

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:	<i>Massachusetts Heights Citizens Association</i>		
Address:	<i>c/o Paul A. Cunningham, President 2707 36th St. N.W. D.C. 20007</i>		
Phone No(s):	<i>(202) 973-7600</i>	E Mail:	<i>c/o pac@harkinsconnaghan.com</i>
I hereby request to appear and participate as a party in Case No.:	<i>18886</i>		
Signature:	<i>Paul A. Cunningham, President</i>	Date:	<i>12/13/15</i>
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:	
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; *Not yet confirmed*
2. A summary of the testimony of each witness (Zoning Commission only); *See #1*
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 *See #1*
4. The total amount of time being requested to present your case (Zoning Commission only). *N/A*

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? *Please see attached for answers to questions 1-6*
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.

Board of Zoning Adjustment

District of Columbia

CASE NO.18886

EXHIBIT NO.40

Attachment to the Party Status Application of The Massachusetts Avenue Heights Citizens Association – BZA Application No. 18886.

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 Massachusetts Avenue Heights Citizens Association (the “Association”) is organized for the purpose of acting on behalf of its members and their community regarding matters of interest to the community. Among the members of the Association are (i) Ms. Gail McKee, owner of the property located at 2711 36th Street, NW, which abuts the Subject Property on the north side; (ii) Paul and Diane Cunningham, owners of the property located at 2707 36th Street, NW, which abuts the Subject Property on the south side; (iii) C. Jeanne Griest and Guinevere Griest, owners of the property located at 2710 35th Place NW, immediately across the alley from the rear of the Subject Property; (iv) Trish and Tony Glowacki, owners of the property at 2712 35th Place NW, also across the alley from the rear of the Subject Property; and (v) Anthony Aldan and Mary Rosenbaum, owners of the property at 2714 35th Place NW, also across the alley from the Subject Property. All of these properties are significantly and distinctly affected by the proposed special exception relief. The special exception request seeks relief for an addition which significantly and negatively impacts the air of the two adjoining properties, and the light and and privacy of four of the properties noted in this paragraph. In addition the relief sought would have adverse aesthetic and economic effects resulting from the design of the Subject Property, which is visually incompatible with that prevailing in the neighborhood when viewed from the street and alley. .

2. What legal interest does the person have in the property?

Each person owns their respective property.

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

Ms. McKee’s and the Cunninghams’ properties directly abut the Subject Property. The remaining properties are across the 15-foot alley from the rear of the Subject Property. Ms. McKee’s property is less than five (5) feet from the building on the Subject Property and less than five (5) feet from the wall of the addition.

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 Board are approved or denied?

If the relief is granted, two of the Association members will suffer direct substantial negative affects upon their light and air and privacy as a result of the mass of the subject addition, two will suffer substantial negative effects on their light and privacy as a result of the mass of the subject addition, one will suffer substantial negative effects on their privacy as a result of the mass of the subject addition, and all will suffer substantial negative aesthetic and economic effects from the design of the subject Property, which is visually incompatible with that of the neighborhood when viewed from the street and alley.

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

The variance must be sought by the applicants – who are experienced developers - because they proceeded to construct their modifications to their property in nominal reliance on a survey that was not entitled to such reliance and have continued to do so long after learning that the survey was in error. They did so knowing that seeking a variance before substantially completing construction would attract the attention of the neighborhood and the ANC to the fact that the development is not, as the applicants had previously asserted to their neighbors, a matter of right but of privilege that could not be secured without bearing a burden of proof that Applicants cannot meet. The neighbors and the Association are very concerned that, if the variance is granted *ex post*, on the grounds that the Applicants have largely completed their development, that developers generally will be encouraged to modify other properties in the neighborhood under false pretenses to the detriment of adjoining properties and the neighborhood as a whole.

6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character of kind by the proposed zoning action than that of other persons in the general public.

As described in Paragraph #1 above, all five persons will be distinctively affected by the addition proposed to be approved in this special exception request. Ms. McKee and the Cunningham's abut the Subject Property on each side. The others reside across the alley at the rear of the subject property.