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September 9, 1997

BY HAND DELIVERY

97 SEP -9 P 3:54
OFFICE OF ZONING
DISTRICT OF COLUMBIA

Ms. Susan Morgan Hinton
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Suite 210
Washington, DC 20001

Re: BZA Application No. 16260
3223 Klingle Road, N.W.
Our File No. 091877.0000

Dear Ms. Hinton and members of the Board of Zoning Adjustment:

On behalf of the following owners of real property in Square 2098 (Ronald M. Costell, Marsha Swiss, David and Ruth Robbins and their neighbors), this letter serves as opposition to the plans of the applicant in Application No. 16260, insofar as the applicants are seeking to alter their residence in a manner which would permit them to build above the present roof line.

Square 2098, the square in which the applicants reside, is located in a portion of Woodley Park known as "English Village." The houses built in this section of the city were constructed in the 1920's by Harry Wardman, a prolific developer whose many residential and commercial buildings have been placed on the District of Columbia's Inventory of Historic Sites. The houses are built as triplex and as duplex row houses. Many trees, gardens and other plantings grace the front and back yards. The character of English Village is one of openness and amplitude to mitigate the loss of space that generally characterizes row house construction.

Each of the houses is subject to a restrictive covenant which provides, in relevant part, that "no building or structure of any kind shall hereafter be erected or constructed on said lot which shall extend beyond the line or lines of the buildings as now located on said lot." Exhibit A. The

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restrictive covenant was placed on the properties at the time of their original construction to preserve the aesthetic character of the new neighborhood being created.

The proposed construction --- an extension of the house above the existing roof line --- will materially violate the express provisions of, and purposes for, the restrictive covenant. It is offensive to the owners of property within the Square and will deprive the property owners of full and quiet enjoyment of their property by adversely impacting light, air and vistas.

Consistent with their actions in the past, earlier this year the owners of property in the Square brought suit to enjoin another property owner from constructing an addition that would violate the essential character of the real property which the covenant was meant to protect. *See Costell et. al. v. Charles R. Ince, et. al.*, Civil Action No. 97CA1829 and the opinion and order issued therein attached hereto as Exhibit B. The Superior Court enjoined the property owners in that case from going forward with their plans.

While the nature of the construction proposed in this case is different than that proposed by the Inces, that aspect of the proposed construction here which is similar concerns the extension of the building line beyond that which is protected by the restrictive covenant affecting the property. We submit that the Board has the authority to preclude the applicants from going forward with that portion of the proposed construction which will extend the roof line since the Board must ensure that "the relief can be granted without substantial detriment to the public good." 11 D.C.M.R. §3107.

We appreciate your time and attention to this matter. A copy of this letter and all attachments has been mailed, postage prepaid, this same day to all persons and parties listed on the Board's certificate of service.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler

cc: Ronald M. Costell, et al.