



FORM 140 - PARTY STATUS REQUEST



Before completing this form, please review the instructions on the reverse side.

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.)

NAME: Last

Bemw

First

Gerald

Middle I.

H

ADDRESS: Street

4519 MacArthur Blvd NW

Apt. # (if any)

City

Washington DC

State

Zip Code

20007-4201

Phone No.

202-257-7927

Fax No.

202-333-0991

E-Mail

ghendersonb@aol.com

I hereby request to appear and participate as a party.

Signature

[Signature]

Date

4/14/14

Will you appear as a(n)

☐

Proponent

☒

Opponent

Will you appear through legal counsel?

☒

Yes

☐

No

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

NAME: Last

See Attached

First

Middle I.

ADDRESS: Street

Ste. # (if any)

City

State

Zip Code

Phone No.

Fax No.

E-Mail

WITNESS INFORMATION:

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

1. A list of witnesses who will testify on the person'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:

On a separate piece of paper, 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?
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 appeal or application before the Commission/Board? (Preferably no farther than 200ft.)
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 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.

Attachment to Form 140 – Party Status Request for Gerald H. Bemis

April 14, 2014

I shall appear as an opponent to the application to change the land use of 4527 MacArthur Blvd NW from single family to multifamily, case 18738.

I will have legal counsel but have not yet confirmed such a person.

Witness information: Myself, Gerald H. Bemis, owner of 4519 MacArthur Blvd, the next door property

Legal counsel, as yet unidentified

Alma Gages, former chair of ANC3d, expert on zoning, member of zoning revision panel

Ronald Steinert, architect, American Institute of Architects and neighbor.

Frank J. Staroba, neighbor at 4503 MacArthur Blvd, resident since 1968

Time Requested: Twenty minutes

Party Status Criteria

1. The request to change use for 4527 will severely impact my property right next door at 4519. In brief, it will isolate my house between two tall structures, reduce its curb appeal, severely impact my privacy, reduce light and air, create HVAC noise for my bedroom, and decrease the value of my property, in which I have invested heavily in time, labor and expense to improve both its beauty and utility.
2. My interest is deeply personal and financial as the immediate neighbor. I am also deeply concerned about the density of my neighborhood in which I have lived as renter, then owner for thirteen years.
3. There is no distance between my property and 4527. My lot adjoins theirs.
4. See attached statement for economic and social impacts on my property.
5. Proposed design, with maximum density allowed within zoning regulations, violates the character of the neighborhood created in the first block of MacArthur, where there are 39 units that either are, or look like single family homes. The proposed height on top of a grade level already five feet above the sidewalk, is too tall.
6. My interests will be more severely affected than any other concerned party because I am the immediate neighbor

Summary of testimony my representative and I will present to the Board of Zoning Adjustment (draft)

1. Contingency of the sale of 4527 to S. A. Kashani and the apparent bad faith of Mr. Kashani.

In November of 2013, Mr. S.A. Kashani purchased 4527 from Michel Chevalier through his real estate agent Nader Shirazi. According to Chevalier, the buyer had told his realtor that he planned to renovate the home, live in it, and only tear down the garage. Chevalier also said that he had rejected an offer for \$75,000 more because it involved a zoning change that he did not want. He accepted a lower offer of \$710,000 in order to sell it to Kashani, who was going to keep it a single family home. The agreement was "that the home would be developed and not torn down."

I spoke to Mr. Shirazi in March. He told me that the house was currently being rented on a short term basis. I asked him what their long term plans were, and he said, "they planned to renovate the house or tear it down and build a family style house." Three days later, I received the BZA notice announcing the hearing for change of use to multi family. I was shocked at the deception as were my neighbors when I told them.

At the ANC3d meeting of April 1st, Shirazi and architect Ali Ajalli presented their proposal, asking for ANC approval to take to the BZA hearing on April 15th. My neighbors and I spoke vigorously against their proposal, and the ANC voted unanimously against it. Chair Gayle Trotter suggested that the developer meet with the neighbors to iron out our disagreements. She also recommended strongly that he ask the BZA to postpone the hearing. That would allow time for consultation and for the ANC to review its disapproval.

We agreed to meet, and seven of us attended along with Ajalli and Nader. Before hand, we asked specifically that the owner or a representative with the authority to make decisions be present. Ajalli assured us that that would be the case, but at the meeting he and Shirazi regularly responded to our requests by saying they would have to consult with the owner. At the same time, they asked us to guarantee our agreement not to oppose their proposal if they addressed our concerns, apparently without our examining their responses. We rejected that strategy unequivocally.

At the same meeting, Shirazi admitted when challenged that they had made an agreement to maintain single family use. However, he said that after the sale Kashani asked Ajalli to look into everything that was possible under the zoning regulations. That direction resulted in a request for change of use. In spite of what the buyer had told the seller, Ajalli designed a five unit apartment building.

The BZA had set the hearing for April 15th. Regulations required the developer to post a notice of the hearing fourteen days in advance. Both Ajalli and Shirazi said at the meeting with neighbors that they were unaware of this requirement. Kashani did then ask for a postponement of the hearing to April 29th, to which the BZA agreed. That date allowed him to post the notice for the new hearing well in advance, but does not allow time for him to return to the ANC which meets on May 6th. It appears that he is willing to go ahead without ANC approval.

This history demonstrates the bad faith if not the outright misrepresentation of Kashani's intentions in flagrant disregard of the interests of the community and of the previous owner. It is also relevant to point out that Kashani has never appeared himself in any of these dealings, a fact that indicates his distance and disinterest in the quality of life in the community and his disrespect for the neighbors.

2. **Negative Impact on my property.** I am passionate about my property. It is my dream house, and I have the taste and skills to make it beautiful and viable. Here are all the elements of the proposed design for 4527 that severely impact both its beauty and viability,
 - 2a. The front setback of 4527 up to the property line puts my house in a kind of box between two tall buildings. On the east side, the existing building, 4513-4517, is lower than mine at 4519. It does not tower over me as the proposed structure at 4527 would. The proposed building on the West side of me would rise to more than 37 feet above grade, ten feet higher than my house. This boxed-in look would reduce the curb appeal of my house and significantly lower its property value.
 - 2b. There is also the serious problem of invaded privacy from all the windows facing my newly landscaped garden, as well as the blocking of natural light and air during the day. The lighting at night from both the house and the parking area will cast a lot of light onto my entire back yard destroying the subdued lighting I now enjoy so much. These negative impacts are the result of increased density that is inappropriate to the neighborhood. You cannot justify them as just the realities of urban living.
 - 2c. Noise from five HVAC units will go on and off at random times all day and all night. Units are next to my house below my bedroom. The plan calls for a protective wall to buffer my house from the noise, but such a wall will more likely produce bouncing sounds between the buildings than muffle them. Noise pollution 24/7.
 - 2d. The total effect of all these design flaws will be extremely detrimental to my property, to its livability, its beauty, and its resale value.

3. Massive design of 4527. The massive design of the structure crowds the lot and causes these problems for my property. There are several alternatives for the property that would generate profit comparable to the five-unit option that Kashani prefers. Best among them would be a luxurious single family, or a semi detached double unit that he could build as a matter of right. Either option could look

like a single dwelling. They would reduce the mass and footprint of the building. They would likely sell as quickly as the townhouses at the Foxhall Ridge PUD units have sold. That should realize the profit that the owner seeks as well or better than the five small units.

4. Side entrances. The three side entrances are an ingenious solution to maximizing revenue, but they are out of character for our neighborhood. No other building in the neighborhood has entrances configured this way. Three of the apartments will have a very narrow walkway to front entrances, diminishing their appeal for buyers.

5. Traffic and safety. Neighbor Samantha Schneck has expressed her concern about increased traffic in the alley and the safety of kids playing in the park alongside the alley, including her own daughter when she becomes a toddler.

Concerning this traffic issue, a year ago my neighbors and I testified before the BZA on the proposal to replace the house at 4529 with a four unit apartment building. Although we had 120 signatories opposing the project, the BAZ approved it, partly on the testimony of DDOT that those four units would not impact traffic. Now we might have five more, for a total of nine that could produce as many as 18 cars emptying into Q Street. Add visitors and service people and you have a traffic disaster, especially at key times of day like drop off and pickup for two schools within a half block of 4527.

Addressing these concerns, the ANC has asked DDOT for a traffic study focusing on busy times of day. No decision on the proposal should be made before that study is complete.

6. Parking. The five parking spaces emptying on the alley are problematic for maneuvering in and out, especially for the parker closest to the building who wouldn't have much maneuvering space. This is a function of the massiveness of the structure and its large footprint.

7. Trash pickup. I am also concerned about the handling of ten trash and recycling cans in such a constrained space. No provision currently exists for storage to keep them from being an ugly event every week along the alley.

Conclusion. I am passionately opposed to this proposal for all the reasons stated above. I urge the BZA to deny approval of change of use for 4527 as extremely detrimental to my adjoining property and completely out of character with the neighborhood.

I urge the BZA to respect the character of the neighborhood and the opinions of the neighbors. Every neighborhood in DC has its unique character and every property owner has the right to protect his property from degradation by development. The zoning regulations affirm that right and I urge the commission to respect that charge.

Respectfully,
Gerald H. Bemis