

BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

FORM 140 - PARTY STATUS REQUEST

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.
(Please see reverse side for more information about this instruction.)

Pursuant to 11 DCMR §§ 3022.3 or 3105.2, a request is hereby made, the details of which are as follows:

Name	Lydia Hofer		
Address	151 D Street, SE		
Phone No(s)	(202) 546-7255	E-Mail	victoriadc@hotmail.com
I hereby request to appear and participate as a party in Case No.:		18393	
Signature	Lydia Hofer		
Date			
Will you appear as (a) ☐ Proponent ☒ Opponent	Will you appear through legal counsel? ☒ Yes ☐ No		

If yes, please enter the name and address of such legal counsel.

Name	Mark Griffin		
Address	1912 Sunderland Place, NW		
Phone No(s)	202.429.9000	E-Mail	mgriffin@washlaw.com

WITNESS INFORMATION

On a separate sheet of paper, please attach the following witness information:

- A list of witnesses who will testify on the person's behalf; *See Attached Letter from MARK G. GRIFFIN*
- A summary of the testimony of each witness (Zoning Commission only);
- An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts (Zoning Commission only); and *A*
- The total amount of time being requested to present your case (Zoning Commission only).

PARTY STATUS REQUEST

Please answer all of the following questions, referencing only the above entity, should be granted party status.

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?	
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)	owner
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no further than 200 ft.)	Adjacent neighbor
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?	See Attached Letter
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.	See Attached Letter
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.	See Attached Letter

Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the Commission/Board, any affected person shall file with the Zoning Commission or Board of Zoning Adjustment, this Form 140 not less than fourteen (14) days prior to the date set for the hearing.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18393
EXHIBIT NO. 24

Board of Zoning Adjustment
District of Columbia
CASE NO. 18393
EXHIBIT NO. 24

2013 AUG 29

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D.C. OFFICE OF ZONING

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MERIDITH H. MOLDENHAUER (DC, MD, VA)
ERIC M. DANIEL (MD, DC*)

*pending

August 28, 2012

VIA US MAIL AND EMAIL

Board of Zoning Adjustment

Attn: Cliff Moy

441 4th Street, NW

Suite 200/210-S

Washington, DC 20001

clifford.moy@dc.gov

Re: Application # 18393
149 D Street, SE (Sq. 734, Lot 74)

Dear Members of the Board,

I write on behalf of my client, Lydia Hofer, who owns and lives in a townhouse located at 151 D Street, SE, Washington, DC, immediately adjacent to the townhouse at 149 D Street, SE which is the subject of Application # 18393.

Enclosed please find Form 140 – Party Status Request Form.

Our client is opposed to the relief being sought by the applicant for the following reasons:

1. The spouse of the applicant, James Therry, acting under false pretenses, requested Ms. Hofer to sign a letter directed to ANC 6B, in support of the Application (“Letter of Support”). We understand that ANC 6B, pursuant to your rules, must be given an opportunity to review and comment upon this Application and either support or oppose it prior to the BZA’s consideration of the Application. ANC 6B did, in fact, vote to support this Application based, in part, upon the Letter of Support which our client signed but did not authorize the Applicant to submit. Ms. Hofer was home sick at the time that she was approached at the rear of her house by Mr. Therry, the husband of the Applicant in the later part of June of this year. Ms. Hofer signed the proffered Letter of Support with the caveat that the Letter of Support would not be used in any way until the Applicant’s plans for construction work were presented to Ms. Hofer and expressly approved by her. At the time Mr. Therry approached Ms. Hofer, he told her that the plans for the construction work had not been completed by the architect and were therefore not available for her to review. Mr. Therry promised Ms. Hofer that once the plans were prepared, he would submit them to her for her review and approval. He further promised

that he would not use the Letter of Support until Ms. Hofer had had a chance to review and approve these plans. In point of fact, the Letter of Support which Ms. Hofer signed conditionally was submitted by the Applicant to ANC 6B without my client's knowledge or approval and in violation of the agreement under which it was solicited and received. The Applicant never gave Ms. Hofer an opportunity to review and approve or reject these plans. We subsequently learned that these plans had already been prepared by the architect and were available for review at the time Mr. Therry approached Ms. Hofer and that Mr. Therry lied to Ms. Hofer by telling her that these plans were not available. I object to the Applicant obtaining approval of these plans from ANC 6B based on the submitted Letter of Approval which was improperly and fraudulently submitted by the Applicant to ANC 6B. I believe that the approval of this Application by ANC 6B was illegally tainted by the Applicants improper submission of the Letter of Approval to ANC 6B and that the BZA may not even have standing to hear this case under these circumstances.

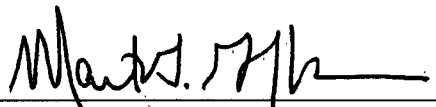
2. My client never received any plans from the Applicant and only recently obtained copies of the Applicant's plans from the BZA when she learned of the pendency of this Application for a Special Exception. Upon review, Ms. Hofer is adamantly opposed to these plans and the construction therein described because the proposed construction and addition of the large deck will have a deleterious and unique effect upon Ms. Hofer's privacy as well as her use and enjoyment of her property for the following reasons:
 - a. The Applicant's existing "deck" is nothing more than a small landing allowing for ingress and egress located at the top of the steps leading from the rear yard to the second floor entrance of the Applicant's property. Ms. Hofer has similar steps and a similar landing but no other deck at the rear of her property. The addition of a new deck of the size and width being requested by the Applicant together with the removal of a rear bay window and the expansion of the rear opening to allow for the installation of sliding glass doors leading out to the new deck will adversely affect the light and air available to Ms. Hofer's property. For instance, if the deck is used for outdoor cooking, the smoke from the cooking could come right through her living room windows if they are open. In addition, if the deck is used by the Applicant for entertaining or if the Applicant plays music on the deck or allows her

dog to stay out on the deck, especially when the Applicant is not home, the resulting noise and/or barking will unduly interfere with Ms. Hofer's quiet use enjoyment of her property. Finally, the subject properties (149 & 151) are small town houses located in the rear on a private right-of-way which was established years ago as a result of litigation involving the then owners of these two town houses and others. The right-of way is not a public alley but rather is an extension to the existing public alley and was only established for the purpose of allowing the owners of 149 and 151 and others to have vehicular access to the rear of their homes. Ms. Hofer believes that the addition of the proposed deck and the opening of the rear of the Applicant's property at the height and of the size proposed will unduly interfere with her privacy and with her enjoyment of the light and air otherwise available to her property. Ms. Hofer client is concerned that construction workers and material suppliers will not be able to access the rear of 149 D Street, SE without unduly interfering with her privacy and her use and enjoyment of her property.

- b. The scale of the proposed construction and addition and the materials being used are architecturally inconsistent with the exterior of 149 and 151 D Street, SE and surrounding neighboring properties when viewed from the alley and the adjacent private right-of way and would visually intrude upon the character, scale and pattern of the houses located in the immediate vicinity including the home of Ms. Hofer.
3. Upon information and belief, the Applicant uses the first floor apartment of her property as a housing facility for transient guests in violation of applicable zoning ordinances and regulations. The proposed deck has skylights to provide light to the portion of the rear yard being covered by the deck for the benefit of the transient housing unit and is therefore an expansion of an illegal or non-conforming use.
4. The proposed deck and rear construction is in violation of The Capital Interest (CAP) Overlay District because the Applicant's property as well as my client's property are located in Cap Overlay District.

If you have any questions or concerns, do not hesitate to contact me at 202-530-7156.

Sincerely Yours,
GRIFFIN & MURPHY, LLP

By: 
Mark G. Griffin, Esq.

Enclosure