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STATEMENT OF THE APPLICANT

I. Nature of Relief Sought

This is the statement of the Lab School of Washington (“Applicant” or “School”) for special exception relief to construct an addition to the existing gymnasium to serve as additional space for its high school program. The School also seeks variance relief to further reduce the amount of on-site parking by twenty-one spaces. The Applicant was most recently before the Board in 2011 to permanently establish the approved student enrollment and faculty and staff caps at 330 and 182, respectively. The Applicant is not proposing to raise either cap with this application. A copy of Order No. 18237, is attached as Exhibit A. This application pertains to the Applicant’s campus located 4759 Reservoir Road, NW (Square 1372, Lot 25) (“Property” or “Main Campus”).

II. Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to Sections 206, 2101, 3103 and 3104 of the Zoning Regulations.

III. The Applicant

The Lab School is a co-educational non-public school for children with special needs in grades kindergarten through twelfth grade. Grades 5-12 are located on the Main Campus while grades kindergarten through 4 are located on Lab’s campus at 4470 Q Street, NW. See Order No. 17944.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18663
EXHIBIT NO. 3

Founded in 1967 by Sally L. Smith, The Lab School of Washington is internationally recognized for its innovative programs for children and adults with learning disabilities. The current Head of School, Katherine Schantz, has been with the School since July 2009.

The instructional approaches developed by Professor Smith emphasize hands-on, experimental learning and the use of the arts to teach academic skills. State-of-the-art work with technology based learning, performing, visual and multi-media arts and experiential learning keep the Lab School pioneering new educational methods. The School maintains a low teacher to student ratio to deliver the rigorous content and multiple modalities to its diversity of learners. Over 90% of Lab School students go on to college.

Because of the special needs of the students, the Lab School provides specialized services to its students, including: individualized tutoring for all ages; psychological assessment; speech and language therapy, psychotherapy; occupational therapy, evaluation and treatment; and consultation services. The Lab School outreach service offers assistance to parents and professionals. In some classes, such as reading, Lab School students require one-on-one instruction by teachers.

The Lab School has been an active member of this community for over 30 years and active member of the District community for almost 45 years. Since its athletic building was approved in 1997, the School has offered the Community Swim Program, which allows neighborhood residents the use of the Lab School's indoor pool and gym. The School also hosts local swim teams and swim clubs and provides space for swimming lessons. The Lab School offers gym space to basketball training camps, local art fairs and community groups. Lab participates in the Halloween festival at the adjacent firehouse.

IV.
Description of Subject Property and Surrounding Area

A. The Subject Property and Surrounding Property

The Property is located in the R-1-B Zone District near the intersection of Whitehaven Parkway and Reservoir Road. It has frontage on both streets. The Property contains 163,567 square feet of land area. It is improved with a prominent “castle” administration building, a gymnasium, a carriage house, an arts building, two classroom buildings, an indoor pool, and two houses. The Applicant also uses property located across Whitehaven Parkway, which contains 5,003 square feet of land area and is improved with a single family home that is used for administrative offices.

The surrounding area is characterized by a mixture of residential and institutional uses. The Property abuts St. Patrick’s Episcopal Day School to the east and Fire Engine House No. 29 to the west. Both sides of Reservoir Road, located south and east of the Property are devoted primarily to use as single family homes. The Embassy of the Federal Republic of Germany and an underground reservoir are located further east of the Property. St. Patrick’s Episcopal Day School gymnasium, The George Washington University’s Mount Vernon Campus, and the Our Lady of Victory Church and School are located across Whitehaven Parkway from the School.

B. Existing Zoning and Prior Zoning Approvals

The Property is located in the R-1-B District, which is designed for low density residential areas. The site is surrounded by property also located in the R-1-B Zone District.

The School was established at its present location in 1982. Prior to that time, the Property was the location of the Florence Crittendon Home and School. In 1992, the BZA, by Order No. 15642, granted the School’s application to add additional property to the School and

to convert a single family home into administrative offices. In the 1997 case that approved the new gymnasium (Order No. 16273), the BZA approved a maximum student enrollment of 310 students and a faculty/staff cap of 95. In a subsequent BZA case, the Board approved use of the property located at 4749 Whitehaven Parkway for use as administrative offices for the School. The same order, Order No. 17383 (amended by Order No. 17383-A), also approved an increase in the student population to 330 students and the number of faculty and staff to 182 individuals. As a condition of approval, the Board required the Applicant to construct 43 new angled parking spaces, complete with a sidewalk, along Whitehaven Parkway to accommodate faculty, staff, and visitors to the School, while also remaining available for use by the public. The Board also limited approval for increasing the student, faculty and staff numbers to a term of five years and asked that the School update the ANC on the current student enrollment, the number faculty and staff employed and with the results of bi-annual traffic monitoring surveys. Lab returned to the Board in 2011 in Case No. 18237 to demonstrate that its operations satisfied the conditions set forth by the Board five years previously. The Board agreed and granted permanent approval of the student enrollment and faculty and staff caps so long as Lab complies with the stated conditions.

V. Description of Project

Lab is proposing to expand the facilities on its campus to provide additional room for its students. The School currently provides approximately 248 square feet per student, which the School would like to expand to approximately 336 square feet per student. Lab has not undertaken an expansion of its classroom space since it occupied the site in 1982. The last major improvement constructed on the campus was the gymnasium, which was constructed in 1999. In

order to serve the needs of its students, Lab has determined that a physical expansion is necessary. Accordingly, it is proposing a 29,000 square foot addition to the existing gymnasium. The building addition will be dedicated entirely to the high school.

Lab currently has 125 students enrolled in its high school program. This program currently shares space with the middle school, which makes for suboptimal classroom space. There are currently 12 students in each classroom, the average size of which is 237 square feet. Lab strongly believes that more space is necessary for the education of its middle and high school students; accordingly, it will shift the high-school students to the proposed building.

The proposed addition will include approximately 18 classrooms and new multi-functional student commons. These spaces will allow the high school to function almost entirely independently of the rest of the campus. The high school will, however, still share the theatre, outdoor area, arts facility, and gymnasium facilities with the middle school.

Lab is using this project as an opportunity to “green” its operations. As a part of its greening effort, Lab has replaced its HVAC system with a more efficient system and is incorporating water efficient fixtures and landscaping. It intends to seek LEED certification for its work. The School is also reducing the area of its surface parking lot and converting a portion of it to pervious green space. More specifically, Lab is eliminating the parking area that lies between the classroom space and the gymnasium. This decision is the result of the School’s green initiative but also because Lab has determined that this area gives rise to pedestrian and vehicular conflicts and Lab is eliminating it as a safety precaution. Converting this parking to green space will create a functional and visual connection between the school buildings that will students will allow to traverse safely. It will also, however, result in the reduction of on-site parking. Lab currently provides 87 zoning-compliant spaces on campus and 20 stacked parking

spaces for a total number of 107 on-site parking spaces. The elimination of this parking area, as well as the elimination of seven spaces along the southern edge of the addition, results in a loss of 21 zoning compliant spaces on-site, but will allow for a safer arrival, dismissal and access to the high school.

VI.

Relief Requested

This application seeks approval to construct an addition to the Lab School campus that will be used for private school purposes. Lab is located in the R-1-B Zone District and as such, private school uses, including the expansion thereof, requires special exception relief from the BZA. Accordingly, Lab seeks relief pursuant to Section 206 of the Zoning Regulations to allow for the construction of a 24,000 square foot private school addition.

Lab also seeks variance relief pursuant to Section 2101.1 from the parking requirements for a private school. The on-site parking requirement for the School is 130 spaces; however, the School currently has approval for 87 zoning-compliant spaces. This project will result in the loss of 21 parking spaces leaving a total of 67 zoning-compliant parking spaces on-site.

As noted previously, the School is neither proposing changes to the existing cap on its student enrollment or faculty and staff numbers nor is it proposing changing its scope of services, as it currently has a high school program.

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

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

The proposed addition will be located on the northwestern property line, along Whitehaven Parkway. It is adjacent to the Palisades fire station and across Whitehaven Parkway

from Our Lady of Victory and south of St. Patrick's Episcopal Day School. The addition is surrounded by institutional uses.

a. Noise

There will be no negative noise impact from the proposed addition. All activities associated with the addition will take place indoors, which will buffer the noise from surrounding properties. The only outdoor component of the project is the conversion of the surface parking area to green space. This space is currently used by students as a connection between buildings; the use of the space will not necessarily change with the proposed project, but the level of safety in using it will. Nevertheless, this space is located between two school buildings; the structures will impede noise travel to other properties. It is important to remember that the School is not increasing the number of students who will be located on-site, thus there should be no discernable increase in the level of noise generated by campus activities. Finally, it is significant that the surrounding uses are each institutional uses themselves – either a school, which would generate a similar level of noise as Lab, or a fire house, which generates a greater level of noise. Accordingly, there is no adverse effect on neighboring property owners with respect to noise.

b. Traffic

The Applicant is proposing to maintain its existing cap of 330 students and 182 faculty and staff members. The School has implemented a stringent Traffic Management Plan (“TMP”) in compliance with the approval granted by Case No. 18237. Specifically, the School has instituted a number of programs to ensure that its operations do not contribute to congestion along MacArthur Boulevard or Reservoir Road, including:

- Established and expanded a highly successful shuttle program,

- Provides \$245 a month in Metrocheck benefits to encourage employees to take public transportation;
- Enrolled in the “Guaranteed Ride Home” to encourage use of public transportation;
- Provides bike racks and showers for faculty and staff who to bike to the Campus;
- A formal carpool program (complete with a zipcode lists to facilitate forming carpools among families living in the same community); and
- Eliminated reserved parking at the Main Campus.

The School has agreed that it will not generate any new trips beyond 165 morning peak hour inbound trips, as required by Order No. 18237. It monitors its trip generation twice a year to confirm that it meets this goal and to date, the School has successfully done so.

The School is not proposing a new circulation plan in connection with the high school addition. Access to the School will continue to be from the existing entrance on Reservoir Road. Pedestrian access to the School will be enhanced in connection with the project as two pathways to the School will be improved from Reservoir Road so pedestrians can avoid using the vehicular entrance. The School proposes to modify the TMP measures as conditions dictate in order to be respond to faculty and staff needs, improve effectiveness and reduce parking demand.

c. Number of Students

The Applicant is proposing to maintain the existing cap on the number of students; thus the number of students should not have a discernable effect on the community.

d. Otherwise Objectionable Conditions

This application will greatly improve the quality of life for Lab students but will not create objectionable conditions for neighboring property owners.

2. The Applicant Will Provide Ample On-Site Parking

The proposed project will reduce the number of parking spaces on campus. Lab currently has 87 zoning-compliant parking spaces on campus and an additional 20 stacked spaces. It also provides 15 parking spaces off-site at a nearby CVS. The Board has already approved the existing parking scheme of 122 spaces. Lab, however, would like to reduce the existing scheme of 122 on-site and off-site spaces to 102 parking spaces. It understands that in doing so, the onus will be on it to reduce its parking demand. In order to do this, Lab is preparing to revise its traffic management plan to reduce its parking needs. Some of the efforts that it currently undertakes are already reducing its parking needs, such as increased shuttle services, providing \$245 per month on Metrocheck cards, providing a guaranteed ride home, and providing bike parking and showers for those who bike to school. In addition to these efforts the School is committing to the following measures to further reduce its parking needs in addition to others that may be considered as part of the final TMP:

- Providing a community bike to allow faculty to run errands during the day;
- Providing \$40 per month for those who bike to work as a part of the federal Bike Commuter Benefit program;
- Prohibiting student driving absent an extenuating circumstance; and
- Enhance its carpool program; provide dedicated carpool spaces, as needed.

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 not proposing a change in circulation patterns, an increase in the number of students, or an increase of its faculty and staff, but is in fact proposing to maintain the existing approval for the Main Campus. Accordingly, there should be no detrimental effect on neighboring property owners as a result of the proposed addition to Main

Campus. The Main Campus will in essence absorb the effects of the addition and impede any effects that would otherwise extend to neighboring property owners.

The project does reduce the amount of parking on-site; however, the amount of parking that the School will provide both on-site and off-site, as confirmed by the attached parking study, will satisfy the needs of the School. Nevertheless, the School will continue to work with the community to address any concerns they may have regarding parking. The Applicant believes that in light of the work it has done to minimize the effect of its operations on the community, its request for approval is appropriate. For example, this year alone, the student shuttle numbers have increased by 25% since last year (from 80 to 100 students).

VII.

The Application Meets the Requirements for Variance Relief

The burden of proof for area 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. Bd. of Zoning Adj., 287 A.2d 535, 541 (D.C. 1972). NPS is seeking variance relief for the temporary placement of a modular in a required side yard. As outlined below, the Applicant demonstrates that the Property meets the three-part test for area variance relief.

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

The Court of Appeals held in Clerics of St. Viator v. D.C. Bd. of Zoning Adj., 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just

the land. The Court in Monaco v. D.C. Bd. of Zoning Adj., 407 A.2d 1091 (D.C. 1979) went even further and noted that the exceptional situation or condition is not limited to the land or the physical improvements on the land, but applies also to the history of the property. In Monaco, the Court accepted the past zoning history of the property as evidence of uniqueness, as well as its location in relation to the Capitol. Specifically, the Court held “[t]he site’s proximity to the Capitol made it uniquely valuable to the Republican National Committee, a public service organization. The previously constructed buildings and the contiguous subject site can be considered together in applying the test especially because the past acts of the zoning authorities led interveners to rely in good faith on their eventual consent to the final stage of the building. This case, like DeAzcarate, illustrates that extraordinary circumstances can encompass the past zoning history, as well as the physical features, of the property.” Id. at 1099-1100. Furthermore, the Court of Appeals held in Gilmartin v. D.C. Board of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a “confluence of factors.” Id. Finally, it is not necessary that the Property be unreservedly unique. Rather, applicants must prove that a property is affected by a condition that is unique to the property and not related to general conditions in the neighborhood

Here, like in Monaco, there are a series of factors that contribute to the uniqueness of the Property. As described above, there are several limiting factors on the School’s ability to provide the requisite amount of parking. The primary considerations are the existing footprints of its buildings and the existing circulation plan, safety considerations, and wetland and grade considerations.

The current footprint of the campus and the existing entrance to the School relegate the “front yard” as the only feasible space for parking. Accordingly, the School dedicates the area in front of the main entrance as parking for visitors, faculty and staff. The placement of the school buildings impedes placing parking elsewhere on campus as there is not the requisite space to provide both parking and access to the parking. The only locations where parking could be located is 1) between the two buildings – the area where parking is currently provided but the School is proposing to remove it, and 2) on the wetlands. With respect to the first option, this aisle is currently used for parking. It is also used by students accessing the gymnasium during the day or by the community accessing the pool at night and by large vehicles for loading. To have both pedestrians and vehicles utilizing the same space increases the likelihood of a conflict between the two. The drive aisle also does not function ideally for parking: it is a dead-end aisle; thus, if a car turns down the aisle and discovers that no parking is available, it must undertake a multi-point turn to pull out of the space. Again, undertaking such maneuvers where pedestrians are present is neither safe nor ideal.

With respect to the second item, there are local and federal restrictions to paving a certified wetland for use as surface parking. Lab has no intention of paving this part of its campus. The wetlands play an important role in the School’s curriculum and Lab does not intend to change that.

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

The requested relief is for an area variance, and the appropriate test is whether the strict application of the zoning regulations results in a “practical difficulty.” In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in Palmer v. Board of Zoning Adjustment, 287 A.2d 535, 542 (D.C. App. 1972), that “[g]enerally it must be shown that

compliance with the area restriction would be unnecessarily burdensome. 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.” In area variances, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1365 (D.C. 1992) (citing Gilmartin v. Bd. of Zoning Adj., 579 A.2d 1164, 1167 (D.C. 1990)). Finally, it is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ Increased expense and inconvenience to applicant for a variance are among the factors for BZA’s consideration.” Gilmartin, 579 A.2d at 1171 (citing Barbour v. D.C. Bd. of Zoning Adj., 358 A.2d 326, 327 (D.C. 1976)); see also Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1367 (D.C. 1992). Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Gilmartin, 579 A.2d at 1171.

Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible. Here, the Applicant meets this standard. In the first prong of the variance test, the Applicant demonstrated that there is limited space available for providing the requisite parking. Strict compliance with the Zoning Regulations would require the Applicant to either locate the parking in space with environmental restrictions on its use (the wetlands) or would require the School to compromise both its safety standards and its goal of establishing a “greener” campus by providing parking between the gymnasium and existing classrooms. Alternatively, the School would like to take its goal of greening its campus even further by reducing its parking needs and encouraging faculty and staff to use alternative methods of transportation for arriving at campus.

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

The requested variance relief can be granted without impairing the intent, purpose and integrity of the Zone Plan. The reduction in parking will not have a negative effect on the community because the School is offering traffic management plan that will effectively reduce its parking needs. Attached as Exhibit B is a transportation analysis that sets forth that this goal is achievable and in order to achieve it, Lab will undertake the following commitments in addition to those commitments the school has already made to the community (these may be modified as a part of the final TMP):

- Providing a community bike to allow faculty to run errands during the day;
- Providing \$40 per month for those who bike to work;
- Prohibiting student driving absent an extenuating circumstance; and
- Providing dedicated carpool spaces as needed.

VIII.

Conditions

Lab does not propose changing any of the conditions of approval listed in Order No. 18237 other than to incorporate the proposed plans for the high school addition.

IX.

Exhibits

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| 1. | Exhibit A | Order No. 18237 |
| 2. | Exhibit B | Traffic Management Plan |
| 3. | Exhibit C | Surveyor's Plat |
| 4. | Exhibit D | Application form, self-certification form, agent authorization letter |

- 5. Exhibit E Photographs of property
- 6. Exhibit F Property Owner List
- 7. Exhibit G Zoning Map

IX.
Conclusion

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

GOULSTON & STORRS



Allison C. Prince



Christine A. Roddy

Certificate of Service

I hereby certify that the foregoing document was hand delivered or sent by first class mail on September 3, 2013 to the following:

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