Before the Board of Zoning Adjustment
For The District of Columbia

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ALL SOULS MEMORIAL EPISCOPAL CHURCH 2300 Cathedral Ave., N.W. Washington, D.C. 20008 *Application for Special Exception*	Docket No. 16875 Hearing Date: 7/2/02

OPPOSITION TO MOTION BY PETER CHOHARIS FOR ADVANCE TOLL OF DEADLINE OR FOR RECONSIDERATION

All Souls Memorial Episcopal Church (the "Church"), by and through its undersigned counsel, and for the reasons set forth below, hereby opposes the motion filed by party opponent Peter Choharis ("Mr. Choharis") to toll the filing period for an anticipated motion for reconsideration of a written decision of the Board of Zoning Adjustment ("Board" or "BZA"), which has not yet been issued.[1] The Church also opposes Mr. Choharis' alternative request for reconsideration of the anticipated decision, there being no new evidence cited in support of his request.

FACTUAL MISREPRESENTATIONS

1. Mr. Choharis Is A Party Of One

In his motion, Mr. Choharis erroneously claims that he represents "himself and more than seventy neighbors" before the Board. In fact, he appears only in his own

[1] No written decision was released in the above referenced matter as of 4:30p.m., September 10, 2002, according to the staff at the Board of Zoning Adjustment.

BZA
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EXHIBIT NO.46

capacity, representing his own interests, and not as spokesman for any third person or group.

2. No Record Of Opposition By 70 Neighbors

At its public meeting on July 2, 2002, this Board expressly denied Mr. Choharis' request to supplement the record with the results of an informal survey he conducted of some 70 neighbors of the Church. No neighbor other than Mr. Choharis, after being given proper notice and an opportunity to participate in the zoning process, either requested party status or asked to be represented by Mr. Choharis. Consequently, there is no record of such overwhelming opposition to the Church's application. In fact, after thoughtful consideration, the Advisory Neighborhood Commission, the Woodley Park Community Association and Councilmember Jim Graham each supports this application and its immediate implementation. And their support IS part of the record.

REQUEST TO TOLL DEADLINE IS PREMATURE

Mr. Choharis requests a ruling to toll the deadline for his filing a motion for reconsideration of the written decision in this matter (1) in anticipation that the written order will be issued during an expected travel period; (2) in anticipation that he will be unable to file a timely motion; and (3) in anticipation that he will even want to file a motion once the written decision is issued.

In view of the numerous unknown factors which may affect Mr. Choharis' timely filing of any post-decision motion, the Church believes that Mr. Choharis' request to toll the filing deadline is premature. The more prudent and appropriate approach would be for the issue of any postponement to wait until after the written decision is released and it is actually the case that the timely filing of a motion by Mr. Choharis,

assuming he still wants to file a motion, is not feasible. At that time, Mr. Choharis could present his reasons, if any, for a request to late file. Accordingly, the Board would able to evaluate any circumstances as they exist and make a rational decision.

Pursuant to DCMR 11-3126.2, a motion for reconsideration is due within 10 days of the date of issuance of the written decision being contested. DCMR 11-3101.6 provides that the Board may waive this rule only "for good cause shown." Mr. Choharis has shown no cause for his request, but has merely speculated on causes which may prevent him from timely filing. Therefore, it would be premature for this Board to extend any filing deadline at this time.

Mr. Choharis further provides no basis, whether existing or anticipated, for this Board to enlarge its filing deadline from 10 to 13 days. The Church, therefore, opposes this request and asks the Board to adhere to its published rules, until such time as good cause is shown.

NO NEW EVIDENCE TO SUPPORT RECONSIDERATION

Finally, without any support or substantive discussion, Mr. Choharis asks this Board effectively to vacate its July 2 decision and reopen hearings in the Church's application prior to the issuance of any written decision. According to DCMR 11-3126.6, "[n]o request for rehearing shall be considered by the Board unless new evidence is submitted which could not reasonably have been presented at the original hearing." While Mr. Choharis refers to his June 28, 2002 Motion to Re-Open the Hearing as the basis for his request, this Board denied that motion on July 2, 2002. Consequently, there

being no *new* evidence provided, this Board should deny Mr. Choharis' current request for reconsideration.

September 11, 2002

Respectfully submitted,

Brigitte L. Adams
2800 Wisconsin Ave., N.W. #208
Washington, D.C. 20007
(202) 363-8190

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Opposition to MOTION BY PETER CHOHARIS FOR ADVANCE TOLL OF DEADLINE OR FOR RECONSIDERATION was mailed, first-class, postage prepaid, to party opponent Mr. Peter Choharis at 2771 Woodley Place., N.W., Washington, D.C. 20008 on this 11th day of September, 2002.

Brigitte L. Adams