

**Testimony of George E Watson Representing
The Wesley Heights Historical Society**

**BOARD OF ZONING ADJUSTMENT
District of Columbia**

CASE NO. 18659
EXHIBIT NO. 38

BZA Case 18659

November 19, 2013

I am writing in opposition to granting a variance/special exception to Andreas Xenophontos and Elodie Goirand for their already mostly-completed construction at 4540 Lowell Street in Wesley Heights. I am George E Watson, representing the Wesley Heights Historical Society. I have lived for 44 years at 4323 Cathedral Avenue, a few blocks from the 4500 block of Lowell Street. I am a founding member and current president of the Wesley Heights Historical Society. I want to present some history of the founding of the Wesley Heights Historical Society and of the Wesley Heights Overlay District adopted by the DC Zoning Commission July 13, 1993 “to preserve and enhance the low density character of Wesley Heights.” That history is highly relevant to the circumstances of the present case before the BZA.

Wesley Heights was developed by the WC & AN Miller Company starting in the mid 1920s as an upscale, low-density residential community for families that commuted to work in the District or nearby suburbs by private cars.

In the late 1980’s, a group of neighbors became concerned about overbuilding in Wesley Heights when some developers began acquiring and adding to smaller homes or razing and replacing them with much larger structures. The neighbors held a number of open meetings leading to the formation of the Society in 1989. Of particular concern was the acquisition by the Kettler Company of two adjacent 7500-square foot lots with small homes (one was a one-story bungalow) on the 4400-block of Klinge Street. They razed the small structures and built very large mirror-image “box car” brick homes that towered over their neighbors. One impacted family was so overpowered by the house next door that they sold

their home and moved to Bethesda. The new owner doubled the size of the house in back and added a library in front with a two-story Palladian window echoing a design feature of the twin boxcars.

A neighbor across the Klinge Street from the boxcars was the late Arnold Kronstadt, an architect and professor in the Architecture School at Catholic University. A working group under his leadership formulated the Wesley Heights Zoning Overlay District that consisted of three provisions: reduction of **lot occupancy** from 40% to 30%, **limitation of livable floor space** in a residence (**floor area ratio**) and, a first for the District, a block by block limitation of **front-yard setback** based on the average setback of homes on each side of every block existing on July 13, 1992.

The provisions had the “full-fledged support of the residents” in a poll conducted by the local citizens’ association and DCRA; they were adopted by the Zoning Commission and are now part of the Zoning Code (DC Municipal Regulations 11).

There is an issue involving the Wesley Heights Overlay District of the DC Zoning Code with the new construction at 4540 Lowell Street, namely the entranceway/powder room that is now in violation of the side yard provision of the DC zoning regulations and the WHOD front yard setback.

The Overlay has a unique, block by block average setback provision to preserve the streetscape and “the current density of the neighborhood.” This is the only such front yard setback in the DC Zoning Code (and, as far as we could determine at the time we formulated it, anywhere in the US). Our neighborhood Wesley Heights Historical Society was very proud that the Zoning Commission adopted our Overlay for the DC Zoning Code in 1992. The three purposes of the Overlay stated briefly in the preamble are to:

- (a) Preserve in general the current density of the neighborhood;**
- (b) Allow reasonable opportunities for owners to expand their dwellings; and**
- (c) Preserve existing trees, access to air and light, and the harmonious design and attractive appearance of the neighborhood.**

DC Zoning Administrator Matthew LeGrant has determined that the original Xenophontos/ Goirand house that was torn down was a “raze” so that there was no “grandfathering” of the front entrance/porch footprint and any new construction. In particular, the new powder room, had to be in conformity with the all the side yard setbacks of the DC Zoning Code and the front yard setback restrictions of the Wesley Heights Zoning Overlay.

The original front porch was open, with no side walls and let low, early morning sunlight from the east onto the Bakers’ front yard and living room. The newly constructed “powder room,” on the other hand, has enclosed walls and a changed roof line that lets through no light to the Baker’s yard. This is hardly “little or no effect on the [Bakers’] light and air and privacy” as claimed in Martin Sullivan’s October 29 letter of rebuttal to Mrs. Sally Baker’s October 2 presentation to the ANC. Mr. Sullivan suggested in his letter that the powder room could have easily been installed somewhere else on the first floor.

There are additional issues that were presented to ANC3D at the October 2 Meeting concerning the intended razing of the existing one-car garage and utilization of the existing two-story “carriage house” in the backyard. Mr. Xenophontos said he intended to raze the garage to reduce the footprint of the resulting two structures on

the lot to conform to the 30% lot area coverage allowed in an R1B zone.

Mr. Xenophontos also told the ANC that he intended to rent the new large main house to an embassy and that he and his wife would move into the small, two-story “carriage house” in the back yard. Matthew LeGrant, however, told some of the ANC3D Commissioners at an *ad hoc* October 24 meeting at American University that the 4500 block of Lowell Street is zoned for single family occupancy and that two unrelated families could not live on the same lot. The carriage house does not qualify as a two-story garage on an alley (there is no alley) that may be used by an owner for housing “domestic servants” under the DC Zoning Code. The fact that Xenophontos/Goirand are planning not to use the newly constructed house as their residence calls into question whether they still qualify as owners wanting “to expand their dwelling.” It seems rather that they now are “developers.” This is just the sort of Kettler developer building enlargement that first prompted our neighborhood to ask for the WHOD.

The Xenophontos/Goirand family has lived in the original house at 4540 Lowell Street for the past 18 years. The Bakers bought their home on the adjoining lot to the west in 2005 with the reasonable expectation that the *status quo* would remain as far as the structures on the Xenophontos/Goirand lot so that they would be able to enjoy their small backyard patio and garden. The Bakers’ lot is very small, only 75 feet wide and 50 feet deep (area 3750, square feet, less than the minimum R1B lot size of 5000 square feet). The original Xenophontos/Goirand house was two stories and less than 50 feet long, leaving a few feet open in the backyard allowing some morning and midday sun to light the Bakers’ patio/garden. The new structure is much higher, three stories, about 40 feet with the roof, completely shutting off all east sunlight from the Bakers’ yard. There are privacy and air issues as well. And the Xenophontos/Goirand planned placement of air

conditioning condenser and pump in the side yard right in front of the Bakers' dining room and kitchen windows promises objectionable noise. This does not seem to me to conform with the preamble sentences in the WHOD text that I have quoted here. For these reasons, I recommend that the Board of Zoning Adjustment deny BZA Application No. 18659 and consider further whether the new construction is also in violation of the intent and purpose of the WHOD.