Testimony of John Dougherty
Expansion Of Edmund Burke School
BZA Hearing October 14, 2003
Case No. 17022

Introduction

My name is John Dougherty. I am a homeowner who resides at 2957 Tilden Street. I am also Chairman of Neighbors for Livable Streets ("NULS"), a neighborhood organization that opposes Burke's plans.

We oppose these plans because they would add to an already impossible traffic situation and because they would irrevocably alter the residential character of our neighborhood.

Impact of Burke Expansion

I believe it is important to note that Burke's expansion would have a much greater impact on our neighborhood than the typical school expansion. This is so for several reasons.

First, Burke is not a typical school. It has no cafeteria and no outdoor athletic facilities. This means that Burke students have a large impact on the neighborhood, whether walking to the fast food places on Connecticut Avenue or travelling to the athletic field at Howard Law School.

Second, the neighborhood to the East of Burke is not a typical neighborhood. It does not have a normal grid pattern. This adversely affects traffic congestion. Moreover, our small neighborhood is already burdened with a large number of institutions. We are over-institutionalized. We have paid our dues. We cannot support more institutional activity without destroying the residential character of the neighborhood.

Third, the area to the West of Burke is not typical. It is Connecticut Avenue. The street already has an impossible traffic load, and the sidewalk provides access to the subway and shopping for thousands of apartment dwellers. Into this environment, Burke proposes to add a substantial amount of new traffic. It also proposes that this traffic would cross the sidewalk in order to use Burke's roundabout. Burke's expansion would therefore have a serve impact on Connecticut Avenue, and would present safety concerns for pedestrians.

Fourth, the new building is not a typical school building. Instead, it would be a large building connected to Burke's present building by a skywalk over the public alley. There would be the large traffic roundabout, together with loading and unloading areas. The result would be a large commercial-looking complex that is inconsistent with a residential neighborhood.

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Fifth, Burke cannot be trusted. The Application is full of promises about what Burke will do in the future to reduce the impact of the expansion. However, Burke has blatantly defied the zoning laws, and has not dealt fairly with its neighbors or the ANC.

Burke's approved enrollment under the BZA's 1983 order is 270 students. The faculty is limited to 35 teachers. However, since 1997 Burke has operated with a student population and faculty far in excess of these figures. Last year the Department of Consumer and Regulatory Affairs found that Burke had "made a conscious and obviously calculated decision to continue enrollment at over-capacity levels." (Emphasis in original decision.)

We believe Burke should not be allowed to expand until it establishes that it is willing to be a responsible citizen and a good neighbor. Approval of the Application under the present circumstances would reward Burke for its misconduct, and would make a mockery of the zoning process.

Burke's Application

Burke's Application makes much of its community outreach efforts and its traffic enforcement plan. I would like to say a few words about each of these.

Community Outreach. First, Burke has misrepresented its community outreach efforts. It touts the Burke Neighborhood Advisory Committee ("BNAC") without disclosing that BNAC was handpicked by Burke, that it included Burke parents and others who had close ties to the school, and that it excluded anyone who had expressed concerns about Burke's expansion. Only in the final stages did Burke, under severe neighborhood pressure, finally include two persons who had opposed Burke's prior expansion plans.

I was an active member of BNAC for nine months. I resigned when Burke filed its Application before finalizing its traffic plans, and without allowing the neighborhood an opportunity to comment on its plans. Several other members of BNAC also now oppose Burke's plans.

Enforcement Plan. With respect to the enforcement plan, the most important thing to note is that it addresses only a small number of traffic issues. It does not address most of the concerns that I mentioned previously. It should also be noted that the plan is hopelessly flawed. The composition of the committee is skewed in favor of Burke, the criteria for sanctions are too limited, and the sanctions themselves are inadequate.

First, the Committee is evenly divided between Burke and the neighborhood. Thus it will be impossible for the Committee to take action unless Burke decides to vote against itself. Moreover, most neighbors have considered the structure of the committee and have decided that the committee is meaningless. Thus, it is unlikely that Burke would

find anyone other than hard-core Burke supporters who would be willing to serve as members.

Second, the infraction criteria address only minor violations such as unauthorized student drop-offs. They do not address issues such as traffic congestion or pedestrian safety.

Third, we question the figure of two infractions a day as being "satisfactory." It is likely that most infractions will take place outside of the immediate school area. Thus, they will not be detected by Burke's traffic officers. It should also be noted that there is no effective means of dealing with neighborhood complaints. In particular, there are no clear guidelines as to what must be done to "prove" a violation. Thus, unless a Burke offender admits a violation, it is unlikely that the committee will find that one has occurred. For all of these reasons, it is doubtful that many infractions will be recorded even if dozens are taking place on a daily basis.

Fourth, we object to the requirement that neighbors serve as a private police force. This imposes a burden on Burke's neighbors and is not consistent with a residential neighborhood.

Fifth, even if a large number of infractions are recorded, Burke committee members may refuse to award sanctions if they believe Burke is making efforts to improve. Thus, it is highly unlikely that sanctions will be triggered. Even if they are, the maximum penalty is two tuitions ($40,000) whereas the increase in Burke's enrollment is 50 tuitions ($1,000,000).

Sixth, in the unlikely event that sanctions are imposed, the money goes not to the neighborhood that has been harmed by Burke, but either to a charity or to efforts that support Burke's management plan, i.e. back to Burke.

Seventh, the traffic plan and the enforcement plan are untried. Burke has had more than two years since the last BZA hearing to come up with traffic and enforcement plans that work. Such plans could of course not deal with the impact of Burke's expansion. But they could have showed that Burke was capable of handling its present traffic, and they could have served as a model for the future.

However, Burke has failed to implement such plans. Instead, Burke says we should trust it to implement satisfactory plans in the future. From the neighborhood's perspective, such trust is not warranted.

Conclusion

For the foregoing reasons, we respectfully request that the Board of Zoning Adjustment deny Burke's Application.