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October 28, 2003

BY MESSENGER

Ms. Jerrily R. Kress, FAIA
Director
Office of Zoning
441 4th Street, N.W., Suite 210
Washington, D.C. 20001

Re: Application of Sheridan School; BZA No. 16977; Submission of a Proposed Order Containing Findings of Fact and Conclusions of Law

Dear Ms. Kress:

As requested by the Board, please find enclosed a proposed Order containing Findings of Fact and Conclusions of Law. This document was transmitted in draft form for review by Ms. Cathy Wiss and Messrs. Carl Kessler and Scott Schachter on October 23, 2003.

Thank you for your consideration of this document.

Sincerely,

GREENSTEIN DELORME & LUCHS, P.C.

By: Jacques B. DePuy

By: Lyle M. Blanchard

BZA
Case No. 16977
Exhibit No. 59

Board of Zoning Adjustment
District of Columbia
CASE NO. 16977
EXHIBIT NO. 59

Enclosure

218369

cc: All Copies By First Class Mail
Ms. Cathy Wiss, Chairperson, ANC 3F
Mr. Carl Kessler, Commissioner, ANC 3F-01
Mr. Scott Schachter
Mr. Rick Nero
Mr. C. Randall Plummer
Mr. Brian Barlia
Mr. James Heath

Draft; October 23, 2003

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16977 of the Sheridan School, pursuant to 11 DCMR § 3104.1, for special exception relief under 206 to (i) add 1,200 square feet of gross floor area to an existing building, (ii) reconfigure the parking spaces in front of the school along 36th Street in order to add four (4) additional parking spaces and reconfigure the parking lot on Alton Place, N.W. to accommodate twenty-nine (29) parking spaces, (iii) increase the maximum number of students from 215 to 226, and (iv) authorize the number of students enrolled in the CASA summer program in excess of one hundred student (100) students, and pursuant to 11 DCMR § 3103.2 for area variance relief under subsection 2117.4 from the requirement that each required parking space shall be accessible at all times directly from improved streets or alleys, under section 2115.1 from the requirement that each required parking space be a minimum of nine (9) feet in width by nineteen (19) feet in length and under section 2101.1 from the requirement that an elementary or junior high school provide two (2) parking spaces for each three (3) teachers and other employees in a private school located in the R-2 District at 4400 36th Street, N.W. (Square 1968, Lot 10).

HEARING DATE: September 30, 2003
DECISION DATE: November 4, 2003

DECISION AND ORDER

The Sheridan School, the owner of Lot 10 in Square 1968, filed an application with the Board of Zoning Adjustment (the "Board") on December 4, 2002, seeking special exception relief under section 206 to (i) add 1,200 square feet of gross floor area to an existing building, (ii) modify the site plan to create a student "drop off/pick up" lane and reconfigure the parking spaces in front of the school, and (iii) increase the maximum number of students from 215 to 226. The Sheridan School filed an amended application with the Board on July 31, 2003, seeking special exception relief under section 206 (i) add 1,200 square feet of gross floor area to an existing building, (ii) reconfigure the parking spaces in front of the school along 36th Street in order to add four (4) additional parking spaces and reconfigure the parking lot on Alton Place, N.W. to accommodate twenty-nine (29) parking spaces, (iii) increase the maximum number of students from 215 to 226, and (iv) authorize the number of students enrolled in the CASA summer program in excess of one hundred student (100) students, and for variance relief under subsection 2117.4 from the requirement that each required parking space shall be accessible at all times directly from improved streets or alleys, under section 2115.1 from the requirement that each required parking space be a minimum of nine (9) feet in width by nineteen (19) feet in length and under section 2101.1 from the requirement that an elementary or junior high school provide two (2) parking spaces for each three (3) teachers and other employees. The zoning relief in this case was self-certified, pursuant to 11 DCMR § 3113.2.

PRELIMINARY AND PROCEDURAL MATTERS

Notice of Application and Notice of Hearing. By memoranda dated December 4, 2002, the Office of Zoning notified the Zoning Administrator, the D.C. Office of Planning, Advisory Neighborhood Commission (ANC) 3F (the ANC for the area within which the subject property is located), the ANC commissioner for the affected Single-Member District and the Ward 3 Councilmember of the filing of the application.

The Board scheduled a public hearing on the application for February 25, 2003. Pursuant to 11 DCMR § 3113.13, the Office of Zoning, on January 9, 2003, mailed the Applicant, the owners of all property within 200 feet of the subject property, and ANC 3F notice of the hearing. Notice of Hearing was also published in the D. C. *Register* on _____ __, 2003, at 50 DCR ____. On February 10, 2003, the Applicant made a request for continuance based on the need to resolve outstanding issues with the neighbors. On February 17, 2003, ANC 3F sent a letter (Ex. 35) documenting its action to support the Applicant's request. The request was granted by the Board on February 25, 2003. The next hearing date was scheduled for May 20, 2003. On April 14, 2003, the Applicant made a second request for continuance based on a need to allow additional time to resolve issues with the neighbors and ANC, amend the Application to reflect such resolution of the issues and address transportation and parking issues with the District Department of Transportation ("DDOT"). On April 28, 2003, ANC 3F sent a letter (Ex. 39) documenting its action to concur with the Applicant's request for continuance. The request was granted by the Board on May 20, 2003. The public hearing was rescheduled for September 30, 2003. On July 31, 2003, the Applicant filed an amended application and an amended and restated statement of reasons. The Applicant's affidavit of posting indicates that on September 15, 2003, zoning posters were placed on the subject property in plain view of the public.

Requests for Party Status. The Board granted party status to Scott A. Schachter, who resides at 3627 Alton Place, N.W. Party status was not granted to those persons who filed for party status but did not attend the hearing. These persons are Bradley O. Boekeloo and Stanley Drake of 4330 36th Street, N.W., Janet Katz and Margaret Mahoney of 4334 36th Street, N.W., Ann Yonemura and John Winter of 4322 36th Street, N.W. and Sonia Ruseler of 4326 36th Street, N.W.

Applicant's Case. Mr. Randall Plummer, Head of School, testified with respect to the school's need to modernize a forty year old facility with many of its systems nearing or at the end of their useful life. (Ex. 56) Based on a property condition survey and a strategic plan, the School began to develop a plan that would insure the physical integrity of the building and accommodate a progressive style of teaching, including collaborative project-based learning. In order to accomplish these goals, a modest expansion of the classroom space was found to be necessary. The expansion involves only six (6) small bays along the Yuma Street and Alton Place sides of the building. Though unrelated to the proposal for the building, other issues surfaced during regularly scheduled meetings with the community.

As the result of the school's commitment to work with the neighbors and achieve consensus and understanding, two continuances were sought and granted by the Board to allow sufficient time to hear and address neighbor concerns. This process led to the submission of a revised application and amended and revised statement. The revisions to the application retain the request in the original filing for special exception relief (for adding 1,200 square feet of gross floor area to the existing building, increasing the maximum number of students from 215 to 226 and reconfiguring the parking spaces in front of the school along 36th Street in order to add four (4) additional parking spaces. In the revised application, special exception relief was also requested to authorize the number of students enrolled in the CASA summer program in excess of one hundred student (100) students, and for variance relief under subsection 2117.4 from the requirement that each required parking space shall be accessible at all times directly from improved streets or alleys, under section 2115.1 from the requirement that each required parking space be a minimum of nine (9) feet in width by nineteen (19) feet in length and under section 2101.1 from the requirement that an elementary or junior high school provide two (2) parking spaces for each three (3) teachers and other employees. A revised site and parking plan was also submitted that proposed a reconfiguration of the parking lot on Alton Place, N.W.

Mr. Plummer explained the school's extensive neighborhood consultation process which began with the first discussion of the proposal with neighbors at the June 20, 2002 quarterly meeting. Since that meeting, thirteen (13) neighbor meetings were held. As the results of these meeting, the school refined its landscaping plan and commenced substantial plantings in order to implement the landscaping plan. A new parking plan was developed that addresses both safety concerns as well as the need for spaces for a modest increase in teachers and staff. Operational policies were also changed in response to neighborhood concerns, such as delivery times, off-site bus parking and a MetroChecks program for employees. A construction management plan was also developed. Mr. Plummer testified that as the President of the Association of Independent Schools of Greater Washington, he is working to create a "Good Neighbor Policy" for Independent Schools. To that end, he has worked in close collaboration and communication with the School's neighbors.

The Applicant's architect, Michael Hickok, AIA, a principal in Hickok Warner Cole Architects, presented the parking and landscape plans (Ex. 42A, exhibits A and D) and described the addition of the six (6) bays and the reconfigured parking areas on 36th Street and Alton Place.

The Applicant's traffic planner, Martin J. Wells, President, Wells & Associates, described the results of his traffic survey and parking studies and concluded that approving the revised application, specifically including the granting of the parking variances, would have no substantial detriment on the public good. He reviewed his recommendations (Ex. 42A, page 17 of Transportation Study) and commented on DDOT's favorable report.

Public Agency Reports and Memoranda. By memorandum (Ex. 49) dated September 19, 2003, the Office of Planning (OP) recommended approval of the application as submitted by the applicant. OP found that the proposal is consistent with the Ward 3 Element of the Comprehensive Plan and concluded that the applicant had satisfactorily met the criteria for special exception relief under sections 206 and 3104.1 and for variance relief under section 3103.

By memorandum (Ex. 52) dated September 26, 2003, DDOT recommended approval of the application without any conditions.

ANC Report. By resolution dated September 15, 2003 (Ex. 48), ANC 3F noted a unanimous vote to approve the application and request that the Board adopt certain conditions attached to the ANC's report. At the public hearing on September 30, 2003, Mr. Carl Kessler, ANC 3F01 and Ms. Cathy Wiss, ANC 3F Chair, testified at the hearing about the many efforts made by the Applicant to address community concerns.

The Board notes that, subsequent to the ANC vote and at the Board hearing, the Applicant submitted, on October 14, 2003, revised proposed conditions (Ex. 56, exhibits 2-4) in furtherance of the recommendations of ANC 3F and in response to inquiries and concerns from Board members. ANC 3F filed a response dated October 21, 2003, that the ANC has no objections to the (Applicant's) revision to the Proposed Conditions document. (Ex. __)

Persons in Support of the Application. There were two (2) letters in support of the application. These letters are from Mr. Albert J. and Mrs. Virginia C. Battista, who have resided at 4334 Reno Road, N.W. (Ex. 46) for the past fifty-four (54) years, and from Mrs. Isabel Price, who has resided at 4411 Reno Road, N.W. (Ex. 47) for the past sixty-five (65) years. No persons presented oral or written testimony in support of the application.

Persons in Opposition to the Application. No persons filed letters or presented oral or written testimony in opposition to the application. Mr. Scott Schachter, who initially appeared as a party opponent, testified that his position was one of non-opposition provided the conditions negotiated with the School were adopted by the Board.

Closing of the Record. The record closed at the conclusion of the hearing, with the exception that by October 14, 2003 submissions were required to be filed with regard to a revised proposed traffic management plan and revised conditions (including a revision to allow the operation of the farmers market). Responses to those submissions were required to be filed by October 21, 2003. Findings of fact and conclusions of law were required to be filed by October 28, 2003.

The Applicant filed proposed traffic management requirements and revised conditions allowing the continued operation of the farmers market (Ex. __) on October 14, 2003.

FINDINGS OF FACT

1. The subject property is located at 4400 36th Street, N.W. (Square 1968, Lot 10) in the Van Ness neighborhood of Ward 3. The subject property is zoned R-2.

2. The site is generally rectangular in shape with a frontage of 225 feet along 36th Street, 306.72 feet along Alton Place, and 265.95 feet along Yuma Street for a total lot area of approximately 70,647 square feet. The site slopes gently along Alton Place but suffers a substantial change of grade along the Yuma Street frontage.

3. The property is currently developed with a private school for 215 students. The School building was constructed circa 1964 pursuant to BZA Order No. 7282. By Order No. 13089 dated February 27, 1980, the Board approved construction of an addition to the School to house two offices on the first floor and a science room on the second floor. By Order No. 15656, dated December 23, 1992, the Board approved an increase in enrollment to 215 students and the construction of an addition containing classrooms, library, gymnasium and support facilities.

4. The Sheridan School currently uses the existing building on the Property as a private school for kindergarten through eighth grades (i.e., lower school, middle school and junior high school). The School is a small independent school with approximately 205 students of diverse backgrounds. Approximately sixty (60%) of the School's students live in the District of Columbia.

5. The proposed building plans would allow the construction of several small additions of 150 square feet to each of eight (8) classrooms in order to increase the size and versatility of these classrooms.

6. The proposed parking plan would allow a reconfiguration of a small parking area in front of the School on 36th Street in order to accommodate eight (8) vehicles and a reconfiguration of a parking lot on Alton Place in order to accommodate twenty-nine (29) vehicles. These changes will enable the School to accommodate its parking requirement on site.

7. The proposed increase in the maximum number of students authorized at the School from 215 students to 226 students will assist the School in the stabilization of its annual finances.

8. The requested approval of the number of students who may be enrolled in the School's CASA summer educational program in excess of one hundred (100) students (to a maximum of 226 students) will expressly authorize a program that has been operating at the School for nine (9) years.

9. Extraordinary or Exceptional Conditions of the Property. The property is unique because of the steep slope and dramatic change of grade that exists along the south side of the property along Yuma Street. This slope and change of grade result in a hillside along Yuma Street that is unusable for any purpose.

10. Practical Difficulties. As the result of the unique lot conditions described above, the Applicant is not able to provide any additional parking areas on the site other than the parking lots currently provided along Alton Place and 36th Street, N.W. The area between the steep hillside along Yuma Street and the School's building is occupied by a portion of the school building and by outdoor play areas. These outdoor play areas are used by Sheridan students during school hours and by neighborhood families after school hours and on weekends. The remainder of the site is occupied by the School building, the small parking lot in front of the School on 36th Street, the main parking lot along Alton Place and by landscaped areas. Thus, there is no additional land on which to locate additional full sized parking spaces or additional non-tandem spaces.

11. As a result of such practical difficulties, the School seeks the following variance relief: (i) a variance from the requirement that each required parking space shall be accessible at all times directly from improved streets or alleys pursuant to Section 2117.4, (ii) a variance from the requirement that each required parking space shall be a minimum of nine feet in width and nineteen feet in length pursuant to Section 2115.1 and (iii) a variance from the requirement that an elementary or junior high school provide two (2) parking spaces for each three (3) teachers and other employees pursuant to Section 2101.1.

12. The first variance is sought so that the School can provide tandem spaces in its main parking lot on Alton Place and the second variance is sought in order to allow the School to provide compact car parking spaces. This approach will maximize the total number of parking spaces that the School can provide on site, in both instances to relieve or eliminate pressures to park on neighborhood streets. The third variance is sought for the limited purpose of permitting a modest growth in the maximum number of faculty and staff from fifty-five (55) faculty and staff, the current level, to sixty (60) faculty and staff over the next ten (10) years (i.e., through 2013). No variance from the parking requirement is necessary to accommodate the School's current number of faculty and staff.

13. No Substantial Detriment to the Public Good or Zone Plan. None of the area variances will cause substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zoning plan. With respect to the request to allow tandem parking in the main parking lot on Alton Place, the School has been employing a "stacked" arrangement, in which cars are parked in the drive aisle, for many years without adverse impact on the surrounding neighborhood and with few complaints. The tandem arrangement will allow the drive aisle to be unobstructed. The parking lot is currently striped to accommodate twenty-two (22) parking spaces, including one handicapped space. The tandem arrangement, in conjunction with the use of compact car spaces (discussed below), allows seven (7) additional cars to park in this parking lot. Thus, when fully utilized, the parking lot on Alton Place will accommodate 29 vehicles. With the addition of the eight (8) parking spaces provided in the small

lot on 36th Street, the School will be able to provide a total of thirty-seven (37) parking spaces on site. By maximizing available parking on site, the School will relieve overflow parking pressure on nearby streets and eliminate or minimize the need for curbside parking by School faculty and staff.

14. There will be no substantial detriment to the public good as the result of proposed parking spaces for existing employees or future employees (i.e., to allow for a modest increase over time). Based on the requirement of two spaces for every three employees, the School is in full compliance with the parking requirement based on its current level of faculty and staff. Specifically, the School currently has fifty-five (55) full time and part time staff (including six (6) outside contractors who are technically not "employees"). Thus, thirty-seven (37) spaces are required and 37 spaces are provided. (Ex. 42A, exhibit A) However, to accommodate any growth in faculty and staff, even modest growth, would require a parking variance – solely for the purpose of authorizing such future growth. Thus, it would be necessary to provide forty (40) parking spaces on site to accommodate sixty (60) faculty and other employees -- the maximum number anticipated by Sheridan through 2013. However, the two parking lots on Alton Place and 36th Street cannot accommodate such three (3) additional parking spaces. Therefore, a variance of three (3) spaces is requested.

15. As indicated in the Transportation Study prepared by Wells & Associates, LLC dated July 30, 2003 (Ex. 42A, exhibit 3), no substantial detriment to the public good will result if the variances are granted. This study made the following conclusions and recommendations:

(a) 36th Street at Yuma Street and Alton Place currently operate at acceptable levels of service, at less than a third of capacity;

(b) the Sheridan School and street peak hours do not coincide;

(c) the proposed increase in enrollment to 226 students would have no significant adverse traffic impacts and would not be objectionable;

(d) safe and efficient traffic and pedestrian flows were generally observed in the vicinity of the School on school days, and

(e) with specific respect to the variances regarding tandem and compact spaces and from the parking requirement to accommodate a modest future growth in faculty and staff, the potential spillover onto adjacent public streets would be modest and inconsequential (i.e., only three or four cars) and there is ample, vacant on-street parking available at all times of day.

16. No substantial detriment to the public good will result because the Applicant has agreed to screen and landscape the parking lot on Alton Place so as to make the parking lot less visible to neighbors. (Ex. 42A, exhibit D). The landscaping plan

also clearly shows that the School has agreed to increase the screening of its property generally and to maximize the landscaping provided on the site so as to make its use unobjectionable to neighboring and other surrounding properties.

17. OP in its report dated September 19, 2003 (Ex. 49), recommended approval of the application as submitted by the applicant. OP found that the proposal is consistent with the Ward 3 Element of the Comprehensive Plan and concluded that the applicant had satisfactorily met the criteria for special exception relief under sections 206 and 3104.1 and for variance relief under section 3103.

18. DDOT in its report dated September 26, 2003 (Ex. 52) recommended approval of the application without any conditions.

19. ANC 3F indicated in its resolution dated September 15, 2003 (Ex. 48) that with a quorum present at a properly noticed meeting a unanimous vote was taken to approve the application and request that the Board adopt certain conditions attached to the ANC's resolution and report.

20. The notice requirements of 11 DCMR § 3113 for the public hearing on the application have been met.

CONCLUSIONS OF LAW

Special Exception. The Board is authorized to grant a special exception where, in its judgment, the special exception will "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps...." (11 DCMR § 3104.1, D.C. Official Code § 6-641.07(g)(2) (2001)) In addition, the Application must comply with the requirements of Section 206 of the Zoning Regulations. This section requires that the School "shall be so located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions" and that "ample parking space, but not less than that required in chapter 21 of this title [of the Zoning Regulations], shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile."

The proposed additions, in the form of bays which will add only one hundred fifty (150) square feet to each of eight (8) classrooms, are very modest in size. The increase in the gross floor area of the School building as a result of the construction of these new bays is only four (4%) percent. In addition, three of the new bays face the large playground on the south side of the School building and are separated from the closest dwellings, which are located across Yuma Street, N.W., by approximately two hundred and forty (240) feet. The three new bays that face Alton Place, N.W. are separated from the closest dwellings on Alton Place by approximately one hundred (100) feet. Furthermore, it is not anticipated that the normal day-to-day activities that will occur in the enlarged

classrooms -- which are currently used for kindergarten, first, second and third grades -- will cause any noise that will be heard by the residents of nearby houses. In addition, the new construction will result in better soundproofing because of the use of thicker glazing on classroom windows. As a result, such additions will not "become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions" and "will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps...."

The modification of the site plan in order to reconfigure the School's main parking lot on Alton Place, N.W. and a small parking area in front of the School on 36th Street, N.W. is for the purpose of satisfying parking requirements on site and eliminating or minimizing parking pressures on nearby streets. The reconfiguration of these two parking areas will increase the number of parking spaces on School property from 26 to 37 spaces, a 42% increase in the number of spaces provided on site. This site plan modification will thus be "in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps."

The increase in the maximum number of students allowed to be enrolled (i.e., from 215 to 226) will not cause objectionable conditions or adversely affect neighboring or nearby property. First, the number of additional students requested is small, both in absolute and percentage terms. On a percentage basis, the increase is a modest 5.1% and on an absolute basis the increase is only eleven (11) students. In addition, because it is anticipated that the increase in the maximum number of students will not necessarily result in 226 students being enrolled during each and every year, this number will act as a "cap". Fewer students may actually be enrolled from year to year. In addition, the Applicant has agreed and the Board has required that this increased enrollment is phased in over a three (3) year period. (See condition No. 4 in Ex __).

The Revised BZA Application also seeks special exception approval of, and establishment of a "cap" on, the number of students who may be enrolled in the School's CASA summer education program in excess of one hundred (100) students. The new "cap" would limit the summer program to a maximum of 226 students. The CASA summer program has been operating at Sheridan for the past nine (9) years without any limitation on the maximum number of students. The CASA program requires fewer teachers and staff than are provided from September through June. As a result, the parking lots are generally not fully utilized. In addition, the same drop-off and pick-up system used during the September through June months are utilized during the summer months of the CASA program.

The Board concludes that, pursuant to § 206 and § 3104.1, the special exception relief requested for the private school can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map, and that as conditioned by this order, the special exception granted will not tend to affect adversely the use of neighboring properties in accordance with the Zoning Regulations and Map.

Area Variances. The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Code § 6-641.07(g)(3) (2001)), to grant area variances from the strict application of the Zoning Regulations where the Board finds that three conditions exist:

> (1) the property is unique because, *inter alia*, of its size, shape or topography; (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan. *French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995), *quoting* *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980). *See, also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534, A.2d 939 (D.C. 1987).

The School requests the following three (3) area variances: (i) a variance from the requirement that each required parking space shall be accessible at all times directly from improved streets or alleys pursuant to Section 2117.4, (ii) a variance from the requirement that each required parking space shall be a minimum of nine feet in width and nineteen feet in length pursuant to Section 2115.1 and (iii) a variance from the requirement that an elementary or junior high school provide two (2) parking spaces for each three (3) teachers and other employees pursuant to Section 2101.1.

The first variance is sought so that the School can provide tandem spaces in its main parking lot on Alton Place and the second variance is sought in order to allow the School to provide compact car parking spaces. This approach will maximize the total number of parking spaces that the School can provide on site, in both instances to relieve or eliminate pressures to park on neighborhood streets. The third variance is sought for the limited purpose of permitting a modest growth in the maximum number of faculty and staff from fifty-five (55) faculty and staff, the current level, to sixty (60) faculty and staff over the next ten (10) years (i.e., through 2013).

The Applicant meets the tests for the requested area variances for the following reasons:

Unique Property Conditions

The subject property is unique because of the steep slope and dramatic change of grade that exists along the south side of the property. This slope and change of grade result in a hillside along Yuma Street that is unusable for any purpose. Specifically, with respect to the three (3) variances sought with respect to parking, this area along Yuma Street cannot be used for any parking spaces or as a driveway leading to any parking spaces. The area which constitutes the unusable hillside along Yuma Street comprises approximately fifteen percent (15%) of the area of the Sheridan site.

Practical Difficulties Encountered by the Owner

As a result of the unique lot conditions described above, the Applicant is not able to provide any additional parking areas on the site other than the parking lots currently provided along Alton Place and 36th Street, N.W. The area between the steep hillside along Yuma Street and the School's building is occupied by a portion of the school building and by outdoor play areas. These outdoor play areas are used by Sheridan students during school hours and by neighborhood families after school hours and on weekends. The remainder of the site is occupied by the School building, the small parking lot in front of the School on 36th Street, the main parking lot along Alton Place and by landscaped areas. Thus, no land exists on which to locate additional full sized parking spaces or non-tandem spaces.

No Substantial Detriment or Impairment

None of the area variances will cause substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zoning plan. With respect to the request to allow tandem parking in the main parking lot on Alton Place, the School has been employing a "stacked" arrangement, in which cars are parked in the drive aisle, for many years without adverse impact on the surrounding neighborhood and with few complaints. The tandem arrangement will allow the drive aisle to be unobstructed. The parking lot is currently striped to accommodate twenty-two (22) parking spaces, including one handicapped space. The tandem arrangement, in conjunction with the use of compact car spaces (discussed below), allows seven (7) additional cars to park in this parking lot. Thus, when fully utilized, the parking lot on Alton Place will accommodate 29 vehicles. With the addition of the eight (8) parking spaces provided in the small lot on 36th Street, the School will be able to provide a total of thirty-seven (37) parking spaces on site. By maximizing available parking on site, the School will relieve overflow parking pressure on nearby streets and eliminate or minimize the need for curbside parking by School faculty and staff.

Based on the requirement of two spaces for every three employees, the School is in full compliance with the parking requirement based on its current level of faculty and staff. Specifically, the School currently has fifty-five (55) full time and part time staff (including six (6) outside contractors who are technically not "employees"). Thus, thirty-seven (37) spaces are required and 37 spaces are provided. (Ex. 42A, exhibit A) However, to accommodate any growth in faculty and staff, even modest growth, requires a parking variance – solely for the purpose of authorizing such future growth. Thus, it would be necessary to provide forty (40) parking spaces on site to accommodate sixty (60) faculty and other employees -- the maximum number anticipated by Sheridan through 2013. However, the two parking lots on Alton Place and 36th Street cannot accommodate such three (3) additional parking spaces. Therefore, a variance of three (3) spaces is appropriate.

Furthermore, in support of the statement above that no substantial detriment to the public good will result if the variances are granted, as indicated in the Transportation Study prepared by Wells & Associates, LLC dated July 30, 2003, with specific respect to the

variances regarding tandem and compact spaces and from the parking requirement to accommodate a modest future growth in faculty and staff, the potential spillover onto adjacent public streets would be modest and inconsequential (i.e., only three or four cars) and there is ample, vacant on-street parking available at all times of day.

Finally, the Applicant has agreed to screen and landscape the parking lot on Alton Place so as to make the parking lot less visible to neighbors. (Ex. 42A, exhibit D). The landscaping plan also clearly shows that the School has agreed to increase the screening of its property generally and to maximize the landscaping provided on the site so as to make its use unobjectionable to neighboring and other surrounding properties.

The Board therefore concludes that variances requested would not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations.

ANC and OP Great Weight

In reviewing a proposed special exception or variance application, the Board is required under D.C. Code § 1-309(d) (2001) to give "great weight" to the issues and concerns raised in the recommendations of the affected ANC. The ANC's written report supported the application with conditions. The Applicant subsequently revised these conditions to further address concerns raised by the ANC and the Board at the hearing. The Board therefore accepts the ANC's recommendation and adopts certain conditions in this Order. Similarly, the Board is required under D.C. Code § 6-623.04 (2001) to give great weight to the Office of Planning. OP recommended approval of the application as submitted by the applicant. In addition, OP found that the proposal is consistent with the Ward 3 Element of the Comprehensive Plan and concluded that the applicant had satisfactorily met the criteria for special exception relief under sections 206 and 3104.1 and for variance relief under section 3103. The Board agrees with the recommendations made by the Office of Planning as well as those made by DDOT, which also recommended approval of the application without any conditions.

CONCLUSION

The Board concludes that, pursuant to § 206 and § 3104.1, the special exception relief requested for the private school can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map, and that as conditioned by this order, the special exception granted will not tend to affect adversely the use of neighboring properties in accordance with the Zoning Regulations and Map. The Board concludes that, pursuant to § 3103.2, the Applicant has met the burden of proof for the three area variances sought, based on the Office of Planning and DDOT reports, the Findings of Fact and evidence of record, and that the area variance relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. Therefore, it is hereby **ORDERED** that this Application be **GRANTED**, subject to the following conditions:

1. The classroom additions, constituting approximately 1,200 square feet of gross floor area, shall be as shown on the site plan prepared by Hickok Warner Fox dated July 29, 2003 marked as Exhibit __ of the record and the floor plans and elevations prepared by Hickock Warner Fox dated October 14, 2002 and marked as Exhibit __ of the record.

2. The parking layout of the small parking area in front of the school building on 36th Street, N.W. and the main parking area on Alton Place, N.W. shall be as shown on Exhibit __ of the record. The applicant shall ensure that such parking areas are used in the manner depicted on Exhibit __ and specifically that the drive aisle in the lot on Alton Place is not used for the parking of motor vehicles and there is no stacked parking in the parking area in front of the school building on 36th Street, N.W. The parking area on Alton Place shall only be used during school hours by faculty and staff. During after school hours, such parking area may be used by school visitors, parents and members of the board of trustees.

3. Landscaping shall be provided as shown on a landscaping plan prepared by Hickok Warner Cole dated July 16, 2003 marked as Exhibit __ of the record and the applicant shall comply with such plan. All landscaping shall be maintained in a healthy growing condition and replaced when and as necessary pursuant to and in accordance with the landscaping conditions marked as Exhibit __ of the record.

4. The number of students (including students enrolled during the customary school term from September to June and during the CASA or similar summer program between June and August) shall not exceed 226, no more than 50 of which shall be kindergarten students. Notwithstanding the foregoing, such number of students shall not exceed 215 during the 2004-2005 school year and 220 during the 2005-2006 school year and, furthermore, the applicant shall complete the landscaping plan marked as Exhibit __ and the revisions to the parking lots on Alton Place, N.W. and 36th Street, N.W. marked as Exhibit __ prior to any increase in enrollment above 215 students. For the purpose of this paragraph, students shall be defined as those children who are enrolled in the school or participate in summer school or summer camp activities (including, but not limited to, children who pay tuition or receive scholarships).

5. The hours of operation shall be between 7:30 a.m and 6:00 p.m. Monday through Friday.

6. Evening and weekend activities or events shall be restricted to those activities and events that are customary to an elementary school (kindergarten through eighth grade). Activities or events which would attract 50 or more persons or 25 or more vehicles shall be restricted to a maximum of 12 per year. During such activities or events, ingress and egress shall be restricted to the building's main entrance on 36th Street, N.W. The applicant shall notify all persons on the List of Neighbors (as defined in Paragraph 10 below) of all planned activities or events described in this paragraph at least one week in advance of such activities or events by mail or

electronic mail. This paragraph shall not be construed to limit or affect the farmer's market that has operated at these premises.

7. The applicant shall not rent or make the school or its facilities available for commercial or profit-making functions or activities such as dances, concerts, exercise classes or other events. This paragraph shall not be construed to limit or affect the CASA or any similar summer educational program or summer camp traditional to an elementary school offered by the applicant or the farmer's market that has operated at the premises.

8. No trash collection shall occur prior to 9:00 a.m. or any later than 6:00 p.m. Monday through Friday. No pickups or deliveries shall occur at any entrance to the building located on the north side of the building (i.e., facing Alton Place, N.W.) prior to 9:00 a.m. or any later than 6:00 p.m. Monday through Friday. The applicant shall post a sign adjacent to the door that is located nearest to the parking lot on Alton Place, N.W. indicating that no deliveries shall be accepted at such location except during such hours. Deliveries of produce, perishable goods or similar items that are time-sensitive may be accepted at the building's main entrance on 36th Street between 7:00 a.m. and 9:00 a.m. on an occasional "as-needed" basis. No deliveries shall be made during the weekend or school holidays.

9. All mechanical equipment associated with the central heating and cooling (HVAC) systems shall be located in the basement of the school building or in other interior areas of the building except that new or replacement HVAC equipment may be installed and operated on the exterior of the building (including its roof) provided that the operating noise of any new or replacement HVAC equipment is no greater than the noise generated by any HVAC equipment it replaces, such HVAC equipment is screened from neighboring property and such HVAC equipment is no larger in size, shape or profile than the HVAC equipment it replaces. Any HVAC equipment not permitted by this paragraph shall require Board of Zoning Adjustment approval.

10. The applicant, in cooperation with the Advisory Neighborhood Commission, shall maintain and continue a community liaison group to report on the applicant's compliance with the conditions of this order, to provide a forum for residents of neighboring and nearby property to express their concerns about the operations and activities of the applicant and to notify such residents of upcoming special events of the applicant. The community liaison group shall meet no fewer than four times per year. Notice of the meetings of the community liaison group shall be sent to all property owners or occupants located in the 3500 and 3600 blocks of Yuma Street, N.W., the 3500 and 3600 blocks of Alton Place, N.W. and the 4300, 4400 and 4500 blocks of 36th Street, N.W. ("List of Neighbors") at least two weeks prior to such meetings by mail or electronic mail. The community liaison group shall discuss and attempt to resolve community concerns including, but not

limited to, the following: the conduct of the school's activities and operations; implementation of the drop-off and pick-up program; use of public transportation and carpooling by faculty and staff; implementation of the landscaping plan and ongoing maintenance and replacement of plant material; compliance with the conditions of this Order; traffic reduction and traffic safety; and other issues of interest or concern to residents of the neighborhood pertaining to the operations and activities of the school. Such meetings shall also be used by the applicant to notify the community of upcoming special or other events. To ensure accurate information is made available to residents of the neighborhood, the applicant shall take detailed minutes of all meetings of the community liaison group and transmit such minutes by mail or electronic mail to the List of Neighbors. Such minutes, as well as the List of Neighbors, shall be maintained for a minimum of 2 years by the school and shall be made available for public inspection. In addition, an annual schedule of the meetings of the community liaison group shall be transmitted during September of each year to ANC 3-F and the List of Neighbors. The notices required in this paragraph shall be in addition to, and not instead of, any notices required by any other paragraph. Notwithstanding the foregoing, the applicant shall have no obligation to notify any property owner or occupant included on the List of Neighbors in the event such owner or occupant has notified the applicant in writing that it does not wish to receive further notices.

11. The applicant shall submit an annual report to the Zoning Administrator no later than March 1st of the next following calendar year setting forth its ongoing compliance with each and every condition of this Order. The applicant shall transmit copies of such annual report to the Office of Planning, ANC 3F and any person who is included on the List of Neighbors by mail or electronic mail. The annual report shall provide detailed information on the number of students enrolled (by range and average number enrolled) and a breakdown of faculty and staff by fulltime, parttime and contract basis (for those contract personnel who work more than 10 hours per week on average). Each annual report shall list the number of written complaints or allegations of non-compliance received by the applicant during the prior year, describe the nature of such complaints or allegations and attach a copy of each complaint.

12. No school bus or van shall be parked on the subject property after school hours unless the arrangements for off-site bus parking are terminated by the owner of such site (or other third party who controls such site) and the applicant is unsuccessful in making arrangements for alternative off-site parking for such bus or van. In the event the arrangements for off-site parking are terminated, the applicant shall use good faith efforts to promptly make alternative arrangements for off-site parking for such bus or van. In the event a school bus or van is parked on the subject property pursuant to this paragraph, the applicant shall report to the community liaison group with respect to its good faith efforts to make alternative off-site parking arrangements within 14 days of the parking of a bus or van on the subject property and thereafter on a biweekly basis until the bus or van is

relocated to an off-site property. Notwithstanding the foregoing, in no event shall a school bus or van be parked (i) on any residential streets within the boundaries of ANC 3-F or (ii) or on the subject property after school hours for any period longer than 60 days.

13. The applicant shall use its best efforts to ensure that all students enter and exit the school building by means of either the 36th Street entrance or the playground doors that are closest to 36th Street and that face Yuma Street, N.W. The applicant shall use its best efforts to encourage faculty and staff to enter and exit the school building through (i) the doors located on 36th Street, (ii) the doors that are adjacent to the Yuma Street playground or (iii), if such faculty and staff park in the parking area on Alton Place, N.W., the doors that are adjacent to such parking area. Notwithstanding the foregoing, any students, parents, visitors, faculty or staff who travel to the subject property by means of bicycle and who use any bicycle rack located on the Alton Place (north) side of the school building may use doors on such side of the building to enter and exit the school building.

14. The applicant shall make the playground on the Yuma Street (south) side of the school building available to the community at all times during non-operational hours (i.e., after 6:00 p.m. to dusk Monday through Friday and during daylight hours on weekends and school holidays) except when a school event is scheduled during such hours. This paragraph shall not be deemed to authorize or require dog walking, skateboarding or in-line skating on school property if prohibited by the applicant and shall not require the applicant to install any fencing or take any actions to secure or protect its playground (other than such actions as have customarily and historically been undertaken by the applicant).

15. The applicant shall comply with, implement and enforce the construction management plan dated September __, 2003 marked as Exhibit __ of the record during the period of the construction of the interior and exterior work described in the plans and drawings submitted in conjunction with the subject application.

16. The applicant shall have flexibility to make minor revisions to any plans submitted in the record for renovations, rehabilitation or replacements located in the interior of the school building provided that such revisions are not visible from adjacent or nearby property, do not require any new or additional zoning relief and do not violate any conditions set forth in this order.

17. The applicant shall use its good faith efforts to provide incentives to faculty and staff to take public transportation or to carpool to and from the subject property (including, but not limited to, offering the MetroChecks program). The applicant shall post signs adjacent to a minimum of 3 parking spaces in the Alton Place parking lot reserving such spaces for, or giving priority to, persons who carpool.

18. The applicant shall comply with, implement and enforce the traffic management plan contained in a letter from the school to Sheridan parents dated October 10,

2003 marked as Exhibit __ of the record and as amended in writing after early consultation with the community liaison group referenced in Paragraph 10 above and securing any necessary approvals from this Board, the District Department of Transportation or other governmental authorities. The traffic management plan shall *inter alia* contain the following restrictions: (a) parents who are dropping off or picking up their children along the west side of 36th Street, between Alton Place and Yuma Street, should not park or leave their vehicles unattended in this location; (b) children should not cross in the middle of the block on 36th Street, between Alton Place and Yuma Street; (c) U-turns shall not be permitted on 36th Street between Alton Place and Yuma Street; (d) parents may not park in front of the driveways of, or on the lawns of, any nearby residential properties, and (e) double parking along any neighborhood streets shall not be permitted.

VOTE: _-_-1 (Curtis L Etherly, Jr., Ruthanne G. Miller, David A. Zadian and Carol J. Mitten, Geoffrey H. Griffis, abstaining, having recused himself.)

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

ATTESTED BY _____
JERRILY R. KRESS
DIRECTOR

FINAL DATE OF ORDER: _____, 2003

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.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

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