JOSEPH AND ELIZABETH FINNEGAN
CASE # 17299 (SQUARE 2368 LOT 813)
WE OBJECT TO THIS APPLICATION CASE # 17299

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BZA
Case No. 17299
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO. 17299
EXHIBIT NO. 22

Re: Application #17299 **March 8, 2005**

TO WHOM IT MAY CONCERN

I am George W. Chappelear, Jr. My wife, Dorothy, and I reside at 3035 Dogwood St., N. W., Washington, D.C., 20015, also known as Square 2368, Lot 0804. We purchased our lot and had a builder start constructing our home in the summer of 1949. We have resided here since April, 1950 when our hone was completed. Our home was the first constructed on Dogwood Street.

At the time we had our home constructed, a survey revealed that the rear of our lot on the east side was approximately 13' below the grade in the front of our house at the curb. The ground beyond our lot went downward at a fairly steep grade until just before Daniel Lane. For example, the house directly behind our home has footings about 10' below the basement level. That downward slope continued down the rear of the properties facing Daniel Lane.

The 2 houses on 31st Street, 5 houses on the north side of Dogwood St. and the houses on the south side of Daniel Lane in square 2368 all drain to the rear because of the slope of the land. Any alteration that decreased the flow of this drainage could damage the property where the obstruction occurs.

Respectfully submitted,

George W. Chappelear Jr.

George W. Chappelear, Jr.

JOSEPH AND ELIZABETH FINNEGAN
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Application for these exceptions be denied . To construct a two car detached garage, at the rear of the yard, and wave the 25 ft. Minimum requirement rear yard set back, be denied.

- This type of exceptions have never taken place in Square 2368, There are no structures or garages, within the 25 ft. minimum requirement at the rear set back of any of the properties, in Square 2368.

- There has been no changes or overlays since the homes were built in 1951. Our deeds mention 40 ft. limited heights and no digging of soil, with out approval.

- Our ANC commissioner Deborah Redmond stated to me that "Because of the unique areas of neighborhoods like 3G#1 Hawthorn Subdivision , 3G#2, require special overlays for land use and Tree and slope protection to preseve area planned, as open gardens and backyards, and protect the light, air, and privacy that trees provide that are on public land."

- There will be a known loss of these public trees, which presently benefit the neighborhood in many ways such as aesthetic, and better air quality. We are proud of our trees as they also continue to preserve and create added value to our properties, and have made the basic characteristics of Hawthorn Subdivision 2368 since 1941.

- This exception will change the from R-1-A Low Density to R-1-A High Density.

- As new neighbors move in, they too may request the same exceptions. set by precedence as considered here. This will create hardships for the neighbors, and the entire neighborhood. Loss of the natural view alone will lower property values.

- The digging near beautiful aged trees, for the construction of the foundation of the purposed garage will itself create a safety hazard, for all of those, like ourselves who live in the footprint of the trees

- The garage construction proposed, will indeed change the water table, of our properties.

JOSEPH AND ELIZABETH FINNEGAN
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We feel the ANC and The Zoning Board are responsible, to continue to continue the good planning of our different neighborhood, as it has been set down over the years.

The decisions should be based on the zoning regulations and the zoning maps, and the intent of the planners of The Hawthorn Subdivision.

As you are faced with many decisions dealing with exceptions everyday , the question I would ask is do these exceptions, help progress, stand in the way of progress, or is it simply a desire, which will create hard ships for us and all our neighbors.

We wish to save a tree over a structure any day, because it is a gift from heaven, but more importantly, we wish to save our home and our neighborhood.

Sincerely,

Ralph Block Sylvia M. Block

Ralph and Sylvia M. Block Date March 17, 2005
Adjoining Property Owners Square 2368 Lot 812
3018 Daniel Lane N.W.
Washington D.C., 20015-1438
202-966-2199 Phone-Fax

JOSEPH AND ELIZABETH FINNEGAN
CASE 17299 (SQUARE 2368 LOT 813)
WE OBJECT TO THIS APPLICATION CASE NUMBER 17299

When the original owners Mr. and Mrs. Mendelson built their home in 1959 at 3010 Daniel Lane N.W. Square 2368 Lot 813. They did not plan for a single car attached garage, because there was not enough room. The Mendelson's chose to build the largest home on the lot, for the living space, from left to right across the lot. There is a cement drive way on the right side, which runs only from the street to the back line of the house.

If the original owners wanted a single car garage they would have had to build the garage into the foot print of the home, which would have reduced the living space, of the home.

Between 1951 and 1958 most of the lots sizes that are approximately 7600Sq ft. to 8100 Sq. ft. in Square 2368 have a single car garage and were built in to the foot print of the homes.

The four larger corner lots size 10,100 Sq. ft. to 13,600 Sq. ft. had more room for two car garages and were attached to the homes in this Hawthorn subdivision, Square 2368.

*Not one property owner in all the Hawthorn subdivision, has erected a two car detached garage at the rear of their yards.

Not one property owner has more than a single drive way which leads to their garage. They all back their vehicle out of these garages.

*The requesting party wishes to seek an exception to construct a detached two car garage, at the rear yard. The requesting party also seeks an exception to wave the 25ft. minimum requirement rear yard set back. Because they do not have the room for all this, to conform to the zoning laws. Which they have said at the first ANC meeting on this matter, "It will be tight." (See Exhibit # 1)

The entire Hawthorn subdivision Square 2368, backyards do not have any garage or structure within the required rear yard setback.

Hawthorn subdivision, has no alleys, no sewers, or curbs. The homes are near the Rock Creek Park setting. We too enjoy the park like setting that ANC and the District of Columbia Zoning Board helped to establish, in the Hawthorn subdivision, (See Exhibit #3)

Hawthorn subdivision is zoned R-1-A Low Density,and there has been no overlays or changes needed, because the area has remained the same, Low Density. since the homes were built, 1951 and the applicant's home was built in 1959. (See Exhibit # 6)

This request to construct a two car detached garage, mainly in the rear yard set back of the properties common line would visually obstruct our view of the nicely manicured yards, and the natural setting of the neighborhoods. The request to extend driveway and make a cement pad will only lead to our view of cars, and the side of the 21ft. garage structure. Our deeds called for restrictive clauses on the height of our homes, and it also stated, " that you needed to get permission to dig or change the soil." Many studies have shown this type of construction near natural setting, will lower property values.

There already are drainage problems between the two properties. The water that drains from the properties above, our home at 3018 Daniel Lane N.W. (square 2368 Lot 812) drain through our rear and side yard. The constructed driveway is much higher then our existing grade. It has been blocking all the water from draining naturally, causing a large ponding area in our yard. We have a sump pump in the rear yard, If it rains for a few days in a row some times it does not keep up, or electric goes off, there is ponding approximately 1200 to 1500 gallons of rain water. (See Exhibit # 4)

To add more cement to extend the drive way, and pad in front of a two car detached garage structure and the roof, will create more hard surfaces for the rain water run off. Presently all the grade of the Finnegan's back yard, and sidewalk slopes towards our rear yard, when it rains or snows, it will definitely change the water table. Where is all this water to go? The application does not deal with the added water. Ralph is a handicapped person. He has a difficult time keeping the pump clean, or when it stops running to clear the pond of water, as it is. To give him further work and responsibility is un-called for. (See Exhibit # 1 across rear.)

The application does not deal with certification and how they will handle the trees and slope protection. (TSP) The four trees belong to the District of Columbia which are near the rear of their yard boundary. They have stated, "they plan to dig the foundation for this structure only 8 ft. from these trees."instead of the Minimum requirement of 25 ft. rear yard set back. (See Exhibit #1 After proposed garage, near trees.)

The application does not deal with environment impact to the area. They applicant's rear neighbor on September 18, 2003, due to a storm had one large oak tree fall on her home and demolish her home, there was an insurance claim filed. This tree was near the area of the trees we are concerned about, and these trees are the same age, and size. Allowing the digging and construction of the foundation too close to the roots, which will further reduce food to these trees roots and will make the tree unstable. We and our rear neighbors and the applicant face the hazards. allowing the applicants the easement of less than the Minimum 25 ft. is not in the interest of preserving the trees. This would not be prudent. No one speaks for the trees. We plan to hold all parties responsible for their actions, as a matter of record, when the trees are blown down, loss of roots to anchor trees or they die. (See letter Exhibit # 2) (See Exhibit # 7)

These regulations and zoning maps as originally adopted, from the basis for Hawthorn subdivision deeds of 1941 until 1962. Height, and digging restrictions They formally became effective, May 12, 1958. 3010 Daniel Lane was built later in 1959. There has not been any changes.
(See Exhibit # 5) (See Exhibit # 6)

Exhibit #1

LOOKING FROM DANIEL LANE



BEFORE

PROPOSED GARAGE



AFTER

LOOKING EAST ACROSS REAR



BEFORE

PROPOSED GARAGE



AFTER

Exhibit #2

WOOD ACRES
TREE SPECIALISTS

Certified and Licensed Arborists by State of Maryland

MEMBER NATIONAL ARBORIST ASSOCIATION

February 28, 2005

10315 Kensington Parkway • Kensington, Maryland 20895-3358 • Phone **(301) 949-4100**

Mr. Ralph Block
3018 Daniel Lane, NW
Washington, DC 20015

RE: Effects of construction

Dear Mr. Block:

The purpose of this letter is to provide information about construction effects on the root system of trees. The trees in question are located in the "open-space or natural area" behind the wooden retaining wall of 3010 Daniel Lane, NW. The (4) trees are: 18" diameter Sweetgum, 20" diameter Sweetgum, 25" diameter Sweetgum, and a 22" diameter Maple.

The root system is an important part of the tree. The root system extends far away from the trunk and is usually found within the upper 6 to 10 inches of soil. Roots not only anchor the tree in the ground, they provide the uptake of water and nutrients for the tree. The root system of the tree looks like the canopy of the tree. At the base of the trunk are larger roots that provide the holding power of the root system. As you travel further out, these large roots begin to branch apart and begin to taper, eventually leading to very fine, hair-like roots. These fine hair-like roots provide the nutrient uptake for the tree.

Whenever construction takes place, the root system is affected in some way. The amount of damage a tree can suffer from root loss depends, in part, upon how close to the tree the cut is made. Severing one major root can cause the loss of 5-20% of the root system. Although a 5-20% loss of root system will probably not kill the tree, it can predispose the tree to other problems that may cause the tree's health to decline. The further away from the tree trunk digging is performed; there will be less of an impact on the tree. A good rule of thumb is for every 1 inch of trunk diameter, 1 foot of distance away from the trunk should be maintained. This is a guideline to provide the very best protection for the tree, it is not necessarily a rule written in stone. You can dig within that area, but the closer to the tree the more significant the impact.

Construction requires the use of equipment. This equipment compacts the soil and reduces the pore space of the soil. Roots need enough pore space for proper growth and development. As this equipment compacts the soil it reduces the pore space and inhibits root growth. This can decrease the water and nutrient uptake of the roots which is an important function of the root systems.

Sincerely

F Bowen

Forest Bowen, Arborist

INTERNATIONAL SOCIETY OF ARBORICULTURE

MARYLAND ARBORIST ASSOCIATION

Exhibit #4





POND



POND

RAISER DRIVE

PHOTOS OF PONDING WATER

THE DISTRICT TITLE INSURANCE CO.
THE LAWYERS TITLE INSURANCE CO.
THE WASHINGTON TITLE INSURANCE CO.

Case No. Exhibit #5 Page

"HAWTHORNE"

That only detached houses shall be erected on said land or any part thereof, and that said land or any building or buildings erected thereon shall not be sold, leased, transferred, conveyed, rented to or be occupied by any person or persons of the negro race or having negro blood; these covenants to run with the land and shall apply and be binding on all of the tract known as "Hawthorne", subject to the restrictions that for a period of twenty-one years from and after March 31st, 1941, the plan of the exterior elevation of any house or houses, building or buildings to be erected on said land or any part thereof shall first be approved by any two of the following named persons: Paul P. Stone, Arthur S. Lord and Edward E. Caldwell, and on the death of any two of said persons within said period, then by the survivor of them and if all die within said period, then with the approval of any person or persons designated on Land Records by the survivor of said three persons; that any purchaser or purchasers, tenants or sub-tenants of this land or any part thereof, must first be approved by any two of the above named persons or the survivor of them. The purchaser or purchasers agree to accept the decision of any two of the above named persons or the survivor of them, regarding the grading of any part or parts of the land so purchased by them in "Hawthorne". Every purchaser or purchasers of any part of the land lying within the tract called "Hawthorne" (the land hereby described lying therein) in evidence of his, her or their intention to be bound by these covenants and restrictions will sign the Deed conveying said land. In case of a sale for default under the terms of any Deed of Trust, the restrictions relating to purchasers, tenants or sub-tenants, shall not apply.

Exhibit #6

Daniel

Lane

Scale: 1 inch = 40

Sq 2368

Street

31 St

N68°32'W - 260.91

60.0 | 75.0 | 75.0 | 50.91

105.0

105.32

P.C.

Δ = 1°52'32"

D = 6°03'24"

Curve 7449 S 60°28' 24" W

Curve S 75°26' 10" E

Pipe

Rad = 735.0

N 21°28' E

N 21°28' E

N 15°04'45" W

112.7

107.24

90°

18°24'

17°24'

2583A

769

2476

2984

813

34.62

58.25

812

811

1436 PERP

1107 PERP

1074 PERP

25' SET BACK

(S.O. 96093)

PROP. GARAGE

(NOT TO SCALE)

75.0 | 75.0 | 75.0 | 89.93

N 68°32'W

Pipe

25' SET BACK

(S.O. 70106)

6865.12

7350 SF

7350 SF

804

805

806

807

808

809

32

64/131

64/320

111/50

64/194

64/1

38.43

47.33

34.67

33.61

24.37

43.0

27.0

22.50

8.5

6.0

Ac

Rad = 945.0

Arc = 745.31

Chd = N71°08'14"W

D = 3°59'44"

65.90

Radius = 945.0

45°12'29"

Chd. N 71-08-14W

Pc 38.73

Obs Angle 0°03'50" Short

N 20°29'45" E

1531.60

101.76

5,921.7

Min Tree

Elev

Plat

Pipe

Exhibit #7







Exhibit #3

BLOCKS ← FINNEGANS → HOUSES FRONTING DOGWOOD ST. VIEWED FROM REAR ← BLOCKS →



PANORAMIC VIEW SITE

EXHIBIT # 8

Board of Zoning Adjustment
441 4thStreet N.W., Suite 210 South
Washington D.C., 20001

Re: Application # 17299
3010 Daniel Lane N.W.
Washington D.C. 20015
Square 2368 Lot 813

Dear Chairperson,

My name is Gwen Zuares, and I live next door to the Finnegans. I understand they wish to build a two car detached garage at the rear of their yard. From my view there are no structures or garages in the rear yards. This structure will destroy the park like setting, I now enjoy. Hawthorn subdivision has no alleys, for this reason.

There are four or five trees where they wish to construct a garage, those trees could be lost. The trees are part of what I look at.

All of the neighbors yards and the their yard slope to where the Finnegans want to place their garage.

I object the construction of a garage in the rear year of 3010 Daniel Lane N.W. Washington D.C., 20015

Sincerely,

Gwen Zuares
6940 Oregon Avenue N. W.
Washington DC 20015

Note: I am especially concerned about the impact this construction may have on the roots of these trees. Approximately 9 years ago a tree located in the vicinity of Finnegan's fell on my property and caused extensive damage to my house and I barely escaped injury

APPEAL TO CASE # 17299
BOARD OF ZONING ADJUSTMENT

-2-

cc: MR. ROBERT GORDON CHAIRPERSON 202-363-5803
ADVISORY NEIGHBORHOOD COMMISSION 3/4G
Mailing Address P.O. Box 6252 Northwest Station Washington D.C., 20015
CHEVY CHASE COMMUNITY CENTER 5601 Connecticut Ave N.W D.C. 20015

.D.C. WATER AND SEWER AUTHORITY
5000 OVERLOOK AVENUE, S.W. WASHINGTON D.C. 20032
MR. JERRY JOHNSON GENERAL MANAGER 202-787-2000

1. OFFICE OF PLANNING, DEVELOPMENT, REVIEW AND COORDINATION
801 NORTH CAPITAL STREET N.E. WASHINGTON D.C., 20002
MRS, ELLEN MCCARTHY ASSOC. DIRECTOR 202-442-8808 JENNIFER STEINGASSER

2. DEPARTMENT OF TRANSPORTATION REEVES CENTER
2000 14TH STREET N,.W. 7TH FLOOR WASHINGTON D.C. 20009
MR. KENNETH LADEN 202-671-2309

DISTRICT OF COLUMBIA OFFICE OF ZONING
441 4TH STREET N.W. STE 210-S WASHINGTON D.C., 20001 - HAND DELIVERED
202-727-6311 FAX 202-727-6072

3. DCRA-BUILDING AND LAND REGULATION ADMINISTRATION 202-442-4400
941 NORTH CAPITAL STREET N.E. SUITE #2000
WASHINGTON D.C., 20002
MR. DENZEL NOBLE ZONING ADMINISTRATOR 202-442-4677

4. ENVIRONMENTAL HEALTH ADMINISTRATION
51 N STREET N.E.
WASHINGTON D.C.,20002 WATER SHED & SOIL EROSION
MR. COLLIN BURRELL, CHIEF OF INSPECTION 202-535-2500

5. COUNCILMAN ADRIAN FENTY 202-724-8052
1350 PENNSYLVANIA AVENUE, N.W. ROOM 408
WASHINGTON D.C., 20001

6. MS. ANITA HAIRSON WARD 4 PLANNER 202-442-8814
801 NORTH CAPITAL STREET N.E. #4000 WASHINGTON D.C. 20002

7. URBAN FORESTRY 727-1000 THEY FORWARD THE CALL
2217 14TH STREET N.W. WASHINGTON D. C. 20009
MR. AINSLEY CALDWELL

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Wednesday, March 16, 2005 Serving Chevy Chase, Barnaby Woods, Hawthorne, Colonial Village, Shepherd Park & Crestwood

THE NORTHWEST CURRENT

Vol. XXXVIII, No. 11

Forest Hills split wins panel's OK

By JULIA O'DONOGHUE
Current Staff Writer

In response to the longstanding debate over the Forest Hills tree-and-slope overlay, the D.C. Office of Planning has begun investigating the feasibility of creating a new, more restrictive zoning category that could have implications for several other Northwest neighborhoods.

In the meantime, the Zoning Commission voted unanimously Monday to put a temporary two-pronged overlay, with stricter regulations in areas close to Rock Creek Park and adjoining Melvin C. Hazen Park, into effect in the neighborhood.

If implemented, the new category would create "conservation districts" to protect Forest Hills and similar neighborhoods from out-of-character development. It would also replace R-1-A, which currently applies to Forest Hills, as the city's most restrictive zoning category.

"A conservation district [classification] wouldn't carry the same weight as a historic district, but it would be similar," Office of Planning staffer Jennifer Steingasser explained at a D.C. Zoning Commission meeting Monday night.

R-1-A already places certain restrictions on development, such as

See **Overlay**/Page 31

OVERLAY

From Page 1

limiting residences to a maximum height of 40 feet and lot occupancy to 40 percent. But many of the original homes in the neighborhoods to which it applies — like Forest Hills, Chevy Chase, Palisades and Spring Valley — fall well under its limits.

Conservation districts could protect the character of neighborhoods like Forest Hills, which is not designated as historic, from what some residents say is a surge in unwanted, out-of-scale development.

It might also prevent neighborhood groups from seeking provisions that would restrict development but are not necessarily intended for that purpose, as some have said is the case with the tree-and-slope overlay.

Since 2002, the Forest Hills Citizens Association has asked the Zoning Commission to adopt permanently tree-and-slope overlay — used to protect parkland from erosion and storm-water runoff.

But critics of the proposal and Zoning Commission members have speculated the association's push for an overlay has less to do with tree preservation than with the overlay's side effects, such as restricting large-scale housing projects and additions that can be built as matter-of-right under R-1-A.

"There has been some use of the overlay to try to preserve [Forest Hills'] character and not just its trees," said commission chair Carol Mitten during Monday's meeting.

Mitten and the other zoning commissioners voted unanimously to put into effect a two-part Forest

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NORTHWEST REAL ESTATE

Hills overlay in which the original restrictions will apply to certain parts of the neighborhood and a more relaxed form will apply to others.

The measure is meant to be temporary until the conservation districts take effect, Mitten said.

Steingasser and the Office of Planning — which is working with the city Historic Preservation Office on the project — indicated that the new zoning category would not be available for many months.

The Forest Hills neighborhood is a sort of peapod shape, nestled to the west of Rock Creek Park and bounded on the east by Connecticut Avenue. To the north, it stretches to areas just below Nebraska Avenue.

The stricter overlay provisions will apply to most of the area between Linnean Avenue and Rock Creek Park, with the exception of a small portion bounded by Ellicott Street to the south, 30th to the east and Garrison to the north.

The affected parts of the neighborhood contain the most "steep slope areas" and are closest to parkland, according to a map provided by the Office of Planning.

Originally, the Planning Office had intended to restrict the more stringent portion of the overlay to those areas in the immediate vicinity of steep slopes, but the Zoning Commission, concurring with the citizens association, said pushing its boundaries out to align with neighborhood streets was more prudent.

The relaxed form of overlay will apply to most parts of the neighborhood between Linnean Avenue and 32nd Street. The "tree-and-slope overlay lite" will bump out to Connecticut Avenue on the west side north of Ellicott Street and reach back to 30th Street just north Brandywine Street.

The "lite" version of the overlay will require only 16 feet worth of side-yard footage, rather than the original version's 24 — since those provisions were "more tree related than development related," according to Mitten.

Other ground-coverage restrictions, such as lot occupancy provisions, requirements for impervious materials and minimum lot size, will remain the same as in the old overlay, which has been in effect while under consideration by the city.

Members of the Forest Hills Citizens Association were generally satisfied with the decision.

"I am pleased the tree-and-slope overlay is basically in place," said president George Clark.

Two-car garage plan splits Chevy Chase ANC

By VICTORIA SOLOMON
Current Staff Writer

Chevy Chase advisory neighborhood commissioners and audience members heatedly debated the two-car garage proposed for 3010 Daniel Lane that homeowner Joe Finnegan brought to the commission meeting Monday night — but came up with no official recommendation.

The project requires relief from the Board of Zoning Adjustment. Opponents complained that the proposed garage is unsightly and would take up too much green space, while supporters described it as a reasonable addition.

Finnegan presented drawings for two possible locations for the garage, as well as solutions to some of the potential problems with the structure. But with a number of opponents in the crowd, the commission split 3-3 on the matter.

With chair Robert Gordon absent, the commission ultimately voted to neither support nor object to the project without his input.

Some neighbors at the meeting opposed the

See **Garage**/Page 33

GARAGE

From Page 4

building entirely, but Finnegan presented a handful of letters written by other neighbors who expressed their approval.

He said the logistical complications of the proposed project include drainage problems and tree damage, both of which he plans to address.

Finnegan said his proposed garage would be five-and-a-half feet lower than a low point near his residence. Drainage would be a problem, he said, but he noted that it would be his problem and he would find a way to take care of it.

As for the trees, he said an arborist who studied the trees in his yard said they "won't be impacted." The closest the garage would come to a tree would be 10 feet, he said.

In response to commissioner Deborah Redmond's question about which of Finnegan's two drawings would have a "more invasive impact on the environment," Finnegan said the first option would have less effect because the garage would be at least 40 feet away from the neighbor's home.

But commissioner Cris Fromboluti pointed out that this option, though farther from the neighbor's home, would be more of an eyesore to the rest of the community.

Finnegan responded that the orientation of the garage is such that it would not change its look if it were a one-car or a two-car space.

The commissioners ended the discussion divided, with Allen Beach, Jerry Levine and Frank Buchholz voting to allow the building, and Redmond, Fromboluti and Samantha Nolan opposing it. They then voted unanimously to neither support nor object to the project.

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