GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16654 of the Lucy Webb Hayes Training School for Deaconesses and Missionaries d/b/a Sibley Memorial Hospital, pursuant to 11 DCMR § 3103.2 for variances from the maximum floor area ratio requirements of subsection 402.4 and the requirements of subsection 404.1 relating to minimum depth of rear yard, to permit the construction of a proposed addition to an existing hospital in an R-5-A District at premises 5255 Loughboro Road, N.W. (Square N-1448, Lot 25).

HEARING DATE: January 16, 2001

DECISION DATE: January 16, 2001

DECISION AND ORDER

The Lucy Webb Hayes Training School for Deaconesses and Missionaries, doing business as Sibley Memorial Hospital, filed an application with the Board of Zoning Adjustment on October 5, 2000, for variances from the floor area ratio and rear yard setback requirements of 11 DCMR §§ 402.4 and 404.1 to permit the construct of a radiation oncology addition at the rear of its existing hospital building at 5255 Loughboro Road, N.W. The hospital is located in an R-5-A Zone District. The proposed addition would be constructed in part on property owned by the applicant and in part on the Dalecarlia Reservoir grounds, property owned by the United States Army and leased to the applicant. The application is accompanied by a memorandum from the Zoning Administrator certifying the required zoning relief. The applicant is represented in these proceedings by Craig Ellis & Associates, L.L.C. After a public hearing, the Board granted the variances subject to conditions.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated October 5, 2000, the Office of Zoning advised the D.C. Office of Planning; the Department of Public Works; Advisory Neighborhood Commission (ANC) 3D, the ANC for the area within which the property that is the subject of the application is located; the ANC commissioners for the single-member districts affected by the application; and the Ward 3 councilmember of the application.

The Board scheduled a public hearing on the application for January 16, 2001. Pursuant to 11 DCMR § 3113.13, the Office of Zoning on December 7, 2000, mailed the applicant, the owners of all property within 200 feet of the subject property, and ANC 3D notice of the

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hearing. Notice of hearing was also published in the *D.C. Register* on December 8, 2000, at 47 DCR 9655. The applicant's affidavit of posting indicates that on December 29, 2000, a zoning poster was placed at the main entrance to the hospital, in plain view of the public.

Request for Party Status. Linda Graves Shaughness filed a timely written request pursuant to 11 DCMR § 3106.2 to participate in the proceedings as a party in opposition to the application. Mrs. Shaughness resides directly across Loughboro Road from the hospital, close to its main entrance. She is active in community negotiations with the hospital concerning adverse economic, environmental, and aesthetic impacts on the adjacent residential neighborhood alleged to result from the hospital's recent construction of an assisted living facility and a skilled nursing care facility. Subsection 3106.3 provides that:

> [T]he Board shall grant party status only if the person requesting party status has clearly demonstrated that the person's interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning relief than those of other persons in the general public.

The Board, voting 4 to 1, denied Mrs. Shaughness' request, finding that because the impacts from the proposed addition would primarily be felt along the north side of the hospital adjacent to the Dalecarlia Reservoir grounds and not along Loughboro Road, Mrs. Shaughness' interests would not likely be more significantly, distinctively, or uniquely affected than those of other persons in the general public.

Request for Continuance. Mrs. Shaughness filed a request dated January 16, 2001, to defer the Board's decision on the application or, alternatively, to make the resolution of outstanding community concerns a prerequisite to the granting of a certificate of occupancy for the addition. While the Board's Rules of Practice and Procedure do not expressly address motions or similar requests, the Board's practice is to permit parties only to submit motions or requests for continuances. The Board therefore declined to entertain the request.

Applicant's Case. The applicant presented oral testimony and a written brief. Jerry L. Price, the hospital's chief operating officer, provided an overview of the radiation oncology project and summarized community negotiations relating to the proposed addition. Drs. Irene Gage and Gregory Sibley from the hospital's Radiation Oncology Department spoke to the medical need for the addition. Gerald Oudens, Oudens and Knoop Architects, outlined the proposed construction and the need for variance relief.

D.C. Office of Planning (OP) Report. After reviewing the property's zoning, the intensity of the proposed use, the character of the neighborhood, and the legal tests for variance relief, OP, in its report dated January 2, 2001, recommended approval of the application. Jennifer Steingasser presented the report at the hearing.

Department of Public Works (DPW) Report. DPW submitted a report dated January 8, 2001, concluding that since the proposed addition would serve existing patients, it would not adversely affect the available parking supply or vehicular volume on neighboring streets.

Army Corps of Engineers Report. The Washington Aqueduct, a division of the Baltimore District, United States Army Corps of Engineers, submitted a letter dated December 29, 2000, advising the Board that it does not oppose the addition, which would be constructed in part on land managed by the Washington Aqueduct.

ANC Report. In its report dated December 18, 2000, ANC 3D indicates that on December 13, 2000, at a regularly scheduled and properly noticed meeting, with a quorum present, the ANC voted 5-0-0 to support the variance to allow for the modernization of the existing radiation oncology unit. ANC Commissioner John W. Finney presented the report. The ANC states that its support is in recognition of the applicant's commitment to address community concerns, expressed in an attached memorandum entitled "Sibley Responses re: Residential Quality Impact Issues." In the memorandum, the applicant agrees to (1) continue discussions with the community and the appropriate authorities regarding the relocation of bus boarding and layover bays to the hospital grounds and, if the Little Falls Road roadbed proves suitable, to support the community's request for their relocation; (2) support the relocation of the Loughboro Road bus stop to the hospital's Community Services building; (3) support elimination of the bus stop on the residential side of the 5200 block of Loughboro Road; (4) work with the community to address local traffic issues of mutual concern; (5) install, after community consultation, additional landscaping in front of the skilled nursing care facility; (6) attempt to identify ways to ameliorate site and parking lot lighting at the skilled nursing care facility; (7) require all construction traffic for the proposed addition to enter and exit the construction site from Little Falls Road or Dalecarlia Parkway; (8) require all dump trucks to enter and exit from Dalecarlia Parkway; and (9) provide onsite parking for construction workers. ANC 3D recommends that the applicant's commitments numbered seven through nine be included in the building permit for the addition. The Board has included all nine commitments as conditions of this order.

Persons in Support of the Application. Penny Pagano, president of the Palisades Citizens Association, spoke in support of the application. The Association, representing over 1000 homes in the Palisades neighborhood, submitted a letter dated January 8, 2001, supporting the application on the condition that the applicant: (1) provide adequate onsite parking for radiation oncology center patients and encourage patients to use Little Falls Road for access; (2) require all construction traffic to use Dalecarlia Parkway and Little Falls Road; (3) require all construction workers to park onsite; (4) commit to work to mitigate the impact of buses and other traffic on the immediate neighbors, including supporting the re-routing of buses and the implementation of other (unspecified) measures to mitigate the impact of increased traffic; and (5) provide landscaping to effectively screen the skilled nursing care facility and parking lots and ensure that all parking lot screening and lighting complies with the Zoning Regulations. In addition, Ms. Pagano expressed the Association's willingness to meet with the hospital on a regular basis to facilitate community relations.

Andrew Diem, who resides directly across from the main entrance to the hospital, and Mary Abate, a former patient of the Radiation Oncology Department, also spoke in support of the application. Ms. Abate described the long trek from the parking lot to the existing radiation

oncology unit in the far corner of the hospital basement. She characterized the existing unit as a "rabbit's warren," and recounted the lack of privacy and cramped conditions in the dressing and waiting rooms.

Persons in Opposition to the Application. Val Mahan, who lives directly across from a hospital entrance, questioned the traffic impacts from the proposed addition, since the addition would accommodate additional patients, doctors, and staff, as well as free up space that the hospital would likely apply toward patient care. He also described the adverse visual impacts from the recent expansion, including objectionable lighting conditions and "industrial" views of the skilled nursing care facility and a roadway used by service vehicles and for the parking of tractor trailers. He believed the conditions proposed by the Palisades Citizens Association and in the neighborhood petition forms, discussed below, would mitigate these adverse impacts.

Patrick Shaughness, while supporting a modernized radiation oncology center, stated that the Board should defer its decision pending further action by the hospital to address community and ANC concerns relating to the hospital's earlier expansion.

Linda Graves Shaughness addressed the impacts on the adjacent residential neighborhood from the existing hospital, assisted living facility, and skilled nursing care facility, as well as her efforts in working with the neighborhood and hospital to mitigate those impacts. She argued that the Board should hold the application in abeyance to allow for continued community and hospital negotiations. Mrs. Shaughness also submitted petition forms signed by the residents of some 16 households on Loughboro Road, Watson Street, and Palisade Lane.[1] The petitions support the requested variances provided the hospital first makes "firm commitments" to (1) facilitate, and where necessary, meet the costs of re-routing buses to Little Falls Road; (2) screen all parking lots and the skilled nursing care facility; (3) erect a "No Left Turn" sign from the Loughboro Road entrance to the skilled nursing care facility and prohibit service and employee vehicles from using this entrance; (4) work with the community to reduce the nighttime impact of exterior institutional lighting; and (5) prepare a long-term site plan.

The record also includes a letter from John W. Finney relating to a potential medical office building to be built on hospital grounds, which is not germane to the instant application.

Decision. Following the public hearing, the Board voted 5 to 0 to approve the application, subject to conditions.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. Sibley Memorial Hospital is located on an 11.98 acre parcel at 5255 Loughboro Road, N.W., Square N-1448, Lot 25.

[1] A few of the petition contained hand-written annotations, deleting or adding to the printed text.

2. The subject lot is bounded on the north by the Dalecarlia Reservoir grounds, property owned by the United States Army. The Washington Aqueduct, a division of the Baltimore District, United States Army Corps of Engineers, manages the reservoir grounds. The applicant leases 8.5 acres of the immediately adjacent reservoir grounds for parking and storage use. Little Falls Road is just to the north of the subject lot and leased property.

3. The subject lot is bounded by Loughboro Road and Dalecarlia Parkway on the south and east sides and by MacArthur Boulevard on the west side.

4. The subject lot is zoned R-5-A. The neighborhood south of Loughboro Road is zoned R-1-B and is primarily one-family residential in character. The areas east of Dalecarlia Parkway are zoned R-1-A. The Dalecarlia Reservoir grounds, although federal property, are identified as R-1-B.

5. Sibley Memorial Hospital has been in operation for over 100 years as a private, nonprofit, full service 344-bed community hospital.

6. On March 13, 1998, in BZA Application No. 16312, the Board approved a major hospital expansion, including the construction of a separate building for an assisted living facility, a community residence facility permitted as a special exception under 11 DCMR § 358, with 124 beds and 47 staff; and the construction of an addition to the hospital to accommodate a skilled nursing care facility, a health care facility permitted as a special exception under § 359, with 96 beds and 64 staff. The Board also granted the hospital variance relief from the number of stories restriction in § 400.1 and the maximum 0.9 floor area ratio (FAR)[2] restriction in § 402.4. As there was no evidence in the 1998 proceedings that the requested special exception and variance relief would adversely affect the public or the zone plan, the Board did not condition its order of approval.

7. The FAR variance in BZA Application No. 16312 restricted the gross floor area of all the buildings on the lot to 566,819 square feet, a maximum 1.09 FAR. As a result of value engineering and design refinement, the hospital reduced the approved buildings in size and eliminated a proposed parking structure. The gross floor area of all the buildings on the existing lot is thus 469,692 square feet, resulting in a FAR of 0.9, the maximum permitted by the Zoning Regulations in an R-5-A District without variance relief.

The Proposed Addition

8. The applicant now proposes to build a radiation oncology center as an addition to the rear of the existing hospital building, on the north side of Hayes Hall. The maximum height of the one-story addition would be 18 feet.

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[2] The term "floor area ratio," a measurement of density, is defined in 11 DCMR § 199.1 as "a figure that expresses the total gross floor area as a multiple of the area of the lot. This figure is determined by dividing the gross floor area of all buildings on a lot by the area of that lot."

9. The hospital is purchasing new linear accelerators to improve the care and treatment of cancer patients. The new equipment and required vaults will not fit within the existing vaults or within the existing radiation oncology unit.

10. The proposed addition would replace an existing radiation oncology unit, which is located in the far north corner of the hospital basement. The unit was designed in 1987 to accommodate 35 patients per day. The hospital has, for the past few years, been treating 60 to 80 patients per day in the unit, and has recruited additional staff to provide for their care. Approximately 95 percent of the patients using the unit are outpatients, and the basement location of the unit makes access difficult.

11. The addition would accommodate 70 to 80 patients per day.

12. The addition would extend 101 feet from the rear of the existing hospital building. It would cross the existing property line and extend 24 feet into the leased portion of the Dalecarlia Reservoir grounds.

13. The Washington Aqueduct advised the Board that the addition may be constructed under the terms of the lease and that the Washington Aqueduct does not oppose the building of the addition on the leased property. The addition is subject to review by the National Capital Planning Commission (NCPC) under the National Capital Planning Act of 1952, approved July 19, 1952 (66 Stat. 781; 40 U.S.C. § 71). The Washington Aqueduct states that it will recommend that NCPC approve the project as consistent with both Washington Aqueduct operations and land use plans.

14. The applicant is currently negotiating the purchase of the property that would be used for the addition with the Army Corps of Engineers. Legislation has been passed by Congress and signed by the President authorizing the sale. The applicant states that the purchase, which would likely obviate the need for the requested variances, is not a foregone conclusion.

15. The addition would add approximately 14,000 square feet of floor area to the hospital.

16. Since 11,000 square feet of the addition would be constructed on the existing hospital lot, while 3,000 square feet would be constructed on federal property, the addition would bring the gross floor area of all buildings on the existing hospital lot to 541,508 square feet, resulting in 1.04 FAR.

17. The hospital's rear yard is over 1000 feet wide. The addition would occupy the entire 20-foot minimum required depth of the existing rear yard for 114.5 feet of its width.

18. The addition would span an existing service drive at the rear of the hospital used by ambulances and service vehicles. The applicant would close the drive, shifting the service vehicles and ambulances to Little Falls Road, where the applicant would construct a new service drive entrance and a new entrance to the rear parking lots. The new service drive would improve ambulance access to the emergency department.

19. Outpatients would have easy access to the proposed addition from the visitor parking area near Hayes Hall or from a rear parking area that would be dedicated to the new radiation oncology center. There would also be easy internal access for hospital patients.

20. The interior design of the addition presents a coherent plan for patient reception and staging, with larger dressing rooms and waiting areas to provide for the privacy and dignity of the patients. There would be a central nursing station surrounded by examination and consultation rooms, along with backup support space for offices and equipment storage. Three linear accelerators would be located along the north side of the addition.

Unique or Exceptional Conditions of the Property

21. The applicant is an established public service entity that provides essential health care services.

22. The applicant has an institutional need to modernize and expand its existing radiation oncology unit to improve the care and treatment of cancer patients.

23. The modernization and expansion of the radiation oncology unit is essential to the hospital's ability to attract and retain top quality physicians and medical staff.

24. The proposed addition would extend onto leased federal property that is already used for hospital purposes.

Practical Difficulties

25. To avoid disrupting the hospital's provision of radiation oncology services, the existing radiation equipment and vaults must remain in operation for the duration of the construction of the addition and the installation of the new equipment. Therefore, the existing vault space cannot be used for the addition.

26. Due to the configuration of the existing hospital building, it is not possible to install the new radiation equipment in any other area of the building without displacing other hospital operations.

27. Due to the configuration of the site, the construction of the addition in another location on the hospital grounds would result in the loss of parking spaces that are necessary for staff, patient, and visitor parking.

28. The site of the proposed addition thus provides the only feasible location for the required radiation oncology center.

The Requested Variances Will Not Result in Substantial Detriment to the Public Good

29. The siting of the proposed addition at the rear of the hospital, adjacent to the reservoir grounds, results in minimal impact on the adjacent and nearby residential neighborhoods.

30. The addition would not be visible from Loughboro Road.

31. The small increase in the number of patients using the addition is not likely to result in increased traffic, noise, or other objectionable conditions. The shifting of the service drive and ambulance access to Little Falls Road, along with the provision of a dedicated parking area on the north side of the hospital, also accessed from Little Falls Road, should reduce traffic on Loughboro Road.

32. Before the hearing, the applicant met with the Palisades Citizens Association, a task force established by the Palisades Citizens Association to address the hospital expansion, and ANC 3D. The applicant is continuing to work with these entities to address community concerns.

33. In the document entitled "Sibley Responses re: Residential Quality Impact Issues" (Exhibit 23), the applicant agreed to undertake certain measures to address community concerns relating to traffic and transportation, landscaping, site and parking lot lighting, and construction impacts. During the hearing, the applicant affirmed these commitments, agreed to meet the conditions spelled out in the Palisades Citizens Association letter (Exhibit 28), and proffered additional commitments regarding landscaping, lighting, and construction.

34. The applicant is willing to continue to investigate and discuss with the community the community's proposal to relocate bus boarding and layover bays to the hospital grounds. There are a number of issues that would have to be resolved before the applicant could commit to the proposed relocation. The applicant would have to assess the suitability of the roadbed as well as construction and maintenance costs, and obtain approval from federal authorities, transit authorities, and the hospital's board of trustees. If these matters can be resolved, the applicant anticipates that the necessary construction would be part of the radiation oncology project.

35. The applicant is in the process of developing a comprehensive landscape plan and will be meeting with the community to discuss the plan. The plan will include installing additional landscaping to buffer the institutional appearance of the skilled nursing care facility and the parking areas.

36. During the hearing, the applicant also committed to work with the community to reduce the nighttime impacts of its exterior lighting in a manner consistent with its security requirements.

37. The applicant indicated that it is willing to adhere to the same construction protocols it followed during the earlier expansion, including no weekend construction work, construction work not to begin before 7:00 a.m., and the stationing of a construction worker onsite to ensure

that all dump truck loads are covered and that all construction vehicles are swept off before exiting the construction site. The applicant also indicated that the proposed construction does not require blasting.

38. The Board finds that as a result of the commitments and assurances made by the applicant in response to community concerns, which commitments and assurances have been incorporated as conditions in this order, the requested variances will not result in substantial detriment to the public good.

The Requested Variances Will Not Substantially Impair the Zoning Regulations and Map

39. The District of Columbia Generalized Land Use Map identifies the subject property as institutional surrounded by low-density residential and open space.

40. The Ward 3 Plan identifies Sibley Memorial Hospital in § 1401.2(c) as an established institutional use and Dalecarlia Reservoir in 10 DCMR § 1405.1 as a public facility. The Ward 3 Plan does not specifically address the expansion of the hospital or institutional uses; however, it provides general guidance in § 1409 regarding the protection of residential neighborhoods and need to carefully control the expansion of institutional uses. OP states that the requested variances would not undermine these policies.

41. As stated in the Zoning Regulations at 11 DCMR § 350.1, the R-5 Districts are designed to permit "all types of urban residential development" that conform to the area restrictions of the Zoning Regulations. Subsection 350.1 also provides that "R-5 Districts shall also permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and which are excluded from the more restrictive Residence Districts."

42. The Board finds that the proposed addition, given its siting and as conditioned in this order, would be compatible with the adjacent residential uses to the south and east. The addition therefore would not substantially impair the zone plan as embodied in the Zoning Regulations and Maps.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Code § 5-424(g)(3) (1994)), to grant variances from the strict application of the Zoning Regulations. Sibley Memorial Hospital is seeking area variances from the provisions of 11 DCMR §§ 402.4 and 404.1 relating respectively to maximum FAR and minimum depth of rear yard restrictions to construct a radiation oncology addition. The notice requirements of 11 DCMR § 3113 for the public hearing on the application have been met.

The Zoning Regulations in 11 DCMR § 402.4 prescribe a density or maximum FAR in an R-5-A District of 0.9. The existing lot is presently developed to 0.9 FAR. With the proposed

addition, the existing lot would be developed to 1.04 FAR. The applicant thus requires a 0.14 FAR variance. While the applicant requested the Board to "transfer" the "excess FAR" granted in BZA Application No. 16312 for use in this addition, the 0.19 FAR variance approved in BZA Application No. 16312 was not used to permit the construction approved in the BZA application and expired. *See* 11 DCMR §§ 3104.1 – 3104.3 (1995) (repealed and replaced by 11 DCMR §§ 3130.1 – 3130.3, 46 DCR 7853 (1999); *see also French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1030 (D.C. 1995) (expiration of area variance); *Monaco v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979) (lapse of area variance). Therefore, the Board is reviewing the instant application as a request for a 0.14 FAR variance, not as a request to transfer unused FAR.

The Zoning Regulations in 11 DCMR § 404.1 prescribe a 20-foot minimum depth of rear yard in an R-5-A District. The requested variance would eliminate a 114.5-foot wide portion of the 1000-foot wide rear yard.

Under the three-prong test for area variances set out in 11 DCMR § 3103.2, an applicant must demonstrate that (1) the property is unique because of its size, shape, topography, or other extraordinary or exceptional situation or condition inherent in the property; (2) the applicant will encounter practical difficulty if the Zoning Regulations are strictly applied; and (3) the requested variances will not result in substantial detriment to the public good or the zone plan. *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). To ensure that a proposed variance will not detrimentally affect the surrounding neighborhood or the zone plan, the Board may impose conditions on the variance that are generic and that run with the land. *See French*, 658 A.2d at 1028-29.

In reviewing a proposed variance to determine whether it meets the three-prong test, the Board is required under D.C. Code § 5-412.4 to give "great weight" to OP recommendations. The Board is also required under D.C. Code § 1-261(d) (1999) to give "great weight" to the affected ANC's recommendations. Under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000, effective June 27, 2000 (D.C. Law 13-135, 47 DCR 5519 (2000)) (to be codified at D.C. Code § 1-261(d)(3)(a)), the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances and make specific findings and conclusions with respect to each of the ANC's issues and concerns. The Board carefully considered both the OP and ANC reports and, as explained in this decision, finds their recommendations to grant the application persuasive. The Board also incorporated the conditions recommended by the ANC in this order.

Uniqueness

With respect to the first prong of the variance test, the Court of Appeals has recognized that the inability to use property in conformity with the Zoning Regulations may stem from the existence of a structure on the land. *See Clerics of Saint Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974); *Draude v. District of Columbia Bd. of Zoning Adjustment*, 582 A.2d 949, 955-56 (D.C. 1990) (the existence of an ambulatory care

center building constituted an extraordinary or exceptional situation or condition of the property where a proposed addition would meet institutional needs to expand and consolidate inadequate outpatient facilities, a successful ambulatory care center required proximity to an existing hospital, and the site of the addition provided the only feasible location for the required consolidated facility). Moreover,

> [W]hen a public service has inadequate facilities and applies for a variance to expand into an adjacent area in common ownership which has long been regarded as part of the same site, then the Board of Zoning Adjustment does not err in considering the needs of the organization as possible "other extraordinary and exceptional situation or condition of a particular piece of property."

Monaco, 407 A.2d at 1099.

With respect to the situation or condition of the property, the applicant demonstrated that it has an institutional need to expand its radiation oncology facilities. The proposed addition would allow for the installation of state-of-the-art equipment to improve the treatment and care of cancer patients. The addition would provide a coherent design for an existing facility described as a "rabbit's warren." The waiting areas and dressing rooms would be expanded and improved for the privacy, dignity, and comfort of the patients. As part of the project, the applicant would establish a dedicated parking area that would improve outpatient access to the radiation oncology center. The applicant would also construct a new service drive that would improve ambulance access to the emergency department. Further, the expansion is essential to the continued viability of the hospital's Radiation Oncology Department and its ability to attract and retain outstanding professional staff. Finally, the addition would extend onto leased federal property that is already used for hospital purposes. The Washington Aqueduct, which manages the leased property, has no objection to the addition or the requested variances. Therefore, the Board concludes that the applicant has met its burden of proof with respect to the uniqueness of the property.

Practical Difficulties

Second, the Board concludes that the applicant would encounter practical difficulties if the Zoning Regulations are strictly applied. The applicant sited the addition in the only feasible location on the property, as re-location within the hospital building would displace other existing hospital operations, while relocation elsewhere on the hospital grounds would displace existing parking facilities. The existing vaults are too small to house the new linear accelerators. Moreover, for the hospital to continue providing treatment and care during the construction and installation of the new vaults, the existing vaults and equipment must remain in operation until replaced. These practical difficulties result from the unique conditions of the existing hospital building and grounds. Compliance with the area restrictions of the Zoning Regulations would therefore be unnecessarily burdensome.

The Requested Variances, as Conditioned, Will Not Detrimentally Affect the Public Good or the Zone Plan

Third, the Board concludes that any detriment to the public good or the zone plan that would result from the requested variances can be mitigated by the conditions that were negotiated between the applicant and the community and that have been incorporated by the Board in this order. The Board's conclusion is based upon the relatively small size of the addition, its siting at the rear of the existing hospital building and adjacent to the Dalecarlia Reservoir grounds, the consent of the Washington Aqueduct which manages the reservoir grounds, the new service drive that would allow ambulances and service vehicles to access the hospital grounds from Little Falls Road, the provision of dedicated parking also accessed from Little Falls Road, the likelihood that the number of patients will increase only slightly, and the applicant's willingness to continue working with the community to address issues of concern.

While the addition in itself is thus unlikely to result in substantial detriment to the public or the zone plan, the ANC, the Palisades Citizens Association, adjacent property owners, and the applicant itself have called the Board's attention to certain adverse impacts associated with overall hospital operations, including traffic and transportation conditions, the institutional appearance of the skilled nursing care facility and hospital parking areas, and objectionable lighting conditions. These impacts apparently resulted from a recent, major expansion that received special exception and variance approval from the Board. Since the proposed radiation oncology center would be an integral part of the hospital operations and yet another expansion and since the applicant committed to certain mitigation measures to address the impacts from the previous expansion, the Board believes that it is appropriate to condition this order to incorporate the applicant's commitments. The Board has not ordered the applicant to develop a site plan as recommended by some community members since the Zoning Regulations do not as yet require such plans. The applicant's willingness to prepare a comprehensive landscape plan, review its site and parking area lighting, review and work on hospital traffic and transportation issues, and maintain its community outreach to a certain extent addresses institutional planning concerns. The Board thus concludes that as conditioned in this order, the requested variances will not result in substantial detriment to the public good or substantial impairment of the zone plan.

For the reasons stated above, the Board concludes that the applicant has met its burden of proof. It is hereby **ORDERED** that the application is **GRANTED**, subject to the following conditions:

1. The proposed radiation oncology addition shall be constructed substantially in accordance with the plans on file in BZA Application No. 16654, Exhibit 4.

Traffic, Transportation, and Parking Impacts

2. The applicant shall continue to discuss the concept of providing bus boarding and layover bays on the hospital grounds with the Washington Metropolitan Area Transit Authority (WMATA), Montgomery County Ride On, the Palisades Citizens Association, the Palisades Citizens Association Task Force on the Sibley

Hospital expansion (hereafter, "PCA Task Force"), and ANC 3D. If the Little Falls Road roadbed is suitable and the proposal financially feasible and subject further to approval by WMATA and Ride On, the appropriate federal authorities, and the hospital's board of trustees, the applicant shall facilitate implementation of the proposal.

3. The applicant shall facilitate the relocation of the Loughboro Road bus stop to in front of the hospital's Community Services building.

4. The applicant shall facilitate the elimination of the bus stop on the residential side of the 5200 block of Loughboro Road.

5. The applicant shall work with the community in addressing traffic issues of mutual concern, including excessive commuter traffic, speeding, and safety relating to road configuration and traffic controls on all local roads.

6. The applicant shall provide adequate onsite parking for the radiation oncology center patients and encourage the patients to use Little Falls Road to access the center.

Visual Impacts

7. The applicant shall consult with the Palisades Citizens Association, the PCA Task Force, and ANC 3D regarding the development and implementation of a comprehensive landscape plan, including a schedule for the installation of the landscaping. The comprehensive landscape plan must include the installation of additional landscaping in front of the skilled nursing care facility and to screen all parking lots. Following the consultation required in this condition, the applicant shall promptly implement the comprehensive landscape plan. All plantings must be maintained in a healthy, growing condition and in a neat and orderly appearance.

8. The applicant shall work with the neighbors, the Palisades Citizens Association, the PCA Task Force, ANC 3D, and, if appropriate, the Department of Public Works, to reduce the nighttime impact of all exterior institutional lighting.

9. The applicant shall identify measures to ameliorate site and parking area lighting at the skilled nursing care facility. The applicant shall, in a manner consistent with providing appropriate and effective security for the hospital grounds and parking areas, promptly implement all feasible measures to reduce the off-site bleeding of illumination.

Construction Impacts

During the construction phase of the addition approved in this order, the applicant shall comply with the following conditions:

10. With the exception of dump trucks, the applicant shall require all construction traffic to enter and exit on Dalecarlia Parkway or Little Falls Road. The applicant shall require all dump trucks to enter and exit on Dalecarlia Parkway only. Construction vehicles may not use Loughboro Road.

11. The applicant shall provide onsite parking in an amount sufficient to accommodate all construction workers. The applicant shall require all construction workers to use such onsite parking.

12. Construction may not begin before 7:00 a.m.

13. The applicant may not conduct exterior construction work on Saturdays or Sundays.

14. The applicant may not use blasting in the construction of the addition.

15. The applicant shall cover all dump truck loads and sweep off all construction vehicles before they leave the construction site. The applicant shall station a construction worker onsite to ensure that these requirements are met.

VOTE: 5-0-0 (Sheila Cross Reid, Robert N. Sockwell, Anne M. Renshaw, Anthony J. Hood (by absentee vote), and Rodney L. Moulden, to approve).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Decision and Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 2 8 2001

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME EFFECTIVE UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED ADDITION WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

FAILURE TO ABIDE BY THE CONDITIONS CONTAINED IN THIS ORDER, IN WHOLE OR PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER AND MAY RESULT IN THE IMPOSITION OF FINES AND PENALTIES PURSUANT TO THE CIVIL INFRACTIONS ACT, D.C. CODE §§ 6-2701 TO 6-2723.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16654

As Director of the Office of Zoning, I hereby certify and attest that on MAR 2 8 2001, a copy of the foregoing Decision and Order in BZA Application No. 16654 was mailed first class, postage prepaid, to each party and public agency who appeared and participated in the public hearing concerning this matter and who are listed below:

Craig Ellis
Craig Ellis & Associates, L.L.C.
1436 Fenwick Lane
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Eleanor Roberts Lewis, Chair
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Palisades Station
Washington, D.C. 20016

Honorable Kathleen Patterson
Councilmember, Ward 3
441 4th Street, N.W., Room 709
Washington, D.C. 20001

Penny Pagano, President
Palisades Citizens Association
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Thomas P. Jacobus
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Administrator
District Division of Transportation
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Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
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ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning