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:	Mara Verheyden-Hilliard and Carl Messineo		
Address:	3825 Livingston St. NW Washington DC 20015		
Phone No(s).:	202-270-3533	E Mail:	mvh@justiceonline.org
I hereby request to appear and participate as a party in Case No.:			18799
Signature:	Mara Verheyden-Hilliard Carl M	Date:	7/8/2014
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:			
Address:			
Phone No(s).:		E Mail:	

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?
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 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.

Re: Application No. 18799; PNC Bank National Assoc.
Party Status Request Form Supplement, Mara Verheyden-Hilliard

PARTY WITNESS INFORMATION

A list of witnesses who will testify on the party's behalf.*

Mara Verheyden-Hilliard
Carl Messineo
Annemarie Maguire
William E. Scheurch
Janet Shenk

***Witnesses who are also seeking party status will presumably also speak on their own behalf and we are not seeking to present any witness more than once.**

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 Commission / Board?**

   I am an owner and residential occupant of 3825 Livingston St. N.W. I reside in the property with my nine-year-old son. The application of PNC Bank National Assoc. pertains to use of space upon ground zoned residential for an accessory parking lot for PNC bank customers. The location of this parking lot at 3808-16 Morrison Street, N.W. is directly behind my home, approximately 15 feet from my property line and backyard.

   Because of its proximity to my home, including direct lines of sight and sound from the parking area to the bedrooms located on the second and third floors of my home, as well as the kitchen and living room on the first floor, I am adversely affected by noise, light and disruptions and usage when they occur on the parking lot. Historically for many decades, and up until approximately 6 years ago when Riggs Bank sold the property to PNC Bank, the parking lot has been used exclusively for branch customer parking during bank hours, i.e., limited day time activities.

   Over the past 6 years, there has been increasing substantial nighttime noise and light (as well as increased daytime activity and noise) from growing unauthorized use of the lot from local business and restaurants unconnected to bank customer activity. The noise of people returning to their vehicles at night, possibly after an evening of celebration and drink, can wake us from sleep. Lights from vehicles at nighttime intrude into our home, especially the bedrooms on upper levels in the rear of the home.

   As reflected in PNC's application, such usage of the lot is "unauthorized" and inconsistent with PNC's policies.

   PNC bank failed to seek a special exception for continued use of the accessory lot after the prior special exception expired in 2008 and also failed to properly enforce the requirements for accessory parking use of the residentially zoned space. However, in the instant application the Bank has submitted an application consistent with the prior historic and the only authorized usage and has taken steps to properly enforce the use of the accessory parking lot

PNC's enforcement actions, to conform to prior special exceptions, limiting the use to customers accessing the branch during banking hours has made an appreciable difference in the noise and disruption that we were encountering both night and day. We are appreciative of those efforts.

In addition to the unauthorized parking use of the lot, a significant change of circumstances has caused greater disruption to emanate from the residentially zoned space that adversely affects our property and home. A new restaurant/bar (Macon-DC) which has leased space from the Chevy Chase Arcade has located its restaurant and bar's commercial food stuff and bottle trash disposal, storage, and related operations on a portion of PNC's property. This includes the placement of new commercial dumpsters on residential property. This is a new and substantial change. While unauthorized trash containers have been placed there previously (I understand there is an easement for egress and ingress only, which cannot be considered to contemplate commercial waste storage and disposal) these containers were primarily paper/trash from an art gallery and other non-food service businesses and had a limited weekly pickup. This is far different than, restaurant waste, i.e., foodstuffs, oil and grease disposal, along with the extremely loud crashing of bottle disposal destroying peace and quiet, and the new pick up twelve times a week (two separate pickups a day Mon – Sat for bottle trash and garbage trash and the attendant glass crashing and commercial dumpsters banging into the garbage trucks). The new addition of the restaurant's garbage operations illegally placed on the PNC Bank's residentially zoned property have caused significant disruption to the daily peace and quiet of our home and has also awakened residents early in the morning and even past midnight.

I understand that PNC has requested that the garbage containers placed on its property be removed and that these unauthorized operations cease. With respect to the bank parking lot, there never has been authorization for use or placement of garbage dumpsters on the residential space.

The issue of garbage dumpsters, however, has arisen in connection with the two accessory lots located on blocks to the north on the same side of Connecticut Avenue, i.e., the lot behind CVS at 3820-3826 McKinley St. NW ("CVS lot") and the lot behind Magruder's ("Magruder's lot) at 3820-26 McKinley St. NW.

Both the CVS lot and the Magruder's lot, which receive special exceptions for use of their residentially zoned lots restrict access to the lots. Notwithstanding the popularity of the Avalon Theater, located directly adjacent to the Magruder's lot, theater parking is not allowed in that lot in order to protect the neighboring residents. The Avalon theater itself posts that customers may not park in the Magruder's lot or the CVS lot.

The subject of trash containers has been an issue with respect to both the CVS and Magruder's lots. In each case, trash dumpsters are expressly prohibited by order of the BZA on the residential portion of the lots. *See*, *e.g.*, BZA Case No. 18753 (decision date: May 6, 2014) (special exception for CVS lot) ("No trash dumpsters shall be located on the portion of the lot zoned residential."); BZA Application No. 17904 (decision date: May 4, 2009) (special exception for Magruder's lot, 3820-26 McKinley St. NW) ("No trash dumpsters shall be located on the portion of the lot zoned residential.").

With respect to the bank lot, where placement of garbage dumpsters has never been requested by the bank, the special exceptions have specified that "No other use shall be conducted from or upon the premises and no structure other that attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located."

Because of these unauthorized activities, our interests in the quiet enjoyment of our home, even the very ability to sleep through the night without interruption from noise, have been adversely affected. The proximity of these unauthorized activities, just feet away, raise issues of vermin control, smell, rotting garbage, uncontainerized trash, loud bottle crashing, and noise from trash disposal companies, among other concerns.

These disruptions that are not in harmony with the residentially zoned space adversely affect our residence and decrease the utility, quiet enjoyment and economic and property value of our home.

As the close residential neighbors to the PNC lot, we are pleased that PNC has agreed to effect "additional enforcement mechanisms to help ensure that nighttime use does not occur on the lot." This has included returning to closing and locking existing gates that provide access to the parking lot upon bank closing as was done previously.

The PNC has objected to the continued use of its residentially zoned property for the unauthorized commercial restaurant/bar waste storage and disposal operations. The pending application does not implicitly or otherwise countenance such usage upon residential space, as would be inconsistent with an accessory parking lot.

The only other ongoing concern that I have is with the stationary lighting of the PNC's parking lot. These lights shine into our bedrooms rather than just cast light downward to the lot, however this may be easily remedied with a change in bulbs.

Accordingly, despite the prior problems, I am a proponent of the bank's application as submitted on May 12, 2014. The PNC has taken steps to remedy those prior problems and the application reflects good neighborly consideration of the adjacent residential properties and the disruptions we have experienced when enforcement of the historic restrictions was relaxed. We offer no objection to the usage of the R-2 zoned space on PNC's lot for its customers during its banking hours, and sincerely appreciate that PNC acts as a good neighbor, especially to those who are most directly affected and most proximate to it.

2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)

Co-owner with Carl Messineo.

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.)**

   At the closest point, approximately 15 feet (the width of the public alley) separates the PNC property from my property.

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?**

   The approval of the application as submitted with appropriate restrictions on use will allow PNC and its customers to use its accessory parking lot during branch banking hours, while protecting the abutting residential properties from adverse effects, harm and disruption. Please also see #1 above.

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

   The approval of the application as submitted with appropriate restrictions on use will allow PNC and its customers to use its accessory parking lot during branch banking hours, while protecting the abutting residential properties from adverse effects, harm and disruption. Please also see #1 above.

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?**

   My home is identified as #4 on the BZA's map of nearby properties. My property is approximately 15 feet from the bank's residentially zoned lot. The parking lot has a concrete base wall that is several feet high (and at lower level than the raised lot so it does not screen the cars) with another approximately 6 feet of see-through slatted wood mounted on top. Where we are located there is no additional tree or foliage screening and we are directly and closely affected by the noise and lights. The unauthorized garbage storage and disposal operations are also approximately 20 feet from our property and moreover are not screened from our property by the PNC fencing as they are on the other side of the PNC fencing next to our residences.

   I live in this property with my son. It is our home, with all the attendant importance that quiet enjoyment of one's home conveys. I have lived in this home for 14 years and have resided in the neighborhood for decades. We sleep here at night. Our backyard is used for play, for gardening, and for residential activities. Not unreasonably, we need to sleep at night and to not have to endure the parking lot being transformed into an open traffic commercial lot for all neighborhood businesses and into the evening, nor endure the byproduct of unauthorized and improperly placed commercial restaurant waste being stored on residential space near our backyard, with the attendant risks of vermin, as well as rot, odor and noise that disrupts our peace and quiet.

It is our home, and we reside there. We have invested in this property and have financial interests at stake. All of these circumstances distinguish our interest from the general public and the community-at-large and those who do not suffer the direct adverse effects of the use the residentially zoned land for commercial purposes.

Affidavit of Service
Board of Zoning Adjustment for the District of Columbia
Application No. 18799; PNC Bank National Assoc.

I hereby affirm that on July 8, 2014 I served the following parties in the above-referenced matter by regular mail the Party Status submission of Mara Verheyden-Hilliard and Carl Messineo, and the Party Status submission of Janet Shenk.

Lynn Osman, RPA
Vice President – Realty Services
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Washington, DC 20006

Jim McCarthy, Chair
ANC 3/4G
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Mara Verheyden-Hilliard
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