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September 8, 2014

BY ELECTRONIC MAIL

Ms. Gayle Trotter, Chair
Ms Penny Pagano, SMD06
Advisory Neighborhood Commission 3D
P O. Box 40846 Palisades Station
Washington D C 20016
Re: BZA Application No 18708
4509 Foxhall Crescents Drive, N W
(Lot 960, Square 1397)

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Dear Ms Trotter, Ms Pagano and Fellow ANC Commissioners

I am writing to provide additional information regarding my application to the Board of Zoning Adjustment (BZA) regarding application 18708 to build a home on the lot I own at 4509 Foxhall Crescents NW. Most of the background information was presented on this matter at the May 7 ANC 3D meeting. This letter is intended to update that information. See May 7 Letter to ANC 3D – attached as Exhibit A.

In December 1993, the ANC 3D voted in favor of **BZA Application No. 15882**, brought by Gene and Patricia Godley, to build a home on this same lot, citing that “no verbal or written evidence had been presented that would in any way limit or prohibit the applicant from using the land as requested.” See **December 8, 1993 ANC 3D letter, attached as Exhibit B**.

In January 1994, the BZA approved Application No 15882 of Mr and Mrs Godley on behalf of a contract purchaser for a special exception to allow construction of a detached single-family dwelling on the Property. See **BZA Order No. 15882, attached as Exhibit C**. The approved single-family dwelling had four bedrooms and a 3 car garage with approximately 7,040 SF of living area. The Board made the following findings of fact

1. There are no restrictive covenants on the lot that prohibit construction of a single-family dwelling on the lot
2. The applicants meet all of the substantive requirements of section 2516 of the Zoning Regulations
3. The proposed single-family project meets and exceeds all zoning requirements for lot area, lot width, lot occupancy, parking space, front yard, rear yard and side yard
4. The applicants, by commissioning engineering studies, have made reasonable efforts to ensure that ground water seepage, water runoff and soil erosion resulting from hilly terrain of the area will not adversely impact adjacent homes
5. The project will not impair public safety or the urban design of the area
6. In the absence of documentary evidence of a restrictive covenant, depriving the applicants the right to develop on this lot may constitute a taking

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18708
EXHIBIT NO. 41

Board of Zoning Adjustment
District of Columbia
CASE NO.18708
EXHIBIT NO.41

The Board's approval was specifically subject to the following conditions:

1. The proposed residence shall be constructed in a manner that shall control stormwater runoff and ground water seepage during and after construction
2. The hours of construction shall be between 7 00 a m and 6 00 p m Monday Through Friday
3. Construction shall not be performed on Sunday, except in an emergency
4. All equipment, materials and receptacles associated with the construction shall be located on the premises, unless written consent is obtained from the Homeowners' Association or those surrounding property owners

See Transcript of BZA 15882, attached as Exhibit D, which supports the foregoing

I bought the lot in 2002, intending to build my home there. My plans changed, however, and the single-family house approved in BZA Order No 15882 was never constructed

It is important to note that the subdivision plans approved for Foxhall Crescents included a home on the lot at 4509. It is also noteworthy that the home proposed by Mr and Mrs Godley and approved by both the ANC and BZA was similar to those in the Foxhall Crescents, but it was not based on original plans for the neighborhood and was much larger than the homes built there

The single-family dwelling proposed in the application now before the ANC and BZA is fully consistent with the original Master Plan for the property in this phase of the Foxhall Crescents project. The Contract Purchaser is proposing a house design based on the actual plans of the house intended to be built on this lot. The planned home is similar to the "Type 6" house originally planned by architect Arthur Cotton Moore, with the architectural design of limestone and brick, which is unique to the original Foxhall Crescents

The following comparison of the home approved by the ANC and BZA in 1994 and the one proposed in Application 18708 may assist the Commission

	<u>Approved BZA 15882</u>	<u>Proposed BZA 18708</u>
Lot Area	13,516 sf	13,516 sf
House size	7,040 sf	5,304 sf
Lot Occupancy (40% maximum)	13%	13%
Impervious surface	33%	25%

Mr Godley proceeded to obtain both ANC and BZA approval prior to obtaining approval from the Foxhall Crescents Homeowners Association (FCHOA), and we are following the same path. The issues of the FCHOA are outside the purview of the ANC and BZA

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Mr Jacobsen, a reputable builder would like to build the proposed home on my lot. We have been in discussions with the FCHOA for over two years. It is clear that Mr. Godley wanted approval of a home built on the 4509 lot when it suited his purpose, but upon selling the lot, he and other surrounding neighbors have resisted the notion of a home being built on the lot, even if it is the exact home that was intended to be built on that lot. Thus, our efforts to meet the needs of the FCHOA board, which Mr. Godley chairs, have been difficult, but we believe agreement is possible.

Update on current communications with the FCHOA on major issues:

- **Stormwater/Drainage concerns** – The engineering/drainage study presented with BZA 15882 has been updated and reviewed by two engineering firms. In addition, a proposed site grading plan package with infiltration trench and an accompanying letter from the civil engineer were presented to the FCHOA. Both were rejected as "insufficient" with no reason provided. The FCHOA then demanded that only an engineer approved by them be hired.
- **Driveway/Turnaround extension** – FCHOA stated that a driveway turnaround was mandated, even though none was proposed in Approved BZA 15882. Original Master Plan called for a modified driveway turnaround, if more than one lot was served, which is not the case here. DCOZ Office of Planning has preliminarily said that no turnaround is necessary and that saving the existing trees should be done where possible.

House size concerns - FCHOA has asked that house size be same as originally planned for that lot on approved Development plan. Proposed house size is approximately 5,304 sf, which is considerably less than the house proposed and approved in Approved BZA 15882.

In summary, it is asked that the **ANC Commissioners** recognize the following

- **That HOA approval is not a prerequisite for BZA/ANC approval. The HOA issues are outside the purview of the ANC.**
- **We will continue to work with the FCHOA to reach an agreement.**
- **We are asking for approval for a house exactly where it was always planned, both when the neighborhood plans were originally approved and again by the ANC and BZA in 1993-94.**
- **The house being proposed meets or exceeds all the tests and requirements applicable for construction.**
- **Building this home will have no impact on the neighborhood, as it was always intended to be there.**
- **There will be some disruptions during construction, but these can be mitigated, and we are willing to take the measures necessary.**
- **There is no change in circumstances between the ANC and BZA's previous approvals and now.**
- **The arguments being raised here are not well-founded and stem from a desire for the house not to be there at all.**

Respectfully

Amir Motlagh
Owner