

BZA APPLICATION NO. 18400-A
PREHEARING STATEMENT
JEWISH PRIMARY DAY SCHOOL OF THE NATION'S CAPITAL, INC.
6045 16TH STREET, NW

I.

Nature of Relief Sought

This Prehearing Statement is submitted on behalf of Jewish Primary Day School of the Nation's Capital, Inc. ("Applicant" or "JPDS"), to request special exception approval pursuant to 11 DCMR § 206 to increase the maximum number of students at the Jewish Primary Day School located at 6045 16th Street, NW (Square 2726, Lots 831 and 825) (the "Property"). The Applicant is requesting (i) an enrollment cap of 350 students, which is fifty (50) more than was approved in the Applicant's previous application in 2012; and (ii) a staff cap of seventy-two (72) persons, which is the same amount of staff requested and approved in the previous application. Thanks to a generous donor, JPDS now has a unique opportunity to add grades 7 and 8 to the existing school, which currently only serves grades 2 – 6. The Applicant also operates a second location for pre-K, K, and 1st grade. That location, 4715 16th Street, NW, is not part of this application.

JPDS is also requesting approval to build an addition (the "Addition") to the existing principal structure on the Property (the "Building"). Similar to the previous application, JPDS is seeking variance relief from the 48-space parking requirement. Area variance relief is also being requested for lot occupancy and loading requirements. The Applicant is also requesting leave to amend the application to include special exception relief under Section 411.11 from the single-enclosure roof structure requirements of Section 411.3, to allow two separate equipment

penthouse enclosures on the Building, as shown on the architectural plans being filed today.

II.

The Applicant

The Jewish Primary Day School of the Nation's Capital is a co-educational elementary school providing a Jewish and general studies education for grades 2 - 6 at 6045 16th Street, NW. It is the only Jewish day school in the District of Columbia. 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 include K through 3rd grade, and ultimately at that location, up through 6th grade. In 2000, after becoming independent of the Adas Israel Congregation, and after several failed attempts to find a permanent home in the District of Columbia, JPDS 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 350-student 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.

In BZA Order No. 18400 issued in 2013, the Board granted approval to expand the school's enrollment cap to 300, and the staff cap to 72. As part of that case, the Board also

approved parking space variance relief. Thanks to a generous donation, JPDS has now been presented with the opportunity to add a 7th and 8th grade to the school, which will allow their students to continue through the elementary education and move directly to high school, rather than having to attend an intermediate school elsewhere for their 7th and 8th grade education. JPDS also has the opportunity to renovate, upgrade, and add to the existing Building. This increase in space is necessary not only for the additional two grades, but also to keep up with today's educational space requirements.

The building located on the Property was constructed for the Hebrew Academy in 1950 and was designed for, and occupied by, more than 350 students. With the proposed Addition, it will be able to accommodate the requested maximum enrollment of 350 students and 72 staff. Proposed plans for the addition are being filed concurrently with this Statement.

III.

Description of Subject Property and Surrounding Area

A. The Subject Property and Surrounding Area.

The Property is located in the Brightwood neighborhood of Northwest D.C. It has over 350 feet of frontage along 16th Street, to the west. It also has frontage on Fort Stevens Drive and Rock Creek Ford Road to the north and northeast. The Applicant acquired the neighboring property located at 6017 16th Street and incorporated that property and its building (the "Accessory Building") into the campus as part of BZA Case No. 18400 in 2013. The Property, including both lots, has a land area of approximately 69,205 square feet, and is currently

improved with a two-story school building consisting of approximately 27,886 square feet of floor area, an outdoor play area, and the Accessory Building. The Property 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, as well as one adjacent property with a single-family dwelling, at 6025 16th Street, NW.

B. Existing Zoning

The Property is split-zoned, with the majority of it located in the R-1-B zone, and a portion on the east side of the Property zoned R-5-A. 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. Private school use is permitted by special exception in both zones.

A private school use was first permitted at the Property in 1948 as the Hebrew Academy of Washington (BZA Appeals No. 2069 in 1948, 2320 in 1949, and 2561 in 1949). The Hebrew Academy constructed its two-story building at the site in 1950 and enrolled more than 350 students there. The Property was subsequently used by the Owl School, and was acquired by JPDS in 2002. In 2008, pursuant to BZA Order No. 17700-A, the Board approved a maximum occupancy of 275 students and 56 faculty and staff for JPDS, and also approved an outdoor play area between the school Building and the adjacent property located at 6025 16th Street. In 2013, in BZA Order No. 18400, the Board approved an enrollment cap of 300 and faculty/staff cap of 72.

IV.

Description of Project

The Applicant is proposing to increase the number of students that was approved in BZA Order No. 18400 from 300 to 350, and to hold the approved staff cap of 72. In that Order, the Board approved a maximum of 300 students and staff of 72, along with parking relief. In order to provide for the addition of the two middle-school grades, the Applicant is seeking approval for 350 students and again for 72 staff. Following the proposed Addition and subject to the approval of this request, JPDS would serve students in this location for grades two through eight.

In addition to seeking approval for an increase in the enrollment cap, JPDS is seeking variance relief from the parking requirement, lot occupancy maximum, and loading requirements. For a staff of 72, the parking requirement is 48 spaces. The Applicant originally requested relief to provide 22 compliant spaces and 14 compact spaces. Upon further discussion with the Zoning Administrator and the District Department of Transportation, it has been determined that several spaces previously thought to be fully compliant spaces cannot be counted as such. Therefore, the proposed parking now includes eight (8) fully-compliant spaces, with an additional fourteen (14) spaces which fall into a category of dedicated and accessible, but which cannot be counted against the parking requirement because tandem spaces will be provided behind these spaces when necessary (although not during pick-up and drop-off, for circulation purposes). Those tandem spaces add another fourteen (14) parking spaces, for a total of thirty-six (36) spaces on-site. The Applicant is also seeking *de minimus* lot occupancy relief of 3.87% over the maximum permitted 40%, as well as relief from the loading requirement for buildings with over 30,000 square feet in gross floor area. The Applicant is also requesting special exception relief to have two separate rooftop penthouse enclosures, as discussed below.

V.

Relief Requested

This application seeks special exception approval pursuant to Section 206 for the increase in the enrollment cap and approval of the staff cap and the proposed Addition, as well as area variance relief from the lot occupancy requirements of Section 403.1, the parking requirements of Section 2101.1, and the loading requirement of Section 2201.1. The Applicant is also requesting leave to amend the application to include special exception relief from Section 411.3 – the requirement to have all equipment in a single enclosure – pursuant to Section 411.11, as it is impracticable because of the size and shape of the building and the lot to have a single penthouse enclosure.

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 Map, and that relief can be granted without adversely affecting neighboring properties. Specifically, the Regulations permit a private school in the R-1-B and R-5-A 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.

The JPDS Main Campus is located along 16th Street, which is a major arterial commuter roadway. 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 originally built to be used as a private school for 350 children, pursuant to the approval by the BZA in 1948 - Appeal No. 2069. The Building is set back from neighboring properties, which reduces the possibility that it creates objectionable conditions for its neighbors. Other than the adjacent residence at 6025 16th Street, NW, JPDS is essentially surrounded by large apartment complexes.

a. Noise

Raising the existing cap on students at the Main Campus from 300 to 350 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 bulk of the increase in enrollment cap is related to the addition of the middle-school grades. Significantly, this proposal will move the current outdoor play area away from its current location adjacent to the home located at 6025 16th Street, NW.

b. Traffic

The increase in students will not create any objectionable traffic conditions for neighboring property owners. Symmetra Design performed a study to determine the impact that increasing students enrollment would have on traffic. That study is being submitted concurrently with this Statement today.

c. Number of Students

The Applicant seeks approval to allow an additional fifty students over the previously approved 300 students, and for a staff cap of 72, which was previously approved in Order No. 18400. 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. The current play area will be moved further away from its current location adjacent to the home at 6025 16th Street, NW. The traffic conditions are addressed in detail in the Traffic Impact Study.

d. Otherwise Objectionable Conditions

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

2. The Applicant Will Provide Ample On-Site Parking.

The total amount of parking on-site will be thirty-six spaces, although twenty-eight (28) of these are tandem spaces and do not officially count against the parking space requirement. To add parking capacity, JPDS has contracted for twenty-five (25) off-site spaces with Ohr Kodesh Synagogue located at 8300 Meadowbrook Lane in Chevy Chase, Maryland. Designated staff members – with a designated on-site parking space - will be responsible for transporting staff to and from this satellite parking location and the school.

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 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 variance relief requested. These measures will diminish any possibility of adverse effects on neighbors as consistent with the Zoning Regulations and Zoning Maps. Specifically, this proposal will relocate the play area further away from the residence at 6025 16th Street, NW. Regarding parking and traffic; the Applicant will adopt the Transportation Demand Management Plan as noted in the Traffic Impact Study. The Applicant will also be subject to a DDOT Performance Monitoring Plan, which will require monitoring reports (i) upon completion of construction, and (ii) when the school reaches and enrollment of 275 students. The performance monitoring reports must continue until the Applicant has demonstrated three successful annual monitoring reports.

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. D.C. BZA* 287 A.2d 535, 541 (D.C. 1972). As summarized below, the application meets the three-part test for area variance relief.

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

As it regards the parking and loading relief, the Property meets the “exceptional condition” element of the variance test in part because the Building was constructed in 1950, prior to the adoption of the Zoning Regulations, and also due to topographical conditions on the Property. 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 limitations on expansion because of the existing school building and the adjacent roadways. 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. The Addition is necessary to provide space for the incoming middle-school students as well as to provide for changing programmatic needs for elementary education.

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.”

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 and the ability to operate at a sufficient capacity to be successful, both financially and programmatically. Without the requested relief, 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 an amount close to the required amount of parking, with the provision of the 28 tandem spaces and 25 satellite spaces in addition to the eight (8) fully compliant spaces. JPDS also has a practical difficulty in strictly complying with the forty percent (40%) maximum permitted lot occupancy. Today's increased educational space programmatic needs require more space than was provided for education in 1950, when the Building was originally built. Also, the existence of the separate accessory structure on the Property increases the lot occupancy. Finally, the amount of variance relief being requested is *de minimus*, at only 3.87%.

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 sufficient parking between the Property and the satellite parking. The other areas of relief are

very small in degree and are not likely to be a substantial detriment to the public good or the integrity of the Zone Plan.

VI.

Conclusion

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

Respectfully,

A handwritten signature in black ink, appearing to read "Martin P. Sullivan", is written over a horizontal line.

Martin P. Sullivan
Sullivan & Barros, LLP