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March 27, 2000

Ms. Sheila Cross-Reid, Chairperson
District of Columbia Board of Zoning Adjustment
441 4th Street, NW, Suite 210
Washington, DC 200001

'00 MAR 27 P3:14
OFFICE OF ZONING
DISTRICT OF COLUMBIA

Re: BZA Application No. 16531, Draft Order

Dear Chairperson Reid:

Enclosed is a hard-copy and computer disk containing a draft Order for Application No. 16531.

Sincerely,

Phil T. Feola/mps

Phil T. Feola

Martin P. Sullivan

Enclosures
cc: Father Val Peter
Connie Washington

BZA
Case No. 16531
Exhibit No. 52

Board of Zoning Adjustment
District of Columbia
CASE NO.16531
EXHIBIT NO.52

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a copy of the foregoing document was mailed, first-class and postage prepaid, to the following:

Ray Dickey, Sr.
ANC 5A
1256 Emerson Street, NE
Washington, DC 20017

Norma M. Broadnax
4702 6th Street, NE
Washington, DC 20017

Martin P. Sullivan

APPLICANT'S
PROPOSED ZONING ORDER
BZA APPLICATION NO. 16531

DRAFT

Application No. 16531 of Father Flanagan's Boys Town of Washington, pursuant to 11 DCMR 3104.1, for a special exception under Section 303 to construct four youth residential-care homes, each housing six children, in an R-2 District at premises 4801 Sargent Road, N.E., Parcel 169/114.

HEARING DATE: February 23, 2000
DECISION DATE: April 5, 2000

SUMMARY OF EVIDENCE OF RECORD

1. Father Flanagan's Boys Town of Washington, Inc. ("Boys Town") is a subsidiary of Boys Town USA, a nonprofit, nonsectarian program operating in nine states nationwide. Boys Town USA is the family and community-based extension of Father Flanagan's Boys Town, founded in 1917 in Omaha, Nebraska, to help troubled boys. The program was expanded in 1979 to admit girls. The long-term residential component of Boys Town USA is designed to help abused and neglected children put their lives back together through a program of responsibility, nurturing and love.

2. Boys Town is the owner of property located at 4801 Sargent Road, N.E. (Lot 811, Square 3977) (the "Subject Property"). The Subject Property was, from the 1920's until 1992, the site of St. Gertrude's School and Development Center, a 24-hour care and educational facility for up to 50 mentally and emotionally handicapped children.

3. On June 2, 1993, the District of Columbia Board of Zoning Adjustment ("BZA" or "Board") issued Order No. 15805 granting special exception relief for Boys Town to establish Father Flanagan's Boys' Home of Washington, a long-term youth residential care home for up to 15 persons and an emergency youth shelter for 20 persons.

4. The Subject Property is in the R-2 Zone District and consists of approximately 526,310 square feet (12.1 acres) of land. The Subject Property is currently improved with two existing main buildings and two ancillary

structures (a carport and an enclosed pool).

5. The Applicant's program incorporates a long-term youth residential care home for up to 15 abused and neglected children, aged 12 to 17 years, with the average length of stay at this facility approximately 16 to 18 months. Additionally, Boys Town also operates a short-term residential care home on the property, which is defined in the Zoning Regulations as an emergency shelter, for up to 20 abused and neglected children, aged 12 to 17 years.

6. On October 29, 1999, the Applicant filed Application No. 16531 (the "Application") requesting special exception approval from the BZA for the construction of four youth care homes, each housing up to six neglected and abused children and for the addition of an administration building, pursuant to Section 303 of the Zoning Regulations. The Application requests, therefore, to increase the authorized number of "long-term" children housed at Boys Town from 15 to 24 children, along with new construction to accommodate the additional long-term residents.

7. Ms. Constance Washington, Site Director of Boys Town, testified regarding the programs operated on the Boys Town site. This testimony indicated that the four youth care homes will house no more than six youths each, as well as a resident married couple and a resident child-care assistant. Boys Town commits substantial financial and staff resources toward the creation of a structured, secure home-life atmosphere to facilitate a change in thinking, lifestyle and behavior. Individual treatment designed to change behavior by teaching appropriate skills is provided in a family-style setting. (Tr. at 10.)

8. The physical environment of the long-term residential facility or family home will continue to mirror a stable, middle-class home in design, decor and atmosphere. Food, clothing and other essentials will be purchased in the community in the same manner that such goods and services are purchased by other families. The primary staff in the family home is a trained married couple, called family teachers, who will reside in the home and function as parents. (Tr. at 13.)

9. Ms. Washington testified that, over the past two years, Boys Town hosted and/or participated in approximately 14 meetings with the community to discuss its expansion plans. Some initial concerns, such as noise due to basketball playing and tree overgrowth, have been addressed. Other concerns, such as water run-off and equipment noise were also brought up by the community.

10. Amy Weinstein of Weinstein Associates testified as an expert in architecture and site planning. Ms. Weinstein testified that there are five separate components to the Applicant's project. The first is to convert the existing

group home to administrative use. The second is to build four new youth care homes in the approximate center of the Subject Property. The third component is to increase parking spaces from 23 to 45. The fourth component of the project is an administrative addition north of the existing administration building, including a one-story training room. The fifth component involves the stormwater mitigation project designed to resolve the existing problem of stormwater run-off from the Subject Property. Additionally, a group of sheds, a carport and an enclosed swimming pool structure would be removed as part of the project.

11. Ms. Weinstein testified that the Applicant was designing structures for mitigation of noise disturbance emanating from an existing cooling tower and an emergency generator on the Subject Property.(Tr. at 53.) Ms. Constance Washington testified that Boys Town expected to have the noise mitigation project completed by June 30. (Tr. at 21.)

12. Ms. Weinstein testified that the Comprehensive Plan designates the site for institutional use, and that the site was used by nonprofits to serve needy children since the 1920s. She added that the site is surrounded by a significant number of other institutional uses. Ms. Weinstein testified that, in her opinion, this project is very consistent with the Comprehensive Plan.

13. Timothy Riordan of A. Morton Thomas Associates, Inc. testified as a civil engineering expert. Mr. Riordan testified that the stormwater run-off problems originating on the Boys Town property would be substantially reduced by the stormwater mitigation plan developed by A. Morton Thomas & Associates.

14. Mr. Riordan testified that surface water coming from Boys Town's property would be contained and directed to a closed stormwater system before it had an opportunity to get to the houses which front Delafield Place, N.E. Mr. Riordan testified that the stormwater mitigation system would bring about the abatement of the water problem to the extent that it emanates from Boys Town's property.

15. Mr. Riordan testified that, in the construction of the four new homes, a stormwater system installed for those homes would be required to retain all new site water and some of the existing site water, thereby actually decreasing the run-off from the site due to the construction of the new homes. The stormwater system for the four additional homes would be completely separate, and in addition to, the stormwater mitigation system planned to address the existing water problem.

16. Ms. Washington testified that, as a child-care agency, Boys Town is required to report every nonarrival of a child to the Metropolitan Police Department. However, the majority of police calls to Boys Town are caused by the children in the short-term facility. The long-term facility, which would be increased as a result of this Application, experiences less behavioral disturbances resulting in police calls.

17. In response to the Applicant's request, the Department of Public Works ("DPW") indicated in a memorandum dated January 13, 2000, that the parking on the Subject Property is more than adequate to accommodate employees and visitors to the site with little or no measurable impact on the transportation system in the area.

18. According to a letter dated February 2, 2000, from ANC 5A to the Board, and by testimony of Norma Broadnax, Chairperson of ANC 5A, ANC 5A approved a motion that the Application be denied until the issue of the existing water drainage is addressed and resolved.

19. In a letter dated February 15, 2000, Raymond L. Dickey, Commissioner of the affected ANC Single Member District 5A-04, supported the Application on condition that Boys Town agree to resolve the noise and water problems. Mr. Dickey also testified in support of the Application.

20. Commissioner Dickey submitted a letter to the Board from the North Michigan Park Civic Association, signed by Grace Lewis, the group's president. In this letter, Ms. Lewis stated that the North Michigan Park Civic Association held a meeting on February 2, 2000 to discuss the Application. At this meeting, the group voted to support the Application, stating that it believed that the water and noise issues would be addressed in a timely fashion.

21. A number of residents testified in opposition to the Application. Their concerns related to existing conditions, including (a) noise, (b) water problems in the basements of homes fronting on Delafield Place, and (c) security.

22. Ms. Cynthia Reid, Chairperson of Concerned Neighbors of North Michigan Park, testified that the water problems existed when St. Gertrude's owned the property and that Boys Town did not attempt to address the water situation until they were approached by the Concerned Neighbors of North Michigan Park approximately two years ago. Ms. Reid stated that the problem began sixteen (16) years ago.

23. Reverend David Turner, a resident of 4889 Queen Chapel Terrace, N.E., testified in support of the Application. Reverend Turner testified that water problems were prevalent throughout the entire surrounding area and that

the city was to blame, rather than Boys Town. He stated that, in 1994, the District had declared the entire area a hazardous situation, which required the District to address the water problems throughout the area. He stated that if the District had addressed the problem as required we would not need to be here today.

24. The Applicant responded as follows to the concerns expressed by neighbors:

A. Stormwater Run-Off: Boys Town has agreed, and is in the process of installing a stormwater mitigation system as explained in detail at the February 23 hearing and pursuant to the plans submitted as a posthearing submission.

B. Noise Disturbance: The Applicant has applied for and received a building permit to construct sound-baffling walls around the cooling tower and emergency generator. Construction of the sound-baffling walls is expected to take approximately eight weeks.

C. Security Concerns: Boys Town will not admit children who have committed felonies or major criminal offenses. There have been no material incidents between Boys Town residents and the community since its inception in 1993.

FINDINGS OF FACT

Based on the evidence of record, the Board finds as follows:

1. The 45 parking spaces provided on-site will be adequate to meet the needs of the proposed operation.

2. The Subject Site is large enough and the proposed structures are situated far enough from the street and surrounding properties to adequately buffer the neighborhood from the noise and operations.

3. Visits to the site will be few and will occur seldom. Also, some of the staff members will reside on-site. Therefore, the facilities will not adversely impact traffic in the area.

4. Boys Town successfully maintains security on the site in a way which does not adversely affect the surrounding neighborhood.

5. The Applicant's proposed stormwater mitigation system and noise abatement plans will be effective in substantially reducing noise and stormwater run-off emanating from the Applicant's property.

6. ANC 5A's concerns do not relate to the pending Application, but to existing conditions. Nonetheless, the Board can assume that these conditions are addressed and corrected by properly conditioning this Order.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record the Board concludes that the Applicant is seeking a special exception to allow the construction of four youth care homes each housing no more than six children and to construct an administration building in an R-2 District. The granting of that special exception requires that the proposed use meet the requirements of 11 DCMR 303 regulating youth care homes and community residence facilities. The Board also must determine that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.

The Board concludes that the issues raised herein and in the post-hearing submissions have been adequately dealt with as a matter of fact and law.

The Board concludes that the Applicant has met this burden of proof. The Board is of the opinion that the addition of the four youth care homes, each housing no more than six persons, and the construction of the administration building are not likely to become objectionable to adjoining and nearby property owners because of traffic, noise, operations or the number of similar facilities in the area.

The Board concludes that it has accorded "great weight" to the issues and concerns of ANC 5A and is satisfied that the issues related to existing conditions of water run-off and noise can be solved with the conditions contained herein.

Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The Applicant shall install a stormwater drainage system as soon as is practicable on the north side of the property pursuant to plans designed by the civil engineering firm of A. Morton Thomas and Associates, Inc., as shown on Exhibit __ of the record as such plans are ultimately approved by the appropriate District of Columbia review agencies. (Exhibit ____).

2. The Applicant will establish and continue a community liaison committee to provide a continuity vehicle for dialogue between Boys Town and the community, in accordance with the guidelines submitted by the Applicant (Exhibit ____).

3. The Applicant will erect sound-baffling walls around the existing emergency generator and HVAC mechanical unit as soon as is practicable on the north side of the property in order to reduce noise disturbance, in accordance with the materials submitted by the Applicant (Exhibit ___).

4. The Applicant will continue to monitor the growth of trees on the northern edge of its property and will take appropriate steps to protect against property damage caused by their overgrowth.

5. The Subject Property shall house no more than 20 youth in its short-term youth residential care facility and 24 youth in the four houses to be constructed for its long-term residential care facility, as shown on the plans prepared by Weinstein and Associates and marked as Exhibit_ of the record.

VOTE:

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:_____
Jerrily R. Kress, FAIA
Director
Office of Zoning

FINAL DATE OF ORDER: _____

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO §3125.6"

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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