

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

**Application for 3637 Patterson Street, NW  
Square 1863, Lots 824, 825 and 826**

**PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

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On behalf of the Archdiocese of Washington and the Shrine of the Most Blessed Sacrament (the “Applicant”), we hereby submit an application pursuant to 11-X DCMR § 901.2 for special exception relief pursuant to 11-U DCMR § 203.1(m) to continue the use of an existing recreational playing field for a private school in the R-1-B zone at 3637 Patterson Street, NW (Square 1863, Lots 824, 825 and 826) (collectively, the “Subject Property”).

Pursuant to 11-Y DCMR § 300.15, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or “Board”) no fewer than 21 days prior to the public hearing for the application. In this statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board’s approval of the requested special exception and variance relief. The following is a preliminary statement demonstrating how the Applicant meets the burden of proof.

**I. BACKGROUND**

**A. The Property**

The Property is located on Lots 824, 825 and 826 in Square 1863 and has a street address of 3637 Patterson Street, NW. As shown on the Surveyor’s Plat attached hereto, the Property has approximately 180 linear feet of frontage on Patterson Street, NW to the south, and is bounded by a 15 foot wide public alley to the north and private property to the east and west. The Property has a total land area of approximately 25,937 square feet and is zoned R-1-B.

As shown on the existing condition photographs attached hereto, the Property is used as a playing field for students of the Shrine of the Most Blessed Sacrament School (the “School”), a private school that is located at 5831 Chevy Chase Parkway, NW (Square 1863, Lots 821 and 822) (the “School Site”). The School Site is located approximately 140 feet to the west of the Property and has been operated as a private school since approximately 1928.

**B. Prior BZA Approvals for the School and the Property**

Pursuant to BZA Order No. 16561, dated March 15, 2000, and effective as of May 17, 2000 (attached hereto), the Board approved special exception relief pursuant to section 206 of the 1958 Zoning Regulations (“ZR58”) to permit an addition to the school building on the School Site. BZA Order No. 16561 included a number of conditions to approval, including (i) limiting enrollment to 600 students in kindergarten through 8<sup>th</sup> grade; (ii) limiting staff to 35 individuals; (iii) limiting the School’s hours and days of operation to 7:00 a.m. to 4:00 p.m., Monday through

Friday; and (iv) requiring a minimum of 24 on-site parking spaces during the School's hours of operation.

Pursuant to BZA Order No 17718, dated March 4, 2008, and effective as of March 6, 2008 (attached hereto), the Board approved special exception relief pursuant to section 206 of ZR58 to construct a new recreational playing field on the Property to serve the School. In approving BZA Order No. 17718 for the playing field, the Board found that the applicant had met the burden of proof that the requested relief could be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and would not tend to affect adversely the use of neighboring property. In approving the recreational playing field use, BZA Order No. 17718 established 11 conditions for the field's use and operations, which are listed on page 2 of the Order.

Finally, pursuant to BZA Order No. 18236, dated September 13, 2011, and effective as of September 16, 2011 (attached hereto), the Board granted special exception relief pursuant to section 206 of ZR28 for the continuation of the recreational playing field use at the Property to continue to serve the School for ten years. BZA Order No. 18236 included the same conditions as previously approved, except extended the hours of operation by one hour.

The Board's approval in BZA Order No. 18236 expires on September 16, 2021. Accordingly, the subject application requests special exception relief pursuant to 11-U DCMR § 203.1(m) to continue to use the Property as a playing field for students of the School for an unlimited timeframe.

### **C. Proposed Modifications to Approved BZA Conditions**

The Applicant proposes to maintain all of the conditions previously approved for the playing field in BZA Order No. 18236, which are listed below and revised as shown in track changes:

1. The recreational playing field may be used between 9:00 a.m. – 6:30 p.m., but in no event shall the field be used after sunset.
2. No more than 90 students shall be permitted to use the field at any given time.
3. The field shall be landscaped in accordance with the Illustrative Site Plan submitted with the subject application and dated ~~February 2008~~, 2021. The applicant shall have the flexibility to substitute comparable planting based on availability, planting season and specific requests from adjacent neighbors.
4. The primary means of access to the field for students shall be the alley entrance. Kindergarten students shall have flexibility to use either Patterson Street or the alley entrance.
5. Gates shall be kept locked whenever the field is not in use by the school or other authorized party.
6. No permanent recreational structures such as baseball backstops, soccer goals, or basketball hoops shall be constructed on the field.
7. The field shall not be used for major athletic or sporting events, nor shall it be used by organized groups that are not a part of the school's educational and religious program.
8. No amplifiers, generators, compressors or other loud devices shall be used by the school on the field.

9. The school shall be permitted, but is not required, to use the field or make the field available to neighboring ~~families-households in located Squares 1863 and 1864, and lots located in Square 1999 that front on Patterson Street, NW,~~ during the hours of 10:00 a.m. and 6:30 p.m. on weekends, holidays or other times when school is not in session, subject to any rules and restrictions imposed by the school ~~or parish regarding security and noise levels.~~
10. The school shall be responsible for maintenance of the field, including maintenance of the landscaping and removal of trash and debris from the field and the adjacent sidewalk and alley.
- ~~11. Approval shall be for TEN YEARS from the effective date of this order.~~

The Applicant requests that Condition No. 11 be removed, since the property has been used as a playing field since the first BZA approval in 2008.

## II. SPECIAL EXCEPTION RELIEF

### A. Relief Requested

The Applicant requests special exception relief pursuant to 11-X DCMR § 901.2 and 11-U DCMR § 203.1(m) to permit the continuation of the existing playing field for the private school use.

### B. Burden of Proof

Pursuant to D.C. Code §6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant a special exception where it finds 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 in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id*

### C. Compliance with the Special Exception Standards for Private School (11-U DCMR § 203.1(m))

Pursuant to 11-U DCMR § 203.1(m), private schools are permitted in the R-1-B zone only as a special exception, subject to the following conditions:

1. The private school 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;

2. Ample parking space, but not less than that required by the Zoning Regulations, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile; and
3. After hearing all evidence, the Board may require additional parking to that required by the Zoning Regulations.

The application meets the standards for approval under 11-U DCMR § 203.1(m). The Property has been used as a playing field for the School for the past 13 years and, consistent with the Board's previous findings, the use of the Property as a playing field does not create any unreasonable conditions that would be objectionable to neighboring properties or the surrounding community.

Consistent with the conditions of the prior BZA Orders, the Applicant does not utilize amplifiers, generators, compressors, or other loud noise devices on the field that could potentially impact neighboring properties. The field is used during daytime hours only and its use is limited to 90 students at any given time. The school maintains the field, including landscape maintenance and trash removal from the field and the adjacent sidewalk and alley. As required by the approved BZA conditions, the field is not used for any major athletic or sporting events or used by organized groups that are not part of the School's educational or religious program.

As shown on the existing condition landscape plans attached hereto, a landscape buffer is provided on all sides of the Property to buffer noise and to ensure the peaceful use and enjoyment adjacent owners' private property. The Applicant also constructed a 60-inch tall metal picket fence along the perimeter of the Property and installed security floodlights, as required by the prior BZA Orders. Gates to the playing field are kept locked whenever the field is not in use by the school or other authorized party, and as shown on the existing conditions photographs and drawings attached hereto, no permanent recreational structures have been constructed on the field.

In addition to the physical attributes of the playing field, the School requires that its physical education teachers, coaches, and playground monitors help to moderate any potential noise and any disturbance resulting from playground activities. Consistent with the prior BZA Orders and as shown on the campus site plan, the primary means of access to the field for students in grades 1-8 is through the alley. Only students in kindergarten access the field from the Patterson Street entrance.

The Applicant does not intend to change the manner in which it uses the playing field, including the types of activities, maintenance, operation, access, or hours of use. Thus, the status quo will be maintained because the playing field will continue to operate without creating any objectionable conditions to nearby properties.

**D. Compliance with the General Special Exception Standards of 11-X DCMR § 901.2**

Consistent with 11-X DCMR § 901.2, the proposal to continue the use of the playing field on the Property is 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.

As stated above, the use of the Property as a playing field is consistent with the R-1-B zone and does not create any adverse conditions. The playing field is adequately buffered with landscaping and secured with a fence, locked gate, and lighting. The playing field is used only during the times of day, for the authorized activities, and by the maximum number of students permitted by the prior BZA Orders. The School maintains the field in good condition as it relates to landscaping and trash removal, and requires its faculty and staff to moderate any potential noise or disturbances resulting from playground activities. Accordingly, due to the physical and operational upkeep of the field, the continued use of the Property as a recreational playing field is in harmony with the purpose and intent of the Zoning Regulations and Zoning Map and will not adversely affect the use of neighboring property.

### **III. COMMUNITY ENGAGEMENT**

The Property is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 3G. The Applicant has communicated with the ANC Single Member District (“SMD”) Commissioner for the Property multiple times regarding use of the field and the filing of this application. The Applicant anticipates presenting the application at the ANC’s October, 2021 public meeting. The Applicant will continue to work with the ANC and other community residents and stakeholders and provide an update to the Board prior to the public hearing on this case.