Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3-D
P.O. Box 40846
Palisades Station
Washington, D.C. 20016

'99 DEC -2 AM 9:52
OFFICE OF ZONING
DISTRICT OF COLUMBIA

November 30, 1999

VIA FACSIMILE and FIRST CLASS MAIL

Ms. Sherri Pruitt-Williams, Secretary
Board of Zoning Adjustment
441 Fourth Street, NW, Room 220
Washington, D.C. 20001

RE: BZA Application No. 16521;
3020 43rd Street, NW

Dear Ms. Pruitt-Williams:

Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting on November 8, 1999 at the Ernst Auditorium, Sibley Memorial Hospital. Notice of this meeting was published in local newspapers, meeting notices were placed in each single member district and were sent to residents of the community at least seven (7) days in advance of the meeting. A quorum (4 Commissioners) was present at all times.

One of the items on our agenda was the above-referenced BZA application filed by Mr. Charles Sisson for special exception and variance relief for the addition previously completed at 3020 43rd Street, NW As the Board is aware, Mr. Sisson's addition involved five (5) separate building permits over a period of ten (10) months, including at least three (3) permits for work that was begun and/or completed prior to seeking the required permits. These five (5) building permits were the subject of BZA Appeal No. 16405 which was granted in June, but no final written decision has been issued. ANC 3D supported the Appeal in numerous filings with the Board and expressed great concerns about the accuracy of the building permit applications submitted by Mr. Sisson as well as the handling of those applications by the Zoning Administrator' s Office.

The Commission heard a brief presentation from Mr. Sisson's counsel, Allison C. Prince, Esq. from Wilkes, Artis, Hedrick & Lane who was appearing on behalf of Maureen E. Dwyer, Esq. The Commission also heard a presentation from Patrick Brown, Esq., counsel for Mrs. Mildred R. Crary, the immediately adjacent property owner and Appellant in the still pending Appeal. Mr. George Watson, President of the Wesley-Heights Historic Society and one of the leading participants in the enactment of the Wesley-Heights Overlay District also provided information. As a result of the information provided, the Commissioner's voted unanimously, 5-0-0 by motion to communicate the following information to the Board:

1. This application for a variance and special exception is premature because the underlying BZA Appeal is still pending with the final written order having not been issued. The

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Board's findings of fact and conclusions of law, which will be set out in the Appeal final order, are critical to defining and considering this remedial BZA Application. Further, Mr. Sisson, through counsel, has indicated his plan to seek reconsideration and/or Court of Appeals review of the BZA Appeal decision. Accordingly, proceeding with this application while the Appeal is undecided is not appropriate and overly burdensome on the community and Board.

2. The BZA application as filed is only three (3) pages long, including the application form, self-certification form and Surveyor's plat and does not provide the specific information required for a complete review by this Commission and other interested members of the community. In this case, self-certification is not a sufficient or appropriate method for determining the zoning relief required, especially without the Board's order in the Appeal and the apparent inconsistencies among the original five (5) building permit applications and the discrepancies with the current Surveyor's plat purportedly showing the completed addition. At the Commission's meeting, Ms. Prince promised to provide to the us and Mr. Brown a copy of a lengthy letter authored by Ms. Dwyer and countersigned by the Zoning Administrator purportedly discussing the zoning issues and relief required. To date, Ms. Dwyer as promised has not provided that letter. Given the uncertain facts and complexity of the many applicable zoning requirements, this application should not proceed until the Zoning Administrator has completed a detailed review and issued the customary detailed Zoning memorandum to the Board.

3. The Commission is greatly concerned about the negative impact of this case on Mrs. Crary, the immediately adjacent neighbor, and on the Wesley Heights Overlay District which was enacted by the Zoning Commission with this Commissions' active support to directly address important issues involving the character of the neighborhood.

4. This application, at a minimum involves at least one if not other violations of specific and integral provisions of the Wesley Heights Overlay District. Granting a variance or other zoning relief in violation of the overlay district would set a very dangerous precedent for future development, particularly involving after-the-fact approval of improvements constructed without the proper permits.

Thank you for your cooperation and affording the Commission the"great weight" to which it is entitled by law. The Commission looks forward to continuing its long-standing involvement in this case and further opportunity to comment on this application when it is ripe for consideration by the Board after the Appeal has been finalized and a Zoning memorandum produced which provides a specific and detailed review of the applicable Zoning Regulations and zoning relief required.

Sincerely,

Eleanor Roberts Lewis
Chair, ANC3D

cc:John Patrick Brown, Jr., Esq.
Mr. George Watson, Wesley Heights Historical Society
Mr. William Harrop, Spring Valley - Wesley Heights Citizens Assoc.
Maureen E. Dwyer, Esq.