CASE 17164

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

May 12, 2004

Delivered by Hand on Above Date

Mr. Geoffrey H. Smith
Chairman
D.C. Board of Zoning Adjustment
441 Fourth St., NW
Suite 210
Washington, DC 20001

Re: BZA Case No. 17164 (Special Exception -- St. Patrick's)
Hearing date: May 18, 2004

Dear Chairman Griffis and Members of the Board:

Enclosed please find the pre-hearing statement of the Neighbors United Trust, which has applied for party status in this matter.

Sincerely,

NEIGHBORS UNITED TRUST

by: _____
Katherine Van Sickle Demallie, Trustee

_____
Nancy L. Feldman, Trustee

Enclosure

BZA
Case No. 17164
Exhibit No. 29

Board of Zoning Adjustment
District of Columbia
CASE NO. 17164
EXHIBIT NO. 29

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of St. Patrick's
Episcopal Day School
regarding its junior high school facility
at 4925 MacArthur Blvd, N.W.

BZA Ap. No. 17164
Public Hearing Date: May 18, 2004

STATEMENT OF OPPOSITION

I.

PROCEDURAL MATTERS

Neighbors United, a Trust formed by resident homeowners in the immediate vicinity of the subject property (all 24 currently active Trustee/members are within 200 feet of the property), on May 3, 2004 timely filed a request for party status in this case. Assuming that such status is granted, we, the Trust's authorized representatives, request that the Board accept this Statement as the position of the Trust.

II.

BACKGROUND

This matter arises as a result of the Applicant providing unauthorized plans to the building permit office, instead of those approved in connection with the BZA approval of Special Exception application No. 16852, its Order, conditions and plans.

Specifically, during eight months of hearings, the basement was denoted as "0 student load" utility and mechanical space. In marked contrast, the revised plans submitted for the building permit included a basement classroom (incorrectly described by the Applicant as 120 square feet, but actually 320 square feet), a new door letting out onto Ashby Street, and a higher ceiling and sprinkling system, all factors previously identified by regulators as needed if habitable space in the basement were ever to be desired by the school. The building permit was issued on the basis of these unauthorized new plans.

The Trust and its members, and the ANC, brought this matter to the City's attention by making numerous inquiries, searching the permit files (or lack thereof) and filing complaints and follow-ups. As a result, the City did not issue an occupancy permit for the basement classroom. The school was unsuccessful in its attempts to get the permit issued through informal means, and realized that its request to the BZA for modification was also unlikely to be granted because it was untimely and not "minor", so it filed this Special Exception request.

III.

NATURE OF RELIEF SOUGHT

The only issue at this time is whether the proposed classroom use would meet the Special Exception requirements of the zoning regulations, that is, the "Section 206 factors" (11 DCMR §206) regarding whether the use would be likely to become objectionable to nearby property because of noise, traffic, number of students or otherwise objectionable conditions.

It is somewhat unclear what the actual "use" would be, because the Applicant continues to refer to it as a music room but the application is for an unspecified classroom. Nevertheless, we will address the more restricted use.

We submit to the Board that critical information regarding these factors is not yet available, to the Board or to the nearby property owners and the surrounding community, and so this decision should be deferred. We note that we have been asking many of these questions since discovering the new expansion plans in autumn 2003.

IV.

DISCUSSION

1. Noise

The HVAC units, described by the Applicant's architect during the previous BZA hearings as "a few", are now to be ten, with seven facing Ashby Street.

- The Applicant gave us a list of incorrect model specifications, and has not denoted those attributable to the basement *per se* and to the greater load resulting from additional total use, so that we were unable to ascertain the decibel levels. To date, no such information has been forthcoming. An HVAC contractor we consulted characterized one of the actual units on the property as "builder's grade", explaining that that term refers to a cheap and loud version without sound attenuation.

- It is unclear how far from the property line the units would permanently be, and whether they will comply with the DC noise regulations in Chapter 27 of Title 20, including the 60 day/55 night decibel limitations.

- There still has been no noise testing by the Applicant, even though it was brought up at the quarterly meeting in April per Order condition requirements, nor any information from their noise expert provided to us.

2. Number of Students (and Adults -- Other Objectionable Conditions)

- We have not been told the maximum number of people who may be using the room at once. This is particularly pertinent because in late April, we were informed by the school's "MacArthur Campus Office Manager" that, in addition to music lessons, the space would also be used for "pre-production practice" of theatrical/musical productions. We don't know whether this would involve additional staff, students from other grades on the main campus, volunteer parents, etc., either for the practice sessions themselves or the logistics.

3. Traffic

- The new door letting out on Ashby has been characterized as an emergency exit, but there is no inherent limitation on it at this time, nor any formal agreement to so treat it. If it became a normal exit, that would be inconsistent with direction of foot traffic toward MacArthur.

- Use of the basement for pre-production practice would seem to necessitate after-hours activity (post-4 p.m.), which would mean increased general traffic and the need for a whole new subset of rules regarding car-pools, bussing, etc. This has not yet been addressed at all by the school.

4. Parking

- Depending upon the use of the new space after-hours, there could be parking issues relating to pickups of students and the presence of additional adults on site, particularly during rush hour.

V.

CONCLUSION

In light of the foregoing, we request that the Board defer consideration of this Special Exception application until at least August 3, 2004, which should be adequate time for the Applicant to provide the missing data in order to allow the Board to make an informed decision and the Trust members and other community participants to review it and determine whether we then take exception to the application.

Respectfully submitted,

THE NEIGHBORS UNITED TRUST

by: _____
Katherine Van Sickle Demallie, Trustee

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Nancy L. Feldman, Trustee