Mr. Wheaton:  
Yes just the members that were here.

Mr. Rife:  
The Board members present at the original hearing.

Mr. Talevi:  
Right, thats in Section 1.

Chairman:  
He's right on the line. Alright, do I hear, I I, my trouble is I don't think there's anything thats new evidence that could not have been reasonably presented at the original hearing. Thats my problem. I think the best bet is to take this to Court and let the Judge decide.

Mr. Talevi:

Could we have a motion, at least someone make the motion and seconded and have a vote on it.

Chairman:

Alright do we have any motions.

Mr. Rife:

Not from me.

Mr. Talevi:

Well it can't be you Mr. Rife.

Chairman:

Do I have a motion then that we deny his request for a rehearing?

Mr. Copt:

And we can't speak to this 2-2 negative vote.

Mr. Talevi:

What do you mean we can't speak to it.

Mr. Copt:

Uh we can't use that as a basis for a rehearing.

Mr. Talevi:

Well, the uh, it doesn't define new evidence and its a pretty broad term.

Mr. Copt:

So we've determined that this is still not on the table, we are not

Mr. Talevi:

I believe that the Board has issued an Order in connection with its June 4 hearing. The Board has made a decision. Now whether that decision was correct, Mr. Dodson has a right to appeal that decision to the Circuit Court. If this if this Board believes that there is new evidence and perhaps this Board agrees with some of the points made by Mr. Dodson or finds that some of the other statements made by the other gentlemen constitutes that in part or considered together, then this Board could rehear the matter or vote to rehear it.

Chairman:

Alright, do we have any motions then? About it being reheard or new evidence....

Mr. Copt:

Its a waste of time, I make a motion that we rehear it for new evidence and I make it on the fact that I think that there is just so much confusion with this whole thing that it would be nice if we clear it up ourselves.

Chairman:

I'd personally like the time to read Mr. Dodson's complete memorandum and

Mr. Talevi:

We can take a short recess if you'd like Mr. Norris

Chairman:  
Legally?

Mr. Talevi:  
Take a short recess

Chairman:  
No, oh a recess

Mr. Talevi:  
Yes Sir.

Chairman:  
Alright lets take a, anybody want a drink of water. Let's declare a five minute recess.

RECESS

Chairman:  
This is interesting, the last thing on Mr. Talevi's list hear was the Rules contained in Roberts Rules of Order newly revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with the standing rules of the Board. If you go by Roberts Rules we would need three votes, if we go by what your saying is written in the ordinance, your saying that a tie vote is a no vote, you won't come right out and say that, but thats in effect what your saying isn't it?

Mr. Talevi:  
I do think that the City Code 653 specifically permits the Board to reverse or affirm, reverse or affirm a decision by the zoning administration. And I think that means that the motion can be characterized either in terms of denying the application or granting the application, in this case of a special exception. Again, the burden is on the applicant to get those three votes.

Chairman:  
Let the Judge decide. I can see we'll be in a tie vote if we try to do anything.

Mr. Talevi:  
We do have the motion for rehearing on the floor and I don't recall whether it was seconded or not.

Chairman:  
Alright, who made it?

Mr. Copty:  
I did

Chairman:  
You made a motion for a rehearing, alright do I

Mr. Wheaton:  
What is the motion

Mr. Copty:  
The motion is that we we rehear this petition for variance on this property.

Mr. Roberts:  
Special exception

Mr. Talevi:  
It was a special exception

Mr. Copty:  
Alright

Chairman:  
Alright do I hear a second. I'll second it. All in favor signify by saying  
Aye. Aye.

Mr. Copty:  
Aye

Chairman:  
The opposed no.

Mr. Wheaton:  
No

Mr. Roberts:  
No

Chairman:  
So we're at the same place again.

Mr. Talevi:  
The motion for rehearing is defeated, there is no rehearing granted. At  
this point there only recourse would be to

Chairman:  
To go to a court of law

Mr. Talevi:  
That's right or to file a substantially I believe its substantially different  
application.

Chairman:  
Alright. Thank you.

Mr. Altice:  
Thank you

Chairman:  
I really appreciate your efforts, but we agreed to disagree.

Mr Copty:

Do you want to poll the Board

Mr. Talevi:

Yeah, did you poll the Board

Secretary:

Mr. Roberts

Mr. Roberts:

Since I voted against the petition to begin with I think I would be inconsistent if I didn't vote the same way so I therefore, my is no

Secretary:

Mr. Wheaton

Mr. Wheaton:

No

Secretary:

Mr. Copty

Mr. Copty:

Yes

Secretary:

Mr. Norris

Mr. Norris:

Yes

Mr. Roberts:

I would not object to a new hearing if we could have some new evidence or something to base a change in my decision.

Chairman:

Or if the Court tells you to you would probably

Mr. Roberts:

That's true of course

Chairman:

Did you have fun, did you get anything down.

Are we going to get another editorial for this.

I think you ought to put Eldwood's picture on the paper for this.

Chairman:

Take a picture of the Board Joe. (inaudible) How about we start at the beginning, all in favor say Aye.

Your elected....

To The Board of Zoning Appeals of  
the City of Roanoke, Virginia

Appeal No. 32-91-A

Applicant: Roanoke Mental Hygiene Service, Inc.  
Premises: 1919 Andrews Road, N.W.

Applicant and petitioner would respectfully show that by an order entered June 4, 1991, the board rendered a decision denying petitioner a variance as sought in its appeal in the above numbered case.

Your petitioner alleges that the action taken by the board in denying its request was contrary to the established rules of parliamentary procedure and did not conform with the legal requirements in that there was a tie vote on the motion to deny its request and there was no vote taken on a motion to grant its request.

Your petitioner alleges that the concept of "compatibility with the neighborhood" upon which the motion to deny the request was based was erroneous in that compatibility is expressly limited by the City Code to "the character and appearance of the surrounding neighborhood by virtue of the height, bulk, location on the lot, and the design and location of parking, signage, landscaping and other outside activities or structures", none of which standards were addressed in the hearing.

Your petitioner alleges that the refusal to permit the requested variance which is necessary to afford handicapped persons equal opportunity to use and enjoy the subject dwelling amounts to a discrimination under the Fair Housing Act of 1988.

Wherefore, petitioner respectfully requests that the order of the board dated the 4th day of June, 1991, be set aside and the board reconsider this matter and that its requested special exception and variance be granted.

The Roanoke Mental Hygiene Service,  
Incorporated

Petitioner

By

Paul P. Rouse (24)

119A

A Copy, Teste: Patti C. Hanes  
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals

To The Board of Zoning Appeals of  
the City of Roanoke, Virginia

Appeal No. 32-91-A

Memorandum

Applicant and Petitioner, The Roanoke Mental Hygiene Service, Inc. has requested a variance in order to purchase real estate and move its activities at Hegira House, to which there have been no complaints, from its present leased quarters at 1301 2nd Street, S.W. to 1919 Andrews Road, N.W. The need for this move is twofold - first, the condition of the present quarters and second, the ideal suitability of the 13 acres at Andrews Road. The present leased quarters are in dire need of capital improvement and repair which the landlord is unwilling to furnish. The persons ministered to in the present quarters are limited to the building proper without adjoining property available for their use. The 13 acres at Andrews Road, N.W. would alleviate these cramped conditions and ownership would enable the owner to maintain the premises appropriately.

The vote taken by the Board on June 4, 1991 on a motion to deny the variance applied for resulted in a 2 to 2 tie vote, with the other member of the Board absent because of sickness. It is submitted that despite the order stating that final disposition was made of the application, the matter is still before the Board and can be acted upon as the Board sees fit either with or without further hearing.

119 B

24-2  
A Copy, Test. *[Signature]*  
Patti C. Hanes, Secretary

I. THE APPLICATION IS STILL BEFORE THE BOARD.

According to Article XV of the Rules of the Board:

"The rules contained in Roberts Rules of Order newly revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with the standing rules of the Board."

Under Robert's Rules of Order, Section 46 Voting, pages 191 and 192, it is stated:

"On a tie vote the motion is lost, and the chair, if a member of the assembly, may vote to make it a tie unless the vote is by ballot."

The title page of Robert's Rules of Order Revised indicates that it is a compendium of parliamentary law, based upon the Rules and practice of Congress.

The Rules of the House of Representatives of the United States are equally clear.

Rule 1 deals with the duties of the Speaker, who is the presiding officer. In paragraph 6 it is stated:

"He shall not be required to vote in ordinary legislative proceedings, except where his vote would be decisive, or where the House is engaged in voting by ballot; and in cases of a tie vote the questions shall be lost."

In the footnote beneath this statement is the following:

"The Chair may vote to make a tie and so decide a question in the negative, as he may vote to break a tie and decide a question in the affirmative."

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ATTORNEYS AT LAW  
ROANOKE, VA



In the present case, the chair voted to make a tie and so decided the question in the negative - that is, the motion to deny the application did not pass and accordingly the application is still before the Board.

With regard to Rehearings, Article IX of the Rules of the Board state:

"No rehearing of an appeal or application on which the Board has previously rendered a decision shall be held, except on motion made by a member of the Board to reconsider the previous decision, made not later than the first meeting succeeding the meeting at which the decision was rendered and carried by not less than a majority affirmative vote of the Board members present at the original hearing.

No motion for a rehearing shall be considered by the Board unless new evidence is submitted which, in the opinion of the Board, could not have been reasonably presented at the meeting at which the original hearing was held."

It is notable that this rule dealing with Rehearings presupposes that the decision to be reconsidered was "rendered and carried by not less than a majority affirmative vote of the Board members present at the original hearing". This confirms the contention that it would have taken 3 votes to determine the question.

The same 3 vote requirement for the Board of Zoning Appeals is covered by Roanoke City Code Sec. 36.1-653 which states in part as follows:

"The concurring vote of three (3) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative

official, or to decide in favor of the applicant on any matter upon which it is required to pass pursuant to this chapter or to effect any variation of this chapter."

II. IF A REHEARING IS TO BE CONSIDERED, THE NEW EVIDENCE BEING SUBMITTED IS THE PARLIAMENTARY QUESTION HERETOFORE ADDRESSED AND THE NEW VA. HOUSING LAW EFFECTIVE JULY 1, 1991.

The Virginia Fair Housing Law, effective July 1, 1991 has the following declaration of policy:

"It is the policy of the Commonwealth of Virginia to provide for fair housing throughout the Commonwealth, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status or handicap; and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity and general welfare of all the inhabitants of the Commonwealth may be protected and insured. This law shall be deemed an exercise of the policy power of the Commonwealth of Virginia for the protection of the people of the Commonwealth." Acts of Assembly, 1991, Ch. 557.

This same law adds handicapped persons to its coverage. In other words, there can not be discrimination against handicapped persons just as there cannot be discrimination in housing against persons because of race, color, religion, national origin, etc.

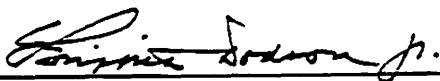
If the basis for denying the variance is attributable to the handicapped status of those at Hegira House, it is submitted that their rights are being violated.

In conclusion, we would suggest that it is only fair that in a matter such as the one before the Board involving the entire Roanoke Community, the issue should be determined by a vote of all 5 members of the Board.

Respectfully submitted,

THE ROANOKE MENTAL HYGIENE  
SERVICE, INC.

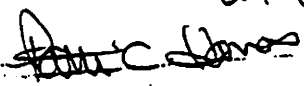
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24-6  
  
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FBI  
ROANOKE, VA

BOARD OF ZONING APPEALS

MINUTES OF MEETING

Roanoke, Virginia

July 9, 1991

The Board of Zoning Appeals met in regular session on Tuesday, July 9, 1991, in the Council Chamber, Municipal Building, and considered the request of The Roanoke Mental Hygiene Service, Incorporated, for a rehearing, as stated below.

PRESENT: L. Elwood Norris, T. E. Roberts, Walter Wheaton, Richard Rife, Bob Coptly.

ABSENT: None

CITY OFFICIALS PRESENT: Ronald H. Miller, Zoning Adm.  
Steve Talevi, Asst. City Attorney

PREMISES: 1919 Andrews Road, N. W.

APPEAL NO. 32-91-A

CALL TO ORDER: The meeting was called to order by the Chairman, who presided.

SUBJECT:

The request of the applicant that the Order of the Board, dated the 4th day of June, 1991, be set aside and the Board reconsider this matter and that its requested special exception and variance be granted.

After due consideration and in keeping with the Rules of the Procedure of the Board, the following action was taken to let the courts decide if the Boards action of a tie vote was in conformance with the Rules of The Procedure of the Board.

PUBLIC HEARING:

Mr. Griffin Dodson appeared with Mr. Henry Altice on behalf of Roanoke Mental Hygiene Services, Inc. requesting a rehearing and submitting evidence to the Board concerning "compatibility with the neighborhood" and the Fair Housing Act of 1988.

THE MOTION:

A motion was made by Mr. Copty and seconded by Mr. Norris to rehear the application of Roanoke Mental Hygiene, Inc., for new evidence for a special exception to allow a group home at 1919 Andrews Road, N.W.

THE VOTE:

AYES: Messrs. Norris, Copty

NAYS: Messrs. Roberts, Wheaton

PRESENT AND NOT VOTING: Mr. Richard A. Rife (illness prevented attendance at previous hearing)

The Chairman thereupon declared the motion failed to pass. Therefore neither the special exception nor the variance nor the request for a rehearing was granted.

L. Edward Norris Chairman

T. E. Roberts

W. L. Wheaton

Paul C. Harnes

Paul C. Harnes Secretary



L. Elwood Norris, Chairman  
T. E. Roberts, Vice Chairman  
W. L. Wheaton  
Robert R. Coptly  
Richard A. Rife  
Patti C. Hanes, Secretary

ORDER OF THE BOARD OF ZONING APPEALS

APPEAL NO. 32-91-A

Applicant: Roanoke Mental Hygiene Service,  
Incorporated

Premises: 1919 Andrews Road, N.W.

In accordance with the authority vested in the Board of Zoning Appeals, as set forth in Section 36.1-656, Zoning, City Code, to hear and decide applications for special exception, a public hearing was conducted on Tuesday, July 9, 1991, in the Council Chamber, Municipal Building, on the following request, said hearing having been heard on June 4, 1991.

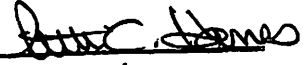
The request of the applicant for a special exception, as provided under Section 36.1-90, Zoning, to permit a group home, with a variance from Section 36.1-560 to allow as many as 24 persons in lieu of eight.

The request of the applicant for a rehearing and that the Order of the Board, dated the 4th day of June, 1991, be set aside and the Board reconsider this matter and that its special exception and variance be granted.

Facts and conditions involved in said application were investigated by the Board, inspections of the property in question having been made prior to the public hearing date.

In consideration of the request herein, the following action was taken by the Board to not grant the request of a rehearing and to let the courts decide if the Boards action of a tie vote was in conformance with the Rules of The Procedure of the Board.

IT IS THEREFORE ORDERED that the request herein not be granted.

A Copy, Teste:   
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals

BY ORDER OF THE BOARD OF ZONING APPEALS, this the 9th  
day of July, 1991.

*[Signature]* Chairman

*[Signature]* Secretary

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1991, only four members were present for the said hearing. In the course of the meeting, a motion to deny the request failed to pass by a majority of the Board on a vote of 2 to 2. Thereupon, the chairman declared the motion failed to pass by a majority of the board and that neither the requested special exception nor the variance was granted and it was so ordered on that day.

5. Petitioner alleges that as a potential buyer of the subject property conditioned upon a necessary variance, it is a person jointly or severally aggrieved by the action of the board; that there was no vote taken on a motion to grant its request and as a consequence there was no appropriate basis for a final disposition thereof. Likewise, the vote on the motion to deny its request was not passed by a majority. Accordingly, petitioner alleges that the action of the board did not conform with legal requirements and in was excess of its jurisdiction under the circumstances.

6. Your petitioner alleges that the concept of "compatibility with the neighborhood" upon which the motion to deny the request was based was erroneous in that compatibility is expressly limited by the City Code to "the character and appearance of the surrounding neighborhood by virtue of the height, bulk, location on the lot, and the design and location of parking, signage, landscaping and

other outside activities or structures", none of which standards were addressed in the hearing.

7. Your petitioner alleges that the refusal to permit the requested variance which is necessary to afford handicapped persons equal opportunity to use and enjoy the subject dwelling amounts to a discrimination under the Fair Housing Act, 42 U.S.C. §3601 et seq. and the Virginia Fair Housing Law §36-96.1 et seq.

8. Petitioner further alleges that the action of the said board constituted a violation of its rights under the laws of the City of Roanoke, and the Constitution of the Commonwealth of Virginia and the Constitution of the United States and was not in accordance with the laws of the land and due process of law.

#### COUNT II

9. That the Petitioner reaffirms the allegations of paragraphs 1 - 8 COUNT I of this Amended Petition and incorporates the same as if fully set out herein.

10. Petitioner alleges that in Item 17 (Transcript of Board of Zoning Appeals, June 4, 1991, public hearing) of the original Certificate of Record filed by the defendant on August 19, 1991, at page 32, the vote of the Board was polled on the question to deny petitioner's request and the count reported was one aye and three noes. Contrary to that count, the vote is set forth in the signed minutes of the Board June 4, 1991, item 20-6 as 2 to 2. The

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ATTORNEYS AT LAW  
ROANOKE, VA

order of the Board dated June 4, 1991, item 22-2 states that a motion to deny the request failed to pass by a majority of the Board, whereupon the Chairman declared that neither the requested special exception nor the variance was granted.

In fact, only the denial of the variance was significant for Va. Code §15.1-486.3 provides that residential facilities for no more than eight handicapped persons with one or more resident counselors or other staff persons shall be considered occupancy by a single family. According to the transcript, minutes, and order, no motion to grant the request for the variance has ever been voted upon. The confusion of the record requires clarification by the Board.

#### COUNT III

11. That the Petitioner reaffirms the allegations of paragraphs 1 - 10 of Counts I and II of this amended petition and incorporates the same as if fully set out herein.

12. Petitioner alleges that the Board has failed to make the findings of fact required by the applicable Roanoke City Ordinance. Section 36.1-656 provides, in part, as follows;

(b) In considering an application for special exception, the board of zoning appeals shall determine the appropriateness of the application based on the following standards:

(1) The use is compatible with the character and appearance of the surrounding neighborhood by virtue of its height, bulk, location on the lot, and the design and location of parking, signage, landscaping and other outside activities or structures.

(2) The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood.

(3) The use does not generate traffic on public streets that exceeds the design capacity of said streets and does not create a dangerous traffic problem by virtue of driveway location, site clearance, driveway slope or other factor.

(4) The use does not increase the flood potential in the surrounding neighborhood.

(5) The use is in conformance with the setback, yard, frontage, lot area, parking, signage, screening, shading and other applicable requirements of this chapter as they pertain to the district in which the use is located or to the specific use, whichever the case may be.

(6) The use furthers the intent of the comprehensive plan.

13. That it is essential to the exercise of judicial review in variance cases that a sufficient record be made in order for the Court to review the Board's action. Ames v. Town of Painter 239 VA .342 (1990.) The Board's failure to make certain findings of fact required by statute in this variance case violates the requirements of law.

Wherefore the petitioner prays that the Court reverse the decision of the Board of Zoning Appeals or refer this matter back to the Board for a proper and legal action as required by law.

The Roanoke Mental Hygiene Service,  
Incorporated

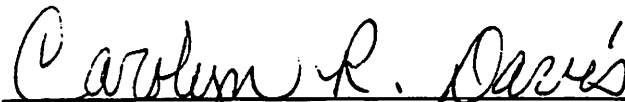
By



STATE OF VIRGINIA     )  
                                  )  
CITY OF ROANOKE        )

to-wit:

Subscribed and sworn to before me this 27th day of August, 1991.



Notary Public

My commission expires:

April 4, 1993

ODSON, PENCE, VIAR,  
WOODRUM & MACKEY  
ATTORNEYS AT LAW  
ROANOKE, VA

Dodson, Pence, Viar, Woodrum & Mackey  
E. Griffith Dodson, Jr.  
Clifton A. Woodrum  
110 Church Avenue  
Post Office Box 1371  
Roanoke, Virginia 24007

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Amended  
Petition was ~~sent by first class mail~~ <sup>delivered</sup> to Wilburn C. Dibling,  
Jr., City Attorney, and Steven J. Talevi, Assistant City  
Attorney, 464 Municipal Building, Roanoke, Virginia 24011,  
this 29<sup>th</sup> day of August, 1991.

Ernie Dodson Jr.



L. Elwood Norris, Chairman  
T. E. Roberts, Vice Chairman  
W. L. Wheaton  
Robert R. Coptly  
Richard A. Rife  
Patti C. Hanes, Secretary

September 17, 1991

Mrs. Doris H. Banks  
P.O. Box 6062  
Roanoke, Virginia 24017

RE: Hegira House


Dear Mrs. Banks:

According to our files and records of the Board of Zoning Appeals public hearings on the request made by Roanoke Mental Hygiene Service, Inc. to establish a group home for up to 24 adults at 1919 Andrews Road, N.W., you have served as an area/neighborhood spokesperson in regard to this matter. The purpose of this letter is to notify you of the scheduled court hearing on the Hegira House which has been set for Tuesday, October 22, 1991 at 8:45 a.m. before Judge Willett in the Roanoke City Circuit Court.

We would also like to inform you that we are notifying those persons that spoke at the last Board of Zoning Appeals public hearing on the subject matter and we would appreciate your cooperation and assistance in informing all other concerned property owners and residents in the area of the upcoming court hearing date, time and location as well.

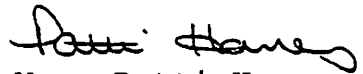
For your information, enclosed please find a copy of the notice letter and list of persons that are being notified by our office.

If you should need any additional information or clarification of any material contained herein, please do not hesitate to contact our office at your earliest convenience. Again, your assistance and cooperation in this matter is appreciated.

A Copy Testa:   
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals

Letter to Mrs. Banks  
Page 2  
September 17, 1991

Sincerely,



Mrs. Patti Hanes,  
Secretary to the  
Board of Zoning Appeals

PCH:edd  
attachments  
copy to file



Notices were mailed to the following:

Oliver Stein  
4102 Mud Lick Road  
Roanoke, Virginia 24018

Dr. & Mrs. T.W. Banks  
1823 Syracuse Avenue N.W.  
Roanoke, Virginia 24012

L. H. Hamlar  
1837 Grayson Avenue N.W.  
Roanoke, Virginia 24017

Omar Rabb  
1325 Crescent Street N.W.  
Roanoke, Virginia 24017

Mary Terry  
3408 Pittsfield Avenue N.W.  
Roanoke, Virginia 24017

Hugh W. Ennis  
1811 Syracuse Avenue N.W.  
Roanoke, Virginia 24012

George Riles  
1925 Andrew Road N.W.  
Roanoke, Virginia 24017

Mike Smith  
2922 Forest Hill Avenue  
Roanoke, Virginia 24012

Mr. & Mrs. W.C. Prunty  
P.O. Box 6615  
Roanoke, Virginia 24017

David Burke  
1529 Grayson Avenue N.W.  
Roanoke, Virginia 24017

Bill Lawrence  
Reentry Director/Hegira  
House of Roanoke Valley  
1301 2nd Street S.W.  
Roanoke, Virginia 24016

Gary H. Brown  
3053 E. Ordway Drive  
Roanoke, Virginia 24017

Tyrone Charlton  
3419 Pittsfield Avenue  
Roanoke, Virginia 24017



L. Elwood Norris, Chairman  
T. E. Roberts, Vice Chairman  
W. L. Wheaton  
Robert R. Copt  
Richard A. Rife  
Patti C. Hanes, Secretary

September 17, 1991

Dear Concerned Property Owner/Resident:

RE: Hegira House

According to our files and records of the Board of Zoning Appeals public hearings on the request made by Roanoke Mental Hygiene Service, Inc. to establish a group home for up to 24 adults at 1919 Andrews Road, N.W., you spoke as a concerned neighborhood resident in regard to this matter.

The purpose of this letter is to notify you of the **scheduled court hearing on the Hegira House** which has been set for **Tuesday, October 22, 1991 at 8:45 a.m. before Judge Willett in the Roanoke City Circuit Court.**

We would also like to inform you that we have notified Mrs. Doris Banks as the spokesperson for this area and we would appreciate your cooperation and assistance in this matter by sharing this information with any other concerned property owner or resident in the area of the upcoming court hearing date, time and location.

If you should need any additional information or clarification of any material contained herein, please do not hesitate to contact our office at your earliest convenience. Again, your assistance and cooperation in this matter is appreciated.

Sincerely,

*Patti Hanes*  
Mrs. Patti Hanes,  
Secretary to the  
Board of Zoning Appeals

PCH:edd  
attachments  
copy to file

*Patti C. Hanes*  
Patti C. Hanes, Secretary  
Roanoke City Board of Zoning Appeals

VIRGINIA:

## IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

THE ROANOKE MENTAL HYGIENE  
SERVICE, INCORPORATED

v.

BOARD OF ZONING APPEALS OF  
THE CITY OF ROANOKE

## O R D E R

~~Chancery~~ No. 91000659-00

LAW

On the 22nd day of October, 1991, came the parties hereto, by counsel, and the matter which had previously been set for hearing and argument and was argued by counsel.

At the conclusion whereof, the Board of Zoning Appeals of the City of Roanoke, by counsel, stated that if certain procedural ambiguities exist as to the proceedings before the Board of Zoning Appeals of the City of Roanoke, such ambiguities could be cured by a remand and hearing before the Board and further indicated that it would not object to an order remanding this case to the Board of Zoning Appeals of the City of Roanoke.

It is accordingly ADJUDGED and ORDERED that this case be and the same hereby is remanded to the Board of Zoning Appeals of the City of Roanoke for a hearing by the Board and such further proceedings as it may determine.

ENTERED this 23 day of OCTOBER, 1991.

  
Judge


Seen:



Wilburn C. Dibling, Jr.  
City Attorney  
Steven J. Talevi  
Assistant City Attorney  
464 Municipal Building  
Roanoke, Virginia 24011

Counsel for the Board of Zoning  
Appeals of the City of Roanoke

We request the entry of this:



\_\_\_\_\_ of  
DODSON, PENCE, VIAR, WOODRUM & MACKEY  
P. O. Box 1371  
Roanoke, Virginia 24007

Counsel for The Roanoke Mental Hygiene  
Service, Incorporated





L. Elwood Norris, Chairman  
T. E. Roberts, Vice Chairman  
W. L. Wheaton  
Robert R. Copt  
Richard A. Rife  
Patti C. Hanes, Secretary

NOTICE OF PUBLIC HEARINGS BEFORE THE BOARD OF ZONING APPEALS  
TO WHOM IT MAY CONCERN:

Pursuant to provisions of law made for such purposes,  
the Board of Zoning Appeals will hold public hearings on  
Tuesday, December 3, 1991, at 2 p.m., in the Council  
Chamber, Municipal Building, on the following applications:

1. Request of Gene Lucas, 1005 35th Street N.W.,  
for a variance from Section 36.1-111 (a), Zoning,  
minimum yard requirements, to provide a front yard set back  
of 13.7 ft. in lieu of the required 30 ft., to allow  
reconstruction of house.

2. Request of Lady Bird Apparel, Inc., 1255  
Williamson Road, S.E., for a special exception as provided  
under Section 207 (8), Zoning, to allow light manufacturing  
with retail sales in a commercial district.

3. Request of Nu T. Kong, 920 Stewart Avenue, S. E.,  
for a variance from Section 36.1-130 (a), Zoning, minimum  
yard requirements, to provide front yard set back of 22.1  
ft. in lieu of the required 30 ft., to allow a 4 ft. x 5 ft.  
roofed addition to side of house.

4. Request of Mr. & Mrs. Hugh A. Thornhill, 2715 Rosalind Avenue S. W., for a variance from Section 36.1-93 (a), minimum yard requirements, to provide front yard set back of 29.1 ft. in lieu of the required 30 ft., for rear porch addition.

5. Request of Dorman M. Miller, 10-24th Street S.W., for a variance from Section 36.1-93 (c), Zoning, minimum yard requirements, to provide a rear yard set back of 14 ft. in lieu of the required 25 ft., to permit construction of a 10 ft. 9 in. x 15 ft. addition to rear of house.

6. Request of John C. Campbell, 1506 Tazewell Avenue S. E., for a variance from Section 36.1-111 (b), Zoning, minimum yard requirements, to provide a side yard set back of 2.8 ft. in lieu of the required 4 ft. for an existing 18 ft. x 20 ft. addition.

7. Request of Fahed T. Twalbeh, 419-13th Street S.W., for a variance from Section 36.1-211 (b), Zoning, minimum yard requirements, to provide a side yard set back of 0 ft. in lieu of the required 20 ft. to allow a 9.5 ft. x 11.8 ft. addition.

8. Request of Jeffrey W. Hayslett, 411 Dale Avenue S. E., for a variance from Section 36.1-429, Zoning, parking requirements, to waive 4 off-street parking spaces required for a duplex.

9. Request of Helen Knight Bujnak, 2619 Alberta Avenue, S. W., for a variance from Section 36.1-93 (a),

Zoning, minimum yard requirements, to permit construction of a house 15 ft. 6 in. from front property line in lieu of the required 30 feet.

10. Request of Robert E. Ford, 2443 Garden City Blvd. S.E., for a variance from Sections 36.1-594 (a) & 596, Zoning, nonconforming uses of buildings and structures, and change of nonconforming use to another use, to permit the resumption of operation of a carpet, tile, vinyl, wall paper, furniture and appliance store.

11. Request of Geneva Kincer, 4215 Appleton Avenue N. W., 4215 Appleton Avenue N. W., for a variance from Section 36.1-76 (a), Zoning, minimum yard requirements, to permit carport 20 ft. from front yard set back in lieu of the required 30 feet.

12. Request of Roanoke Valley Church of Christ/Christian, 3622 Hershberger Road N. W., for variances from Section 36.1-93 (a), Zoning, minimum yard requirements; to provide a front yard set back of 15 ft. in lieu of the required 30 ft., Section 36.1-407, Zoning, multiple structures on the same lot; and Section 36.1-433 (a), Zoning, surface treatment of off-street parking lots, to provide for the construction of a new church building.

13. Request of Edward Walker, 701-12th Street S. W., for a special exception as provided under Section 36.1-127 (3), Zoning, to allow an art gallery.

14. Request of Karl A. Vandegriff, 2629 Wycliffe Avenue S. W., for a variance from Section 36.1-402 (b) (5),

Zoning, additional yard requirements, to permit construction of an addition 8 ft. 8 in. from side property line in lieu of the required 15 feet.

15. Request of WVFT-TV, 2618 Colonial Avenue S. W., for a variance from Sections 36.1-211 (a) & 404 (a), Zoning, minimum yard requirements, and set back lines from major arterial highways, to permit satellite dish to remain 11 feet from the front property line in lieu of the required 25 feet.

16. Request of Stephen S. Kennedy, 3260 Allendale Street S. W., for a variance from Section 36.1-531 (d), Zoning, accessory uses and structures, to permit garage to be used for human habitation.

17. Request of Roanoke Mental Health Services, Inc., for a rehearing of a special exception, as provided under Section 36.1-90 (2), Zoning, to allow a group home for substance abusers at 1919 Andrews Road N. W. with a variance to permit 24 persons in lieu of the required 8.

At these hearings persons affected by the Board's decision may appear and present their views in person or by agent or attorney, as provided by the Zoning Ordinance.

Patti C. Hanes  
Secretary

(Publish in ROANOKE TIMES & WORLD NEWS Monday, November 18, 1991 and Monday, November 25, 1991)





L. Elwood Norris, Chairman  
T. E. Roberts, Vice Chairman  
W. L. Wheaton  
Robert R. Copty  
Richard A. Rife  
Patti C. Hanes, Secretary

ORDER OF THE BOARD OF ZONING APPEALS

APPEAL NO. 32-91-A

Applicant: Roanoke Mental Health Services,  
Inc.

Premises: 1919 Andrews Road N.W.

In accordance with the authority vested in the Board of Zoning Appeals, as provided under Sections 36.1-655 & 36.1-656, Zoning, City Code, to hear and decide appeals from the decision of the Zoning Administrator, a public hearing was conducted on Tuesday, December 3, 1991, in the Council Chamber, Municipal Building, on the following request:

The request of the applicant for a special exception as provided under Section 36.1-90 (2), Zoning, to allow a group home for substance abusers at 1919 Andrews Road N.W., with a variance to permit 24 persons in lieu of the permitted 8.

Facts and conditions involved in said application were investigated by the Board, inspections of the property in question having been made prior to the public hearing date.

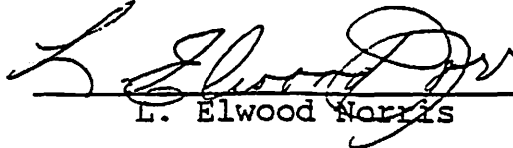
Pursuant to a Decree entered under date of October 23, 1991, the Circuit Court remanded this matter to the Board of Zoning Appeals for a hearing.

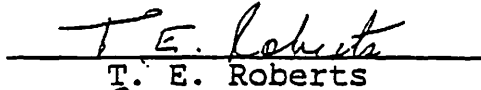
Upon consideration of the record, and evidence and testimony adduced to the hearing held on December 3, 1991, all interested persons and parties being given a full and fair opportunity to be heard. Motion to grant the request was made by Mr. Robert R. Copty. Mr. Richard A. Rife seconded the motion. Whereupon a vote was taken, Messrs. Copty, Rife and L. Elwood Norris voting in favor of said motion, and Messrs. W. L. Wheaton and T. E. Roberts voting against said motion. The vote being a three (3) votes in favor of the motion and two (2) votes against the motion.

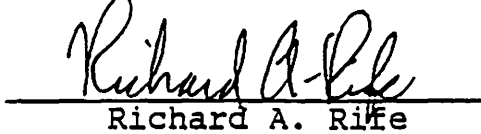
IT IS THEREFORE ORDERED that the request herein  
be granted.

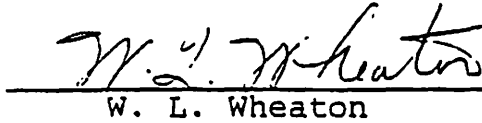
The Building Commissioner is hereby authorized to  
issue the proper permit for said certificate of occupancy  
in accordance with the decision of the Board, with the  
understanding that said certificate is null and void if not  
obtained within six months from the date of this Order.

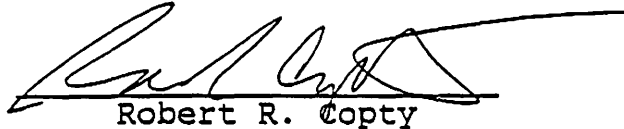
BY ORDER OF THE BOARD OF ZONING APPEALS, this the 3rd  
day of December, 1991.

  
L. Elwood Norris Chairman

  
T. E. Roberts

  
Richard A. Rife

  
W. L. Wheaton

  
Robert R. Copt

 Secretary

**BOARD OF ZONING APPEALS  
MINUTES OF MEETING**

Roanoke, Virginia  
December 3, 1991

**APPEAL NO:** 32-91-A  
**APPLICANT:** Roanoke Mental Hygiene Services, Inc.  
**PREMISES:** 1919 Andrews Road, Northwest  
**PRESIDING:** L. Elwood Norris, Chairman,

**Chairman:**

Alright is uh, we'll come back into session. Have we got all the microphones the way its supposed to be. How is everyone going to see this t.v. Mr. Talevi? Should they see it or how..

**Mr. Talevi:**

Well, Mr. Norris, the most important thing is that the Board sees it, maybe we can turn it at an angle or something so that the Board and at least some of the audience can see it, but again, the most important thing is that the Board see it for its consideration.

**Chairman:**

Alright, will anyone who's getting, who's t.v. is it? Who's going to operate this.

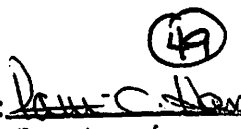
Uh the video is part of my presentation uh of my representation of the neighborhood who is opposed to the request for special

**Chairman:**

Well, if you would try and turn it a little sideways so as to the let them see it but as the city attorney says, we're the ones that have to see it so, I'm just trying to let everybody see everything. Uh, before we start....Just as a little preface to this hearing. This will be a complete new hearing. This went through the Court and due to certain procedural ambiguities, the Court ordered that the Board of Zoning Appeals rehear this request so I still will ask you not to be repetitive in any way if you can possibly help it or we'll just be here for hours. But, we want everyone to have time to be heard completely because it is a new hearing ordered by the Court. So, let's see, how many folks do you have to speak, three or four?

Ten

**Chairman:**

A Copy, Teste:   
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals

Ten, alright then let's have everyone then that is for, let's have everyone that is going to speak, those who are going to speak, or think they are going to speak, stand to be sworn in at the same time. If you'll stand please and remember that you will have to give your name and address to the secretary before you speak and also sign the roster before you speak. Alright, will everybody raise their right hand. Do you solemnly swear to tell the whole truth and nothing but the truth so help you God. Alright then if ya'll would be seated and let this gentlemen proceed.

Mr. Altice:

Okay, once again I'm glad to be here before the Board. My name is Henry Altice, I'm Director of Hegira House and we're requesting a zoning variance to allow the Roanoke Mental Hygiene Services, Incorporated and Hegira House Mental Health Services of the Roanoke Valley to place twenty-four residents at 1919 Andrews Road instead of eight. Uh, I want to say that there is a lot of documentation that you have on record so I'm going to try and not be redundant. I just want to reiterate a couple of points and then I will turn it over to the speakers and uh, I feel like the speakers that will be speaking is new information that I feel like needs to be considered this afternoon. Uh, as you know, that the program has been at 1301 Second Street for over eighteen years and uh, I feel like we have established ourselves quite well in the community and we'll have some speakers to be able to talk about that. We've also talked considerably in the past about the security of the program and the rigid licensure requirements has and how that the program is staffed twenty-four hours a day, seven days a week by professional counselors with a close liaison with the Department of Corrections, Probation and Parole and the Courts and the Roanoke City Police Department and that, of course, will remain in effect if we move to 1919 Andrews Road. I know that there are many concerns about uh what the clients do, and the clients of course can talk some today and we've had them on public record in the past on the intensity of the program and the difficulty of the program and that people are not allowed to do what they want to there, that they have to make some changes in their life to complete the Hegira House program. Also I want to reiterate the fact that no one, no resident in the program is currently under the influence or using alcohol or drugs. These people are totally involved in their treatment and totally absent of these substances. They are dealing with the psychological addiction, any kind of physiological addiction was already addressed before they were actually placed in the program. Also, I want to say that I believe by that and by the fact that are security is very tight that we are not going to contribute to bringing drugs into this community and into devaluating the community. I know from listening and reading over the testimony from the last hearing in April, several of the residents from the Andrews Road area talked about being scared at night to go in to the park, that there were drug dealers or pistol people or people shooting pistols or automatic weapons, uh and this testimony is part of the public record. So I want to say that our clients are not allowed to go anywhere they want and there has never been any indication in our community that our clients were doing anything of this nature, but rather being a contributing member of the community there in Southwest. Also, I want to say that

the new speakers today can talk about who we are in the community that we have been in the past. I think that a lot of people don't really understand our reputation and how we've been functioning in the community from someone who has actually lived beside us and dealt with us on an everyday basis and I think that will be enlightening to uh the Board. So, with that in mind, I will uh, conclude briefly my comments and let Margo Kiely give us some more information.

Chairman:

Alright, thank you Mr. Altice.

Mrs. Kiely:

Good afternoon, I'm Margo Kiely and I live at 2029 Maiden Lane, Southwest. I'm the Director of Substance Abuse Services Programs for Mental Health Services of the Roanoke Valley and today I'd like to address in particular, two issues with you. The first issue is what kind of hardship we would face if we could not continue to accommodate our twenty-four residents rather than the eight provided for and why we cannot remain in our current location. Both of these issues have come up before this Board of Zoning Appeals before and what I'd like to provide is a little more detail in the answers we were able to give you in the past. First, as to the issue of program size. Hegira is built on what we call the therapeutic community model. Any therapeutic community requires four basic components in order for it to operate and be successful. The first is intensive staff supervision. Second, peer pressure. Pressure from, positive peer pressure from one individual in the program, one group of individuals in the program to another. Third, a structure of increasing client responsibility so that as time goes on the responsibilities and duties of the clients increase in their intensity. And fourth, strict abstinence monitored by random testing. For the first three of these factors I have mentioned, there is a critical community size. Intensive staff supervision by high quality, preferably certified addictions counselors is an expense which needs to be spread over a group in order for that expense to be a reasonable one. For example, if we were to have only eight residents, we would still need to provide twenty-four hour a day, seven days a week supervision. In order to do that and provide for any kind of staff illnesses or training or any kind of absences like that we would still need to have a minimum of five counselors and a coordinator on duty. If we did that, if we reduce to the level of eight residents, and reduce the staff to that level, we would increase our per client cost to \$15,739 per client based on last year's figures, last fiscal year's figures as opposed to our current cost of \$6,731. This is 2 1/2, almost 2 1/2 times our current expense per client. In addition, our current income from fees which now accounts for roughly 20 percent of that cost would be reduced to less than 7 percent of that cost. We could not bear this expense. This would be a grave and serious hardship which would result in the closing of this therapeutic community program. The second and third factors I mentioned, peer pressure and increasing client responsibilities have to do with the client population. In terms of developing positive peer pressure, clients acquire this from a wide variety of peers while in the program. A group of eight would not

provide either a sufficient variety or the intensity of support or confrontation which is needed for this client group.1 The program designed, as I mentioned, incorporates increasing levels of client responsibility as clients work in the program. Our clients are organized into crews. Each crew has a responsibility, for cooking, for maintenance or for communications within the treatment program. Their responsibilities include the development and maintenance of a positive peer support environment to counter the previous negative peers that they have associated with in the past. As individuals progress in the program, their responsibilities increase, they may be promoted, they may be fired from their jobs, they may gain status in the community in the therapeutic community and they may lose status in the therapeutic community. This helps us replicate the real world that the rest of us live in where things can go well for us or things can go not so well for us, we can get ahead or we can get behind. This prepares residents for return into the larger community. To fill this roles, to fill these roles, just the clinical needs of the program, we couldn't do it with only eight people in residence. So to maintain the kind of program we have financially and clinically we need to have this variance to permit twenty-four residents. Next I'd like to address briefly with you the problems we have remaining in our present location. WE have already informed this zoning board of the need for new space for our residents and of greater opportunities to be outside of a building either working or exercising in the out of doors. We have already spoken to you of the hope we have to move to a facility which would be owned by the Mental Hygiene Corporation rather than rented. Now, I'd like to say parenthetically the Mental Hygiene Corporation exists only to hold properties for use by clients of Mental Health Services, it has no, it is a non-profit organization, it has no other function beside that. Our program, like all of our programs at Mental Health is licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The licensing process which we undergo covers a variety of issues, staff quality, program design, program implementation, record keeping and the physical plan. On September 10 the licensing office both our normal licensing representative and her regional supervisor made a visit to the Hegira Program and in a subsequent letter which I have copies of for you uh they expressed serious concern about the building. As the officer of licensure notes in this letter, problems with plumbing, water pressure, electricity, ventilation, sagging floors and other structural problems and concludes that and I quote:

...the ongoing general deterioration of the building structure is, over time going to substantially increase the cost of repair and maintenance add to the disruption of programming and ultimately result in more stringent action by our office.

Now, as the manager of this program, when you hear from your licensing people that more stringent action is something that is in their mind, it gives you pause. We cannot operate without a license. We would not operate without sufficient staff for supervision and treatment of this group of recovering people. Therefore, we repeat our request to you for the variance to permit twenty-four rather than eight people in

this treatment facility which you propose to locate at 1818 Andrews Road, wait a minute do I have that right, 1919 Andrews Road. Uh, do I have any questions, can I answer any questions for you?

Mr. Roberts:

I'd like to ask a couple of questions. You mentioned the fact that your clients are confined, in what way? How are they confined?

Mrs. Kiely:

Presently?

Mr. Roberts:

Yeah

Mrs. Kiely:

Is that what you're asking?

Mr. Roberts:

No, I mean, I just wonder if you were granted permission to establish the Hegira House at this new location, how would they how would they, what would it consist of, you said they were confined, or someone did just a little while ago...

Chairman:

He understood you to say they were confined...

Mrs. Kiely:

No, they are restricted, they are not confined. This is not a secure facility with locks and bars, it is not. It is a community based facility. The program structure is such that the clients are not permitted in the community on their own initially at all. They always must be with another program person. They uh eventually, when they have reached certain levels of responsibilities, as we talked where they have progressive levels of responsibility in the program, they'd be permitted for certain supervised activities, and then eventually when they are ready to re-enter, we'll move them into our apartment program and put them in a community on a trial basis. Uh, they uh would be discharged from the program for persistent violation of any of these rules.

Mr. Roberts:

You have twenty-four there now?

Chairman:

No...

Mrs. Kiely:

We currently, we currently have twenty-four in our current location and we have a re-entry capacity of six, so our total is thirty, but we currently have twenty-four in the building that we are in and propose to move that same number to the Andrews Road location.

Mr. Roberts:

How long have you had that size

Mrs. Kiely:

How long have we had that size?

Mr. Roberts:

I mean is that...

Mrs. Kiely:

Twenty four in that building...

Mr. Roberts:

For how long?

Mrs. Kiely:

Good question, probably something between twelve and fifteen years.

Mr. Roberts:

This is the normal size of the population then...

Mrs. Kiely:

This is the normal size of the population sir..

Mr. Roberts:

Who licenses this program?

Mrs. Kiely:

Our program is licensed by the Department of Mental Health, Mental Retardation & Substance Abuse Services

Mr. Roberts:

That's the state

Mrs. Kiely:

That's a state licensure, yes sir. This program is also licensed by the Department of Corrections, it has two licenses.

Mr. Roberts:



Thank you very much.

Mr. Wheaton:  
Question.

Mrs. Kiely:  
Yes Mr. Wheaton.

Mr. Wheaton:  
I heard all your narration relative to the operation, function, etc. etc. concerning the Hegira House. My main question is why do you particularly select 1919 Andrews Road. What's the reason for that.

Mrs. Kiely:  
Okay, the selection of a property for a treatment program has a variety of factors that play into it. First, you want to have an environment that is conducive to the recovery of the people you are working with. Second, the properties of this nature are difficult to find in the Roanoke City area, and our real estate agent will speak to you about his search for other suitable properties for us. Third, uh, in the past we have had requests from the Northwest Community to place a program in this area, in fact, we did have an outpatient program in the area in the past. That closed for lack of continuing funding. We also so, uh, the city manager's task force on drug abuse also had as a specific recommendation the location of a residential treatment program for substance abuse in the Northwest Community so we were uh, of the impression that that would be a suitable location. We also find the property to be extremely amenable to the use that we have for it and we have found no other suitable property.

Chairman:  
Alright, thank you. Mr. Altice?

Mr. Smith:  
Gentlemen, I'm Mike Smith, the broker at Progress Rush Company and I've been involved in this transaction with Hegira House trying to purchase the property at 1919 Andrews Road for well over a year. I had the property listed for some months prior to approaching Hegira House about the property and had advertising in the MLS and had no other offers, not any other lookers at that point and it just happened that I had some other business through rental properties with Hegira House and just happened to mention this and they said well let us see it and it went from there. Since we've had all the problems I have also actively been seeking another property that would be equally as suitable for their purposes and so far I have been able to come up with nothing at this point. I can't find a house that's large enough and you also have to have a certain amount of land because if you can't get a large enough home you are going to have to expand just a little bit and it has been as far as I can tell at this point in life impossible to come up with anything else that will suit. Also, I have

researched the fact that since Hegira House has been at their present location property values in that area and residential property values over there have increased at a normal rate versus the rest of the city and not, they did not lag because of Hegira's presence and uh, like I said, I've had no other offers on the property before Hegira signed up for it, we did try diligently, I can find them no where else to go that suits there criteria and I just want to point out like I said that I haven't seen that property values were adversely affected at all where they have been for the past so many years.

Chairman:

Alright.

Mr. Wheaton:

I have a question.

Mr. Smith:

Yes Sir.

Mr. Wheaton:

Would you tell me of some of the areas that you possibly have looked at that may be suitable for Hegira House.

Mr. Smith:

Well, as far as...

Mr. Wheaton:

What, what section did you look in...

Mr. Smith:

It's anywhere in time, I'm a realtor, I'd like to make a commission, so like I said consequently, I have looked anywhere and everywhere..

Mr. Wheaton:

That didn't answer my question.

Mr. Smith:

I've looked in all sections of the city. Their criteria wants to be in the city, when you're looking for property for a person, you look for what they tell you to look for, we need a certain amount of land, we need a certain size structure and just a certain layout and I have found nothing else at any price so far.

Mr. Wheaton:

So you are saying to me that 1919 Syracuse is the only section in Roanoke that meets uh that meets

Mr. Smith:  
1919 Andrews Road

Mr. Wheaton:  
.....the Hegira House criteria

Mr. Smith:  
It's 1919 Andrews Road...

Mr. Wheaton:  
No where else.

Mr. Smith:  
No where else that I have found that is on the market. There may be some other places, but if they are not for sale I can't do much about it.

Mr. Roberts:  
I was going to ask you about the entrance and the exit to this place

Mr. Smith:  
Yes Sir.

Mr. Roberts:  
You have a long narrow driveway.

Mr. Smith:  
That's correct.

Mr. Roberts:  
Is that wide enough to accommodate the traffic thats..

Mr. Smith:  
It's, it's amply wide.

Mr. Roberts:  
I went down it and it looked like it was kind of crowded if I'd met somebody I don't what I would have done.

Mr. Smith:  
Well, it could be a little tight, but they don't have a lot of incoming and outgoing traffic.

Mr. Roberts:  
I was going to ask that question later on, how much traffic there would be?

Mr. Smith:

Well now there going to sort of have to answer that one for you, they know more about that than I, Mr. Altice will answer that for you.

Mr. Roberts:

That's the only entrance to the property, that one driveway.

Mr. Smith:

Yes sir.

Mr. Roberts:

No sir, no other way, not that's useable.

Mr. Roberts:

Okay, thank you.

Mr. Smith:

Yes Sir.

Mr. Coptly:

The one question I have that maybe you can't answer, maybe its something that Mr. Altice should answer, but why the preference for a location in Roanoke City. I mean the client base is not limited to Roanoke City is it?

Mr. Altice:

No, but primarily, it is uh, most of the clients come from Roanoke City and that's the primary reason why we're looking, also it's closer to some of our other programs and some of the other services that we provide. Seventy to seventy-five percent of our clients are from Roanoke City and that's the main reason why. As well as being close to bus lines, employment, opportunities for the clients to be involved with AA meetings and things like that.

Mr. Coptly:

Did you get any funding from any of the local governments.

Mr. Altice:

Yes we do, we get plenty from uh from all the all the local governments as part of the community service.

Mr. Coptly:

You want to speak about the traffic again Mr. Roberts?

Mr. Roberts:

Yes, I was going to, let me

Chairman:

Grab that microphone and speak into it Mr. Altice.

Mr. Altice:

Oh, I'm sorry.

Mr. Smith:

Are you going to have any further questions for me.

Chairman:

No, you may be seated.

Mr. Roberts:

You mentioned proximity to a bus line or transportation, how would these people, do they own automobiles, do they

Mr. Altice:

No, nobody, if they own an automobile they do not have an automobile while they are with us.

Mr. Roberts:

How are they going to get transportation

Mr. Altice:

Our van that we transport our clients with. Yeah that's how they travel, and that's why they travel in a group usually and the staff would be the only other people there other than probation officers or something like that would be coming in and out of the facility so there's not a great deal of traffic.

Mr. Roberts:

So the fact that this facility, this property sits back a considerable distance from the street would pose no problem.

Mr. Altice:

No, it would not because we provide transportation.

Mr. Roberts:

Thank you sir.

Chairman:

Alright, who's next?

Ms. Grove:

Mr. Chairman, members of the Board, my name is Anne Grove, I'm an attorney with Dodson, Pence in Roanoke, we are located on Church Street in downtown Roanoke. I am here today with a colleague of mine Mr. Griffith Dodson and we are here on behalf of Hegira House and more specifically uh the efforts of the Roanoke Mental Hygiene Services, Incorporated. I will keep this presentation very short uh but I want to look very closely at some of the code sections that we are dealing with in this matter and look at some of the standards that we are to be, to be deciding these issues based on. An important point that I think we should emphasize is the fact that we are seeking a variance and not a special exception use. The use is provided for in the City Code in Section 36.1-560 which states that "group care facilities are allowed in a residential district". As does Va. Code § 15.1-486.3. It's not necessary for me to read these, I'm sure we're all familiar with them, but they are important because they approve the use of this facility. It is our opinion, according to the statutes that we could at this time move into 1919 Andrews and operate this facility with eight people with the guidelines provided for in the City and State Codes.

Chairman:

Well let's uh stop just a minute.

Mr. Talevi:

I have a copy of the application that I understand is being heard today and it states that it is an application for a special exception, uh, that same application also states that they are seeking a variance uh from Section 36.1-560 to allow as many as twenty-four residents in lieu of the permissible eight. Am I not understanding what you are saying Ms. Grove?

Ms. Grove:

We have to approach obtaining this variance through the special exceptions provisions in the City Code by meeting those standards also. If we were not seeking to increase the number of our clients at the facility then I don't believe we would have to go through uh a special exception.

Chairman:

Your saying yes you would, we disagree with that but that's alright.

Ms. Grove:

Okay well let me read one

Chairman:

I don't think we're all going to agree on everything anyhow today..

Ms. Grove:

One further evidence of support for this was most

Mr. Talevi:

Excuse me Ms. Grove if I might interrupt you, can you explain to me, well are you seeking a special exception under Section 36.1-656 or am I misunderstanding.

Ms. Grove:

Yes, with the notation that it is for the purpose of increasing the number of our clients at the facility. It is to be read as one entire statement.

Mr. Talevi:

So you are seeking both the special exception and the variance?

Ms. Grove:

Correct for the purpose of a variance. Okay, uh, I will read one further piece of support for this fact which was adopted by City Council on August 26 of 1991 which is the definition of a family dwelling and uh this further supports the point I am attempting to make here. It states that "one or more persons occupying a single dwelling unit and living and cooking together as a single housekeeping unit constitutes a family dwelling. The words shall not be construed to mean more than four persons unrelated by blood, marriage or adoption. The above notwithstanding, up to and including eight mentally ill, mentally retarded or developmentally disabled persons, who reside with one or more resident counselors or other staff persons in a facility for which the Department of Mental Health, Mental Retardation & Substance Abuse Services is the licensing authority pursuant to the Virginia Code may constitute a family." And there is another little piece of that and I will leave it at that. Uh, a variance according to City Code and according to cases that have attempted to define this word defines it as a "reasonable derivation from zoning ordinance provisions regulating size or area of land or size or area [or size or area] of a strict building or structure when the strict application of the ordinance would result in a necessary hardship". Very quickly uh I would like to look at some of the requirements that we are supposed to meet with regard to the special exception part of the Code. This can be found in Section 36.1-656 and it lists six criteria that are to be considered. The first one is compatibility and appearance with the surrounding neighborhood. Hegira House has made it very clear that they will make every effort to keep any improvements on this property in complete conformity with the neighborhood. The second one is that the use does not create a demand on public water or sanitary sewer services. We have spoken with utility departments in Roanoke City and they have stated that there is definitely sufficient capacity in this area to service a facility of this size. The third concern is traffic. As you have heard, there only three to five staff members at all times and they will be coming and going on alternate shifts. We do not anticipate any problem with traffic flow on that private drive. Number four, it mentions that the use does not increase the flood potential in the surrounding neighborhood. When Valley View Mall was built, the city of Roanoke put a flood pond at the base of this property, it is sufficient to accommodate this property. Number five states that the use is in conformance with set back yard, frontage lot area,

etc. of this residential district, uh, this property does currently meet all requirements of set back frontage, etc. as they pertain to this district and they will make every attempt to continue that conformity. Number six finally, is comprehensive plan. Right beside this property is a private industrial park, it is currently zoned commercial so this area already has some derivation from a strict uh residential neighborhood. We are not looking to change the zoning of this property, we, it is zoned residential, it allows for the use of this facility and we have no desire to put any commercial or any industrial use there. Uh, we feel basically, and I will not reiterate what has already been said before that the Hegira House is a very important asset to the Roanoke community. The Andrews Road property is a very unique piece of land, it is perfect in size and location and it is desperately needed. The greatest hardship of all for us to prove is what a loss this would be if uh we did not have some place for our Roanoke citizens to go and uh the granting of this variance would definitely alleviate a very demonstrable hardship and we would definitely appreciate your consideration and I'd be happy to answer any questions uh I'd liked to reserve a few minutes at the very end of all speakers that we may address any questions that are left.

Mr. Roberts:

You mentioned that the variances should be reasonable, do you think that an increase from eight to twenty-four would be in that category, would that be reasonable.

Ms. Grove:

Yes I do. Based on the size of this property. It's very unique to find 13 acres in Roanoke City....

Chairman:

It's got 13 acres.

Mr. Roberts:

Could they...

Ms. Grove:

...and I think it could easily accommodate that number of clients.

Mr. Roberts:

Could the Hegira House operate with less than twenty-four?

Ms. Grove:

They could, but as explained previously the financial hardship that would come to Hegira House would pose a very difficult problem for them.

Mr. Copty:

One question, you said that there was some commercial property adjacent to this property.



Ms. Grove:

Yes there is.

Mr. Copty:

Could you explain to me where that is?

Ms. Grove:

There is a private industrial park right beside this property. Uh you can even see

Mr. Copty:

Towards Valley View Mall, towards 581?

Ms. Grove:

No, on the other side of Valley View Mall. It's right smack beside this property uh you can see it in the comprehensive plan that is supposed to cover the period from 1985 to 2005, it is marked as Industrial in this plan. I'm not sure if it was changed to commercial at some point when the industrial park was uh was uh located in that spot, but it is definitely zoned commercial and it is adjacent and on the other side of this property, I believe it is vacant now, it is owned by the City of Roanoke.

Mr. Copty:

Okay.

Ms. Grove:

Thank you.

Chairman:

Alright, thank you.

Mr. Rauck:

Mr. Norris, Gentlemen, my name is John Rauck, my address is 210 West Church Avenue. I'm employed by the Virginia Department of Corrections as Chief Probation and Parole Officer for the Roanoke Valley. In that capacity I've been associated with the Hegira House for approximately sixteen years. My responsibilities associated with Hegira is to provide for the supervision of probationers, parolees and defendants sentenced to Hegira in lieu of incarceration. It has been my experience that long-term residential treatment is the most effective means of treating addictions to legal and illegal substances. As Ms. Kiely explained, it removes the client from the drug using environment and provides a system of support based on positive peer pressure. Hegira House engages in a very rigorous screening of applicants for their services. Individuals convicted of crimes of violence, sex offenders and arsonists are excluded, not solely for the safety of the program itself, but also for the safety of the community. Despite that rigorous screening, not every client which is accepted into Hegira is successful there. Many clients simply lack the motivation or the internal

strength to make it through the rigors of the program, it's very demanding. Many clients simply don't realize how difficult it will be to confront their behaviors and their pasts and to change those behaviors. Obviously a number of clients are terminated from the program. The vast majority who fail recognize their failure contact my staff and voluntarily return to incarceration subsequently to appear before the Court and accept whatever punishment the Court hands out to them. I would say that this constitutes 95% of the failures of Hegira House, that they voluntarily return to my office and to jail. The remaining 5% are individuals who go underground, they do not stay in the neighborhood, many do not stay in the Roanoke valley, they are running for their freedom. In light of that issue I would say that Hegira is not a danger to that community, it's not a danger to Old Southwest at its present location. In fact, I would echo the comments of previous speakers that Hegira is an asset to the current location and will continue to be on Andrews Road. Do you gentlemen have any questions for me?

Mr. Wheaton:

Did I understand you to say that the, the persons who are part of Hegira House are either those who have been sentenced in lieu of Hegira House to be incarcerated or Hegira House, is that right, did I hear that?

Mr. Rauck:

Yes sir, there is a code statute that allows for courts to sentence individuals to residential drug treatment or alcohol treatment. Such treatment is to be licensed or certified by the Department of Mental Health and Mental Retardation and that there treatment at the facility constitutes incarceration.

Mr. Wheaton:

I see, okay. I thought that's what you said.

Mr. Roberts:

Hegira House is certainly an asset to the City, no question about that but explain why its an asset to this particular area.

Mr. Rauck:

Hegira House engages in a number of community service projects. Uh, litter pickup, snow removal, leaf raking, it's there attempt to give something back to the community to gain acceptance and to demonstrate that they are not three-headed monsters running at large.

Mr. Roberts:

Well, if I lived there how could I acquire the services of some of these people in the case of snow removal or something like that.

Mr. Rauck:

I would imagine it would be volunteered to you.

Mr. Roberts:

I would just apply at Hegira House for some help.

Mr. Rauck:

Uh I'm not even sure that you would need to apply or you may come home and find your drive shovelled, I'm not sure.

Mr. Roberts:

Thank you very much.

Chairman:

Alright. Your name.

Ms. Burress:

Gail Burress, my address is 517 Washington Avenue, Southwest. I've lived and worked in Old Southwest for over ten years. My home is approximately 5-6 blocks away from Hegira House. I've always known what and where Hegira House is and I've never seen or heard anything from that facility to suggest that the neighborhood or the value of my property is in any way diminished by the presence of Hegira in Old Southwest. On numerous occasions uh Hegira residents have worked for me, I've always found that to be a favorable experience. I've also recommended their residence to friends and neighbors as a source of labor for odd jobs and they also have reported very favorable experiences from that. Never in any way felt that the residents of Hegira present any kind of threat to the neighborhood. As a neighbor of Hegira the program to me appears to be very well managed, very well supervised and extremely well staffed and uh, it appears to me that the concerns of the Northwest Community are based on erroneous perceptions that are not reality based. It's from what I've been able to see of the program, Hegira has not been detrimental to Old Southwest and in no way do I see that it would be detrimental to the Northwest community.

Chairman:

Any questions? Thank you.

Mr. Tanger:

My name is Bill Tanger and my address is 1302 Second Street, Southwest. Uh, I've been in the advertising business for nineteen years and in 1978 I moved to that address from Campbell Avenue so I've had thirteen years of living directly across the street from Hegira House and I would say its been thirteen years of having good neighbors. My office used to be on Campbell Avenue and we were broken into twice in six years and uh, while we were there, but never once in thirteen years while across from Hegira House. Uh, some people have mentioned that the residents of Hegira House help people in the neighborhood that is true, I have seen them, I have been the

recipient of that, that, includes shovelling snow and as people said raking leaves, that sort of thing. Uh, my business is advertising, in fact the name of my business is Image Advertising and one of the things we take pride in is having a good image of the building and the office that we work in and the building that I lived in for seven years. The uh, we have all kinds of clients come to this building during the day and during the evening, uh, business people, politicians and all kinds of clients, bankers and state legislatures and we certainly would not want to have our office, or I wouldn't want to have my home that sort of thing in an area or neighborhood or near a building that was a problem. We don't have and have never had a problem with Hegira House. Uh, I can also tell you that uh it is uh sort of an odd situation that a uh rehabilitation place like this would actually be an asset to the community, it's a little hard to grasp, but I can tell you from living there that uh, since there's somebody there across the street from where I was living, twenty-four hours a day, the lights are on, uh when I come, if I'm working late at night, uh or if I'm coming home late at night, or coming back to the office or whatever the case may be uh, it's really a comfort to have someone there to have the lights on, to have some people that if you needed something you could uh, get a hold of them. So, I think in that sense they are an asset and the evidence I could say is that we have had a very very secure building, we've never had any problems there in thirteen years. Uh, the Hegira House grounds are always neat and clean and orderly. Uh, the building as much as they can control it is kept in a good condition, we simply have not had any problems of that nature, uh, its obvious that they perform a community service, uh, its not as obvious uh that they are a community asset and uh a neighborhood asset, it is my opinion and the opinion of my partner in my business which is directly across the street that they are an asset.

Chairman:

Thank you.

Ms. Nichols:

Mr. Norris and committee members. My name is Estelle Nichols. I am at 1240 Third Street. I'm the Executive Director of the Bradley Free Clinic. I have been neighbors with Hegira House for seventeen years and I will say that I am truly honored today to have the opportunity to stand up here and speak on their behalf. This is a very unique and very very special program. These are people who are working very hard to make their lives different. The people who are opposing this move are concerned about the kinds of people who will be in their neighborhood and what I would like to say is that I am not worried about the residents from Hegira House, I am in fact worried about the people who are not in a program like this and who are actively using drugs and alcohol. At the Bradley Free Clinic the staff and I have had for seventeen years a very close association with these residents and with their executive director. Our Board of Directors consider these residents to be a vital part of the free clinic in terms of community service. They do not get credit for working for us as volunteers, they don't get any benefit from us, but I call them because we need something done, because they are right there so close, they will come over immediately and send us

whatever number of people we need to get our job done. Two years ago when we moved into our new facility, our Board of Directors felt and the staff felt that we could not have done it without the extensive help that we got from Hegira House. They did the most incredible things in terms of moving, in terms of cleaning, in terms of helping us organize they did great things. I loved your question Mr. Roberts when you said how would you know if they how you could get in touch with them to help you. They didn't give you the answer, but I'm going to give you the answer, all you have to do is call them up. I call John Jamison directly and I say John I've got a problem and this is what I need and he says Estelle I'll get right back with you and we'll help you solve your problem. Hegira House does need to move and I am here today to tell you that I am very sorry that they are going to move out of our neighborhood because it will be a tremendous void to our program. One of our most outstanding volunteers right now and he works for us several days a week as a computer inputter is here today and we don't know how we are going to solve that problem of getting him back to the clinic several days a week to help us with our computer inputting. Other people are talking about the building and the variance and the section of Roanoke and laws and codes. I'm going to tell you tell you one short story about an individual, about an experience my staff had with a resident of Hegira. When we were moving we had several desks that we had received from one of the physicians in Roanoke and I had several residents come over and clean the desks. They were all in the backroom by themselves doing this task and one of them came up in the front and found me and he said Estelle I found money in the desk and I want to give it to me. Actually, he was in that room all by himself and he found \$27.00 in the desk, no one would have know that it was there, certainly we did not, when I called the secretaries at the physician's office, they had not missed it. I think this is a perfect indication of what the program is about. Henry Altice has been running the program ever since I have been associate with Hegira and as the administrator of a program myself I have had the opportunity for many years to watch other administrators in action and I am here to tell you that I think we do have a tremendous I call him a hero in the Roanoke Valley because he is an outstanding manger of that program an outstanding administrator and director I don't really know what his title is. Hegira is a program that a lot of people in the Roanoke Valley don't know much about and its because there have not been a lot of problems, especially in the seventeen years I've been associated with them. I haven't heard any terrible stories that have occurred there since I have been associated with them, I think Henry's philosophy and Margo Kiely's philosophy is to quietly do their jobs. I get very tired of reading the newspaper and watching the news because the problems that we have in this nation and in our society are absolutely horrendous and I'm I don't know what the solutions are, but I think we are talking today about one of the solutions. i think we're talking about a program in Roanoke City and the Roanoke Valley that makes a lot of sense and it improves the quality of life in the roanoke Valley, in fact I think that the Hegira program is absolutely saving lives. Yes, it is going to be a hassle for them to move into a new neighborhood, its going to be a hassle for the people in that part of the city, I think any thing that makes a difference

in starting a solution to some of our problems is a hassle. It takes a great deal of courage on the part of every body. I'm going to finish by saying that I really hope that serious consideration will be given to Hegira House to uh Mental Hygiene Services, to the people who are trying to move this program forward. Thank you very much.

Mr. Roberts:

Estelle, I think some of the apprehension, a lot of the apprehension that these folks right here concerns the trustworthiness of these people, is there any thing else you could say to emphasize that?

Ms. Nichols:

Uh, I really wish that some of my staff members could have been here today because we view these people as an extension of the Bradley Free Clinic program and that really is saying a lot about another program. Uh, because of the seriousness of this program people who are placed at Hegira, first of all, as you've heard, are very seriously screened and hand picked and then once they get there they cannot mess up, they cannot really uh get away with a lot of things because they are immediately uh made to adhere to the rules of the program, and I really understand the way the program is run a lot because of my seventeen year association with Henry and with so many of the residents. Uh we have had residents go out with us with me and with one of our physicians to a drug store to take down, uh you know pharmacy shelves to bring them back in a pharmacy that was closed. I've been uh one night I was out with a whole group of them at the Holiday Inn when we were moving chairs and it was supposed to take a couple of hours, it ended up being four hours and I brought four of them back and we stopped at McDonald's and had dinner at about 11:30 at night, uh. I am a very cautious person, I wouldn't do something like that unless I had built up years of uh trust in these people and anyone that John Jamison would send me I would trust immediately and my staff would say that also.

Mr. Roberts:

Thank you.

Ms. Nichols:

Thank you.

Chairman:

Alright, thank you.

Mr. Arrington:

Good evening, my name is Gary Arrington, I'm presently a resident at Hegira House at 1301 Second Street. Uh, I've come to you today to express just basically just what she said about honesty. You know, right now, I'm nervous, real nervous and uh, mostly angry also, because as being uh, an addict in recovery, uh people shy away

from you, they don't give you the opportunity to revitalize yourself, to get back into the community, but still that's fine, I can own that and uh with Hegira I can deal with that later on, that's part of what we do there. Uh, as I go back to Hegira, uh part of what we do there is a structured program is that we get in touch with our feelings. We are basically trying to be honest as possible and being confrontative as possible with all behaviors that we have, whatever they may be. Uh on a daily schedule we are functioning at all times we participate with various interactions with each other, we share with each other the feelings that we go through, the let downs, disappointments that we may have in a given day. And we are also confronted on that to make sure that we are still trying to be honest with ourselves. Uh, but my concern today also is that the facility within itself is very limited. Uh, we all, we all combine in the whole unit to do things in the house and once we try to do that after we eat we try to wash our dishes, we're all bumping into each other. The plumbing thing is very very bad, uh when you flush the commodes you may have to flush it three or four times uh, when you try to wash the dishes you might have to wait a half hour to get a whole wash bowl full of water so uh, I say this today, uh I hope to the council, that I uh hope that you will consider these things that I've said and try to do the best that you can.

Mr. Roberts:

What do you feel like the difference is going to be in a big busy place like this and being out on thirteen acres do you feel like that's going to make any difference in what you're learning and ...

Mr. Arrington:

Yes, it will make a great difference. As congestion applies stress levels build up and with the modification of space, you don't have that much stress level there.

Mr. Rife:

I've got a couple of questions. Uh, Mr. Arrington you say that you are a removing addict, I assume that's from illegal drugs?

Mr. Arrington:

Right.

Mr. Rife:

And I guess I can assume that you understand the ins and outs of purchasing illegal drugs in Roanoke Virginia.

Mr. Arrington:

Oh yeah.

Mr. Rife:

Uh, I wasn't at the most previous meeting, I was at the first uh hearing we had, and it was expressed at that time, concern from the neighborhood that the location of this facility in their neighborhood would encourage drug sales, now can you as a person who knows how to buy drugs uh what about that?

Mr. Arrington:

It's no way possible.

Mr. Rife:

Now why is that.

Mr. Arrington:

For me, if I wanted to buy drugs, I could go to any neighborhood in this city and buy drugs, its not just one neighborhood that I could go to on Andrews Drive to buy drugs, its all over the city nationwide, from city to city.

Mr. Rife:

Would the uh, but but the location of you know twenty-five recovering addicts such as yourself, I mean is that going to lure or attract uh entrepreneurs in the drug business.

Mr. Arrington:

No way, believe it or not, uh coming from drug behavior like I have, you run from recovering addicts.

Mr. Rife:

Why is that because they'll turn you in?

Mr. Arrington:

Because their trying to do something with your life and and if you're not trying to do something with your life, you're not going to go around somebody that's trying to do something with their life.

Mr. Rife:

So someone selling drugs would be wasting their time at Hegira House.

Mr. Arrington:

Exactly right, exactly right.

Mr. Rife:

Okay thank you.

Chairman:

Thank you.



Ms. Hairston:

Uh my name is Carole Hairston, I'm currently a resident at 1301 Second Street and Hegira House Drug Treatment program. I've come here today to speak on behalf of myself and the rest of my peers at Hegira House. Uh, basically what you is talking about is being honest and trustworthy. Us as being recovering addicts, it's hard for anyone to really trust us and that's what we're trying to get back out into the community and do now. Uh, at Hegira House it teaches us a lot of responsibility a lot of things that we have to work within ourselves to prepare us to go back out into society. You know it's not easy there but all of us there are now recovering from drugs and we are trying to be accepted back out in the community and I feel like if we were to move to Andrews Road that it would be an asset to the community because we are people that are trying to do things with our lives. We are no longer trying to go back out on the street and do drugs and use drugs, you know for me six months ago, I was out in the streets doing drugs and getting high and stuff and now that I'm in treatment I'm getting ready to go to college in January, I have a relationship with my children and things are working out and we do do things in the community for people and basically what I'm hearing everyone in hear say is are we trustworthy or not and I feel like that yes we are.

Chairman:

Alright, thank you.

Mr. Rife:

I've got a question please. Uh, Ms. Hairston, I had a phone call a couple of days ago from a gentlemen who uh I'm a little reluctant to get into this, but he implied to me that he felt that there was some racial overtones to the location of this facility in this neighborhood, now I guess I'd like to ask you, uh you know what would be your response to that, what's the racial makeup of the uh people in the program with you, I mean is it reflective of the racial makeup of Roanoke City, is it more is it less?

Ms. Hairston:

Well the ratio seems to be going within our facility, we talk about them and we have groups surrounding racial issues.

Mr. Rife:

Are there a disproportionately high or low number of black people in the program compared to the general population?

Ms. Hairston:

Yes it is mostly black people there, you know but, I feel like as for myself speaking I feel like the color of your skin should not matter it's what's on the inside.

Chairman:

Yes. Ms. Kiely.

Ms. Kiely:

I'd like to just answer that question a little bit myself. Our admissions policy is not discriminatory we are a public program and people in the public sector tend to serve more people with low income and because of the class structure we also have a racial composition which would be different from the city as a whole, but our admissions is non-discriminatory.

Chairman:

Very good, alright.

Mr. Altice:

That's it.

Chairman:

Is that it?

Mr. Altice:

If there are any questions you may have of my or my people just...thank you sir.

Ms. Langhorne:

Mr. Norris, I'm Arelia Langhorne, I'm an attorney, my office is located at 2700 Langhorne Road in Lynchburg, Virginia, I'm going to give one of my business cards to your secretary so she can take this down.

Chairman:

Alright.

Ms. Langhorne:

I'm here today representing the neighbors who live 1919 Andrews Road who are in opposition to the application for a special exception and variance to the Roanoke Zoning Ordinance. I was contacted by Mr. L. H. Hamlar, who I'm sure all of you personally know is the proprietor of the Hamlar Curtis funeral home. He basically said that they were looking for a lawyer to represent them and had to go out of town because most of the attorneys who practice here felt that it would not be good for their business to represent a neighborhood that would be opposed to the Hegira House and that is "because the court's refer people to Hegira House as an alternative to incarceration". You've heard in the presentations here today that they are confined, technically they are getting credit for jail or penitentiary time when they serve in the Hegira House so any attorney practicing before the Courts here in Roanoke who wants to send one of their clients who is involved with drugs to this program would be hesitant to appear before you. Mrs. Banks has organized the neighborhood and raised the funds to hire me to be here today. They tell me that I am representing the neighborhoods that are known as Willington Hills, Rosemont, Stanford Hills, Tower Heights, Highland Manor, Heritage Acres, and Fairlane. Mr. Hamlar told me that he

built his home in 1969 and he refers to the totality of that community that I've called by various names as the Tower Heights Community. When I came to meet with the neighborhood he took me on a tour of Roanoke carrying me to 1301 Second Street and the surrounding area so that I could see where Hegira House is currently located and he took me to 1919 Andrews Road and uh, it is a very narrow drive Mr. Roberts, I doubt very seriously that two vehicles could accommodate passage there. Somebody would have to pull back up or pull down in order to get in and out of there and I have had a video prepared which I want you to view at the end of my presentation which shows the difference in the neighborhood where Hegira House is currently located and where they propose to be located. Before I begin a presentation which addresses the concerns that you have to in the decisions that you have to make in deciding whether or not to grant this special exception I have to make some procedural objections to this hearing even taking place because a record is being made here today. Procedurally, the notice that was mailed to the neighbors and is on the agenda today says that this is a re-hearing. Mr. Norris when he opened the meeting today said that this is a re-hearing, its going to be a completely new hearing, its been ordered by the Court. I have been to the courthouse and viewed the court's file and I have a copy of the Court's order remanding this matter to the Order, it basically is a Consent Order. I don't know if any of the members of the Zoning Board here are attorneys or not, but you have an Assistant City Attorney here advising you and he knows what a Consent Order is, it basically says that the City did not object to this matter coming back before the Board. Zoning is purely a statutory matter and even if people agree to things if it is not a lawful proceeding, if it is procedurally incorrect, even if you agree, it doesn't make it right. The thing that I think make this matter procedurally incorrect is it cannot be a re-hearing unless it is based on new evidence that could not have been produced at the hearings previously held on April the 9th and June the 4th. Nothing that has been presented in the ten speakers who have come before you that are for the exception being granted is new. I've read the transcripts of those three hearings, the April 9th, the June 4th and the July hearing, and there is nothing new that has been said before you. As far as the question of a procedural ambiguity in regards to the motion made at the June 4th hearing, the motion was to deny, the motion failed two-two, the chairman then asked his council, would you like to explain where we stand, I am reading from your official reading minutes and the number on them in the Court's file is 17-33 for page reference. Mr. Talevi, I'm not sure if that's the correct pronunciation of the name, stated neither the special exception nor the variance has been granted because neither the special exception nor the variance received three votes in favor of it. I've served on many public boards, in fact I've served as chairman of a significant board and whenever you have a negative motion, it's up to the discretion of the chair whether to call for an affirmative motion. If the negative motion fails on a tie vote, the chair specifically asks where do we stand, the chair was not requested to ask for an affirmative motion, the chair didn't ask for one and when it was announced that the exception nor the variance had been granted, no body objected and the meeting was adjourned. According to Roberts Rules of Order, if there is a Motion to Reconsider, if there is consideration of a Negative and/or

Affirmative Motion, if you want reconsideration of it, the Motion to Reconsider should be made prior to the meeting being adjourned and I have copies of pages from Roberts Rules of Order that specifically speak to that issue and when I finish my presentation I will present them to you as Exhibits so that they will be a part of the record in this matter. So the fact that, you know a hearing is taking place

Chairman:

Pardon me, ma'am may we ask you a question.

Mr. Copty:

I think that at a subsequent meeting we were requested to rehear it as a tribunal or whatever and we did not, we elected not to hear it and the Court has sent it back to us, we're not here at our own discretion to have a re-hearing and we didn't vote to have a re-hearing. We're here as I understand it, is this right, because the Court's issued uh uh a proclamation saying for us to see that again.

Mr. Rife:

The Board has made a procedural error isn't it and had in effect, not decided.

Mr. Copty:

Do you disagree with this, I mean did you read the second, the uh this, this

Ms. Langhorne:

The July

Mr. Copty:

This is our third time with this and it came before us again and we did not elect to rehear it and it is only back before us because as I understand it a court has sent this back, are you disagreeing with that?

Ms. Langhorne:

Uh, yes I am, Mr. Rife. Yes, the Court sent it back to you and in the Order it says that basically the City did not object. This Board was represented by the City Attorney and he did not object. He basically conceded that there were procedural ambiguities in your June 4 hearing, yes this matter came to you in July for a re-hearing and on that basis they were arguing that a law that had been amended effective July 1, the Virginia Fair Housing Act had been amended to include handicapped persons.

Mr. Copty:

But also they did say that you made a procedural error last time, I mean there was, there were two avenues, yeah

Ms. Langhorne:

That was the second, the second issue was that you had made a procedural error and by your decision not to rehear you basically said you did not make a procedural error. I think what you are saying to me is that the Court has made a determination that this body made a procedural error.

Mr. Rife:

Our decision to not re-hear it was based on uh, uh, the point that you made about new evidence being presented and we declined to get into this Fair Housing issue as new evidence and that was the basis for us not rehearing it. We didn't admit that we made a procedural error, I don't think.

Chairman:

No, but here's what the judge says, "it is accordingly ADJUDGED and ORDERED that this case be and the same hereby is remanded to the Board of Zoning Appeals for the City of Roanoke for a hearing by the Board and such further proceedings as may be determined", and you say that's not an Order?

Ms. Langhorne:

Mr. Norris it is a court order, yes it is a court order.

Chairman:

Well you argue with the Court, take it to the Judge then and not..

Ms. Langhorne:

That, you know, Mr. Norris, Mr. Norris, I understand your position, I hope you understand mine and I hope that each member of this Board will keep an open mind until I have completely my entire presentation.

Chairman:

Alright.

Ms. Langhorne:

I have to make these objections to the lawfulness of this hearing in order to have it in the record if this matter has to go back to court.

Chairman:

Alright.

Ms. Langhorne:

Alright, because it is, it is the paragraph before the paragraph that you read that said "if certain ambiguities exist and the city doesn't object", then, the Court adjudges, orders and decrees. And I know it's all legalese and whathaveyou and everybody would like to cut all the lawyer's heads off and throw them in the river but it's something that I have to get in the record.

Chairman:

Alright, continue.

Ms. Langhorne:

And I also want to say this Mr. Copty and its certainly nothing personal, if there had been a re-hearing in July you would not have been able to participate according to your own rules here

Mr. Rife:

That's correct and I did not participate in that vote.

Ms. Langhorne:

Right, because it had to be the people who had made the decision earlier and here, I know I'm just beating a dead horse but uh the issue is even this proceeding, I think there is some question as to whether it is a hearing or a re-hearing and if it is a re-hearing and the notice says a re-hearing and whathaveyou, whether or not you should participate in it, and it's you know nothing personal in that regard, but stated. Uh..

Mr. Rife:

Can I go home?

Ms. Langhorne:

Uh, I beg your pardon.

Chairman:

He wants to know if he can leave.

Mr. Wheaton:

He's being facetious.

Ms. Langhorne:

Oh, okay, uh but since the Chairman of this body has announced that this is a hearing and that it is going on full blown, although we make those, uh exceptions and we basically object to this hearing uh taking place. we would present the following in support of your of you denying the request for special exception and variance. First of all, the house at 1919 Andrews Road will not accommodate twenty-four people. At the April 9th, 1991, hearing on this matter Mr. Aluce got up and he told you that he planned to build two buildings, he told you that one of them would be a general purpose building 27-½ feet by 56 feet, uh would have a multi-purpose dining hall and be used for recreational uh things, people started asking questions and there never was a description of the size of the building that's going to house fourteen clients. But what he told you was they not only were going to occupy the house and they didn't tell you they were going to expand the house and there was nothing in the court's file to indicate any pictures or plans or whathaveyou in regards to what these buildings

were going to look like, I recall testimony that the would make it attractive and look nice and be compatible with the house itself, but if you ride down the streets of that neighborhood what you will see is single family dwellings and some of them may have garages and some of them may have some storage sheds but you don't see any 27½ feet by 56 feet buildings in addition to the house being on that property. I realize that its what some 13 acres of land and that this might not be aesthetically a problem, but that is not the issue that is before you the issue before you is whether or not it is compatible with the rest of the neighborhood and we are arguing to you that having two additional buildings on that property is not compatible with the rest of the neighborhood because the rest of the neighborhood are single family dwellings. People talk about compatibility and they got into the arguments about the emotions and whether they are trustworthy, whether they are trustworthy in a work environment versus being trustworthy in a home environment. But the issue when it comes to compatibility deals with the size, the bulk, the height, the shape, and this is what I'm telling you; if they are going to put two buildings on there they have something that is not compatible with the rest of the neighborhood because the rest of the neighborhood does not have it. Another thing that was uh presented uh was presented at the April 9th hearing and that was uh that uh this environment would be therapeutic and that uh you know people think that uh that they got demons or something that they are working with and that what they are really doing is uh treating and they are ministering and they are healing. We have sickness in our society of every nature and kind, we have treatment facilities, we have hospitals to tend to the sick, but do we put a hospital in a single family residential neighborhood. I looked through your zoning ordinance to see where you put your hospitals and I saw there was a permitted use in C-1, now there may be a specific one that includes hospitals as a general use but I saw it as a permitted use in C-1. They are operating on a small scale a hospital, do you put that in a residential neighborhood, is it compatible, is it reasonable to do so. By having these additional buildings on the property are they creating a campus type atmosphere? An atmosphere where people will be able to walk the lawn, engage in recreational activities out on the lawn, a campus type activity. Where do you have your colleges and universities in your zoning plan? You have them in general uses and in permitted uses in C-1, C-2 and C-3, all business districts. And yes this community has a school, it has an elementary school, the academy of math and science, but what would this do in terms of this community, would it be creating a small scale hospital in a residential neighborhood, would it be creating a college campus type atmosphere based on what has been described to you as to what they want to do there. The second point that I want to make is that it is a business. It is a business. It is not a residence, it is a group home, it has competition. Lewis-Gale, probably your community hospital, others are in the business of treating drug addiction. Others are in the business that Hegira House is in, what makes Hegira House different from those other places? Is it simply because the source of their clientele is from the poor which means we got an uphill battle if we go the court because they've got a self interest in this thing? Is it cheaper to house them in the Hegira House than it is in the Roanoke jail and the penitentiaries of the

commonwealth? This is a business. A business that they want to put in a single family residential neighborhood. It is not a residence, it is even different from those residential facilities that are established to teach independent living skills to the mentally ill who have formerly been institutionalized. Why is it different? Because in those residential facilities, those people stay there long term, they stay there long term. What has been the evidence before you as to the time of stay at the Hegira House? Six to nine months then move out into their independent living situation? This is going to be a "transient" [in quotes] residence. This is a transient population, are you going to put a dormitory in a single family residential neighborhood, is it reasonable to do that? The third thing that I want to point out is the what it appears to be just the tremendous conflict of interest by endorsements from a sitting judge who also happens to be on the drug task force for the area, all of the politics that have been involved in this matter and the economics which I previously mentioned. There was a lady in here earlier today who wanted to do something that required some type special exception of variance and I wasn't paying close attention but the bottom line was it was going to cost her more money to comply with the zoning ordinance and what did you say to her, no ma'am, we can't consider your economic situation. Hegira House has come before you and said to you they operate twenty-four now, they are comfortably operating twenty-four now, they could operate with eight but it would cost them more money, it would cost them more money. Are you to consider the economics of the programs or are you to consider the compatibility of letting this thing be at 1919 Andrews Road, letting them have more than eight which the city code has designated as the appropriate number for a group home to be considered a single family residence. The city code has basically told you what they think is compatible, they've stretched it from four to eight, four unrelated individuals that are not handicapped, eight if they are mentally ill or handicapped in some manner for a group home. They are asking you to triple it in a single family residential district. Mr. Roberts asked, "is that reasonable" to triple the capacity in a single family residential neighborhood. Mr. Altice in the April hearing according to the transcript told you that when they first moved on Second Street that it was largely residential and now, of course, your real familiar with this, I've only had two shots at the view, there are lots of advertising firms, art galleries, accountant offices, law offices, restaurants, medical care facilities in that neighborhood. Do you see seventeen years from now in the Andrews Road area it being art galleries, doctor and lawyer offices, accountant offices, restaurants, or do you consider that that Tower Heights neighborhood will continue to be a residential neighborhood. I submit to you that it will. It is not a changing neighborhood, it is a residential neighborhood and the land immediately adjoining 1919 Andrews Road where it looks like somebody was developing a neighborhood, put a few houses up, there are lots of vacant lots there, if you approve this exception do you ever think that another single family resident will be built on those empty lots? I doubt it gentlemen. I ask you to seriously consider it. I'm not familiar with what's been described as an industrial park, but because I was over in that neighborhood there must be some physical barriers between this 1919 Andrews Road and that uh property that's been described and recommended to you as



being part of an industrial tract because we went in and out of every nook and cranny and street over there and we didn't run into any industrial park, you must have to leave the neighborhood and come in to it from another direction in order to get to it. Finally, for my last point that I want to make and then I want to address some things that Ms. Grove said, a house is not a house unless there is someone living there making it a home. We've always valued our homes, we give them special constitutional protections, our home are our castles. Our homes are the places where we celebrate thanksgiving, they are the places where we sleep, where we eat, where we make memories, we don't treat our homes like hotels. We entertain our friends, our children play, they have their friends come over, this is where they study, this is where the learn and play their musical instruments. This is where our children learn the values and morals of our homes, this is where we come at the end of a day's work from the stress of the world of work.....(tape ended)...at night and my kids are hustling and bustling, this is where I'm rejuvenated, in my home. The people who have spoken to you today about Hegira being a good neighbor, we don't question that they've been a good neighbor in that environment. One gentlemen says that his business is there and he lives there, others there businesses are there, but they live elsewhere and there is a difference. The staff of Hegira House works there, they don't live there, it's not there home. The people who they treat don't live there, but for six to nine months, it is not there home. They have a home that they are going to, go back to, a home that they are going to make when they leave there. It is not a home, it is a place where they have gone to be healed. Zoning protects the orderly development of any community. Zoning exists for that purpose. If all that you were being asked to do is to evaluate whether or not Hegira House was a good, just thing, your job would be easy because they are doing a great work, a work that needs to be done, but that is not what your decision is all about. Your decision is whether or not to grant an exception in a RM-3 district, in a community where everything out there is single family. No duplexes, no multiple family dwellings, everything out there is single family. To allow this exception would have an adverse impact on that community, it would be an invasion of privacy and the property rights of the homeowners in that community and everybody gets scared when you say something about the people who live there or the race of the people who Hegira House has as clients. We can't be afraid to talk about race. When I went through that community with Mr. Hamlar that is just a very nice upper middle class black neighborhood. He built his home in the late 1960's, he's been in business for himself all his life. It's no, I mean there's no question about the fact that black people have been discriminated against in housing, in employment, since this nation's founding, it wasn't until 1964 that we got a Civil Rights Act. I'm young enough and old enough to remember the signs, young enough to have had the opportunities that integration has brought, but there is nothing wrong with saying that this is a middle class black community with saying that these home owners, like white homeowners, these homeowners have worked hard and long to establish their homes in this community. You had a gentlemen come and testify in one of these prior hearings who said he built his home fourteen months ago in that neighborhood. Building of single family neighborhood

homes is still going on in that neighborhood. If you grant this exception, do you think that that gentlemen would have built his home there? That is the single largest investment that most people make. Most people don't have the luxury of having stocks and bonds and that type of thing, everybody ought to have some type of savings, but there home is the single largest investment and so people wonder why this room is full, they wonder why people get up in arms, they wonder why people search for the emotional issues and argue those things to you. And then somebody says, let's go get us a lawyer so we not only arguing emotional issues but we are arguing those things which under the zoning ordinance you have to consider in order to make your decisions. Yes, this neighborhood is scared to death that you are going to take away their biggest investment, the enjoyment of it, by granting this exception. I understand that Ms. Grove indicated that she wanted to be the last person to speak on this matter and usually when a party has the burden of convincing you to do something they get a chance to have the last word so I want to speak to just a couple of things that she said. First of all she said that they were looking for a variance, not a special exception, but I guess that got corrected, she said she thought they could move over there and just house eight people without appearing before you but I guess that got corrected. She read to you the statute that talked about the four unrelated people and the eight handicapped or mentally ill and I'd like to say that Roanoke's ordinances are a lot more liberal than Lynchburg. Lynchburg considers three unrelated people a family and then of course eight is mandated by the state code which says that uh eight unrelated people and the staff will be considered a single family uh for a group home facilities for the mentally ill and it's interesting to note that the state code does two things that cause a legal question to be raised and that is in defining handicapped individuals it expressly excludes those who are addicted to illegal, illicit drugs. However, it then adds everybody that uh, all the group homes that are operated by the Mental Heath & Retardation Board and the Roanoke Mental Hygiene Services is licensed by that entity. Some of the presenters said that letters had been written by the licensing agency saying that they had inspected the current location and found it to be deteriorating and would jeopardize their license and I liked to know the date of that letter if it has been filed as an exhibit.

Secretary:

September 23, 1991.

Ms. Langhorne:

September 23, 1991 and the date of the application for this exception certainly precedes that because it preceded April and I'm sure I could find it here in my papers uh, 19th day of March, 1991. When you need something in order to support your position, usually you can get it and I just you know uh submit that to you. It's a beautiful place where they are currently located, I'm sure the residents of the neighborhood near 1919 Andrews Road regret the deterioration of the condition, but I submit to you that nothing has been presented to you that says that they have attempted to purchase that building. Mr. Altice told you that the owner was elderly

and somebody said he was going to die some day and then they'd have to deal with the daughter and that he wasn't willing to put a lot of money in there but have you had presented to you an offer that was rejected? No you haven't. When you asked the real estate agent and he says he looked all over Roanoke and he couldn't find anything, did he give you the address of a place that he took them to look at? Was he specific about the criteria that Hegira House had? No he wasn't. Size, amount of land, and whathaveyou. He did not specifically answer your questions. I submit to you that this is not the only location that they can continue to function at, I submit to you that they have not shown you all that they should have shown you for you to even consider this request because they haven't shown you that they tried to purchase the building where their at, this just happens to be a place that might be better for them to do the great work that they do. It's not on their faces that any exception should be granted and as far as making those findings of fact, I will ask you that in whatever decision you make and I certainly hope that it is going to be for those neighbors who are in opposition to this and I hope that you will deny the request to grant an exception and variance, but those findings of fact need to be made because if this matter has to be appealed, the record has to be sufficient upon which the Court can look to see that you'd made those findings of fact. Ms. Grove started going down them, I'm just going to go down them again. I got so many papers here it may take me a second to find it. Well.....Oh, here it is. I have uh dealt with the compatibility issue and what their going to do in regards to putting up an additional building, the second one was whether they were going to make a demand on public water sanitary and sewer services and we don't really have any evidence in that regard. The third is the generation of traffic. I think the concern about that driveway, the location, the narrowness of it and whathaveyou should be a uh consideration there. They have uh testified that they just have the staff cars coming and going. They talked about how great the current location is because it's on a bus route which will allow their people to get to and from employment and other things in the community and yet when asked about the question about how that was going to be accommodated on Andrews Road where there is no bus service you were told that a van was going to accommodate that. As far as the police and others coming there I don't think anybody's told you this but uh I know that persons who are uh confined to the Hegira House by the Courts usually are in custody and they usually are delivered there by the Sheriff's deputies in marked vehicles and they would be going through this neighborhood and I think that that is an important factor with regards to the view that the neighbors and children would see. And we don't have any comment in regards to the flood uh potential and uh the stuff about conformance with the setback and the yard and of parking and signage and screenage and whathaveyou. We have addressed that basically uh in dealing with the issue of compatibility and as far as it furthering the comprehensive plan we argue that it doesn't because that neighborhood is single family residence, building is still occurring there and that community is not in a changing mode and uh to conform with the plan that neighborhood ought to be kept single family. For the record, the petitions that were filed at the April and June hearings, we would ask that they be made a part of the record of these proceedings.

A substantial number of people had signed those petitions and we'd like it a part of the record that those people oppose the granting of this exception. Additionally, all those people who live near 1919 Andrews Road who are opposed to it, I would like you at this time to stand to indicate your opposition to this Board. Let the record reflect that about half of the council chambers stood in opposition.

Mr. Talevi:

Ma'am do you have any problem with having the proceedings and materials made parts of the record at previous hearings be considered part of the record at this hearing, do you have any problem with that?

Ms. Langhorne:

No, I don't and that is what I'm asking be done, I was identifying specific things, but the entire proceedings, I think its appropriate that they be a a part of it in order to have a full record in this matter. Uh, now I'd like to play the video. Basically we're going to be looking at two areas of Roanoke, uh, the first area, a little narration on it and this is the Hegira House at 1301 Second Street. That's directly in front of Hegira House. This is a swinging another view of the current location.

Mr. Rife:

This is a view looking North on Second Street at the Corner of Maple Avenue Southwest and Second Street Southwest.

Ms. Langhorne:

This is still that current neighborhood.

Mr. Rife:

Now at the Corner of Second Street Southwest and Highland Avenue Southwest looking in a southerly direction.

Ms. Langhorne:

Then it is clearly obvious the business nature (tape was inaudible).

Mr. Rife:

Now turning north on Third street.

Ms. Langhorne:

I am going to apologize to the Board for this being so long. Basically asked uh my video person to do the perimeter First, Second and Third Streets and uh two or three blocks on North and South of uh the location, and he did a little more thorough job than I wanted so it is right a little long winded on this end.

Mr. Rife:

Now proceeding South on Third Street.

Video is fast forwarded

Ms. Langhorne:

I just viewed this last night and it was quite a lot more than I wanted. I thought it was very important to have a visual view, however, of both of these communities.

Mr. Wheaton:

Very good. Very good.

Mr. Rife:

Could you hold it for just a second Mr. Coptly had to step out to make a phone call.

While we are waiting for him to return I would like to leave with your secretary a xerox from your city directory of the Andrews Road neighborhood, uh all the streets over there and what I'm calling the Tower Heights community showing the residences there and the single family nature of that community and a copy of your city directory showing uh First Street, Second Street, Third Street the neighborhood surrounding Hegira House and this directory of close quarters with what's going on and that clearly shows business. This exhibit that I mentioned earlier is a copy of Robert's Rules of Order in regards to uh motions to reconsider and seeing about the failure to object to procedural defect prior to the hearing of the meeting and then uh finally I have another exhibit, it is a police incident report....

Mr. Coptly:

My apologies.

Ms. Langhorne:

That's alright....that's the narrative drive Mr. Roberts, I told him not to trespass so he didn't go up in there. That's uh a single family resident immediately adjoining that property, that's Kennedy Park I believe on the other side of it. And then this is the subdivision where it looks like the developer went broke or something. And this is going down the street, that's the newest house built fourteen months ago the second adjoining property to 1919 Andrews.

Tape plays

Again Mr. Norris and members of this Board I apologize for the length of the video, but I just thought that was important and I didn't get a chance to view it until last night and realized how lengthy it was. The last exhibit uh that I would like to present to you is a police incident report. At the June 4 hearing when you denied the hearing on a negative motion vote of two two, following that incident it was reported to me in the neighborhood meeting that there was rapid firing of gunshots between houses on Syracuse around 1:00 in the morning on the 5th of June. I had a local attorney to go to the police department and try to find some police incident reports on this matter, we didn't find one for the 5th at 1:00 in the morning, but we found one for the 6th of

June at a little after 1:00 in the morning,uh and this is a report of an incident that occurred at the home of Lera Curtis at 1826 Syracuse Avenue, Northwest and also that a David Lewis who also lives in the 1800 Block of Syracuse Avenue, Northwest and it basically, doesn't report the gunshot firing, it reports knocking and banging on windows and doors and uh nothing really can be concluded from this with any degree of credibility. I simply submit it to you because the neighbors reported it to me and they weren't implying that someone was mad with the Board's decision or something and was trying to engage in property damage out there or harassing tactics, but the closeness of the incident to the negative decision caused them some concern and I don't I say I'm just submitting it because the neighbors asked and I'm not drawing, I'm not telling you that anything in regards to credibility ought to be given to it, I'm just reporting it to you. I don't want the Hegira House people to think you know somebody is accusing them of something like that you know because that is not what is being done. There was just some problems in the neighborhood close in proximity to the time of a negative decision here and uh you know I've told the neighbors to they've got to respond in a responsible manner as well, you know we can't have any breaches of the peace and whathaveyou, it's just that this does get to be a real emotional type thing. In conclusion, I'd just like to say that the people who would be adversely affected by the granting of this special exception and zoning variance who live in the Andrews Road neighborhood and they tell me that there are over 400 homes in that neighborhood, they would be adversely affected by a decision to grant and they are adamantly opposed to it and I think that's been clear by everything that has occurred to date and their presence here today and we'd ask your careful and deliberate consideration of this matter and we'd ask you to deny it. You have all the legal basis upon which to deny it to make the findings of fact necessary to support your decision to deny and there has got to be some place else in Roanoke there's got to be the possibility of acquiring the current site and fixing it up. They were going to spend \$400,000.00 on the Andrews Road property to acquire it and to build those two buildings. I would think that they would be able to purchase the site that they have and be able to renovate it within those dollar limits well and so a decision not to grant it is not a decision against the program, it is a decision not to permit an exception in a single family residential neighborhood and I thank you for your consideration and your patience with me.

Secretary:

Ms. Langhorne could you leave my pad?

Ms. Langhorne:

Your pad all the women lawyers take the pads, let me sign it.

Mr. Talevi:

Mr. Norris while we're between speakers here, there was some reference to an Order entered by Judge Willett earlier and I believe you read from the Order entered by him on October 23, 1991.

Chairman:

Whatever I received, yes.

Mr. Talevi:

Would you confirm that as being the date.

Chairman:

Let's see, the 23rd of October.

Mr. Talevi:

Okay, I think the language of the Order speaks for itself, I just wanted to make sure we were all talking about the same order.

Chairman:

From Judge Willett yes.

Ms. Banks:

I am Doris Banks and I live in the 1800 block of Syracuse Avenue, Northwest. First I'd like to say that we have no qualms with Hegira's program, we just don't think it fits at 1919 Andrews Road. There has been some confusion as to who we are, who oppose the location of Hegira Home on the Brown Estate in the midst of our residential subdivision. We are not the neighborhood partnership or the nosey neighbors as we have been dubbed by the news media. We are the affected ones. The 486 property owners and tax payers who live around the proposed site. It's time that we came to the point that the issue at hand is not the tall building or the number of acres, it is crime. Crime with a capital "C" from all over Southwest Virginia. We are not dealing with the Betty Ford Clinic, but a half-way house to house those who have committed crimes and don't want to go to jail. In the early morning hours of June the 5th after the Board denied the exception on June the 4th, we were given a test of what it would be like to have Hegira in our residential neighborhood. There was violence like I have never seen in all my days on earth around 1:00, 2:00, 3:00 a.m. in the morning, there was shooting, rapidfiring. Not from the street from an occasional passing automobile, not from Kennedy Park, not from the field, but on our lawns underneath our bedroom windows. Our backdoors were banged on and shook. Mind you, our lots are fenced. Low lighted front windows were knocked off while the police were busy all night long. There were three cruisers in the front of my house and seven officers running around with search lights. I was so terrified. While at Raleigh Court and there cat burglar couldn't have felt as violated as we were on that infamous morning so you can see how these people deal with adversity and how it would change the character of six tranquil and practically drug free residential subdivisions. The location of Hegira on the proposed site would restrict us to our homes. Seniors could no longer walk in Kennedy Park. Elementary school children could not walk to school unattended nor would it be safe for those students of middle and high school who miss the bus or stay after school activities to walk home alone.

The three beauty salons in the area would be out of business because of the doubtfulness of transients in the area. The premiums on our homeowners, automobile and possibly life insurance would skyrocket if available at all and citizens who would rather not would be forced to bear arms. To the current residents of Hegira, we are sorry that you are in trouble, but we hope you understand the city's have zoning ordinances to protect citizens, its citizens and the taxpayers. Also subdivisions don't just pop up. There is much money, energy and character invested in our area. We hope that you will turn your lives around in the proper zone, behave yourselves, become productive citizens. Having done this we more than welcome you to our area and we will try to see that there are some single family homes over there for you and your families. To the commissioners of Roanoke City, don't destroy our subdivision by voting for this exception. Thank you.

Mr. Prunty:

My name is Rev. Alfred Prunty and I am not a citizen of Roanoke, I'm a member of the Human Relations Task Force appointed by the mayor of the City of Roanoke and the City Manager. I have been contacted by people of the area of the Northwest concerning this venture. I'd like to begin by saying I appreciate the history of those who stood here and talked about Hegira House, but I want to let you know I know when it was sorry. I'm a retired employee of the Veteran's Administration Hospital and was a part of the drug rehabilitation program at the time that Hegira House was started. It has done good works, we did good work out there in the V.A., but the program has long since been cancelled. I don't think the citizens of Roanoke are against Hegira House, what they are against is the City of Roanoke dumping on Northwest Roanoke. And I want to say this, you talk about Andrews Road, many of you may have even driven in a car around there. Get in a police cruiser and drive around there at 10:00 at night and you'll really find out what's going on over there. That's a haven for drugs and prostitution and the citizens of Northwest Roanoke don't want anymore parts of that, they've had enough. Now about a year ago there was a big disturbance over there on 11th Street. People tried to make it a racial situation. We were as close to having a race riot in the city of Roanoke as I have ever known and I was born and raised right here. And as long as you continue to try to push things off on the people of Northwest Roanoke you're going to come closer and closer to it. What are you going to, put this in his back yard? Mr. Walter Wheaton there? Or maybe they want to put Hegira House right behind High Street Baptist Church. Those people have been their all their lives and have worked all their lives to try and have decent homes and housing. Hegira has been a nothing but a program for transients ever since its inception. You've got some people that work it, I'm not knocking their jobs, but I'm just telling you what the program is. And we found the same thing out there at the V.A. Medical Center. Most of the people that we treated out there in that drug program were going in and out, these people's lives are invested in that property over there and I think its awful to think that somebody would come up and talk about putting a Hegira House. If the man who owns the house tell him to go down the bank and tell the people to let the money go and black folks will buy it



and build over there, there'll be more homes. We need to start thinking in the City of Roanoke and I'm going to let the City Manager know this when I see him and I hope to see him this evening when I see him on behalf of these people. Don't try to force this on them, you ran us out of Northeast Roanoke, just dumped us, then when we come out from down there to try and get some decent homes and a place to live, now you want to turn around and dump on us again, what are you doing? You think about what you're doing, I hope I never see the ugliness that I saw, that incident there on 11th Street and I want to let you know something else, those people are concerned about the drugs going on over there in that neighborhood. Just get in a police cruiser and drive through there about 10:00 at night all through the upper Northwest, you'd be surprised at what you see. Cadillacs and Oldsmobiles, people who are driving those cars are not black, their over there to buy drugs. Think about what you're doing, these people want a decent place to live and protection. A man can't get rid of his property no other way than to sell it to the city of roanoke so they can put a police precinct over there. It's serious enough, we have a serious drug problem in this city. We just put a coke program over there in Lincoln Terrace you need about five others in every other area in the city. You try to stem the problems with drugs and crime that exist right here in this city. I ask you, no turn this down, don't impose this on these people. My name is on there. 5836 Pony Drive. On this pad. It's A.S. Prunty.

Chairman:

Preacher would you come back just a second? I'm not going to argue with you, but uh, no one said a word about it being in Southwest. We're not talking about something awful. All we've heard is good things for eighteen years in Southwest, I don't agree with you on putting something off on somebody else.

Mr. Prunty:

Mr. Norris let me explain it this way. And explain it from the standpoint from somebody that's familiar with rehabilitation. Now I'm not talking about just an average citizen or just on this issue. I've been in rehabilitation for about twenty-eight and 1/2 years. When we first started placing veterans out in the community they did fairly well for a while and then we began to see them throughout the community half dressed, not clothed, begging, the idea itself was an admirable idea, to place somebody out among the people who were ordering their people so that they could probably profit from that, it just didn't work out.

Chairman:

Your not talking about

Mr. Prunty:

The same is true with people that go through and from these rehabilitation houses. They are in, they are out and they don't go back into the community and make any much, make any contribution. No, these people are transients.

Chairman:

That was the veteran's program.

Mr. Prunty:

Yeah that part was but I'm talking about people who go through Hegira House. Their going to be here and gone. Their not going to make a contribution, their not going to become a taxpayer in the city of roanoke. These people are taxpayers, property owners.

Chairman:

What would you suggest be done with all these folks?

Mr. Prunty:

Listen, I can understand that they need some place to expand, but there is more area in the City of Roanoke then over there on Andrews Road. They can find other areas.

Mr. Copty:

So what do we do when the next neighborhood comes to us and and says to us this is part of all our problem in the City of Roanoke, but we don't want it in neighborhood, find some other place.

Mr. Prunty:

That answer is easy. Invite them to build a place right next door to where you live. Everybody has a general idea, the same idea, no body wants them. Why do you want to force them on the people of Northwest.

Mr. Copty:

Well other parts of the city have programs.

Mr. Prunty:

Yeah I know they have programs but what I'm saying is this. They can find property in this city to locate if they really want to move from where they are without imposing on 487 families in Northwest Roanoke and these are hard working people who worked and paid their taxes and everything, kept up their property, don't throw this thing on them.

Mr. Rife:

Pastor Prunty. You know I, I appreciate what you and Mrs. Banks are talking about here, I live in Raleigh Court and the Raleigh Court burglar got the house on either side of my house and uh my wife doesn't like me to go out of town on business if she's there alone and even with two children and a dog she's still concerned about that and I understand where you're coming from, what I can't understand is how twenty five rehabilitating drug, former drug users will contribute to crime and I guess, you know that's why I was asking, uh, Mr. Arrington about if this, in his opinion, I mean

he's a person that you know could tell me about how to buy drugs in Roanoke, I can't figure out how this would attract them, and I guess I'd like to hear your thoughts on that.

Mr. Prunty:

Let me give you an answer why would you want to seat twenty-five people who are going through rehabilitation in a cesspool of drugs and prostitution. Now you tell me that why would you want to do that. See everybody looks at that over there in the day time and it looks good, the weeds are cut down, but I say go over there when the action is, on Friday night in one of those police cruisers and you can see what's going on, not only on Andrews Road in Northwest, but in upper Northwest. This is actually what's taking place.

Chairman:

Your attorney is saying this is a beautiful place to live and your saying just the opposite.

Mr. Prunty:

What I'm saying is it is a beautiful place to live, you don't need anything else in there to interrupt what the people are trying to work with now. We have been working with the police department of the city of Roanoke to try and enhance all of this. To try to help them, through citizens reports and everything else, but why put something over there now to upset the apple cart.

Mr. Rife:

You know Mr. Prunty if you want donate money to the salvation army one of the best places I know is to go stand before a liquor store and I guess maybe I'd say that maybe a good reason to have this over here if this a drug place that it sets an example against it and it makes a stand against this activity.

Mr. Prunty:

Let me say this to you, I don't want you and this committee to sit here and make the mistake of thinking those people are dumb back there. They are not dumb. They have seen in times past just what happens when it happens when it comes to laws like this and they have seen how black citizens of Roanoke have been dumped on, yeah and, and I'm just telling you how it is.

Chairman:

Your familiar with the present location.

Mr. Prunty:

Yes.

Chairman:

Uh do you object to it being there? They've had no problem. All these people that live in that area and there are just as nice of homes there as in ....

Mr. Prunty:

They have had no problems because they have told you that they have had no problems. I don't know of a drug program anywhere even on a federal reservation or in any city that doesn't have problems don't believe that, no, no.

Chairman:

They swore to tell the truth. Alright.

Ms. Langhorne:

Let me just say here that by bringing things back to an emotional level rather than an objective level, I think it is going to impede decision making aspect of this body and this is a Board of Zoning Appeals. Zoning is purely statutory, the reasons why you uh grant an exception or not grant an exception, there are guidelines for doing that, I went over those guidelines, the very first one is compatiability with the neighborhood. I know that crime is always a human factor to be considered, however, when you deal with those six criteria, nothing in there has anything to do with crime, nothing in there deals with the wholesomeness of the community. What it deals with is the physical compatibility of the facility to be located in that particular neighborhood. The actual zoning itself deals with the uses in the neighborhood and deals with someone's decision of the compatibility of those uses within C1, C2, C3, the uh residential districts and the various categories and levels of the residential districts and the densities and the sizes of the lots and all of that and to get this back on focus I'd ask you to remember what I've said about the about what they want to do at 1919 Andrews Road, they want to add two additional buildings, they basically want to turn that single family residence into a campus type atmosphere with a dormitory on it, a multi-purpose room with people engaged in outside recreational activities with twenty-four or more participants in those activities. That's different than a couple of kids shooting hoops over their garage in their yard or neighborhood kids playing outside together and its all, you know, it's getting back to the basis of what you should be making your decision on, I'd ask you to consider that as well as the other criteria that goes down those six points. Mr. Copty did you have a question.

Mr. Copty:

Yes, as far as the physical capacity is concerned and as far as sitting on this panel, we are here considering a 13 acre piece of paper in the City of Roanoke and the City of Roanoke just doesn't have any 13 acre pieces of property or even 7 or 5 acre pieces that has a potential for this and so

Ms. Langhorne:

Uh huh but do they need 13 acres, do they need 13 acres?

Mr. Copty:

Well I guess we're here to consider a program that one of the protective measures or certainly one of the buffering measures between a neighborhood uh and this program certainly is accomplished by land, is it not? This piece is visually separated from the neighborhood as much as the commercial property on the back end and I agree with you, it is not a part of this community and I don't, you know, this piece of property is somewhat unique for we troubled people up here on this podium because as we have to deal with this, this uh this does have a controlled interest and it is visually separated and its uh uh uh from a physical plant, it's it's something that we don't find very often in an available nature so uh what we have to convince ourselves is that the community is not going to be put at a disadvantage from measures and uh I guess

Ms. Langhorne:

And...what I'm saying to you is that right now there is a single family residence on that thirteen acres, if someone wanted to develop that into additional family lots with just the homeplace and a surrounding acreage today versus what 13 acres was when that house was initially built, you know I haven't done any title work on this subdivision but I would judge to say that all of this was probably a part of some farm that went back and the main house and what have you and some acreage was preserved and it was a judgment then that 13 acres would be a comfortable amount to reserve for a home house type place with the subdivision surrounding it. What I am saying to you is that the very second lot adjoining this property, a man built a brand new home on their 14 months ago and so single family development is continuing in that neighborhood and it will not continue if you grant this exception and the property that you are talking about, that too can be developed into further single family housing and we need single family housing, we desperately need it and we need the kind of housing that uh where the developer went broke, that is a lower income housing than the majority of this neighborhood. The majority of this neighborhood is upper middle class, that housing on the bankrupt part I would gather to say, those houses probably \$30,000 houses, but for a first home for a family just starting out, at least it's a place to start.

Mr. Rife:

If this was a private exclusive high school and they wanted to locate a piece of property would

Ms. Langhorn:

I would be opposed to it and I think this neighborhood would be opposed to it.

Chairman:

Let me just say something as far as value goes. I have some personal friends that just bought on Walnut Avenue within 3-4 blocks of this and paid \$100,000.00 for the house they new Hegira was there, they spent about \$25,000 renovating. He's an

attorney and she works at the V.A., uh they saw no objection to the Hegira House and bought in Southwest.

Ms. Langhorne:

And that's a personal preference, but their home is in a C2 district isn't it?

Chairman:

No there's just over the line and hit that historical district just blocks from this.

Mr. Hamlar:

My name is L.H. Hamlar, my address is 1837 Grayson Avenue, Northwest. I don't have but a few words to say but answering most of the questions I think since we started this on this property to me there was only one thing we had in mind that was rather we should change the people, our neighbors and friends who bought their property, built their homes, they bought neighborhood residences, now we're coming up and in the midst of it we can't move, we don't want to move, we don't want to sell our homes, now their asking the zoning board to change it and we want to know as Ms. Langhorne has so eloquently stated, we are not asking for a change, we want it to stay like what we bought it for and we could stand here all night, we could have hearings forever, but I think the point that we are trying to make is according to the point why it was zoned like Mr. Rife asked about the place over in Southwest where it is now. I don't think that they would want to if that was resident, I don't think they would change it but the way the businesses are as the tape showed it's a different type of residence but we have residential homes, single family homes and seem to me that unless and we are not asking you to change what we bought, but we are asking you not to change it to something that we did not buy and I think this is what are neighbors and friends are here for this evening. I know many of my friends, I know people who work for the mental health services, many of us contribute to mental health, Hegira House and everything else that goes into making a city a good place to live. We are proud of our city, we bought homes here, we want to live here, but we don't think that just because somebody would come in and say I need thirteen acres of land and I am going to spend a quarter of a million dollars to buy the land when we like T.A.P. we like homes for the elderly, we like Headstart and we all contribute to that but I still don't see why we want to change. Now if we had bought it knowing that it was a place where you could come in and put places like the Hegira House or any other place we would have known, but we did not know and we thought the city would protect us and that's why we are here and we could argue these points forever, but I think the main thing is we are trying to protect what we bought years ago and we're getting older now, we don't want to move, we like our neighborhood as it is and we would ask you please do not change it.

Chairman:

Alright we are going to let you speak.

Ms. Grove:

I will be very very brief. First of all just to break this up a bit, I would like to have copies of your exhibits if I can for our files and I don't know whether I should get those from you, we do not have any of that. Uh, also, we agree with the suggestion to make all the previous hearings and all the transcripts a part of this record and we are fully in favor of that. Uh, it's hard for me to address a police report of gunshots when there is absolutely no correlation of proof between the neighborhood having anything to do with that and so I am not going to even attempt to address it. Uh, I think it is a shame that a segment of our society that thinks that once individuals have problems with either drugs or alcohol there is absolutely no hope for them to ever be a contributing factor. Hegira House is here to help in that respect and as far as making major changes in a neighborhood the zoning regulations uh the intent of the zoning regulations for these group care facilities are to permit the development of them in residential neighborhoods. That includes RS1, RS2, RS3 and RM1. Uh it is up to the Board of Zoning Appeals to ensure compatibility of these uses within the neighborhoods in which they are located and this is in black and white. Hegira House will do anything possible to be compatible with this neighborhood and to work within this system and I'd just like to leave you with that and thank you very much for your time and ask for your serious consideration in this matter.

Tape becomes inaudible (Board discussion)

Mr. Talevi:

Mr. Norris unless there is additional evidence that needs to be taken this Board should entertain a motion to grant the special exception. As I have told this Board in the past simply asking for the motion to grant the special exception does not mean that the moving person or the person that seconds that motion has to vote in favor of it, it would simply be getting the motion on the floor for consideration and then after if a special exception is granted then there would have to be a vote on the variance.

Chairman:

You can't take them both at the same time?

Mr. Talevi:

Well you could.

Chairman:

I don't see why we couldn't. Do I hear a motion.

Mr. Coptoy:

I'd like to make a motion to grant the special exception for the Hegira House and the use to be permitted on this property and for the variance and for twenty-four persons, uh, I understand what the neighbors are saying and I agree with what the neighbors are saying I think we need to hold our neighborhoods very sacred but as a part of our neighborhoods I honestly believe that treatment programs, programs for children with

problems programs for our problems as a city and as neighborhoods are going to need to be addressed and I am convinced by what has been said that the Hegira House will pose no adverse affects for this neighborhood and I think that is what would what I was listening for, how would this program uh affect this neighborhood? I'm convinced that all of our neighborhoods are going to have to have the programs in them to handle the problems of our society,

Mr. Rife:

I'd like to second the motion and make a couple of comments. First of all, we uh, it's been brought up to the Board as a basis for some appeal that previous decision of the Board may be in violation of Equal Housing Acts or something like that and I would just like to state that you know that I am not concerned about that in this regard, I'm concerned about it, but it has no bearing on my feelings on this. I'm looking at this strictly as a land use issue and the issue here isn't whether or not this location on Andrews Road is better or worse than some other that may or may not exist in Roanoke City, Roanoke County, Salem wherever, and the issue is not whether this is a better location than the current location. The issue before us is a land use issue of whether or not this property is suitable for the proposed use and needs to be looked at from a strict land use perspective and certainly it's zoned the same uh RS3 as \_\_\_\_\_ property but it is a unique property, 13 and some acres and you can stand in the driveway in front of that house and you can turn 360 degrees and you cannot see another house. You can drive all away around the perimeter of this property and the only place you can see into it from is Route 581, uh its very isolated. The majority of the properties around there are lot sizes of a quarter to a half acre and by virtue of their lot size are inherently very different from the property in question and and, uh, you know, I'm an architect and trained as an architect and if Hegira House had come to me and asked you know what would you look for, uh, you know what kind of things should we look for, acreage is it, I mean acreage, the buffering aspects, the topographical layout of this property is well suited to this use and uh that's what we have to find, we have to find that is the basis of giving the special exception that the adjoining properties are not negatively affected and I just haven't seen it and while I have seconded the issue I am going to not support it. That was a long winded second.

Chairman:

Alright a motion on the floor to grant the request are ya'll ready for a vote? All in favor signify by saying Ay. Alright would you poll the Board please?

Secretary:

Mr. Roberts.

Mr. Roberts:

No.

Secretary:



Mr. Rife

Mr. Rife:

No.

Secretary:

Mr. Norris

Mr. Norris:

Aye.

Secretary:

Mr. Wheaton

Mr. Wheaton:

No.

Secretary:

Mr. Copt

Mr. Copt:

Aye.

Mr. Rife:

Excuse me I thought the motion was, excuse me, may I change my vote?

Chairman:

He asked..

Mr. Rife:

I meant for my vote to be in favor of the motion..

Mr. Talevi:

Mr. Norris, so that there is no misunderstanding here, a vote in favor of the motion would be a vote to grant the special exception and to grant the variance as requested.

Mr. Rife:

That was my intent.

Mr. Talevi:

That was my understanding.

Chairman:

After that five minute speech.

Mr. Talevi:

Mr. Norris would you again call for a vote please.

Chairman:

Alright, let's we've given every body time, please be quiet.

Mr. Talevi:

Mr. Norris in light of Mr. Rife's seconding the motion to grant special exception and in light of his uh remarks would you please call for an oral vote first just as you ordinarily would.

Mr. Rife:

Can I have the motion restated to so I can end my confusion.

Mr. Copty:

My motion was made and I remake my motion to say that I make a motion in favor of granting the special exception of allowing twenty four persons to be uh included in this facility and also a motion uh that would allow for the special exception or special use of this property to be used for the Hegira House and for their purposes.

Chairman:

Alright now do I have a second motion.

Mr. Rife:

I second it again.

Chairman:

So we have a second to the motion. I'll say again, all in favor signify by saying Ay. Now will you poll the Board.

Secretary:

Mr. Roberts.

Mr. Roberts:

No.

Secretary:

Mr. Rife

Mr. Rife:

Aye.

Secretary:

Mr. Norris

Mr. Norris:  
Aye.

Secretary:  
Mr. Wheaton

Mr. Wheaton:  
No.

Secretary:  
Mr. Copty

Mr. Copty:  
Aye.

Ms. Langhorne:  
Mr. Chairman before the meeting is adjourned on behalf of the Neighborhood Association I want to note an objection in this record to uh the procedural matter that just occurred here in the taking of the vote and the changing of the vote after it was made and the re-voting on a motion as being contrary to Robert's Rules of Order. The motion had failed and the chair failed to expressly state that motion had failed and I note that for the record.

Chairman:  
Only if you will accept that he made an honest mistake will I admit it in the record.

THE MOTION:

A motion was made by Mr. Copty and seconded by Mr. Rife that the request be granted.

THE VOTE:

AYES: Messrs. Rife, Norris, Copty

NAYS: Messrs. Roberts, Wheaton

FINAL DISPOSITION OF APPEAL:

There being no further business in connection with this appeal, final disposition is hereby made of it.

L. Elwood Price Chairman

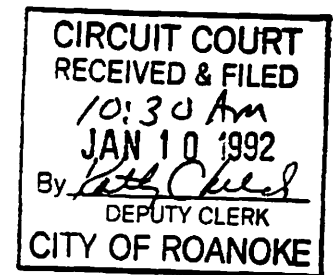
T. E. Roberts

Paul Copty

Richard A. Rife

W. L. Wheaton

Paul C. Jones Secretary



VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

GEORGE F. RILES, PHILLIP A. COOPER  
CAROL PATTERSON, GORDON BRAXTON, JR.,  
BUFORD C. MOTLEY, LAWRENCE HAMLAR,  
DORIS BANKS, ARNESHIA TODD, JAMES HALL,  
DOROTHY STEVENSON, LAVERNE PRUNTY,  
GLORIA THECKAPERA, ANNIE DEANE,  
H. C. SMALLWOOD, MARY PERDUE,  
HOWARD COOPER, WILLIAM POWELL,  
GEORGE MCGHEE, ARTHEA POLK, NORMAN JONES,  
ALFRED DOWE, MARY LOUISE WILLIAMS,  
JAMES DICKASON, HAZEL FINNEY,

*By leave of  
Court*

Petitioners,

v.

PETITION FOR WRIT  
OF CERTIORARI

BOARD OF ZONING APPEALS OF THE  
CITY OF ROANOKE,

Respondent.

To the Honorable Judges of the aforesaid Court:

Your petitioners are homeowners adjoining and surrounding the property commonly known as 1919 Andrews Road, Northwest, Roanoke, Virginia and for themselves and other homeowners similarly situated are aggrieved by the December 3, 1991 decision of the Board of Zoning Appeals which was filed in the said Board's office on December 12, 1991 and respectfully represent to the Court as follows:

COUNT I

1. That the action of the Board of Zoning Appeals of the City of Roanoke (hereinafter referred to as Board) on December 3, 1991 granting a special exception to permit a group home for substance abusers at 1919 Andrews Road Northwest and a variance allowing such use for twenty-four persons rather than the statutory, (Section 15.1-486.3 of the Code of Virginia, 1950, as amended, and Section 36.1-562(1) of the Code of the City of Roanoke) permitted use of eight was illegal.

2. Your petitioners have been jointly and severally aggrieved by the December 3, 1991 illegal action of the Board.

3. The advertisement for hearing and agenda of the Board characterized the matter before it as a "rehearing". See Exhibit A.

4. The Chairman of the Board, L. Elwood Norris, announced at the beginning of the public hearing that, "This will be a complete new hearing. This went through the Court and due to certain procedural ambiguities, the Court ordered that the Board of Zoning Appeals rehear this request....it is a new hearing ordered by the Court..."(Minutes of Meeting, December 3, 1991, page 1).

5. The Order entered by this Court October 23, 1991, states that counsel for the Board represented that if certain procedural ambiguities exist as to the proceedings before the Board of Zoning Appeals of the City of Roanoke, such ambiguities could be cured by a remand and hearing before the Board, and that it would not object to an order remanding the case.

6. On remand and hearing before the Board, the alleged procedural ambiguity, that no affirmative motion to grant the request was made and that the motion to deny the request failed on a two/two vote at the June 4, 1991 meeting, was not addressed; rather a "new" hearing was held.

7. On July 9, 1991, the Board of Zoning Appeals, on a motion to rehear the matter, voted two/two to deny a rehearing. The issue of whether or not the matter was still before the Board because a negative rather than an affirmative motion had been made was argued by The Roanoke Mental Hygiene Service Incorporated at the July 9, 1991 meeting. (Minutes of Meeting, July 9, 1991, page 25-2.

8. The alleged procedural ambiguity could have been cured on an affirmative motion to grant the relief with voting by the four members of the Board who participated in the original action of the Board on June 4, 1991. See Article IX REHEARINGS-Rules of Procedure of the Board of Zoning Appeals, Roanoke, Virginia.

9. Any action and or hearing beyond the action necessary to cure procedural ambiguities, if any did in fact exist, was illegal.

10. The Board of Zoning Appeals is a public body which must take action publicly. The Board can not agree to have a complete hearing without publicly taking action for such. Such action would require either a motion to rehear, duly passed by an affirmative vote of the majority of the Board members present at the June 4, 1991 hearing or a suspension of the rules of procedure passed by a unanimous vote of the Board. See Rules of Procedure of the Board of Zoning Appeals, Roanoke, Virginia, Article IX Rehearings and

Article XIV Amendments.

11. The Court Order of October 23, 1991 did not order the Board to have a complete new hearing but rather to correct any procedural ambiguities, if any existed.

12. Your petitioners allege that the hearing held on December 3, 1991 exceeded the scope of the remand of the Court's Order and exceeded the scope of action which the Board could properly take without an affirmative vote on a motion to rehear and or a suspension of the Board's rules.

13. Richard A. Rife was absent from the June 4, 1991 hearing and should not have participated in the correction of any procedural ambiguities from the June 4, 1991 meeting.

14. Your petitioners allege that the Court's Order of October 23, 1991 was used as an excuse and disguise to get around the split and tie on the Board of those members present and voting on the request for special exception and variance at the June 4, 1991 meeting. At the July 9, 1991 meeting where the request to rehear was defeated two/two, Counsel for the Roanoke Mental Hygiene Services, Incorporated argued that his client was "entitled" to the vote of the five members of the Board for something so important to the community (Minutes of the Meeting, July 9, 1991, page 25-7), and the Director of the Hegira House, Mr. Altice, stated, "And I wish I had needless to say asked for a five member vote." (Id., page 25-8) The Chairman of the Board was in favor of the request. (Id., page 25-7) When the motion to rehear was defeated, he responded to Mr. Roberts of the Board in reference to a new



hearing, "Or if the Court tells you to you would probably." (Id., page 25-16) The Chairman of the Board deliberately and intentionally used the Court's Order to have a completely new hearing with all five members of the Board participating to overturn a decision contrary to his own position on the request.

15. The December 3, 1991 action of the Board of Zoning Appeals denied the petitioners due process of law, violated the Zoning provisions of the Code of the City of Roanoke, the Constitution of the Commonwealth of Virginia, and the Constitution of the United States of America.

#### COUNT II

16. The petitioners reaffirm the allegations in paragraphs 1 thru 15, Count I of this petition and incorporate the same as if fully set out herein.

17. Section 36.1-88 of the Zoning Ordinance of the City of Roanoke provides that, "The RS-3 district is intended to provide for medium population densities and to promote and encourage the revitalization and preservation of single-family neighborhoods in the inner areas of the city...."

18. Petitioners allege that they are not aware of any residential drug treatment facility for up to twenty four persons that are currently located in any RS-3 Zoned residential single-family district in the City of Roanoke.

19. The home owners adjoining and surrounding the 1919 Andrews Road Northwest property are predominantly black.

20. This residential neighborhood is predominantly black

because of prior segregated housing patterns in the City of Roanoke, Virginia.

21. To permit a special exception and variance to allow a residential drug treatment facility for twenty-four persons addicted to illegal drugs without such a special exception and variance being granted in racially majority districts denies these minority citizens of Roanoke the equal protection of the Zoning Ordinance of the City of Roanoke and violates their rights under the laws of the City of Roanoke, the Constitution of the Commonwealth of Virginia, and the Fourteenth Amendment of the Constitution of the United States of America.

#### COUNT III

22. The petitioners reaffirm the allegations in paragraphs 1 thru 21 of Counts I and II of this petition and incorporate the same as if fully set out herein.

23. Petitioners allege that the special exception granted by the Board on December 3, 1991 failed to make the findings of fact required by Section 36.1-656(b) of the Code of the City of Roanoke.  
"In considering an application for special exception, the board of zoning appeals shall determine the appropriateness of the application based on the following standards:

(1) The use is compatible with the character and appearance of the surrounding neighborhood by virtue of its height, bulk, location on the lot, and the design and location of parking, signage, landscaping and other outside activities or structures.

(2) The use does not create a demand on public water or sanitary sewer services that exceeds the design capacity of these systems or that would in any way decrease the quality of service to the surrounding neighborhood.

(3) The use does not generate traffic on public streets that exceeds the design capacity of said streets and does not create a dangerous traffic problem by virtue of driveway location, sight clearance, driveway slope or other factor.

(4) The use does not increase the flood potential in the surrounding neighborhood.

(5) The use is in conformance with the setback, yard, frontage, lot area, parking, signage screening, shading and other applicable requirements of this chapter as they pertain to the district in which the use is located or to the specific use, whichever the case may be.

(6) The use furthers the intent of the comprehensive plans. "

24. The Board made no findings of fact in regards to the request for special use exception. No restrictions were made on the size, location and or appearance of the multipurpose building and dormitory the applicant stated would be constructed to accommodate running a twenty-four resident group home. The narrowness of the driveway was discussed, but no requirements were made as part of granting the special exception that the driveway be enlarged or that the sight clearance in and out of the driveway be improved to avoid a dangerous traffic situation.

25. Failure to make findings of fact to support the granting of a special exception violates the requirements of the zoning ordinance and Article VII (4) (g) of the Rules of Procedure of the Board, and denies these petitioners due process of law and the equal protection of the law.

#### COUNT IV

26. The petitioners reaffirm the allegations in paragraphs 1 thru 25 of Counts I, II, and III of this petition and incorporate

the same as if fully set out herein.

27. The petitioners allege that the Board of Zoning Appeals failed to consider the factors set forth in Section 36.1-655 of the Zoning Ordinance of the City of Roanoke with respect to variances. Section 36.1-655(b) provides, "No such variance shall be authorized by the Board unless it finds:

(1) That strict application of this chapter would produce undue hardship.

(2) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

(3) That the authorization of such variance would not be a substantial detriment to adjacent property, and that the character of the district will not be changed by the granting of the variance.

(4) That the condition and situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter."

28. None of the statutory factors set out in the aforesaid paragraph were addressed by the Board in its decision making process on December 3, 1991. In allowing a variance from the permitted use of eight to twenty-four persons allows three times the special exception permitted use and changes the character of the property of 1919 Andrews Road from a single family dwelling to an institution. The house currently located at 1919 Andrews Road will not accommodate twenty-four residents. The applicant proposed the building of a multipurpose dining and recreational facility and a dormitory for fourteen persons. (Minutes of Meeting, April 9, 1991, page 7-5.) The addition of these two buildings totally changes the character of 1919 Andrews Road and the adjoining and

surrounding single-family residences of the petitioners.

29. The use desired by the applicant exceeded the capacity of the single family residence currently existing on the property or any expansion of the house which would keep its appearance as that of a single family residence.

30. The Roanoke Mental Hygiene Service, Incorporated stated they wanted a variance from eight to twenty-four, because it was not economical to operate a facility for just eight people, and that the current program had twenty-four residents in one building. (Minutes of Meeting, December 3, 1991, page 3)

31. Section 15.1-427 of the Code of Virginia, 1950, as amended provides that this Chapter, Planning, Subdivision of Land and Zoning, is intended "...that residential areas be provided with healthy surrounding for family life." The petitioners allege that the location of an institution to treat twenty-four persons addicted to illegal drugs in a single-family residential community does not provide healthy surroundings for family life.

32. Failure to make findings of fact as required by the Zoning Ordinance, and the Board's own Rules of Procedure, failure to consider the impact of two additional buildings on the property, to adjoining and surrounding single-family residences, failure to consider the use of the facility as a drug treatment facility for twenty-four convicted felons addicted to illegal drugs on the family life of this single family residential district is contrary to law and violates the petitioners rights to due process of law, the equal protection of the law, their rights to the protection of

the zoning ordinance of the City of Roanoke, the Constitution of the Commonwealth of Virginia and the Constitution of the United States of America.

#### COUNT V

33. The petitioners reaffirm the allegations of paragraphs 1 thru 32 Counts I, II, III, and IV of this petition and incorporate the same as is fully set out herein.

34. At the December 3, 1991 meeting, a motion was made by Mr. Copty to grant the request for special exception and variance. The motion was seconded by Mr. Rife, who went on to state that he would not support the motion. (Minutes of meeting, December 3, 1991, page 46) When the Chairman called for the vote, it was three no's and two aye's. This vote was a roll call vote. (Id., pages 46 & 47) The Chairman refused to declare that the motion had failed. After the vote was concluded, the Assistant City Attorney told the Chair to, "again call for a vote" (Id., page 48) The motion to grant was made again by Mr. Copty, seconded by Mr. Rife, and a vote taken which came in three aye's and two no's. The petitioners objected to the Board remaking the motion and taking another vote on a motion identical to the motion that had failed as being done in violation of Robert's Rules of Order. The second motion and vote was illegal action by the Board.

35. No motion was made to reconsider the motion that had failed nor was there a motion to suspend the rules of procedures of the Board. Once a vote is cast and recorded it can not be undone without a motion to reconsider the action. See Roberts Rules of

Order

36. The action on the subsequent identical motion was illegal and violated the Rules of Procedure of the Board, the Zoning Ordinance of the City of Roanoke, the Constitution of the Commonwealth of Virginia and the Constitution of the United States of America.

WHEREFORE, the petitioners pray that proper process issue and be served on the respondent Board of Zoning Appeals, that the Court issue a writ of certiorari, removing this cause to the Circuit Court and superseding the action of the Board of Zoning Appeals of the City of Roanoke and on review and hearing reverse the decision of the Board of Zoning Appeals, and declare the action taken by the Board on December 3, 1991 as being illegal and contrary to law and a violation of the laws of the City of Roanoke, the Constitution of the Commonwealth of Virginia, and the Constitution of the United States of America.

*David G. Banks*

GEORGE F. RILES, PHILLIP A. COOPER  
CAROL PATTERSON, GORDON BRAXTON,  
JR., BUFORD C. MOTLEY, LAWRENCE  
HAMLAR, DORIS BANKS, ARNESHIA TODD,  
JAMES HALL, DOROTHY STEVENSON,  
LAVERNE PRUNTY, GLORIA THECKAPERA,  
ANNIE DEANE, H. C. SMALLWOOD, MARY  
PERDUE, HOWARD COOPER, WILLIAM  
POWELL, GEORGE MCGHEE, ARTHEA POLK,  
NORMAN JONES, ALFRED DOWE, MARY  
LOUISE WILLIAMS, JAMES DICKASON,  
HAZEL FINNEY

STATE OF VIRGINIA

to-wit:

COMMONWEALTH AT LARGE

Subscribed and sworn to before me this 10<sup>th</sup> day of January 1992, by Doris H. Banks, who states that he/she is duly authorized to sign these legal pleadings on behalf of all named petitioners.

My Commission expires: 5-31-95

SEAL

Andrew E. Meine  
NOTARY PUBLIC

ARELIA S. LANGHORNE, Esquire  
Attorney and Counsellor at Law  
2700 Langhorne Road  
P. O. Box 2453  
Lynchburg, Virginia 24501  
(804) 528-1560  
Counsel for Petitioners

C E R T I F I C A T E

This is to certify that a copy of the foregoing Petition for Writ of Certiorari was mailed, first class mail postage prepaid, this 10<sup>th</sup> day of January, 1992, to Wilburn C. Dibling, Jr., City Attorney and counsel for the Board of Zoning Appeals, 464 Municipal Building, Roanoke, Virginia 24011.

Arelia S. Langhorne  
Arelia S. Langhorne



BOARD OF ZONING APPEALS

AGENDA

December 3, 1991

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC HEARINGS

1. Request of Gene Lucas, 1005 35th Street N.W., for a variance from Section 36.1-111 (a), Zoning, minimum yard requirements, to provide a front yard set back of 13.7 ft. in lieu of the required 30 ft., to allow reconstruction of house.

2. Request of Lady Bird Apparel, Inc., 1255 Williamson Road, S.E., for a special exception as provided under Section 207 (8), Zoning, to allow light manufacturing with retail sales in a commercial district. (Richard R. Sayers)

3. Request of Nu T. Kong, 920 Stewart Avenue, S. E., for a variance from Section 36.1-130 (a), Zoning, minimum yard requirements, to provide front yard set back of 22.1 ft. in lieu of the required 30 ft., to allow a 4 ft. x 5 ft. roofed addition to side of house.

4. Request of Mr. & Mrs. Hugh A. Thornhill, 2715 Rosalind Avenue S. W., for a variance from Section 36.1-93 (a), minimum yard requirements, to provide front yard set back of 29.1 ft. in lieu of the required 30 ft., to permit rear porch enclosure.

5. Request of Dorman M. Miller, 10-24th Street S.W., for a variance from Section 36.1-93 (c), Zoning, minimum yard requirements, to provide a rear yard set back of 14 ft. in lieu of the required 25 ft., to permit construction of a 10 ft. 9 in. x 15 ft. addition to rear of house.

6. Request of John C. Campbell, 1506 Tazewell Avenue S. E., for a variance from Section 36.1-111 (b), Zoning, minimum yard requirements, to provide a side yard set back of 2.8 ft. in lieu of the required 4 ft. for an existing 18 ft. x 20 ft. addition. 205

7. Request of Fahed T. Twalbeh, 419-13th Street S.W., for a variance from Section 36.1-211 (b). Zoning.

10. Request of Robert E. Ford, 2443 Garden City Blvd. S.E., for a variance from Sections 36.1-594 (a) & 596, Zoning, nonconforming uses of buildings and structures, and change of nonconforming use to another use, to permit the resumption of operation of a carpet, tile, vinyl, wall paper, furniture and appliance store.

11. Request of Geneva Kincer, 4215 Appleton Avenue N. W., 4215 Appleton Avenue N. W., for a variance from Section 36.1-76 (a), Zoning, minimum yard requirements, to permit carport 20 ft. from front yard set back in lieu of the required 30 feet.

12. Request of Roanoke Valley Church of Christ/Christian, 3622 Hershberger Road N. W., for variances from Section 36.1-93 (a), Zoning, minimum yard requirements; to provide a front yard set back of 15 ft. in lieu of the required 30 ft., Section 36.1-407, Zoning, multiple structures on the same lot; and Section 36.1-433 (a), Zoning, surface treatment of off-street parking lots, and to provide for the construction of a new church building. (Rev. Roy B. Miller)

13. Request of Edward Walker, 701-12th Street S. W., for a special exception as provided under Section 36.1-127 (3), Zoning, to allow an art gallery.

14. Request of Karl A. Vandegriff, 2629 Wycliffe Avenue S. W., for a variance from Section 36.1-402 (b) (5), Zoning, additional yard requirements, to permit construction of an addition 8 ft. 8 in. from side property line in lieu of the required 15 feet.

15. Request of WVFT-TV, 2618 Colonial Avenue S. W., for a variance from Sections 36.1-211 (a) & 404 (a), Zoning, minimum yard requirements, and set back lines from major arterial highways, to permit satellite dish to remain 11 feet from the front property line in lieu of the required 25 feet. (Robb Gray)

16. Request of Stephen S. Kennedy, 3260 Allendale Street S. W., for a variance from Section 36.1-531 (d), Zoning, accessory uses and structures, to permit garage to be used for human habitation. (Mrs. Kennedy)

17. Request of Roanoke Mental Health Services, Inc., for a rehearing of a special exception, as provided under Section 36.1-90 (2), Zoning, to allow a group home for substance abusers at 1919 Andrews Road N. W. with a variance to permit 24 persons in lieu of the required 8. (Henry Altice)

A. S. LANGHORNE

DEC 16 1991

BOARD OF ZONING APPEALS  
MINUTES OF MEETING

Roanoke, Virginia  
December 3, 1991

APPEAL NO: 32-91-A  
APPLICANT: Roanoke Mental Hygiene Services, Inc.  
PREMISES: 1919 Andrews Road, Northwest  
PRESIDING: L. Elwood Norris, Chairman,

Chairman:

Alright is uh, we'll come back into session. Have we got all the microphones the way its supposed to be. How is everyone going to see this t.v. Mr. Talevi? Should they see it or how..

Mr. Talevi:

Well, Mr. Norris, the most important thing is that the Board sees it, maybe we can turn it at an angle or something so that the Board and at least some of the audience can see it, but again, the most important thing is that the Board see it for its consideration.

Chairman:

Alright, will anyone who's getting, who's t.v. is it? Who's going to operate this.

Uh the video is part of my presentation uh of my representation of the neighborhood who is opposed to the request for special

Chairman:

Well, if you would try and turn it a little sideways so as to the let them see it but as the city attorney says, we're the ones that have to see it so, I'm just trying to let everybody see everything. Uh, before we start....Just as a little preface to this hearing. This will be a complete new hearing. This went through the Court and due to certain procedural ambiguities, the Court ordered that the Board of Zoning Appeals rehear this request so I still will ask you not to be repetitive in any way if you can possibly help it or we'll just be here for hours. But, we want everyone to have time to be heard completely because it is a new hearing ordered by the Court. So, let's see, how many folks do you have to speak, three or four?

Ten

Chairman:

based and also the City Code and I think that what we are talking about is that it takes three votes to kill the request that uh we maintain is still before you. Now uh if we go to a rehearing then according to your rules its necessary to have some new evidence that couldn't have been presented before and in that regard I point out that we are raising this parliamentary point, but we are also raising the point that as of July 1, 1991, there went into effect in Virginia a Fair Housing Law an oddly enough that Fair Housing Law applies to the people that Roanoke Mental Hygiene Services, Incorporated ministers to. The Fair Housing in the beginning of course was a federal program and then we came along with a state program and what they were talking about in the beginning was discrimination on account of race, color, national origin, sex and so forth, but this new law that uh that uh went into effect July 1, 1991, covers what is defined as handicapped and that is something new in Virginia. They have defined handicapped uh to include uh millions with respect to a person a physical or mental impairment which substantially limits or one or more persons major life activities, a medical or psychological record of having such an impairment or being regarded as having such an impairment and then they go on and specifically provide that the term does not include current illegal use of or addiction to a controlled substance as defined in Virginia or federal law. In other words, they left out of the Fair Housing any drug addicts, but they did include the people who are being treated by Mental Health Services and the Mental Hygiene Services, Incorporated and I submit to you gentlemen that its a new ballgame. That whereas some years ago we were saying that you couldn't discriminate on account of race or national origins and things like that I think they have opened that up and I base that on the fact that there have been cases elsewhere in Virginia and in the United States that have attempted to protect these people that are in so-called halfway houses, you've heard that word used a lot. We are not dealing here with what you have been considering before non-violent offenders. Our people are non-violent offenders in a sense. But they are tied into drugs and alcohol and I think there's a very big difference between that type of person. We look to the City Code for the uh how you are to measure whether you grant a variance or not and the uh, City Code refers to compatibility and I think that concept was addressed at a previous hearing and in the City Code they say that the appropriateness of the application is to be considered on the following standards: the use is compatible with the character and appearance of the surrounding neighborhood by virtue of the type, bulk, location on the lot and the design and location of parking, signage landscaping and other outside activities or structures. Now this may be a lawyer's strict interpretation of the law, but I don't believe, I was not at the previous hearings, but I don't believe there was anything said about most of these things that are referred to in here and I don't know why there was such an opposition to what was endorsed by Judge Trompeter and the Roanoke Task Force on Drugs and so forth. This is considered, the work that our people are doing is considered to be a part of the war against drugs. But it does not put in jeopardy any neighbors and it hasn't put in jeopardy any neighbors in the area where they have operated and I submit to you that whereas at one time you might have been looking at the neighborhood and saying these people don't like people who have had alcohol problems or drug problems, but we can no longer uh, discriminate against them on housing. Now that's a little far fetched according to the city attorney here, but its not far fetched, its not gonna be far fetched, and I uh, think that's something that

3. The applicant may appear in person or by agent or by attorney. In the absence of any personal appearance on behalf of the applicant, the Board may proceed to dispose of the matter on the agenda before it.
4. At a hearing of each appeal and application the order shall be as follows:
  - a. Applicant's presentation of request.
  - b. Evidence of property owners in favor of request.
  - c. Evidence of property owners opposing request.
  - d. Examination of witnesses.
  - e. Applicant's rebuttal.
  - f. Decision of Board.
  - g. Entering of decision on records of Board together with the reasons on which the decision was based.

#### ARTICLE VIII. FINAL DISPOSITION OF APPEAL.

1. The final disposition of any appeal or application before the Board shall be made within a reasonable length of time after the conclusion of the public hearing.
2. The decision of the Board shall be in the form of an order or a resolution which shall affirm, modify or reverse the refusal of a permit by, or any order or decision of, the Zoning Administrator. In case of an application for variation or modification, the resolution shall set forth that the application is denied or that it is granted with or without conditions, and said resolution shall specifically set forth what variations or modifications are permitted and what conditions, if any, shall be complied with.
3. A copy of said order or resolution shall be sent to the applicant and to the Zoning Administrator and a copy filed with the record of the appeal or application. Other copies may be sent to interested parties at the Secretary's discretion.
4. The Secretary may notify the applicant verbally of the Board's decision pending completion of the records of each case.
5. Any applicant may withdraw his appeal or application at any time prior to the call to order for the public hearing by the Board. Any request for withdrawal after the meeting has been called to order shall be granted only upon consent of the Board.

#### ARTICLE IX. REHEARINGS.

1. No rehearing of an appeal or application on which the Board has previously rendered a decision shall be held, except on motion made by a member of the Board to reconsider the previous decision, made not later than the first meeting succeeding the meeting at which the decision was rendered and carried by not less than a majority affirmative vote of the Board members present at the original hearing.
2. No motion for a rehearing shall be considered by the Board unless new evidence is submitted which, in the opinion of the Board, could not have been reasonably presented at the meeting at which the original hearing was held.

3. If a rehearing is granted, the case shall be put on the agenda for a rehearing, and the same procedure shall be followed as for a new appeal or application.

ARTICLE X. APPEALS FROM THE BOARD'S DECISION.

- 1.. Appeals from the Board's decision shall be made in accordance with the provisions of the Zoning Ordinance.

ARTICLE XI. RECOMMENDATIONS.

1. The Board may submit a recommendation for a change in the Zoning Ordinance whenever it has reason to believe that any provisions of the Ordinance are not in harmony with the public good. Such recommendation may be submitted either to Roanoke City Council or the City Planning Commission.

ARTICLE XII. RECONSIDERATION OF APPEALS PREVIOUSLY HEARD.

1. Having once considered and rendered a decision upon a request, the Board shall not reconsider substantially the same request for one year, except as provided in Article IX, REHEARINGS.

ARTICLE XIII. ADVICE.

1. No informal requests of applicants for advice or moot questions will be considered by the Board.
2. If legal advice is deemed necessary, the Board may ask the City Attorney for an opinion.

ARTICLE XIV. AMENDMENTS.

1. These rules, insofar as they do not conflict with the latest official copy of the Zoning Ordinance, may be amended or modified by a majority vote of the whole Board, provided that such amendment be presented in writing at a regular meeting and action taken thereon at a subsequent regular meeting.
2. The suspension of any rule of procedure may be ordered at any meeting by a unanimous vote of the Board members present.

Approved by the Board of Zoning Appeals,  
September 2, 1969.

ARTICLE XV. PARLIAMENTARY AUTHORITY - AMENDMENT

1. The rules contained in Roberts Rules of Order newly revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with the standing rules of the Board.

Mr. Talevi:

Mr. Norris, I believe that at the last hearing the applicant had the burden to garner three votes in favor of his application. There was not three votes in favor of that application.

Chairman:

We never voted that way though, the question was to not grant it. It was to not grant the application.

Mr. Talevi:

That's correct, to deny the application.

Chairman:

Yes, to deny it. I need my own attorney I think.

Monotone discussion

Chairman:

Somebody use to correct me I think at times, was that you who said when I said a tie vote is noted, did you correct me that that wasn't right?

Mr. Talevi:

I don't recall if it was a tie vote or not and frankly, I don't recall correcting you Mr. Norris.

Chairman:

It must have been another attorney then. You haven't been here too long have you? Somebody corrected me, I guess... Alright.

Mr. Dodson:

If it please the chairman, our feeling is that we ought to be entitled to the vote of the five members of the Board. I mean I think that's the fair thing to do on something this important to the community.

Chairman:

I don't think there's anything that says, they could have asked for a continuation until five members were present and we could have decided whether or not to do that, but just to say that's not fair, I think we could have three members and have decided for it and it would have been just as legal. Um, I voted against the motion so I'm for it if that means anything, but you still need to prove to the Board that you have, that we were in error and of course, you can always go to Court to do that. Or, if you do have information that was not presented.

Mr. Talevi:

Mr. Dodson are there any other, I didn't mean to synthesize your argument to succinctly or to concisely, are there any other facts that you want to present at this time in support of a motion for a rehearing.

Mr. Dodson:

I'm not aware of any new facts that we can present unless Mr. Altice

Mr. Altice:

Well, one of the facts, that uh, two things I want to just mention. One again is that uh I left here disappointed needless to say about what happened and one of the things that bothered me most was that the motion was to deny and by your rules the motion was defeated and that's why I said to Mr. Dodson that I thought it was still no the table because the motion itself was denied, so that's a concern and I feel like it needs to be addressed. Uh, also, the fact that I think there are two issues that continue to happen there. One was the fact that there are no programs in Northwest Roanoke and the fact that the programs are continuing to be overloaded in other parts of the city and I think it's only fair that there is equal distribution and I don't think that was clearly stated at the last time when we were here. As well as there was an alliance stated between us and the Embassy Halfway house which we were not a part of and are not a part of and that was never I felt clearly stated. So that's the other two pieces for me. And I wish I had needless to say asked for a five member vote.

That would have had the three votes here regardless?

Mr. Dodson The only new information it occurs to me is that I was told that the question was asked and not answered as to why it was necessary to move out of the present location of Hegira House and the answer to that I have mentioned here before is that that place is in bad shape and Mr. Altice can testify to that and the uh, it's owned by someone that is uh not well, that would not put any money into it to remedy the things that have to be remedied and in addition to that the the uh people that are there are confined to those four walls and the alternative is this new location where they wouldn't be. Now that's that's I don't know that that information was brought before the hearing.

Chairman:  
It was

Mr. Altice:  
And the other thing if that is enforced we will lose our license eventually if we don't make these repairs so we're stuck in a \_\_\_\_\_ point to. We don't own the facility and we will eventually lose our license as a result of the plumbing and electrical...

Chairman:  
You'll lose your license as a result of what now

Mr. Altice:  
As a result of the plumbing and electrical work and the structural process and so forth and so that is an issue. And we have been looking for other sites since the last time and we really haven't had any luck. We've had some people offer us some property that was just vacant and no buildings on it and things of that nature, but we really haven't had any luck.

Chairman:  
Alright, uh,

Mr. Wheaton:

A Copy, Teste: Patti C. Hanes  
Patti C. Hanes, Secretary of  
Roanoke City Board of Zoning Appeals



*Expt of Minutes of Meeting July 9, 1991*  
*Board of Zoning Appeals*

*Petitions Exhibit C*

Mr Copty:

Do you want to poll the Board

Mr. Talevi:

Yeah, did you poll the Board

Secretary:

Mr. Roberts

Mr. Roberts:

Since I voted against the petition to begin with I think I would be inconsistent if I didn't vote the same way so I therefore, my is no

Secretary:

Mr. Wheaton

Mr. Wheaton:

No

Secretary:

Mr. Copty

Mr. Copty:

Yes

Secretary:

Mr. Norris

Mr. Norris:

Yes

Mr. Roberts:

I would not object to a new hearing if we could have some new evidence or something to base a change in my decision.

Chairman:

Or if the Court tells you to you would probably

Mr. Roberts:

That's true of course

Chairman:

Did you have fun, did you get anything down.

Are we going to get another editorial for this.

I think you ought to put Eldwood's picture on the paper for this.

Chairman:

Take a picture of the Board Joe. (inaudible) How about we start at the beginning, all in favor say Aye.

Your elected....

Apr. 19, 1991

possible treatment available to them. We have been seen in many areas as one of the finest programs in the state of Virginia and in the east coast and it has been a model program for programs throughout the state of Virginia. To be a program for this length of time says a lot for who we are and what we are about. We do not want to come in and devalue a community or cause problems in the community, but rather to be a supportive part of that community. What I would like to do now, before I address some other concerns, is to talk a little bit about the facility and the site plan itself. Oliver and Mike Smith you could come up with me.

(Someone in the audience) Mr. Chairman, could you please limit these talks? It seems like they have all the time and by the time you get to us it could be 6 or 7:00.

Chairman: It's always the person asking the request gets to explain the request first. We'll give you all the time that you need.

Mr. Altice: OK, Oliver.

Mr. Stein: I'm Oliver Stein, a retired architect and I was asked to work with Henry Altice on preparing a site plan. There is a 14 acre site as illustrated here and the very nice existing residence on that. I think some of you have been out to see that. And they propose to add two buildings. One a general purpose or multipurpose building which is 27 1/2 feet wide and 56 feet long and that's basically a multipurpose room, dining hall sort of a building. We've located it in this location. This is the old existing building and this is the old existing garage and the multipurpose building is to the right and 40 feet this direction we've located the dormitory building

Chairman: And the creek is to the right, there?

Mr. Stein: The creek is, this is Lick Rock. You drive in off Andrews Road some quarter of a mile I think it is...

Chairman: Well now Andrews is going to be up here and 581 is ...

Mr. Stein: 581 is right in this location, parallel to Lick Run and it's just off drawing. And, of course, Valley View Mall is up here. And you drive in going toward the city's property and then into this driveway and this existing residence has been back there since,

the new speakers today can talk about who we are in the community that we have been in the past. I think that a lot of people don't really understand our reputation and how we've been functioning in the community from someone who has actually lived beside us and dealt with us on an everyday basis and I think that will be enlightening to uh the Board. So, with that in mind, I will uh, conclude briefly my comments and let Margo Kiely give us some more information.

Chairman:

Alright, thank you Mr. Altice.

Mrs. Kiely:

Good afternoon, I'm Margo Kiely and I live at 2029 Maiden Lane, Southwest. I'm the Director of Substance Abuse Services Programs for Mental Health Services of the Roanoke Valley and today I'd like to address in particular, two issues with you. The first issue is what kind of hardship we would face if we could not continue to accommodate our twenty-four residents rather than the eight provided for and why we cannot remain in our current location. Both of these issues have come up before this Board of Zoning Appeals before and what I'd like to provide is a little more detail in the answers we were able to give you in the past. First, as to the issue of program size. Hegira is built on what we call the therapeutic community model. Any therapeutic community requires four basic components in order for it to operate and be successful. The first is intensive staff supervision. Second, peer pressure. Pressure from, positive peer pressure from one individual in the program, one group of individuals in the program to another. Third, a structure of increasing client responsibility so that as time goes on the responsibilities and duties of the clients increase in their intensity. And fourth, strict abstinence monitored by random testing. For the first three of the these factors I have mentioned, there is a critical community size. Intensive staff supervision by high quality, preferably certified addictions counselors is an expense which needs to be spread over a group in order for that expense to be a reasonable one. For example, if we were to have only eight residents, we would still need to provide twenty-four hour a day, seven days a week supervision. In order to do that and provide for any kind of staff illnesses or training or any kind of absences like that we would still need to have a minimum of five counselors and a coordinator on duty. If we did that, if we reduce to the level of eight residents, and reduce the staff to that level, we would increase our per client cost to \$15,739 per client based on last year's figures, last fiscal year's figures as opposed to our current cost of \$6,731. This is 2 1/2, almost 2 1/2 times our current expense per client. In addition, our current income from fees which now accounts for roughly 20 percent of that cost would be reduced to less than 7 percent of that cost. We could not bear this expense. This would be a grave and serious hardship which would result in the closing of this therapeutic community program. The second and third factors I mentioned, peer pressure and increasing client responsibilities have to do with the client population. In terms of developing positive peer pressure, clients acquire this from a wide variety of peers while in the program. A group of eight would not

Exec. of Minutes of Meeting December 3, 1991

Board of Zoning Appeals

Petitioners Exhibit J

problems programs for our problems as a city and as neighborhoods are going to need to be addressed and I am convinced by what has been said that the Hegira House will pose no adverse affects for this neighborhood and I think that is what would what I was listening for, how would this program uh affect this neighborhood? I'm convinced that all of our neighborhoods are going to have to have the programs in them to handle the problems of our society,

Mr. Rife:

I'd like to second the motion and make a couple of comments. First of all, we uh, it's been brought up to the Board as a basis for some appeal that previous decision of the Board may be in violation of Equal Housing Acts or something like that and I would just like to state that you know that I am not concerned about that in this regard, I'm concerned about it, but it has no bearing on my feelings on this. I'm looking at this strictly as a land use issue and the issue here isn't whether or not this location on Andrews Road is better or worse than some other that may or may not exist in Roanoke City, Roanoke County, Salem wherever, and the issue is not whether this is a better location than the current location. The issue before us is a land use issue of whether or not this property is suitable for the proposed use and needs to be looked at from a strict land use perspective and certainly it's zoned the same uh RS3 as \_\_\_\_\_ property but it is a unique property, 13 and some acres and you can stand in the driveway in front of that house and you can turn 360 degrees and you cannot see another house. You can drive all away around the perimeter of this property and the only place you can see into it from is Route 581, uh its very isolated. The majority of the properties around there are lot sizes of a quarter to a half acre and by virtue of their lot size are inherently very different from the property in question and and, uh, you know, I'm an architect and trained as an architect and if Hegira House had come to me and asked you know what would you look for, uh, you know what kind of things should we look for, acreage is it, I mean acreage, the buffering aspects, the topographical layout of this property is well suited to this use and uh that's what we have to find, we have to find that is the basis of giving the special exception that the adjoining properties are not negatively affected and I just haven't seen it and while I have seconded the issue I am going to not support it. That was a long winded second.

Chairman:

Alright a motion on the floor to grant the request are ya'll ready for a vote? All in favor signify by saying Ay. Alright would you poll the Board please?

Secretary:

Mr. Roberts.

Mr. Roberts:

No.

Secretary:

Mr. Rife

Mr. Rife:  
No.

Secretary:  
Mr. Norris

Mr. Norris:  
Aye.

Secretary:  
Mr. Wheaton

Mr. Wheaton:  
No.

Secretary:  
Mr. Coptv

Mr. Coptv:  
Aye.

Mr. Rife:  
Excuse me I thought the motion was, excuse me, may I change my vote?

Chairman:  
He asked..

Mr. Rife:  
I meant for my vote to be in favor of the motion..

Mr. Talevi:  
Mr. Norris, so that there is no misunderstanding here, a vote in favor of the motion would be a vote to grant the special exception and to grant the variance as requested.

Mr. Rife:  
That was my intent.

Mr. Talevi:  
That was my understanding.

Chairman:  
After that five minute speech.

Mr. Talevi:

Mr. Norris would you again call for a vote please.

Chairman:

Alright, let's we've given every body time, please be quiet.

Mr. Talevi:

Mr. Norris in light of Mr. Rife's seconding the motion to grant special exception and in light of his uh remarks would you please call for an oral vote first just as you ordinarily would.

Mr. Rife:

Can I have the motion restated to so I can end my confusion.

Mr. Coptv:

My motion was made and I remake my motion to say that I make a motion in favor of granting the special exception of allowing twenty four persons to be uh included in this facility and also a motion uh that would allow for the special exception or special use of this property to be used for the Hegira House and for their purposes.

Chairman:

Alright now do I have a second motion.

Mr. Rife:

I second it again.

Chairman:

So we have a second to the motion. I'll say again, all in favor signify by saying Ay. Now will you poll the Board.

Secretary:

Mr. Roberts.

Mr. Roberts:

No.

Secretary:

Mr. Rife

Mr. Rife:

Aye.

Secretary:

Mr. Norris

**PETITIONERS**

GEORGE F. RILES  
1925 Andrews Road  
Roanoke, Virginia 24017

PHILLIP COOPER  
1933 Andrews Road  
Roanoke, Virginia 24017

CAROL PATTERSON  
2025 Andrews Road  
Roanoke, Virginia 24017

GORDON BRAXTON, JR.  
2105 Andrews Road  
Roanoke, Virginia 24017

BUFORD C. MOTLEY  
2109 Andrews Road  
Roanoke, Virginia 24017

LAWRENCE HAMLAR  
1837 Grayson Street  
Roanoke, Virginia 24016

DORIS BANKS  
1823 Syracuse Avenue  
Roanoke, Virginia 24012

ARNESHIA TODD  
1801 Syracuse Avenue  
Roanoke, Virginia 24012

JAMES HALL  
1606 Syracuse Avenue  
Roanoke, Virginia 24012

DOROTHY STEVESON  
Florida Avenue  
Roanoke, Virginia

LAVERNE PRUNTY  
Florida Avenue  
Roanoke, Virginia

HAZEL FINNEY  
1507 Rugby Blvd.  
Roanoke, Virginia 24017

GLORIA THECKEPERA  
1719 Leon Street  
Roanoke, Virginia 24017

ANNIE DEANE  
2504 Springhill Drive  
Roanoke, Virginia 24017

H. C. SMALLWOOD  
2305 Sherman Drive  
Roanoke, Virginia 24017

MARY PERDUE  
2222 Sherman Drive  
Roanoke, Virginia 24017

HOWARD COOPER  
2302 Sherman Drive  
Roanoke, Virginia 24017

WILLIAM POWELL  
2212 Sherman Drive  
Roanoke, Virginia 24017

GEORGE MCGHEE  
2521 Lakeview Drive  
Roanoke, Virginia 24017

ALTHEA POLK  
2513 Lakeview Drive  
Roanoke, Virginia 24017

NORMAN JONES  
2512 Lakeview Drive  
Roanoke, Virginia 24017

ALFRED DOWE  
2711 Kirkland Avenue  
Roanoke, Virginia

MARY LOUISE WILLIAMS  
Kirkland Avenue  
Roanoke, Virginia

JAMES DICKASON  
Meadowview Drive  
Roanoke, Virginia



Board of Zoning Appeals

L. Elwood Norris, Chairman  
T. E. Roberts, Vice Chairman  
W. L. Wheaton  
Robert R. Coptý  
Richard A. Rife  
Patti C. Hanes, Secretary

ORDER OF THE BOARD OF ZONING APPEALS

APPEAL NO. 32-91-A

Applicant: Roanoke Mental Health Services,  
Inc.

Premises: 1919 Andrews Road N.W.

In accordance with the authority vested in the Board of Zoning Appeals, as provided under Sections 36.1-655 & 36.1-656, Zoning, City Code, to hear and decide appeals from the decision of the Zoning Administrator, a public hearing was conducted on Tuesday, December 3, 1991, in the Council Chamber, Municipal Building, on the following request:

The request of the applicant for a special exception as provided under Section 36.1-90 (2), Zoning, to allow a group home for substance abusers at 1919 Andrews Road N.W., with a variance to permit 24 persons in lieu of the permitted 8.

Facts and conditions involved in said application were investigated by the Board, inspections of the property in question having been made prior to the public hearing date.

Pursuant to a Decree entered under date of October 23, 1991, the Circuit Court remanded this matter to the Board of Zoning Appeals for a hearing.

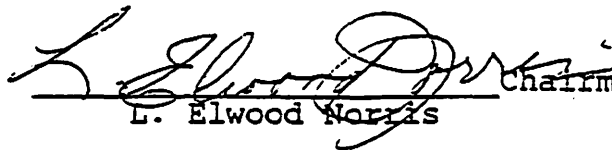
Upon consideration of the record, and evidence and testimony adduced to the hearing held on December 3, 1991, all interested persons and parties being given a full and fair opportunity to be heard. Motion to grant the request was made by Mr. Robert R. Coptý. Mr. Richard A. Rife seconded the motion. Whereupon a vote was taken, Messrs. Coptý, Rife and L. Elwood Norris voting in favor of said motion, and Messrs. W. L. Wheaton and T. E. Roberts voting against said motion. The vote being a three (3) votes in favor of the motion and two (2) votes against the motion.




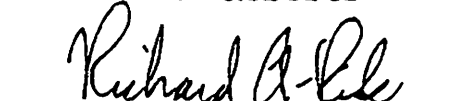
IT IS THEREFORE ORDERED that the request herein  
be granted.

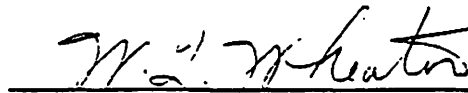
The Building Commissioner is hereby authorized to  
issue the proper permit for said certificate of occupancy  
in accordance with the decision of the Board, with the  
understanding that said certificate is null and void if not  
obtained within six months from the date of this Order.

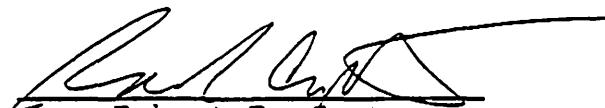
BY ORDER OF THE BOARD OF ZONING APPEALS, this the 3rd  
day of December, 1991.

  
Chairman  
L. Elwood Norris

  
T. E. Roberts

  
Richard A. Rife

  
W. L. Wheaton

  
Robert R. Copt

 Secretary

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

GEORGE F. RILES, et. al.,  
Petitioners,

v.

BOARD OF ZONING APPEALS FOR  
THE CITY OF ROANOKE,  
DOCKET #L91-1356,

AND

THE ROANOKE MENTAL HYGIENE  
SERVICE, INCORPORATED

v.

BOARD OF ZONING APPEALS FOR  
THE CITY OF ROANOKE,  
DOCKET #L91-659

ORDER OF MERGER  
AND CONSOLIDATION

This day came all parties in the subject cases by their counsel, on a Motion for Consolidation and Merger of the above-styled cases made by George F. Riles, et. al. and previously filed herein;

And it appearing to the Court that said motion should be granted and further;

1. That there are two cases on this Court's docket involving actions of the Board of Zoning Appeals for the City of Roanoke, to-wit: June 4, 1991, July 9, 1991 and December 3, 1991 in regards to an application by The Roanoke Mental Hygiene Service, Incorporated for a variance and special exception to the zoning ordinance of the City of Roanoke for

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the use of 1919 Andrews Road in the City of Roanoke, Virginia, as a residential drug treatment facility for twenty-four persons; and

2. That the parties now with an interest in the matters include George F. Riles, et. al.; The Roanoke Mental Hygiene Service, Incorporated and the Board of Zoning Appeals of the City of Roanoke; and

3. The parties do not object to the merger and consolidation of these cases; and

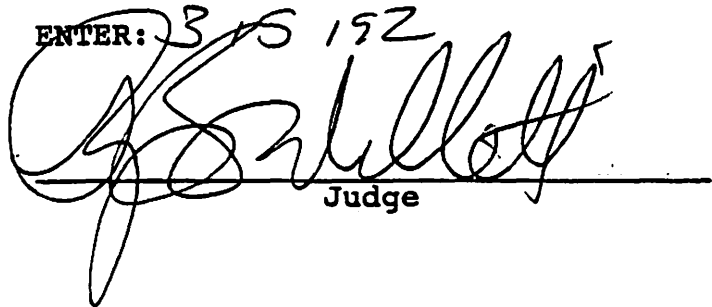
4. The Roanoke Mental Hygiene Service, Incorporated desires to accept service of process of the amended petition filed by Riles, et. al. and to file an answer thereto.

NOW THEREFORE, it is ORDERED that the matter styled George F. Riles, et. al. v. Board of Zoning Appeals for the City of Roanoke, (Docket #L91-1356) and the matter styled The Roanoke Mental Hygiene Service, Incorporated v. Board of Zoning Appeals for the City of Roanoke, (Docket #L91-659), be, and they hereby are, merged and consolidated under the style George F. Riles, et. al. v. Board of Zoning Appeals of the City of Roanoke and The Roanoke Mental Hygiene Service, Incorporated; and it is further

ORDERED that a copy of the amended petition of George F. Riles, et. al. be served upon the The Roanoke Mental Hygiene Service, Incorporated and they file their answer thereto within twenty-one days of service; and

The Clerk is directed to send a certified copy of this Order to all counsel of record;

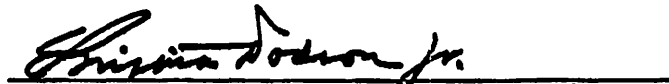
And this matter is continued for such other and further proceedings as may be necessary.

ENTER: 3 15 1972  
  
 Judge


I ASK FOR THIS:

  
 ARELIA S. LANGHORNE, Esquire,  
 Counsel for George F. Riles, et. al.

SEEN:

  
 E. GRIFFITH DODSON, JR., Esquire,  
 Of Counsel for The Roanoke Mental  
 Hygiene Service, Incorporated

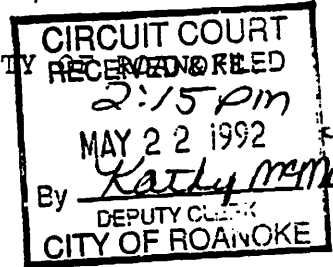
SEEN

  
 STEVEN J. TALEVI, Esquire,  
 Assistant City Attorney and Counsel  
 for the Board of Zoning Appeals for  
 the City of Roanoke

921157

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE



-----  
GEORGE F. RILES, ET AL., )  
Petitioners. )

-v- )

BOARD OF ZONING APPEALS FOR THE )  
CITY OF ROANOKE )  
and )  
THE ROANOKE MENTAL HYGIENE )  
SERVICE, INC., )  
Defendants. )  
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Case No:  
770CL91001356  
770CL91000659

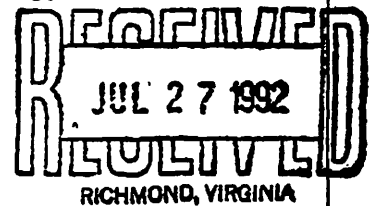
MOTIONS:

HONORABLE ROY B. WILLETT, JUDGE.

CLERK  
SUPREME COURT OF VIRGINIA

April 3, 1992

10:00 a.m. o'clock



APPEARANCES:

COUNSEL FOR THE PETITIONERS:

ARELIA S. LANGHORNE, ESQ.  
P. O. Box 2453  
Lynchburg, Virginia 24501

COUNSEL FOR THE DEFENDANT,  
BOARD OF ZONING APPEALS:

STEVEN J. TALEVI, ESQ.  
464 Municipal Building  
Roanoke, Virginia 24011

COUNSEL FOR THE DEFENDANT,  
ROANOKE MENTAL HYGIENE  
SERVICE, INC.

ANN C. GROVE, ESQ.  
Dodson, Pence, Viar,  
Woodrum & Mackey  
P. O. Box 1371  
Roanoke, Virginia 24007

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I N D E XWITNESS:E X A M I N A T I O N S:Direct:Redirect:Cross:Recross:

RONALD S. MILLER 15-Langhorne

PATTY B. HANES 19-Langhorne

DORIS BANKS 21-Langhorne

LAWRENCE HAMLER 26-Langhorne

1 THE CLERK: Docket Number CL9113,  
2 George F. Riles versus Board of Zoning, and  
3 Docket Number CL9165 which is Roanoke Mental  
4 Hygiene versus the Board of Zoning. Is the  
5 plaintiff ready?

6 MR. TALEVI: Ma'am, I believe the style  
7 of the case is actually Riles versus BZA and  
8 Mental Hygiene Service, and we are the defendant  
9 and we are ready.

10 THE COURT: That's correct. George F.  
11 Riles, et als, are petitioners.

12 MS. LANGHORNE: Your Honor, I represent  
13 the petitioners, and we are ready.

14 THE COURT: All right, do you wish to  
15 make any statements in opening for the  
16 petitioner?

17 MS. LANGHORNE: Yes, sir, Your Honor.

18 This is a very thick file. But this  
19 petition was filed by the petitioners because  
20 they were aggrieved by the December 3rd, 1991  
21 decision of the Board of Zoning Appeals to allow  
22 a special exception and variance to the Zoning  
23 Ordinance for Hygera House which is run by the  
24 Roanoke Mental Hygiene Service, Incorporated, to  
25 operate a residential drug treatment facility for

1 up to twenty-four residents. These residents  
2 primarily are convicted felons.

3 The petition was filed and numerous  
4 counts are in the petition. The petition was  
5 filed on December 31st, 1991. At the time that I  
6 sent the petition up here to be filed, I also  
7 sent a request for a leave of Court for the  
8 filing of the petition. I have researched this  
9 issue, and it does not appear that leave of Court  
10 is required to initiate a proceeding to complain  
11 about a decision by the Board of Zoning Appeals  
12 when the parties are aggrieved. In any event,  
13 that leave of Court Order was not entered, and  
14 I'm not quite sure to this day why it was not  
15 entered. But in any event, when it came to my  
16 attention that it had not been entered and that  
17 service of process was being denied on the  
18 petition that had been filed on December 31st, I  
19 did some quick one evening research and  
20 determined that in the case of Board of  
21 Supervisors versus the Board of Zoning-----

22 THE COURT: Let me interrupt you. Is  
23 that an issue before this Court?

24 MR. TALEVI: Your Honor, I think we can  
25 move on to the merits.



1 THE COURT: I think it's properly  
2 before the Court. All that is moot. The  
3 procedure for getting it here is stipulated to be  
4 acceptable and it's properly before the Court.

5 MS. LANGHORNE: Thank you, Your Honor.

6 THE COURT: Yes, ma'am.

7 MS. LANGHORNE: As far as the evidence  
8 that we feel is necessary for the Court to make a  
9 determination in regards to the petitioner's  
10 claim, the record is an extensive record.  
11 However, we would like the Court to hear evidence  
12 today from four witnesses that we have; Mrs.  
13 Patty Hanes who is the secretary of the Board of  
14 Zoning Appeals, Ronald Millner who is the  
15 administrator for the Board of Zoning, and Mrs.  
16 Banks who is one of the petitioners, and Mr.  
17 Hamler who is also a petitioner. And we feel  
18 that with this additional information and the  
19 record before the Court, that the Court will find  
20 that the Board of Zoning Appeals' action on  
21 December 3rd was contrary to law and the evidence  
22 before it and exceeded the scope of the order  
23 which this Court had entered in October of 1991  
24 in regards to the scope of what was remanded to  
25 the Board.

1 Thank you.

2 THE COURT: Thank you. Mr. Talevi?

3 MR. TALEVI: Your Honor, briefly, the  
4 City is satisfied with the record that is before  
5 the Court. It's a voluminous record. It's one  
6 which consists of no less than four hearings.  
7 And I think that with all the documents that have  
8 been put into the record, all the opportunities  
9 that the residents had, including the petition  
10 signed by many of the folks who live in the area  
11 of the subject property, I think there has been  
12 ample opportunity to put on evidence in support  
13 of their position.

14 I would object vehemently to any  
15 further testimony, any further issues raised at  
16 this level, especially including the testimony of  
17 the Zoning Administrator and his secretary who is  
18 nothing more than a custodian of records. Mrs.  
19 Banks has already testified in this matter, if  
20 memory serves me correct. Mr. Hamler's name I'm  
21 not familiar with. But again, he had the same  
22 opportunity that the numerous residents had to  
23 testify in this matter which is now pending  
24 before the Court. It's our position that there  
25 is ample evidence in the record to support BZA's

1 decision. The law is well settled that the  
2 decision should not be set aside unless it's  
3 plainly wrong. And I think there is sufficient  
4 evidence for the granting of the special  
5 exception and the variance in this case to  
6 support the Board's decision granting that  
7 special exception and variance.

8 THE COURT: Do you wish to respond to  
9 that, ma'am? You know, the Court is to review  
10 the record and why do you want, upon what basis  
11 do you wish to present new evidence?

12 MS. LANGHORNE: Your Honor, the  
13 proceeding under the Statute provides for a  
14 review of the record and any additional evidence  
15 in regards to basically facts that are not  
16 stipulated by the parties in the petition here.  
17 And I don't think that there is evidence before  
18 the Court in regards to basically three issues  
19 here that tie into our arguments that the Board's  
20 action was illegal. That evidence, what we would  
21 expect to get from Mrs. Hanes and Mr. Miller is  
22 basically what the Board has done in regards to  
23 other petitions for residential group homes of a  
24 capacity greater than eight. The Statute  
25 provides that eight unrelated persons in a group

1 home shall be considered a single family  
2 residence.

3 In this particular case, after the many  
4 proceedings that were before the Board and then  
5 before this Court, the variance was for twenty-  
6 four. We alleged in our petition that we were  
7 not aware of any zoning variances that had been  
8 granted in this city in any residentially zoned  
9 neighborhood for a group home with a capacity of  
10 twenty-four. And we would expect to be able to  
11 solicit that kind of information from the Zoning  
12 Administrator who's worked for the City a number  
13 of years and who is familiar with this  
14 information, and Mrs. Hanes, who is the custodian  
15 and record keeper of the Zoning Board.

16 Additionally, Mr. Hamler and Mrs. Banks  
17 did not go into the detail in regards to their  
18 neighborhood and how it came to be.

19 One of the allegations in this petition  
20 is that this is a predominantly black  
21 neighborhood, and that it is a predominantly  
22 black neighborhood because of prior segregated  
23 housing patterns in the City of Roanoke. And we  
24 don't feel that there is any evidence before the  
25 Court in regards to that. And -----

1 THE COURT: Shouldn't that have been  
2 presented to the Board if it's pertinent?

3 MS. LANGHORNE: Well, all I can say is  
4 that there was some limited testimony in that  
5 regard but it did not go into the detail that may  
6 be necessary for a finding that that was in fact  
7 the case.

8 THE COURT: As counsel knows, this is  
9 not a Trial De Novo. It's a review of  
10 administrative proceeding by the Board.

11 MS. LANGHORNE: I understand that, Your  
12 Honor. But there is a case that said that---  
13 There was a case where the parties agreed that  
14 the matter could be stipulated before the Court  
15 and could be decided on the record. It was a  
16 case involving a non conforming use. And once  
17 the zoning act was passed, any change in that non  
18 conforming use would have required a petition for  
19 a variance before the Board. It involved a sign.  
20 It involved the Days Inn Motel that changed and  
21 became a Quality Inn. And they stipulated to  
22 everything except whether or not a structural  
23 change had been made in the sign. Now, there was  
24 a dispute in regards to whether it was just  
25 information that was changed or whether there was

1 a structural change. And the Supreme Court of  
2 Virginia sent that case back for the Trial Court  
3 to take evidence in regards to whether or not in  
4 fact there was a structural change to that sign,  
5 such that evidence should have been taken at the  
6 Circuit Court level.

7 THE COURT: Do you have that case?

8 MS. LANGHORNE: I tell you, I read so  
9 many cases in regard to this, I pulled everything  
10 out that I felt that I would need for today. If  
11 the Court would give me a minute I probably could  
12 find the reference to it. It involved a change  
13 of information on a sign.

14 THE COURT: Are you familiar with the  
15 case, Mr. Talevi?

16 MR. TALEVI: No, sir, I'm not. But  
17 again, there is no stipulation in this case, and  
18 the residents were represented by an attorney  
19 before the BZA at least at the last of the four  
20 hearings held in this matter. Had there been a  
21 need for testimony-----I'm not conceding in any  
22 way that these issues and this testimony or  
23 contentions are relevant-----they had an  
24 opportunity to raise these issues and bring these  
25 facts before the Board and then before the Court.

1 I would like to point out to the Board  
2 that where this structure is being sought to be  
3 located is not within the City's power. This is  
4 something where Hygera House came to the City and  
5 said, We want to locate in this neighborhood.  
6 And the City processed the application. How,  
7 then, can the City, or how then can any evidence  
8 relating to the neighborhood or any of these  
9 protection arguments have any bearing on this  
10 case?

11 Furthermore, what the Board has done in  
12 other cases for residential group homes is  
13 completely irrelevant to what they've done in  
14 this case. Certainly again there were plenty of  
15 opportunities to develop those issues, again not  
16 conceding that they're relevant. And Mr. Miller  
17 is just the Zoning Administrator. He can't speak  
18 for the Board. The record speaks for the Board  
19 in these other cases. That testimony is totally  
20 irrelevant to the issues being raised.

21 And the same relevancy argument would  
22 apply to Mrs. Banks and Mr. Hamler, Your Honor.

23 MS. LANGHORNE: Your Honor, if we go  
24 directly to the Statute, 15.1-497, and you go to  
25 the fourth paragraph. It says----

1 THE COURT: Let me get that. I didn't  
2 bring that into the courtroom.

3 MS. LANGHORNE: All right.

4 THE COURT: He's right, though. I've  
5 reviewed the record. There is not a matter of  
6 stipulation in here. There is a complete record  
7 here.

8 You may go ahead.

9 MS. LANGHORNE: Okay. "If upon the  
10 hearing it shall appear to the Court that  
11 testimony is necessary for the proper disposition  
12 of the matter, it may take evidence or appoint a  
13 Commissioner to take such evidence as it may  
14 direct and report the same to the Court with his  
15 findings of fact and conclusions of law which  
16 shall constitute a part of the proceedings upon  
17 which the determination of the Court shall be  
18 made." And then it goes on.

19 THE COURT: Okay; give me that section  
20 again.

21 MS. LANGHORNE: Okay; it's 15.1-497,  
22 and it is the fourth paragraph.

23 THE COURT: I've read it but I didn't  
24 remember the number.

25 Okay. All of it is moot now. The



1 issue of the Writ of Certiorari in this issue is  
2 a matter of right to you, but it still has to be  
3 done and that's what counsel hadn't done earlier  
4 according to the case law and the statutes.

5 But I'm not at all sure that I  
6 understand the basis for my hearing those things  
7 which weren't presented to the Board. And that's  
8 basically what you're asking me to do, isn't it?

9 MS. LANGHORNE: I understand what  
10 you're saying, Your Honor; that if it wasn't  
11 presented to the Board, then they didn't have a  
12 chance to consider those issues.

13 THE COURT: As you well know, it's well  
14 settled that the actions of the Board are  
15 presumptively correctly. And there is basically  
16 a capricious or arbitrary standard that the Court  
17 looks at, plainly a wrong standard, in order to  
18 modify, reverse or impart in whole what the Board  
19 did. And I have read this record, and as you  
20 alluded to, have had earlier hearings on this.

21 I'm inclined to let the petitioners  
22 make a record, Mr. Talevi. I'm frankly inclined  
23 to think you're right. But let them proffer the  
24 testimony within the reasonable time bounds we  
25 have. I can envision situations where additional

1 evidence would be necessary if there were  
2 allegations of a certain type made. But with  
3 this record, I have trouble seeing the need for  
4 more evidence.

5 MR. TALEVI: Thank you, sir.

6 THE COURT: But the other side of that  
7 coin is that if either side should want to  
8 appeal, the Court will allow a proffer of the  
9 testimony and see if there is anything that I  
10 think can properly be considered under the  
11 Statute. You and your supporters, of course,  
12 must understand whether I agree or disagree with  
13 what the Board did, think it's right or wrong,  
14 has nothing to do with this.

15 MS. LANGHORNE: I understand that, Your  
16 Honor.

17 THE COURT: All right, who are the  
18 witnesses, again, that you want?

19 MS. LANGHORNE: It was Mrs. Patty  
20 Hanes, Ronald Miller, Mrs. Banks and Lawrence  
21 Hamler.

22 THE COURT: Will those persons stand,  
23 please? Would each of you raise your right hand  
24 and be sworn?  
25

1 (Whereupon, all witnesses were duly  
2 sworn:)

3  
4 THE COURT: Again, the Court is  
5 inclined to agree with the position of the City  
6 Attorney. That's the way I read the case law and  
7 the Statutes. But on the other hand I want you  
8 to make whatever record you think is appropriate  
9 again within the bounds of reasonable time and so  
10 forth.

11 Whom do you wish to call first?

12 MS. LANGHORNE: Mr. Miller.

13 THE COURT: That's not to say if  
14 objection or questions are asked for other  
15 reasons, that counsel can't object to them, of  
16 course.

17  
18  
19  
20 RONALD S. MILLER, having been duly  
21 sworn, testifies as follows:

22 DIRECT EXAMINATION

23 BY MS. LANGHORNE:

24 Q Will you state your name, please?

25 A I'm Ronald S. Miller.

1 Q And what is your occupation?

2 A I'm the Building Commissioner and  
3 Zoning Administrator for the City of Roanoke.

4 Q And how long have you served in that  
5 capacity?

6 A Almost nine years.

7 Q Mr. Miller, during your tenure, are you  
8 aware of any variances being granted for group homes in  
9 excess of the eight which the Statute provides as being  
10 considered a residential group home?

11 A I couldn't really say that we have or  
12 we haven't. I got my summons yesterday, and I have not  
13 researched any records to that effect. I'm sure we can  
14 find that out. I would be guessing if I answered.

15 Q Well, even more recently in the last  
16 year, have there been any approvals by the Board of Zoning  
17 Appeals for a variance in excess of the eight which the  
18 Statute allows for a single family residential zoned  
19 district?

20  
21 MR. TALEVI: Excuse me, Your Honor. I  
22 assume my objection as to relevancy still stands.

23 THE COURT: Yes, sir, I understand  
24 that. I think you've clarified that.

25 MR. TALEVI: Thank you.

THE COURT: Go ahead, if you will.

A I would have to look back through our records to really be sure of that. I would only be guessing one way or the other whether we had or whether we hadn't.

(Continuing by Ms. Langhorne:)

Q Are you aware of any group homes that have as many as twenty-four persons in a single family zoned district?

A Again, to answer the question honestly I'd have to look through our records. That information could be gotten, but I do not have that right now, and I don't want to be on record as guessing what we may have.

Q Mr. Miller, do you determine whether or not building permits will be issued in regards to the zoning aspect of building permits?

A That's correct, I make that decision.

Q All right, the Mental Hygiene Services indicated that they want to put two buildings on this residentially zoned property. Would the Board's approval of a special exception and variance allow you to issue them a building permit to put a dormitory and a multipurpose building on a piece of property zoned residential?

1 MR. TALEVI: I object to the form of  
2 the question, Your Honor. I think it contains  
3 terms like dormitory and multipurpose use  
4 buildings, terms which are undefined and vague.  
5 Furthermore they're calling for the witness to  
6 make a legal conclusion and to speculate.

7 THE COURT: I'm going to sustain the  
8 objection.

9  
10 (Continuing by Ms. Langhorne:)

11 Q Are building permits issued for  
12 anything other than residential buildings on residentially  
13 zoned property?

14 A No.

15 Q What would be required for someone to  
16 build something on a residentially zoned property other  
17 than a residence, what would they have to do?

18 A A rezoning.

19 Q A rezoning? Thank you, Mr. Miller,  
20 those are all my questions.

21  
22 THE COURT: Questions by the Board's  
23 attorney?

24 MR. TALEVI: No questions.

25 THE COURT: Thank you, sir.

(THE WITNESS STANDS ASIDE:)

THE COURT: All right, Ms. Langhorne.

MS. LANGHORNE: I call Mrs. Hanes.

PATTY B. HANES, having been duly sworn,  
testifies as follows:

DIRECT EXAMINATION

BY MS. LANGHORNE:

Q Would you state your name?

A My name is Patty B. Hanes.

Q And, Mrs. Hanes, what is your position  
with the Zoning Board?

A I'm Secretary to the Board of Zoning  
Appeals.

Q How long have you had that position?

A I was appointed to that position July  
1st, 1991.

Q Had you previously worked in that  
office?

A Yes.

Q What position did you hold?

A I assisted the previous secretary, Ruth

1 Armstrong.

2 Q And how long had you done that?

3 A Since March, I believe 1989.

4 Q During your tenure there from '89 to  
5 the present, are you aware of any variances in zoning that  
6 have been granted by the Board for group homes in excess of  
7 eight people in a residentially zoned district?

8 A I'm not aware of any.

9 Q As far as the procedure of the Board is  
10 concerned, is there a delay in time between the time the  
11 orders are entered and their decisions are made?

12 A Could you repeat that, please?

13 Q When the Board makes a decision,  
14 approximately how long does it take for orders to be  
15 entered reflecting their decisions?

16 A Entered into the file, is that what  
17 you're asking me?

18 Q Um-hum.

19 A I have an amount of time to prepare the  
20 paper work, and then I have the chairman sign it, and then  
21 I forward the original order to the applicant.

22 Q I mean, is there any written guideline  
23 on how long that should take?

24 A I'm really not sure.

25 Q Okay.



1                   A           I can verbally, you know, pass that  
2 information along to the applicant. I know that's in the  
3 procedures, but as far as the time limit goes, I'm really  
4 not sure.

5                   Q           Okay; thank you. Those are all my  
6 questions.

7  
8 MR. TALEVI: No questions.

9 THE COURT: Thank you, ma'am.

10  
11 (THE WITNESS STANDS ASIDE:)

12  
13 THE COURT: All right, Ms. Langhorne.

14 MS. LANGHORNE: I call Mrs. Banks.

15 THE COURT: Mrs. Banks?

16  
17  
18  
19 DORIS BANKS, having been duly sworn,  
20 testifies as follows:

21 DIRECT EXAMINATION

22 BY MS. LANGHORNE:

23 Q Mrs. Banks, will you state your name?

24 A My name is Doris Banks.

25 Q And where do you live, Mrs. Banks?

1 A 1823 Syracuse Avenue Northwest.

2 Q And how close is that to 1919 Andrews  
3 Road?

4 A About a block, one block.

5 Q How long have you lived there?

6 A I have lived there twenty-six and one  
7 half years.

8 Q Mrs. Banks, when you moved there what  
9 was that neighborhood like?

10 A You had farm animals and bushes and  
11 trees. There were no houses in the middle of Andrews Road.

12 Q Was housing segregated or integrated in  
13 Roanoke twenty-six and a half years ago when you moved to  
14 Syracuse Road?

15 A It was very definitely segregated.

16 Q In terms of the racial composition of  
17 that neighborhood today, what is it?

18 A It's a black neighborhood,  
19 predominantly black.

20 Q Are there any white families in that  
21 neighborhood?

22 A We're talking about six subdivisions  
23 that are adjoining this property.

24 Q Um-hum.

25 A I know of one white family in Fairlane

1 Lake and that's all.

2 Q And the current owner of 1919 Andrews  
3 Road, what is his race?

4 A 1919?

5 Q 1919, the property that's the subject  
6 of this petition?

7 A Oh, he's white.

8 Q Twenty-six and a half years ago when  
9 you moved on Syracuse Road, did you have much choice in  
10 regards to where it was you were going to live?

11 A No, that area was designated for us to  
12 live in, and we were glad to get it because we didn't have  
13 anywhere to build.

14 Q What was your occupation, Mrs. Banks?  
15 I know you're retired now but what was your occupation?

16 A I taught school for a number of years.

17 Q In terms of occupation of the people  
18 who live in this neighborhood, what are some of those  
19 occupations?

20 A Do you mean in my neighborhood?

21 Q Um-hum, in your neighborhood.

22 A Attorneys, teachers, business people,  
23 that type thing.

24 Q In terms of the economic status of the  
25 black race, how would you categorize your neighborhood;

1 low, middle or upper income in terms of black people in  
2 this community?

3 A I would characterize it as middle  
4 income.

5 Q Have there been any changes in your  
6 neighborhood since this application for special exception  
7 and variance has been filed?

8 A You mean changes with residents moving;  
9 is that what you mean?

10 Q Yeah, anything in regards to the  
11 character of the neighborhood.

12 A Oh, we did have a police chase the  
13 first Sunday in February, and, of course, they just went  
14 over their fences going from Syracuse Road, and this is  
15 what we're trying to avoid.

16 Q Has there been any impact on property  
17 values?

18  
19 MR. TALEVI: Your Honor, I object to  
20 the question. I don't think there has been a  
21 foundation laid for the question.

22 THE COURT: I would have trouble  
23 thinking she could answer that question, Ms.  
24 Langhorne.

25

1 Program and what a good program it is. But you  
2 can't grant a variance to an organization no  
3 matter how appealing that is unless you can prove  
4 that there is going to be a hardship. And they  
5 failed to present any evidence showing that that  
6 was going to be a hardship if they weren't  
7 allowed to have twenty-four people in that place.  
8 In fact, in addition to asking for the twenty-  
9 four people, they affirmatively stated to the  
10 Board that the residence that was on that  
11 facility would not accommodate twenty-four  
12 people. And their plans as stated before the  
13 Board was not to expand that residence so that it  
14 would continue to look like a single family  
15 residence, but rather they were going to build a  
16 couple of buildings. I don't see in this record  
17 here anything that shows the sketch of the  
18 buildings, and what have you.

19 But at the April 9th hearing there was  
20 a presentation, and evidently there was a sketch  
21 because the record indicates a dialogue in that  
22 regard; that they were going to build a  
23 multipurpose building and they were going to  
24 build a dormitory.

25 You've heard the Zoning Administrator

1 say that you can't build anything on property  
2 that's zoned residential without having the  
3 property rezoned. And these petitioners are  
4 questioning whether or not the intended motive  
5 here is basically to get your foot in the door  
6 and then try to proceed with having this property  
7 completely rezoned. If they're going to have it  
8 rezoned, then there is no need for special  
9 exception and variance. They can take care of it  
10 in the rezoning aspect of it.

11 But in addition to this case that came  
12 out of Roanoke, C&C Incorporated -v- Simple,  
13 there is another case. It's the Packer case,  
14 Packer -v- Hornsby. That's 221 Va. 117. And  
15 there the Court held that the Board of Zoning  
16 Appeals did not have the authority under the  
17 ordinance to grant a variance so that somebody  
18 could put their house in the ocean when there  
19 were setback lines defining how close to the  
20 ocean that you could get just for their  
21 convenience and their view and just because other  
22 people in the neighborhood had done so evidently  
23 without having to deal with the setback  
24 requirements. And in that case the Trial Court  
25 overturned the Board of Zoning Appeals, finding

1           that the Hornsbys, finding that the Packers had  
2           failed to show a hardship. They wanted to expand  
3           their property, they already had a lovely home,  
4           they could have expanded on the side rather than  
5           out to the ocean, and they had not demonstrated  
6           any hardship. And for the Board to grant them a  
7           variance just because there had been others who  
8           came in prior to the zoning ordinance going into  
9           effect, that that was wrong and that they had not  
10          gone through the four criteria by which the Board  
11          should consider whether or not a variance should  
12          be granted, and they had not shown any hardship.  
13          And the Supreme Court affirmed the decision of  
14          the Trial Court that basically the Board was  
15          plainly wrong in granting a variance when the  
16          applicant had not met the criteria of showing the  
17          hardship.

18                 We would argue that in addition to them  
19          not showing the hardship, that the Authorization  
20          Number 3 in your zoning ordinance, that the  
21          authorization of such variance will not be of  
22          substantial detriment to adjacent property and  
23          that the character of the district will not be  
24          changed by the granting of the variance; that  
25          that was not properly considered by the Board.

1                   We also would submit to the Court that  
2                   while there is an extensive record here, no  
3                   findings were stated by the Board when it made  
4                   its decision. And as a matter of procedure,  
5                   those findings need to either be stated when the  
6                   decision is made or each individual Board member  
7                   needs to say why it is they are voting the way  
8                   that they are voting so that there is some record  
9                   upon which a reviewing Court can determine what  
10                  they considered. And we would submit that that  
11                  was not done in this case. And that on close  
12                  review of the record in this case and the facts  
13                  in this case, we feel that the Court should find  
14                  that the Board was plainly wrong, that their  
15                  decision was arbitrary and capricious; that they  
16                  abused their discretion in granting this  
17                  variance; that they made no conditions,  
18                  restrictions ore regulations in regards to the  
19                  decision to grant it; that twenty-four is three  
20                  times what the Statute provides in regards to  
21                  group homes being considered a single family  
22                  residence within a single family residentially  
23                  zoned district.

24                   I think that covers the arguments that  
25                  we have. And the other arguments that we had are



1 clearly stated in our petition, and we ask the  
2 Court to consider the cases that we brought to  
3 the Court's attention in regards to the proper  
4 review of this matter. Thank you.

5 THE COURT: Thank you, ma'am.

6 Do you care to respond?

7 MR. TAVELI: Yes, sir. First of all,  
8 in respect to the scope of the order, I would  
9 like to say that as Your Honor knows well, back  
10 in October, 1991 this matter was remanded back to  
11 the Board. The basis for the Court's doing so  
12 and the scope of that order I think is set out in  
13 the language of the order, and there is no  
14 restriction as to what the Board can or should be  
15 considering upon rehearing the matter. I think  
16 the Board decided to permit additional evidence  
17 and to re-decide the issue. That was obviously  
18 an opportunity that the Neighborhood took full  
19 advantage of, because they put on some evidence  
20 at that last hearing.

21 THE COURT: Point me to that.

22 MR. TALEVI: To the order, sir?

23 THE COURT: No, the part of the record  
24 where the Board took up the issue of additional  
25 evidence.

1 MR. TALEVI: Page 49 is where the  
2 transcript is. And basically the Board simply  
3 decided to go ahead and permit additional  
4 evidence. There is also a stipulation in the  
5 record that this record of December 3, 1991 would  
6 also incorporate the previous three hearings and  
7 the testimony at those three hearings.  
8 Stipulation was made by counsel for the  
9 neighborhood organization. Again, the chairman  
10 simply opened up the meeting and proceeded ahead  
11 to take additional evidence, evidence which  
12 consisted in part as testimony from the  
13 Neighborhood. But, again, there was no  
14 restriction in the Court's Order as to the scope  
15 of the hearing or what the issue which needed to  
16 be decided had to be.

17 Now, with respect to the second part of  
18 counsel's argument with respect to whether there  
19 is sufficient evidence to support the Court's  
20 decision, I think the record is clear on pages  
21 thirteen to fourteen on the facts that support  
22 the Court's decision on the granting of the  
23 special exception. I think all of the elements  
24 or all of the factors to be considered were  
25 brought specifically to the attention of the

1 Board. And therefore, I don't think it can be  
2 argued that the Board did not consider those  
3 factors and the facts which support his decision  
4 on the granting of the special exception.

5 With respect to the variance, I think  
6 the record is replete with information and facts  
7 that support the finding of a hardship. I think  
8 if you look at 36.1-655, part of the first  
9 paragraph in that code section says, "Whereby  
10 reason of exceptional topographic conditions or  
11 other extraordinary situations or conditions of  
12 such piece of property, a variance should be  
13 granted by the Board." And that's exactly what  
14 we have in this case. We have a thirteen acre  
15 parcel located in the City of Roanoke. Now I'm  
16 no expert on the City of Roanoke, but I can't  
17 imagine there being another thirteen acre parcel  
18 that's privately owned. And there was certainly  
19 plenty of testimony that this is the ideal site  
20 for this kind of facility. But the man who owns  
21 the piece of property, Mr. Woolridge, or actually  
22 his agent testified, it had been on the market  
23 for at least a year without a single bit of  
24 interest shown in its sale. I would submit to the  
25 Court that if the use of this large mansion type

1 home on a thirteen acre tract were not permitted  
2 for something like a group home, I would submit  
3 that would be a confiscatory type of ruling by  
4 the Board of Zoning Appeals. Who else would buy  
5 a single family residence on a thirteen acre  
6 tract? Once you consider who could buy it, who  
7 could afford it; and then further narrow down  
8 that field to who would even need thirteen acres,  
9 I think that if the Board had denied the variance  
10 to expand the use from eight to twenty-four,  
11 there may have been a taking argument being made  
12 there. And that's outside the scope of this  
13 hearing, but my point is, Your Honor, the  
14 hardship here is that there is really no other  
15 use by virtue of it being a thirteen acre tract  
16 with a single family residence on it that it  
17 could be used for.

18 Your Honor, there is also in the brief  
19 a reference to the vote taken at the December,  
20 1991 hearing. And I would like to make it clear  
21 on the record that what occurred at the hearing  
22 December, 1991 is in accordance with the rules of  
23 Robert's Rules of Order.

24 THE COURT: December 3?

25 MR. TALEVI: Yes, sir; the last

1 hearing. Section 44 of Robert's Rules provides  
2 as follows in bold face Changing One's Vote. And  
3 I quote from Robert's Rules. "A member has a  
4 right to change his vote up to the time the  
5 result is announced. After that he can make the  
6 change only by permission of the assembly which  
7 can be given by general consent or by the  
8 adoption of a motion to grant permission which is  
9 undebatable." The definition of general consent  
10 is discussed in another section of Robert's  
11 Rules. That section relating to Adoption of a  
12 Motion or Action without a Motion by General or  
13 Unanimous Consent.

14 Well, Your Honor, that's exactly what  
15 we have here. A second roll call was taken by  
16 the chairman where it was obvious that Mr. Rife,  
17 R-i-f-e, had misstated his vote and the vote came  
18 down three to two.

19 THE COURT: Where is that?

20 MR. TALEVI: 49; at the very end, Your  
21 Honor, page 47.

22 THE COURT: 49-47?

23 MR. TALEVI: Yes, sir.

24 THE COURT: Okay.

25 MR. TALEVI: Your Honor, as you

1           correctly pointed out earlier in the hearing, and  
2           I think as counsel candidly acknowledges, the  
3           standard here is plainly wrong. It is a  
4           difficult standard. There are as I pointed out  
5           to the Court sufficient facts to uphold the  
6           Court's decision. The question isn't whether the  
7           Court would agree or not and therefore set it  
8           aside. The question is whether the Court can  
9           find facts in the record that support the Board's  
10          decision in this case. I think I've outlined to  
11          the Court sufficient facts to support the Board's  
12          decision, and for that reason I believe that the  
13          Board's decision should be affirmed.

14                   THE COURT: Speak to the issue of  
15          rehearing procedure adopted by the Board that was  
16          raised by Ms. Langhorne.

17                   MR. TALEVI: Okay. Your Honor, looking  
18          at the Court's Order of October 23 or entered on  
19          the day of October 23, 1991, the last, well  
20          actually it's a single sentence paragraph, but  
21          the last phrase in that paragraph provided  
22          certain ambiguities could be cured by a remand  
23          and hearing before the Board, and further  
24          indicated that it would not object to an order  
25          remanding this case to the Board of Zoning

1 Appeals in the City of Roanoke. There is no  
2 requirement in the Court's Order. And that's how  
3 the Court speaks, is through its orders; there is  
4 no requirement in the Court's Order that a  
5 consideration of the issue be limited just to a  
6 re-vote on the matter. Surely had that been the  
7 wish of the Court, I think it could have inserted  
8 that in the order. But, again, the hearing was  
9 opened up. It was noticed. The notice was sent  
10 to all the persons, and the notice provided that  
11 we're here on special exception and variance, if  
12 you're interested in appearing, come forth and be  
13 heard. And all the parties did. The  
14 neighborhood certainly did. The neighborhood  
15 organization certainly did. They did by counsel  
16 in fact.

17 THE COURT: I understand that, but the  
18 Board's procedure, adopted procedure for  
19 considering whether or not to grant a rehearing.

20 MR. TALEVI: Yes, sir; that was not  
21 necessary to go into that procedure in it's by-  
22 laws because that procedure is triggered only by  
23 a petition for a rehearing, and that's not what  
24 brought the matter back to the BZA. That had  
25 previously been tried in this matter. That's one

1 of the reasons why we had one of the previous  
2 hearings in this case.

3 THE COURT: I went through that.

4 MR. TALEVI: Right; but what brought it  
5 back to the BZA for the December 3, 1991 hearing  
6 was the Court's Order. They weren't there on a  
7 petition to rehear.

8 THE COURT: My problem is, does that  
9 change the position that the Board is in relative  
10 to----Couldn't the Board still say that it's the  
11 Board's decision not to reconsider and it's vote  
12 stands in effect?

13 MR. TALEVI: I'm not certain I  
14 understand fully your question, Your Honor.  
15 Could you restate it or rephrase it?

16 THE COURT: Does the Board have to  
17 reconsider because the Court remanded it by  
18 agreement, or could it just deny reconsideration  
19 and therefore the prior vote would stand?

20 MR. TALEVI: Well, Your Honor, I think  
21 the Court instructed the Board to rehear the  
22 matter, and I do believe, and I would advise the  
23 Court that if the Court tells you to do that, you  
24 have to do it. And they may very well have  
25 turned down the request for a special exception



1 variance because that's not what the Court was  
2 saying. The Court wasn't saying the Board made a  
3 correct decision or it made an incorrect  
4 decision. All the Court was saying was, let's  
5 clear up these procedural ambiguities, rehear the  
6 matter and bring it before the Court on a full  
7 and proper record.

8 THE COURT: Thank you. Anything else?

9 MR. TALEVI: Your Honor, I'm looking  
10 quickly through the record, and I don't recall my  
11 reading in the record that there was any  
12 objection at that time; certainly not at the  
13 outset of the hearing, to proceeding along with  
14 the full hearing. And I think since the  
15 Neighborhood put on evidence, I think I have a  
16 lot of problem with them objecting at this point.

17 THE COURT: The estoppel principal, I  
18 guess.

19 MR. TALEVI: That's correct. Thank you.

20 THE COURT: Do you wish to respond?

21 MS. LANGHORNE: Yes, I'd like to rebut.

22 Your Honor, I think the record is clear  
23 that when I represented the Neighborhood at that  
24 December 3rd hearing, I took exception to the  
25 fact that the Board was having an entirely new

1 hearing. I made the same argument that is in  
2 this petition; that they were exceeding the scope  
3 of the Court's Order and that they were using the  
4 Court's Order to do what they were not able to do  
5 as a public body. As a public body they've got  
6 to act publicly, they can't whatever, use the  
7 Court or use counsel's advice as an excuse for  
8 not acting as a public body. And that is clearly  
9 stated. I objected to the proceeding being an  
10 entirely new hearing. But certain, even though I  
11 objected to that, the fact that they were doing  
12 it-----

13 THE COURT: Call my attention to where  
14 that is in the record, your objection.

15 MS. LANGHORNE: All right; the  
16 beginning of my presentation.

17 THE COURT: It looks like 49-26,27, in  
18 that range.

19 MR. TALEVI: Your Honor, 25, 26, 27,  
20 all the arguments raised there relate to whether  
21 there should have been a rehearing back at the  
22 July, in the July hearing. All of those  
23 arguments related to whether there should have  
24 been an immediate re-vote at that time. In other  
25 words, all the arguments raised by Ms. Langhorne-

1 ---

2 THE COURT: That's the way I read that  
3 before. That's why I wanted to-----In fact, Ms.  
4 Langhorne, you say the July hearing.

5 MS. LANGHORNE: All right. Your Honor,  
6 on 49-25, of course, the lines are not numbered  
7 here in the text, but it goes down to, it says,  
8 Mr. Norris, when he opened the meeting today said  
9 that this is a rehearing, it's going to be a  
10 completely new hearing. It's been ordered by the  
11 Court. And then I go on to argue about the  
12 consent order. And the Zoning Appeals, people  
13 agree, procedure is incorrect, you know, can't  
14 agree to make it right. And basically that it  
15 can't be a rehearing unless it's based on new  
16 evidence, and it goes, you know, on into that.  
17 And then I think on page 26 in responding to Mr.  
18 Coffee, you know, I'm basically saying that what  
19 they're trying to do now is to redo what was done  
20 in July and use the Court's Order as the reason  
21 for doing it when the Board had not itself voted  
22 to rehear. I think if you go through basically  
23 the three pages which is the beginning of my  
24 presentation at the Board, I think if you take  
25 the entire three pages there and the totality of

1 the context in which that argument is being made  
2 to the Board, it's clear that I'm objecting to  
3 them having a new hearing and having Mr. Rife  
4 participate in the matter. And the chairman got  
5 a little disturbed with me and basically said  
6 this is a Court Order, you know; you can't tell  
7 me that we can't do this because the Court said  
8 we're going to do it. And I even asked him to  
9 bear with me, that a record was being made and I  
10 needed to state my objection for the record. And  
11 that was done before the Neighborhood proceeded  
12 to continue to argue against this thing. You  
13 know, if they basically were not going to  
14 consider my objection to a hearing, we had no  
15 alternative but to participate in it. And I  
16 don't think that we waived anything by our  
17 participation in it.

18 MR. TALEVI: Your Honor, I think the  
19 important thing to focus on is what the chairman  
20 construed the order issued by this Court to be.  
21 And the chairman's understanding, I think, is  
22 very clearly set forth in 49-27 when he quoted  
23 the language from the sense that I read earlier  
24 from the order into the record. And I think the  
25 order very clearly required him to hold a new

1           hearing. That's certainly how he understood it  
2           to be, and that's why he proceeded in that  
3           direction.

4                       I'm like you, Your Honor, when I heard  
5           the remarks at the December, 1991 meeting and  
6           when I read them again today, the remarks being  
7           made by Ms. Langhorne, I construed them to be  
8           dissatisfaction with the events of I believe it  
9           was the July hearing.

10                   THE COURT: In rereading it, I think  
11           she makes it clear that she objected to the re-  
12           hearing in December, reading from her, quote, Ms.  
13           Langhorne, on page 28.

14                   "Okay; but since the chairman of this  
15           body has announced this is a hearing and that it  
16           is going on full blown although we make those  
17           exceptions and we basically object to this  
18           hearing taking place, we present the following in  
19           support of your denying the request for special  
20           exception and variance."

21                   She did object. It's clear on the  
22           record.

23                   Ms. Langhorne, that is frankly the only  
24           issue you raised that I think has merit or may  
25           have merit, and I would like for counsel to

1 develop that for me. Again, it's not whether I  
2 agree or disagree with the people whom you  
3 represent. It's the statutory review as you  
4 know. But I am a little concerned that the Court  
5 by agreement remanded because there were  
6 ambiguities in what I had read at the hearing  
7 back whenever it was, the fall. But I'm  
8 concerned that if there were another full hearing  
9 when the Board didn't entertain it according to  
10 its own procedures, I'd like a memorandum from  
11 each of you on that issue. That issue alone is  
12 the only issue before the Court. I find no other  
13 basis in the petition.

14 And the petitions are denied based  
15 upon the earlier other arguments made by counsel  
16 for the petitioner in each instance, and their  
17 exceptions are noted and preserved. But the  
18 procedural issue, I really would like more on.

19 MS. LANGHORNE: All right.

20 THE COURT: Can counsel agree to a  
21 briefing schedule so that we can reset this? I'd  
22 rather rule on it publicly rather than by letter,  
23 because it obviously has a great deal of meaning  
24 to a lot of people.

25 You'll need to do that with my

1           secretary. How long do you need to get me  
2           pointed information and authority for your  
3           position on why the hearing was not properly  
4           conducted on December the 3rd, and why the  
5           earlier tied vote should then prevail or remain  
6           in effect?

7                   MS. LANGHORNE: Your Honor, I generally  
8           like three weeks, if that's not too much.

9                   THE COURT: It's been going on this  
10          long, I don't think that sounds unreasonable to  
11          me. How long do you want to respond?

12                   MR. TALEVI: I think ten days.

13                   THE COURT: Of course, you can begin  
14          working on the issue. Of course, you understand  
15          it. Ten days after she files her copy of your  
16          response before the Court, and if counsel will  
17          get a date for the Court to rule on that  
18          remaining issue, you can then make it known to  
19          the people interested. You can do that through  
20          the docket secretary. Set it for a half hour.  
21          By the time I reread this and read whatever else  
22          you've filed, that will certainly be enough time  
23          for verbal argument.

24                   All right, Ms. Langhorne, if you would  
25          draft an order reflecting what the Court has

1 ruled today, preserving your exceptions, and have  
2 counsel for the other parties endorse that, I'd  
3 appreciate it.

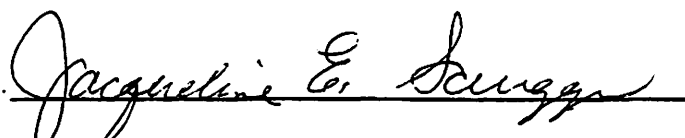
4 MS. LANGHORNE: Yes, sir.

5 THE COURT: Thank you.

6 On the record, then, the Court applies  
7 the ruling in both Law Numbers 91659 and 911356,  
8 the issues being the same in both. This matter  
9 is reset for a hearing on a date to be set by  
10 counsel.

11  
12 \*\*\*\*\*

13  
14  
15  
16  
17 I, Jacqueline E. Scruggs, Registered  
18 Professional Reporter, do hereby certify that I  
19 was duly sworn prior to the commencement of this  
20 cause; that the proceedings herein contained were  
21 reported by me and thereafter transcribed to the  
22 best of my abilities.

23  
24 

25 Registered Professional Reporter.



VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

GEORGE F. RILES, et. al.

v.

ORDER

BOARD OF ZONING APPEALS FOR THE  
CITY OF ROANOKE, and

L 91-1356

THE ROANOKE MENTAL HYGIENE SERVICE, INC.

Case No: 770CL91001356  
770CL91000659

ON APRIL 3, 1992 *CH*

These consolidated cases came on be heard upon the Writ of Certiorari granted to the petitioners to review the decision of the Board of Zoning Appeals of the City of Roanoke, Virginia on December 3, 1991 granting a special exception and variance to the Roanoke Mental Hygiene Service, Incorporated to operate a group home; and upon the Writ of Certiorari granted to The Roanoke Mental Hygiene Service, Incorporated to review the June 4, 1991 decision of the Board of Zoning Appeals denying the application for variance and special exceptions; and upon evidence heard ore tenus and the record of the proceedings before the Board and in this Court of these cases; all parties were present and represented by counsel.

Upon consideration thereof the Court finds that the petition of George F. Riles, et. al. was timely filed with the Clerk of this Court; that the claims in Counts II thru V of the Riles petition are denied to which the petitioners take exception for the reasons orally stated to the Court and recorded by the Court Reporter as part of the record herein and on the holdings in C&C Incorporated v. Semple, 207 Va 438 (1966) and Packer v. Hornsby, 221 Va 117 (1980) that it was error for the Board of Zoning Appeals to grant variances without the applicant demonstrating the characteristics

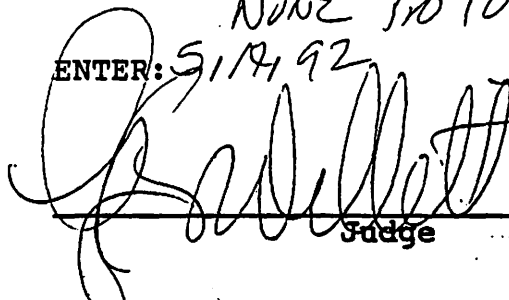
*CH*

required by statute which would make the denial of the variance a hardship amounting to unconstitutional confiscation of the property and the legal arguments in its petition.

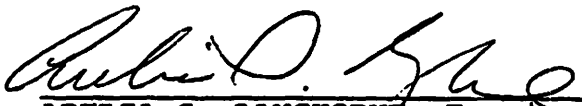
The Court reserves its decision on Count I of the Riles et. al. petition and ORDERS that the petitioners' file a brief in support of Count I of their petition with this Court on or before April 24, 1992; and the Board of Zoning Appeals and the Roanoke Mental Hygiene Society, Incorporated are ORDERED to file their response to the petitioners' brief within ten days of their receipt of a copy of the brief; and

The Clerk is directed to send a certified copy of this Order to all counsel of record; and

This cause is continued.

Now Pro Tunc 4/24/92  
 ENTER: 5/17/92  
  
 Judge

SEEN AND OBJECTED TO:

  
 ARELIA S. LANGHORNE, Esquire  
 Counsel for petitioners

W

SEEN *not* objected to as noted at hearing of 5/7/92

*[Signature]*  
 STEVE J. TALEVI, Esquire,  
 Assistant City Attorney  
 Counsel for the Board of Zoning Appeals  
 of the City of Roanoke

SEEN *not* objected to as noted 5/7/92;

*[Signature]*  
 ANNE C. GROVE, Esquire, Counsel for  
 Roanoke Mental Hygiene Service, Inc.

*W*

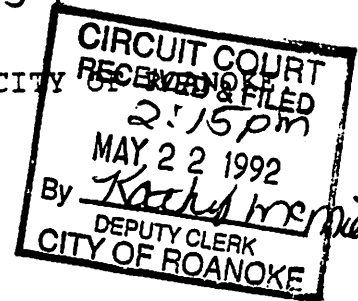
STATE OF NEW YORK

IN SENATE

COMMITTEE ON GOVERNMENT

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE



-----  
GEORGE F. RILES, ET AL., )  
Petitioners. )

-v- )

BOARD OF ZONING APPEALS FOR THE )  
CITY OF ROANOKE )  
and )  
THE ROANOKE MENTAL HYGIENE )  
SERVICE, INC., )  
Defendants. )  
-----

Case No:  
770CL91001356  
770CL91000659

RULING:

HONORABLE ROY B. WILLETT, JUDGE.

May 7, 1992

11:00 a.m. o'clock

APPEARANCES:

COUNSEL FOR THE PETITIONERS: ARELIA S. LANGHORNE, ESQ.  
P. O. Box 2453  
Lynchburg, Virginia 24501

COUNSEL FOR THE DEFENDANT, STEVEN J. TALEVI, ESQ.  
BOARD OF ZONING APPEALS: 464 Municipal Building  
Roanoke, Virginia 24011

COUNSEL FOR THE DEFENDANT, ANN C. GROVE, ESQ.  
ROANOKE MENTAL HYGIENE E. GRIFFITH DODSON, JR., ESQ.  
P. O. Box 1371  
Roanoke, Virginia 24007

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1 THE CLERK: We have the case of George  
2 F. Riles versus the Board of Zoning, CL91356. Is  
3 the plaintiff ready?

4 MS. LANGHORNE: We are.

5 THE CLERK: Is the appellant ready?

6 MR. TALEVI: We are.

7 THE COURT: For the record, the Court  
8 has the oath of the court reporter. The Court  
9 received and filed a brief of the petitioners  
10 filed by Ms. Langhorne in this Court on April the  
11 24th. And the Court received, filed and in each  
12 instance read the responsive written argument by  
13 the Assistant City Attorney for the Board. That  
14 was received and filed on May the 4th. The Court  
15 has carefully considered arguments made by both  
16 sides and would ask Ms. Langhorne if she wishes  
17 to make additional verbal argument.

18 MS. LANGHORNE: No, Your Honor. I  
19 think that every point in issue that we wanted to  
20 raise is fully covered in our brief, and we  
21 expected today to have the Court's ruling. And  
22 as far as a response or rebuttal to anything that  
23 the City has filed, I don't think that the  
24 memorandum even addressed the issue raised before  
25 the Court in regards to the failure of the Board

1 to follow its rules duly adopted for rehearing.

2 THE COURT: All right, response from  
3 either of you?

4 MR. TALEVI: Not on behalf of the Board  
5 of Zoning Appeals, sir.

6 MS. GROVE: No.

7 THE COURT: Well, the Court, as an  
8 interest to the citizens understand, is not here  
9 to agree or disagree with the ruling of the Board  
10 of Zoning Appeals. The Court has to find it  
11 clearly wrong.

12 The procedural considerations could be  
13 corrected, if necessary, by yet another remand to  
14 the Board. But I don't find that that is  
15 appropriate nor can I find it basis for reversing  
16 the finding of the Board based upon those  
17 procedural concerns. And there is frankly no way  
18 that this Court can find that the Board acted  
19 clearly wrong or that the petitioners met their  
20 burden in presenting a basis for reversing what  
21 the Board has done.

22 The authority of this Court and the  
23 basis upon which it acted is quite clear. It  
24 doesn't hear these things De Novo. It rather  
25 reviews the record and determines if there are

1 bases or if there is a basis for finding  
2 capriciousness or clear error or things of that  
3 sort. And our Supreme Court has spoken to that  
4 repeatedly.

5 The procedural issue is well aired by  
6 Ms. Langhorne, and she has argued this well, but  
7 I just can't find the basis for ruling in your  
8 favor, Ms. Langhorne, or your clients' favor.  
9 And I invite, if you wish and your clients wish,  
10 I invite your appeal of this. Certainly you will  
11 discuss that with them and make that decision.  
12 But I spent a great deal of time reviewing this  
13 file and the authorities and arguments presented  
14 by both sides, and must rule in favor of the  
15 Board in this instance.

16 MS. LANGHORNE: Exception is taken, of  
17 course, to the Court's ruling.

18 THE COURT: Yes, ma'am. Any order  
19 drafted which should be drafted by the City  
20 Attorney should preserve the objection of the  
21 petitioners clearly and reflect the Court's  
22 ruling.

23 All right. Thank you very much.

24 MS. LANGHORNE: Your Honor, you had  
25 asked me to prepare an order in regards to your

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

GEORGE F. RILES, et al.	)	
Petitioners	)	
v.	)	O R D E R
BOARD OF ZONING APPEALS FOR	)	Case Nos. CL91001356
THE CITY OF ROANOKE, and	)	CL91000659
THE ROANOKE MENTAL HYGIENE	)	
SERVICE, INC.,	)	
Defendants	)	

On May 7, 1992, came the parties upon the Writ of Certiorari granted to Petitioners to review the decision of the Board of Zoning Appeals of the City of Roanoke, Virginia, on December 3, 1991, granting a special exception and variance to the Roanoke Mental Hygiene Service, Inc., to operate a group home; upon the Writ of Certiorari granted to the Roanoke Mental Hygiene Service, Inc., to review the June 4, 1991, decision of the Board of Zoning Appeals, denying an application for special exception and variance; and upon the record of the proceedings before the Board and in this Court of these cases.

UPON CONSIDERATION thereof, the Court finds that the claim in Count I of the Riles Petition is denied on the grounds stated by the Court at the hearing held on May 7, 1992, to which ruling of the Court Petitioners' exceptions are noted on the grounds set forth at the hearings held in these matters and in the brief and memorandum of law filed on behalf of Petitioners.




THE COURT FURTHER NOTES the objections of the Board of Zoning Appeals and Roanoke Mental Hygiene Service, Inc., to the Court's considering this matter upon the Writ of Certiorari granted to the Roanoke Mental Hygiene Service, Inc., to review the June 4, 1991, decision of the Board of Zoning Appeals, both of said objections being based upon all of the grounds set forth at the hearing of May 7, 1992.

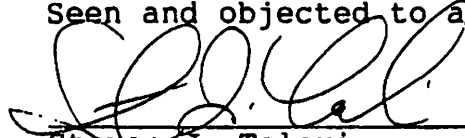
The Clerk is directed to send a certified copy of this Order to counsel of record.

This cause is dismissed from the docket.

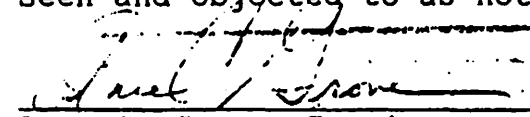
ENTERED this 26 day of MAY, 1992.

  
\_\_\_\_\_  
Judge

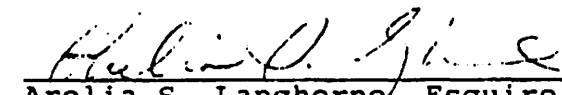
Seen and objected to as noted:

  
\_\_\_\_\_  
Steven J. Talevi  
Assistant City Attorney  
Counsel for the Board of Zoning Appeals of the City of Roanoke

Seen and objected to as noted:

  
\_\_\_\_\_  
Anne C. Grove, Esquire  
Counsel for Roanoke Mental Hygiene Service, Inc.

Seen and objected to as noted:

  
\_\_\_\_\_  
Arelia S. Langhorne, Esquire  
Counsel for George F. Riles, et al.

### ASSIGNMENTS OF ERROR

George F. Riles et. als. assigns as error the following:

1. The trial Court erred in ruling that the Board of Zoning Appeals acted properly in using a Consent Court Order to conduct a rehearing on December 3, 1991 without complying with the Zoning Ordinance and its duly adopted Rules of Procedure for a rehearing.
2. The trial Court erred in upholding the December 3, 1991 action of the Board of Zoning Appeals granting a special exception and variance for the operation of a residential drug treatment facility for twenty four convicted felons in a predominantly black, middle-class, single-family, residential neighborhood, when no such special exception and variance have been granted in majority residential districts.
3. The trial Court erred in upholding the December 3, 1991 decision of the Board of Zoning Appeals when the Board failed to make the findings of fact required by Section 36.1-656(B) of the Zoning Ordinance of the City of Roanoke for special exceptions to its zoning statutes.
4. The trial Court erred in upholding the December 3, 1991 decision of the Board of Zoning Appeals when the Board failed to consider the factors set forth in Section 36.1-655 of the Zoning Ordinance of the City of Roanoke with respect to variances.
5. The trial Court erred in upholding the December 3, 1991 decision of the Board of Zoning Appeals when it was made by a second roll call vote which reversed the first roll call vote on the motion without a motion to reconsider the action by a member voting with the majority, which procedure violates of Robert's Rules of Order, the duly adopted parliamentary procedure for the Board of Zoning Appeals.