Neighbors United for Livable Streets

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Via Hand Delivery

Ms. Sheila Cross Reid, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210-S
Washington, DC 20001

Re: Application Number 16611 (Kenneth Workman, Josef Straka, Carl and Elizabeth Richmond)

Dear Ms. Reid and Members of the Board:

Pursuant 11 DCMR 3121.7, this letter represents Neighbors United for Livable Streets (NULS) response to the Applicant's August 27, 2001 letter to the Board. BZA staff has given us a limited of end of business today for this submission. In order for the Board to get a complete and accurate picture of the facts surrounding this case, the Applicant's allegations require this response. In the interest of time, and given the short period of time remaining for you to make your decision, we will leave out the ad hominem attacks to others and keep this as brief as possible. BZA staff has given us a limited of end of business today for this submission. As Mark Twain said, "If I had more time, I would have written a shorter letter." My apologies for this length.

Point by Point Response:

1. NULS has made specific citations and arguments within the structure of D.C. regulations. The Board can certainly distinguish between the correct and incorrect application of zoning regulations, rather than rely on the across-the-board dismissal of an opponent's point of view.

   Saying that an opponent "completely misreads and misunderstands the Zoning Regulations, or worse, intentionally distorts the requirements contained in the Zoning Regulations" does not serve this important discussion. Hyperbole, inaccuracy and caustic comments simply veil two different views of the school's expansion.

   The school is entitled to apply. The neighbors are entitled to respond, based on their concerns (which are shared by the ANC, the Dept. of Public Works, and the office of Planning), without characterizing the opposition as only interested in a "kill." We simply have not seen a scheme that works here (and neither has any governmental agency that has reviewed this application), in spite of improvements. That burden remains with the Applicant, and expecting neighbors to compromise with a basically flawed and insufficient solution would not be appropriate.

BZA
Case No. 16611
Exhibit No. 235

Board of Zoning Adjustment
District of Columbia
CASE NO.16611
EXHIBIT NO.235

This entire process has demonstrated, if anything, that the Applicant may be unable to solve critical problems on this site. Again, because the Applicant has failed to address the problems its expansion will precipitate is not a basis for the neighborhood to drop its opposition, and to accept the school's burden. We hope the Board agrees that the Applicant has not met the required standards, and that this Application should be denied. We also think the Board would have a significantly different view of attempts at mediation if it had more detail surrounding the entire history of this Application.

2. The Applicant's statements that NULS' concerns relating to its parking scheme are "minute details" and allegations that dimensional issues only involve "a few inches" simply not inaccurate. The drawings *provided* by the Applicant, when scaled, show both standard parking spaces (that scale precisely 9x19 or 8x16) and insufficient aisles typically 18', not 20'. The aisles are measured as clear space between rows of columns, thereby allowing access to required spaces. Regulation-size spaces without regulation aisles do not contribute to satisfying the requirements, *regardless of whose calculation of requirements is used.*

   The number of valid required spaces is critical to the parking analysis. The applicant is obliged to demonstrate that the spaces do or do not meet regulation and, if not, then to apply for variance relief specifically.

   The Board is being asked specifically, to accept the application while it consists of a trade: fewer required parking spaces against more non-required spaces needed for general relief of neighborhood parking caused by the school. *Both* are necessary, as the applicant has stated.

3. In any argument regarding use of required spaces for anything but parking, regulations are clear: they must be accessible at all times, not just when they suit school operations. Buses take away the required spaces the school acknowledges it needs and on which the city relies in the 1983 BZA order.

   Transfer of these or any other required spaces to another lot is specifically not supported by regulation, as argued by the Applicant. The NCS application cited by the Applicant may overlay a concern for ultimate reduction of parking stress against re-siting required spaces, but that is not permitted as I read what appears to be clear language (only accessory spaces can be moved; see previous citation). Even if permissible, a variance would be required.

4. Copying the Zoning Administrator with our last communication to you is hardly "lobbying,"and it would not be a basis for criticism in any event.

   However, the applicant, goes on to evidently discourage a close analysis of important aspects of the application by the BZA by saying, in a footnote, "Also, as the BZA knows, if the School is wrong and cannot meet the letter of the Zoning Regulations with regard to these issues, its building permit application will be rejected by the District of Columbia."

I would argue that the BZA has a substantial obligation to see to it that its approvals are not granted when known imperfections exist. To rely on the Zoning Administrator to make sure plans are legal without its own analysis would abdicate the Board's basic responsibilities, because it is essential to connect critical issues on which an entire application depends to underlying assumptions. In this case, important assumptions have not been proven and should result in denial.

Otherwise, ambiguous messages could thereby be sent to the Zoning Administrator that could be interpreted such that the Board's approval would encompass more elements, even unexamined, non-noticed variances, than were intended or properly processed. When critical elements of a BZA approval rely on issues not yet subjected to variance application or other necessary review, the process overall is weakened. In the case of self-certification, the burden of calling out needed variances should fall to the Applicant, *not transferred to others*.

Otherwise, this makes for a needlessly long and burdensome process for all involved, including the Board when incomplete applications are returned for review.

In conclusion, the Applicant's tone notwithstanding, NULS has approached this process in good faith and it is disheartened by the Applicant's acerbic letter. NULS' stands behind the parking analysis submitted on August 20, 2001.

Sincerely,

Milton Shinberg, on behalf of NULS