



**BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA**



FORM 140 - PARTY STATUS REQUEST

Before completing this form, please go to www.dcoz.dc.gov > IZIS > Participating in an Existing Case > Party Status Request for instructions. 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.

Pursuant to 11 DCMR Subtitle Y § 404.1 or Subtitle Z § 404.1, a request is hereby made, the details of which are as follows:

| | | | |
|--|------------------------------------|--|--|
| Name: | Bryan Thompson | | |
| Address: | 1737 Harvard Street NW | | |
| Phone No(s).: | 202-462-9888 | E Mail: | thompsonbry@gmail.com |
| I hereby request to appear and participate as a party in Case No.: | 19560 | | |
| Signature: | | | Date: 9/20/2017 |
| Will you appear as a(n) | <input type="checkbox"/> Proponent | <input checked="" type="checkbox"/> Opponent | Will you appear through legal counsel? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| If yes, please enter the name and address of such legal counsel. | | | |

| | | | |
|---------------|---|---------|------------------------|
| Name: | Meridith H. Moldenhauer, Cozen O'Connor | | |
| Address: | 1200 19th Street NW | | |
| Phone No(s).: | 202-747-0763 | E Mail: | mmoldenhauer@cozen.com |

ADVANCED PARTY STATUS CONSIDERATION PURSUANT TO: Subtitle Y § 404.3/Subtitle Z § 404.3:

I hereby request advance Party Status consideration at the public meetings scheduled for:

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;
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; and
4. The total amount of time being requested to present your case.

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.



September 20, 2017

Meridith H. Moldenhauer

Direct Phone 202-747-0763
Direct Fax 202-683-9394
mmoldenhauer@cozen.com

Frederick L. Hill, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: Application No. 19560 – 1739 Harvard Street NW (Square 2588, Lot 0160)

Chairperson Hill and Honorable Members of the Board:

On behalf of the owners of the property located at 1737 Harvard Street NW (“1737 Harvard”), Bryan Thompson and Susanne Rinner (“Opposition Party”), we hereby submit this request for party status in opposition to the above-referenced application for a 14-foot proposed addition (“Proposed Addition”) to the rear of the property located at 1739 Harvard Street NW (“1739 Harvard”).

The Opposition Party owns 1737 Harvard, which is located directly adjacent to 1739 Harvard, and thus will be uniquely and unduly impacted by the Proposed Addition thereto. The Opposition Party does not wish to prevent the Applicants from exercising their rights as property owners. However, as adjacent neighbors, the Opposition Party anticipated at least some level of substantive cooperation and meaningful dialogue with the Applicant regarding the size and massing of the Proposed Addition. After numerous attempts at such communications, the Applicant has not agreed to any such compromise and refuses to provide evidence, namely, to commission a shadow study, of how they meet the burden of proof for the special exception relief. Our clients inquired about the possibility of a construction management agreement addressing some of their concerns, but to date the Applicants have been dismissive of such a notion. Consequently, the Opposition Party believe their only option at this time is to request party status in this case and voice their concerns directly to the Board.

Form 140 is enclosed in this filing, and the answers to the questions therein are addressed in turn below:

Party Witness Information

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

Steve and Annie Roberts (1731 Harvard)
Nicole Melcher (1723 Harvard)
Eric Picard (1741 Harvard)

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Jana and Jeremy Kadden (1743 Harvard)
Amber Freiwal (1747 Harvard)
Yanir Rubenstein (1753 Harvard)
Michelle Lackie and Jonathan Manheim (1761 Harvard)

2. *A summary of the testimony of each witness;*

The witnesses will argue, collectively or individually, that the special exception relief would adversely and unduly affect the use of neighboring properties. The existing rear yards with ample light and air considerably improve the quality of life for the residents of the block and contribute tremendously to the neighborhood's property values. The open feel also allows for a great deal of airflow in the rear yards. The proposed two-story structure jutting out will create adverse impact, but granting a special exception to extend beyond the 10-foot maximum permitted by the zoning regulations would do even greater harm to the surrounding properties.¹ Rear yards are already reduced due to parking pads lining the alley, increasing the impact on the rear of the neighboring properties. The witnesses therefore request that the Applicant be denied special exception relief and be held to the 10-foot maximum addition, as required by the Zoning Regulations.

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; and*

The Opposition Party reserves the right to supplement the record and provide information pertaining to expert witnesses at a future date before the hearing.

4. *The total amount of time being requested to present your case.*

The Opposing Party anticipates presenting its case in chief in approximately 20 minutes.

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?*

As will be addressed more fully at the hearing, 1737 Harvard will be affected by the Proposed Addition because the addition will effectively block a large portion of the light and air available to the rear yard, causing undue impact. In addition, the Proposed Addition will greatly increase the probability of water damage to 1737 Harvard. And finally, the Proposed Addition will unduly impact the privacy, use, and enjoyment of 1737 Harvard.

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

The Opposing Party is the Owner of 1737 Harvard Street NW.

¹ The Applicant includes a diagram on page 2 of **Exhibit 32**. We respectfully assert that this diagram is misleading in that it shows all additions on the immediate row. However, as indicated on our amendments to this diagram included herein as **Tab A**, we draw the Board's attention to the very few number of two-story additions. The character of the block, and its composition of predominantly one-story, modest rear additions should be preserved.

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.)*

The Opposition Party is the adjacent property owner and located zero feet from the Applicant's 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 environmental impacts include loss of light and air circulation. This will reduce the Opposition Party's enjoyment of their rear yard and ability to cultivate a garden and/or use and enjoy the rear of 1737 Harvard. In the winter months, increased shadows prolong the length of time snow remains on the ground and contribute to storm water runoff challenges.

The economic impacts include the loss of many of 1737 Harvard's attractive features (air and light available in the living quarters and rear yard, etc.), which may contribute to decline in property value. The Proposed Addition will also reduce the amount of pervious surface and thus water runoff issues are more probable. As the properties along Harvard Street all have below-grade (when measured from the rear) habitable space, that space will be subject to increased flooding, water damage, and mold due to the loss of pervious surface caused by the Proposed Addition.

The social impacts include loss of enjoyment of the Opposition Party's rear yard because the Proposed Addition will project more than 14 feet beyond 1737 Harvard's rear wall. This is particularly true for 1737 Harvard, a lot that only spans 15-feet wide, because the adjacent property to the east at 1735 Harvard already has a rear addition. If the Board were to approve the proposed addition at 1739 Harvard, this large projection will have undue impact on the use and enjoyment of 1737 Harvard and will essentially create a boxed-in rear yard.

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.*

The Opposition Party reserves the right to supplement the record to include additional evidence on this matter, particularly pertaining to shadow studies and other methods of demonstrating the impact of the Proposed Addition.

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.*

The Opposition Party owns the property directly adjacent to the Applicant. They are unique in that their property will receive the brunt of the impact, particularly as regards to light, air, and privacy.

In conclusion, the Opposition Party respectfully requests that the Board grant their request for party status in opposition. Thank you for your attention to this matter, and we look forward to the hearing scheduled for October 4, 2017.

Sincerely,

COZEN O'CONNOR



BY: MERIDITH H. MOLDENHAUER

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2017, I served a copy of this Party Status Request via e-mail, to the following:

District of Columbia Office of Planning
1100 4th Street SW, Suite 650 East
Washington, DC 20024
Stephen.Cochran@dc.gov

ANC 1C
Ted Guthrie, Chair
Tedguthrie3@gmail.com

ANC 1D
Yasmin Romero-Latin, Chair
yasminkikiANC1D04@yahoo.com

Peng Wu and Adam Ross
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By: Meredith H. Moldenhauer

TAB A

As depicted in the image from **Exhibit 32** below, there are only two existing 2-story rear additions on the Harvard Street row. Many of the 1-story additions include skylights or translucent materials to promote light filtration. In contrast, the Applicant's rear addition proposes two-stories with brick walls and wood materials over the windows.

