

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 distinction.)

Pursuant to 11 DCMR §§ 3022.3 or 3106.2, a request is hereby made, the details of which are as follows:

Name:	Robert E. Sharkey and Phoebe B. Sharkey								
Address:	4514 Foxhall Crescents, NW, Washington, D.C. 20007								
Phone No(s):	(202) 393-0797	E Mail:	robshrk@aol.com						
I hereby request to appear and participate as a party in Case No.:	18708								
Signature:	Robert Sharkey & Phoebe Sharkey								
Date:	January 27, 2014								
Will you appear as a(n)	<input type="checkbox"/>	Proponent	<input checked="" type="checkbox"/>	Opponent	Will you appear through legal counsel?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

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

Name:	BOARD OF ZONING ADJUSTMENT		
Address:	District of Columbia		
Phone No(s):	E Mail:	CASE NO.	18708
		EXHIBIT NO.	28

PARTY WITNESS INFORMATION:
On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness (*Zoning Commission only*);
3. 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
4. The total amount of time being requested to present your case (*Zoning Commission only*).

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why 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?
See attached statement
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
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 farther than 200 ft.)
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?
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.
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.

Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the Board of Zoning Adjustment
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. 18708
EXHIBIT NO. 28

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PARTY WITNESS INFORMATION

A list of witnesses who will testify on the parties' behalf:

Robert E. Sharkey
Phoebe D. Sharkey

PARTY STATUS CRITERIA

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 Board?

The Sharkeys own and occupy 4514 Foxhall Crescent, NW, a neighboring property, and one of 26 residential properties in the Foxhall Crescent Homeowners Association, Inc. All properties in the Association are subject to the recorded Covenants, Conditions and Restrictions of 1981, as amended, including Bylaws of the Foxhall Crescents Homeowners Association, Inc. (the Covenants and Bylaws). Under the Covenants and Bylaws, the Board of Directors of the Association, on behalf of all property owners, is responsible for approving or disapproving all changes to any of the properties in the community, including construction of improvements and changes to sites or grades. In addition, the Sharkeys have a common interest in all the common areas in the community, which include the private street (Foxhall Crescents), sidewalks, fences and storm drains. These common areas are under the regulation of the Board of Directors of the Association, responsible for the maintenance and repair of the common areas, but all costs thereof are borne by the property owners, including the Sharkeys. The proposed construction by the applicant has not been approved by the Board, because of the failure to comply with the Covenants and Bylaws. It is noteworthy that the proposed construction is not allowed under the Covenants and Bylaw, due to the restrictions on making changes to the grade of the property. In addition, the applicant has not satisfied concerns regarding the use of the common areas, including responsibility for any damage thereto or increased maintenance costs during construction. The construction will increase traffic, noise, congestion, constricted residential and guest parking, dust and construction refuse on the single private street that provides residents access to their homes. Increased storm water and surface water run-off from Applicant's property both during and after construction will seriously and adversely affect all residents, including the Sharkeys

2. What legal interest do the persons have in the property?

See answer to question 1. Under Covenant and Bylaws the Board of the Association has the responsibility for the maintenance, preservation and environmental and architectural control of Foxhall Crescents properties and is required to promote the health, safety and welfare of Foxhall Crescents residents pursuant to the terms of the FCHOA Bylaws. The Application is subject to the Bylaws, which require Applicant to obtain approval from the Board of the Association before construction of the project proposed, and the Board has the power and right to regulate many of the terms and conditions of construction. The Board, on behalf of all residents, including the Sharkeys, has not approved the Applicant's proposed construction.

3. What is the distance between the person's property that is the subject of the application before the Board?

Of the 26 homes in Foxhall Crescents, nine are within 200 feet from Applicant's property. While the other Foxhall Crescents homes, including the Sharkeys', are located more than 200 feet from the subject property, they would be significantly affected by the construction proposed in the Application. The Sharkeys' property is located across the street from properties within the 200 ft. radius.

4. What are the environmental, economic, or social impacts that are likely to affect person and/or the person's property of the action requested of the Board is approved or denied?

- Potential damage to existing residences from water runoff from the subject property during and after construction.
- Applicant's failure to comply with FCHOA Bylaws.
- Adverse effect on adjacent properties during construction.
- Failure to protect all homeowners and their properties during construction.
- Failure to protect the Homeowners against harm in the event of Applicant's failure to complete the project after construction commences.

5. Describe the other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested by the Board is approved or denied.

Other issues may arise as the record of this proceeding is more fully developed.

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.

Each property in Foxhall Crescents is owned by a Member of the FCHOA, not by any other person in the general public, and each property would be adversely affected by the construction as proposed in the Application if the Board were to grant the special

exception as requested by Applicant. Applicant proposed to construct a dwelling on Foxhall Crescents Drive. Each existing home in Foxhall Crescents is located on Foxhall Crescents Drive, which is owned by the Members of the FCHOA, not by any other member of the general public. The project proposed by the Applicant is subject to the FCHOA Bylaws, and must be approved and regulated by the FCHOA, not any other persons in the general public. The Board of Zoning Adjustment's approval of the Application therefore would more significantly and uniquely affect the interests of the FCHOA and its members than those of any other persons in the general public. See also answers to questions 1 and 2 above.