

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Ingleside at Rock Creek
Hearing Date:

BZA Application No.
ANC 3G

STATEMENT OF APPLICANT

I.

Nature of Relief Sought

This is an application pursuant to Section 3104.1 of the Zoning Regulations for special exception relief under Sections 218 and 219 to allow an addition to Ingleside at Rock Creek ("Ingleside"), an existing nonprofit continuing care retirement community consisting of a connected community residence, assisted living, and a health care facility located at 3050 Military Road, N.W. (Square 2287, Lots 802, 804, 809, 813 and Square 2290, Lot 30). (See plat attached as Exhibit A.) Ingleside also seeks variance relief from the minimum width requirements of Section 401.3 for the creation of an independent record lot along 29th Street.

Ingleside proposes to construct an addition to its campus in order to meet the rising needs of District seniors. As a continuing care retirement community ("CCRC"), Ingleside must maintain a spectrum of healthcare and living options for its residents to fulfill its mission to "excel in providing distinctive and sustainable residential settings where active seniors live in vibrant, caring, and spiritually rich communities, and where they can rely on continuing wellness and healthcare services for themselves and their neighbors." In sum, Ingleside is proposing new construction to its campus, which will house an additional 97 independent living units. The plans also include 12 new assisted living, 32 memory care units, and 64 new health care units that will replace 41 assisted living units and 60 health care units, which will be razed.

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The plans will facilitate the new program of traditional and assisted living memory care units and short-term rehabilitation and long-term care units.

The subject site, which consists of 15 acres of land area, is located in the R-1-A zone district. (See D.C. Zoning Map attached as Exhibit B.) It borders single-family houses along Military Road to the north and along 29th Street to the east, institutional uses to the west (Temple Sinai and the Carnegie Institution) and the Embassies of the Ivory Coast and Tunisia to the south.

The existing campus is 612,352 square feet in size and is comprised of seven buildings: an assisted living building constructed in the late 1950s, a health center constructed in the 1980s, three interconnected independent living buildings that were constructed in 2000, the McCracken apartments, and the Manor House. The healthcare center currently accommodates 60 units. Ingleside proposes razing the existing building and replacing it with a state-of-the art healthcare center on the site of the existing assisted living building, which will also be razed; it will simultaneously shift its location from the center of the site to northernmost portion of the site along Military Road. The proposed healthcare center will include a total of 64 health care units and 32 assisted living memory care units. It will also include offices that visiting doctors with geriatric emphasis will use temporarily to see residents on-site rather than have them travel to their offices off-site,¹ as well as spaces for physical therapy, occupational therapy and speech and language pathology. As an amenity for the community, Ingleside will allow nearby residents requiring geriatric care to see the visiting doctors on the Ingleside campus. Ingleside anticipates that it will have approximately one medical director visiting the campus once a week; three physicians and a psychiatrist

¹ Ingleside's health care license requires that it currently provide onsite physician services to its residents.

visiting the campus twice a week, and specialists such as a dentist, podiatrist, and dermatologist visiting the campus once a month. There will be very little traffic to and from the site as a result of the visiting doctors.

Ingleside is proposing to construct two new senior living buildings in the center of its campus atop an open area and a surface parking lot. The two buildings together will accommodate a total of 97 independent living units and 12 new traditional assisted living units.² These buildings represent a shift in Ingleside's strategy to address senior needs in that Ingleside finds a benefit in co-locating the assisted and independent living units, as the typical progression of its residents is to shift between the two forms of housing. The independent living units will house independent, active seniors who do not require a high level of care yet desire the support and amenities afforded by a retirement community. As residents age and require increased levels of care, they will be accommodated in the assisted-living or nursing units. The continuum of care offered by Ingleside has strong appeal to seniors because it provides them with the security of knowing that their future needs will be addressed with little disruption to their daily routine.

Ingleside will also construct a center for healthy living, which will accommodate uses ancillary to the CCRC that are available to the residents. These uses include a restaurant, a day spa, fitness and wellness areas, as well as a meditation space. These uses are typical of CCRCs as they facilitate interaction among the residents, keep the seniors engaged, and provide conveniences on-site since many of the residents no longer drive.

² There are currently 41 assisted living beds on the Ingleside campus, which will be demolished once the current assisted living building is razed. There will be a net increase of three assisted living units upon completion of the two new senior living buildings.

Finally, there are no immediate plans to convert the Manor House into senior living units; however, Ingleside is considering an addition to the Manor House to house independent living units as needs dictates. This addition is not a part of this application, Ingleside only mentions it to provide context for its future plans.

In addition to the buildings discussed on its campus, Ingleside owns six single-family lots, five of which are improved with single-family homes, four of the homes are located on Military Road and one is located on 29th Street. In addition, there is an unimproved lot on 29th Street is currently a part of the larger Ingleside property; however, Ingleside simultaneously requests relief from the requirements of Section 401.3 in order to establish a separate record lot along 29th Street, which will facilitate selling the property in the future for use as a single-family home. Ingleside owns an additional lot along 29th Street which is improved with a single-family home. Ingleside simultaneously seeks special exception approval to utilize the single-family home at 5314 29th Street, NW to temporarily house ten assisted living residents during the interim between demolition of the existing assisted living building and construction of the new senior living residence buildings. Ingleside anticipates using the single-family home as an assisted living facility for approximately 24 months during construction. Once the residents have been relocated in the newly constructed residence facility, Ingleside will sell the house. This lot, as well as the lot to its north, will not be a part of the Ingleside campus once they are sold.

Ingleside owns four single-family homes along Military Road; however, only two of the houses are included in this application. The eastern-most homes are not a part of this application and remain independent of the Ingleside campus. Ingleside will retain the two

western homes, as feasible; however a portion of the lots, if needed, will be used to access the loading area.

Ingleside has operated on the subject site for the past five decades with no adverse impact on the community. The existing facility occupies only approximately 15.2% of the lot area, thus providing substantial open space including lawns, shrubbery, mature trees and extensive plantings. Ingleside has been a quiet and considerate neighbor, generating little noise, activity and traffic. Ingleside has always enjoyed a cordial and respectful relationship with its neighbors. The neighbors appreciate the open space and Ingleside's park-like setting.

After the construction of the proposed addition, the site will continue to contain substantial open space due to a total proposed lot occupancy of only 21.3% (40% is permitted.) The increase of 104 units will represent extremely low density occupancy of the 15-acre site.

A. Zoning Background

The Board previously has considered eight applications regarding Ingleside. (See Orders attached as Exhibit E):

In BZA Appeal No. 5205, dated August 18, 1958, the Board approved the original construction of Ingleside with 80 beds. Thereafter, the Board approved two applications for expansion plans, neither of which were constructed due to economic considerations. In Appeal No. 9232, dated November 21, 1967, the Board approved an addition to Ingleside that would have contained 300 units. Subsequently, the Board approved a building expansion in BZA Order No. 11147 dated January 10, 1973. The plans involved a three-story addition and two-story connection wing which, had they been constructed, would have added 103 beds and 37 convalescent beds to Ingleside for a total of 220 beds. Two approved additions were constructed.

In Application No. 12164, dated June 16, 1976, the Board approved a smaller addition of 97 beds. This three-story addition expanded the facility to provide a total of 138 residential and 32 infirmary beds for a total of 170 beds. In Application No. 13940, dated June 28, 1983, the BZA approved a two-story addition to the south wing of the existing Home to add 43 additional beds.'

In 1996, the Board approved an application for 102 units on the Property in Order No. 16138; these beds were ultimately constructed around 2000. This Order included a comprehensive series of conditions upon which the approval was granted, many of which Ingleside incorporates into this application. Finally, an additional 13 units were approved in 2004; Ingleside added 10 of the 13 approved units.

II. **History of Ingleside**

Ingleside has had a longstanding and significant presence along Military Road for almost 60 years of its 108-year history. Ingleside was already in its fifth decade of operation when it acquired the subject site in 1958 and subsequently constructed the existing assisted living building in 1960. Ingleside is a successor of the Presbyterian Home of DC. When The Presbyterian Home was originally established in 1906, it was located in a row house at 1420 M Street, NW. In 1918, it relocated to the The Presbyterian Home Mansion in Mount Pleasant at 1818 Newton Street, N.W. It subsequently relocated to the subject site.

Ingleside is known for its quiet presence, well-maintained grounds and excellent care for its residents in a home-like, wooded setting. Both the residents of Ingleside and area neighbors enjoy the substantial open space of the site.

Ingleside serves a critical need in the community by providing a warm and supportive environment, including independent apartment residences, assisted living rooms and nursing care in the health care center, for a total of approximately 245 residents. Units at Ingleside are in constant demand. Ingleside is filled to capacity and there are currently 188 individuals and couples on its waiting list. With an average resident age of 86.7 and an average unit turnover of 12 independent living units per year, Ingleside will never be able to meet the current demand with its existing housing stock. Ingleside must expand physically in order to address the shortage of CCRC services available in the District.

Ingleside is one of the few senior care homes located within the District; most are located or have relocated to the suburbs. In addition to the services that Ingleside provides, it also provides a number of other benefits by way of tax revenues and employment. Its 245 residents pay District taxes. Ingleside plans to increase the number of residents to 387, all of whom will pay District taxes. Additionally, Ingleside currently employs 183 individuals and plans to increase this number to 225 to account for the additional residents to whom it will be home. Approximately 35% of the employees are District residents. Ingleside also provides benefits for the immediate community: it provides space for Temple Sinai students for Sunday classes, it hosts meetings for Alcoholics Anonymous, Parkinsons, Northwest Neighbors Village, to name just a few of the organizations, and it works with residents to provide sandwiches for So Others May Eat (“SOME”). It makes many other charitable contributions to the community via its residents such as tutoring and volunteering. Ingleside also proposes to provide access to geriatric physicians and specialists for those seniors in the immediate neighborhood.

III.

Jurisdiction of the Board

This Board has jurisdiction pursuant to Section 3104.1 of the Zoning Regulations to grant the requested special exception relief and it has jurisdiction pursuant to Section 3101.2 to grant the requested variance relief.

IV.

Exhibits in Support of the Application

The following exhibits are submitted in support of the application:

Exhibit A: Plat showing the subject property

Exhibit B: Architectural Plans and photographs of site

Exhibit C: Application forms and agent authorization letter

Exhibit D: Excerpt of zoning map

Exhibit E: Prior orders of the Board of Zoning Adjustment involving the subject site including: No. 5205 dated August 18, 1958, No. 9232 dated November 21, 1967, No. 11147 dated January 10, 1973, No. 12164 dated June 16, 1976 and No. 13940 dated June 28, 1983, No. 16138 dated December 4, 1996, and No. 17114 dated February 17, 2004.

Exhibit F: Property Owner List

V.

**The Applicant is Entitled to Special
Exception Relief Under the Zoning Regulations**

As the Board is aware, a special exception use is a use deemed compatible with other uses permitted in that particular zoning classification provided certain requirements are met. In reviewing applications for special exception under the Zoning Regulations, the Board's discretion is limited to

determining whether the proposed exception satisfies the requirements set forth therein. If the prerequisites set out in the regulations are satisfied, the Board is required to grant the application. See, e.g., Bakers Local Union No. 118 v. D.C. Board of Zoning Adjustment, 437 A.2d 176, 178 (D.C. 1981). As will be demonstrated, the granting of the requested special exception relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring properties.

As indicated above, the proposed project involves an expansion of the number of independent living units in Ingleside and newly constructed assisted living units (for a net increase of three units in the overall number of assisted living units on-site). Thus, the Applicant must demonstrate satisfaction with the requirements of Section 218 governing community residence facilities. Ingleside is also adding four nursing care beds to the campus, which requires special exception relief pursuant to Section 219. As further set forth below, Ingleside meets the criteria for special exception relief for these uses.

A. **Community Residence Facility (Section 218) and Health Care Facilities (Section 219)**

1. Section 218.7: In the case of a community residence facility, the Board may approve a facility for more than fifteen (15) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location, and if there is no other reasonable alternative to meet the program needs of that area of the District.

The proposed project will add 97 independent-living units to Ingleside for a total of 224 independent units, 12 assisted living units and 32 memory care assisted living units for a total 44 assisted living units on site. As previously stated, Ingleside has an extremely high level of occupancy. The waiting list for Ingleside, the regular stream of inquiries from prospective residents,

and the demonstrated interest in Ingleside shows the significant demand for expansion. Ward 4, in particular, has a tremendous need for housing for the elderly; in fact, according to the 2010 Census, 28% of the Ward 4 population is at least 60 years of age, yet Ward 4 provides the fewest number of independent living units for its seniors. According to the Office of the Aging, Ward 4 provides only 297 independent living units (apart from Ingleside) for its seniors. The second lowest number of units is in Ward 7, which provides approximately 663 independent living units. Ward 5, by contrast, provides over 2,350 independent living beds for its seniors. Ingleside's proposed addition addresses the lack of housing and care options for seniors in the District, particularly Ward 4. The metropolitan area has one of the largest senior populations in the country and Ward 4 has one the highest populations of elderly residents of all eight wards of the District. Fifty-six percent of the current independent living residents come from the District and 27 percent come from Montgomery County. There are only four CCRCs in the entire District of Columbia and Ingleside is one of them.

In the extensive planning for this project, Ingleside concluded that its needs could not be achieved by an addition of a smaller size at the subject location. First, a smaller project would not respond adequately to the established demand. Second, a reduction in the proposed size of the addition would affect its economic feasibility thereby jeopardizing the entire project. Independent-living projects such as Ingleside have substantial infrastructure needs such as dining rooms, accessory uses, a central kitchen, underground parking and recreational areas. If these costs are not spread among a critical mass of units, the project simply is not feasible.

The increased unit costs for Ingleside that would result from a decrease in the number of units would be incompatible with Ingleside's goal to provide housing for the elderly at affordable rates. As a non-profit organization, Ingleside is committed to caring for residents if they outlive

their income and assets. For instance, if a resident outlives their financial resources through no fault of their own, Ingleside will provide access to the resident supporting funds to assist with paying their expenses. Ingleside will not ask the resident to leave the facility due to their lack of funds. Further, one-third of residents in nursing beds are on Medicaid, which is a program for individuals who do not have the income and assets to pay privately for nursing home care. The independent living units are necessary to offset the costs of these beneficial programs.

For the foregoing reasons, Ingleside has been unwilling to reduce its proposed unit count. Ingleside has been flexible on all matters that do not affect the ultimate viability of the project: it has undertaken major design adjustments to reduce the height of its addition and it has abandoned plans for an additional curbcut on Military Road. Reducing the proposed unit count; however, will cut at the very heart of the project and jeopardize its feasibility.

2. Section 218.2. There shall be no other property containing a community-based residential facility ("CBRF") for seven or more persons in the same square and no other property containing a CBRF for seven or more persons within a radius of 1,000 feet from any portion of the subject property.

Section 218.6. The Board may approve more than one CBRF facility in a square or within 1000 square feet, only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations.

219.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property.

219.6 The Board may approve more than one (1) community-based residential facility in a square or within one thousand feet (1,000 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

The subject site is located within 1,000 feet of both Forest Hills of DC and its affiliated memory care campus, Forest Side. Forest Side is located just two blocks from Ingleside provides

dementia and Alzheimer care for up to 33 residents. Forest Hills of DC is located approximately 1,000 feet from Ingleside and provides assisted living and nursing care for approximately 62 residents; neither location provides independent living units.

Unlike Forest Hills or Forest Side, Ingleside provides a continuum of care for residents. It is truly a comprehensive care community that allows residents to age in place. Forest Hills and Forest Side only accept residents once a distinct concern has been identified and the senior can no longer live independently. Ingleside and Forest Hills (formerly known as The Methodist Home) have co-existed for decades without adverse effects on the community.

3. Section 218.3. There shall be adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees and visitors to the facility.

219.3 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.

Currently, there are a total of 217 parking spaces on the property, which is adequate for the current demand. Ingleside will add approximately 150 parking spaces for a total of approximately 367, which should satisfy its parking demand. Approximately 40% of its staff either take public transportation or carpool and Ingleside anticipates that the number will grow to 55% with the addition of new employees.

The project removes almost all of the surface parking and replaces it with below-grade garages. Doing so mitigates the visual effect of parking on the site and helps create a more seamless campus.

Ingleside currently operates with almost no traffic impact on the neighborhood. The use generates an extremely low volume of vehicular trips and many of the employees travel to Ingleside

by public transportation. Ingleside is well buffered from neighboring properties and it takes steps to encourage all parking on-site so as to avoid any overflow parking in the neighborhood. Ingleside has undertaken a parking and transportation analysis to ensure that its operations do not have a negative effect on the community. Ingleside will supplement the record to include the transportation analysis prior to the public hearing.

4. Section 218.4. The proposed facility shall meet all applicable code and licensing requirements.

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The proposed addition will meet all applicable code and licensing requirements. It will be fully accessible to the disabled and will meet all fire and life safety and Building Code requirements.

5. Section 218.5. The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of similar facilities in the area.

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a. Lack of Adverse Impacts

1. Traffic

Ingleside has two entrances: one on Military Road and one on Broad Branch. The Military Road entrance will be used for all visitors and staff of the health center, as well as for all deliveries. The majority of trips will occur to and from the Broad Branch Road point of access, which will be used by residents, visitors and employees of the independent and assisted living units. This arrangement helps mitigate impacts of traffic on Military Road, which already suffers from a heavy traffic burden.

Currently, Ingleside generates little traffic activity and operates with minimal impact on the community. The limited demand for parking is related to both the use of the site and its excellent location in terms of its accessibility to public transportation. Ingleside's residents do not generate a significant amount of traffic and those that do drive, do not typically enter or leave the site during peak rush hour periods. Similarly, the staff that works at Ingleside does not work typical 9 to 5 shifts and does not exacerbate the already heavy traffic burden on Military Road. Finally, only a small number of vendors and visitors come to the site on a weekly basis.

The proposed addition will accommodate approximately 143 new residents. Ingleside is currently undertaking a parking and transportation analysis; however, it believes that with the addition of 150 parking spaces, there will be ample parking for residents, employees, and visitors.

2. Noise

The current use of the site is inherently quiet. Given the low density occupancy of the site, the ample buffers, the average age of the residents and the limited traffic to the site, Ingleside generates little noise. Ingleside intends to continue its current quiet level of operation.

3. Operations

Ingleside has been a careful and considerate neighbor in its operation. Over the years, Ingleside has had little impact on the neighborhood and has demonstrated a willingness to minimize the impact of its operations on the community. The conditions that Ingleside is discussing with the community will incorporate controls on early morning deliveries, lighting and several other matters that will minimize the effect of Ingleside's operation in the neighborhood.

4. Number of similar facilities in the area

Knollwood is military retirement community that serves approximately 300 residents. It is located at Nebraska and Utah Avenues and provides independent living units, assisted living units, skilled nursing beds and memory care beds. Knollwood is available only to retired military members; Ingleside is open to all.

6. Section 218.8. The Board shall submit the application under the Director of Office of Planning for coordination, review, report and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the D.C. Departments of Public Works, Human Services and Corrections and, if a historic district or historic landmark is involved, of the State Historic Preservation Officer.

219.8. The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

All appropriate referrals have been made. The subject property is not located in an historic district nor is it an individually designated landmark.

B. **The relief sought is in harmony with the general purpose and intent of the regulations and will not tend to affect adversely the use of neighboring property.**

As is fully demonstrated above, the application meets the criteria set forth in Sections 218 and 219 for special exception approval and, therefore, is in harmony with the general purpose and intent of the Zoning Regulations. Ingleside has demonstrated a strong commitment to working with the community to address all concerns relating to the proposed addition and its operation. The project has changed as a result of these meetings. The end result is a plan that serves the needs of Ingleside's residents, staff and visitors, without creating any adverse impact on neighboring property. Thus, the

requirements of Section 3104.1 are fully met in this case application, and the Board, accordingly, should grant the requested relief.

VI.

The Application Meets the Requirements for Area Variances Under Section 3103.2 of the Zoning Regulations

The burden of proof for an area variance is well established. The applicant must demonstrate that: (i) the property is affected by an exceptional or extraordinary situation or condition; (ii) that the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant; and (iii) that the granting of the variance will not cause substantial detriment to the public good or substantially impair the intent, purpose or integrity of the zone plan. *See, e.g., Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). In examining the first two elements, the BZA may apply a more flexible standard for determining difficulty when a public service or nonprofit entity is the applicant, such as Holy Trinity. *See National Black Child Development Institute v. D.C. Board of Zoning Adjustment*, 483 A.2d 687, 690 (D.C. 1984); *Monaco v. D.C. Board of Zoning Adjustment*, 407 A.2d 1091, 1098 (D.C. 1979). The D.C. Court of Appeals has applied the more flexible standard to area variances as well as use variances. *See Draude v. D.C. Board of Zoning Adjustment*, 582 A.2d 949, 956 (D.C. 1990). As set forth below, the Applicant meets the three-part test for the requested parking variance.

The Ingleside campus currently includes a swath of land that has approximately 58 feet of frontage on 29th Street. Ingleside would like the flexibility to subdivide the property out of its campus and sell to an independent party in the future. The property, however, is located in the R-1-A Zone District, which requires the property to have a minimum width of 75 feet. Accordingly, Ingleside seeks relief from the width requirements of Section 401.3; the lot will otherwise include 7,500 square feet of area to meet the minimum area requirements.

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

The D.C. Court of Appeals held in *Clerics of St. Viator v. D.C. Board of Zoning Adjustment*, 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the "property", not just the "land"; and that "property generally includes the permanent structures existing on the land." *Id.* at 293-294. Indeed, the Court repeatedly has rejected the idea that the exceptional situation and practical difficulty justifying a variance must arise from the physical aspects of the land. See *National Black Child Development*, 483 A.2d at 690; *Monaco v. D.C. Board of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979). Instead, the BZA may "weigh more fully the equities in an individual case." *National Black Child Development*, 483 A.2d at 690.

Lot 30 is unique in that it has street frontage along 29th Street but is located between existing record lots to the north and south, which effectively limit its width. Lot 30 is also located along a zone boundary change. The properties immediately to the north are located in the R-1-B Zone District, whereas Lot 30 is located in the R-1-A Zone District, presumably because it is currently a part of the Ingleside campus. The R-1-B Zone District has a lesser lot width requirement (50 feet) than the R-1-A Zone District (75 feet). Despite being located on the very same street, the lots have varying width requirements. Further, Lot 30 is located on a block where only one of the approximately 24 existing houses on the block meets the minimum width requirements, and that is the house to the south of Lot 30, which is also owned by Ingleside. Every other lot on the block has a lot width of approximately 40 feet, which is 18 feet narrower than what is being proposed by Ingleside for the instant lot. Lot 30 is simply physically constrained from providing the requisite lot width by the existing lots on the block.

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.* The BZA also may consider the needs of a public service organization that "has inadequate facilities and applies for a variance to expand into an adjacent area in common ownership" *Draude*, 582 A.2d at 956.

As noted above, the location of the lot in relation to the neighboring lots creates a hardship in complying with the minimum width requirements. Imposing this requirement creates a practical difficulty for Ingleside in that it would have to manipulate the lot lines in order to create a zoning compliant lot. In theory, Ingleside may be able to create a compliant lot if it increased the lot depth beyond its existing depth of 116 feet and widened the lot as it stretches west. To state this another way, Lot 30 would be 58 feet wide for a depth of 100-116 feet and then it would widen to much greater widths for a considerable depth. In theory, Ingleside could then take the average width of the lot in an attempt to meet the width

requirements. Doing this, however, would create several challenges: it would create an extremely unusually shaped lot with a significant, impracticable depth; it would also reduce the buffer between the Ingleside campus and what could be a single family home in the future, thereby depriving Ingleside of any assurance that its vast green space will remain for future residents to enjoy; finally, it would require Ingleside to forfeit a sizable amount of land in order to create a lot that averages out to a width of 75 feet. Each of these factors represent a practical difficulty in complying with the lot width requirements for the R-1-A Zone District.

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 requested variance can be granted without harm to the public good or the Zone Plan. As noted above, the lot would have the second greatest width of all houses on the block. It would exceed the widths of the other lots by 18 feet, which is nearly 1.5 times wider than the other residential lots on the block. Creating a record lot would create the opportunity for additional residential use on the block and it would remove the existing institutional presence that currently exists on 29th Street, making this request for relief consistent with the R-1-A Zone District.

VII.
Community Dialogue

In an effort to secure broad community input regarding the addition and its impact on the community, Ingleside participated in an extensive series of community meetings beginning in 2013. Over the past year, over 17 individual and group meetings have been held to discuss the

design, location and size of the proposed addition, traffic-related issues, environmental concerns, proposed construction activities, landscape-related issues and several other matters. As a result of the extensive and detailed dialogue with the community, the original plans were abandoned and the project has been redesigned. Ingleside is also working with the community to devise a list of several conditions addressing these specific areas. The level of specificity of the proposed conditions provides an indication of Ingleside's willingness to ensure that the additions will operate without any adverse impacts on the community. Ingleside also agreed and an Advisory Committee has been established which contains representatives of Ingleside and area residents. The Committee meets as needed now to discuss information and will continue to meet to address concerns regarding adherence to conditions.

Initially, Ingleside put forth a plan that required an additional curbcut on Military Road. The curbcut would align with 30th Place and would be used only for deliveries. The existing curbcut used on Military Road is used for deliveries, however, Ingleside wanted to differentiate the entrance for deliveries and the entrance for residents and visitors. Further, it is challenging for the trucks to make the turn from Military Road and then immediately turn again to access the loading docks. Providing a separate curbcut further east on Military Road addressed both concerns. Ingleside vetted the curbcut with the District Department of Transportation, which did not oppose the proposal. The community, however, vehemently opposed the proposal. Despite having designed the health center around the new curbcut, Ingleside scrapped the plan based on the community's response to the proposal. It is retaining the existing access drive to the loading docks, which in turn required the redesign of the health center at a much increased cost and a loss of needed program space. Ingleside has made some minor modifications to the existing drive in order to make it more accessible for delivery trucks.

The other primary complaint that the community has voiced with respect to Ingleside's plan is the length of construction. Ingleside initially anticipated that the complete build-out of this proposal could take up to five years. The community asked that the timeline be tightened as much as possible. Ingleside has since reduced the construction timeline to about 30 months. In order to do this however, it must use the residential home on 29th Street as temporary housing for assisted living residents. Initially, Ingleside was going to phase construction such that the new units would be built before the residents were moved; the new plan allows demolition to run simultaneously with the new construction. The temporary use of the home, however, is key in making this construction timeline feasible. Ingleside anticipates using the house for approximately 10 residents for a period not to exceed 24 months.

Finally, the last major change Ingleside made to its plans in response to community comments was a reduction in building height by a story. Ingleside initially proposed a nine-story independent and assisted living building; however, it is now only eight stories. As a result of losing a story, the final number of assisted living units was reduced from 36 traditional assisted living units to 12.

Ingleside appreciates that its campus immediately abuts residential uses and as such that it must take care to address its neighbors concerns. Ingleside instituted a community working group to fully understand the community's concerns and to discuss the appropriate resolution of the concerns. Ingleside is working with the ANC and the community to develop a series of conditions, which it will submit for the Board's consideration prior to the public hearing.

VIII.
Conclusion

For the reasons stated above, the requested special exception and variance relief can be granted without impairing the intent, purpose and integrity of the Zoning Regulations.

Respectfully submitted,

Allison Prince
Allison C. Prince

Christine Roddy
Christine Roddy

Certificate of Service

I certify that I have sent the foregoing document on October 6, 2014, by first class mail or hand delivery to the following addresses:

Joel Lawson
Office of Planning
1100 4th Street SW
Suite E-650
Washington, DC 20024

ANC 3G
P.O. Box 6252
Washington, DC 20015

Mr. Randy Speck
SMD 3G03
2940 Northampton Street, NW
Washington, DC 20015

Jamie Henson
District Department of Transportation
55 M Street SE
Floor 4
Washington, DC 20024



Christine Roddy