

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18715 of the Maret School, as amended, pursuant to 11 DMCR § 3104.1 for a special exception under § 206, to allow an addition and expansion to a private school and an increase in the student and faculty/staff cap, and pursuant to 11 DCMR §3129.7 for modification of BZA Order No. 17826-A for an increase in the number of students from 635 to 644 in the R-1-B and R-3 Districts at premises 3000 Cathedral Avenue, N.W. (Square 2113, Lot 843).

HEARING DATE: February 25, 2014
DECISION DATE: February 25, 2014

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 3C and to owners of property within 200 feet of the site.

By its order No. 17826-A, dated December 4, 2008 (“the 2008 Order”), the Board granted the Applicant herein approval to increase the number of students at the private school from 600 to 635. In condition No. 1 of the 2008 Order it states: “The maximum number of students shall not exceed 635, and the number of faculty and staff shall not exceed 129 *employed for any one period of the day.*”

Since that time, however, the number of students enrolled has reached 644, nine students beyond the 635 cap. Consequently, the Board, on its own motion amended this application to include a modification of the 2008 Order pursuant to § 3129.7, *et. seq.*, which provides as follows:

- 3129 MODIFICATION OF APPROVED PLANS
- ...
- 3129.7 A request to modify other aspects of a Board order may be made at any time, but shall require a hearing.
- 3129.8 The scope of a hearing conducted pursuant to § 3129.7 shall be limited to impact of the modification on the subject of the original application, and shall not permit the Board to revisit its original decision.

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3129.9 The filing of any modification request under this section shall not act to toll the expiration of the underlying order and the grant of any such modification shall not extend the validity of any such order.

Addressing the impact test of § 3129.8, the Applicant noted in testimony at the hearing of February 25, 2014 that there has been no adverse impact in having the additional students in excess of the numbers allowed in the 2008 Order. Therefore, the Board concludes that the Applicant has met the requirements for a modification under §3129.7.

Regarding the special exception aspect of the relief, the Applicant requested the ability to add building area to accommodate new academic, administrative, and athletic space. In addition, the Applicant requested an increase in its student enrollment cap from 635 to 650, and an increase in its faculty/staff cap from 129 to 135.

The Board noted that the site of this application is located within the jurisdiction of ANC 3C, which is automatically a party to this application. ANC 3C filed a report, dated December 16, 2013. In the report, the ANC stated that at a regularly scheduled public meeting on December 16, 2013, with a quorum of Commissioners present, the ANC voted on a resolution expressing that it has no objection to the application. (Exhibit 23.)

The Office of Planning (“OP”) submitted a timely report, dated February 18, 2014, recommending approval of the application with conditions. (Exhibit 26.) The District Department of Transportation (“DDOT”) submitted a report, dated February 21, 2014, stating its concern about the number of morning peak hour trips to and from the school. It recommended that a trip cap be imposed on the school for the morning peak hour and that additional transportation demand management measures be adopted. (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1 for a special exception for an expansion of a private school under § 206. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof under 11 DCMR §§ 3104.1 and 206 that the requested special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

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It is therefore **ORDERED** that this modification and application be **GRANTED, SUBJECT** to the Revised Plans as shown on Exhibit 24, and the following **CONDITIONS**:

1. Approval shall be for a period of THREE YEARS from the final date of this order.
2. The maximum number of students shall not exceed 650, and the number of faculty and staff shall not exceed 135 employed for any one period of the day.
3. The applicant shall submit a report by October 15th of every year to ANC 3C and the District Department of Transportation. The report shall provide enrollment and staffing figures and a description of the school's performance related to the transportation demand management plan from the preceding year. The report shall also provide mode split and trip generation rates. Any changes to the transportation demand management plan shall be reported to DDOT.
4. The applicant shall provide a total of 141 parking spaces onsite, of which a minimum of 10 shall be dedicated to visitor parking.
5. The applicant will prohibit vehicles from making a left-hand turn onto the campus from Cathedral Avenue during school drop-off and pick-up times.
6. The applicant will instruct parents not to park on or queue on Cathedral Avenue to wait for their children at school drop-off and pick-up times.
7. The applicant will continue to provide traffic control personnel at both ends of its driveway during school drop-off and pick-up times to facilitate on-campus traffic flow and enforce drop-off and pick-up procedures.
8. The applicant will distribute a policy manual to all families prior to the start of the academic year that explains all relevant policies and procedures regarding its transportation management measures including, but not limited to, carpooling, parking, pick-up, drop-off, and penalties for noncompliance. This information shall be posted on the school's website.
9. The applicant and its students/faculty/staff shall generate no more than 772 automobile trips in the morning peak hour.
10. The applicant shall implement the following transportation demand management (TDM) plan:
 - A. The applicant shall inform and proactively work with families to help them form carpools. Parents will use the "Carpool Finder button" link on the school website to seek matches.

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- B. Virginia and Maryland students receiving financial aid will receive \$100 monthly on their SmarTrip cards.
- C. Faculty/staff (DC, Maryland, Virginia) who take public transportation will receive \$100 monthly on their SmarTrip cards.
- D. The applicant will participate in the discounted DC One card for DC residents.
- E. The applicant will provide \$240 annually to faculty/staff who bicycle to campus the majority of the time.
- F. The applicant will stagger student arrival and departure times.
- G. The applicant will include links to www.communterconnections.org in school materials.
- H. The applicant will hold a "Transportation to School" event during or after school once or twice a year, stressing the importance of public transportation, carpooling, biking, etc. and tie it to the green initiative.
- I. The applicant shall recognize students/staff who consistently use public transportation or carpool with awards or financial incentives.
- J. The applicant will provide \$35 per month to Virginia and Maryland students who use public transportation.

VOTE: **4-0-1** (Lloyd J. Jordan, Peter G. May, Marnique Y. Heath, and Jeffrey L. Hinkle to Approve; S. Kathryn Allen not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: March 7, 2014

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PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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 PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS

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PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.