Before the District of Columbia Board of Zoning Adjustment

STATEMENT OF HAROLD BARDONILLE, AGENT FOR OPPOSITION PARTIES TO SPECIAL EXCEPTION APPLICATION NO. 16556

Good afternoon, My name is Harold Bardonille and I live at 1623 Juniper Street, NW.

Dr Scaldini, Ms. Susan Koss and others testifying on behalf of the Jewish Primary Day School (JPDS) spoke eloquently about the character of the school and those associated with it. One can only marvel at, if not envy, the strong commitment of the JPDS to the principles of community, the respect and consideration of others, and, the strong social/ religious compact which binds them. In support of the circuitous routes of the transportation management plan it was emphasized that JPDS' students and their parents are oriented to strict rules associated with the operation of the school and can be relied upon to obey the established rules of the school

Well, the application for special exception being heard here today is also governed by a set of rules designed to safeguard the integrity of the zoning and land use scheme of the Washington DC community. These zoning rules have precise and specific requirements, but also allow for deviation to accommodate special circumstances. We assume therefore that the applicants are committed equally to the efficacy of the zoning rules as they are to the rules of the school community and seek a special exemption only to the extent it satisfies the applicable regulations.

Application number 16556 seeks a special exception to locate a private school on two separate sites across from each other on a busy, four lane, arterial thoroughfare, in an R-1 district. The zoning regulations permit the location of private schools in R-1 districts provided applicants satisfy the provisions of 11 DCMR §206. That section of the regulations states at subsection §206.3 that, **"ample parking spaces, but not less than required by chapter 21 of this title, *shall* be provided to accommodate the students, teachers and visitors likely to come to the school by automobile."**

BZA
CASE No. 16556
EXHIBIT No. 324

PARKING ISSUES

The number of parking spaces an applicant needs to satisfy §206.3 is determined by 11 DCMR §2101.1. In the case of a private school, §2101.1 requires "2 parking spaces for each 3

Board of Zoning Adjustment
District of Columbia
CASE NO.16556
EXHIBIT NO.324

teachers and other employees."[1]

Individual Applications

The pre hearing statement of JPDS, marked as BZA Exhibit No. 97, along with the report of their expert consultant(s),states that the schools will have a total of 38 employees. If each school is evaluated individually, as they should be[2], then 18 full time employees will be located at Ohev Sholom, the property indicated as 7712 16th Street (Sq. 2745D Lot 802); and 14 full time employees will be located at Tifereth Israel, the property indicated as 7701 16th Street (Sq. 2739 Lot 804). Without knowing exactly how the 6 part time employees[3] will be assigned we will divide them equally between the two applicant sites. Thus, for the school located at Ohev Sholom (Sq. 2745D Lot 802), **14** parking spaces are necessary to comply with the minimum requirements of §2101.1 in connection with this application for special exception. With respect to the school located at Tifereth Israel (Sq. 2739 Lot 804), **12** parking spaces are necessary to comply with the requirements of §2101.1 in connection with this application for special exception.

It is plainly obvious that the minimum parking requirement of 12 parking spaces for Tifereth Israel (Sq. 2739 Lot 804) far exceeds the number of spaces available at that site. By our calculation of the dimension of the parking area at Ohev Sholom (Sq. 2745D Lot 802) , no more than 14 parking spaces can be configured in conformance with the zoning regulations. Additionally, a minimum of three (3) parking spaces must be provided on each lot for church[4] use under 11 DCMR §2116.3. When allowance is made for the 3 church parking spaces, the total number of spaces available at Ohev Sholom, (Sq. 2745D Lot 802) for consideration of a special exception is **11** parking spaces. Thus, both applicants individually fails to meet the minimum parking space requirements of 11

---

[1] The formula for calculation of spaces required to satisfy §2101.1 is as follows: number of employees ÷ 3 × 2 =spaces required.

[2] Subsection §2116.1 commands that "all parking spaces shall be located on the same lot with the building or structures they are intended to serve"

[3] The regulation (§2118.3) makes no distinction between full time and part time in determining the number of parking spaces required under 11 DCMR §2101.1.

[4] Marriam-Webster Dictionary defines a "church" as a building of public worship. For purposes of the zoning regulations a synagogue is a church.

DCMR §2101.1.

Combined Applications

When the combined parking facilities of both applicants are considered, they still fail to provide the necessary parking spaces required under the regulations. Together applicants would need a total of 26 spaces to satisfy the minimum requirements of 11 DCMR §2101.1. When the required 6 parking spaces are added, a total of 32 parking spaces are required. The two properties together can accommodate a total of 20 parking spaces under the most generous interpretation of the zoning regulations.

Expert Schematics & Diagrams

The schematic prepared by applicant's traffic expert and included in JPDS pre-hearing statement as figures 7 & 8 is deceptive and practically useless. The schematic does not indicate the scale at which it is drawn and the drawing is not certified to be accurate and drawn to scale.

The drawing of 7 parking spaces at Tifereth Israel is by error or design very misleading. The seven parking spaces indicated for Tifereth Israel (Sq. 2739 Lot 804) are achieved by including grass covered areas beyond the building line and ignoring the access way to an existing handicap ramp, fire exits, a designated loading area and the presence of a large trash dumpster. When appropriate allowances are made for these impediments to parking, it is possible to provide for 3 conforming regular parking spaces.

The 26 parking spaces indicated for the property at Ohev Sholom, 7712 16th Street (Sq. 2745D Lot 802), is a farce. 11 DCMR §2117.4 commands that **"...each required parking space shall be accessible at all times directly from improved streets or alleys or shall be accessible from improved streets and alleys via graded and unobstructed private driveways which form an all weather impervious surface."** Moreover, 11 DCMR §2117.5 states that "... when required parking spaces are arranged so that an aisle is required for accessability or maneuvering between rows of two (2) or more parking spaces, or between a row of two (2) or more parking spaces and the perimeter of the area devoted to parking spaces, the aisle shall have a clear width of not less than twenty feet (20 ft.) for ninety degree (90°) angle parking and not less than Seventeen feet (17 ft.) for angle parking which is Sixty degrees (60°) or less as measured from the centerline of the aisle."

The depiction of the aisle size on Figure 8 of JPDS' Statement is deceptive or an outright fiction. The width of the parking lot at Ohev Sholom (Sq. 2745D Lot 802) from the east end of the pavement to the east end of the ally is twenty-nine feet (29 ft.) at the widest point and Fourteen feet (14 ft.) at the narrowest point. Thus, the two rows of parking spaces actually touch at the points denoted as spaces 4, 5 and 6, and almost touch for the others in the row. In other words, the two places in the lot where an aisle could exist is not more than one foot (1 ft.) wide, and is not continuous . As such, the aisle is not sufficient to serve as a walkway or fire evacuation route from the exit doors on the west end of the building, much less meet the specifications of 11 DCMR §2117.5.

Actual Number of Available Parking Spaces

Given the restrictions of 11 DCMR §2117.4. and 11 DCMR §2117.5, parking spaces shown on Figure 8 of JPDS' Statement as spaces numbers 13, 14, 15, 16 and 17 are unequivocally prohibited.

With 5 spaces having been eliminated pursuant to §2117.4 and §2117.5, those parking spaces designated as 22, 23, 24, 25 and 26 must therefore be reconfigured as they are included as compact car spaces. Compact car spaces are permitted only in parking lots having 25 or more parking spaces.[5] Similarly, parking spaces numbered 1 & 2 must also be eliminated as violative of 11 DCMR §2116.4 which provides that "required parking spaces shall not be located in the area between a building line and a lot line abutting a street."

No provision has been made to satisfy the requirements of 11 DCMR §2200.1 mandating a loading area for buildings with a gross area of 30,000, sq. ft. or more.

In light of the foregoing, fourteen (14) is the maximum number of parking spaces that can legally be located on Ohev Sholom (Sq. 2745D Lot 802) including those spaces shown as 21, 22, 23 and 24 which are questionable and subject to elimination by other DC regulatory authorities. A trash dumpster is located behind space number 21 and is not accessible if cars are parked in the manner of

---

[5] See 11 DCMR § 2115.2.

19, 20 and 21. The three spaces numbered 22, 23 and 24 would be subject to a determination by the fire marshal as they obstruct the west end of the passageway and designated play area of the private school.

Conclusion

As was the case when the applicants' facilities were evaluated individually, the requisite number of parking spaces to satisfy the regulations is also not available when the combined facilities are evaluated as though they were a single applicant. Under a combined analysis, the number of parking spaces required for 38 employees is 26 parking spaces necessary to support an application for special exception to locate the two private schools on subject sites. To this we must add 6 spaces for the church, making a total of 32. A maximum total of 17 spaces are available in the combined parking facilities of both applicants. Simple arithmetic demonstrates that the applicants are 15 parking spaces short of satisfying the regulatory requirements for a favorable decision on their applications for a special exception to locate one or two private schools on their respective properties.

In the event applicant seeks a reduction in the number of parking spaces required to satisfy §206.3, the Board is constrained by §2108.2. That subsection reads: " the amount of required parking spaces shall not be reduced by more than twenty-five (25%)...." However, before the Board can impose the 25% reduction, it must give consideration to five enumerated factors specified in §2108.3.

To the extent the Board has discretion to waive any subsection of chapter 21, the Board would have to waive seven (7) subsections of chapter 21 and a subsection of chapter 22 in order to reach a favorable decision for application 16556.

Without ample parking on the subject sites to accommodate them, the students, teachers and visitors likely to come to the school by automobile will be forced to park in the neighboring streets and thereby create objectionable conditions for neighboring property owners. The 1600 block of Juniper and Jonquil Streets are very narrow streets and can accommodate parking only on one side. Any additional cars would overwhelm the available street parking and impose unnecessary hardship on the homeowners on these streets.

Since the parts of Office of Planning's report addressing parking is not independently derived, but rather appears to be based exclusively on JPDS' pre-hearing statement, including the expert's

schematics and diagrams, it is therefore based upon erroneous and misleading information. Consequently, the rationale and conclusions concerning the issue of parking contained in the Office of Planning's report should be discounted by the Board. To be probative, the government agency's report must be more than a recitation of applicants' unvarnished representations. Relying solely on applicants consultants without independent verification or an independent basis in fact is not a proper role for a government agency charged with vouchsafing the city's zoning map and scheme. At a very minimum, the Office of Planning's report should reflect conformity with the zoning or other municipal regulations, which it clearly does not. Consequently the Office of Planning's recommendation should have no bearing on the Board's consideration of this matter.

For the reasons presented herein, and other reasons presented by the Advisory Neighborhood Council and other opposing parties, the Board should find that applicants do not satisfy the requirements of 11 DCMR §206 and deny the application for a special exception to locate the two private schools on the applicant properties.

Respectfully submitted this 21TH day of March 2000.

Harold Bardonille

Opposing Party