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April 23, 2014

Chairman Lloyd Jordan
Board of Zoning Adjustment
441 4th Street NW, Suite 200 South
Washington, DC 20001

Re: Application number 18738 for change of use to 4527 MacArthur Blvd NW.

Dear Chairman Jordan,

Purpose. The purpose of this letter is to ask for a delay in the BZA hearing on this case till May 13 or 21st. My wife Arden and I represent a group of neighbors who strongly oppose owner Kashani's request for a change of use from single family to multi family. Our analysis of his revised plans submitted on April 14 is that the building is still too massive for our block, out of character with the neighborhood, and most importantly seriously degrades the property value and quality of life for the adjacent property at 4519, owned by Gerald Bemis who is a vocal and passionate member of our neighborhood group.

Rationale. The reasoning behind our request is documented in the chronology below. These events demonstrate that the April 29th hearing precludes final input from the Foxhall Community Citizens Association, from ANC3D and results from the requested traffic study made by the ANC to DDOT. Without these inputs, the case should not come before the BZA for final ruling. Delay would encourage the owner to respond to the neighbor's proposed compromise of two units, which he has ignored.

Chronology. For the case 18738, here is a twenty step chronology of events that demonstrates the owner's neglect of procedures, lack of interest in neighbors' concerns about 4527, and a preference for authoritative decision making over a democratic process and civic responsibility. The chronology tells us we are opposing either a profit hungry developer or an absentee landlord who has no appreciation or concern for the quality of life in the Palisades.

1. June, 2013. BZA considers the change of use from single family to multi family for 4529 MacArthur, the corner lot at MacArthur and Q. They discount the signatures of 120 neighborhood residents on a petition opposing the change, as well as the support of

ANC3D and the board of the Foxhall Community Citizens Association. The Office of Planning approves the application, seeing no appreciable impact on neighbors. DDOT also approves the application, seeing minimal impact on traffic and parking. They offer no data from traffic studies as documentation. As a result, the BZA chair expresses sympathy for neighborhood concerns but pleads limited flexibility under land use rules. The board approves the construction of a four unit apartment building.

2. Nov 7, 2013. S.A Kashani purchases 4527 MacArthur from M. Chevalier through representative N. Shirazi. Oral agreement between the home owner and the developer was to maintain the property as a single family residence. (See letter from M. Chevalier as a separate exhibit.)

3. Feb 6, 2014. Architect A. Ajalli applies to BZA on behalf of owner for change of use to five unit apartment. This approval is required for properties zoned R5A but grandfathered in for single family use in 1958. Note the three month lapse of time from purchase to application. During this period, owner consults with developer Hashim Hassan who won approval for 4529. Contacts Hassan's architect, who declines to design for him. Ajalli then takes the job.

4. Feb 10. BZA schedules hearing on Case 18738 for April 15th.

5. April 1. Deadline for owner to post required notice of public hearing. Owner's representative fails to do so.

6. April 2. ANC3D hears presentation from architect and protest from neighbors. Votes unanimously to oppose the application. Chair recommends postponing the hearing and consulting with neighbors on changes to the plan. Then the ANC could reconsider.

Commissioners also vote to request a detailed traffic study focusing on key times of day from DDOT. A previous request for such a study has gone unanswered.

7. April 5. Architect states in email response to neighbors that owner's representative "has the authority to make changes if necessary" when meeting on owner's behalf.

8. April 8. Architect and representative meet with neighbors at Staroba residence, 4503 MacArthur. Attending were neighbors Alma Gates, Gerald Bemis, Samantha Schneck, Ronald Steinert, and Edward Wilson along with Arden and Frank Staroba.

Representative admits that the oral agreement at time of purchase was to maintain single family use but that owner subsequently changed his mind.

Architect states he was directed by owner to explore all possibilities under the R5A zoning regulations.

Architect hears and lists items of concern: height, front setback, exterior stairway, side entrances, third story, parking and traffic congestion, too many

units. Architect and representative say they must consult with owner before making any decisions, contrary to his statement of April 5th.

9. April 8. ANC3D informs BZA of its decision to oppose the application unless the developer addresses neighbors' concerns and postpones the hearing.
10. April 8. Architect applies to BZA to delay hearing to April 29th, one week before the May 7th ANC meeting, apparently not choosing to seek ANC reconsideration of a revised application.
11. April 8. DC Department of Transport approves the application, citing "minor potential impact" on traffic and parking.
12. April 8. DC Office of Planning approves the application, citing the precedent of approval of change of use for 4529 and stating that "the proposed project should not adversely affect the use of neighboring properties," discounting the impact on real estate value and quality of life for 4519.
13. April 9. Representative submits to BZA an affidavit of posting of hearing notice.
14. April 10. Architect emails ANC3D chair that owner agrees to review most of the concerns except reducing five units.
15. April 14. Architect informs ANC3D that owner will agree to postpone the hearing, remove third story, increase front setback by one foot, move three AC units to roof, reduce height by three feet but **retain five units** -- if ANC will guarantee to support his proposal before the BZA.
16. April 14. ANC chair responds that she does not have authority to make the guarantee and that the ANC will reconsider the application on May 7th if the plans have changed, otherwise she will testify against the project.
17. April 14. Architect submits revised proposal to BZA without informing either the ANC or the neighbors of its details.
18. April 17. Neighbors send proposal to owner offering a compromise on a two unit building which they would find more acceptable than the five unit.
19. April 17. Architect states he has passed the compromise proposal to the owner.

As of April 23rd, the time of this writing, we assume the owner has no intention to communicate further with us or with the ANC. Apparently our proposal for a two unit structure is not even worth acknowledgement much less discussion. What is clear to us from his mode of operating and especially from the responses of planning and transportation (items 11 and 12 above), is that the avalanche of development is beginning in the Palisades.

Specifically, we are concerned with these larger issues:

1. We understand that in the District, oral contracts about real property are not legally binding. However, we believe strongly that ethical standards and simple respect for process and inclusion should have equal weight in the thinking of decision making bodies like the BZA.
2. The Mayor's drive for increased density and mass transit is trumping real consideration of individual property owners' rights and the character of neighborhoods. See chronology item 3 for the power of precedent in BZA rulings. They contribute powerfully to the domino effect of development in mixed use neighborhoods.
3. The Office of Planning specifically is discounting the negative impact of developers' proposals on individual properties such as 4519 MacArthur, as well as on entire neighborhoods. The result is an increasing momentum of development that threatens to turn mixed neighborhoods such as the Palisades into dark urban canyons.
4. The Department of Transportation is giving pro forma attention to what may appear to them as proposals of small scale and little impact. In particular, no response to date for a traffic study of MacArthur and Q which is already a bottle neck intersection.

Conclusion. In light of this history of resistance to neighborhood concerns, ethical lapses and disregard for democratic procedure, we urge you, Chairman Jordan, to postpone the hearing date so that we can provide the BZA with input from all community stakeholders in this case, which has impact well beyond the fate of 4527 and 4519, two single properties like dominoes about to fall.

Arden and Frank Staroba
for the MacArthur neighbors