Note additions on tape

BZA
Case No. 16521
Exhibit No. 72

WESLEY HEIGHTS HISTORICAL SOCIETY

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Statement to the Board of Zoning Adjustment October 17, 2000
BZA Application No.16521

I am George Watson, President of the Wesley Heights Historical Society. I am also a 31-year resident of Cathedral Avenue in Wesley Heights; my home is less than 300 feet from the property in question at 3020 43rd Street. I have known the party in opposition, Mrs. Mildred Crary, her late husband, Albert, and the three De Vans, who occupied the house at 3020 43rd Street that has been recently altered, for at least 28 years. I have been a frequent guest in both homes and know the properties well.

As I have previously testified before the Board of Zoning Adjustment, the Historic Preservation Review Board and Advisory Neighborhood Commission 3D, The Wesley Heights Historical Society was established in 1989 in response to perceived overdevelopment that threatened to change the open, well wooded character of our streets that adds so much to the quality of life in Wesley Heights. At that time, two small 1923 homes in the 4400 block of Klingle Street, which were among the very first the Millers built in Wesley Heights in 1923, had been demolished and two enormous adjoining mirror-image detached townhouses were erected on minimal R1B lots and a modest, rambling Tudor home, at 2914 44th Street, had been demolished and was replaced by a huge house more than 40 feet high that virtually filled the half-acre lot zoned R1A. The neighbors immediately to the east of the two townhouses on Klingle Street sold their home and moved to Montgomery County as a result of the intrusion on their privacy by the larger houses. Our members, therefore, sponsored a zoning

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overlay that was adopted July 13, 1992, by the DC Zoning Commission as a means for keeping new building or additions to existing homes to a reasonable level. We believe that ours was the first or one of the first zoning overlays in the District and it has served as a standard for other neighborhoods to propose similar overlays. Consequently, we are interested in seeing to it that the existing zoning regulations, as well as the Wesley Heights Overlay District, are followed by architects, developers, builders and residential owners and are enforced in a fair and even-handed manner by the District that allows residents to make reasonable additions to existing homes but does not impact negatively on the character of the neighborhood or the quality of life of the immediate neighbors.

Over two years ago Mrs. Crary told me about her concerns with the alterations that were taking place at 3020 and just before she left for an extended trip to the Orient early that spring she asked me to examine the property with her. We were not able to take precise measurements. It was raining and we did not want to trespass, but, based on my personal observations on that visit, I drew a sketch of the property showing the foundations that had been poured for the addition to the back of the house and the replacement garage. That allowed me to make some rough calculations based on the 6563 square footage of the already non-conforming small lot published in the then current edition of the Lusk List. Incidentally, all properties from the north side of Cathedral Avenue south in Wesley Heights south in Wesley Heights are zoned R1A and minimum lot size is 7,500 square feet. I told Mrs. Crary that it appeared that the provisions of the R1A zoning regulations and the Wesley Heights Overlay District were followed so closely in respect to the footprint and the Floor Area Ratio of the house itself that the architect must have had them at hand. In addition, I noted that the side-yard setback of the existing house, at least on the north side facing Mrs. Crary's

property seemed to be non-conforming (i.e. less than 8 feet) but that the nonconformity was "grandfathered" because the home was constructed before the current R1A Zoning was in force. My eyeball calculation of the south side- yard setback was that it was less than four feet from an irregular fence. I also noted that the garage foundation appeared to be on or beyond the property line in the private alley. I therefore told her that there seemed to be no immediate cause for action by the Society. That was of course before the first and second floors of the addition and the walls of the garage were built.

After that time, the nearly full-width, eight-foot-deep roofed porch in front of the house was added, which significantly increased the footprint and thus the construction was no longer in conformity with the Wesley Heights overlay on the basis of either the allowed 2000 square foot lot coverage or the 21.3 foot front yard set back for the west side of 43rd Street. My rough measurement is 2390 square feet of coverage and the plans show a 17-foot setback for a portion of the front porch. In addition, the north wall of the new construction on the back of the house is less than eight feet from the property line, something not clear from the poured concrete basement walls or the plans. Mr. Brown has provided details of the measurements based on the construction plans that are on file.

Because most of the lots in Wesley Heights were laid out 70-80 years ago before the R1A and R1B zoning regulations were adopted, some of the current lots, particularly those on comers, are smaller than the 7,500- and 5,000- square-foot respective lower limits. The WHOD recognized these special cases and the hardship that owners of small lots faced and therefore made special exemptions for these lots from the lot coverage limits and FAR.

The lot under discussion is 6562.5 square feet, almost 1000 square feet smaller than the 7,500-square-foot R1A minimum, and therefore is permitted a 2000-square-footprint rather than the more restrictive 30%. The new owner, however, seeks a further allowance easing the WHOD lot occupancy limit. It is precisely for this sort of case that the Neighborhood voted to adopt the overlay and why the Zoning Commission concurred in 1992.

The WHOD front yard setback on the 3000 block of 43rd street is 21.3 feet, but the newly added covered porch is 15 feet, 6 feet or more than 25% short of that standard. It is the only covered front porch on that side of 43rd Street and one of the few in Wesley Heights. There is a covered front porch immediately across the street on a 1890's vintage Waggaman farm house built in the period style prevalent in Cleveland Park and Chevy Chase. Only five such 1890 homes still persist in Wesley Heights. But the house in question is obviously not one of them nor in that style.

The zoning regulations call for a sideyard setback of eight feet, the existing structure is less than five feet. I believe the zoning regulations call for additions to conform to the full 8-foot setback when the original structure is less than five feet from the property line.

In addition, I note that Mr. Sisson's architect and his builder are licensed to operate in the District of Columbia. No matter what his Mr. Sisson, and in previous presentations his lawyers, say about Mr. Sisson's naivete, ignorance or good faith compliance under his permits, his professional architect and builder should and indeed must have been aware of the provisions of the WHOD and where the border between R1A and R1B were in Wesley Heights—at the middle of the blocks on the north side of Cathedral

Avenue. They should have questioned the errors on the part of DC zoning and permitting officials.

As I have said the very evidence that the original footings for the addition to the house and the new two-car garage were very close to the WHOD limits for footprint and just under the FAR limits, I think, shows prior awareness, not naive accident. That was the case when Mrs. Crary and I made our measurements and estimate in March 1998—well, before the third, fourth and fifth permits were applied for and before porch and roof construction began. For these reasons, the Wesley Heights Historical Society very strongly opposes the granting of the requested ex post facto variances to make legal the illegal construction that is an insult to the WHOD and a threat to our neighborhood integrity. The hardships that Mr. Sisson has claimed are only ones that he, his architect and builder created and should not be reasons for the BZA to reward their violation of DC Zoning Regulations and the WHOD. I ask you to uphold the integrity of the Zoning and Building permit process so that we are all operating on the same level playing field under the same rules.