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

May 29, 2003

Mr. Geoffrey H. Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210
Washington, D.C. 20001

RECEIVED
D.C. OFFICE OF ZONING
2003 JUN -2 PM 4:19

Re: BZA Appeal No. 16679
3020 43rd Street, N.W. (Square 1621, Lot 70)

Dear Chairman Griffis:

Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting on Wednesday, May 7, 2003.Proper notice was given of this meeting through the newspaper, by fax, by posting throughout the neighborhoods and on our website. A quorum (4) of Commissioners was present at all times.

One of the items on our agenda was BZA Appeal No. 16679. The Appellant, the Spring Valley-Wesley Heights Citizens Association, through its counsel, John Patrick Brown, Jr, noticed it for a presentation. The property owner, Mr. Charles Sisson through his counsel, Maureen E. Dwyer, was also provided notice of the meeting. Neither Mr. Sisson, nor his counsel attended the Commission meeting.

By way of background, the Commission has been an active participant in matters related to the illegal improvements of the property by Mr. Sisson for five (5) years involving numerous written submissions to the Board. See attached. Specifically, the Commission actively supported BZA Appeal No. 16405, opposed Mr. Sisson's after-the-fact variance BZA Application No. 16521, and supported this Appeal.

BZA
Case No. 16679
Exhibit No. 36

Board of Zoning Adjustment
District of Columbia
CASE NO. 16679
EXHIBIT NO. 36

After hearing a presentation from Mr. Brown on behalf of the Appellant, the Commission voted unanimously (7-0-0) to reaffirm its support for BZA Appeal No. 16679, including specifically the Board's strict enforcement of its Order Nos. 16405 and 16521 and the underlying Wesley Heights Overlay District ("WHOD") and applicable R-1-A zoning. The Commission specifically incorporated its earlier filings in BZA No. 16405, No. 16521 and this case. Based on these well-established criteria, the after-the-fact permit obtained by Mr. Sisson violates the following:

1. Unsigned permit application is invalid on its face;
2. Contingency for removing covered front porch;
3. Extension of Non-conforming structure without required variance;
4. WHOD lot occupancy requirement;
5. WHOD front yard requirement;
6. Applicable side yard requirement;
7. Applicable off-street parking requirement; and
8. Applicable private driveway requirement for two-car garage.

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

Sincerely,

John Finney
Chairperson, ANC 3D

cc: Mrs. Mildred R. Crary
Mr. Robert J. Stein
John Patrick Brown, Jr., Esq.
Mr. George Watson, Wesley Heights Historical Society
Maureen E. Dwyer, Esq.

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

December 11, 1998

'98 DEC 16 P2:55
DISTRICT OF COLUMBIA
OFFICE OF ZONING

Ms. Sheri Pruitt-Williams
Interim Director
Office of Zoning
441 4th Street NW
Suite 210
Washington DC 20001

Re: BZA Appeal No. 16405
3020 43rd Street NW, Square 1621 Lot 810

Dear Ms. Pruitt-Williams:

On December 9 , 1998, Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting. This meeting was held pursuant to the required public notice and a quorum of Commissioners present at all times.

At this meeting, the Commission received a preliminary presentation on the above-referenced appeal by the Appellant, Mrs. Mildred R. Crary and her counsel, John Patrick Brown, Jr. Esq. The property owner who has requested the BZA to intervene as a party, Mr. Charles Sisson, did not attend the Commission's meeting because he was out of the country.

At the conclusion of the Appellant's presentation, the Commission voted unanimously to request the BZA to grant the requested continuance of the December 16, 1998 hearing and reschedule the hearing for February 17, 1999. The Commission also agreed to hear a full presentation from the Appellant and Mr. Sisson at its meeting scheduled for January 11, 1999.

However, based on the preliminary presentation and a review f the appeal documents that were filed, the Commission expressed its great concern in this matter. Specifically, the Commission was concerned by the apparent failure of the Zoning Administrator's office to properly identify the correct zoning of the property as R-1-A/WHOD and apply those zoning restrictions to the three building permit applications. Additionally, the Commission was gravely concerned by the apparent attempts by the property owner to undermine the integrity of the zoning review process by repeated attempts to submit misleading building permit applications.

BZA
CASE No. 16405
EXHIBIT No. 23

12/18/98

The Commission appreciates the BZA's recognition of the "great weight" it is entitled to in granting the requested continuance until February 17, 1999. The Commission also looks forward to submitting a more detailed recommendation after receiving a full presentation from the party's at its January 11, 1999 regular meeting.

Sincerely,

Joseph Dinsmore Murphy
Chairman, ANC 3D

Cc: John Patrick Brown, Jr., Esq.
Mr. Charles Sisson
Armando Lourenco, P.E. Acting Zoning Administrator
The Honorable Kathy Patterson, Ward 3 Councilmember
Mr. George Watson, President, Wesley Heights Historical Society
Mr. William Harrop, President, Spring Valley-Wesley Heights Citizens' Association

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

January 23, 1999

'99 JAN 26 P3:51
OFFICE OF ZONING
DISTRICT OF COLUMBIA

Ms. Sherri Pruitt-Williams
Interim Director
Office of Zoning
441 4th Street NW
Suite 210
Washington DC 20001

Re: BZA Appeal No. 16405; 3020 43rd Street, NW Square 1621, Lot 810

Dear Ms. Pruitt-Williams:

On January 11, 1999, Advisory Neighborhood Commission 3-D held its regularly scheduled monthly meeting. This meeting was held pursuant to the required public notice and a quorum of Commissioners was present at all times.

On the agenda for this meeting, BZA Appeal No. 16405 was noticed for a presentation by the Appellant, Mrs. Mildred R. Crary, through her Counsel, John Patrick Brown, Jr., and Mr. Charles Sisson, the Property Owner who has requested to intervene. Earlier in the day, Mr. Sisson contacted the Commission's staff indicating that he was unable to attend the meeting and requesting that the Commission defer action on this matter until its February meeting. In fairness to Mr. Sisson and without objection from the Appellant's counsel, the Commission agreed to defer taking final action on this Appeal until Mr. Sisson was able to attend.

The Commission received a procedural update from the Appellant's counsel, including the pending request to amend the Appeal to include two additional building permits which had just recently been discovered through discussions with the Zoning Administrator's staff. These permits are directly related to and Involved the same issues as the building permits already part of the appeal. Inclusion of these newly discovered permits will allow a full and fair adjudication of these important issues. The Commission voted unanimously to support the Appellant's request to amend the Appeal to include the two new building permits and required continuance of the February 17, 1999 hearing in order to comply with the notice imposed on the Board.

BZA
CASE No. 16405
EXHIBIT No. 26

1/26/99

The Commission appreciates the BZA's recognition of the "great weight" it is entitled to in granting the requested amendment of the pending Appeal and required continuance. The Commission also looks forward to submitting a more detailed recommendation after receiving a full presentation from the parties at a future regularly scheduled meeting.

Sincerely,

Eleanor Roberts Lewis

Eleanor Roberts Lewis
Chairperson, ANC 3-D

CC: John Patrick Brown, Jr., Esq.
Mr. Charles Sisson
Mr. Armando Lourenco, P.E.
Acting Zone Administrator
The Honorable Kathy Patterson
Ward 3 Councilmember
Mr. George Watson, President
Wesley Heights- Historical Society
Mr. William Harrop, President
Wesley Heights Citizens Association

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

April 13, 1999

'99 APR 19 P4:06
OFFICE OF ZONING
DISTRICT OF COLUMBIA

BY HAND DELIVERY

Ms. Sherri Pruitt-Williams
Interim Director
Office of Zoning
441 4th Street, N.W.
Suite 210
Washington, D.C. 20001

Re: BZA Appeal No. 16405

Dear Ms. Pruitt-Williams:

This letter is intended to supplement, not substitute for, the Commissions letters of December 11, 1998 and January 23, 1999 with respect to the above-referenced appeal. On February 8, 1999, Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting. This meeting was held pursuant to the required public notice and a quorum of Commissioners was present at all times.

At this meeting, the Commission received detailed presentations from the Appellant through her counsel, John Patrick Brown, Jr., Esq. and from the property owner, Mr. Charles Sisson. At the conclusion of these presentations, and an extended period for questions from the Commissioners and others in the audience, the Commission voted unanimously to support the appeal of each of the five (5) building permits issued for the subject property, and the Commission also emphasized that all these five permits were internally inconsistent and should never have been issued by the City.

Specifically, the Commission voted to support each of the appeals of the building permits as set forth below:

BZA
CASE No. 16405
EXHIBIT No. 35

1. Permit No. B413166, dated January 29, 1998 for A2-story Addition in [Rear], including front wood uncovered deck.

    1. Zoning Administrator applied the wrong zoning classification. The property is zoned R-1-A/WHOD, but the permit was issued based on the R-1-B zoning classification. 11 DCMR '' 200,400 et. seq., 1541, et. seq. (July 1995).

    2. The existing structure was non-conforming for lot area, lot width, off-street parking, front yard and side yard purposes.

    3. The building permit was issued in violation of the restrictions on non-conforming structures. 11 DCMR ' 2001, et. seq.

    4. The improvements exceed the lot occupancy, floor area ratio, front yard, side yard and rear yard restrictions imposed in a R-1-A/WHOD district. 11 DCMR '' 200, 400, 1541, et. seq.

    5. The property owner exceeded the scope of the building permit issued.

    6. The property owner constructed a covered porch not authorized by the permit issued and in violation of the R-1-A/WHOD restrictions. 11 DCMR ' 1541, et. seq.

2. Permit No. B413424, dated February 9, 1998 for Addition to Garage...

    1. Zoning Administrator applied the wrong zoning classification. The property is zoned R-1-A/WHOD, but the permit was issued based on the R-1-A zoning classification. 11 DCMR ' 1541, et. seq.

2. The existing garage (including off-street parking) was not accessible directly from an improved street or alley, 11 DCMR ' 2117.4, or in compliance with the driveway standards in 11 DCMR 2117.8.

3. The existing garage was totally demolished without authorization.

4. A new garage (23' x 21') was erected which was substantially larger than the approved garage addition, in violation of the R-1-A/WHOD restrictions and the required direct access from a public street or alley. 11 DCMR '' 400, et. seq., 1541, et. seq., 2117.4, or in compliance with the private driveway standards in DCMR 2117.8.

3. Permit No. B415675, dated May 27, 1998 for A new Garage To Be Located on Same Spot as Previous Garage ... Length: 20 ft, width 10'9", Height 8 ft.

1. The proposed garage was in violation of the lot occupancy, restrictions in the R-1-A/WHOD district. 11 DCMR '' 400 et. seq., 1541, et. seq.

1. The proposed garage was not accessible directly from an improved street or alley, 11 DCMR ' 2117.4, or in compliance with the private driveway standards. 11 DCMR 2117.8.

2. The proposed garage failed to provide the one (1) required off-street parking space. 11 DCMR ' 2101.1.

3. The existing garage was demolished without authorization.

4. The proposed garage was previously constructed not in compliance with the permit requested and

issued. The dimensions of the garage already constructed are 23.0 length, 21.0 length, 16.0 height which exceeds the permit. Exhibit G-1.

5. The garage constructed was not in the same place as the previous garage. Exhibit D-1.

4. Permit No. B417814, dated August 17, 1998, for A Repair of Existing Roof, Roof in Place, No Structural Change.

1. Zoning Administrator applied the wrong zoning classification. The property is zoned R-1-A/WHOD, but the permit was issued based on the R-1-B classification. 11 DCMR '' 200, 400 et. seq., 1541, et seq.

2. The permit was issued for repairs to an existing roof over the porch which was recently constructed without a permit and in violation of the R-1-A/WHOD and non-conforming structure restrictions. 11 DCMR ' 1541, et. seq.

3. The new front porch violates the lot occupancy and front yard requirements.

5. Permit No. B419108, dated October 5, 1998 to Build New Porch as Per Plans. Porch in Place.

1. The proposed porch was in violation of the lot occupancy, and front yard and non-conforming structures restrictions in the R-1-A/WHOD district. 11 DCMR '' 400 et. seq., 1541, et. seq.

2. The proposed porch failed to provide the one (1) required off-street parking space. 11 DCMR 2101.1.

3. The existing porch was constructed without authorization.

4. The proposed porch was previously constructed not in compliance with the permit requested and issued.

The Commission appreciates the BZA's recognition of the "great weight" it is entitled to in granting the requested appeal. The Commission also looks forward to submitting live testimony at the April 21, 1999 hearing through Commissioner Dan Rosenberg in whose single-member district the subject property is located.

Sincerely,

Dennis I. Paul, Jr.
Vice-Chair, ANC 3D

cc: John Patrick Brown, Jr., Esq.
Maureen E. Dwyer, Esq.
Armando Lourenco, P.E.
Ms. Kathy Patterson
George Watson, President, Wesley Heights Historical Society
Mr. William Harrop, President, Spring Valley Wesley Heights Citizens Association

113558

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

April 27, 1999

BY FACSIMILE (202) 727-6072
AND FIRST-CLASS MAIL

Ms. Sherri Pruitt-Williams
Interim Director
Office of Zoning
441 4th Street, NW
Suite 210
Washington, DC 20001

Re: BZA Appeal No. 16405

Dear Ms. Pruitt-Williams:

Advisory Neighborhood Commission 3D is automatically a party to this case. This is a matter of great concern and importance to the Commission and our community. The Appeal has been on our agenda numerous times since it was filed. As a result, the Commission has attempted to be an active participant in the case having submitted at least three letters to the Board, including most recently a detailed letter in support of the appeal of all five (5) building permits.

I have received a report on the Board's hearing of April 21, 1999. Of initial and gravest concern is the clear indication of substantial written ex parte contacts between Intervenor's counsel and the Board's general counsel. The integrity of these proceedings and the opportunity for full and informed participation by all the parties and the Board itself is an absolute prerequisite to a fair adjudication of this matter.

I am also informed that the Intervenor has produced and/or filed at least three (3) written pleadings involving a Motion to Dismiss the

appeal. In addition to the ex parte materials, the Commission has not been provided copies of at least two of the Intervenor's pleadings as required under the Board's Rules. The Intervenor's most recent filing dated April 22, 1999 was just received today at the Commission's Post Office Box although the Certificate of Service indicates hand-delivery on April 22. It will take several days to copy and deliver this document to the other six Commissioners.

Under these circumstances, the Commission has been denied its right to continue its active and informed participation in this case. Accordingly, the Commission respectfully requests that the Board stay all further proceedings of any kind until: (1) appropriate investigation and remedial measures are completed regarding the ex parte contacts; (2) the Commission and other parties receive the ex parte communications and all other documentation produced by Intervenor or Intervenor's counsel; (3) the Commission has an opportunity to meet on May 10, 1999 and take further informed action; and (4) the Board conducts a full evidentiary hearing, including presentation by the Commission, before rendering any substantive or procedural decision in this case.

Thank you for your cooperation and affording the Commission the "great weight" it is entitled to by law.

Sincerely,

Eleanor Roberts Lewis (telefax)
Eleanor Roberts Lewis
Chairperson

cc: John Patrick Brown, Jr., Esq.

Mrs. Mildred Crary
Maureen Dwyer, Esq.
Ms. Kathy Patterson
Armando Lourenco, P.E., Acting Zoning Administrator
Mr. George E. Watson, III, President, Wesley-Heights Historical Society
Mr. William C. Harrop, President, Spring Valley-Wesley Heights Citizen's Association

114301

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

May 12, 1999

BY FACSIMILE (202) 727-6072
AND FIRST CLASS MAIL

Ms. Sherri Pruitt-Williams
Interim Director
Office of Zoning
441 4th Street NW
Suite 210
Washington, DC 20001

Re: BZA Appeal No. 16405

Dear Ms. Pruitt Williams:

At its regularly scheduled meeting held on May 10, 1999, ANC3D voted unanimously 5-0-0 to submit the following comments to the Board of Zoning Adjustment regarding the above-referenced appeal.

First, ANC3D wishes to express its concern regarding alleged "ex parte" contacts between counsel for the Intervenor, Mr. Charles Sisson, and the Board's general counsel. While the Commission does not currently have sufficient information to draw its own factual or legal conclusions on this matter, it is concerned about potential abuse of the appeals process (or the appearance of such). The Commission urges the BZA to conduct a full inquiry into this matter and to make its factual and legal conclusions known to the Commission and the public. The Commission may provide further comments to the Board, based on the findings and conclusions of that inquiry.

Second, ANC3D wishes to reiterate its interest in this matter as well as its role as a party in this case. As such, the Commission should be provided with copies of all motions, briefs, and other communications provided to the Board by filing or other means of transmission, by all parties in this matter. To date, the Commission has not consistently received the material to which it is entitled. The Commission requests that the Board take what steps are within its powers to ensure that all documents pursuant to this matter are provided to the Commission in a timely manner.

Third, ANC3D urges the Board, after completion of the inquiry described above, to hold a full evidentiary hearing on this matter. The Commission believes that this appeal has grown in both factual and legal complexity, and deserves a full examination of the issues presented by the parties.

Fourth, ANC3D urges the Board to afford these comments, as well as other written and oral submissions by the Commission on this matter, the "great weight" to which they are entitled by law.

Sincerely,

Eleanor Roberts Lewis

Eleanor Roberts Lewis
Chair, ANC 3D

Cc: John Patrick Brown, Esq.
Maureen Ellen Dwyer, Esq.
Armando Lourenco
Mr. William C. Harrop, Spring Valley-Wesley Heights Citizens Association
Mr. George E. Watson, III, Spring Valley-Wesley Heights Historical Society

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

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

BZA
CASE No. 16521
EXHIBIT No. 19

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 (bpm)

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.

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

April 26, 2000

Ms. Sheila Cross-Reid, Chairperson
Board of Zoning Adjustment
441 Fourth Street, N.W., Room 220
Washington, D.C. 20001

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

Dear Ms. Reid:

Advisory Neighborhood Commission ("Commission")3D is automatically a party to the above-referenced application. The Commission has been an active participant in this application, as well as the underlying BZA Appeal No. 16405 which is currently pending at the D.C. Court of Appeals.

The Commission respectfully requests that the May 3, 2000 public hearing in this matter be postponed because timely notice was not provided by the Board and as a result we have not been given the opportunity to review the revised application and take action in this matter. The Commission held its regularly scheduled monthly meeting on April 10, 2000. Earlier that same day, we first learned that this case was scheduled for hearing on May 3rd. Previously, we were informed unofficially through the BZA staff that the hearing would be in June 2000. More importantly, the Commission has received no communication, including the required copy of the Prehearing Statement, from the Applicant or his counsel, although a courtesy copy of the revised application was requested of the Applicant's counsel on March 8, 2000. The Board's written notice to the Commission was dated March 16, the envelope was first postmarked March 16 but had an incorrect address written. It was then "missing" until it was mailed again on April 5 from some unknown person. However, it was not received in the ANC3D postbox until April 12th. The Board's original attempt at written notice was sent to an incorrect address (see attached envelope).

The Commission is scheduled for its next regular meeting on

May 8, 2000 and will include this application on its agenda. The Board is requested to reschedule the hearing in this matter until after that date.

Thank you for your cooperation and affording the Commission the "great weight" to which it is entitled by law. The Commission looks forward to the opportunity to continue its long-standing involvement in this case.

Sincerely,

Eleanor Roberts Lewis (Agm)

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 Citizen's Assn.
Maureen E. Dwyer, Esq.

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

'00 MAY 22 P5:08

May 14, 2000

Ms. Sheila Cross Reid
Chairperson,
Board of Zoning Adjustment
441 4th Street NW Room 210
Washington DC 20001

Re: 3020 43rd Street NW BZA Application No. 16521, Request for Continuance inter alia

Dear Ms. Reid:

Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting on Monday, May 8, 2000 at the Ernst Auditorium, Sibley Memorial Hospital. Notice of this meeting was published in a local newspaper (but this matter was not included because of its last minute addition to the agenda). In addition, meeting notices (which contained this matter) were placed in each single member district and were sent to residents of the community at least seven days in advance of the meeting. BZA Application 16521 was included in the distributed meeting notices. A quorum (at least four) Commissioners was present at all times.

The applicant, Mr. Charles Sisson, through counsel, Allison C. Prince, Esquire, had actual notice of the meeting. However, Prince contacted the single member district Commissioner, Mr. Stephen Griswold, and the undersigned as Chairperson, and informed us that neither she nor Mr. Sisson would attend the meeting.

The Commission determined that it would not be proper to take action on the merits of this application at this time. Instead, the Commission voted unanimously (5-0-0) to confirm its earlier preliminary position by letter dated November 30, 1999 (attached) that further action by the Board on this application is premature for a variety of critical reasons including:

BZA
Case No. 16521
Exhibit No. 44

1. Accurate information must be provided by Mr. Sisson. The Commission (and apparently the BZA) has yet to be provided as-built drawings. Without such drawings, the Commission is unable to meaningfully consider the various zoning issues to be resolved in this matter. We are concerned that there not be a repetition of inconsistent, incomplete and misleading building permit applications which were found in Appeal No. 16405;

2. The exact and complete nature of the zoning violations of the improperly constructed improvements must be identified, based on as-built drawings, before proceeding with this remedial BZA application;

3. This application is premature based on Mr. Sisson's pending Court of Appeals challenge to the Board's decision in the underlying Appeal No. 16405;

4. This application must be consistent with the Board's findings of fact and conclusions of law in Appeal No. 16405;

5. The Commission must be provided complete, timely and accurate information by the Applicant in order to make an informed and meaningful review and decision in this case;

The Commission has been an active participant and greatly concerned by Appeal No. 16405 and this application. From 1998 through today, the Commission has submitted at least nine (9) separate letters (attached). Beyond the substantial violations of the important provisions of the Wesley-Heights overlay District which occurred, the Commission is gravely concerned by the repeated conduct of Mr. Sisson through this ongoing process, as evidenced by the Board's decision in Appeal No. 16405. A substantial body of evidence has demonstrated this conduct including incomplete, inaccurate and misleading building permit applications, submission of piecemeal building permit applications, unauthorized (i.e., without permits) construction and demolition, and construction beyond the scope of building permits. See BZA Appeal No. 16405. Procedurally, the Commission is equally concerned by the Applicant's apparently systematic and deliberate attempts to exclude this Commission and Mrs. Crary from an informed and meaningful opportunity to participate in the underlying appeal and this remedial application (e.g. "ex parte" communications in BBZA Appeal No. 16405 and failure to provide the revised application and pre-hearing statement to the "parties" in this case).

On May 8, 2000, the Commission received a copy of the directly related BZA Appeal filed by the Spring Valley Wesley Heights Citizens Association. The Commission took no action on this matter based on Mr. Sisson's absence from the meeting and short notice. However, it appears that this Appeal involves the same timing and other issues, which the Commission has raised and which remain unresolved.

The Commission looks forward to continuing to actively participate in this application and the related Appeal, which has recently been filed. Specifically, the Commission requests that the Board continue this application until such time as the serious procedural and preliminary issues, including the newly field Appeal are finally resolved and this Commission has an opportunity to review the final and complete application including "as built" drawings and receive a presentation from Mr. Sisson.

Thank you for your cooperation and affording the Commission the "great weight" to which it is entitled under D.C. law.

Sincerely,

Eleanor Roberts Lewis (sign)

Eleanor Roberts Lewis
Chair, ANC3D

Enclosures

cc: John Patrick Brown, Jr. Esquire
Mr. George Watson, Wesley Heights Historical Society
Mr. William Harnopf, Spring Valley-Wesley heights Citizen's Association
Allison C. Prince, Esquire

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

June 13, 2000

'00 JUN 16 AM 9:07

Ms. Sheila Cross Reid, Chairperson
Board of Zoning Administration
441 4th Street NW Room 210
Washington, DC 20001
Attention: Ms. Sherri Pruitt

BY Facsimile

Re: BZA # 16521 3020 43rd Street NW - and BZA 16405

Dear Ms. Reid:

Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting on Monday June 12, 2000 at Sibley Memorial Hospital. Proper notice of this meeting was given through the local paper and in each single member district. One of the items on the agenda was a discussion about the above listed BZA application and appeal. Although a quorum of Commissioners was not present, the attorneys for Mr. Sisson and Mrs. Crary once again reiterated their clients' position in this ongoing case.

On behalf of the three commissioners who were present at this meeting, I would like to reiterate that ANC3D has consistently and repeatedly opposed any course of action which undermines the force and effectiveness of the zoning regulations and, in particular, the Wesley Heights Overlay. The Wesley Heights Overlay was put in place to preserve and enhance the low density residential character of our neighborhood. Sanctioning violations of the Overlay would render it meaningless and threaten the very character of our neighborhood.

Furthermore, although a hearing is scheduled for June 20 by the BZA, we urge the BZA to suspend any consideration of any "remedial" variance until the appeal to the District of Columbia Court of Appeals from the BZA order # 16521 has been concluded. Any other action would discourage settlement and prompt resolution of the case. Further consideration of this matter by the BZA while the appeal is pending also undermines enforcement of the Overlay District and the finality of BZA orders.

BZA
Case No. 16~~552~~21
Exhibit No. 53

In the alternative, should the BZA decide that it is appropriate to proceed in this matter notwithstanding the pending appeal before the Court of Appeals, we urge that you do so only after this matter has been postponed to a date after June 20, 2000. This ANC has not had an opportunity review and comment on a properly prepared case before it comes before the BZA. On Thursday of last week, an as-built survey of the property was completed and the parties agreed that another meeting with the Zoning Administrator is now necessary to resolve what variances are required in this matter. Until the Zoning Administrator resolves what variances are actually required, the ANC is not in a position to make any specific recommendations in this matter. Accordingly, we urge the BZA to continue this matter to give the parties an opportunity to meet with the Zoning Administrator, and for the parties to then appear again before the ANC so that we may make a meaningful recommendation regarding the necessary variances in this case.

Sincerely,

Ann F. Heuer (fm)

Ann F. Heuer
Vice-Chair
Advisory Neighborhood Commission 3D

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

'00 OCT 10 P3:04

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 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:

BZA
Case No. 16521
Exhibit No. 59

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 that the 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 (by m)

Eleanor Roberts Lewis
Chair

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.

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

DEC 1 PM 03

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

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
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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:

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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 (bm)

Eleanor Roberts Lewis
Chairperson, ANC 3D

cc: John Patrick Brown, Jr., Esq.
Mr. George Watson, Wesley Heights Historical Society
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