NEIGHBORS UNITED TRUST
4911 Ashby Street, NW
Washington, DC 20007

February 13, 2004

RECEIVED
D.C. OFFICE OF ZONING
2004 FEB 17 AM 10:57

Geoffrey Griffis, Chair
D.C. Board of Zoning Adjustment
441 Fourth Street, , Suite 210-S
Washington,DC 20001

Re: Opposition to Request for Clarification or Modification of BZA Order 16852 (a/k/a 16852-A) by Saint Patrick's School ("SPS") at 4925 MacArthur Blvd.

On March 25, 2003, the BZA issued its final Order No. 16852, approving SPS's Application for a private junior high school at the site, and including a number of conditions and approved plans. On November 19, 2003, Katherine Van Sickle (Demallie) filed a complaint (#47414) with DCRA, Building and Land Administration, regarding construction activities by SPS that exceeded the plans approved by the BZA in Order No. 16852, specifically a basement excavation that created new, unapproved habitable space (from utility to music classroom) plus new staircase egress. On December 8, 2003, that complaint was supplemented by Neighbors United Trust, and on January 21, 2004, as advised by the Office of Zoning, we filed a Form 300 complaint, including the previous submissions, with the BZA. **Tab A**.

Mr. Noble's office at DCRA had advised on January 8, 2004, that a response to our earlier submissions would be forthcoming within 10 days (enclosed as part of the complaint at **Tab A)**, but it was not. However, on January 22, 2004, the very day after our Form 300 was filed, DCRA issued a Certificate of Occupancy for the three above-ground floors of the project, but held off issuing a Certificate of Occupancy for the basement. Only thereafter, on February 2, 2004, did SPS submit to the BZA the instant request for a clarification or modification to (retroactively) approve the reconfigured basement. We oppose the request for the following reasons.

Not a Clarification

There is no authority cited for a "clarification", and none exists. Even if the BZA were to consider such an action, it would only be for such matters as typographical errors and the like, discovered soon after issuance of an order, and not a newly designed set of plans.

The Request is not Timely

As for a "modification" pursuant to 11 DCMR §3129, the Zoning Regulations provide that "[A] request for modification of plans shall be filed with the Board not later than six (6) months after the date of the final order approving the application." 11 DCMR §3129.3. Accordingly, SPS would have had to file for a modification by Sept. 25, 2003.

BZA
Case No. 16852
Exhibit No. 394

Board of Zoning Adjustment
District of Columbia
CASE NO.16852
EXHIBIT NO.394A1

The school's counsel was well aware of the school's need to re-file if any increase in habitable space were to be contemplated, as she advised the BZA Chair in this matter prior to the Board's approval. See also this same counsel's elaboration of the requirement, including its applicability to changes "under" the footprint, in that case a lower-level garage. For both references, see page 5 of our complaint supplement, at **Tab A**.

Furthermore, the school knew well before the Sept. 25, 2003, cut-off date that it was materially changing the basic structure of the basement. The revised drawings for the basement submitted for the building permit were dated April 7, 2003, see SPS's Feb. 2, 2004 request to BZA. This was barely two weeks after the March 25, 2003, date of the final order. The complexity of the drawings suggest that these changes were in the works well before their April 2003 filing.

If the request for modification had been made in a timely fashion in conformance with the Board's procedures, then the BZA and affected parties would have had the opportunity to deliberate on the magnitude and appropriateness of the proposed changes instead of being faced with a existing situation. SPS's refusal to obey the law, until caught flat out and denied an occupancy certificate, show a complete disregard for the BZA's rules and procedures. It is also regrettably of a piece with the school's past behavior, e.g. variously admitting that it had deliberately exceeded student and staff caps, had reconfigured its Whitehaven Parkway garage without permission, and had commandeered federal space near that site for private parking. We ask the BZA to "take judicial notice" of SPS's consistent flouting of the rules, and not to reward it by granting retroactive approval to ignore time limits with impunity.

The Alterations Are Major and Therefore Beyond the Scope of Section 3129

It is nonsensical for SPS to assert that the changes were made as a necessary result of the elevator shaft construction. As is evident from the revised diagram, the elevator is clear across the basement diagonally from the new classroom and stair egress. It is equally obvious that the point of this exercise was to carefully satisfy all of the requirements set forth earlier by DCRA to qualify the entire basement as habitable space at some point: stair egress, sprinkler system, 7.6 foot ceiling height after excavation. See the quoted language in our complaint supplement at p. 3, in **Tab A.**

It is also disingenuous of SPS to downplay the changes by saying that they add less than two percent to the total floor area. The current additional classroom space alone, at 120 square feet, represents a seven-percent increase in the BOCA Code compliant maximum.

Approving these changes would increase the intensity of use and exacerbate the noise impact upon the neighbors. The expansion was in fact only discovered by the neighbors when they were suffering from an excavation process, with significant noise and dirt removal and equipment and vehicular street obstruction, that was obviously more ambitious than the approved plans would allow.

A direct impact would come from the increase in external heating and cooling units. In hearing testimony before the BZA on July 9, 2002, the school's architect said he thought that "there'll be several units on the perimeter of the building", at p. 386. In fact, after this non-plan-compliant activity, the school is ringed by five condensers and four heat pumps that create a constant whine noticeable to the surrounding neighbors. If allowed to stay, these would constitute a permanent new everyday presence and lamentable eyesore.

The new stairway egress, that lets out on Ashby Street, is another realistic source of neighborhood noise and disruption. Under the approved plans, the only separate basement egress would have been in emergency situations from the life safety tower.

No Reliance upon DCRA

It is amusing to note that SPS's counsel argues it relied on DCRA's building permits to legitimatize this expansion. In addition to instructing the BZA and the parties on the habitable-space approval requirements during the hearings on this case, counsel, in her proposed findings of fact and conclusions of law, dated November 22, 2002, at page 36, **Tab B**, noted that all conditions to the order were to be filed with the building permit. She would know of course that plans and elevations filed as exhibits in an application are considered conditions by law, as the Office of Zoning confirmed to our SMD ANC Commissioner, **Tab C**.

The Zoning Rules, 11 DCMR §3125.7, state that "approval of an application shall include approval of the plans submitted with the application for the construction of a building or structure (or addition thereto) or the renovation or alteration of an existing building or structure, unless the Board orders otherwise." And 11 DCMR §3125.8 states that "an applicant shall be required to carry out the construction, renovation or alteration only in accordance with the plans approved by the Board, unless the Board orders otherwise." The BZA in this case has not ordered otherwise.

The mental picture of SPS and its counsel sitting back and watching while DCRA inspectors reviewed and approved switched plans for the building permits, whether or not the inspectors even knew they were looking at an unapproved version, is exceedingly unattractive, and should not form the basis for a retroactive approval. It should result instead in revocation of the building permit and a permanent denial or revocation of the related certificate of occupancy on the grounds of violation of the order's approved plans, and whatever other sanctions the BZA and DCRA deem appropriate for flagrant abuse of the "self-certifying" regulatory compliance program.

As SPS's counsel herself said in her proposed FF/CL, **Tab B**, at p. 36:

> "Chapter 32 of the Zoning Regulations sets forth provisions with respect to enforcement and penalties for violations of the regulations. Section 3205 requires compliance with conditions in orders of the Board and provides that if a building permit or certificate of occupancy has been issued pursuant to a decision of the Board to approve a special exception, then each condition to the approval of that special exception shall be treated as a condition to the issuance of the building permit or certificate of occupancy as well. 11 DCMR § 3205.3. The failure to abide by the conditions, in whole or part, shall be grounds for the revocation of any building permit or certificates [sic] of occupancy issued pursuant to this order."

For the above-described reasons, we ask the BZA to deny SPS's request for clarification or modification of BZA Order 16852 and its approved plans.

NEIGHBORS UNITED TRUST

by:

Katherine Van Sickle Demallie, Trustee 2/13/2004

Nancy L. Feldman, Trustee 2/13/04

Certificate of Service
16852

I hereby certify that on February 17, 2004, a copy of the foregoing letter and attachments was delivered by hand to the following:

John Finney
ANC 3D
5275 Watson Street, NW
Washington, DC 20016

Allison C. Prince, Esq.
Attorney for Saint Patrick's School
Shaw Pittman, LLP
2300 N Street, NW
Washington, DC 20037

Katherine Bradley
Chair, Board of Directors
Saint Patrick's School
4700 Whitehaven Pkwy
Washington, DC 20007

Denzil Noble
Acting Zoning Administer
941 N. Capitol Street, NE
Washington, DC 20002

Michael Lovendusky
4927 MacArthur Blvd., NW
Washington, DC 20007

Alma Gates
4911 Ashby Street, NW
Washington, DC 20007

Lawrence Skrivseth
Cathy Wright
4913 MacArthur Blvd., NW
Washington, DC 20007

Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, NW, 6th Floor
Washington, DC 20001

Kathleen Patterson
Councilmember, Ward 3
1350 Pennsylvania Ave., NW
Suite 107
Washington, DC 20004

Ellen McCarthy
Office of Planning
801 N. Capitol Street, NE
4th Floor
Washington, DC 20002

Katherine Van Sickle Demalfie

Form 300
(Revised 09/09/02)

Case No._____

Complaint No._____

DISTRICT OF COLUMBIA OFFICE OF ZONING

COMPLAINT OF NON-COMPLIANCE WITH CONDITION(S) OF A BZA/ZC ORDER

Notice: See other side of complaint of non-compliance with condition(s) of a BZA/ZC Order for instructions

IMPORTANT NOTE: This process is not intended as a substitute for the enforcement responsibility of the Department of Consumer and Regulatory Affairs (DCRA). Any person that believes immediate enforcement action is required should contact DCRA.

A complaint is hereby filed with the Office of Zoning for review and assessment of compliance; and if in non-compliance, assistance in working with the non-complying party to achieve compliance and/or referral for mediation; and/or if not resolved, referral to Department of Consumer and Regulatory Affairs (DCRA) for appropriate action pursuant to Titles 11 and 16 DCMR Chapters 32, such as revocation of building permits/Certificate(s) of Occupancy, or citation action - the details of which are as follows:

Address(s) of Affected Premises	Square (s)	Lot (s)	BZA Order No. and Date	ZC Order No. and Date	BZA/ZC Order Expiration Date	Condition No.
4925 MacArthur Blvd	1393	0823	16852 DATE 3/25/03	N/A	N/A	19 *

Present use of Property:	Middle School		
Owner of Property:	St. Patrick's Episcopal School	**Telephone No.:**	202-342-2805
Address of Owner:			
Name, address and telephone number of lessee (if applicable):			

List specifically by condition number each and every alleged violation(s) of non-compliance with condition(s) of a BZA/ZC Order and the relevant sections of the Zoning Regulations (see reverse for more detailed explanation). T.t 11 Sect 3125.7; 3125.8 BZA 16852.

Please use a separate piece of 8 ½" x 11" to respond and attach it to the Form 300 (if needed).

Attached letter to Denzil Noble outlines specific noncompliance including unauthorized expansion of habitable space through enclosure of porch and excavation of basement. These activities are in violation of condition 19, and plans submitted by St. Patricks School during application process

The making of a false statement on this form, or any attachment thereto, or in response to any questions or request for information made by the Director or by Office of Zoning Staff, is punishable by the criminal penalties set forth in section 404(b) of the District of Columbia White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Code 22-2514(b)).

Date:	21 January 2004	**Signature:**	Complainant Katherine Van Sickle DeMallie

Contact Information of Complainant

Name:	Katherine Van Sickle DeMallie, Neighbors United Trust				
Address:	4911 Ashby St, N.W, WASHINGTON DC				
Phone No.:	202-965-0480	**Fax No.:**		**E-Mail:**	demallie@erols.com

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

Katherine Van Sickle DeMallie
Neighbors United Trust
4911 Ashby Street, NW
Washington, DC 20007

Mr. Toye Bello
Compliance Review Program Specialist
DC Office of Zoning
441 Fourth Street, NW
Suite 210 South
Washington, DC 20001

RE: BZA Order #16853, St. Patrick's School @ 4925 MacArthur Boulevard, NW

Dear Mr. Bello:

Attached you will find a duplicate of the complaint delivered to Denzil Noble, Acting Zoning Administrator, on December 8, 2003. There has been no response from Mr. Noble regarding this complaint other than an acknowledgment.

This complaint is being submitted at your request to Commissioner Gates and concerns the creation of additional habitable space at 4925 MacArthur Boulevard:

1. Condition 19 of BZA Order 16852 has been violated. The front porch has been partially enclosed and the entrance to the school has been moved to allow creation of a second means of ingress and egress into the basement beneath the original entrance to the school. Also, the excavation of the basement was never anticipated/considered by the BZA. Drawings submitted to the BZA by GTM Architects indicate the basement will have no student occupant load and will be used as utility space.

2. 11 DCMR §§ 3125.7 and 3125.8 have been violated by the illegal creation of additional habitable space.

As significant time has passed since this complaint was first filed and a Certificate of Occupancy is pending, your immediate attention to this matter would be greatly appreciated.

Sincerely,

Katherine Van Sickle DeMallie
(202) 965-0480

Certificate of Service

I hereby certify and attest that on 21 January 2004, a copy of the foregoing was sent by personal delivery or mailed first class, postage prepaid to each of the follwoing:

Denzel Noble
Acting Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street NE, Suite 2000
Washington, DC 20002

John Finney
Advisory Neighborhood Commission 3D-04
5275 Watson Street, NW
Washington, DC 20016

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

Alan Bergstein, Esq.
Office of Corporation Council
441 Fourth Street NW Sixth Floor
Washington, DC 20001

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

ATTESTED BY: _____
Katherine Van Sickle DeMallie

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs

Office of the Director

January 8, 2004

Katherine DeMallie
4911 Ashby Street, NW
Washington, DC 20007

Dear Ms. DeMallie:

This letter is to acknowledge receipt of your letter dated December 8, 2003, regarding unauthorized construction at 4925 MacArthur Boulevard, Northwest.

This matter has been referred to Denzil Noble, Administrator of the Building and Land Regulation Administration. You may contact Mr. Noble or his assistant Diana Dorsey on (202) 442-4677 or by e-mailing Diana.Dorsey@dc.gov.

You should receive a response within ten (10) business days from the date of this letter. If you have not received a response, please feel free to contact Joseph McCarley, Customer Service Advocate on (202) 442-8947 for further assistance.

Sincerely,

Gwendolyn L. Davis
Customer Service Manager

IQ#183706

Neighbors United
4911 Ashby Street, N.W.
Washington, DC 20007

December 8, 2003

Denzil Noble, Acting Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.E., Suite 2000
Washington, DC 20002

Reference: Supplement to Complaint to DCRA by Katherine Van Sickle DeMallie dated November 19, 2003, Relating to Unauthorized Construction by St. Patrick's School at 4925 MacArthur Boulevard (BZA Order 16852) (Complaint No. 47414)

Dear Administrator Noble:

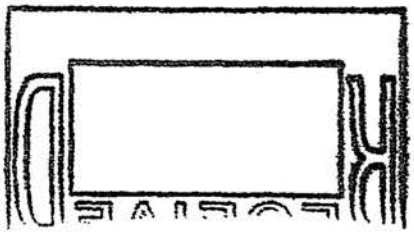
Please find enclosed a supplement to complaint as described above and cited attachments. The supplement is filed by the Neighbors United Trust ("Neighbors United"), which was a party in BZA Application No. 16852.

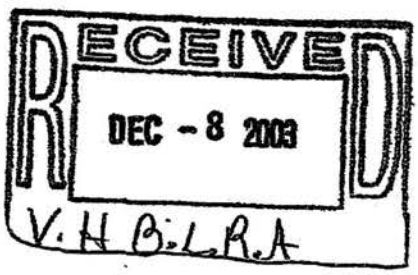
Very truly yours,

Katherine Van Sickle DeMallie

Katherine Van Sickle DeMallie, Trustee

Enclosures





BEFORE THE THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OF THE DISTRICT OF COLUMBIA
BUILDING AND LAND REGULATION ADMINISTRATION

SUPPLEMENT TO COMPLAINT

No 47414

This is in supplement to and expansion of the Complaint filed with DCRA/BLRA by Katherine Van Sickle Demallie on November 19, 2003, regarding zoning violations arising out of certain construction and structural activities in the implementation of the Final Order in BZA #16852 (Saint Patrick's Episcopal Day School's Private School at 4925 MacArthur Blvd and Ashby St., NW), namely an unauthorized increase in habitable space in the property's basement and in the enclosing of a porch. Complainant Van Sickle Demallie has authorized The Neighbors United Trust to file this Supplement, and requests that DCRA consider it as an amendment to and a part of the original Complaint.

We are asking DCRA to require St Patrick's to return to the BZA for appropriate authorization before any such expansive construction is allowed, to revoke building permits to the extent they permit such unauthorized construction, and to deny any certificate of occupancy that would include such construction. **We further ask for an expedited response from DCRA, preferably by December 20, 2003,** as the Department has advised it will be conducting an inspection imminently, and the timetable of the school and Complainant's opportunity to appeal necessitates a very prompt response.

Summary

In derogation of its intent as expressed to the Board of Zoning Adjustment ("Board" or "BZA") for a Special Exception (#16852), both in its various plans presented to the Board during the application process and in testimony before the Board during the hearings on the application, St. Patrick's is in the process of enclosing a significant segment of the porch at the northwest corner of the building, and excavating a sizeable segment of the basement of the designated property, both resulting in newly "habitable space" in excess of what was described to the Board and contemplated in this project and described in the Findings of Fact in the Final Order. Such action, without further Board approval, is prohibited by the Zoning Regulations and by the stipulation of the Applicant and acceptance of that stipulation by the BZA.

1. Sections 3125.7 and 3125.8 of the Municipal Regulations, Title 11, state that:

> "Approval of an application shall include approval of the plans submitted with such application for the construction of a building or structure (or addition thereto) or the renovation or alteration or alteration of an existing building or structure, unless the Board orders otherwise..... An applicant shall be required to carry out the construction, renovation, or alteration only in accordance with the plans approved by the Board, unless the Board orders otherwise."

Although not specifically referencing the floor plans presented by the Applicant to the Board along with its application in BZA #16852 (Exhibit 67), the Board, in its Findings of Fact upon which the Final Order was based, clearly relied upon those configurations, including a basement with no habitable space and an unenclosed porch. See, e.g. No. 3, p. 4, of the Final Order. The final of several site plans, Exhibit 340, was cited in a Condition to the Final Order for the limited purpose of parking, but it too does not contemplate any new basement usage or second egress or porch enclosure. The Board certainly did not "order otherwise" in either of these instances.

Attachment A (Maps)

2. As stipulated by the school's counsel to the Board during the hearing and so accepted by the Board Chairman, in the event of new habitable space even within the existing footprint, the school is first required to come back to the Board for further authorization.

Discussion

There was no indication in the school's application, site plans, testimony, or other descriptions of the property and its habitable space and student loads, or in any other materials made publicly available before the application process or thereafter, to apprise Complainant of the school's intention to increase the previous, clearly described habitable space. The site is private property and there is considerable construction equipment and fencing obscuring the views from outside of the property's perimeters.

Complainant first learned of the porch enclosure in early November 2003, and some of Complainant's members brought it to the attention of zoning officials, including the filing of a complaint on November 18, 2003, with Denzil Noble, Acting Zoning Administrator, Building and Land Regulation Administration, DCRA. (See Attachment B, at "Fourth Complaint", p. 4.) (That complaint also noted that the school's building permit was in error as to the zoning of the property, the omission of the BZA Order's conditions and the construction start date.)

After neighbors questioned the amount of dirt being removed, inquiry was made by the neighborhood's single-member-district ANC Commissioner, Alma Gates, who eventually learned of the excavation of the basement from the school's architect, David Konapelsky, on or about October 14, 2003.

On November 19, 2003, Commissioner Gates and Ms. Van Sickle Demallie met with Derek Wilson, Deputy to Denzil Noble, to discuss these new and unauthorized expansions of the contemplated construction project. They were advised that neither the BZA nor the DCRA had any authority over the development of the space within an approved "footprint", other than Code safety issues, and, although DCRA would send out an inspector at some point, they could do nothing. Nevetheless, Ms. Van Sickle Demallie filed a brief initial complaint on the matter with DCRA later on November 19, 2003. (See Attachment C.)

The application for a Special Exception was filed by St. Patrick's on January 21, 2002. On February 25, 2002, the Applicant had a 'preliminary design review' meeting with zoning officials (Toye Bello, etc.). The minutes of that meeting, found in the attachments to building permit B474931, issued on 6/23/03, at p.2, state:

> "All spaces in the basement should be identified as unusable space or mechanical rooms on the plans. If rooms are to be used for storage, they must be rated and sprinkled according to their size. If the basement is to be converted into usable space, the floor level would need to be lowered to accommodate a 7'6"ceiling height and an additional exit would need to be provided at grade on the front of the building." (Attachment D.)

The school ostensibly decided to keep the basement in the unusable space category, as indicated in the March 5, 2002, Building Feasibility Study submitted to the school by its architects, GTM Architects and subsequently provided to the community (Attachment E, at p. 1), which stated:

> "The building under consideration consists of a total of approx. 5,641 sf of which 2,774 sf (approx. 49%) is usable for classrooms, offices, etc. The balance of the building, 2,867 sf, is as follows:
> ....1,670 sf - Uninhabitable Space/Storage/Basement and Third Floor (approx. 29%)....
> Basement: 1316 sf - No Student Load - Utility Space Only....."

The BZA Findings of Fact, Attachment F, discuss the anticipated alterations, and nowhere include any porch enclosure or student use of the basement, including any reconfiguration of the basement layout for a second staircase or classrooms.

Notwithstanding the above materials prepared by his own firm, Architect Konapelsky of GTM attempts to explain away the new basement excavations and creation of a large new music room. See his memo to the school dated October 23, 2003, at Attachment G, stating, in stark contradiction of the evidence, that "The basement level has always been identified on the drawings as a usable space." He goes on to describe the new addition of a second stair, mechanical and electrical rooms, and a Music Room. (Page 1, paragraph 1.) He then suggests (at p. 1, paragraph 2) that this new configuration is somehow related to the selection of an elevator on the other side of the basement, which results in an excavation that just happens to be the exact height needed for a conversion of other portions of the basement to usable space per the pre-design meeting advice, and just happens to involve an additional exit in the form of a stairway, ditto that advice.

Mr. Konapelsky's third paragraph suggests that the school's decision to add a sprinkler system to the building, despite a grandfathering exception, also justifies this (and presumably other future) expansions. And finally, on p. 2, he references (without citations) BZA Chairman Griffis' comments regarding the responsibility of building code officials and the architect, rather than the BZA, in overseeing the design development of the architectural program and Code compliance. Complainant doesn't see how that relates to creation of new student spaces that were disavowed in the application process.

Curiously, Mr. Konapelsky's memo omits to mention his testimony and the ensuing discussion at the BZA #16852 continuation hearing on July 9, 2002, regarding the subject of changes within the footprint. (Attachment H.) Mrs. Gates, on behalf of Neighbors United, was questioning Mr. Konapelsky as to whether there were plans by the school to enclose the terrace (which is within the footprint) and, even if not, whether they could change their minds later and substantially increase the size of the building; and he said that they could.

At that point, the school's zoning counsel, Allison Prince, stated: "And of course, Board of Zoning Adjustment approval would be required for any enclosure of the existing porch, even though it's part of the footprint." Chairperson Griffis: "It would, why?" Ms. Prince: "Because it increases the habitable space for the use of the school." Chairperson Griffis: "Indeed. Is that understood?" (Attachment H, p. 373, line 24, to p. 374, line 7.)

And finally, the need for further BZA approval of expansion within the existing footprint is not a new phenomenon for the school. In 1990, St. Patrick's, in application #15374, requested permission from the BZA to enclose the lowest level of its building (on Whitehaven Parkway), which was already under use for parking, in order to convert it to classroom space. (Attachment I, at p. 56.)

Conclusion

The excavation of the basement to provide for new student space, as well as the enclosure of a significant portion of the porch, both would provide material new habitable space for this project, and as the regulations require and St. Patrick's counsel advised the Board, prior BZA approval would be required. Thus, Complainant requests that the school be required to re-apply to the Board and receive authorization before proceeding further, and and to have its building permits stayed and any requests for certificates of occupancy denied until such time as it has so complied and received additional authorization. Complainant believes that such actions are necessary to enforce the zoning laws of the District of Columbia.

Respectfully submitted:

The Neighbors United Trust

by:

Nancy L Feldman, Trustee

Nancy L. Feldman, Trustee

Katherine Van Sickle DeMallie, Trustee

Katherine Van Sickle Demallie, Trustee

Attachments

CERTIFICATE OF SERVICE

I hereby certify that on Dec 8, 2003, a copy of this Complaint Supplement was mailed, first class, postage prepaid, to each of the following:

St. Patrick's Episcopal Church and Day School
c/o Chairperson Katherine Bradley and
Headmaster Peter Barrett
4700 Whitehaven Parkway, N.W.
Washington, DC 20007

Allison C. Prince, Esq.
Attorney for St. Patrick's
Shaw Pittman LLP
2300 N Street, N.W.
Washington, DC 20037

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

The Honorable Kathleen Patterson
City Council, Ward Three
1350 Pennsylvania Avenue, N.W., Suite 107
Washington, DC 20004

Alma Gates, ANC Commissioner
4911 Ashby Street, N.W.
Washington, DC 20007

BY:

The Neighbors United Trust

Katherine Van Sickle Demallie, Trustee Trustee

(A)

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of St. Patrick's Episcopal Day School

BZA Application No. 16852
Public Hearing: April 16, 2002
ANC 3D

D.C. OFFICE OF ZONING RECEIVED
2002 APR -2 PM 3:44

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

St. Patrick's School ("SPS") seeks special exception approval for continued school use of the existing building located at 4925 MacArthur Boulevard, NW (the "Subject Property"). The building has been used as a school for adults for the past four decades. SPS seeks permission to use the building for a maximum of 60 students in Grades 7 through 9. SPS is an independent school which has operated in the District of Columbia since 1956. Originally, SPS was located at the southwestern corner of Foxhall and Reservoir Roads, in the old St. Patrick's church. In 1977, pursuant to the approval of the Board in Application No. 11307, SPS moved to its current campus at 4700 Whitehaven Parkway. The school currently has 440 students in Nursery through Grade 6 on the Whitehaven Parkway campus. In addition, the school has 16 seventh grade students who attend classes in leased, commercially-zoned space in a building on MacArthur Boulevard, NW that it shares with the River School.

The school now proposes to use the existing building at 4925 MacArthur Boulevard for Grades 7 and 8. (See plats and excerpt from the Zoning Map attached as Exhibits B-E.) In addition, the school seeks flexibility to include Grade 9 for the 2003-2004 academic year only. The proposed use involves a major renovation of the existing building including all necessary life safety and handicapped accessibility upgrades. The school has proposed numerous

BZA
Case No. 16852
Exhibit No. 6.7

VIII.
WITNESSES

A. Peter Barrett, Head of School, St. Patrick's School

B. Katherine Bradley, Chairperson, Board of Trustees

C. David Konapelsky, GTM Architects, Project Architect

D. Martin Wells, Wells & Associates, Traffic Engineers

E. Barbara Patterson, President, Black Student Fund

IX.
EXHIBITS IN SUPPORT OF THE APPLICATION

The applicant submits the following exhibits in support of the application;

Exhibit A	Plans for the renovation of the school
Exhibit B	Portions of the Sanborn Atlas showing the Subject Property outlined in red, as well as the context of the Subject Property
Exhibit C	Portion of the D.C. Zoning Map showing the Subject Property outlined in red and the surrounding area
Exhibit D	Photographs of the Subject Property
Exhibit E	Map of portion of MacArthur Boulevard
Exhibit F	BZA Order No. 7360 dated July 16, 1963 regarding the Psychoanalytic Society
Exhibit G	Announcement of decisions regarding the seventh and eighth grades
Exhibit H	Potential development of the site with three single-family houses
Exhibit I	Report of Polysonics, sound engineers
Exhibit J	Letter to Dan Hoang of Department of Consumer and Regulatory Affairs dated March 12, 2002
Exhibit K	Traffic impact analysis prepared by Wells & Associates
Exhibit L	Letter to David Erion of WMATA dated March 13, 2002
Exhibit M	Map of shuttle route
Exhibit N	Chart of school hours

A

ST. PATRICK'S SCHOOL

DCMR Zoning Information

Zoning R-1-B

Permitted	Provided
Height restrictions: 40 feet or 3 stories	39.5 feet (3 stories)
Minimum lot size: 5,000 sf lot size, 50 feet minimum width	21,080 sf lot size/150 foot width
Floor area Restriction: No restriction in R-1-B	n/a
Maximum lot occupancy: 40%	14.4%
Rear Yard (setback): 25 feet	37 feet
Side Yard (setback): 8 feet	95 feet 9 inches (southern side yard)
Parking Requirements: 2 parking spaces for each 3 teachers/employees = 7 spaces based on 8 full-time and 4 part-time teachers/employees	15 spaces (final layout subject to DCRA approval during the permit process)

Maximum Occupancy Information

Existing Plans:

BOCA Code requires 20 sq. ft. net per classroom area

Basement Plan: 1316 sq. ft. No student occupant loan To be used as utility space	Second Floor Plan: 1376 sq. ft. 38 students 3 classrooms
First Floor Plan: 1538 sq. ft. 22 students 2 classrooms	Third Floor Plan: 1411 sq. ft. 28 students 2 classrooms

88 Total Students per BOCA Code allowances

(A)

ShawPittman LLP

A Limited Liability Partnership Including Professional Corporations

November 8, 2002

RECEIVED
D.C. OFFICE OF ZONING
2002 NOV -8 PM 4:41

Mr. Geoffrey Griffis
Chairman
Board of Zoning Adjustment
441 4th Street, Suite 210
Washington, DC 20001

Re: St. Patrick's School – 4925 MacArthur Boulevard, N.W.
BZA Case No. 16852

Dear Chairman Griffis and Members of the Board:

In response to items requested at the October 8, 2002, hearing for this case, we enclose one original and twenty copies of the following:

1. A copy of Katherine Bradley's closing statement which she was required to abbreviate at the hearing;

2. A site plan comparing the current parking area with the proposed parking area;

3. A synopsis of the planned outdoor activity time for the students; and

4. A requested submission from the Applicant's traffic engineer, Wells & Associates.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Allison C. Prince

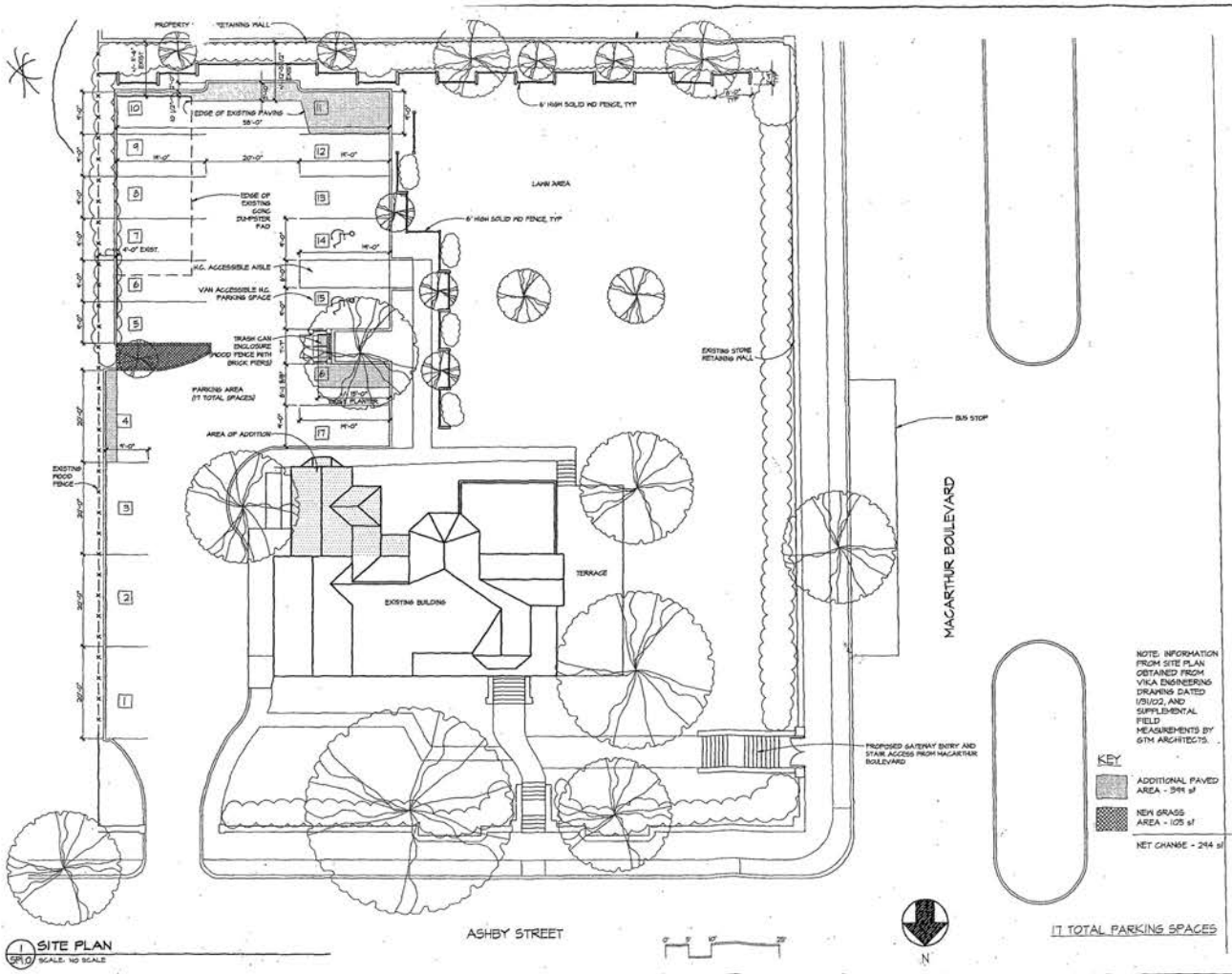
Allison C. Prince

Enclosures

Document #: 1285805 v.1

BZA
Case No. 16852
Exhibit No. 340

2300 N Street, NW Washington, DC 20037-1128 | 202.663.8000 Fax: 202.663.8007 | www.shawpittman.com | Washington, DC Northern Virginia New York Los Angeles London



1 SP1.0 SITE PLAN
SCALE: NO SCALE

GTM ARCHITECTS
10913 ARMORY AVENUE,
KENSINGTON, MD. 20895
(301)942-1082
(301)942-3604 FAX

4925 MACARTHUR BLVD, NW
WASHINGTON, DC 20007

SITE PLAN

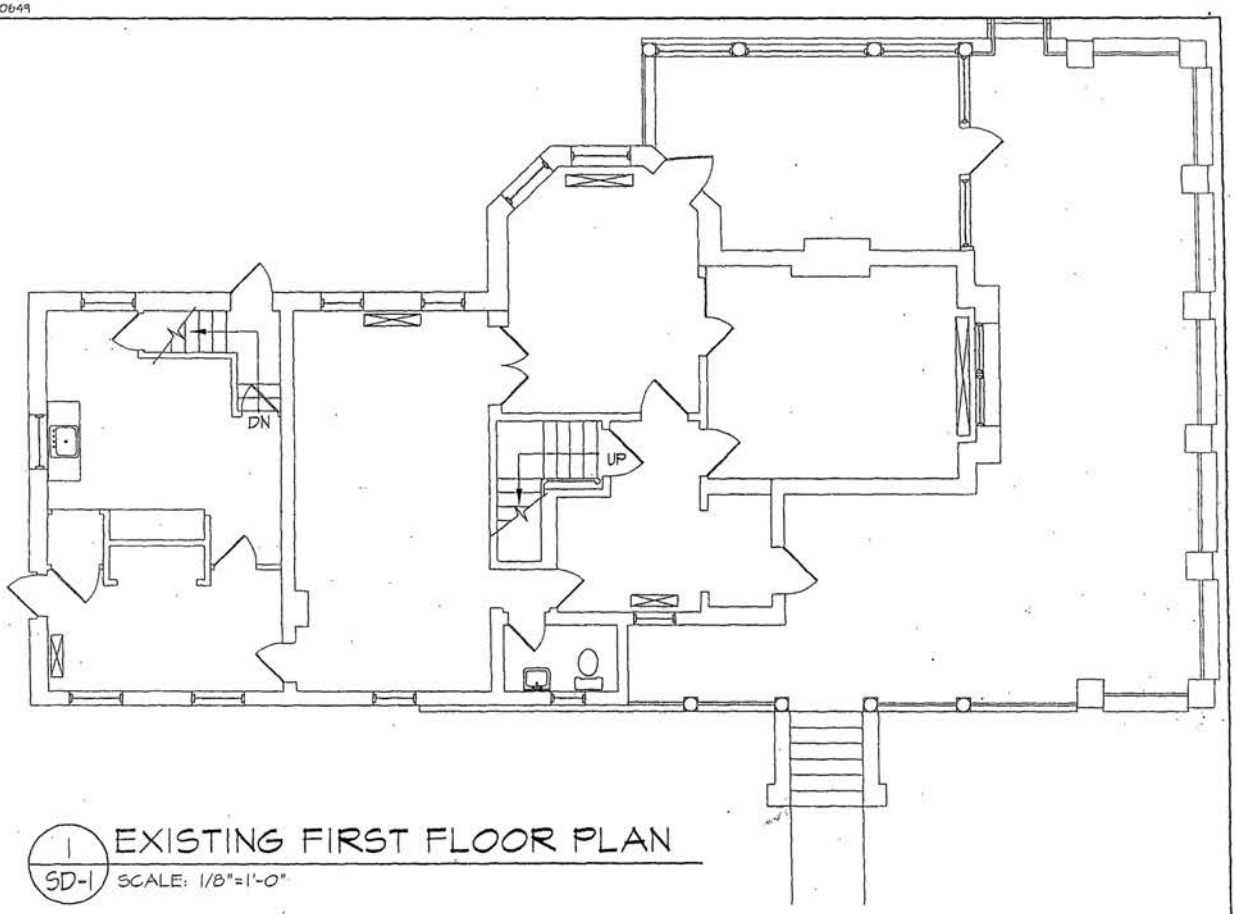
ST. PATRICK'S EPISCOPAL DAY SCHOOL

REVISIONS:

SEAL:

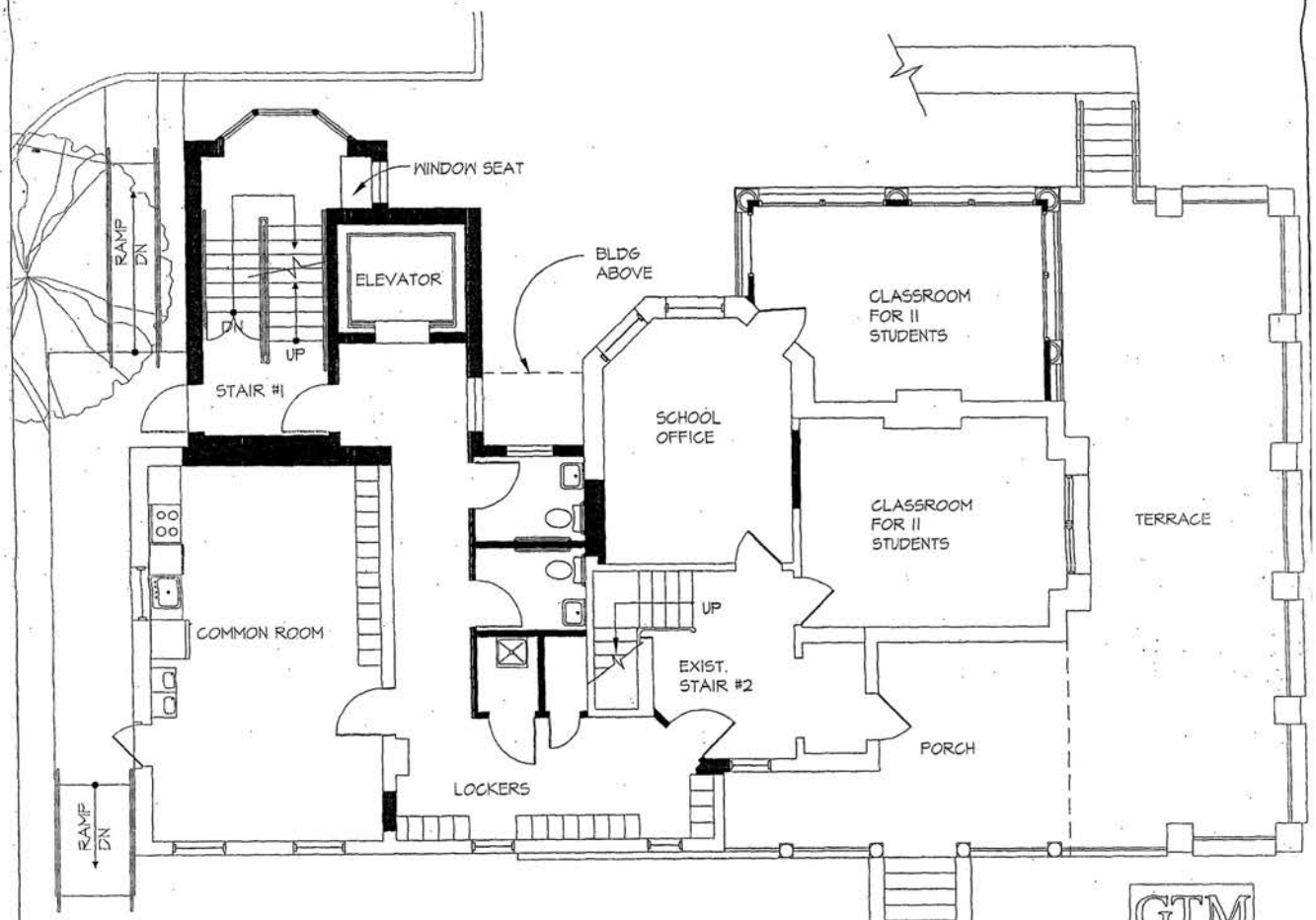
DRAWN BY: TM, JAA
CHECKED BY: DPK
SCALE: AS NOTED
DATE: 11.06.22
PROJECT NO. 01.0644
DRAWING NO. SP1.0

FILE NAME: 010649



1 / SD-1 EXISTING FIRST FLOOR PLAN

SCALE: 1/8"=1'-0"



2 / SD-1 PROPOSED FIRST FLOOR PLAN

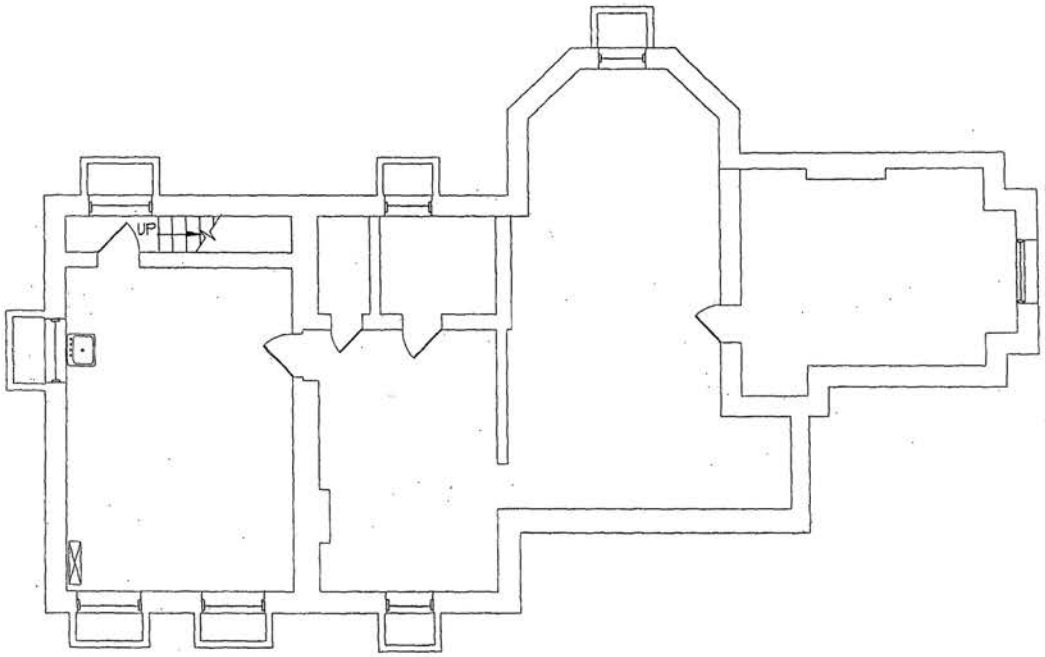
SCALE: 1/8"=1'-0"

EXISTING SQUARE FOOTAGE - 1538sf
LIFE SAFETY ADDITION - 386 sf
STUDENT OCCUPANT LOAD PER BOCA - 22 STUDENTS

GTM
ARCHITECTS
10465 ARMORY AVENUE,
KENSINGTON, MD. 20895
(301)942-1062
(301)942-3424 FAX

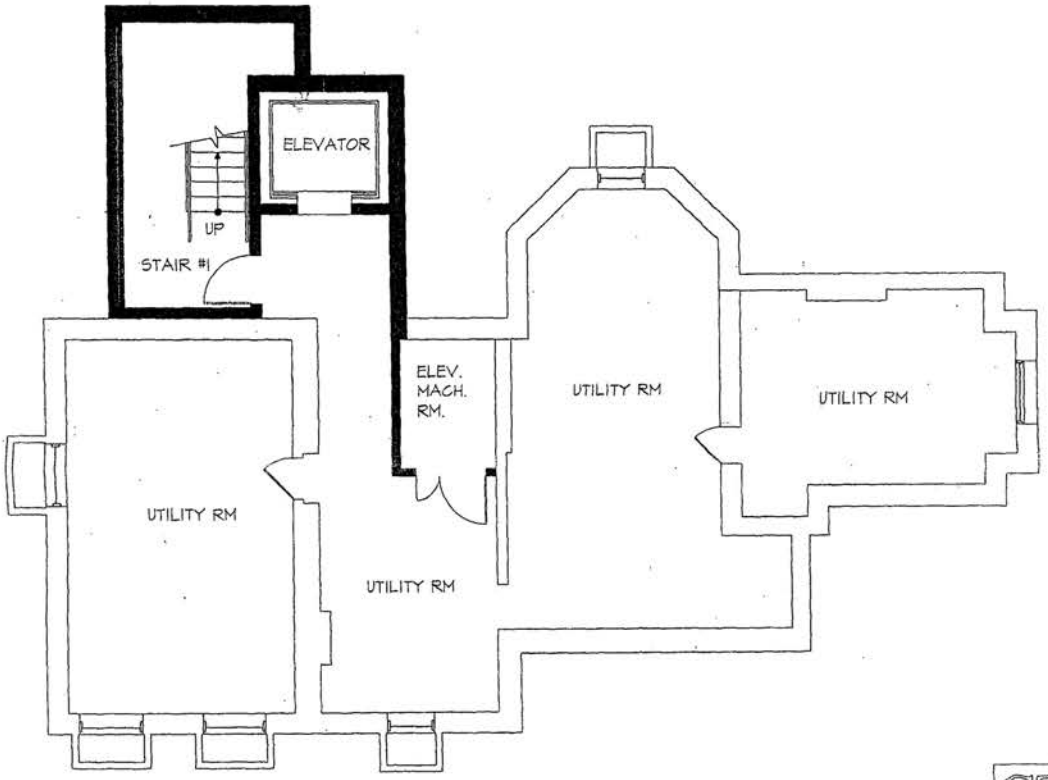
04/01/2002

FILE NAME: 010649



1 / SD-0 EXISTING BASEMENT PLAN

SCALE: 1/8"=1'-0"



2 / SD-0 PROPOSED BASEMENT PLAN

SCALE: 1/8"=1'-0"

EXISTING SQUARE FOOTAGE - 1316sf
LIFE SAFETY ADDITION - 342 sf
STUDENT OCCUPANT LOAD PER BOCA - 0 STUDENTS

GTM
ARCHITECTS
10415 ARMORY AVENUE,
KENSINGTON, MD. 20895
(301)942-6082
(301)942-3424 FAX

04/01/2002

B

Nora Carbine * Thomas Carroll * Campbell DeMallie * Howard Fenton * Harry Gates * Diane Haardt * Meleva Lovendusky * Michael Lovendusky * Ana Ormerod * Douglas Ormerod * Lawrence Skrivseth * Cathy Wright *
C/o Michael Lovendusky, Attorney at Law
4927 MacArthur Boulevard NW
Washington DC 20007

18 November 2003

Denzil Noble, Acting Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street NE Suite 2000
Washington DC 20002

RE: Complaint and Request for Immediate, Emergency Revocation of Building Permits and Stop Work Order at 4925 MacArthur Boulevard NW, Washington DC 20007

Dear Administrator Noble,

The residents of properties adjoining or nearby the location captioned above, by counsel, complain that the construction activities are illegal and request your immediate, emergency action to stop work at the location. The particular illegalities justifying an immediate stop work order are set forth below in numbered paragraphs.

Jurisdiction

1. The Department of Consumer and Regulatory Affairs (DCRA) has jurisdiction of the complaints raised herein pursuant to the express instructions of District of Columbia Office of Zoning Form 300, "Complaint of Non-Compliance With Condition(s) of a BZA/ZC Order" and Titles 11 and 16 DCMR Chapters 32.

Identity of Complainants

2. Nora E. Carbine resides at 4915 Ashby Street NW, Washington DC 20007.

3. Thomas Carroll resides at 4918 Ashby Street NW, Washington DC 20007.

4. Campbell DeMallie resides at 4923 Ashby Street NW, Washington DC 20007.

5. Howard E. Fenton resides at 4915 Ashby Street NW, Washington DC 20007.

6. Harry F. Gates resides at 4911 Ashby Street NW, Washington DC 20007.

7. Diane Haardt resides at 4918 Ashby Street NW, Washington DC 20007.

8. Meleva Lovendusky resides at 4927 MacArthur Boulevard NW, Washington DC 20007.

9. Michael Lovendusky resides at 4927 MacArthur Boulevard NW, Washington DC 20007.

10. Ana Ormerod resides at 4901 Ashby Street NW, Washington DC 20007.

11. Douglas Ormerod resides at 4901 Ashby Street NW, Washington DC 20007.

12. Lawrence Skrivseth resides at 4913 MacArthur Boulevard NW, Washington DC 20007.

13. Cathy Wright resides at 4913 MacArthur Boulevard NW, Washington DC 20007.

14. All complainants are residents of nearby or adjoining property as described in 11 DCMR § 206.2.

First Complaint and Basis of Immediate Revocation of Building Permits and Citation

15. The subject matter of these complaints relate to construction activity at 4925 MacArthur Boulevard NW pursuant to Board of Zoning Adjustment Order No. 16852 (Order), which granted to St. Patrick's Episcopal School (private school) a special exception from the zoning laws to renovate an existing building for use as a private school subject to twenty conditions in the Order. The Order is attached to this Complaint.

16. The Final Date of the Order is 25 March 2003. *Order at page 18.*

17. The Order provides that "PURSUANT TO 11 DCMR. § 3125.6, THIS ORDER WILL BECOME FINAL 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." *Order at page 18.*

18. The Order became effective on 5 April 2003.

19. The Order provides that "PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD." *Order at page 18.*

20. The use approved in the Order was not established by the time the Order expired on 4 October 2003.

21. The use approved in the Order is not established at this time.

22. There is no authority for the building permits granted pursuant to the Order. The building permits are null and void and should be immediately revoked.

23. The private school should be cited for illegal construction at the site from 4 October 2003 and continuing at this time.

Second Complaint and Basis of Immediate Revocation of Building Permits and Citation

24. The Order affirms that 4925 MacArthur Boulevard NW is located in "an R-1-B zone". *Order at Findings of Fact Number 8, page 4.*

25. Building Permit Number B452963 issued by DCRA for use in conjunction with Building Permit Number B474931 for the private school at 4925 MacArthur Boulevard NW is not for use in an R-1-B zone.

26. The private school knew or should have known that the permits applied for and obtained from DCRA were improper for a R-1-B zone.

27. The building permits are null and void and should be revoked.

28. The private school should be cited for illegal construction at the site from the date of issuance of the improper building permits.

29. There is no existing authority for issuance of building permits for construction of a private school at the location.

Third Complaint and Basis of Immediate Revocation of Building Permits and Citation

30. The Order provides that "PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT ... ISSUED PURSUANT TO THIS ORDER." *Order at page 18.*

If the two means of egress stairs are provided as indicated, the existing fire escapes can be eliminated.

Construction Type
The existing construction type is 5B. An education use group would not be allowable in a three-story 5B wood frame structure (without a waiver) unless the structure is currently used for education. Allison Prince, zoning attorney with Shaw Pittman, is currently researching this issue and the previous use groups. If the building was not previously used for education as we have been told, a sprinkler system should be planned prior to applying for a waiver.

New Stairwell
Would windows on exterior walls of the stairwell be allowable? Sydney Lester is checking on this and will call us with a response tomorrow. He does not think they are allowable under BOCA 1014.11.1.

Life Safety
A fire alarm system and strobes would be required.

Basement
All spaces in the basement should be identified as unusable space or mechanical rooms on the plans. If rooms are to be used for storage, they must be rated and sprinkled according to their size. If the basement is to be converted into usable space, the floor level would need to be lowered to accommodate a 7'-6" ceiling height and an additional exit would need to be provided at grade on the front of the building.

Zoning
Zoning issues were not discussed since it is assumed that Allison Prince will be scheduling a meeting with Toye Bello to discuss.

E

St. Patrick's Episcopal Day School
Feasibility Study
4925 MacArthur Blvd., NW
Washington, DC

Submitted March 5, 2002

GTM
ARCHITECTS
Incorporated

March 5, 2002

Mr. Peter Barrett, Head
St. Patrick's Episcopal School
4700 Whitehaven Parkway, NW
Washington, DC 20007

RE: Building Feasibility Study
MacArthur Campus
4925 MacArthur Blvd., NW
Washington, DC

Dear Mr. Barrett,

The building currently occupied by the Washington Psychoanalytic Society is a three-story masonry, wood framed structure, with a slate roof, and a basement. The current use of the building functions closely to the future intended use as an academic building. The floor plan includes meeting rooms, libraries, administrative offices, restrooms, a kitchen, and related storage and mechanical spaces.

The building under consideration consists of a total of approx. 5,641 sf of which 2,774 sf (approx. 49%) is usable for classrooms, offices, etc. The balance of the building, 2,867 sf, is as follows:

1,197 sf - Restrooms and Circulation (approx. 21%)
1,670 sf - Uninhabitable Space / Storage / Basement and Third Floor (approx. 29%)
* ceiling height in the basement areas and sloped ceilings in three of the third floor spaces make these spaces uninhabitable per building code

Existing Square Footages and Student Occupant Load in Classrooms per 1996 BOCA

Basement:	1316 sf – No student occupant load – Utility Space Only
First Floor:	1538 sf – 22 students (2 classrooms)
Second Floor:	1376 sf – 38 students (3 classrooms)
Third Floor:	1411 sf – 28 students (2 classrooms)
	88 Total Students

10415 ARMORY AVENUE • KENSINGTON, MARYLAND 20895 • (301) 942-9062 • FAX (301) 942-3929

Egress Issues:
Two exits are required in order to make the existing building code compliant. Based on DC Code interpretation, the existing fire escapes are considered acceptable exits, but can make up no more that 50 % of the required exits out of the building. Another acceptable exit, a fire rated stair, must be provided.

In order to eliminate the existing, unsightly fire escapes, the existing interior stairway would need modifications before it would be considered a code compliant exit. Based on our Pre-Design Planning Review Meeting with DC on February 25, 2002, it would be necessary to create fire rated enclosures or vestibules around the existing stairs on each level. It would not be possible to return the stair to the original condition and open up the stair between levels since fire rated separation would be required between floors. Several locations on the existing main stair where ceiling height clearances are too low (4'-11" at one point) would need to be addressed.

Accessibility:
Addition of a code compliant ramp is necessary in order to gain access to the first floor only. The logical location for the ramp is the rear entrance where a paved ramp is currently located.

To make all levels of the building accessible, an elevator is required. The proposed floor plan shows a new elevator at the southeast side of the building. This location avoids reconfiguration of the existing structure, (if an elevator were to be retrofitted inside the existing footprint it would seriously diminish the amount of useable space). The elevator also makes access to the basement convenient, which is where storage and utility spaces would be logical.

Plumbing Fixtures:
The minimum number of plumbing fixtures required for the building is as listed below. The existing toilet rooms would need to be demolished so that accessible toilet rooms could be provided.

3 Single User Toilet Rooms for Males
3 Single User Toilet Rooms for Females
- or a combination of toilet rooms with a minimum of 6 fixtures
2 Drinking Fountains or Water Bottles
1 Service Sink (Janitor's Closet)

Life Safety:
Addition of a sprinkler system would not be required for the building since the total square footage is not more that 20,000 sf or higher than 3 stories.

Exit lighting, emergency lighting and a fire detection alarm system (audible and visual) would be required.

Site:

The layout of vehicular access, flow, and parking is a consideration for the use of an academic facility at this location. These elements must be determined prior to designing the life safety improvements because drop-off access will determine the appropriate location of the entry element, handicapped ramps, and egress throughout the building. A report commenting on storm water issues accompanies this report, and we know you are in the process of consulting with a civil and traffic engineer to resolve site issues.

school on the same site to expand to 75 students; and that the proposed private school use of the subject property would lower the value of surrounding houses.

Parties in Opposition to the Application. The Neighbors United Trust ("NUT") testified through its representatives Nancy Feldman, Alma Gates, and Catherine Van Sickle DeMallie. NUT also submitted testimony prepared by Jawahar Mehra, P.E., an expert in traffic operations. Michael Lovendusky, Lawrence Skrivseth, and Cathy Wright testified in opposition to the application. Mr. Skrivseth also submitted traffic data that he had compiled. The parties in opposition testified generally that the proposed location was not appropriate for private school use because of adverse traffic, noise, and environmental impacts.

Persons in Support of the Application. The Palisades Citizens Association ("PCA"), the neighborhood association covering the area where the subject property is located, has approximately 1,000 members and has been in existence since 1916. At its general membership meeting on April 2, 2002, the PCA passed a resolution supporting approval of the application by a vote of 124 to 41.

The Board received approximately 175 letters in support of the application, primarily from residents of the Palisades neighborhood and from parents of students at the Applicant's elementary school. In addition, 17 persons testified in support of the application at the public hearing. The persons in support stated generally cited a need for additional middle-school opportunities and asserted that the Applicant's proposal would not adversely affect neighboring properties, because the Applicant had carefully addressed any potential objectionable impacts, but would benefit the neighborhood by preserving the existing building, trees, and green space on the subject property with fewer impacts than some uses permitted as a matter of right at that location, such as the development of three single-family houses.

Persons in Opposition to the Application. The Board received approximately 25 letters in opposition to the application. The letters in opposition asserted generally that the proposed private school use would adversely affect the surrounding residential neighborhood because of traffic, parking, intensity of use, noise, loss of privacy, trash, safety, the possibility that the Applicant might seek to expand the building or the intensity of its use of the site in the future, and a diminishing effect on property values. Ann Gibbons, a resident of the 4900 block of W Street, N.W., testified in opposition at the hearing, stating that the subject property provided inadequate land for the proposed use and that a school in some other residential area would be safer for students and faculty.

FINDINGS OF FACT

The Subject Property

1. The subject property is located at 4925 MacArthur Blvd., N.W. (Square 1393, Lot 823), in the Palisades neighborhood of Ward 3. The site is located at the corner of MacArthur Blvd. and Ashby Street, N.W., with approximately 150 feet of street frontage on MacArthur Blvd.

2. The site contains approximately 21,000 square feet of land area (0.48 acres) and is improved with a two-and-a-half-story building in the northern half of the lot. The

building, built in 1905 as a single-family residence, contains approximately 4,325 square feet of usable space. The remainder of the site is occupied by a parking lot and a large lawn.

3. The Applicant plans a complete rehabilitation of the existing building, including removal of the fire escapes on its eastern and southern sides, renovation of the building interior and conversion to seminar-style classrooms, construction of a second-story addition to an existing porch, and upgrades to the building's handicapped accessibility and life-safety systems. The proposed modifications would preserve the building's residential appearance, with the only change in the footprint of the building made to accommodate the life-safety and handicapped accessibility upgrades, including the provision of code-compliant handicapped restrooms.

4. The Applicant proposes to preserve the existing open green space on the subject property, including existing trees, and to maintain the lawn and plantings as a park-like setting.

5. The subject property contains a parking lot entered from Ashby Street. The Applicant proposes to reconfigure and reconstruct the lot, with a slight increase in the paved area, to maximize the number of spaces in the available area, to provide handicapped parking, and to provide a buffer between the parking lot and the adjacent neighbors.

6. The Applicant has coordinated with the National Park Service in designing a stormwater management system to be installed beneath the parking lot. The stormwater management system is designed to protect the integrity of the existing retaining wall and is expected to significantly reduce or eliminate stormwater run-off from the parking lot onto neighboring properties.

7. The subject property is located in a predominantly residential neighborhood of single-family detached houses. The average lot size in the immediate vicinity of the site is between 7,000 to 8,000 square feet.

8. The subject property is zoned R-1-B. The purposes of the R-1 district include to stabilize and protect quiet residential areas developed with one-family detached dwellings, and to promote a suitable environment for family life. 11 DCMR §§ 200.1-200.2. The R-1-B zone provides for districts of higher density than the R-1-A zone. 11 DCMR § 200.3.

9. The building on the subject property, after modifications planned by the Applicant, would continue to comply with height, lot occupancy, and other area requirements of the R-1-B district.

10. Under the Applicant's proposal, total lot occupancy would be 14.4 percent, where a maximum lot occupancy of 40 percent is permitted. *See* 11 DCMR § 403.2.

11. The minimum lot size in the R-1-B district is 5,000 square feet. 11 DCMR § 401.3. The subject property could potentially be redeveloped with several single-family residences.

MEMO

Date: October 23, 2003

To: St, Patrick's Episcopal Day School

From: David Konapelsky

Re: Basement
St. Patrick's Episcopal Day School
Grades 7 and 8
4925 MacArthur Blvd. NW

The basement level of occupancy at 4925 MacArthur Blvd. has always been identified on the drawings as a useable space. The drawings prepared for the BZA hearings (dated 2/28/02) identified the function of the spaces as Utility Rooms, 1 Stair, and an elevator machine room. The final plan has Utility rooms, 2 stairs, an elevator machine room, mechanical and electrical rooms, corridors, and a Music Room.

Several specification and code requirements influenced the plan to what was ultimately presented for permit approval. During the construction drawing phase, the elevator was selected, whose specification required the elevator machine room to have a 7'-6" clear ceiling. This required lowering a portion of the existing floor slab. Along with this, a remote second stair was added per the requirements of BOCA Code 1010.3. This was added in a (required) remote location within the existing footprint. The path of travel to the remote exits required a 7'-6" minimum height ceiling, resulting in a room (under the Art Room, central to the plan), which could function as something other than a utility room.

In addition, St. Patrick's elected to install a fire sprinkler system to upgrade the existing fire safety in the building. Prior to the time of the BZA hearing, GTM Architects had a pre-design meeting with District Building Code Officials, at which the District "recommended" a sprinkler system for safety, but did not require it, since the building was already functioning as an existing educational use building. The addition of a sprinkler system also allows safer occupancy of functions in the basement.

It is important to note that during testimony of GTM Architects at the BZA hearing, Chairman Geoffrey Griffis made it clear in his comments that architectural program and code compliance issues are the responsibility of the Building Code Officials, the Architect, and the building permit review process, not the BZA. Design development, and permit drawings require coordination of information well beyond what can be presented in schematic form, which is what Mr. Griffis was speaking about. In our case it yielded a second stair, lower basement slab elevations, installation of a sprinkler system, and a more functional space in the basement (designated as a Music Room), which meets code, the BZA agreement, and is legally permitted.

two means of egress and only was providing one.

MS. GATES: Well, that's where I was going with this.

CHAIRPERSON GRIFFIS: Indeed. And we can point that out, if we had time. But again, there's nothing that we can even follow up in doing. Certainly, with a registered architect and the permitting process in review, I would hope, I know for certain, that that will be addressed.

MS. GATES: Thank you. Are there plans to enclose the terrace in the future?

MR. KONAPELSKY: Are we talking about on the second floor, on the porch area?

MS. GATES: No, I'm talking about the terrace in the front.

MR. KONAPELSKY: No, we are not planning on enclosing that. That hasn't been discussed.

MS. GATES: But is the terrace included in the footprint?

MR. KONAPELSKY: In the overall footprint, when we calculated percentage of lot occupancy, yes, but not in the usable footprint. In other words, it's not a functional space, or a place where we calculated student populations. It's an exterior space.

MS. GATES: Couldn't the school later

build on it and substantially increase the size of the building?

MR. KONAPELSKY: Yes, they could. If they wanted to.

MS. GATES: Okay.

CHAIRPERSON GRIFFIS: Meaning, they have addition FAR, that they could enclose that space?

MR. KONAPELSKY: The lot allows forty percent lot occupancy. If they wanted to, and pursued the right channels of the permit process, they could do that.

CHAIRPERSON GRIFFIS: Okay. But your client hasn't asked you to investigate that, in terms of architectural plans or proposed schemes, or have they?

MR. KONAPELSKY: No, not at all.

CHAIRPERSON GRIFFIS: Okay.

MR. KONAPELSKY: Actually, other than the life safety addition, they were very vehement about staying within the footprint of the building.

CHAIRPERSON GRIFFIS: I see. Okay.

MS. GATES: That would stay within the footprint.

MS. PRINCE: And of course, Board of Zoning Adjustment approval would be required for any

enclosure of the existing porch, even though it's part of the footprint.

CHAIRPERSON GRIFFIS: It would, why?

MS. PRINCE: Because it increases the habitable space for the use of the school.

CHAIRPERSON GRIFFIS: Indeed. Is that understood?

MS. GATES: It is, however, I believe, when the classroom building was enlarged, or upgraded recently, the plans to do that had already been drawn. The planning was there earlier, and that was where I was going with this question.

But perhaps we were going to say this is part of the footprint and come back later and say oh well we said it was part of the footprint.

CHAIRPERSON GRIFFIS: Right. Understood.

MS. GATES: Thank you. Is there concern about survival of any of the trees on the property?

MR. KONAPELSKY: When we did the life safety addition, there was a discussion from Saint Patrick's that they were, it was critical to keep the existing trees on site.

And there is an existing Magnolia tree, and I noticed that there was a paper that came across today about an Arborist had looked at the Magnolia

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)

DISPOSITION: The Board CONDITIONALLY GRANTED the application by a vote of 3-0 (Paula L. Jewell, John G. Parsons and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

FINAL DATE OF ORDER: October 30, 1990

ORDER

The Board granted the application by its Order dated October 30, 1990, subject to four conditions. Condition No. 4 of the Order required that the applicant 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.

On December 21, 1990, counsel for the applicant submitted a landscape plan for the project for consideration by the Board. At its public meeting of January 9, 1991, the Board reviewed the landscape plan as submitted by the applicant. The Board concludes that the proposed plan provides appropriate screening between the project and adjacent residential uses and adequately addresses the concerns of the Board.

Upon consideration of the foregoing facts it is hereby ORDERED that the revised landscaping plan marked as Exhibit No. 31A of the record satisfies Condition No. 4 of the Board's Order and is therefore APPROVED.

DECISION DATE: January 9, 1991

VOTE: 3-0 (Paula L. Jewell and Carrie L. Thornhill to approve; John G. Parsons approve by proxy; Sheri M. Pruitt and Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

(I)

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: FEB 11 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT 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 ODER 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.

015374/LJP

sizes, as well as reduce classroom crowding, especially at our younger grade levels.

In addition, we seek your permission to enclose our lowest level of our building presently used right now for 14 parking spaces. Our architect, Peter Grina, will explain that this space was originally designed over 14 years ago to be enclosed at some point. It will allow us to add 5,400 square feet of classroom space. The aesthetic impact will be minimal, for the footprint of the building will not be changed. Peter will later explain the nature of this renovation.

Our school has always been aware of the need to control the number of vehicles that flow in and out of the site each day in the morning and the evening. We have made deliberate efforts to encourage carpooling. We have provided, through a private van service, van transportation that we feel is at a stronger nature today than it was four years ago. We have established staggered pick-up times and arrival times.

I should add that the trips that are generated to the school by the school do not typically coincide with the evening peak hours, and that even during the afternoon time period the departure of our students is staggered over a