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July 26, 2002

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

Re: BZA Order No. 16559
The Field School (the Order)

Dear Mr. Griffis:

By letter dated July 17, 2002 parties to the above matter were requested to submit their comments to the motions submitted on behalf of The Field School to waive the requirements of Subsection 3129.3 of the Zoning Regulations and for a minor modification to the BZA Order in this case.

On behalf of the Foxhall Crescents South Gate Homeowners Association, Inc. we hereby request that the Board of Zoning Adjustment deny the Motion for Modification of Approved Plans (the Motion).

SUMMARY

1. The modification sought is major and not minor and is at the very heart of this case - proper traffic control.

2. The Field School has caused the very hardship it now seeks to rectify by shifting its road improvement plan to the Federal/District Government.

3. The use of a traffic control officer as an integral part of the School's interim traffic plan was specifically rejected as unsafe by DPW at the hearing in this case.

4. Neither the School nor DPW have shown the community any plans for the permanent improvements to be made, making the grant of an interim plan premature.

BZA
Case No. 16559
Exhibit No. 498

Board of Zoning Adjustment
District of Columbia
CASE NO.16559
EXHIBIT NO.498

First and foremost, the Motion is not for a "minor" modification as provided in Section 3129.7 of the Zoning Regulations. The Modification seeks a material change to the conditions attached to the Order. The Order specifically conditioned the granting of an occupancy permit and use of the school facilities to substantial road improvements including a traffic signal being in place. The sought after modification is anything but minor and would change the material facts the Board voted upon in approving the School's application.

The Order approved a special exception request of The Field School to establish and operate a private school in an R-1-A Zone District at 2301 Foxhall Road, N.W. The Order, dated December 19, 2000, approved the School's use of the subject property as a private school subject to 42 conditions. The hearing before the Board centered on traffic and safety concerns relating to Foxhall Road. The School presented at least three different traffic solutions beginning with a right turn only policy and the posting of traffic control officer at the school entrance. The eventual approved plan provided for the construction of a left hand turn lane and the installation of a full traffic control signal (Conditions 13 - 17 on pages 20 - 21 of the Order). The order contains the specific requirement that "before a Certificate of Occupancy may be issued" these conditions must be satisfied. These conditions were at the very heart of the application.

The School has by its Motion requested that it be permitted to commence its use of the property without these conditions being satisfied.

There is simply no reason to allow the School to commence its use prior to the satisfaction of all conditions to the Board's Order.

This is especially true given the fact that the School has in fact caused the very hardship for which it now seeks a Modification.

The School throughout the hearings proffered that it would at its considerable cost pay for the required road improvements and traffic signal in order for the School to safely relocate to the property.

The School, however, was successful in having that financial burden shifted to the public through a federal appropriation. There is a factual issue as to when the School knew that it could not comply with the Order. The public grant was apparently in place in February 2002 as noted in the February 13, 2002 editorial from The Northwest Current, copy attached. The School now claims it is a victim of the bureaucracy and construction plans have not yet been completed and/or a contract awarded for these improvements.

In fact, the School's statement that the alternative transportation management plan will only be in effect for a few months is highly speculative for no one can state with certainty when or if the road improvements will be constructed and the traffic signal installed especially if an RFP process is used. Even if the period of time was short there is simply no valid reason why the conditions imposed by the Board that were central to this case should be excused. Once these improvements are completed, then and only then, should the School be able to occupy the property.

The alternative transportation management plan which was developed without any community input incorporates elements of earlier traffic solutions advanced by the School and specifically rejected as unworkable and unsafe. Reference is made to point number 29 on page 10 of the Order which reads as follows:

> 29. DPW also recommended against a right-turn only policy, since this would require school related traffic to weave through adjacent residential streets to access or leave the school.

As well as to point number 39 on page 12 which reads as follows:

> 39. DPW supports the applicant's proposed traffic management plan, but recommended against posting a traffic control officer at the school entrance, as suggested by the applicant, as unsafe due to the limited sight lines along this stretch of road.

There is no reason for this Board to have to make a finding especially without expert testimony and cross examination as to whether the 11 "interim" conditions will be sufficient. The Board has already made its finding that compliance with 42 conditions is required before the School may be put in use and specifically found that certain elements of the interim plan were not satisfactory.

Having school buses, faculty, staff and service vehicles entering and exiting Foxhall Road especially during the morning and evening rush hours with the assistance of an off duty police office standing in Foxhall Road is as unsafe now as it was when first proposed by the school and rejected by DPW. The number of these vehicles is not insignificant.

It can be expected that visitors to the School including parents of visiting sports teams and others attending other extra curricular activities will not be aware of the no left hand turn restrictions and will either enter the School from southbound Foxhall Road or will realize when they reach the School entrance that a left hand turn is not permitted and will pose a substantial safety risk while they attempt to figure out how they can enter the School. There are no easy alternatives to turning around and approaching the School from the North.

Similarly it can be expected that the school buses, faculty, staff, service vehicles and visitors will have to interface with the construction equipment that will be making the Foxhall Road improvements that are estimated by the School to take at least 6 - 8 weeks. There is simply no reason why the School cannot wait and occupy the property when all of the conditions of the Order have been satisfied.

Finally, the lack of a permanent plan to review for safety and timing concerns weakens the School's request for an interim plan and infers that the interim plan will be in place far longer than suggested by the School.

For all of the above reasons the Board should deny the Motion.

Respectfully submitted.

Jeffrey W. Bolotin

The Northwest Current

Davis Kennedy/Publisher & Editor
Chris Kain/Managing Editor

Congressional largess

A $2 million grant is certainly a minuscule portion of the $59.6 billion transportation appropriations bill recently approved by Congress and signed by President Bush.

Even though this grant is going to the District for improvements to Foxhall Road, we are quite troubled by it.

Normally, of course, we would be pleased about any congressional recognition of the need to improve the city's infrastructure. Indeed, Del. Eleanor Holmes Norton is preparing to push legislation to enact tax credits that will help steer federal dollars into road repairs for the District, citing the huge impact that Maryland and Virginia drivers — exempt from any commuter tax — have on the city's roads.

The Foxhall Road project, however, stems exclusively from the new campus under construction by the Field School on the former Cafritz estate. In fact, the requirement for a widened street, a new left-turn lane and a traffic signal was imposed on the school by the Board of Zoning Adjustment as one of its conditions in approving the school.

We think this is an inappropriate use of tax money. Other private schools in the District, and probably across the country, have had to use their own funds for similar improvements.

Additionally, the project's origin as a condition for approval makes government funding particularly unseemly. John Finney, the newly elected chair of the Palisades advisory neighborhood commission, was right that it seems to do an "end-run" around the city's regulatory process.

School officials argue that the project will benefit everyone who uses Foxhall Road, not just parents, students and staff accessing the school. That is true, but so, too, is the fact that the changes would not have been necessary but for the planned Field School campus. Although Foxhall Road may present safety issues, we doubt that the city would have devised exactly these improvements to cure the problems without the campus.

Certificate of Service

I hereby certify that a copy of the foregoing was mailed by first class mail postage prepaid this 26 day of July, 2002 to the following:

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Jeffrey W. Bolotin