

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

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RE: BZA Application Number 18263
Applicants: Stephanie and John Lester
Respondents: Charles and Susan Parsons

**MOTION FOR WAIVER FROM STRICT APPLICATION OF 11 D.C.M.R.
SECTION 3126.2 TO ALLOW CONSIDERATION OF THE MOTION FOR
RECONSIDERATION FILED NOVEMBER 23, 2011**

The Respondents, Charles and Susan Parsons, pursuant to District of Columbia Administrative Procedure Act ("DCAPA") § 1-1500 *et seq.*, §3100.5 and §3126.2 of D.C. Zoning Regulations, respectfully move this Board for a waiver from the strict application of the "party" requirement contained in § 3126.2. Specifically, Respondents, who are nearby property owners, respectfully request that this Board consider the merits of their Motion and their Supplemental Points and Authorities, both of which seek reconsideration of the Board's Summary Order dated November 17, 2011. Respondents filed a timely motion for reconsideration November 23, 2011, within the ten (10) day period permitted to seek reconsideration. Thereafter, on November 30, 2011, Respondents filed Supplemental Points and Authorities to their Motion.

Respondents are the owners and residents of 129 C Street SE, a row house which would will adversely affected by the Applicant's requested relief from the zoning regulations. At a hearing on October 25, 2011, both a representative of the Capitol Hill Restoration Society and Respondent Charles Parsons argued against the trellis feature first raised by the applicants in their amended Application. The Board expressed uncertainty on the trellis issue during this October 25, 2011 hearing.

Indeed, the Board expressly kept the record open to receive additional submissions

at its next hearing on November 8, 2011 on this issue. The Board directed those persons seeking to file additional submissions at the November 8, 2011 hearing to file such materials with the Office of Zoning on or before November 4, 2011. The November 4, 2011 deadline was set to provide time for the Board members to review these submissions before the hearing.

The Respondents, the Capitol Hill Restoration Society and the Applicants all filed submissions on the trellis issue within the Board's deadline. However, at the November 8, 2011, the Board declined to consider the submissions, and then granted the application. The Summary Order granting the application was issued on November 17, 2011. As stated above, Respondents filed a timely motion for reconsideration November 23, 2011, within the ten (10) day period permitted to seek reconsideration. Thereafter, on November 30, 2011, Respondents filed Supplemental Points and Authorities to their Motion.

Respondents earnestly seek the relief sought in their Motion, because the Summary Order was not based on proper consideration of the trellis issue. On December 20, 2011, the Office of Zoning, in an e-mail, advised that, in their view, for consideration of the motion, Respondents must first obtain "party" status by seeking a waiver from the strict application of 11-3126.2 of D.C. Zoning Regulations. The Office of Zoning suggested that Respondents lack party status in this case because the forms for such status was never earlier filed.

Respondents respectfully submit that they should be granted a waiver because they have substantially complied with the requirements for entitlement to a full and complete hearing on the trellis issue. Respondents submit that "good cause"

exists for a waiver since they: 1) are definitely within the area affected by the application, 2) opposed the application at the October 25, 2011 hearing, and 3) filed submissions concerning the trellis issue on November 3, 2011, and 4) filed a timely motion for reconsideration. The trellis issue is a matter that should receive careful consideration which has not thus far occurred in this BZA application. Clearly the waiver Respondents seek under § 3100.5 is not prohibited by law. In addition, Applicants have no cognizable legal claim of prejudice from a full and complete hearing on the merits of the trellis issue.

FOR THE FOREGOING REASONS, Respondents respectfully pray that they be granted a waiver under §3100.5 and they be granted party status, so that their motion for reconsideration and supplemental points and authorities can be scheduled for a full hearing on the merits.

Respectfully submitted,



Charles C. Parsons
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was mailed, postage pre-paid, this
21st day of December, 2011, to:

Jennifer Cox Fowler. A.I.A.
Fowler Associates
1819 D Street SE
Washington DC 20003

Stephanie and John Lester
117 C Street SE
Washington, D.C. 20003

Gary M. Peterson, Esq.
Capitol Hill Restoration Society
810 Massachusetts Avenue NE
Washington, D.C. 20002

A handwritten signature in black ink, appearing to read "Charles C. Parsons", written over a horizontal line.

Charles C. Parsons