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Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustments
441 4th Street, N.W.
Second Floor
Washington, DC 20001

Re: BZA Application No. 16970
National Child Research Center
3209 Highland Place, NW Square 2072, Lot 30

MOTION TO APPEAR AS PARTIES AND CONCURRENCE IN THE "MOTION TO APPEAR . . ., MOTION TO DISMISS, ETC." OF THE NEIGHBORS OF THE NATIONAL CHILD RESEARCH CENTER

Dear Mr. Griffis:

The undersigned, appearing *pro se*, are owners and occupants of a residence that shares a common property boundary with the applicant National Child Research Center ("NCRC"). As is more fully set forth herein by virtue of the adjacency to NCRC, we experience a special impact from the school's operations and would experience a special impact if the school's application to construct new facilities and expand enrollment is granted. As you know, the school, which runs separate morning and afternoon sessions, has asked for permission to have up to 120 students at their morning session and an additional 120 students at their afternoon session. This authorized enrollment of up 240 students compares with the school's current enrollment of about 170 students, a 40 percent increase. The school also requests authority to construct a combination of new buildings and additions to old buildings which, taken together will double the physical size of the school's facilities and double its occupation of the lot next door to us.

We wish to appear as parties in opposition to this application.

The undersigned also wish to concur in the "Motion to Appear as a Party, Motion to Dismiss Application, Motion for Declaratory Relief, and Request for Hearing on Motions to Dismiss and Declaratory Relief" submitted January 2, 2003 by an organization of Neighbors of NCRC.

BZA
Case No. 16970
Exhibit No. 92

Board of Zoning Adjustment
District of Columbia
CASE NO.16970
EXHIBIT NO.92

I. Statement in Support of Party Status

The undersigned are the fee-simple owners of the property with street address of 3225 Highland Place, N.W.; Square 2072, Lot 27. The eastern boundary of our property is the western boundary of the NCRC property. The side of our house is between 10 and 15 feet from the NCRC property line. The NCRC playground immediately adjoins our property. From the windows of our house on that side of the property, we have a direct view of the current NCRC buildings and we would have a direct view of the proposed new construction of NCRC, including a view of the proposed new classroom building, the proposed new maintenance building and the proposed addition on to the house, which is the school's current primary building.

Some of the effects of the proposed new project on us, if it is built are as follows:

- Obstruction of our view of open space to the northeast, including further loss of trees from the NCRC site;

- View of two large buildings, that are larger than any others in the neighborhood, one of which is clearly not residential in character;

- Increased concentration of children on the playground in the area immediately adjacent to our property line, as a result of effective loss of about 1/4 of the playground space to new buildings and to expansion of existing buildings. This increases the noise level at our house, because there is no noise abatement structure or vegetation separating our property from the NCRC playground. The only division between the NCRC property and our property is a rusting, four-foot high chain-link fence. There are no shrubs or any other kind of barrier, natural or man-made.

- Increased vehicular traffic on Highland Place, resulting from the school's increased enrollment.

- Loss of on-street parking during morning, mid-day and afternoon drop-off/collection times as a result of students' parents parking and walking their children into the school.

- Hazardous condition at intersection of Highland and 33rd Place (which connects to our driveway) resulting from large school-related volume of traffic on Highland Place that does not observe the stop sign. The intersection is a blind intersection for both the Highland Place and 33rd Place traffic.

- Hazardous condition on Highland Place because NCRC car waiting line blocks one lane of travel, forcing two-way traffic into a single lane around a blind curve.

- Hazardous condition resulting from NCRC parents parking illegally on 33rd Place, which makes egress from my driveway difficult or impossible and which would prevent emergency fire equipment from reaching the Cleveland Park Club, which adjoins the northern boundary of our property.

- NCRC-related afternoon traffic makes it dangerous for our child and other neighborhood children to ride a bicycle or scooter on the street, except on weekends when the school is closed. During summer months, when neighborhood children are not in school, NCRC-related traffic poses an additional danger throughout the day to children's use of the street, especially to children who use the street to come swim in the Cleveland Park Club pool on 33rd Place.

- Inability to have evening guests due to lack of on-street parking on evenings when NCRC has functions, including dinners and board meetings;

- Disturbance of peace and quiet on weekends, when NCRC has special events, which feature amplified music and which bring a large share of the parents' cars into the neighborhood looking for places to park.

- Dirt, dust and noise resulting from the required construction.

- Heavy truck and equipment traffic on Highland Place associated with the construction. Since our house is at the corner of 33rd Place and Highland Place, these trucks will have to negotiate the difficult left turn from Highland into 33rd Place.

As it is, the school generates a considerable impact on our property from both noise and associated vehicle traffic and parking. A larger school will exacerbate these impacts. We note that NCRC's application is for "120 students in the morning and 120 students in the afternoon," which, if granted, would give the school regulatory authority to have up to 240 enrolled students, approximately 70 more than are enrolled today.[1] In recent years, 90 percent of the school's students have lived outside of walking range; so a 70-student increase in enrollment likely would produce an estimated 126 more car trips in an out of the neighborhood each day school is in session.[2]

Moreover, our house, built in 1898, is one of the oldest houses in Cleveland Park; and Highland Place, which is the geographic center of the Cleveland Park Historic District, has the highest concentration of these oldest houses. The school, since its inception, has operated in a large brick house, built in 1905, and in a carriage house that appears to be almost as old. The NCRC house is set to the side of the lot, very close to NCRC's eastern property line. The large open space between the NCRC house and the NCRC western property line (shared with our property) has been used as a play space for the school's children. The proposed construction will degrade the residential character of the street and neighborhood because the proposed new classroom building, both by size and appearance, is not residential in character. Apart from the noise and disruption occasioned by the construction itself, the proposed new buildings will use up about 1/4 of the current effective playground space. The result will be that the children will be compressed into a smaller space – and in the area that adjoins our property.

II. Concurrence in the "Motion to Dismiss, etc."

The Neighbors' Motion to Dismiss requests a variety of relief based on the discrepancy between the number of students and staff specified in its current special exception (BZA Order in Application No. 16307; hereinafter referred to as the "1998 Order") and the number of students actually enrolled and staff actually employed.

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[1] Being a pre-school, NCRC's students do not all arrive in the morning and leave in the afternoon. Some students do attend the school all day; others attend one half day. If the BZA grants NCRC's application, enrollment could vary between 120 students (assuming that all of the students attended a full day) to 240 students (assuming that all of the students attended one half day sessions). By varying the mix of all-day and half-day classes, NCRC could vary its enrollment within that range and still remain within the regulatory operating framework it has requested.

[2] Each non-walking child generates two round trip car trips per day – one to drop the child off and a second to collect the child at the end of that day's session. Because the children are very young and must be driven in car seats, using carpools is impractical.

The heart of the problem is the fact that, in 1998, NCRC was granted a special exception "to establish a child development center for 120 students ages 2½ to five years and 28 staff in the basement through third floor of an existing building."[3] Yet, the current enrollment of NCRC is 171 students; and the school has a staff of 37. On the basis of this and other violations, the Neighbors ask that the school's application be dismissed and that the school be declared in violation of the 1998 Order.

These facts are not in dispute: what the school attempts to dispute is the meaning of the 120-student specification in the 1998 Order. There are at least three reasons why the 120-student specification in the 1998 Order must refer to enrollment and not to the maximum occupancy of the school's buildings.

First, zoning regulations require that the BZA find no adverse impact on the neighborhood when a special exception to zoning restrictions is granted. The 1998 Order is a grant of a special exception. Since one of the most significant impacts of operating a school serving non-neighborhood children[4] is the vehicular traffic caused by parents transporting children to and from school, the 1998 proceeding focused on traffic; and the record so reflects.[5] Traffic, necessarily is a function of enrollment. If the BZA does not regulate enrollment, it does not regulate traffic *and cannot assess the impact of traffic on the neighborhood* because the volume of traffic is unknown. Thus, the 1998 Order *must be construed* regulate enrollment, and 120 is the only figure in that Order that relates to enrollment.

Second, the precipitating event for the 1998 proceeding was the D.C. Department of Health's advisory to the school in 1997 that it was in violation of its D.C. Health license because it was exceeding its certificate of occupancy (90 students) by having 104 students in the building. As the correspondence appended to the Neighbors' Motion to Dismiss makes clear, D.C. Department of Health measured the size of each classroom and, based on the ages of the children in each classroom, advised the school that D.C. Department of Health would license NCRC to have up to 108 students in the building, provided that the school obtain a certificate of occupancy at that number. Initially, on November 17, 1997, the school filed with the BZA a request for a special exception in exactly that number. However, perhaps realizing that its enrollment was greater than the number of children in the building at any one time (because of separate morning and afternoon sessions), the school amended its application to go to 120 sometime in January 1998. It would have made no sense for the school to have applied for a certificate of occupancy of 120 in 1998 because D.C. Department of Health had already advised the school that D.C.

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[3] BZA Order in Application No. 16307 at 1.

[4] In recent years, about 90 percent of NCRC's students come from outside of Cleveland Park. The school generates far more car traffic than the local public elementary school, John Eaton, that is approximately three blocks away on 34th Street.

[5] Indeed, a number of neighbors of the school appeared as parties in that proceeding to specifically raise the issue of the traffic that the school's population was generating.

Health preschool licensing requirements would only allow 108 students to be in the building's classrooms.[6] Therefore, since 120 could not have been a legal occupancy number under D.C. Department of Health preschool licensing requirements, it had to have been total enrollment

Third, in no document and in no testimony is the number 120 associated with "occupancy" as opposed to "enrollment." Nor is there any testimony or any other document in the BZA record which reflects enrollment at some number other than 120. Indeed, as the Neighbors' paper reports, the school's acting director had the question "How many students?" put to her; and she answered "120." A witness' obligation is to tell the "whole truth." If the witness intend the answer to the question to reflect only enrollment and not occupancy, then it was her duty to have revealed to the Board that there was a number other than 120 which was enrollment. Clearly, an answer to the question "How many students?" should include all of the possible answers and not just some of them.

For these reasons, we also join in the Neighbors' Motion to Dismiss NCRC's application.

III. Conclusion

For the foregoing reasons, we, Richard Bruce Beckner and Sallie R. Beckner request that the Board grant us party status in this proceeding and that the Board dismiss the pending application in this proceeding by the National Child Research Center.

Respectfully submitted,

R. Bruce Beckner

Sallie R. Beckner

[6] The other possibility, f course, is that, though undisclosed to the BZA in 1998 and contrary to the representations of its counsel at the time, the school already had expansion plans in mind and therefore applied for a certificate of occupancy that would accommodate planned future growth. It is worth noting that the current director, Susan Piggot, was hired in the fall of 1997. Although she did not officially commence work until mid-1998, the announcement of her having accepted the position was made in December 1997, one month before NCRC increased its application to 120 from 108.