Mildred Rodgers Crary

BZA.MRC2.5Dec00

My objections to what Mr. Sisson has done to the nice four-bedroom Cape Cod on the very small lot next door to my house are aesthetic, financial, and legal.

Aesthetic concerns:

Contrary to what Mr. Sisson alleged at the October hearing, his alterations and additions to the front of the house and violation of the front property line set-back do **not** make it similar to and consistent with the architectural style of the other houses on the street. Not a single house on this segment of 43rd Street nor on the entire length of New Mexico Ave. has a large front porch, violating the set-back law, and a showy front. This ostentatious monstrosity occupies what looks like the smallest lot in the neighborhood. The only porch anywhere near is on Hawthorne on the old, grandfathered Reston house, which is set well back; its porch is hidden from the street by a fence and bushes.

I continue to support the Wesley Heights Historical Society and the Spring Valley-Wesley Heights Citizens' Association in their objection to Mr. Sisson's failure to comply with the legal requirements of setback and nature of the new covered front porch at 3020 43rd St..

Speaking of aesthetics, the yard and front sidewalk are cluttered with leaves and debris, and in the summer the yard was full of weeds and high grass. A delapidated truck, with a flat tire on the left front wheel, no front license plate, and with papers and junk piled high obstructing the view through the windshield has been parked in the back yard a long time. Minimal care at least should be taken of those aspects of the property which affect the neighborhood.

Financial concerns:

When we bought our house, with its double lot, in 1969, our long-range plans including possible alterations of our house or building of a swimming pool. In any case, these possibilities would contribute

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to the property's resale value. We understood that the alley leading from Hawthorne to our south property line was a true alley. It would be the only way to bring construction equipment or bulky landscaping materials (mulch, fertilizer, trees) to the back half of our lot, because the driveway ends in a wall and staircase up to the back yard, and on the north side our trees and the north neighbors' fence and trees would have to come down.

We thought the alley was a public right-of-way. The Devans, who owned the 3020 43rd house, referred to it as the alley (and Winifrede did so again to me this past summer). Mary Devan, who returned to live there when she got ill, complained that the garbage was no longer collected from the alley as it used to be, and on the strength of that she persuaded the solid waste collection men to come up the 10 or 12 steps to the front walk to get the garbage cans and to return them to the top of the steps. The neighbors on Hawthorne circle — and anybody else who wanted to do so — regularly used the alley to reach the rear of the Devan property or ours and cut across to 43rd St. Joel Buchwald from down in Hawthorne circle told me just last week that he used to cut across my back yard. When the Devans' old dog died and they got a new one, they put up a chain-link fence to keep it in the back yard with gates at the rear to the alley and on the hillside of my driveway, as Winifrede explained to me, to be sure that everyone felt free to cross their yard. The Devans were good neighbors. And all the children, including my son, loved to sled down the alley in winter; I have done it myself.

In other words, the existence of the alley contributed to the value of our property.

I first heard someone say that it was not a true alley in the fall of 1998, but it was not until Mr. Sisson had the old garage torn down (without a permit) and a large garage built (without a permit) — **and that new garage blocked any possible access of construction equipment to my back yard** — that I realized how detrimental that was to resale value of my house.

My second financial concern was that of taxation. We had already seen the work of speculators who converted family homes in Wesley Heights into massive multi-million-dollar buildings, thereby inflating the neighborhood assessments. And along came my new assessment, resulting in heavily increased real estate taxes. Real estate assessments are made on the basis of improvements to property and comparison with "comparables." No improvements have been made to my property, and Mr. Sisson's construction has in fact diminished the value of my property for reasons stated above. However, beginning in 1999 my assessment is increasing over three years by $100,000 a year to a total assessment increase of $300,000, that is, approximately 75% increase; and the conclusion cannot be avoided that Mr. Sisson's grandiose conversion of a solid Cape Cod house into a grotesquely situated mansion must have influenced the $300,000 increase in my assessment.

There are, of course, the heavy expenses of initiating and continuing my efforts to persuade the zoning authorities to make Mr. Sisson legally regularize his position with regard to zoning. I had believed the BZA was the ultimate authority in the matter. So I thought that it would cost me less to pay my lawyer now than it would cost to be paying higher and higher taxes over the long years.

Legal concerns:

I keep wondering how I managed to get so entangled in this exhausting, fruitless, thankless, expensive, and ultimately futile procedure. I originally thought that the people in the D.C. zoning office had only to have it called to their attention that something grossly irregular — to say the least — was going on next door to me and that then they would inspect the work and see to it that it conformed to the appropriate zoning laws.

It never occurred to me that anyone would or could ignore or by some means circumvent what I regarded as the law.

I was naive. It has never seemed to me that it should be necessary for an ordinary private citizen to to spend large amounts of time on seeing to it that the law is enforced. I thought the zoning office issued permits **before** construction commenced and inspected the plans, site, and work done. Mr. Sisson cannot plead that he did not know the procedure, because last month he himself told us of having similar troubles with his house on Capitol Hill. I also believed that the BZA was the ultimate authority. I do not understand why Mr. Sisson and his lawyer got away with misrepresenting the sequence of events and why his actions and omissions should have been allowed at all without penalty and reversal. On 16 June 1999 the BZA unanimously denied Mr. Sisson's case. When I asked Pat Brown what happens now, he said we had to wait for the BZA's written opinion, and it had to go to the compliance office. I thought it was all over.

As I said, I was naive.

Now it seems possible that Mr. Sisson could, if he had so desired, have built, say, a duplex or a couple of row houses or four condos or even a little hotel on the property without bothering to get permits (which under the law would have been denied) and then retroactively obtained a whitewash permit allowing him to do all the things he had already done without a permit. In other words, his retroactive permit in effect entirely invalidates the Wesley Heights Overlay and D.C. zoning laws.

Sequence of events:

In the winter of 1997-1998 I noticed the beginning of work in 3020 back yard and said to a man there, whom I took to be the new owner (probably the construction man): "When are you all going to move in?" He said, "We're going to put a breakfast room on the back of the kitchen." I thought, Freda should have had that.

When they brought heavy construction equipment in and started digging up the back yard, I

wondered what was going on. On 11 and 13 March 1998 I talked with George Watson (president of the Wesley Heights Historical Association), and he and I had a look at the extensive work already begun. He referred me to John Patrick Brown, Jr.

After that I tried to call and actually talked with some of the following people: Mort Press Permit Processing; Emma Thompson (16 March); construction inspection, 727-7562 (and was told a survey of plat by Peter Nwangure was required before permit was issued); Vince Ford, chief inspector; M. Shelton, zoning review branch, Mr. Nunley, Susan Braelove.

A Frequent Flyer program had allowed me to plan to go to Asia in April, and I asked Pat Brown to represent me. During the 5 weeks before I left, he talked at length with Mr. Nunley and others of the zoning authorities.

On 8 April 1998 at about 7:30 p.m. a strange man came to my door: "Why are you mad at me?" MRC: "Who are you?" It was Charles Sisson; I invited him in and talked with him c. 45 minutes; he told me about his IMF work, daughter in college (didn't mention wife), who was graduating, looking for job in N.Y.; I mentioned the alley problem, that I thought that was unfriendly. He said he was traveling a lot, going to China. I said me too and told him my date of departure and that I expected to be gone 3 months. Sisson wrote down his name and telephone numbers and gave them to me..

There was a stop-work order in effect before I left for Japan and China on 29 April 1998. At this point Mr. Sisson most certainly knew what permits he had to have and the zoning limits applicable — before he went over the head of the zoning office to circumvent them. He could have stopped right there and regularized his position. He had created his own hardship in the first place, and by resuming construction he compounded his own hardship.

I got double pneumonia in China; was hospitalized and remained in Hong Kong till mid-June but

had to cancel the rest of my trip through Pakistan and Northwest China because I was still too ill. On 18 June I got back from Hong Kong, and on 23 June Dr. Ace Lipson told me it would take another four months for me to get well; it took at least until the end of October, and I was not in condition to work hard on the zoning case problem.

Mr. Sisson's men had resumed building on the house during week before I got back from China.

On 6 July they were building the new garage — without a permit.

On 7 July I saw them tearing down the front stoop — without a permit.

On 8 July they were digging in the front yard for the porch. Mr. Sisson later got one permit for the front porch and only "to repair the existing roof" — that is, the existing roof was the brand new roof of the brand new porch for which he had no permit and which was built after the front stoop was torn down without a permit.

On 22 August 98 Pat Brown talked to zoning people and said he was not sure what set of plans Sisson was using; the zoning office was not consulted; he had gone over their heads, and the decision was made on the 11th floor. Pat told me for first time that alley is not a public alley, contrary to what the Devans used to say.

In the course of digging up virtually the whole back yard, Mr. Sisson's construction crew piled dirt, clay, and debris at the top of the hill on the south side of my driveway. Rains washed large amounts of mud down into my driveway and completely clogged the small drain in front of the garage door so that weeds now grow there; the mud further partially clogged the large drain there and ran through the drainpipe under the driveway to its junction (about midway down the driveway) with the drainpipe coming from the front of my house. This clogged the junction sufficiently that the front drain is now closed all the way back to my front door, and the roof downspout above it spills all over the ground. It

would require a truck-mounted electrical reamer to reach the blockage at the junction under the driveway.

Pat Brown filed my appeal in early September 1998. This appeal was in no way frivolous; it cost me $800, and it was based on my still firm belief that the alley was public right-of-way and should not be blocked by Mr. Sisson and by my concern regarding gross inflation of assessments in Wesley Heights by speculators.

On 19 March 1999 I resumed my interrupted trip to Hong Kong, SE Asia, Pakistan, and Xinjiang and Gansu in NR China. I returned on 13 June in time to attend the BZA hearing on 16 June in which the BZA unanimously rejected Mr. Sisson's appeal and accepted mine, as described above.

There followed a series of BZA hearings, ANC meetings, and discussions, including a pathetic and insulting "settlement" offer from Mr. Sisson's lawyer (to build a high wall on the property line and to offer me some "landscaping") and a counter-offer from me. I felt that anyone who said "settlement" to me was saying, "You have to give up. You have to quit."

In his building plans and surveys, Mr. Sisson regularly claimed that the house was 6 ft. from my south property line; the effect of this was to give him an exaggerated square footage total or a more favorable "footprint" although he still did not meet the zoning requirements. Not until the BZA required him last spring (2000???) — more than two years after construction commenced — to have an as-built survey done did he alter this figure. Even so, he instructed his surveyors to measure from the foundation, not from the side of the house, thus giving him a few extra inches; and when I protested and wanted to hire another objective survey team, also properly qualified, his attorney said he "adamantly refused" to allow me to survey my own property line. As it is, he does not even quite have the legally minimum necessary 5 ft. from the side of the house to the property line.