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

DEC 1 1 58 AM '00

November 28, 2000

BY FACSIMILE

Ms. Sheila Cross-Reid
Chairperson
Board of Zoning Adjustment
441 Fourth Street, N.W.
Room 210
Washington, D.C. 20001

BZA
Case No. 16521
Exhibit No. 68

Re: BZA Application No. 16521
3020 43rd Street, N.W.

Dear Ms. Reid:

Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting on Wednesday, November 1, 2000 at the Ernst Auditorium, Sibley Memorial Hospital. Notice of this meeting was published in a local newspaper and 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 (3) was present at all times.

At this meeting, the Commission heard a brief update from Commissioner Stephen Griswold, Mr. George Watson, President of the Wesley Heights Historical Society, and Patrick Brown, counsel for Mrs. Mildred R. Crary, regarding the events at the October 16, 2000 Board hearing. Mr. Sisson's counsel was invited to attend this meeting and also make a presentation, but declined to do so.

As a result of the information provided and the Commission's long-standing participation in the underlying Appeal No. 16405 and this remedial application which has been pending for more than one year, the Commission voted unanimously, 5-0-0, by motion to oppose Application No. 16521 and provide the following additional information to the Board. The Commission expressly incorporated its earlier filings in

Board of Zoning Adjustment
District of Columbia
CASE NO.16521
EXHIBIT NO.68

this matter, including specifically its October 6, 2000 letter to the Board, which is attached.

In addition to the previously filed information, the Commission made the following conclusions:

1. The District's issuance of yet a sixth building permit at this late date was regrettable and questionable under the circumstances, including the five (5) previously invalid permits and the substantial work done without permits and beyond the scope of the permits issued.

2. The covered porch which was originally built illegally, is not a de minimis or trivial matter, but is at the heart of the Wesley Heights Overlay District. Strict compliance, particularly under the circumstances in this case is required, including removal of the roof covering the porch. In this case, failure to strictly enforce the front yard setbacks of the Wesley Heights Overlay District would be inconsistent with the surrounding neighborhood and in effect reward Mr. Sisson for his established and repeated misconduct. This type of covered front porch is highly unusual in the immediate vicinity and throughout Wesley Heights.

3. The covered porch should not be reviewed in isolation, but in the context of the overall impact of the illegally constructed improvements. Again, limiting the review to the isolated issue of a covered porch fails to take into account the totality of circumstances.

4. At the December 5, 2000 hearing, Commissioner Stephen Griswold is authorized to appear and provide testimony on behalf of the Commission, if he is available.

Thank you for the Board's long-standing cooperation and patience in this matter and for affording the Commission the "great weight" to which it is entitled under D.C. law.

Sincerely,

Eleanor Roberts Lewis
Chairperson, ANC 3D

cc: John Patrick Brown, Jr., Esq.
Mr. George Watson, Wesley Heights Historical Society
Mr. William Harrop, Spring Valley-Wesley Heights Citizens's Assoc.
Mr. Michael D. Johnson, zoning Administrator
Allison C. Prince, Esq.

October 6, 2000

Ms. Sheila Cross-Reid
Chairperson
Board of Zoning Adjustment
441 Fourth Street, N.W.
Room 210
Washington, D.C. 20001

Re: BZA Application No. 16521
3020 43rd Street, N.W.

Dear Ms. Reid:

Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting on Monday, September 11, 2000 at the Ernst Auditorium, Sibley Memorial Hospital. Notice of this meeting was published in a local newspaper and 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 (3) was present at all times.

At this meeting, the Commission heard presentations from the Applicant, Mr. Charles Sisson, Mrs. Mildred R. Crary (the immediately adjacent neighbor and successful Appellant in the underlying BZA Appeal No. 16405) and her counsel, and Mr. George Watson, President of the Wesley Heights Historical Society and one of the leading participants in the enactment of the Wesley Heights Overlay District. As a result of the information provided and the Commission's long-standing participation over the last two (2) years in the underlying Appeal No. 16405 and this remedial Application, the Commission voted unanimously, 5-0-0, by motion to OPPOSE Application No. 16521 and provide the following information to the Board:

1. The Commission endorses the Board's detailed findings of fact and conclusions of law in BZA Appeal No. 16405, including that the five (5) building permit applications were filed piecemeal and were misleading, incomplete and inconsistent and that Mr. Sisson performed substantial work without building permits and beyond the scope of the permits that were issued.

2. This remedial Application remains premature for action by the Board because Mr. Sisson's challenge of the Board's decision in BZA Appeal No. 16405 is still pending in the D.C. Court of Appeals.

3. This Application is also not ready for consideration by the Board because it is inconsistent with the Board's written decision in BZA Appeal No. 16405 and incomplete because it fails to identify all the required zoning relief for the illegally constructed improvements. Consideration of this Application by the Zoning Administrator, this Commission and the Board has been delayed and hampered by Mr. Sisson's filing and attempting to process an admittedly incomplete and constantly changing Application.

4. This Application is incomplete because it fails to include the following required zoning relief:

a. Side Yard Variance: Mr. Sisson has belatedly admitted that the side yard for the original structure abutting Mrs. Crary is less than the 5.0-foot minimum and that as a result, the side yard for the rear addition is less than the 8.0 foot minimum. This is confirmed by the Zoning Administrator's most recent Zoning Computations without any reference to a waiver of the applicable requirement. No waiver of that minimum 5.0 foot side is appropriate.

b. Driveway Access: In its Appeal Order 16405, the Board found that Mr. Sisson's 8-foot-wide private driveway did not meet the minimum width required and a permit for the new two-car garage should not have been issued if the required access was not provided.

c. Off-Street Parking: Without the required driveway access, the parking provided by Mr. Sisson is not in compliance with the Zoning Regulations, and does not satisfy the off-street parking requirement.

5. Beyond the substantially incomplete nature of this remedial Application, Mr. Sisson has not satisfied the difficult variance standards.

6. Mr. Sisson's need for this remedial Application is an entirely self-created hardship. No legitimate practical difficulty or hardship exists. Having submitted five (5) permit applications which were found misleading, incomplete and inconsistent and having constructed the illegal improvements without the required permits or beyond the authorized scope of permits which were issued, Mr. Sisson cannot seek reward or benefit from those actions.

7. Each of the illegally constructed improvements (front porch, rear addition and garage) could have been constructed (although smaller) in full compliance with the Zoning Regulations and without the extreme negative impact on Mrs.Crary and the Wesley Heights community.

8. Approval of this remedial Application will undermine the integrity of the Zoning Regulations and the zoning enforcement process in general, and the Wesley Heights Overlay District ("WHOD") in particular. The requested front yard and lot occupancy variances are substantial (28.5% and 16.0%, respectively) and undermine the fundamental elements and purpose of the WHOD as enacted by the Zoning Commission. Cumulatively, the five (5) variances required and/or requested constitute an across-the-board and dramatic departure from the strict application of the Zoning Regulations and the safeguards for Mrs. Crary and the community, which were specifically established.

9. At the October 17, 2000 hearing, Commissioner Stephen Griswold is authorized to appear and provide testimony on behalf of the Commission if he is available.

Thank you for the Board's long-standing cooperation and patience in this matter and for affording the Commission the "great weight" to which it is entitled under D.C. law.

Sincerely,

Eleanor Roberts Lewis (born)

Eleanor Roberts Lewis
Chairperson, ANC 3D

cc: John Patrick Brown, Jr., Esq.
Mr. George Watson, Wesley Heights Historical Society
Mr. William Harrop, Spring Valley-Wesley Heights Citizen's Assoc.
Mr. Michael D. Johnson, Zoning Administrator
Allison C. Prince, Esq.