



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

August 27, 2003

Joe Hoover
USD 259
3850 N. Hydraulic
Wichita, KS 67219

RE: BZA2003-44 – Variance to Section III-C.5.f.(4)(d)(3) of the Unified Zoning Code pertaining to the intensity and occupancy of buildings located within the Airport Overlay District on property zoned “SF-5” Single-family Residential. Generally located at the southwest corner of Gouverneur and Apache Drive.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on August 26, 2003, this resolution reflects the official action of the Board to grant your requests and sets out the conditions of approval. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421

Sincerely,

Scott Knebel
Assistant BZA Secretary

SK/rms

CC: Susan Schlapp, WCC, District II, Mail Stop 1-13
Donte Martin, N.A. II, Mail Stop 1-13
Sharon Dickgrafe, Law Department, Mail Stop 1-132
J. R. Cox, OCI, 1-72

BZA RESOLUTION NO. 2003-00044

WHEREAS, USD 259 c/o Joe Hoover, (owner/applicant) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to Section III-C.5.f.(4)(d)(3) of the Unified Zoning Code pertaining to the intensity and occupancy of buildings located within the Airport Overlay District on property zoned "SF-5" Single-family Residential and legally described as follows:

Block 15, in Replat of Part of Eastridge, an Addition to Wichita, Kansas, Sedgwick County, Kansas, and part of Block 17 in said Replat of Part of Eastridge described as follows: Beginning at the Northeast corner of said Block 17; thence South 122 feet; thence with an angle of 77 degrees and 40 feet to the right for a distance of 118.7 feet; thence Southwesterly 410.3 feet more or less to a point on the Northerly line of Cottonwood Lane extended, said point being 123 feet to Royal Road; thence Northeasterly and East to the place of beginning, and together with the vacated street described as Royal Road from the Northeasterly line of Cottonwood Lane to the West line of Gouverneur Road, as platted in said Replat of Part of Eastridge, and as vacated in Deed Book 831, Page 205 and in Deed Book 834, Page 347, and on Film 170, Page 114. Generally located at the southwest corner of Gouverneur and Apache Drive.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of August 26, 2003, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique. It is the opinion of the Board that this property is unique, inasmuch as the property is developed with an elementary school that is subject to the Airport Overlay District. The subject property is the only school property located with the Airport Overlay District.

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. It is the opinion of the Board that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as this site has been an elementary school for many years, the size of the addition is small in comparison to the existing school and the overall school site, and the addition is to be setback 80 feet at the closest point from the property line.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of the Board that the strict application of the provisions of the Airport Overlay District will constitute an unnecessary hardship upon the applicant, inasmuch as the addition is being made to enhance the educational experience of the school's students. Student population could increase whether the addition is completed or not.

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. It is the opinion of the Board that the requested variance would not adversely affect the public interest, inasmuch as the school already exists, the addition is small when compared to the existing improvements, the addition is being constructed to improve the quality of facilities and educational experience of the existing student body and the proposed addition meets all the other requirements of the Airport Overlay District.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance. It is the opinion of the Board that the granting of the variance requested would not oppose the general spirit and intent of the Airport Overlay District inasmuch as the addition will not significantly contribute a concentration of large numbers of persons under the runway takeoff and approach paths. The concentration of persons at the school is a pre-existing condition that will not change significantly by the granting of the variance.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

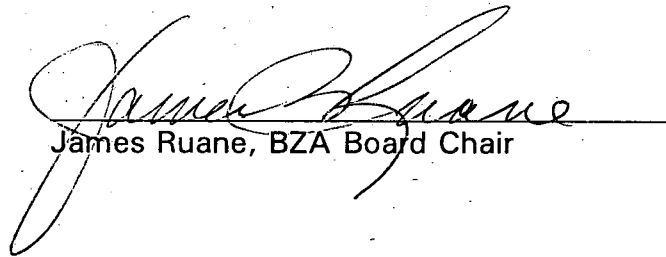
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that a variance to Section III-C.5.f.(4)(d)(3) of the Unified Zoning Code be granted to permit an expansion of a school building for general occupancy within Airport Overlay District III – North on property zoned "SF-5" Single-family Residential and legally described as follows:

Block 15, in Replat of Part of Eastridge, an Addition to Wichita, Kansas, Sedgwick County, Kansas, and part of Block 17 in said Replat of Part of Eastridge described as follows: Beginning at the Northeast corner of said Block 17; thence South 122 feet; thence with an angle of 77 degrees and 40 feet to the right for a distance of 118.7 feet; thence Southwesterly 410.3 feet more or less to a point on the Northerly line of Cottonwood Lane extended, said point being 123 feet to Royal Road; thence Northeasterly and East to the place of beginning, and together with the vacated street described as Royal Road from the Northeasterly line of Cottonwood Lane to the West line of Gouverneur Road, as platted in said Replat of Part of Eastridge, and as vacated in Deed Book 831, Page 205 and in Deed Book 834, Page 347, and on Film 170, Page 114. Generally located at the southwest corner of Gouverneur and Apache Drive.

The variance is hereby **GRANTED**, subject to the following conditions:

1. The site shall be developed as depicted on the approved site plan.
2. The applicant shall obtain all permits necessary to construct the addition.
3. The resolution authorizing the variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 26th DAY of AUGUST 2003.


James Ruane, BZA Board Chair

ATTEST:


Scott Knebel, BZA Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 6
August 26, 2003

SECRETARY'S REPORT

CASE NUMBER: BZA2003-00044

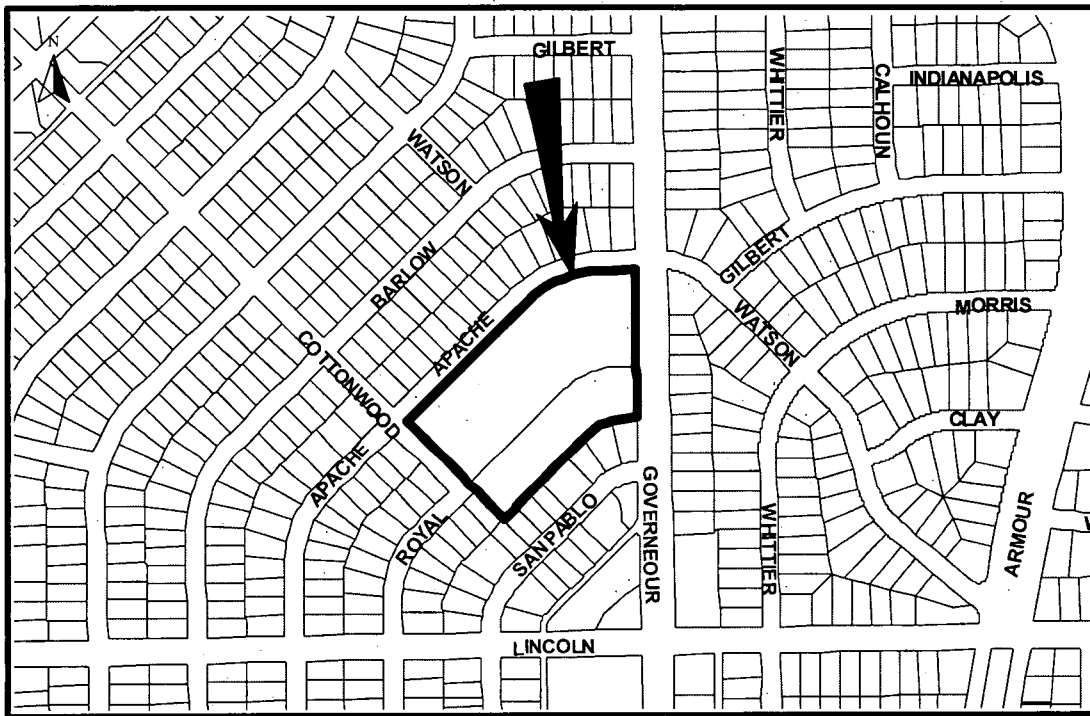
OWNER/APPLICANT: USD 259, c/o Joe Hoover

REQUEST: Variance to Section III-C.5.f.(4)(d)(3) of the Unified Zoning Code pertaining to the intensity and occupancy of buildings located within the Airport Overlay District

CURRENT ZONING: "SF-5" Single-family Residential

SITE SIZE: 6.07 Acres

LOCATION: Southwest corner of Gouverneur and Apache Drive



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The subject property is located at the intersection of Gouverneur and Apache Drive. The subject property is zoned "SF-5" Single-family Residential, and is currently developed with Clark elementary school. The applicant is requesting a variance to Section III-C.5.f,(4)(d)(3) of the Unified Zoning Code. This section of the code deals with the Airport Overlay District that regulates the type and intensity of uses located on property located within the Airport Overlay District. In general, the purpose of these regulations is to protect both the public, and the mission of the airbase, by establishing maximum concentrations of people located beneath the takeoff and approach paths of the airbase. In this case, the applicant is seeking to expand the size of the existing building. The Code section from which the variance is requested states, "Any use or building may be expanded so long as the total expansion of the use or building or lot area: Is intended as an accessory use for storage, warehousing, or other similar low occupancy use." The applicant proposes to add approximately 6,000 square feet of classroom space in order to improve the school as illustrated on the attached site plan. Since the addition will contain classrooms and will be occupied by students, the addition is not permitted by the Airport Overlay District because the addition is not for storage, warehousing, or other similar low occupancy use. The applicant's attached justification indicates that there are at present no plans to significantly increase the school's enrollment. The applicant anticipates that 15 new students will attend the school when compared to last year's enrollment.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-5" Single-family Residential	Residences
SOUTH	"MF-29" Multifamily Residential	Residences
EAST	"MF-29" Multifamily Residential	Residences
WEST	"SF-5" Single-family Residential	Residences

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as the property is developed with an elementary school that is subject to the Airport Overlay District. The subject property is the only school property located with the Airport Overlay District.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as this site has been an elementary school for many years, the size of the addition is small in comparison to the existing school and the overall school site, and the addition is to be setback 80 feet at the closest point from the property line.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the Airport Overlay District will constitute an unnecessary hardship upon the applicant, inasmuch as the addition is being made to enhance the educational

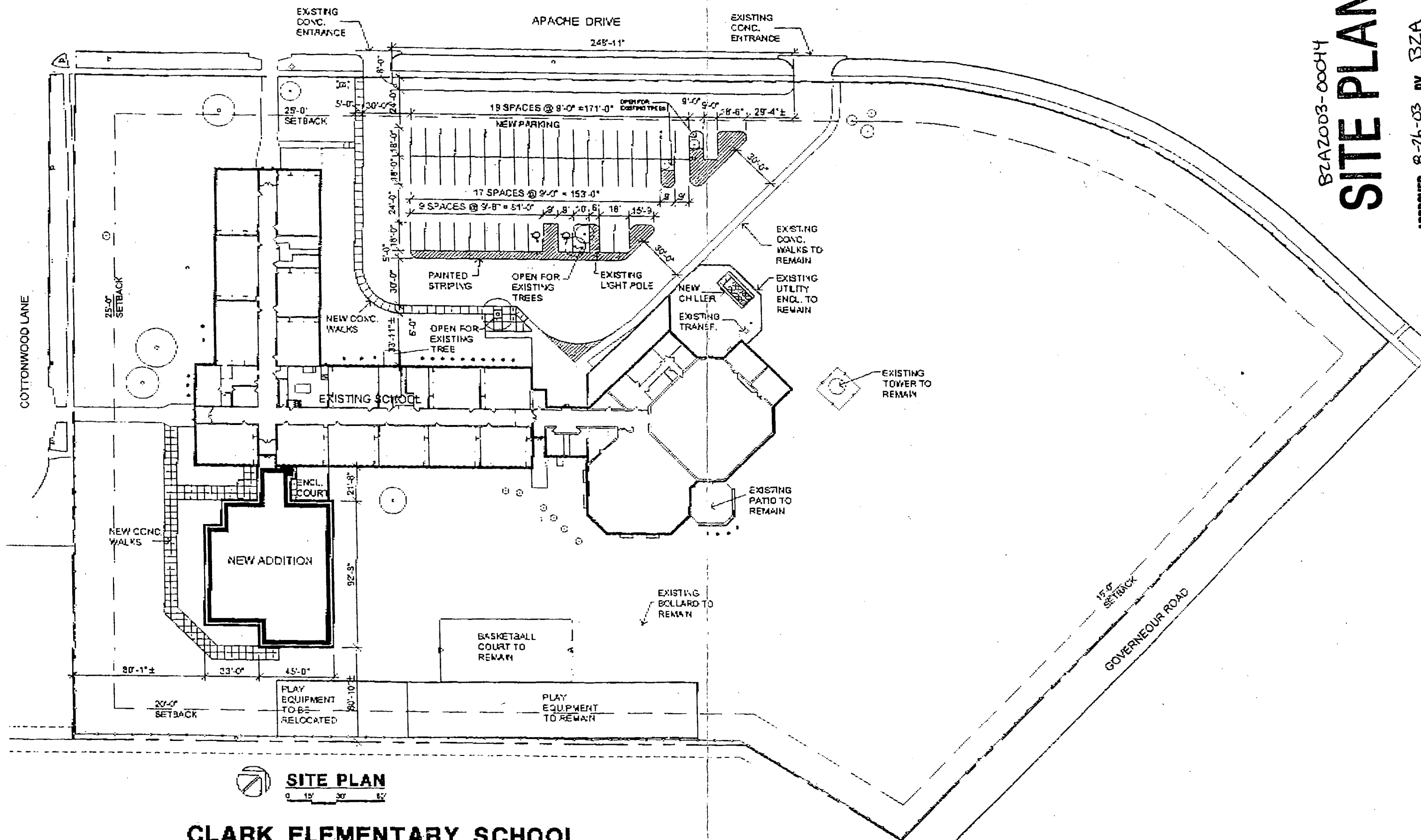
experience of the school's students. Student population could increase whether the addition is completed or not.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the school already exists, the addition is small when compared to the existing improvements, the addition is being constructed to improve the quality of facilities and educational experience of the existing student body and the proposed addition meets all the other requirements of the Airport Overlay District.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not oppose the general spirit and intent of the Airport Overlay District inasmuch as the addition will not significantly contribute a concentration of large numbers of persons under the runway takeoff and approach paths. The concentration of persons at the school is a pre-existing condition that will not change significantly by the granting of the variance.

RECOMMENDATION: It is staff's opinion that the variance requested is appropriate for the intended purpose of minimizing loss of life and damage in the unlikely event of a plane crash. Should the Board determine that the five conditions necessary for the granting of the variances exist, and then it is the recommendation of the Secretary that the variance be GRANTED, subject to the following conditions:

1. The site shall be developed as depicted on the approved site plan.
2. The applicant shall obtain all permits necessary to construct the addition.
3. The resolution authorizing the variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.



 **SITE PLAN**
0 15' 30' 60'

CLARK ELEMENTARY SCHOOL
7000 COTTONWOOD LANE

BZA2003-0004
SITE PLAN

APPROVED 8-26-03 BY BZA