



BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA



FORM 125 - APPEAL

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated.

Pursuant to §§ 3100 and 3101 of the Zoning Regulations of the District of Columbia, an appeal is hereby taken from the

administrative decision of: Name of administrative officer and title
the Zoning Administrator for the District of Columbia

made on Date of decision July 13, 2011 that states issuing Building Permit Number B1103986

authorizing the construction of an addition to a single family home that will result in fatal damage to protected trees in violation of

Sections 1514.1(c), (d), and (e) and 1515.1.

Address(es) of Affected Premises	Square(s)	Lot(s)	Zone Districts
2750 32nd Street N.W.	2119	25	TSP/11-A
Present use of Property:	single family dwelling		
Proposed use of Property:	addition to a single family dwelling		
Name of Owner of Property:	2750 32nd Street Trust		
Address:	2750 32nd Street N.W.		
Phone No(s):		Fax No.:	E-Mail:

BOARD OF ZONING ADJUSTMENT
District of Columbia

Name of Lessee:		CASE NO.	18300
Address:		EXHIBIT NO.	1
Phone No(s):		Fax No.:	E-Mail:

Name of Appellant, if other than Owner:	Lawrence M. and Kathleen B. Ausubel		
Address:	2744 32nd Street N.W.		
Phone No(s):	202-333-9363	Fax No.:	202-318-0863
E-Mail:	larry@ausubel.com		

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this appeal is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22-2405)

Date:	9/8/2011	Signature of Appellant*:	Laurence Ausubel
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To be notified of hearing and decision (Appellant or Authorized Agent*):

Name:	Kinley R. Bray, Esq. Arent Fox LLP		
Address:	1050 Connecticut Avenue, N.W. Washington DC 20036		
Phone No(s):	202-857-6000	Fax No.:	202-857-6395
E-Mail:	bray.kinley@arentfox.com		

* If an appeal is filed by the agent of the Appellant, Form 125 - Appeal shall be accompanied by a letter signed by the Appellant authorizing the agent to act on its behalf in this appeal.

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

FOR OFFICIAL USE ONLY

Exhibit No. 1

Case No. 18300

Board of Zoning Adjustment
District of Columbia
CASE NO. 18300
EXHIBIT NO. 1

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Arent Fox

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September 9, 2011

BY HAND

Meridith Moldenhauer, Chair
Board of Zoning Adjustment
441 Fourth Street NW, Suite 210 S
Washington DC 20001

Kinley R. Bray

Attorney
202.715.8572 DIRECT
202.857.6395 FAX
bray.kinley@arentfox.com

Reference Number
033472.00001

Re: Appeal of Lawrence and Kathleen Ausubel
REQUEST FOR STAY OF SUBJECT BUILDING PERMIT AND
REQUEST FOR EXPEDITED HEARING

Dear Chairperson Moldenhauer and Members of the Board:

Enclosed for filing is an original and twenty (20) copies of the Appeal of Lawrence and Kathleen Ausubel from the issuance by the Zoning Administrator, Department of Consumer and Regulatory Affairs, of Building Permit No. 1103986 (the "Building Permit"), which authorizes the construction of an addition to a single family residence located within the Tree and Slope Protection Overlay (TSP) and R-1-B Zone District and violates the plain language of the TSP regulations. The applicable filing fee of \$1040.00 is also included in this package.

Request for Stay of Building Permit

Because this appeal involves construction that is likely to significantly and irreparably impact protected trees under the TSP Overlay, the Appellants hereby request, pursuant to 11 DCMR § 3100.4 and D.C. Code § 6-641.07(g)(4), that the Board stay the Building Permit pending resolution of the appeal. Without a stay of the Building Permit, the owners of the Subject Property may proceed with construction activities, albeit at their own risk, pending a hearing and decision in this case. If construction is allowed to take place as authorized under the erroneously-issued Building Permit, the trees are likely to be fatally damaged and the only remedy under the applicable TSP Regulations is a bar from further construction on the subject property for a period of seven (7) years. 11 DCMR § 1514.1(f).

The Appellants submit that this Board is authorized to issue an emergency stay pending resolution of this appeal because, pursuant to 11 DCMR § 3100.4 and D.C. Code § 6-641.07(g)(4), this Board is authorized to "reverse or affirm, wholly or partly...or make any order necessary to carry out its decision, and to that end, shall have all the powers of the officer or body from whom the appeal is taken." As the Zoning Administrator and Department of Consumer and Regulatory Affairs is authorized to revoke or rescind a permit, but in response to

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requests from the Appellants has declined to do so, this Board is authorized to stand in the shoes of the agency and issue a stay if necessary to preserve the status quo.

REQUEST FOR EXPEDITED HEARING

Pursuant to 11 DCMR § 3105.12, Appellants hereby request that the Chairperson schedule an expedited hearing on this appeal. Again, without an expedited hearing on this matter, the owners of the subject property may proceed with construction under the Building Permit and if construction does commence, the protected trees at issue in this appeal are likely to be significantly and adversely impacted, if not, as Appellant's experts have advised, fatally damaged in violation of the TSP Overlay. Because the Appellants and this Board have no remedy in the event such fatal damage occurs, as a policy matter, this Board should make every effort to schedule a hearing in this case as soon as practicable.

Should you require any further information to process these requests or schedule this case, please let me know. We look forward to appearing before this Board at the earliest available opportunity.

Sincerely,



Kinley R. Bray

Cc: Larry and Kathy Ausubel (by Hand and via electronic mail)
2750 32nd Street Trust (via U.S. Mail)
Advisory Neighborhood Commission 3C (via U.S. Mail)
Matthew LeGrant, Zoning Administrator (via U.S. Mail and electronic mail)
Jay Surabian, Esq., Department of Consumer and Regulatory Affairs (via U.S. Mail and electronic mail)
Keith Pitchford (via electronic mail)
Ellen McCarthy (via electronic mail)
Jay Hulme, Esq. (via electronic mail)
Matthew Wright, Esq. (via electronic mail)

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