Neighbors United for Livable Streets

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Mr. Geoffrey Griffis, Chairperson
The 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 Mr. Griffis & Members of the Board:

We wish to call your attention to language in the 8 February 2002 BZA Order for the case cited above. We are concerned that some of the most import comment in announcing the decision isn't cited or given weight in the Order, and that some other content that is critical, and was a clear part of the record, isn't present. This could become a critical issue should the applicant return to your forum, which is certainly possible.

Residential Character
Among the chief reasons cited in announcing the denial of the application was the break in the residential character that would be caused if the addition were built. We strongly agree and find the absence of this statement in the Order a great concern.

Parking
The Order as currently drafted removes the issue of parking from the Board's concerns. While it does state that 71 parking spaces are required and concludes that Applicant has met its burden to provide the correct number of spaces, it does not address the conformity of those spaces to applicable zoning regulation standards. In the absence of examination of those standards, the Board has concluded that parking is not an issue in its denial. We believe this is incorrect and critical to an accurate appraisal of the application.

More specifically, the great majority of these spaces do not conform to zoning regulation as to size, access, or, in the case of compact car spaces, minimum grouping standards. This was demonstrated in evidence submitted during the hearings. The testimony of Mr. Ken Laden, of DPW, in response to questioning, reversed his position as declared in a report submission. He said that the spaces were not examined for conformity to regulation standards. Testimony of the opponents, with supporting documents from Mr. Toye Bello of the Zoning Administrator's office, in the record, concur as to the improper spaces. Mr. Bello stated that nonconforming spaces do not count as required spaces. Therefore, while the Applicant has shown 71 spaces, its plan does not come close to providing that number of required spaces. This is a critical issue and is not

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District of Columbia
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EXHIBIT NO.256

reflected in the Order.

Further, as the applicant did not at any time request relief from these standards, nor did the Board grant relief, doing so now, retroactive to the hearing, is without foundation in process. In addition, regulations do not soften standards to reflect that some cars being parked belong to visitors. The number of spaces accepted by the Board reflects the formula for staff and students only. Should visitors be accommodated, parking for them would be over and above those required.

Should the applicant return to the Board for a special exception, the Order as written could inappropriately invite a standard for approval based exclusively on traffic problems. Traffic is only one of several critical issues that demonstrate the unacceptable burden of expansion. The Board can, and should, require specific applications for permission to allow non-complying parking, and then to rule specifically on each of them.

If, at a later date, the school is granted a special exception, a new Order's adopting this Order's language regarding parking could be inappropriately used in discussions with the Zoning Administrator regarding a basis for permit issuance.

Last, the Board's statement that "the number of additional parking spaces proposed as part of the new addition would be sufficient to mitigate any adverse parking impacts resulting from the proposed increases in student enrollment and staff population" ignores the impact of the school's evening and weekend programs that grow proportionately with increases in student and staff population. "

We believe that more appropriate language with regard to parking would delete language that the "proposed parking facilities comply with zoning requirements..." and instead state that the spaces shown by the applicant have not been qualified for conformance to zoning regulation and that they can not be counted without clear documentation to that effect.

While the denial was stated as resting sufficiently on deficiencies in traffic issues, the Order does not provide for other reasons that would also be sufficient. In this instance, parking would also, by itself, be sufficient for denial, and the basis for relying on that deficiency is also established.

Sincerely,

Milton Shinberg, on behalf of NULS

Cc: Phil Kogan, Karen Perry, Cynthia Giordano, Pat Brown, Linda Jay, all via fax