

**BEFORE THE BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA**

Application of  
Saint Peter School

BZA Application  
ANC 6B01

**STATEMENT OF THE APPLICANT**

This application is made by Saint Peter School (the “**Applicant**” or “**School**”) to the Board of Zoning Adjustment (the “**Board**”) for (i) special exception approval under Subtitle X § 901.2 from the use permissions under Subtitle U § 203.1(m) to permit the renovation and expansion of an existing private school; (ii) special exception relief under Subtitle C § 1506.1 from the 1:1 setback requirement of Subtitle C § 1504.1(c) applicable to roof structures located along a side building wall not located on a side lot line; and (iii) variance relief under Subtitle X § 1000.1 from the penthouse height requirement of Subtitle E § 402.1 to exceed the maximum permitted height of ten (10) feet (the “**Project**”). The Project will conform to the Zoning Regulations in all other respects.

**I. JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X §§ 901.1 and 1000.1 of the Zoning Regulations.

**II. BACKGROUND**

The School has served Capitol Hill families for over 156 years. At one time it educated more than 600 students in two large, open classrooms. The school has a long history of embracing diversity, desegregating ahead of *Brown v. Board of Education*, and today, the School continues to serve a diverse population of 239 students in pre-kindergarten through 8th grade in ten (10) classrooms. It has twice earned a U.S. Department of Education Blue Ribbon for Academic

Excellence (most recently in September 2019), and it embraces Catholic social teaching through service projects conducted in student families made up of students in all grades.

The School's administration, faculty, and staff set an example for its students through their commitment, excellence, and love. All of this happens in a beautiful, historic building, which brings with it both advantages and challenges. It is solidly built, with large windows and high ceilings. At the same time, the entrance, offices, and lack of accessibility do not reflect the School's welcoming nature. The absence of a large, flexible gathering space limits the ability to bring students, parents, and faculty together in full community. And the electrical, HVAC, plumbing, and IT systems are aging and do not meet modern expectations of efficiency, reliability, and environmental stewardship.

While some Catholic schools in the District have struggled and shuttered, Saint Peter School is a growing, vibrant community and responsible steward of its existing historic school building in the heart of the historic Capitol Hill neighborhood. The Project is a critical part of allowing the School to continue meeting the academic, spiritual, and physical needs of its students and achieving excellence in pre-K through 8<sup>th</sup> grade education for the next 150 years.

### **III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA**

Saint Peter School is located in the Capitol Hill neighborhood at 422 3<sup>rd</sup> Street SE, (Square 0793, Lot 0025) (the “**Property**”), and is currently zoned RF-1/CAP. As shown on the Surveyor’s plat at Exhibit A, the Property is an irregularly shaped lot that contains approximately 38,893 square feet of land area, and has frontage on E Street, SE on the south, 3rd Street, SE on the west, and a narrow pipestem of frontage along D Street SE on the north. The northern portion of the Property is encumbered by an “L-shaped” perpetual utility and access (vehicular and pedestrian)

easement that extends along the pipestem to D Street, and benefits the neighboring properties that abut said easement. The Property is also located within the Capitol Hill Historic District.

The Property is currently improved with the existing school building and outdoor play areas. The school building is located in the southwest corner of the Property and is comprised of the original structure and a later addition. The original school building was constructed in 1874, approximately mid-block along E Street SE (“**Building A**”), measures approximately 45 feet by 115 feet, has a height of approximately 48'-0”, and contains two above-grade stories and a cellar. In 1936, an addition was constructed to the west of Building A, at the corner of E and 3rd Streets, SE (“**Building B**”), which measures approximately 45 feet by 82 feet, has a height of approximately 39'-0”, and also contains two above-grade stories and a cellar. Building A and Building B, which are connected above-grade and thus are a single building, have a combined gross floor area (“GFA”) of approximately 26,481 square feet. Photographs of the existing school building are included on Sheets BZA-0002 BZA-003, ad BZA-004 of the plans and drawings at Exhibit B (the “Drawings”). The existing school building is a contributing structure to the Capitol Hill Historic District, and thus a “historic resource” as defined under the 2016 Zoning Regulations (“**ZR16**”).

To the east of Building A is a large open space / play field (“**Upper Play Area**”), and to the north of Building B is a smaller paved play area (“**Lower Play Area**”). A modest-sized paved parking area is located to the north of the Upper Play Area. The parking area is currently unstriped but is estimated to accommodate five (5) zoning compliant parking spaces. To the north of the parking area is the paved pipestem / access easement that leads to D Street SE.

The area surrounding the Property is comprised of moderate density rowhomes devoted to single family dwellings and flats with parks, institutional uses (education and religious based), and residential apartment buildings interspersed. Folger Park and Providence Park are located immediately west of the Property, across 3<sup>rd</sup> Street, SE. Marion Park and Garfield Park are located one block east and south of the Property, respectively. The U.S. Capitol Complex is located approximately 0.4 miles to the northwest, and the Barracks Row / 8<sup>th</sup> Street commercial corridor is approximately 0.4 miles to the east.

Public transit and Capital Bikeshare well serve the Property. The Capitol South Metrorail station is located approximately 0.3 miles to the northwest of the Property, the Eastern Market Metrorail station is located approximately 0.3 miles to the east, and the Navy Yard Metrorail station is approximately 0.5 miles to the south. The Property is also served by the several Metrobus routes that operate along Pennsylvania Avenue SE (approximately 0.2 miles from the Property), 8<sup>th</sup> Street, SE (approximately 0.4 miles from the Property), and M Street SE (approximately 0.5 miles from the Property). A 13-dock Capital Bikeshare station is located two blocks north of the Property, and a 19-dock station is located three blocks south.

#### **IV. EXISTING AND PROPOSED STUDENT AND STAFF COUNTS**

Since the School predates the D.C. Zoning Regulations, there is no record of any Zoning Commission or Board of Zoning Adjustment reviews for a private school on the Property. The School currently operates under a certificate of occupancy (CO168303) that was issued on June 27, 2008, for a private school with a maximum of 283 students and forty (40) faculty and staff. The current certificate of occupancy was issued for a change of ownership and is the only record available in D.C. Department of Buildings eRecords. A copy of the current Certificate of Occupancy and associated application form are provided in Exhibit C. The School is not proposing

any increases in the maximum number of students and faculty / staff beyond what is already authorized under the current Certificate of Occupancy.

## **V. DESCRIPTION OF THE PROJECT**

The Applicant is proposing to renovate portions of the existing school building and construct an addition that is directly north of Building B (the 1936 portion of the existing school building), on the location of the current Lower Play Area. As shown in the Drawings, the Project will replace a small, noncontributing portion of the existing school building that is located near the Lower Play Area, where Building A and Building B come together, with a new, three-story addition that contains approximately 15,431 square feet of GFA.

As shown in the Drawings, the first floor of the addition will include a new main school lobby that is accessed from 3rd Street. From the lobby, a new elevator will provide ADA access to all core programmed spaces of the school building, including Building A (1874) and Building B (1936) which currently do not have elevator access and do not meet all access requirements. There will also be an interior ramp that addresses the differing first floor levels between the proposed addition, Building A, and Building B. The first floor will also include a new school front office, clinic, administrative office space, records storage, and mechanical space. On the second floor, a new double-height gymnasium/multi-purpose room will occupy the large majority of the proposed addition. The remainder of the second and third floors will contain new restrooms, storage, smaller breakout / resource rooms, and a pantry.

At the roof level, a new outdoor play area is proposed on top of the proposed addition, which will include play equipment and movable seating. The perimeter of the play area will be secured by a 10-foot fence that is made up of a 3'-6" knee wall and 6'-6" fence. The fence will meet the 1:1 roof structure setback requirement along 3<sup>rd</sup> Street, thus minimizing its visibility from street

level and the Providence Park. The play area fence will not be setback 1:1 from the northern side building wall, for which the Applicant is requesting relief. The roof level of the proposed addition will also contain an enclosed mechanical yard, an elevator lobby and override, and two rooftop egress stair towers. The elevator lobby and override are strategically located in the center of the overall school building complex, where the proposed addition, Building A, and Building B come together. When measured from the level of the roof of the proposed addition, the elevator override will have a maximum height of 14'-10". In the RF/CAP zone, a penthouse is permitted a maximum height of ten (10) feet. As such, the Applicant is requesting relief to allow the proposed elevator override to have a height that exceeds ten (10) feet. The proposed rooftop egress stairs are located near the southwest corner of the proposed addition, near 3<sup>rd</sup> Street, and on the north side of the proposed addition. Both rooftop egress stairs meet the maximum penthouse height and 1:1 setback requirement.

The exterior of the proposed addition has been designed to be compatible with the existing school building in height, mass, and materiality, as well as with the character of the Capitol Hill Historic District. Indeed, at its meeting on June 26, 2025, meeting, the D.C. Historic Preservation Review Board (“HPRB”) voted unanimously to approve the Project’s concept design and delegated final review to D.C. Historic Preservation Office staff. A copy of the HPRB’s action is provided at Exhibit D. The addition is also sensitively scaled and configured for its neighboring context – including suppressing building height below available height by zoning, minimizing roof structures, including vertical articulation of the façade along 3<sup>rd</sup> Street, and, perhaps most importantly, stepping back from the rowhouse to the north to create a side yard between the addition and the abutting property to the north, all as further detailed below.

The portion of the addition that is most visible is the west façade facing 3<sup>rd</sup> Street. The proposed addition is differentiated from the existing school building through the use of contemporary metal panel cladding, curtain wall system, and prefinished aluminum entry storefront for the new main lobby entrance and the floors above. This element of the Project acts as a “hyphen” that provides an appropriate degree of separation between the existing historic portions of the school building and the proposed addition. To the north of the main entrance, the proposed addition has a more traditional composition, and a contextual material palette of gray brick on the ground floor and red brick on the second and third floors. In reference to the cadence of the surrounding rowhouses, the massing of the addition above the ground floor is broken down into a series of vertical bays that are angled to create a sawtooth pattern along the façade. The double height bays contain tall vertical windows that will maximize natural light into the gymnasium / multipurpose room space. The mullion pattern of the double height windows will form a cross motif, which is important symbolically to the School in expressing its religious affiliation.

At the roof level, the location and design of the elevator override, mechanical yard, rooftop egress stairs, and play area fence have been designed to minimize their visibility from street level and nearby parks. The elevator override and mechanical yard are located toward the center of the overall school building and thus should have minimal visibility. The rooftop egress stair on the north side of the proposed addition has a sloped wall to meet the 1:1 setback requirement, which will also help reduce its mass and visibility from properties to the north. The west egress stair is set back well in excess of the required 1:1 setback, and is also situated behind a 3'-6" brick parapet wall which will further reduce its visibility. For the rooftop play area, the Applicant has situated the play area itself as far back from 3<sup>rd</sup> Street as possible to ensure the play area fence meets the

1:1 setback requirement along 3<sup>rd</sup> Street. In addition, the Applicant has minimized the extent and height of the play area fence as much as possible, and has developed a design and color for the fence that will minimize its visibility.

## **VI. THE APPLICATION SATISFIES THE CRITERIA FOR THE REQUESTED RELIEF**

The Applicant requests special exception approval pursuant to Subtitle U § 203.1(m) and Subtitle X § 901.2 to permit the renovation and expansion of an existing private school. The Applicant also seeks special exception relief under Subtitle C § 1506.1 from the 1:1 setback requirement of Subtitle C § 1504.1(c) applicable to roof structures located along a side building wall not located on a side lot line. Finally, the Applicant is requesting area variance relief under Subtitle X § 1000.1 from the penthouse height requirement of Subtitle E § 402.1 to exceed the maximum permitted height of ten (10) feet.

### **A. Special exception under Subtitle U § 203.1(m) and Subtitle X § 901.2 to permit the renovation and expansion of an existing private school**

The Applicant seeks approval of a special exception to permit the renovation and expansion of an existing private school. Subtitle U § 203.1(m) allows for special exception use in the RF-1 zone for “private schools” subject to the following conditions: (a) it is 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; (b) ample parking space, but not less than that required by the title shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile; and (c) after hearing all evidence, the Board of Zoning Adjustment may require additional parking to that required by the title. Pursuant to Subtitle X § 901.2, the Board may grant special exceptions if the relief is in harmony with the general purpose and intent

of the Zoning Regulations and Zoning Maps and the relief will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

1. *The Property is 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. (11-U DCMR §203.1(m)(1)).*

The School has operated on the Property since the 1860s. Its continued use of the Property with the proposed addition is not likely to become objectionable to adjoining and nearby property. The School maintains a strong relationship with the neighborhood with open lines of communication. Indeed, community engagement and communication are, and will continue to be critical components of the School's current modernization and expansion project. Further, most of the children that attend the School live in, and have families integrated throughout, the immediate neighborhood.

#### *Noise*

The proposed addition and continued use of the Property by the School is not likely to become objectionable to adjoining and nearby property with respect to noise. First, the Applicant is not proposing any increase in the number of students or staff as part of the subject application. Thus, any noise that is currently generated by the daily operations of the School is likely to remain the same. Additionally, as noted above, the location of the proposed addition is currently used as an outdoor play area. This play area will be relocated to the roof of the proposed addition. As such, there is potential that noise resulting from the operation of the School could decrease with the relocation of the play area to the roof.

### Traffic

The expansion of the existing private school use is not likely to become objectionable due to traffic. First, no increases in the maximum permitted number of student or faculty / staff are proposed. Second, in addition to requiring BZA review, any increase in trips associated with future growth in the School's current allowable student and faculty / staff caps would be minimal as the Property is located in a very walkable location, and as discussed above, is well-served by public transportation. Approximately half of the students walk to and from school, and forty-one (41) percent of the faculty and staff walk, bike, or take transit to work. The Applicant has prepared a transportation statement that analyzes the impacts of the School on the surrounding transportation network (the "Transportation Statement"), which is provided as Exhibit E. According to the Transportation Statement, the Project is not expected to have any adverse impacts on the surrounding roadway network. The Transportation Statement includes a Transportation Management Plan ("TMP"), which is composed of transportation demand management ("TDM") strategies to encourage or incentivize non-auto modes of travel and an Operations Management Plan ("OMP") to ensure safe and efficient drop-off and pick-up procedures at the school.

Regarding trip generation, the Transportation Statement evaluated the number of auto, pedestrian/bike, and transit trips generated by the School during the morning peak hour, afternoon school peak hour, and afternoon commuter peak hour.<sup>1</sup> According to the Transportation Statement, at its current student enrollment and staff level the School generates approximately 164 morning peak hour auto trips, of which only 3 are generated by staff. Thus, the large majority of morning peak hour trips are students being dropped in the School's designated pick up / drop off ("PUDO")

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<sup>1</sup> The morning peak hour for schools typically coincides with the typical commuter morning peak hour. However, since grade schools often let out in the early afternoon (around 3:00 pm), the afternoon peak hour for schools typically occurs earlier than the afternoon commuter peak hour.

zone along E Street, which can accommodate up to ten (10) vehicles. In the afternoon, the School generates approximately 67 auto trips during the school peak hour (2 generated by staff) and 55 during the commuter peak hour (10 generated by staff). According to the Transportation Statement, if the School increased its student enrollment and staffing to its current caps, the number of morning peak hour vehicle trips would only increase by 39, and the afternoon school peak hour trips and commuter peak hour vehicle trips would increase by only 16 and 13, respectively. As discussed in the Transportation Statement, the School's PUDO zone along E Street successfully manages the existing student-generated auto trips. If the School was to increase its student enrollment to its current cap of 283 students, some increases in queuing could occur. To the extent there is potential for increased queuing, it is not expected to be detrimental to the surrounding roadway network provided the School continues to implement its existing PUDO protocols and supplement those protocols with the OMP and TDM plan set forth in the Transportation Statement.

*Number of Students*

The number of students on the Property will not increase as a result of the proposed addition. The School currently operates under a certificate of occupancy (CO168303) that was issued on June 27, 2008, for a private school with a maximum of 283 students and 40 faculty and staff. As discussed above, the proposed expansion of the School is intended to address the facility needs to be able to accommodate the current permitted student and faculty/staff. The School is not proposing any increases in the maximum number of students and faculty / staff at this time.

*Other Objectionable Conditions*

The Project will not negatively impact light or air to neighboring properties as the height and massing of the proposed addition is compatible with the surrounding context. The Applicant

has conducted a detailed shadow study that shows the Project will not unduly impact adjacent properties, including existing solar energy facilities.

2. *Ample parking space, but not less than required by this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile (11-U DCMR § 203.1(m)(2)).*

The School will continue to comply with the minimum parking required under zoning. As noted above, the School was established and has continually operated on the Property since 1867 and thus predates the D.C. Zoning Regulations. Under current regulations, the minimum parking requirement for the School would be 27 spaces. However, since the School predates zoning it qualifies for a parking credit, which has been confirmed with the Zoning Administrator. Specifically, it is estimated that the School provides approximately five (5) zoning-compliant parking spaces in the paved parking area located north of the Upper Play Area, thus generating a parking credit of 22 spaces (27 required spaces – 5 provided spaces).

Pursuant to Subtitle C § 704.2, “additions to historic resources shall be required to provide additional parking spaces for an addition only if: (a) the addition results in at least a fifty percent (50%) increase in gross floor area beyond the gross floor area existing on the effective date of this title; and (b) the resulting requirement is at least four (4) parking spaces.” The minimum parking requirement for a private school use is two spaces for every three faculty and staff. As such, while the Project will increase the school’s GFA by approximately 58.3%, the resulting parking requirement will not increase because no changes are being proposed to the maximum permitted number of faculty / staff. As part of the Project, the paved parking area will be properly striped to provide a minimum of five (5) zoning compliant parking spaces, thus continuing to meet the minimum parking requirement for the School.

The five (5) parking spaces provided on the Property not only meet the technical requirement under zoning, but are also sufficient to accommodate the parking demand for the School. As discussed in the Transportation Statement, approximately 19 faculty / staff (or approximately 56% of current faculty / staff) drive to School. Assuming this same mode split percentage, this number could potentially increase to 22 if the School increased staffing to its currently permitted maximum. The paved parking area on the Property currently provides five (5) zoning compliant spaces, but can accommodate up to 12 vehicles in a stacked configuration. It is expected that this configuration will remain after construction of the addition. With 12 vehicles accommodated in the paved parking area, the remaining seven faculty / staff vehicles (10 at full staffing) are assumed to use on-street parking on surrounding streets. This modest number of vehicles is not expected to cause any negative impacts to on-street parking in the area, particularly since this parking demand occurs during times when nearby residents that may utilize on-street parking are potentially at work.

3. *After hearing all evidence, the Board of Zoning Adjustment may require additional parking to that required by this title. (11-U DCMR §203.1(m)(3)).*

The Applicant does not believe additional parking is required. As described above, the School's existing and proposed parking is sufficient to meet the demand generated by the School's faculty / staff. The School's faculty / staff currently generate very little demand for on-street parking, and this can be accommodated by on-street parking available in the surrounding area. Furthermore, given the availability of public transit and Capital Bikeshare in proximity to the Property, the Applicant hopes to reduce faculty / staff-generate parking demand through implementation of the TDM plan that is set forth in the Transportation Statement.

4. *The Board may grant special exceptions if the relief is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and the relief will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. (Subtitle X § 901.2.)*

The requested special exception to permit the renovation and expansion of the School will further the intent and objectives of the Zoning Regulations and will not tend to adversely affect neighboring properties. Uses permitted by special exception are generally considered appropriate, and compatible with other uses permitted in a zone. This includes uses falling into the “education” use category, which are permitted in all residential zones. The School, widely considered to be the oldest Catholic elementary school in the District, has been a prominent fixture in the Capitol Hill neighborhood since it opened on the Property in 1868. The continued operation of the School on the Property, in an expanded, modernized, and fully accessible facility will be in harmony with the stated intent and purposes of the Zoning Regulations, which promote the public health, safety, morals, convenience, order, prosperity, and general welfare by, among other things, providing adequate light and air, preventing overcrowding of land, and providing use of land that will tend to create conditions favorable to transportation, civic activity, and recreational, educational, and cultural opportunities.

The Project will not tend to adversely affect neighboring properties. The School has maintained good relations with the neighborhood over its long tenure at the Property. As demonstrated by the Applicant’s shadow study, the proposed addition will not unduly impact the availability of light and air to neighboring properties as the addition is fully compliant with permitted building height, lot occupancy, and yard requirements. Further, the Project will not result in an increase in the number of students and faculty / staff at the site. As mentioned above, the Project will address several space and programming deficiencies that exist in the current school building, and will resolve some very substantial facility and accessibility issues. Accordingly, the

special exception to permit the proposed addition to the School is in harmony with the purpose and intent of the Zoning Regulations and will not tend to adversely affect neighboring properties.

**B. Special exception under Subtitle C § 1506.1 from the 1:1 setback requirement of Subtitle C § 1504.1(c) applicable to roof structures located along a side building wall not located on a side lot line**

As discussed above, a new rooftop play area is proposed on the proposed addition, which will include play equipment and movable seating. The perimeter of the play area will be secured by a 10-foot fence that is made up of a 3'-6" knee wall and 6'-6" fence. The fence will meet the 1:1 roof structure setback requirement along 3rd Street, thus minimizing its visibility from street level and the Providence Park and remaining consistent with the Project's historic preservation review. However, the play area fence will not be setback 1:1 from the northern side building wall.

Pursuant to Subtitle C § 1504.1(c)(1), the play area fence shall be setback from the edge of the roof upon which it is located along any side building wall that is not located on a property line. For purposes of zoning, the west side of the school building, along 3<sup>rd</sup> Street, is considered the front of the building, and thus the northern wall of school building is considered a side building wall. As shown on the Drawings, the north wall of the school is set back from the northern side lot line by five (5) feet although not required to do so, in compliance with the side yard requirements of Subtitle E § 208, in order to provide additional buffer space to the Applicant's neighbor. As such, since the north building wall of the school is not constructed on the side lot line, the rooftop play area fence must be setback 1:1 from the edge of the north (side) building wall. As proposed, the rooftop play area fence is only set back approximately five (5) feet from the north building wall.

Relief from the roof structure setback requirements is permitted by special exception pursuant to the criteria set forth in Subtitle C § 1506.1, and the general special exception standards of Subtitle X, Chapter 9. As discussed below, the Applicant fully satisfies all applicable criteria.

1. *The Applicant's demonstration that reasonable effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks. (11-C DCMR § 1506.1(b))*

As shown on the proposed roof plan on Sheet BZA-204 of the Drawings, all proposed housing for mechanical equipment, rooftop egress stairways, and elevator penthouses comply with all required setback requirements. The only area of the roof plan where the Applicant requires relief from the 1:1 setback requirement is for the northern portion of the proposed rooftop play area fence.

2. *The Applicant's demonstration of at least one (1) of the circumstances set forth in Subtitle C § 1506.1(c) is met. (11-C DCMR § 1506.1(c))*

The strict application of the 1:1 setback requirement would result in construction that is unduly restrictive, and granting the relief would result in a better design without appearing to be an extension of the building wall. The Applicant has optimized the proposed roof plan to accommodate all necessary mechanical equipment and rooftop egress and stormwater and green roof requirements while prioritizing meeting setback requirements along the 3<sup>rd</sup> Street side of the School so as to minimize views of penthouses and roof structures from street level and nearby parks. As a result, the Applicant had to push the play area fence closer to the northern side building wall in order to have a sufficiently sized rooftop play area that meets accepted standards for play equipment clearances and circulation and access space and pathways. If the Applicant was made to comply with the setback requirement along the northern

building wall by increasing its setback by another five (5) feet, it would require an unnecessary reduction in the rooftop play space, and potentially the reduction or removal of rooftop play equipment. In contrast, granting the requested special exception relief will result in a better rooftop play area design that will not substantially increase the visibility of the play area fence from ground level or neighboring properties. Such rooftop design configuration was reviewed in detail as part of the historic preservation approval process for the Project.

3. *The relief requested is in harmony with the intent and purpose of the Zoning Regulations and zoning maps and will not tend to adversely affect neighboring properties. (11-X DCMR § 901.2).*

The requested setback relief is in harmony with the intent and purpose of the Zoning Regulations, and will not adversely affect the use of neighboring properties. The requested relief will not result in overcrowding of the Property, nor create any unfavorable conditions as related to public health and safety, protection of property, recreation, education, or the general welfare of the School's students and staff, or surrounding neighbors. Further, the requested relief will not adversely affect the use of neighboring properties. Even with the relief, the rooftop fence will still be setback ten (10) feet from the Property's northern lot line and is 40 feet above the ground level. Further, as shown in the Drawings, the design of the fence is as open as possible while still meeting building code requirements, and its material and color have been selected to minimize any visual intrusion on neighboring properties and the historic character of the historic Capitol Hill neighborhood.

**C. Variance Relief from the Penthouse Height Requirement (E § 302.1).**

As previously discussed, the existing school building does not have elevator access. As part of the proposed addition the Applicant will install a new elevator that will provide ADA-compliant access to all floors with core programmed spaces of the existing and proposed portions of the school building. The cellar in Building A will not have access from the elevator due to its restricted floor to floor height. The cellar only provides back of house storage support for the school. As shown on the Drawings, the elevator will be centrally located within the overall school building complex, where the proposed addition, Building A, and Building B come together. In order to comply with ADA requirements, the elevator will extend to provide access to the rooftop play area.

Pursuant to Subtitle E § 402.1, the maximum permitted height of the proposed elevator override is ten (10) feet. As shown on Drawings, the height of the proposed elevator override is approximately 14'-10" above the structural roof of the proposed addition, which is the roof upon which the elevator override is located. Thus, the Applicant is requesting an area variance to allow the proposed elevator override to have a height of 14'-10".

To obtain an area variance, an applicant must demonstrate that: (i) the property is affected by an exceptional or extraordinary situation or condition, (ii) the strict application of the Zoning Regulations will result in a practical difficulty, and (iii) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose, or integrity of the Zone Plan. D.C. Code § 6-641.07(g)(3); *St. Mary's Episcopal Church v. D.C. Zoning Comm'n*, 174 A.3d 260, 269 (D.C. 2017).

The Court of Appeals has repeatedly held that the Board can be "more flexible" in applying the three-part variance test when the applicant is a non-profit organization, "especially where the

organization is seeking the zoning relief in order to meet a public need or serve the public interest.”

*Neighbors for Responsive Government, LLC v. D.C. Board of Zoning Adjustment*, 195 A.3d 35, 56 (D.C. 2018). As noted in *McDonald v. D.C. Board of Zoning Adjustment*, 291 A.3d 1109, 1124 (D.C. 2023), the “public good flexibility” doctrine was first established in *Monaco v. D.C. Bd. of Zoning Adjustment*, where the Court concluded that “when a public service has inadequate facilities and applies for a variance to expand . . . then the Board . . . does not err in considering the needs of the organization” as an exceptional condition. *Monaco v. D.C. Bd. of Zoning Adjustment* 407 A.2d 1091, 1099 (D.C. 1979). The objective of the “public good flexibility” doctrine is “to facilitate construction for organizations so that they can serve public needs.” *McDonald*, 291 A.3d at 1126.

As a non-profit organization, the Applicant seeks the requested variance to allow it to expand and modernize its existing school building, which it has occupied since 1867. The School serves the public interest by providing high-quality elementary school education to the Capitol Hill parishes and community. The variance requested will allow the School to sustain its operations and continue offering its academic curriculum and pursuing its mission.

The Court in *McDonald* reiterated an additional two-part test for public good flexibility: an organization must show (1) that the specific design it wants to build constitutes an institutional necessity; and (2) precisely how the needed design features require the specific variance sought. *McDonald*, 291 A.3d at 1124. The Project is an institutional necessity to the School’s operational program. It will enable the Applicant to address significant deficiencies in its current facilities that impact the School’s ability to fully meet the academic, spiritual, and physical needs of its students. For example, there is no portion of the existing building that allows for dedicated physical education or indoor play. The specific design of the Project is needed to bring the entire school

complex, including Building A (1867) and Building B (1936), up to ADA and life safety compliance. The proposed height of the elevator override is necessary to provide access to all levels within the school building, and to the rooftop play area.

*1. The Property Is Affected by an Exceptional Situation or Condition.*

The Court of Appeals held in *Ait-Ghezala v. D.C. Bd. of Zoning Adjustment*, 148 A.3d 1211, 1217 (D.C. 2016) that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a “confluence of factors,” including conditions inherent in the pre-existing structures built on the land. As noted by the Court in *McDonald*, “when an applicant seeks a variance to meet a public need or serve the public interest . . . the Board may consider the applicant’s particular proposed use and its needs as an exceptional condition.” *McDonald*, 291 A.3d at 1123.

The pre-existing structures on the Property present an exceptional condition in their inadequate accessibility due to a lack of elevator access, which is exacerbated by misaligned floors between Building A and Building B. As previously noted, Building A was constructed in 1867, and Building B was constructed in 1936. Given their age, both parts of the existing school building pre-date the Americans with Disabilities Act (“ADA”), and both are contributing to the Capitol Hill historic district. Finally, given the young ages of the student population, there is a need to provide different types of outdoor recreation spaces on the Property, including a secure space for the youngest students like what is currently provided in the Lower Play Area. To modernize and expand the School in an efficient manner and provide accessible access to all portions of the school building, the proposed addition must be constructed on the Lower Play Area. As a result, the play area lost due to the construction must be moved to the roof of the proposed addition, which must also meet ADA requirements.

2. *Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.*

The Court of Appeals has held that to meet the “practical difficulties” prong, applicants must demonstrate “that compliance with the area restriction would be unnecessarily burdensome.” *McDonald*, 291 A.3d at 1125. The existing school building severely lacks accessibility, and the proposed rooftop play area must also be fully accessible to meet ADA requirements. To accomplish this, the Applicant must install an elevator that have the mechanical capacity to access the roof level. Unfortunately, after consulting with several elevator manufacturers, the Applicant is unable to find an elevator model that can access the rooftop play space within the ten (10) foot maximum penthouse height limit under the current Zoning Regulations, let alone find a model that can provide access to the various misaligned floors within the building. The strict application of the ten (10) foot penthouse height limit would require the Applicant to eliminate the rooftop play space from the Project, thus eliminating an important and necessary programmatic element from the School’s operation.

3. *Relief can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan.*

Finally, the Applicant must demonstrate that “approval of the requested variance relief [will] not result in substantial detriment to the public good and [will] not substantially impair the zone plan.” *McDonald*, 291 A.3d at 1122. The requested variance can be granted without causing any adverse impact on the neighboring properties or to the zone plan.

The purpose of the penthouse setback requirements is to minimize the visibility of, and exercise a reasonable degree of architectural control over a building’s mechanical equipment and other utilitarian structures. The proposed elevator override will still be consistent with these purposes despite the requested variance. As described above, the proposed elevator is centrally located where

the existing structure and proposed addition come together, and the elevator override will have a maximum height of 14'-10", as measured from the structural roof level of the proposed addition. As clearly shown in the Drawings, the location of the elevator is far removed from all exterior walls of the school building such that the additional height of the override will not be visible from street level or nearby parks, nor will it be visible from any neighboring properties. The visibility of the elevator override will be further screened by the existing school building, which are taller than the proposed addition. As shown in the Drawings, the elevator override is tucked against the west wall of Building A and north wall of Building B. While the height of the elevator override is 14'-10" above the roof of the addition, it is only approximately 9'-6" above the structural roof of the Building A, and approximately 11'-10" above the structural roof of Building B. Finally, the exterior design and materials of the elevator and associated override will be consistent with the materials of the two proposed rooftop egress stairs, screened mechanical equipment, and play area fence.

Based on the foregoing, the requested area variance to allow the proposed elevator to have an override height of 14'-10" will not cause substantial detriment to the public good, but rather enable the School to modernize its facility and resolve longstanding accessibility issues.

## **VII. CONCLUSION**

For all of the above reasons, the Applicant has satisfied the standards for the requested special exception and variance relief in this case and requests approval for such relief.

Respectfully Submitted,

/s/ Jeff Utz  
Jeff Utz