

**FOXHALL CRESCENTS HOMEOWNERS ASSOCIATION**

June 20, 2022

Mr. Frederick L. Hill  
Chairman Appointee  
Board of Zoning Adjustment  
441 4th Street, NW  
Suite 200S  
Washington, DC 20001

**Re: BZA Case 20636**  
**Written testimony of Jody R. Westby**

Dear Chairman Hill:

Pursuant to your decision at the June 15, 2022 Board of Zoning Adjustment (“BZA”), I have attached my written testimony.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jody R. Westby', is written over a circular blue ink scribble.

Jody R. Westby

Attachment: Written Testimony of Jody R. Westby, President, Foxhall Crescents Homeowners Association

Written Testimony, Jody R. Westby  
President, Foxhall Crescents Homeowners Association

June 15, 2022

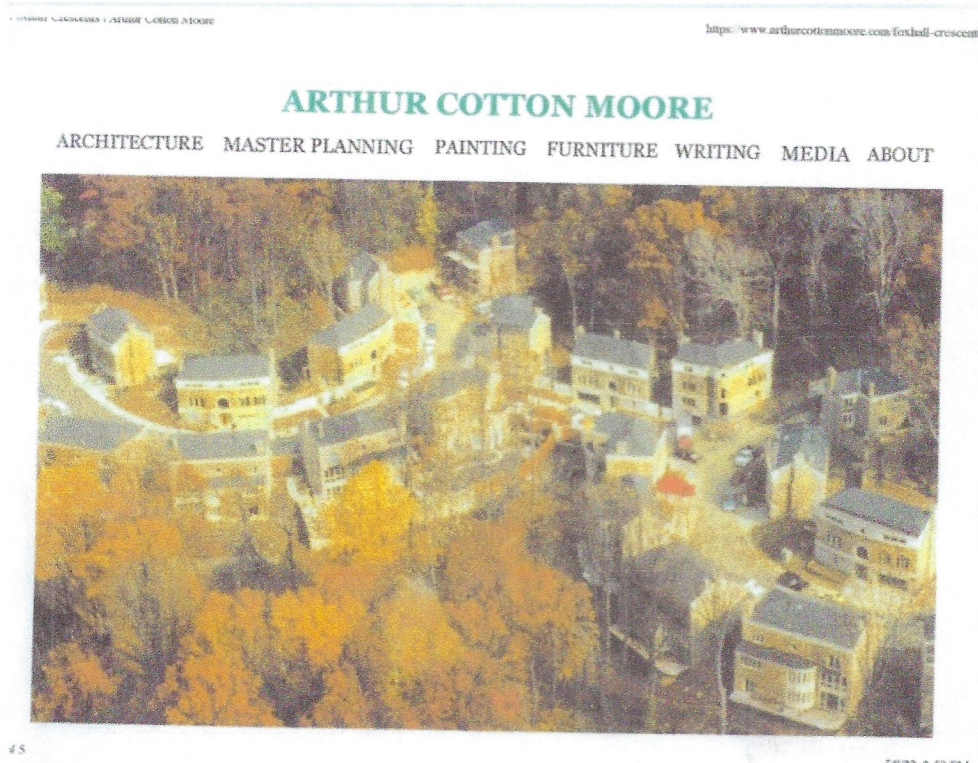
Board of Zoning Adjustment Hearing Regarding Application 20636

Good afternoon. I am Jody Westby, President of the Foxhall Crescents Homeowners Assn and an attorney licensed to practice in the District of Columbia. I am here representing the Foxhall Crescents community as President of the HOA *to express the support of a majority of the homeowners for the application by the applicant* to build the last home in our neighborhood – finally... 40 years after Foxhall Crescents was designed by Washington’s renowned architect, Arthur Cotton Moore.

Foxhall Crescents is a private community of 26 homes (27 with the one requested for approval at 4509). We maintain all of our own roads and infrastructure, including storm water drains, and do not rely on the city for maintenance or waste services. We even maintain and replace our own fire hydrants. We do use city water.

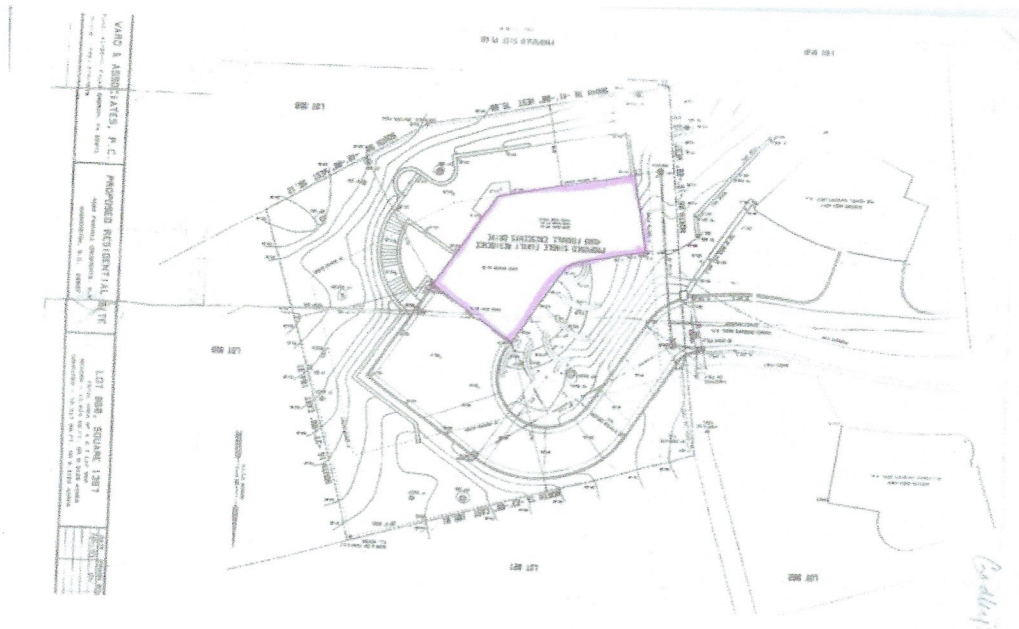
**SIZE AND DESIGN OF THE HOME AND PRIVACY ASPECTS**

First, I would like to address the size and design of the home. Arthur Cotton Moore modeled our neighborhood after The Crescents in Bath, England. You will note from the photo below, they common design of the homes is one of the most important attributes of the neighborhood.



The BZA has approved the development of a home on this lot twice in the past.

1. The BZA granted approval of an application 15882 by Gene & Patricia Godley on January 5, 1994, and the date of the Order was June 30, 1995. They applied to the ANC and BZA for approval to build a 7,000 square foot home on the lot, plus a three car garage, which *was not of a similar design to our homes*; see the layout of the proposed home below.



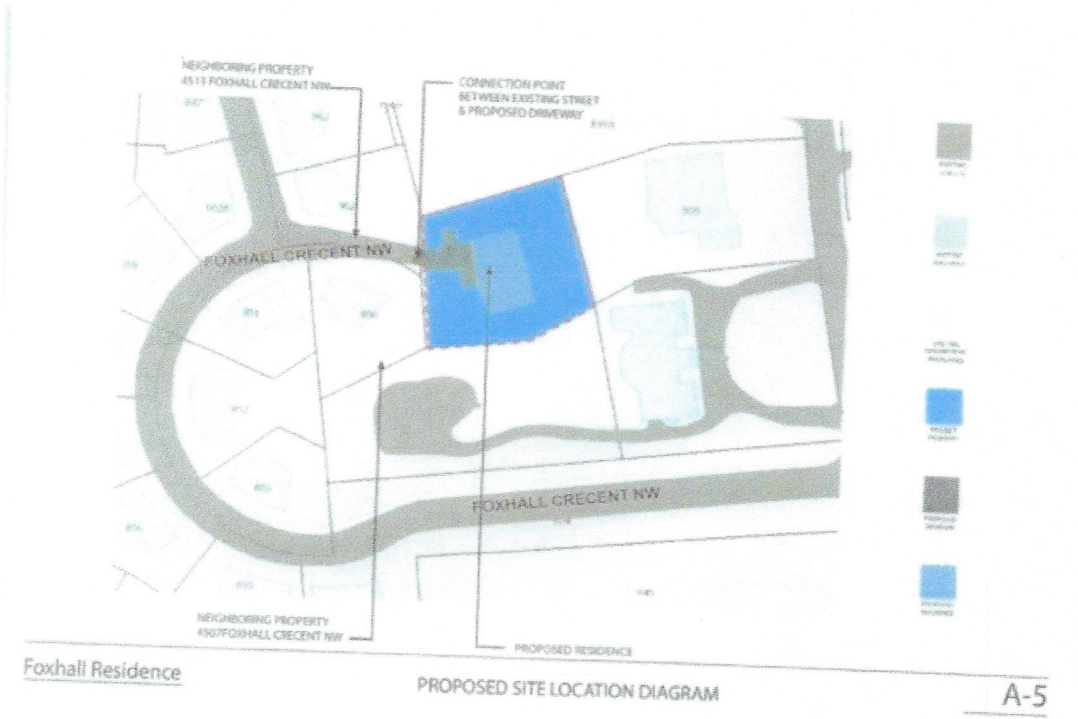
This is important for the BZA to note because the Godley's live at 4513 Foxhall Crescents and have *opposed every application to build on this lot since they obtained BZA approval*. One of their complaints with this proposal is the proposed home is too big and will be a "McMansion" not in keeping with the neighborhood. As noted below, the proposed home is 4,967 square feet v. the 7,000 square foot home they got approval for.

2. The BZA approved application 18709 by Amir Motlagh on November 5, 2014, and issued the Summary Order was issued on February 11, 2015. That home design was based on Arthur Cotton Moore's original plans for the home.

This third application, 20636 by Penguin LLC, presents a home also based on Arthur Cotton Moore's architectural plans for the 4509 home, but it is larger than originally drawn. The original plans for the home was 34' x 52' and this applicant proposes a home 38' x 57'. The square footage of the proposed home is 4,967 square feet. The FCHOA original homes are approximately 3500 to 4100 square feet. However, as homes aged and homeowners engaged in improvements, some homes have expanded, and one is near 5,000 square feet today.

The proposed home is matching in design and compatible in size with other homes in the neighborhood. As shown in the drawing below, it fits nicely on the lot. The home faces forward to the street, so the neighborhood will have a front view of the home instead of a side view, which

was the original plan since there was another home planned behind the site at 4511. The 4511 lot was sold to the German government, and the lot is now part of their embassy home at 2510 Foxhall Road for one of their senior diplomats.



There is nothing in the FCHOA Bylaws – or DC law – that requires this house to be the exact same house and have the exact same footprint as in the original neighborhood master plan. Nothing could be better proof of this than the house of 7,000 square feet for which the Godleys themselves obtained approval from the ANC and BZA.

The FCHOA Board has received assurances from the applicant’s architect, Mr. Grieg, that the applicant’s proposal is in keeping with the design and principles that are embodied in Arthur Cotton Moore’s plan for the Foxhall Crescents – in fact, this siting is in keeping with that of other houses in the Crescents that are similarly situated at the end of a street; they face forward. In addition, it provides as much privacy as all other houses in the neighborhood have in relation to one another. Moreover, the side of the Godley home is visible to the 4509 lot,, and there are no windows on that side of the Godley home.

**The FCHOA board unanimously approved the Penguin application 20636 on June 10, 2022.**

**STORM WATER DRAINAGE FROM 4509**

**Opponents of this application claim storm water drainage is a major problem, but these claims are false.** When the Godley’s applied for BZA approval in 1993 for this very lot, they submitted both a surface water report and a subsurface soil and groundwater report and assured the BZA that “we believe the possibility of an adverse effect caused by erosion, soil erosion or

groundwater, the evidence shows that that is not going to be a threat to either property itself or to the adjacent properties, based on these experts. According to the transcript of that BZA hearing on December 22, 1993 at page 29, Mrs. Godley testified:

This shows, basically, the footprint of the house and indicates that there are drains – there is one major drain currently that was constructed under the original plans for the development to catch all of the runoff from that street. If you will recall from the first driveway, the proposed street went straight down the hill abutting into the current street. So, as a result of that, an oversized drain was put in there, and it is there existing today, to catch that runoff coming straight down the street.

**That drain exists today and has been maintained over the years.** Not only is that drain there, but there is a new drain in front of 4510 Foxhall Crescents, which also captures major storm water. I draw the Board’s attention to Exhibit H of BZA document number 55A (pages 24-26). This email from nearby homeowner, Melanie Stern of 4510, clarifies the only stormwater issue has been in front of her home, and had nothing to do with 4509.

There are four important facts for the BZA to know with respect to storm water runoff.

1. The owner of 4507 Foxhall Crescents has been funneling his runoff water onto 4509 for years. In fact, there are four lines coming off his property and draining water onto 4509. See photos in Exhibits F and G of BZA document number 55A (pages 18-22).
2. The major storm water runoff is from 2510 Foxhall Road, which shares all of the Godley’s back property line as well as that of FCHOA witness Irving Kuczynski, of 4515 Foxhall Crescents, and another FCHOA member at 4517. Mr. Kuczynski will testify to this today. As the photo below (from BZA Exhibit 5, page 1) shows, the Godley’s only have a small amount of property adjoining the 4509 lot, and about half of this property line is the street, not their backyard. See notch showing street line on Godley property line below.



3. The storm water drain noted in Mrs. Godley's testimony in 1993 *is just over the 4509/4513 property line on the Godley property*, which protects them from any water run off.
4. The applicant has agreed to storm water management requirements for over 5,000 square feet of disturbance, which must be reviewed and approved by the Department of Engineering and Environment (DOEE). Even ANC Commissioner Charles Elkins noted on the record at the ANC meeting on May 11, 2022, that, given the Applicant's commitment to submit themselves to the DOEE regulators, "**there is no storm water management issue**" here.

**Storm water run-off from 4509 is not an issue today, and the FCHOA trusts DOEE to ensure that storm water management is adequately managed.**

#### **PARKING AND ACCESS FOR MRS. GODLEY (4513 Foxhall Crescents)**

**The FCHOA board has reviewed and approved the Construction Management Agreement submitted in Penguin's application 20636.** The plan allows for four construction vehicles to be parked on Foxhall Crescent streets during allowed working hours. Claims of traffic congestion by opponents are exaggerated. 4505 Foxhall Crescents – located opposite of the Godleys -- just underwent an 18 month renovation and expansion, with all vehicles parking on the street. Some days there would be 6-8 vehicles on the street related to this project. The neighborhood managed fine.

It is not realistic to think that all vehicles associated with the construction of the 4509 home will be able to park on the lot. It is steep and simply not large enough. Allowing four vehicles to park on our streets will not be a burden.

Regarding wheelchair access for Mrs. Godley and the need for EMS access, Mr. Godley states he needs the garden gate entrance and the main entrance of the home to remain unobstructed from any vehicle parking on the street in front of their home. That is nonsense. The garden gate as EMS access is not a feasible EMS pathway or path for wheelchair access. Exiting the home that way would involve ducking around a spiral staircase and lawn furniture to go along the sidewalk to the garden gate. See BZA Exhibit 77K. The gate, moreover, is partially blocked by a large evergreen. See BZA Exhibit 77M.

It is unrealistic to think that any EMS team would find this pathway preferable to direct access from the garage or from the front entrance. Mr. Godley is simply using his wife's condition as a pretext to prevent any vehicles from parking along his property up to the 4509 lot.

The best EMS and wheelchair access for Mrs. Godley is through their garage or the main entrance of their home. The Godleys have an elevator in their home that goes down to the garage level with access on the street away from lot 4509. That is the easiest access to an ambulance, and Mrs. Godley has been seen being taken out via the garage. The front entrance to their home has a few steps down to the street.