

BOARD OF ZONING ADJUSTMENT

Prehearing Statement of
The Milton Gottesman Jewish Day School of the Nation’s Capital

6045 16th Street, NW (Square 2726, Lot 9)

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of The Milton Gottesman Jewish Day School of the Nation’s Capital (“**Milton**”) (the “**Applicant**”), owner of the property located at 6045 16th Street, NW (Square 2726, Lot 9) (the “**Subject Property**”).¹ The Subject Property is split-zoned and is partially located in the R-1-B Zone. On January 12, 2016, the Board of Zoning Adjustment granted the Applicant special exception relief to increase the enrollment cap to 350 students and 72 staff members pursuant to BZA Order No. 18400-B (the “**BZA Order**”), included with this application. The Applicant is now proposing modify the BZA Order to increase the current enrollment cap on the number of students and staff limitation at the North Campus, at 6045 16th Street, NW (the “**North Campus**”) to 425 students and 87 staff members.

In the previous case, in addition to the request for increased enrollment, the Applicant requested and was granted variances from the lot occupancy, parking, and loading requirements. The Applicant does not need lot occupancy or loading relief for the proposed staff or student increases in this application, as the lot occupancy and loading relief was related to a proposed addition in the last case. However, the increase in staff will result in an increase to the required number of parking spaces (58 required, 8 provided).² Accordingly, the Applicant is requesting relief

¹ Formerly known as the Jewish Primary Day School.

² The Milton Gottesman school currently provides 47 daily-use spaces as follows: 8 standard spaces, 14 daily-use tandem spaces (i.e. 28 effective spaces) and 25 spaces off-site at Ohr Kodesh Synagogue. The school provides buses that transport staff members to and from the

from the parking requirements of C § 701.5 pursuant to C § 703.2, now permitted via special exception. The Applicant was instructed to file this request for additional relief as a Modification of Significance. Section V of this Prehearing Statement addresses how the request satisfies the requirements for granting a Modification of Significance.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief and requested modification pursuant to Subtitle X § 901, U § 203.1(m), Y § 704, and C § 703.2.

III. BACKGROUND.

A. History of the School and Requested Relief.

The Milton Gottesman Jewish Day School of the Nation's Capital is a co-educational elementary school providing a Jewish and general studies education for grades 2-8 at 6045 16th Street, NW, and is the only Jewish Day School in the District of Columbia. The School strives to create an environment filled with warmth, joy, and intellectual excitement that celebrates the unique qualities of each student, respects varied approaches to Judaism, fosters a strong sense of ethics and of self, embraces diversity, and builds a community of lifelong learners.

Milton was founded in 1988 by a small group of parents looking to provide for a Jewish primary education closer to their homes in the District. It first operated as a kindergarten, part of the Adas Israel Congregation on Quebec Street, NW, and grew slowly over the years to include K through 3rd grade, and ultimately at that location, up through 6th grade. In 2000, after becoming independent of the Congregation, and after several failed attempts to find a permanent home in the District of Columbia, the School found temporary accommodations in Montgomery County in the former Montgomery Hills Junior High School.

satellite parking location and the school. Ohr Kodesh has agreed to allow the school to increase its number of satellite parking spaces from 25 to 38 bringing the total number of spaces provided up to 60 spaces.

The Subject Property was first approved for use as a private school pursuant to BZA Appeal No. 2069, at which point Milton purchased the building at 6045 16th Street, NW, (a building that was built in 1950 to house the 350-student Hebrew Academy, and later was the home of the Owl School), added a pre-kindergarten class, and settled into its permanent home in the District. In 2008, the Board approved a maximum occupancy of 275 students and 56 faculty and staff for the site, also approving an expansion of the campus and a variance from the access requirements for parking (BZA Case 17770).

In BZA Order No. 18400 issued in 2013, the Board granted approval to expand the school's enrollment cap to 300, and the staff cap to 72. As part of that case, the Board also approved parking relief similar to that requested in this Application and the application in 2015. In BZA Order No. 18400-B the Applicant requested and was granted relief for a proposed addition, as well as a maximum enrollment of 350 students and 72 staff. As a result, Milton was able to add a 7th and 8th grade to the school, which allows students to continue through their elementary education and move directly to high school, rather than finding another school for their 7th and 8th grade education.

B. Description of the Subject Property and Surrounding Area.

The Property is located in the Brightwood neighborhood of Northwest D.C. The property has over 350 feet of frontage along 16th Street, to the west. It also fronts Fort Stevens Drive and Rock Creek Ford Road to the north. The Applicant acquired the neighboring property located at 6017 16th Street and incorporated that property and its building (the "Accessory Building") into the campus as part of BZA Case No. 18400 in 2013. The Property has a land area of approximately 67,853 square feet. The Property is located to the east of Rock Creek Park and just north of the intersection of Military Road and 16th Street, NW. The remainder of the Square is comprised primarily of apartment houses, as well as one adjacent property with a single-family dwelling.

IV. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.

A. Overview.

Pursuant to Subtitle X § 901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, 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, subject also, in this case, to the specific requirements for relief under Subtitle U § 203.1(m) and C § 703.2 of the Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

B. General Special Exception Requirements of Subtitle X § 901.2.

The granting of a special exception in this case “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 Subtitle X § 901.2).

1. The Granting of the Special Exception will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The Special Exception requests for parking and private school use are in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Subject Property is located in the R-1-B Zone, which allows a limited number of non-residential uses, including the proposed private school use. The specific relief for the private school use was also included in the 1958 Zoning Regulations and was contemplated by the Zoning Commission and enumerated again

in the 2016 Zoning Regulations. The proposed parking arrangement meets the general purpose and intent of the Zoning Regulations; while a number of the parking spaces cannot count towards the parking requirement, the Applicant is providing as much parking as possible on-site. Accordingly, the granting of the special exception requests will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

2. Proposal will not tend to affect adversely, the Use of Neighboring Property in accordance with the Zoning Regulations and Zoning Maps.

As described more fully below, the Applicant is undertaking precautions to ensure that neighboring property owners will not be adversely affected by an increase in the enrollment of students and staff or by the parking relief requested.

C. Approval for Private School Use Pursuant to U § 203.1(m).

A private school is permitted in the R-1-B Zone via special exception pursuant to U § 203.1(m), subject to the following conditions:

(1) Shall be 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;

The Milton Main Campus is located along 16th Street, which is a major arterial commuter roadway. The Main Campus is bordered to its north by Fort Stevens Drive, and it has a significant amount of buffering to the east between the building and the neighboring properties. The building was originally built to be used as a private school for 350 children, pursuant to the approval by the BZA in 1948 - Appeal No. 2069. The Building is set back from neighboring properties, which reduces the possibility that it creates objectionable conditions for its neighbors.

a. Noise

Raising the existing cap on students at the Main Campus from 350 to 425 will not create an objectionable increase in the amount of noise on the Property. The children are indoors for the

majority of the day and there is a minimal amount of noise that is created by children while outdoors.

b. Traffic

The increase in students will not create any objectionable traffic conditions for neighboring property owners. The Applicant worked with DDOT to develop a Transportation Demand Management Plan (“TDM”). The Applicant is proposing to maintain the same TDM measures as the previous case. These TDM measures should help mitigate any concerns about traffic. For example, one of the TDM measures was a cap on the number of vehicle trips: 271 total trips (ins and outs) during the a.m. peak hour and 135 total trips during the school p.m. peak hour (not commuter p.m. peak hour). According to the transportation study, submitted with this statement, the increase in students and staff is expected to generate a total of 207 morning, and 135 afternoon car trips to and from the school.³ Moreover, the TDM measures implemented after Case No. 18400-B decreased the mode share for car trips to the Subject Property and increased the share of students who traveled to the Subject Property by non-car modes (school bus, Metrobus, walking, bicycle) between 2015 and 2019.⁴ The Applicant anticipates students will continue to travel to the Subject Property by alternative transportation.

The Applicant will continue the traffic monitoring for DDOT's Policy, Planning, and Sustainability Administration twice per year beginning in the fall 2021 semester and again when the school reaches the proposed cap of 425 students (twice per year for two additional years). Accordingly, the increase in enrollment will not tend to adversely impact the use of neighboring properties through unduly increased car traffic in the area around the Subject Property.

c. Number of Students

³ Milton Gottesman Transportation Statement, Page 9, Table 3

⁴ Milton Gottesman Transportation Statement, Page 8, Table 1

The Applicant seeks approval to allow an additional seventy-five (75) students over the previously approved 350 students, for a total of 425 students. The increase in students will not adversely affect neighboring property owners. As stated previously, the increase in students will not create any objectionable noise or traffic conditions. Further, Milton will demonstrate that it will effectively deal with any traffic issues resulting from the increase in student enrollment.

d. Otherwise Objectionable Conditions

The increase in student and staff enrollment will not create any other objectionable conditions for neighboring property owners.

(2) Ample parking space, but not less than that required by this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile; and

The Applicant is requesting special exception relief for the parking (see D, below).

(3) After hearing all evidence, the Board of Zoning Adjustment may require additional parking to that required by this title.

The Applicant acknowledges this provision.

D. Relief from the Minimum Parking Requirements pursuant to C § 703.2

A private elementary school is required to provide 2 parking spaces for every 3 staff members. The Applicant is proposing to increase the staff cap to 87 staff members, which results in a total parking requirement of 58 spaces. The proposed parking includes (8) fully compliant spaces, with an additional fourteen (14) spaces which fall into a category of dedicated and accessible, but which cannot be counted against the parking requirement because tandem spaces will be provided behind these spaces when necessary (although not during pick-up and drop-off, for circulation purposes). In addition to on-site parking, Milton has an agreement to use 25 spaces off-site at Ohr Kodesh Synagogue, located 3.4 miles away at 8300 Meadowbrook Lane, Chevy Chase, MD. The school provides buses that transport staff members to and from the satellite

parking location and the school. Ohr Kodesh has agreed to allow the school to increase its number of satellite parking spaces from 25 to 38 bringing the total number of spaces provided up to 60 spaces. As those spaces and the tandem spaces cannot be counted as zoning-compliant spaces, the Applicant is requesting special exception relief from the minimum parking requirements of C § 701.5 pursuant to C § 703.2.

Section 703.2 *“The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant’s demonstration of at least one (1) of the following:*

As provided below, the Applicant can satisfy several of the considerations, even though only one (1) is required to grant the requested approval. The information below includes only the sections that safely apply to this Subject Property and Application.

(a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;

As described above, the parking layout includes eight (8) zoning-compliant spaces, with an additional fourteen (14) spaces which fall into a category of dedicated and accessible, but which cannot be counted towards the minimum parking requirement because tandem spaces will be provided behind these spaces when necessary (although not during pick-up and drop-off, for circulation purposes). Those tandem spaces add another fourteen (14) parking spaces, for a total of thirty-six (36) spaces on-site. Additional spaces cannot be added in the parking area, nor can they be added anywhere else on the property due to the existing school buildings on site which occupy the majority of the lot. While not within 600 feet of the Property, Milton has an agreement to use 25 spaces off-site at Ohr Kodesh Synagogue. The school provides buses that transport staff members to and from the satellite parking location and the school. Ohr Kodesh has agreed to allow

the school to increase its number of satellite parking spaces from 25 to 38 bringing the total number of spaces provided up to 60 spaces.

(g) Quantity of existing public, commercial, or private parking, other than on-street parking, on the property or in the neighborhood, that can reasonably be expected to be available when the building or structure is in use;

Again, while only eight (8) spaces can count towards the parking requirement, there are an additional fourteen (14) spaces which fall into a category of dedicated and accessible, but which cannot be counted against the parking requirement because tandem spaces will be provided behind these spaces when necessary (although not during pick-up and drop-off, for circulation purposes). Those tandem spaces add another fourteen (14) parking spaces, for a total of thirty-six (36) spaces on-site. Again, Milton has an agreement with a Ohr Kodesh Synagogue to provide off-site parking with buses that run to and from the school, which mitigates potential concerns over staff using street parking in the neighborhood.

703.4 Any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval.

The Applicant has already implemented all the existing TDM measures pursuant to the previous BZA Order (No. 18400-B) to minimize traffic impacts.⁵ An increase of 75 students shall not unduly impact those implemented measures. The Applicant is proposing to maintain the same TDM measures as the previous case.

One of the TDM measures was a cap on the number of vehicle trips: 271 total trips (ins and outs) during the a.m. peak hour and 135 total trips during the school p.m. peak hour (not commuter p.m. peak hour). According to the transportation study, submitted with this statement, the increase in students and staff is expected to generate a total of 207 morning, and 135 afternoon

⁵ Milton Gottesman Transportation Statement, Page 25

car trips to and from the school.⁶ Moreover, the TDM measures implemented after Case No. 18400-B decreased the mode share for car trips to the Subject Property and increased the share of students who traveled to the Subject Property by non-car modes (school bus, Metrobus, walking, bicycle) between 2015 and 2019.⁷ The Applicant will continue the traffic monitoring for DDOT's Policy, Planning, and Sustainability Administration twice per year beginning in the fall 2021 semester and again when the school reaches the proposed cap of 425 students (twice per year for two additional years). Accordingly, the increase in enrollment will not tend to adversely impact the use of neighboring properties through unduly increased car traffic in the area around the Subject Property.

V. MODIFICATION OF SIGNIFICANCE REQUIREMENTS ARE SATISFIED.

Subtitle 11-Y DCMR § 704 requires that the Applicant provide the “nature of, reason(s), and grounds for the modification of significance.” No material facts upon which the Board based its original approval of the Application have changed. The Board approved the plans, which have not changed.

In Case No. 18400-B, in addition to the request for increased enrollment, the Applicant requested and was granted variances from the lot occupancy, parking, and loading requirements. ANC 4A voted unanimously 6-0 to issue a report in support of the application. The Office of Planning's report recommended approval to all areas of relief, and DDOT's report indicated no objection to the project conditioned on the Applicant adhering to the TDM measures which the Applicant agreed to. Based on support from the community and other agencies, the Board approved the Applicant's application and issued Summary Order No. 18400-B

⁶ Milton Gottesman Transportation Statement, Page 9, Table 3

⁷ Milton Gottesman Transportation Statement, Page 8, Table 1

As the Applicant is not altering the plans approved by the Board, the same determinations can be made about the newly requested approval pursuant to Subtitle X § 901, U § 203.1(m), and C § 703.2. The Applicant has been communicating ANC 4A and will attend a future ANC meeting.

VI. CONCLUSION.

For the reasons outlined in this Statement, the Applicant respectfully requests the modification of significance as detailed above.

Respectfully submitted,

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