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July 16, 2002

RECEIVED
D.C. OFFICE OF ZONING
2002 JUL 16 PM 3:20

By Hand Delivery

Mr. Geoffrey Griffis
Chairperson
District of Columbia Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: Motion to Waive Rules to Accept Motion for Modification of BZA Order No. 16559

Dear Mr. Griffis:

On behalf of the Applicant in the above-captioned matter, The Field School,[1] ("**School**"), we hereby request the Board of Zoning Adjustment ("**BZA**") waive the requirements of Section 3129.3 of the Zoning Regulations which requires that a request for modification of a BZA Order be filed within six months after the final date of that Order. Such a waiver is authorized by Section 3101.6 which provides that for "good cause" the Board may waive any of the provisions of this Chapter 31 if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. Such waiver will allow the Applicant to file, and the BZA to consider, the Applicant's request for a minor modification to the approved Order.

Because of the urgent nature of this request, we request that the Board consider this motion at a public meeting as soon as possible.

Background

BZA Order No. 16559 approved a special exception request of The Field School, under Section 206, to establish and operate a private school in an R-1-A Zone District at premises 2301 Foxhall Road, N.W. (Square 1341, Lots 856, 861, 878 and 879) ("**Subject**

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[1] At the time of the initial application, The Field School was the contract purchaser of the Subject Property. The Field School is the current owner of the Subject Property.

BZA
Case No. 16559
Exhibit No. 494

Board of Zoning Adjustment
District of Columbia
CASE NO.16559
EXHIBIT NO.494

Property"). The Order, dated December 19, 2000, approved the School's use of the Subject Property as a private school subject to numerous conditions. The BZA determined that the School's proposed use fully satisfied all requirements of the Zoning Regulations.

Rationale for Granting Waiver

Under the Board's rules, a motion for modification of BZA Order No. 16559 was required to have been filed within six months of the issuance of the Order, or by July 19, 2001. However, opponents to the BZA Order appealed the Order to the District of Columbia Court of Appeals. Despite this appeal, which was denied by the Court on February 28, 2002, the School is scheduled to complete the construction on the Subject Property by this September and will satisfy all requirements of BZA Order No. 16559 as they relate to the School's private property. However, the required work in public space which is to be conducted by the District of Columbia Department of Transportation ("**DDOT**") will not be complete by September 2002 due to the DDOT construction and procurement process (when DDOT is using federal funds). Since the School has no authority to effectuate this DDOT procurement process, it is unable to assure timely completion of the improvements to the public space. Therefore, we believe that the Board has "good cause" to waive the six month time requirement and accept the minor modification request.

For the foregoing reasons, The Field School respectfully requests that the BZA grant this request to waive its rules and address the attached motion for modification of the BZA's approved Order at a public meeting as soon as possible.

Respectfully submitted,

Phil T. Feola

Phil T. Feola

Paul A. Tummonds

Paul A. Tummonds, Jr.

cc: Dale Johnson

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

THE FIELD SCHOOL BZA APPLICATION NO. 16559

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2007 JUL 16 PM 3:20

MOTION FOR MODIFICATION OF APPROVED PLANS

INTRODUCTION

On behalf of the Applicant in the above referenced matter, The Field School ("**School**")[1], we hereby move the Board of Zoning Adjustment ("**BZA**"), pursuant to Section 3129 of the Zoning Regulations, to approve an interim modification to Conditions numbered 13-24 of BZA Order No. 16559. The modification of these conditions would only be for a temporary period of time, 6 months, and would then be reinstated automatically. Because of the urgent nature of this request, we ask that the Board consider this modification at a public meeting as soon as possible.

BACKGROUND

BZA Order No. 16559 approved a special exception request of The Field School, under Section 206, to establish and operate a private school in an R-1-A Zone District at premises 2301 Foxhall Road, N.W. (Square 1341, Lots 856, 861, 878 and 879) ("**Subject Property**"). The Order, dated December 19, 2000, approved the School's use of the Subject Property as a private school subject to numerous conditions. The BZA determined that the School's proposed use fully satisfied all requirements of the Zoning Regulations. The D.C. Court of Appeals upheld the BZA's decision to approve the Field School's use by an opinion issued on February 28, 2002.

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1 The Field School was the contract purchaser of the property at the time of the BZA Order and subsequent to the BZA proceeding purchased the subject property.

Immediately after the BZA approved the application in December 2000, the School's development team began work on preparing construction documents and plans to submit to the Building and Land Regulation Administration. A building permit was issued to the School on July 24, 2001 which authorized construction of the approved School facilities on private property. Since that time, the School has diligently pursued construction activity on the Subject Property. Construction has progressed such that all of the School's facilities on the Subject Property will be ready for occupancy by students, faculty and staff in August 2002, at the beginning of the 2002-2003 school year. The School has accepted 40 new students for the 2002-2003 school year for a total of 260 students, as authorized by the BZA in Order No. 16559, in anticipation of occupying the Subject Property.

The BZA Order also required improvements to the Foxhall Road right-of-way, in public space, including the widening of Foxhall Road for the left hand turn lane and the construction of a traffic signal at the entrance to the Subject Property. The School initially believed that it could construct these improvements itself and applied for the appropriate public space permits. However, upon working closely with the District Department of Transportation ("**DDOT**") staff it was determined that the road would be constructed by the District of Columbia. Presently, DDOT is following its procurement process, when using federal funds, to award a contract to construct the road improvements and install the traffic signal. It is expected that the actual construction process will take approximately 6-8 weeks. As of this date, it is the School's understanding that the DDOT contractor will not be ready to commence construction activity until August/September, with completion to occur in October/November.

As the School became aware that its construction schedule was not going to be met by the DDOT schedule regarding the work in public space, the School's development team and traffic

engineers began to work with DDOT staff to create an alternative transportation management plan that would allow the School to begin to use the Subject Property for school purposes prior to the completion of the widening of Foxhall Road and related work. The goal of this alternative traffic plan was to assure that the School's use of the Subject Property during the interim period of DDOT construction activity would not cause any unsafe or objectionable traffic conditions in the surrounding area. In a memorandum dated July 5, 2002 addressed to Jerrily Kress, Ken Laden (Associate Director, Transportation Policy and Planning Administration) noted that:

> Representatives of the Field School have recently sent the Department of Transportation a proposed alternative transportation management plan that would be implemented while construction is completed. The Department has reviewed these plans and finds that a modified version of Alternative #3 would bring the School into effective compliance with the above referenced conditions [Condition Nos. 13-24] of the BZA Order. (Laden Memo to Kress, dated July 5, 2002).

Mr. Laden's memo then outlines the alternative transportation management plan that would be acceptable to DDOT. The School agrees with all of DDOT's comments and will implement the alternative transportation management plan, as modified by DDOT, which is attached to this motion.

BZA AUTHORITY TO APPROVE MODIFICATIONS

Section 3129 of the Zoning Regulations specifically allows the Board of Zoning Adjustment to approve modifications.

RATIONALE FOR APPROVAL OF MODIFICATION

The Applicant's alternative transportation management plan (as modified by DDOT) fully satisfies the Zoning Regulations standards of approval for private schools in the R-1-A Zone District. The alternative transportation management plan will not create any objectionable traffic impacts. This conclusion is shared by DDOT, as evidenced in the July 5, 2002 memo from Ken Laden to Jerrily Kress. This is especially true since the alternative transportation

management plan will only be in effect for a few months, while DDOT completes the ultimate widening of Foxhall Road and the construction of the traffic signal at the entrance to the Subject Property. The approval of this modification request will allow the School to avoid significant hardship and open the School on time for the 2002-2003 school year.

CONCLUSION

In granting the original application, the BZA concluded, as a matter of law, that the proposed application was in harmony with the general purpose, intent and integrity of the Zoning Regulations and could be granted without substantial detriment to the public. The temporary replacement of Condition Nos. 13-24 of Order No. 16559 with the attached alternative transportation management plan does not alter or affect that conclusion in any way. The requested modification will enable The Field School to commence its use of the Subject Property at the beginning of the 2002-2003 school year.

For the foregoing reasons, the Applicant respectfully requests approval of the aforementioned modification for a period of six months. Due to the urgent nature of this request, we also respectfully request that this modification be granted at a public meeting as soon as possible.

Respectfully submitted,

Phil T. Feola

Phil T. Feola

Paul A. Tummonds, Jr.

Enclosure

Document #: 1257819 v.1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT DIVISION OF TRANSPORTATION

Transportation Policy and Planning Administration

MEMORANDUM

July 5, 2002

RECEIVED
D.C. OFFICE OF ZONING
2002 JUL -9 AM 11:47

TO: Jerrily R. Kress
Director, Board of Zoning Adjustment

FROM: Kenneth G. Laden
Associate Director

SUBJECT: Morris and Gwendolyn Cafritz Foundation/ The Field School
BZA Application 16559

The Conclusions of Law and Opinion section of the above referenced Board of Zoning Adjustment Decision and Order references several traffic management improvements which must be implemented before a Certificate of Occupancy may be issued for use of the Field School facilities, located at 2301 Foxhall Road, NW

The Department of Transportation has been coordinating with representatives of the Field School to implement some of the transportation physical improvements included in the zoning order, including design and construction of the widening of Foxhall Road to create a southbound left turn lane (pg. 20, item 14 and pg. 21, item 15), design and construction of the traffic control signal (pg. 21, item 16) and install school zone warning signs (pg. 21, item 17). The design of these facilities is currently underway, and construction will occur in the fall and winter of 2002.

Representatives of the Field School have recently sent the Department of Transportation a proposed alternative transportation management plan that would be implemented while construction is completed. The Department has reviewed these plans and finds that a modified version of Alternative #3 would bring the school into effective compliance with the above referenced conditions of the BZA order.

The school's plan, as modified by the Department would include the following elements.

1. The north access to the school site would remain closed, except to emergency vehicles.

2. Installation of two flashing beacons, one on Foxhall Road at the modified southern entrance to the school, and one on Foxhall Road near W street, approximately 300 feet south of the school entrance.

3. Placement of the warning signs as required in condition # 17 on page 21.

4. Placement of a stop sign at the modified southern exit from the Field School to Foxhall Road, to serve as an interim traffic control device until the traffic signal is installed.

5. Permit left or right turns from the modified southern exit Field School property onto Foxhall Road with the assistance of an off-duty uniformed Metropolitan Police Officer.

6. Prohibit left turns from southbound Foxhall Road into the Field School, and require all traffic to enter from northbound Foxhall Road, making a right turn only into the property.

7. Prohibit students from accessing the school by private car and prohibit parents from dropping off or picking up students at the school until the permanent roadway and traffic signal improvements are completed and approved by the Department of Transportation. Until the final roadway and traffic signal improvements are made, all students shall be dropped off and picked up at a staging area and driven to school by shuttle bus.

8. The proposed shuttle bus staging area and required shuttle bus route shall be described in an interim transportation management plan which shall be transmitted to the affected Advisory Neighborhood Commission for review and comment, and forwarded to the Department of Transportation for review and approval prior to the issuance of the Certificate of Occupancy.

9. Teachers and school staff will be allowed to drive to the school using the northbound right turn only approach as outlined in item #5 above. Leaving the school, teachers and staff shall be allowed to turn left or right, with the assistance of the off-duty uniformed Metropolitan Police Officer.

10. The Field School shall identify a required traffic route to be used by teachers and staff to access the school, which shall be described in an interim transportation management plan. The interim transportation management plan shall be transmitted to the affected Advisory Neighborhood Commission for review and comment, and forwarded to the Department of Transportation for review and approval prior to the issuance of the Certificate of Occupancy.

11. The required access route for teachers and staff shall avoid turning movements and use of residential streets, and shall be restricted to major arterials, such as Reservoir Road, Canal Road or other major arterial roadways.

We believe that implementation of these interim measures would place the Field School in effective compliance with the major transportation requirements of the BZA Order, and would support the issuance of a Certificate of Occupancy, conditioned upon the final

construction and approval of the required roadway widening and installation of the traffic signal at the school entrance.

Certificate of Service

I hereby certify that a copy of the foregoing Motion to Waive Rules to Accept Motion for Modification of Approved Plans and the Motion for Modification of Approved Plans were hand delivered this 16th day of July, 2002 to the following:

Alan R. Swendiman, Esquire
Jackson & Campbell
1120 20th Street, NW
Washington, DC 20036

Jeffrey W. Bolotin, Esquire
4604 Foxhall Crescents, NW
Washington, DC 20007

Neighbors Against Foxhall Gridlock
c/o Richard Aguglia, Esquire
Hunton & Williams
1900 K Street, NW, Suite 1200
Washington, DC 20006

Advisory Neighborhood Commission 3D
c/o John Finney, Chairman
5275 Watson Street, NW
Washington, DC 20016

Paul A. Tummonds, Jr.

Document #: 1257785 v.1

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SHAW PITTMAN 11/00
2300 N. STREET NW
WASHINGTON, DC 20037

15-122/540
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DATE July 16, 2002

PAY TO THE ORDER OF D.C. Treasurer $ 500.00

Five Hundred and 00/100 DOLLARS

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FOR Field School - Modification Filing Fee

Paul A. T... MP

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