***Board of Zoning Adjustment -- Case #16852--St Pats School***

Supplemental Filing by William G. Smith

Chairman Griffis and Board Members

As you suggested, this filing completes my statement and corrects claims by St Pats opposition .

Zoning authority began with the early 20th century Supreme Court decision won by my friend and neighbor, the late Huntington Cairns. In the 1950's Harold Gray, our PCA president, established Palisades' zoning. In the '90s a PCA attorney, defeating a MacDonald's for our area, developed additional DC zoning standards. So I have a some information about your work in the Palisades.

Zoning modified King John's Runnymede Magna Carter treaty of 1215, which stopped the King from taking property for public use without compensation. Cairns proved that the resulting Takings Clause of our 5th Amendment could tolerate zoning restrictions on private property for public benefit.

You may ask: *Can your Board remove St Pats' right to **educate** at a legitimate school site?*
*If so, who pays St Pats for taking its right?*
*Have opponents proved that the public interest requires removal of St Pats school zoning?*

Opponents to the schoolhouse make a big issue over St Pats students' domicile. I thought in winning *Brown* back in 1954 that issue was solved. My familiarity with that case stems from being an officer of an organization which filed *amicus* brief. Some of our language appeared in the decision.

Propinquity seems most important, in part because of words in your law like Section 206. Such provisions are subordinate to and do not remove the essential zoning objective of providing public benefit for our city. School zoning at St Pats site existed long before most opponents moved in. Still because of the 200 ft rule they got special hearing rights. Such a limit seems ignored in your cases involving Foggy Bottom and Georgetown. In any event, you used this idea to limit supporters to a last day 3 minute rule which stopped us from giving facts on opponent claims about PCA and ANC as well as the substance of this zoning case.

So that the record is clear, neither organization played fair. At the April ANC meeting the chairman before voting would not recognize St Pats supporters, nearby residents like myself, and other residents such as Spring Valley and Wesley Heights. But because of propinquity, opposition neighbors spoke freely.

Any argument that the support for St Pats was unrepresentative of true PCA position ignores member votes. PCA first rejected by 169 to 99 the PCA Board resolution opposing St. Pats, then endorsed St Pats by 124 to 41. At that meeting new PCA rules stopped supporters from voting. Multi-generation families were limited to two votes. Other members were denied votes if they lived on streets included on membership applications but not listed in by-laws. New memberships were less than the margin of winning votes.

You can best judge the fairness of your hearing. During my 60 plus years of public service in DC, never before Congressional or City Council committees, etc., have I been denied speaking or overstayed my welcome, except once during Mayor Barry's regime and your hearing. However, after cutting me off you found time to watch a biased TV about traffic on another street. That TV further impugned the church applicant. How did it relate to the school zoning issue? Opponents used most of your 35 hearing hours. Other than St Pats, supporters had insufficient time in their hour to correct opponent claims.

**Remember:** *1. St Pats only purchased the building to continue its use as a school.*

*2. Residents support St Pats.*

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10/23/02

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Case No. 16852
Exhibit No. 332

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EXHIBIT NO.332