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November 12, 2015

VIA IZIS

Marnique Heath, Chairperson
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210S
Washington, DC 20001

**Re: Entrance of Appearance
5526 39th Street NW- BZA Case No. 18843A**

Dear Chairperson Heath & Members of the Board:

On behalf of Peter R. and Ann F. Kolker, and pursuant to the attached Form 150, requesting leave under 11 DCMR §3100.5 to late file, please accept this Entrance of Appearance and Request for Postponement for the above-referenced application. Please accept this filing to serve as Griffin, Murphy, Moldenhauer & Wiggins, LLP's appearance on behalf of Peter R. and Ann F. Kolker, who have timely filed for Party Status in Opposition to BZA Case No. 18843A.

Peter R. and Ann F. Kolker just recently retained our firm as zoning counsel after filing their party status request. We join in requesting a postponement to continue the public hearing scheduled for November 17, 2015 until December 15, 2015. This continuance is requested to allow further discussions between the Kolkers and the Applicant. The Kolkers and other Parties in Opposition have been engaging in a dialogue with the Applicant, see attached email Exhibit A.

The postponement would provide the Applicant sufficient time to obtain the landscape plan, referenced in Exhibit B, which states that Landscaper JR Designs will require at least two weeks to complete a plan for our clients to review. This postponement will allow for needed dialogue amongst the parties and, if the matter is not amicably resolved, adequate time for our firm to fully brief the Board on the concerns, pitfalls and weaknesses in the Applicant's case.

If you have any questions, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP



By: Meredith H. Moldenhauer

Enclosed: Exhibit A- Email Communication
Exhibit B- Landscape Plan

Cc: Thomson & Cooke
Cliff Moy, Office of Zoning
Brandice Elliott, Office of Planning

Exhibit A

Ajoke Agboola

Subject: FW: Landscaping Solution ?
Attachments: 2015-11-11 JR Design.pdf

From: Chris Pashby <chrishpashby@gmail.com>
To: 'Peter Kolker' <pkolker@verizon.net>; 'Ann Kolker' <annkolker@verizon.net>
Cc: 'Robyn Pashby' <robynashby@gmail.com>
Sent: Thursday, November 12, 2015 11:54 AM
Subject: RE: Landscaping Solution ?

Peter and Ann,

Thanks for reaching out to us again. We are truly committed to developing a landscape plan that we hope will mitigate some of the impact of our project on our neighbors. Regrettably, we underestimated the opposition and did not start the formal landscape planning process until we got back from vacation. Subsequently, we have spoken with a few landscape architects and we selected one yesterday and signed a contract. I did ask him for the absolute soonest we could get a plan and it appears it will take about two weeks and that is still aggressive. I cannot stress enough that even in the event the BZA decides to hear our case on the 17th and we are permitted to move ahead with our project, we do intend to follow through on a landscape plan that we sincerely hope will offer some benefits to all parties. We really do not want our neighbor relationships to be contentious or even compromised.

Although there will not be a plan to review with you by this weekend, we will contact you as soon as we have first draft plans in hand and then we can sit together to discuss in more detail. We estimate this to be about 2 weeks, give or take depending on how quickly he can complete them.

Again we appreciate you reaching out.

From: Peter Kolker [<mailto:pkolker@verizon.net>]
Sent: Thursday, November 12, 2015 7:47 AM
To: Chris Pashby; Robyn Pashby
Cc: Ann Kolker
Subject: Landscaping Solution ?

Chris and Robyn –

We would like to see if a resolution of our concerns can be worked out by agreement. Our issues are largely different from those of your neighbors to the north so that we might be interested in resolving our concerns independently. At the ANC hearing last Monday, you indicated that you were consulting with a landscape specialist. Do you have a plan relating to our side of your property that you are in a position to share with us? As Ann is out of town for a few days, Sunday would be the best today to discuss this, although we would be glad to look at something by email before then or to talk on the phone.

Peter R. Kolker pkolker@verizon.net (202)256-6111

Exhibit B



Dear Mr. & Mrs. Pashby,

Thank you for considering Joseph Richardson Design to provide design services for your residence at 5526 39th St. NW Washington, DC. Below you will find a description of our proposed scope of work and design process. If you have any questions, please feel free to contact me by email at josephrichardsondesign@gmail.com or by phone at 504.909.1555.

Phase I Base Plan

\$ 300.00

JRD will prepare a base plan from architectural drawings and a site plan provided by the Client's architect, Thompson & Cooke. We will then measure and locate existing improvements not shown on the survey (e.g. existing structures, driveways, walks, fences, existing landscaping, etc.) and take topographic measurements where needed. This plan is necessary in order to base the proposed design upon accurately identified site conditions.

Schedule

- * Base Plan will be completed within 1 week of contract acceptance.

Phase II Preliminary Design

\$ 850.00

JRD will develop a Preliminary Masterplan for the property upon completion of the Base Plan. The Preliminary Masterplan will graphically convey proposed improvements to the property in accordance with the client's program. These improvements include hardscape improvements (e.g. walls, patios, walks, fencing etc.) and landscape related improvements (e.g. trees, planting beds, grading, drainage, etc.). A planting design and budgeting worksheet with estimated construction costs will be also be presented for client review.

Deliverables include:

- One Plan Rendering
- Materials Palette with photos and/or samples
- Budgeting Worksheet with Estimated Construction Costs
- Planting Design

Schedule:

- Preliminary Design Meeting with Client within 2-3 weeks of Phase II completion.

Meetings:

- One design review meeting included in this phase.

Phase III Design Development

\$ 400.00

During this phase, JRD will revise the Preliminary Design based on client feedback provided in the Phase III meeting. One round of revisions is included in this price. Any additional revisions may incur an additional fee.

Deliverables include:

- One Revised Design

Schedule:

- Revised plan within 1 week of receiving client feedback.

Phase IV Construction Drawings & Administration

\$ Not Included

A separate proposal to will be submitted to the client upon completion of Phase III. This fee shall be based upon the final scope of the project to be constructed.

TOTAL DESIGN FEE: \$ 1,550.00

PAYMENT SCHEDULE:

JRD will require 50% of the total design fee for authorization to proceed with Phase I of the design process. The balance shall be due upon completion of Phase III. In the event that there is an extended period between Tasks II & III, a partial invoice may be sent. Before proceeding with Phase IV of the design process, JRD shall provide the client with a fixed-fee price to complete the construction drawings required. All Construction Administration services are billed hourly as needed. Payments can be made in the form of a check or credit card. All credit card payments will be assessed a 3% fee.

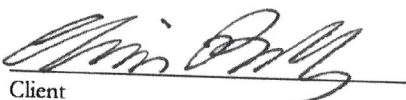
NOTES:

This design proposal is valid for thirty (30) days. Signing within the thirty-day period shall execute this agreement for Joseph Richardson Design to complete all work outlined herein.

We anticipate commencing work within 2 weeks of signing, and completing that work within 6 weeks of the start date.

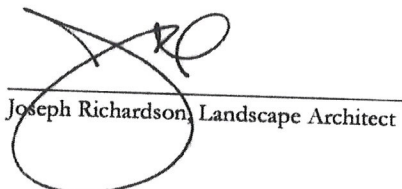
All original drawings, base maps, and other documents created by Joseph Richardson Design are, and shall remain, the property of Joseph Richardson Design until the balance of the design fee is paid in full. Upon payment in full, Joseph Richardson Design shall release to the client—upon request—all drawings in PDF format. Joseph Richardson Design shall not release plans or any other documents produced should client not pay the Design Fee in full.

We, the undersigned client(s) have read, understand, and accept the above design proposal. Joseph Richardson Design is authorized to proceed with the work as specified in this agreement.


Client

Date

11/11/15


Joseph Richardson, Landscape Architect

Date

11-10-15