September 4, 20010

Board of Zoning Adjustment
for the District of Columbia
441 4th Street NW
Suite 210-S
Washington, DC 20001

Re: Board of Zoning Adjustment Application No. 16611, Edmund Burke School

Dear Members of the Board:

My August 27, 2001, letter to the Board referred to an e-mail communication from David Julyan, a mediator employed by the Edmund Burke School, to Ms. Julie Weisman. In this e-mail Mr. Julyan relates a communication he had with Chair Cross-Reid regarding the subject application.

Sincerely,

Phil Kogan
Commissioner

Enclosure

RECEIVED
D.C. OFFICE OF ZONING
2001 SEP -4 AM 9:36

P.O. Box 39290 Washington, D.C. 20016-9290
362-6120 (voice)
686-7237 (fax)

BZA
Case No. 16611
Exhibit No. 239

Board of Zoning Adjustment
District of Columbia
CASE NO.16611
EXHIBIT NO.239

CERTIFICATE OF SERVICE

A copy of the August 27, 2001, letter from ANC 3F to the Board of Zoning Adjustment regarding Application 16611 has been provided to the parties or their representatives:

Phil Feola, Shaw Pittman
Cynthia Giordano, Arnold & Porter
Pat Brown, Greenstein DeLorme and Luchs
Jody Smolick, NULS
Ken Laden, District Division of Transportation, DPW
Jennifer Steingasser, Office of Planning

From: Weisman, Julie [JAWeisman@SWIDLAW.com]
Sent: Tuesday, June 26, 2001 4:50 PM
To: Kogan, Phil (HHS/OS)
Subject: FW: Burke

Phil-

I just received this from David Julyan. Can you distribute to everybody? Thanks.

Julie

-----Original Message-----
From: JulandJul@aol.com [mailto:JulandJul@aol.com]
Sent: Tuesday, June 26, 2001 4:33 PM
To: jaweisman@swidlaw.com
Subject: Burke

Last week Burke agreed to ask the BZA for a continuance if three conditions were met:

1. The BZA recognized parties agree to mediation.
2. The mediator attest that the BZA recognized parties are ready for mediation which shall include a schedule of meeting dates in July and August, a structure for how the BZA recognized parties will be represented at mediation, and a procedure for accepting or rejecting an agreement.
3. The BZA agrees that the current Board membership will decide the matter.

With respect to #3 ... BZA member Reid's term is expiring at the end of September. Legally, she may continue to serve on the BZA for a period not to exceed 120 days or until a successor is sworn in. She indicated that if the Burke case is continued, she'll seek a new hearing date early enough in September to ensure she can participate in all BZA actions prior to leaving. Today I also learned that another BZA member, Susan Hinton, is likely to leave the BZA this summer when she takes a new federal job. Ms. Hinton sits on the BZA as a representative of the National Capital Planning Commission (NCPC). If Ms. Hinton leaves the BZA, NCPC will name a replacement. If the Burke Case has been continued, that new NCPC designated member can read the file (as can any BZA new member) and participate fully in the case.

With respect to #2 ... If the neighbors decide to mediation, it's important that the mechanics of mediation are addressed and agreed to. At a minimum, you will need to decide:

1) Schedule: Please pick eight (8) dates between June 28 and July 19 for mediation sessions. Each session will be scheduled for approxiumately two hours, although the parties can agree to meet longer. Burke is availalble to meet on any date between June 28 and July 19. August dates, if necessary, will be selected later.

2) Representatives: There are five entities represented at mediation. Burke, ANC, and the three BZA recognized parties. The number of representatives from each party can vary with the parties or the subject matter of a particular session. My experience is that 1 to 3 representatives from any party at a particular meeting works best. While some rotating of representatives will work, it is important that a core group remain constant. Attorneys may attend at the discretion of their client, but this is not a forum for legal discussion or debate.

3) The parties need to decide how their representatives are to be chosen and authorized to negotiate. That can include instructions prior to mediation beginning, periodic meetings during mediation, etc. The decision is entirely up to each party, but it must be agreed to up front.

4) The parties must also decide on a mechanism for accepting or rejecting an agreement if one is reached during mediation. Again, how this is done is entirely up to each party as long as a mechanism is agreed to.

If the parties decide to enter mediation, I'll be pleased to work with you on any of these mechanics issues.

Based on my experience and discussions, I believe there is an opportunity here for mediation to succeed. I hope you'll agree.

Personal regards,
DSJ