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Washington DC 20007
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1 December 2003

D.C. OFFICE OF ZONING
2003 DEC -1 PM 12:24

Richard Nero
District of Columbia Office of Zoning
441 Fourth Street NW Room 210
Washington DC 20001

HAND DELIVER

RE: St. Patrick's School, 4925 MacArthur Blvd NW, Square 1393 Lot 823
BZA Order No. 16852

Dear Mr. Nero,

Residents of property adjoining and nearby the captioned location urge you to reject St. Patrick's request to find the expiration provision of the captioned Order a "clerical error." Prince-Nero Letter 11/26/03. Rather, the private school errs and even misleads in its assertion that the BZA "regularly" gives a property owner two years within which to obtain a certificate of occupancy. *See*, e.g., BZA Orders 15374 and 15642, attached.

The private school knew or should have known that Order No. 16852 (Order) expired in October and addressed its problem to the BZA in timely fashion. After all, the Order has been the subject of extraordinary scrutiny. *See* Michael Lovendusky et al v. Board of Zoning Adjustment, District of Columbia Court of Appeals No. 03-AA-419 (2003); *see, also*, Lovendusky Complaints Via Zoning Form 300 dated 4/28/03; 5/2/03; 10/3/03; and 10/6/03. Enforcement of the Order's expiration provision from which the private school seeks unusual relief is on appeal at this time to the Department of Consumer and Regulatory Affairs, and that department's unusual delay in administering its duties is before the Court of Appeals pursuant to a Motion to Stay filed 11/26/03.

For these reasons, the Office of Zoning should deny the relief sought by the private school. Anything other than a denial would be a shocking display of arbitrary favoritism for the special interest private school that, even in the record of improprieties now on judicial review, would stand out as exceedingly irregular. The neighbors of the controversial private school urge Zoning to deny the private school's request and require it to address its problem to the Board of Zoning Adjustment as a matter due process.

Sincerely,

Attachments

BZA
Case No. 16852
Exhibit No. 368

Board of Zoning Adjustment
District of Columbia
CASE NO.16852
EXHIBIT NO.368

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15374 of the Vestry of St. Patrick's Church, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 207 to increase an existing private school from 390 to 440 students and from 51 to 60 staff for the alteration and repair of an existing church and private school in an R-1-B District at premises 4700 Whitehaven Parkway, N.W., (Square 1372, Lot 817).

HEARING DATE: October 17, 1990
DECISION DATE: October 17, 1990 (Bench Decision)

SUMMARY ORDER

At the public hearing, the applicant amended the application for a maximum number of students of 440 and 60 staff.

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to ANC 3B and to owners of property within 200 feet of the site.

The site of the application is located in Advisory Neighborhood Commission ("ANC") 3B. ANC 3B, which is automatically a party to the application, did not submit written issues and concerns relative to application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 207. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in opposition to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and map and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and maps. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

#29

1. Construction shall be in accordance with the plans marked as Exhibit No. 9 and as amended by Exhibit No. 25-A of the record.

2. The number of students shall not exceed 440. The number of staff shall not exceed sixty.

3. The applicant shall utilize stacked parking to maximize the capacity of the proposed eight space parking area on site.

4. The applicant shall submit a landscaping plan for the project for review and approval by the Board prior to the issuance of a Certificate of Occupancy for the proposed use.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 3-0 (Paula L. Jewell, John G. Parsons and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: OCT 30 1990

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL

PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15374order/BHS27

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15642 of the Lab School of Washington, pursuant to 11 DCMR 3108.1, for a special exception under Sections 206 and 207 for a subdivision, conversion of and addition to an existing building, and construction of a footbridge for a private school and child development center in an R-1-B District at premises 4738 Whitehaven Parkway, N.W. (Square 1372, Lots 18 and 818).

HEARING DATE: April 22, 1992
DECISION DATE: April 22, 1992 (Bench Decision)

SUMMARY ORDER

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3B. ANC 3B, which is automatically a party to the application, by letter dated March 24, 1992 submitted written issues and concerns in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 206 and 207. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in opposition to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. The number of employees at the subject building shall not exceed six.

2. The hours of operation shall be between from 7:00 a.m. and 10:00 p.m., Monday through Friday.

3. Access to the subject building, except as noted in Condition No. 4, shall be from the campus to the rear of the structure via a newly established path, footbridge, and portico.

4. There shall be no public entrance on the front of the structure -- the Whitehaven Parkway side -- except for handicapped individuals.

5. There shall be no signs advertising the proposed use on the front of the structure -- the Whitehaven Parkway side.

6. The existing swimming pool on the site shall be removed.

7. Conferences and meetings conducted at the subject site shall be limited to professional and administrative meetings relative to the Lab School. The subject building shall not be available for public or community use. The maximum attendance for conferences and meetings shall not exceed thirty people.

8. The applicant shall ensure that the establishment of the new path and footbridge will not necessitate major cutting or removal of trees on the campus.

9. The applicant shall establish pedestrian walkways to MacArthur Boulevard and shall encourage all pedestrian traffic to use that pathway rather than the north end of the campus onto Whitehaven Parkway.

10. The applicant shall prohibit parking on Whitehaven Parkway by staff or conference participants.

11. The applicant shall establish and maintain a maintenance program to police the area for student trash on a daily basis.

12. The applicant shall periodically distribute a memorandum to faculty, staff, and students reinforcing the importance of complying with the conditions of the Board's order and of proper behavior in the neighborhood.

13. The applicant shall assign a representative of the school as a community liaison person responsible for working with the ANC and area residents to help to ensure compliance with the proposed conditions set forth in Exhibit No. 27B of the record with regard to parking concerns, and to afford the neighborhood a proper forum for raising and addressing any problems which may arise relative to the operation of the subject facility.

14. The building shall be illuminated in a manner consistent with surrounding residences. The lighting shall be controlled by a timer when the building is not occupied to ensure that the structure shall not have the appearance of being vacant during hours that it is not in use.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 3-0 (Paula L. Jewell, Angel F. Clarens and Carrie L. Thornhill to grant; Sheri M. Pruitt and Tersh Boasberg not present, not voting).

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

ATTESTED BY: _____
MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: MAY 22 1992

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord15642/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 15642

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAY 22 1992 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Allison C. Prince, Esquire
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W., Suite 1100
Wash, D.C. 20006

Calvert Bowie
2942 Macomb Street, N.W.
Wash, D.C. 20008

Sally Smith
3216 Cleveland Avenue, N.W.
Wash, D.C. 20008

Peter N. Braun
1409 Suliana Place
Alexandria, VA 22304

Charles Seigel, Chairperson
Advisory Neighborhood Commission 3-B
P.O. Box 32312
Washington, D.C. 20007

MADELIENE H. ROBINSON
Acting Director

DATE: MAY 22 1992

Certificate of Service

I hereby certify and attest that on 1 December 2003, a copy of the foregoing was personally delivered or mailed first class, postage prepaid, to each of the following:

Allison C. Prince
Shaw Pittman LLP
2300 N Street NW
Washington DC 20037-1128

The Honorable Kathleen Patterson
City Council, Ward Three
1350 Pennsylvania Ave NW #107
Washington DC 20004

John Finney, Chairperson and Commissioner
Advisory Neighborhood Commission 3D04
P.O. Box 40846
Washington DC 20016

Alma Gates
4911 Ashby Street NW
Washington DC 20007

Lawrence Skrivseth and Cathy Wright
4913 MacArthur Blvd NW
Washington DC 20007

Nancy Feldman
4911 W Street NW
Washington DC 20007

Ken Laden & Rachel MacCleery
Deputy Corporation Counsel
441 Fourth Street NW Sixth Floor
Washington DC 20001

Katherine Van Sickle DeMallie
4923 Ashby Street NW
Washington DC 20007

Jerrily R. Kress, FAIA
Director, Office of Zoning
Board of Zoning Adjustment
441 Fourth Street NW Suite 210-S
Washington DC 20001

(Michael & Meleva Lovendusky
4927 MacArthur Blvd NW
Washington DC 20007)

ATTESTED BY:

MICHAEL LOVENDUSKY
District of Columbia Bar # 364415

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION NO. 15374

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this case, dated 06: 30 [illegible] has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Allison Prince
Wilkes, Artis, Hendrick & Lane
1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006

Marshall Hornblower
4800 U Street, N.W.
Washington, D.C. 20007

Vestry of St. Patrick's Church
4700 Whitehaven Parkway, N.W.
Washington, D.C. 20007

Barbara Hamer, Chairperson
Advisory Neighborhood Commission 3-B
P.O. Box 32312, Calvert Station
Washington, D. C. 20007

EDWARD L. CURRY
Executive Director

DATE: _____