

Statement of Jewish Primary Day School of
the Nation's Capital Inc.

BZA Application No. 18400
ANC 4A07 and 4C02

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STATEMENT OF THE APPLICANT

I. Nature of Relief Sought

This is the statement of the Jewish Primary Day School of the Nation's Capital Inc. ("Applicant" or "JPDS") for a special exception to increase the number of students and faculty/staff permitted at its private school located at 6045 16th Street, NW (Square 2726, Lot 831) and to expand the physical campus of the School to include Lot 825 in Square 2726 (collectively, "Main Campus"). JPDS also seeks special exception relief for a second location, 4715 16th Street, NW, to increase the number of students and faculty/staff allowed at the site (Square 2707, Lot 33) ("Early Childhood Center Campus")(collectively with the Main Campus, "Property"). The Applicant is seeking a modest increase in the approved caps for both locations, as detailed below. The Applicant also seeks variance relief from the parking requirements for both locations.

II. Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to Sections 3103 and 3104 of the Zoning Regulations.

III. The Applicant

The Jewish Primary Day School of the Nation's Capital Inc. is a co-educational elementary school providing a Jewish and general studies education for grades pre-K through six at 6045 16th Street, NW, and is the only Jewish Day School in the District of Columbia. Its mission is to provide a strong foundation in Jewish and secular learning, laying the groundwork

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18400
EXHIBIT NO. 3

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for its students to become knowledgeable, responsible Jews and citizens, who are deeply committed to the community at large, to Jewish living and values, and to the people and state of Israel. The School strives to create an environment filled with warmth, joy, and intellectual excitement that celebrates the unique qualities of each student, respects varied approaches to Judaism, fosters a strong sense of ethics and of self, embraces diversity, and builds a community of lifelong learners.

JPDS was founded in 1988 by a small group of parents looking to provide for a Jewish primary education closer to their homes in the District. It first operated as a kindergarten, part of the Adas Israel Congregation on Quebec Street, NW, and grew slowly over the years to first include K through 3rd grade, and ultimately at that location, to 6th grade. In 2000, after becoming independent of the Congregation, and after several failed attempts to find a permanent home in the District of Columbia, the School found temporary accommodations in Montgomery County in the former Montgomery Hills Junior High School. Finally, in 2002, the School purchased the building at 6045 16th Street, NW, (a building that was built in 1950 to house the Hebrew Academy, and later was the home of the Owl School), added a pre-kindergarten class, and settled into its permanent home in the District of Columbia.

Since the School's return to Washington, D.C., enrollment has steadily increased and in the school year 2011-2012 the student population reached 273, very close to the current maximum occupancy pursuant to BZA Order No. 17700. Because it wants to meet the needs of local Jewish parents for an excellent Jewish and secular education in the District of Columbia, the Board of Directors seeks permission from the BZA to house more students in its current building, while at the same time expanding the JPDS campus to include more property at its Main Campus as well as establish a Early Childhood Center Campus.

The building located on the Main Campus was constructed for the Hebrew Academy in 1950 and was designed for, and occupied by, more than 350 students. It will be able to easily accommodate the requested maximum enrollment of 300 students. The building located on the Early Childhood Center Campus was constructed in 1922 as a single family house. It was subsequently converted for use as the Lowell School and was later used by the British School of Washington. It is currently being used by the Washington Latin Public Charter School; JPDS does not intend to use the property as its Early Childhood Center Campus until the charter school's lease expires at the end of 2013. The current certificate of occupancy permits a maximum of 125 students; JPDS is proposing a modest increase to 130 students at that location.

IV. Description of Subject Property and Surrounding Area

A. The Subject Property

The Main Campus is located in the Brightwood neighborhood of Northwest D.C. The property has over 350 feet of frontage along 16th Street, to the west. It also fronts Fort Stevens Drive and Rock Creek Ford Road to the north. The Applicant recently acquired the neighboring property located at 6017 16th Street and is incorporating it into its campus. With the inclusion of the additional property, the Main Campus is approximately 67,853 in size. The property is improved with a two-story school building consisting of approximately 27,886 square feet, an outdoor playing field and a single-family house. The Main Campus was recently before the Board in 2008 for approval to increase its student enrollment, faculty and staff and to expand the boundaries of the campus in order to provide outdoor athletic space.

The Early Childhood Center Campus is located in the 16th Street Heights neighborhood

of Northwest DC. The Property is bound by 16th Street to the west, Decatur Street to the north and Piney Branch Road to the east. The Applicant acquired this property in 2011 and is leasing it to the Washington Latin Public Charter School through 2013. The site is approximately 18,682 square feet in size.

B. The Surrounding Area

The Main Campus is located to the east of Rock Creek Park and just north of the intersection of Military Road and 16th Street, NW. The remainder of the Square is comprised primarily of apartment houses. The Early Childhood Center Campus is also located east of Rock Creek Park. The remainder of Square 2707 is comprised primarily of single-family houses. Surrounding uses on adjacent blocks include institutional uses primarily consisting of churches. Aerial photographs of the campus and the surrounding area are attached as Exhibit E.

C. Existing Zoning

The Main Campus is located in the R-1-B and R-5-A Zone Districts. The R-1-B Zone District is designed for low density residential areas. The R-5-A Zone District is designed to permit flexibility of design by permitting in a single district a variety of urban residential uses. The site was first approved for use as a private school pursuant to BZA Order No. 2069. More recently, in 2008, the Board approved a maximum occupancy of 275 students and 56 faculty and staff for the site, it approved an expansion of the campus, and it approved a variance from the access requirements for parking.

The Early Childhood Center Campus is located in the R-1-B Zone District. The site was first approved for private school use pursuant to BZA Order No. 14919, dated March 2, 1989, which granted the Lowell School approval to use the site for a maximum of 125 children in

grades kindergarten through third, a staff of 14, and a variance allowing a 25% reduction in the required parking as well as from the minimum size of the parking spaces.

V.

Description of Project

The Applicant is proposing to increase the number of students and faculty/staff members that is currently permitted under its existing certificate of occupancy for both campuses. The School currently is allowed a maximum of 275 students ranging from four to twelve years old and a maximum of 56 staff at the Main Campus. The Applicant is seeking approval for 300 students and a maximum of 72 staff. The Applicant is proposing to increase the student cap at its Early Childhood Center Campus from 125 to 130 students and to increase the permitted number of faculty and staff from 15 to 26 individuals.

The Main Campus would serve students in grades two through six. The Lower Campus would serve students in pre-kindergarten, kindergarten, and first grades. Though two separate locations, the School would continue to function like a single school. The School will operate a shuttle between both locations so that parents with children at both locations will only have to drop them off at one of the campuses.

In addition to seeking approval for an increase in population caps, the School seeks variance approval from the parking requirements for both campuses. The Main Campus is required to provide a total of 48 parking spaces; the School can provide a total of 24 spaces that satisfy the parking requirements and a total of 45 spaces when 'stacking' the vehicles (including four spaces on the newly acquired property). The School intends to continue its current practice

of stacking vehicles but needs variance relief from the requirements of Section 2101 since it cannot provide 24 of the required spaces. Similarly, the Lower Campus requires 17 parking spaces but only provides 4. Accordingly, the School seeks similar variance relief for the Lower Campus for 13 spaces.

Finally, the School seeks relief to incorporate property recently acquired at 6017 16th Street, NW into the Main Campus. The newly acquired property abuts the School's property and has a clear physical connection with the Main Campus and will be used as the fundraising and accounting offices.

VI.

Relief Requested

This application seeks special exception approval pursuant to Sections 206, 352.1 and 3104 of the Zoning Regulations and variance approval pursuant to Sections 2101.1 3103 of the Zoning Regulations.

Special Exception Relief

The standard for special exception relief requires establishing that the proposed project is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and that relief can be granted without adversely affecting neighboring properties. Specifically, the Regulations permit a private school in the R-1 and R-5 Zone Districts provided that they satisfy the following: (1) it is located so that it is not likely to become objectionable to adjoining and nearby properties because of noise, traffic, number of students, or otherwise objectionable conditions, and (2) the site provides ample parking, but not less than the amount required by the Zoning Regulations.

A. The Application is in Harmony with the General Purpose and Intent of the Zoning Regulations

1. JPDS is Located so as Not to Be Objectionable to Neighboring Properties

Both campuses are located along 16th Street, which is a major thoroughfare. The Main Campus is bordered to its north by Fort Stevens Drive, and it has a significant amount of buffering to the east between the building and the neighboring properties. The building was approved to be used for private school purposes by the BZA in 1948 per Appeal No. 2069. The school is set back from neighboring properties, which reduces the possibility that it creates objectionable conditions for its neighbors. In fact, in connection with the last BZA case, the School agreed to establish a substantial buffer between its property and the property to the south, which includes a set back and planting of trees to mitigate any effects school activities may have on neighboring properties. The incorporation of additional property into the Main Campus will not create any objectionable conditions for neighboring properties. The new parcel of land will be used for administrative purposes; it will not generate noise and all activities will take place indoors.

The Early Childhood Center Campus is located amidst single family houses and institutional uses. The building was approved for use as a private school in 1989 by the BZA per Order No. 14919. The site is a corner lot fronting on three streets; it only immediately abuts property to the south; otherwise its immediate neighbors include three rights-of-way. Nevertheless, there is a fence that surrounds the property; the fence is lined with mature plantings to buffer the use of the site from the adjacent homes.

a. **Noise**

Increase in Student Enrollment

Raising the existing cap on students at the Main Campus from 275 to 300 will not create an objectionable increase in the amount of noise on the Property. The children are indoors for the majority of the day and there is a minimal amount of noise that is created by children while outdoors. The outdoor play area to the south of the school is used for the School's program only Monday through Friday for a maximum of five hours each day. Only 65 children are permitted on the southern play area at any one time. These measures help mitigate any impact the use of the outdoor space may have on neighboring properties, particularly the property located immediately to the south of the site.

The increase in the number of students at the Lower Campus is very modest and will not have a discernible impact on the noise level of the children. Again, the children will be indoors for the majority of the day. When they are outside, they will utilize the area at the eastern end of the site for play area. This space is adjacent to Piney Branch Road and is set back from the only adjacent property, which is located to the south. There is a fence and mature plantings separating the play area and the houses to the south to ensure there will not be a negative impact on the neighboring property.

Use of Newly Acquired Property for School Purposes

JPDS seeks approval to incorporate the property to the east, a single family house, into the Main Campus for use as administrative offices. The School anticipates that the house can accommodate three offices for up to five staff persons. The small number of people working in

the offices minimizes the likelihood that it will generate any noise. There will be a clear pathway between the offices and the main school building so individuals can travel between the two sites with ease.

b. Traffic

Increase in Student Enrollment

The increase in students will not create any objectionable traffic conditions for neighboring property owners. Symmetra Design performed a study to determine the impact increasing student enrollment would have on traffic. Symmetra found that the transportation demand management program that the School implemented in connection with its last BZA case is working effectively. In fact, 73% of the student body either carpool or take the bus to and from school. This has led to a dramatic decrease in the School's trip generation since 2008: there are currently only 82 inbound trips to the Main Campus during the a.m. peak period and 57 inbound trips in the p.m. peak period. The decrease is even more notable since it occurred while the student population increased. Given the success of the School's bus program, it does not anticipate an increase of 25 students or 16 staff members to create a detrimental traffic condition.

The increase in student enrollment at the Early Childhood Center Campus is so modest that it will not have a negative effect on traffic in the community. Nevertheless, the School is going to run a shuttle between the Main Campus and the Early Childhood Center Campus to reduce the number of trips made to the Early Childhood Center Campus. Any families with children at both campuses will drop both children off at only one of the campuses – it is a trip that would have otherwise been made to the campus, but this process will reduce the traffic

traveling between both campuses. A shuttle will instead run between both campuses so that parents can simply drop all of their children off at their preferred campus instead of making an independent trip to the second campus. A copy of the Traffic Impact Statement is attached as Exhibit I and it fully details the School's efforts to reduce trip generation to and from the site.

Use of Newly Acquired Property for School Purposes

Use of the newly acquired property for administrative purposes will not have an effect on traffic conditions. The new office space can accommodate four vehicles on-site, just as the single-family house could previously. The additional traffic, if any, generated by the four vehicles will be negligible.

c. Number of Students

Increase in Student Enrollment

The Applicant seeks approval to allow an additional twenty-five students to attend the Main Campus and an additional five students to attend the Early Childhood Center Campus. The increase in students will not adversely affect neighboring property owners. As stated previously, the increase in students will not create any objectionable noise or traffic conditions. Further, the School has demonstrated that it can effectively deal with any traffic issues resulting from the increase in student enrollment. Just four years ago, it increased its student body at the Main Campus by 50 students and simultaneously reduced trip generation by 30% - from 117 peak am trips to 82 peak am trips. The School is well equipped to absorb the increase in student enrollment without negatively harming neighboring properties.

Use of Newly Acquired Property for School Purposes

The new property will provide additional space for administrative facilities. This will better serve the School and allow it to dedicate more space in the main school building to the School's primary mission: childhood education.

d. Otherwise Objectionable Conditions

Increase in Student Enrollment

The increase in student and staff enrollment will not create any other objectionable conditions for neighboring property owners.

Use of Newly Acquired Property for School Purposes

Use of the southeastern portion of the property for school purposes will not create any other objectionable conditions for neighboring property owners.

2. The Applicant Will Provide Ample On-Site Parking

The School currently has 56 staff members and seeks to add an additional 16 members at the Main Campus. The Zoning Regulations require two parking spaces for every three staff members. The School currently has 45 stacked parking spaces on the Main Campus¹, including 24 zoning compliant spaces. Accordingly, the School is able to accommodate all but 7 spaces on-site, albeit 18 of the spaces are not zoning compliant. The School is providing four of the required 17 parking spaces on-site at the Early Childhood Center Campus. The School would provide a shuttle to bring them to either the Main Campus or the Early Childhood Center

¹ This includes four spaces at 6017 16th Street, NW.

Campus.

B. Relief Can Be Granted Without Adversely Affecting the Use of the Neighboring Property in Accordance with the Zoning Regulations and Zoning Maps

As outlined above, the Applicant is undertaking numerous precautions to ensure that neighboring property owners will not be adversely affected by an increase in the enrollment of students and staff or by the use of the southeastern portion of the Main Campus for administrative purposes. The Applicant is taking affirmative steps to decrease its trip generation, and to minimize any noise that may be generated by the requested relief. These measures will diminish any possibility of adverse effects on neighbors as consistent with the Zoning Regulations and Zoning Maps.

Variance Relief

The burden of proof for variance relief is well established. The Applicant must demonstrate that the Property is affected by an exceptional or extraordinary situation or condition, that the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. *Palmer v. BZA*, 287 A.2d 535, 541 (D.C. 1972). As set forth below, the application meets the three-part test for area variance relief.

A. The Property is Affected by an Exceptional Situation or Condition

The D. C. Court of Appeals affirmed in *Gilmartin v. D. C. Board of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990) that the exceptional situation or condition standard is satisfied

where the land is uniquely situated when considered in the context of neighboring properties. The court afforded an even more expansive reading of uniqueness in its *Monaco v. D. C. Board of Zoning Adjustment*, 407 A.2d 1091 (1979), when it held that the history of the site as well as an agreement pertaining to use of the site should be considered in making the determination as to whether the property can be considered "unique." Courts have interpreted this prong of the variance standard broadly and have affirmed that the uniqueness prong does not need to be satisfied by physical aspects of the land. The court has found, "[in effect, the extraordinary or exceptional condition which is the basis for a use variance need not be inherent in the land, but can be caused by subsequent events extraneous to the land itself. .. " *Id.* at 1097.

The Property meets the "exceptional conditions" element of the variance test because the buildings on both campuses were constructed prior to the adoption of the Zoning Regulation. The Building on the Main Campus was constructed in 1950. The way the school building is situated on the lot makes it difficult to carve out additional space for parking. The school building is built on the property line along 16th Street and has its greatest length from north to south, stretching nearly the entire length of the lot as it existed at the time the school building was constructed. A parking lot was established to the east of the building, which is the existing lot today. Because the school building is constructed along the property line to the west, the only available space for additional parking is in the existing parking lot or on the playing field. Unfortunately, adding legal spaces to the lot is not possible given the odd shape of the lot and the limitations on expansion because of the existing school building and the adjacent roadways. JPDS has invested a considerable amount of money to establish an outdoor play area for the children and converting it to surface parking would not serve the School, the community, or the District well. Further, the Applicant would not be able to easily connect parking on the main

portion of the lot to the southern portion because there is a significant grade change between the two areas. This would mean that the parking would have to be accessed from 16th Street, which would not be a favored approach. Moreover, the Applicant would like to maintain the southern portion of the lot as green, open space for the children to play.

The building on the Early Childhood Center Campus was constructed in 1922 as a home for the Himmelfarb family. There is a surface lot to the south of the building, which can accommodate parking; however, the School believes it will be better used as a play area for the children during the school day and a drop off and pick up area in the morning and afternoon. Using this space in this manner will provide the children some much needed outdoor space, in addition to the green space at the eastern end of the lot, as well minimize the possibility of vehicle queuing on 16th Street during morning and afternoon drop off and pick up periods.

B. Strict Application of the Zoning Regulations Would Result in a Practical Difficulty

To satisfy the second element for an area variance standard, the Applicant must demonstrate "practical difficulty." The D.C. Court of Appeals has established a two part test for determining whether an applicant has met its burden of proof. The applicant must demonstrate that "compliance with the area restriction would be unnecessarily burdensome" and that the practical difficulty is "unique to the particular property." *Gilmartin*, 579 A.2d at 1170. The Court of Appeals has held that the "nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case." *Id.* at 1171. "Increased expense and inconvenience to applicants for a variance are among the proper factors for [the] BZA's consideration." *Id.* Some other factors that the BZA may consider are "the weight of the burden of strict compliance," "the severity of the variance(s) requested," and "the effect the proposed

variance(s) would have on the overall zone plan." *Id.*

In this case, a strict application of the parking regulations would limit the amount of faculty and staff the School could hire for both locations, which, in turn, would hinder the quality of the education for the students. With the requested variance, the Applicant would be required to maintain its current faculty and staff populations at both locations as well as the current student populations. Imposing such a restriction on the Applicant's ability to grow would force the School to choose between increasing its student population and looking for a new location for the School. Neither scenario is an acceptable solution. Alternatively, the Applicant will provide the required amount of parking; however, some spaces will be "stacked" and others will be provided off campus. The severity of the variance being requested is minimal when considered in this context.

C. Relief can be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

Finally, the applicant must demonstrate that "granting the variance will do no harm to the public good or to the zone plan." *Gilmartin*, 579 A.2d at 1167. The granting of a variance from the parking requirements can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the Zone Plan. The Applicant will provide the required amount of parking for both locations, including a mix of non-zoning compliant spaces on campus and leasing spaces off campus.

On the Main Campus, teachers will be the primary users of the stacked parking spaces, which is significant because they have fixed schedules that preclude them from leaving the premises frequently throughout the day. Thus, the effect of the stacked parking spaces will be

minimal since most of the cars that utilize them will not move during school hours. The School also has a front desk located at the entrance of the school building and it employs a security guard, both of which are readily available to those who will be parking on school grounds, making implementation of a stacked parking system fairly easy.

VII.

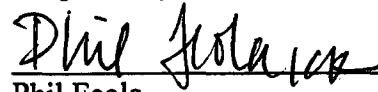
Exhibits

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| 1. | Exhibit A | Application Forms and Self Certification Form |
| 2. | Exhibit B | Surveyor's Plats and Other Plats |
| 3. | Exhibit C | Agent Authorization Form |
| 4. | Exhibit D | Statement |
| 5. | Exhibit E | Photographs |
| 6. | Exhibit F | Property Owner Lists |
| 7. | Exhibit G | Aerial View |
| 8. | Exhibit H | Zoning Map |
| 9. | Exhibit I | Transportation Study |
| 10. | Exhibit J | Previous BZA Orders |

VIII. Conclusion

For the aforementioned reasons, the Applicant requests that the Board approve this application as submitted.

Respectfully,



Phil Feola



Christine Roddy

Certificate of Service

I hereby certify that the foregoing document was hand delivered or sent by first class mail on April ~~24~~, 2012 to the following:

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