



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:	Peter and Ann Kolker			
Address:	5524 39th Street, N.W., Washington, D.C. 20015			
Phone No(s):	202-244-9123; 202-256-6111	E Mail:	pkolker@verizon.net	
I hereby request to appear and participate as a party in Case No.: 18843A				
Signature:			Date:	November 2, 2015
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? Proposed construction would adversely affect light, air and privacy of our property. See Attached Statement
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
Owners
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.) Adjacent; our property is immediately south of applicant's.
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 Statement
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 Statement
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. Our property is less than 3' from applicant's and will be directly affected by proposed project.

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.

PETER R. AND ANN F. KOLKER
5524 39th Street, N.W.
Washington, D.C. 20015

pkolker@verizon.net
202-256-6111

APPLICATION OF PETER & ANN KOLKER
FOR PARTY STATUS – BZA CASE NO. 18843A

We are the owners of and long-time residents (38 years) of 5524 39th Street, N.W., the property immediately adjacent to the south of applicant's property. We seek Party Status because we will be directly adversely affected by the proposed construction which borders our property and will unduly reduce the light, air and privacy of our property.

History of the Project

In 2014, the applicants sought a Special Exception in case No 18843 to construct an addition to their residence that did not meet the side yard requirements of the Zoning Code. We initially opposed this application because the applicants proposed to construct the extension of their property, including a deck right to the property line. This application showed that the rear of the applicant's property (garage, tree and vegetation) would not be affected by the construction. The application represented that lot occupancy would be less than 40% when completed.

After negotiations with the Pashbys, we withdrew our opposition based on their agreement to reduce the width of their proposed deck and to plant screening on their side of the boundary between our two properties. A written "Construction Agreement" dated September 29, 2014 documenting this arrangement was entered into. The Construction Agreement did not envision any further work in the rear of the Pashbys' property. The BZA granted the Special Exception, subject to the Construction Agreement and based on lot occupancy represented as less than 40%..

Then, without prior consultation with us, the applicants filed the present application 18843A, seeking to do extensive work in the backyard and garage area of their property in addition to the work previously sought. This additional work plus an updated and more accurate measurement of lot occupancy would exceed the 40% lot occupancy maximum for an R-2 zone and would, in combination with the work described in the original application substantially reduce the light, air and privacy of our property. It would also be out of character with the other property in this area. For these reasons, we oppose application 18843A.

The Garage and Backyard Project

Applicants now propose to demolish the existing garage and construct a new, larger and higher garage with a cellar adding 60% more square footage to lot coverage compared to the existing garage. In addition the south wall of the garage would be 7 feet closer to our property line, a significant intrusion since the applicants' lot is only 30' wide. Based on the plans submitted with their application, the garage would rise to a height of 14.5', an increase of approximately 4 to 5 feet from the present structure. But there is more to the applicants' project that would affect the character of their lot: they propose to construct a 218 sq. ft. concrete

parking pad bordering on our property on which they would park their second car. In the course of this construction, the applicants would demolish a 30' holly tree, which currently provides privacy and shading to the neighbors to both the north and south of the Pashbys' property. (*See attached photos.*)

The effect of the construction proposed in the current application coupled with the large project previously presented to the BZA would be to increase lot occupancy by 24.1% over the existing improvements. The proposed garage project would push lot occupancy to 43.7%, which represents coverage that is 9.2% greater than is permitted in an R-2 District. The effect is magnified by the narrowness of the applicants' lot. Since it is only 30' wide, their current residence, built before the zoning regulations were first enacted, is less than 3 feet from the boundary with our property. To the north, the Pashbys' current improvements are less than 5 feet from that property line. The Pashbys' proposed construction would extend the depth of their residence from 30.3 feet to 43.9 feet, an increase of 45%, and the addition would be two floors high.

While we ultimately agreed to the construction of the improvements shown in the first application (Case 18843), the addition of the garage improvements presents a different picture to us. Not only would there be a large addition to the Pashbys' residence in very close proximity to our home shading our backyard, but we will now be faced with a garage, parking area and naked back yard on the Pashbys' property that will completely eliminate the privacy provided by the current use of the property. *See attached exhibits.* If the total project now sought had been described to us in September 2014, we would not have agreed to the Construction Agreement, because the total effect of both projects will cause a marked diminution to the privacy we currently enjoy. In addition, a project that fundamentally alters the backyard of the existing structure and transforms it to a car park is out of character with other uses of adjacent properties.

Zoning Code Section 223.1 imposes the burden on the applicants to show that their request will not have a substantially adverse effect on the use or enjoyment of abutting or adjacent property. In particular, the applicants must demonstrate that they will not unduly affect the light and air, privacy or character of the neighboring properties. We submit that, with the totality of construction now requested by the applicants, they cannot meet this standard. Application 18843A should be rejected.

November 2, 2015

Respectfully submitted,



Peter R. Kolker



Ann F. Kolker

**EXHIBITS TO KOLKER REQUEST
FOR PARTY STATUS - BZA CASE 18843A**

Exhibit A compares the existing view from Kolkers' yard facing north, across to the applicant's property with the same view after construction of the proposed addition.

Exhibit B shows the existing view from Kolkers' back yard facing north across to Pashbys' property.

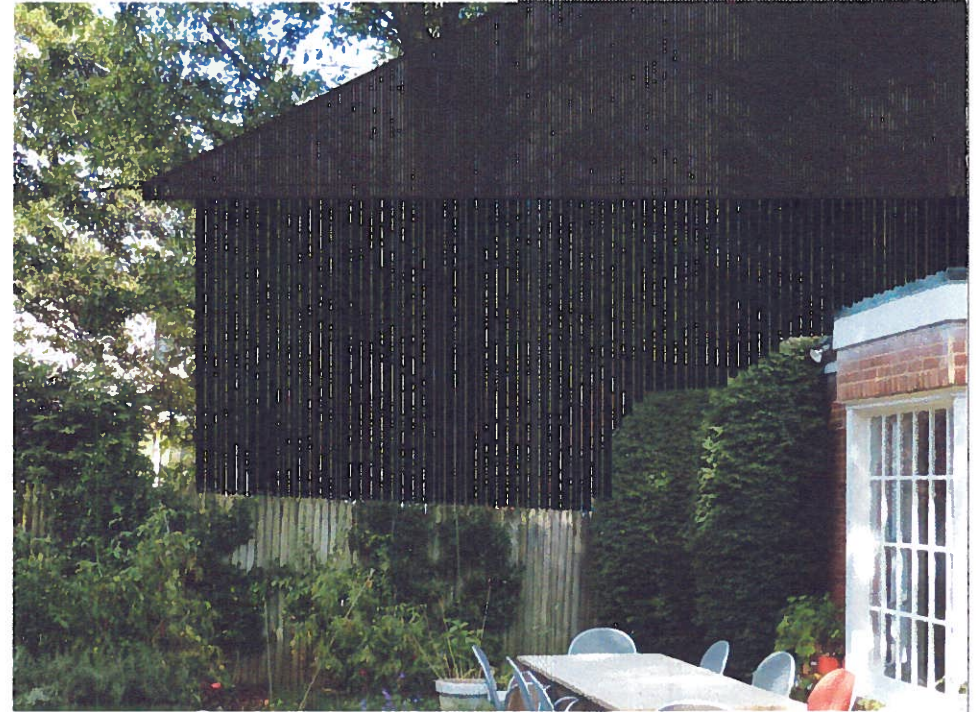
Exhibit C shows the view from Kolkers' backyard facing north with proposed new garage construction with foliage eliminated.

Total proposed project viewed from Kolker yard would significantly and adversely affect privacy, light and air.

EXHIBIT A



KOLKER EXISTING
RESIDENCE



PASHBY PROPOSED
CONSTRUCTION



EXISTING CONDITION

EXHIBIT C



Proposed Pashby Garage Construction