



**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](http://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:	Taylor and Sarah Nickel		
Address:	1824 15th St NW, Washington, DC, 20009		
Phone No(s):	949-212-6247; 202-538-0549	E Mail:	taywnickel@gmail.com; srhnckl@gmail.com

I hereby request to appear and participate as a party in Case No.:	20144
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Signature:	10/3/2019	Date:	10/3/2019
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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
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If yes, please enter the name and address of such legal counsel.

Name:	Meridith Moldenhauer, Cozen O'Connor		
Address:	1200 19th Street, NW, Suite 300, Washington, DC 20036		
Phone No(s):	202-747-0770	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:	October 16, 2019
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**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 <del>by the zoning</del> <b>by the proposed</b> zoning action than that of other persons in the general public.

**Board of Zoning Adjustment**  
District of Columbia  
CASE NO.20144  
EXHIBIT NO.32



October 4, 2019

**VIA IZIS**

**Samantha L. Mazo**  
**Meridith H. Moldenhauer**  
Direct Phone 202-747-0768  
Direct Fax 202-683-9394  
smazo@cozen.com  
mmoldenhauer@cozen.com

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

**Re: Application No. 20144 (David Barth and Lisa Kays) Regarding 1832 15<sup>th</sup> Street NW (the “Barth Structure”)**

**Party status Application in Opposition and Request for Advance Party Status Determination from Taylor and Sarah Nickel, the owners of the directly adjacent home at 1834 15<sup>th</sup> Street NW (the “Nickel Residence”)**

Chairperson Hill and Honorable Members of the Board:

Taylor and Sarah Nickel, (“the Nickels”), the owners of 1834 15<sup>th</sup> Street NW (the “Nickel Residence”) through their undersigned attorneys, respectfully request party in opposition status in the above-referenced case. *See* Agent Authorization letter at **Exhibit A**.

Pursuant to Subtitle Y § 404.4, The Nickels request that the Board schedule an advanced party status meeting on October 16, 2019.

The Nickels will be significantly, distinctively, and uniquely affected by the Barth structure’s requested special exception relief to construct a three-story rear addition that extends 13+feet into their backyard, and a second story addition on their existing garage.

As discussed below, the Nickels satisfy the requirement for Party in Opposition because:

- a. They are the owners of the Nickel Residence, which is directly adjacent to, and shares a party wall with, the Barth Structure.
- b. If granted, the requested special exceptions from the rear addition requirements, from the lot occupancy requirements, and from the accessory building alley set back requirements will significantly and uniquely impact the Nickel Residence’s light, air

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and privacy. Further, this relief will unduly impact the Nickels' use and enjoyment of their property. The Applicant's own documents demonstrate that substantial shade that will be cast by the rear addition that will fall directly on the Nickels Residence' rear yard.

The Nickel Residence is identified with the purple arrow. The Barth Structure (the subject of the BZA application) is outlined in green. .



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;*

The Nickels will testify individually. Also, they could present both an architectural expert and a land use expert. Those individuals can be identified at the Advanced Party Status meeting, if requested by the Board.

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

All witness(es) will testify, collectively or individually, that the Barth Structure proposed addition will substantially and adversely impact the Nickel Residence, that the use and enjoyment of the Nickel Residence, including the rear yard, will be unduly compromised, and that the size of the proposed addition is out of character with the neighborhood.

Further, the witnesses will detail that the Barth Structure would not be in harmony with the intent of the Zoning Regulations, which expressly limit the size of rear additions and the maximum lot occupancy permitted.

- 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*

It is anticipated that the Nickels will be retaining witnesses who have previously been designated as experts by the Board. However, the Nickels reserve 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 Nickels anticipate presenting their case in chief in approximately 30 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, the requested special exception will unduly impact the light, air and privacy available to the Nickel Residence. This impact will be significant and distinct and will more uniquely impact the Nickel Residence because it is directly to the north of the Barth structure on a North-South orientation and the requested relief will block what is now unobstructed direct sunlight during the day and late afternoon. The requested relief will allow the Barth Structure to extend 13ft+ beyond the Nickel Residence, which will cause significant and detrimental impacts.

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

The Nickels are the owners of record of 1834 15<sup>th</sup> Street NW, the directly adjacent property.

- 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 Nickel Residence is directly adjacent to, and shares a party wall with, the Barth Structure (the subject of the BZA application).

- 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?*

If the requested relief is approved, the Nickel Residence will be subject to numerous environmental, economic and/or social impacts, including but not limited to, unduly adverse shading and impacts on privacy.

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.*

Suffice it to say, the proposed addition will have significant and distinct adverse impacts on the use of the Nickel Residence. The Nickels reserve the right to supplement the record to include additional evidence on this matter.

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.*

As the Nickel Residence is directly north and immediately adjacent to the Barth Structure, the Nickels' interest will be more significantly, distinctly and uniquely affected than others in the general public. The Barth proposal – to extend 13+feet beyond the existing footprint, matching the height of the current structure with a second story addition on the garage – results in a total lot occupancy of at least 70% and a complete blockage of light to the rear of the house and backyard for most of the year. This will cause direct and irreparable impacts to the Nickels' light, air and privacy.

In conclusion, the Nickels respectfully request that the Board grant their request for party status in opposition. Thank you for your attention to this matter, and we look forward to advanced party status discussion to be scheduled for October 16, 2018

Sincerely,

COZEN O'CONNOR



BY: SAMANTHA L. MAZO

CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2019, I had served a copy of this Party Status request in opposition via e-mail, to the following:

David Barth and Lisa Kays  
c/o Martin P. Sullivan  
1155 15th Street, NW Suite 1003  
Washington, DC 20016  
[msullivan@sullivanbarros.com](mailto:msullivan@sullivanbarros.com)

District of Columbia Office of Planning  
1100 4<sup>th</sup> Street, SW, Suite E650  
Washington, DC 20024  
[planning@dc.gov](mailto:planning@dc.gov)

District Department of Transportation  
55 M Street SE, Suite 400  
Washington, DC 20003  
[Anna.Chamberlin@dc.gov](mailto:Anna.Chamberlin@dc.gov)

Advisory Neighborhood Commission 2B  
c/o Daniel Warwick, Chairperson  
[2b02@anc.dc.gov](mailto:2b02@anc.dc.gov)

Advisory Neighborhood Commission 2B  
Ed Hanlon, Commissioner, 2B09  
[2B09@anc.dc.gov](mailto:2B09@anc.dc.gov)



By: Samantha L. Mazo

# EXHIBIT A

October 3, 2019

VIA IZIS

Frederick Hill, Chair  
Board of Zoning Adjustment  
441 4th St. NW Suite 210S  
Washington, D.C. 20001

AGENT AUTHORIZATION

Chairperson Hill and Honorable Members of the Board:

This letter serves as notice that Sarah and Taylor Nickel, the owners of the property located at 1834 15<sup>th</sup> Street NW authorizes counsel, Cozen O'Connor to be the authorized agent in Board of Zoning Adjustment Case No. 20144, regarding property located at 1832 15th Street NW. Pursuant to Subtitle Y § 200.3 of the Zoning Regulations, this authorization includes the power to bind the undersigned owner in the case before the Board.

Sincerely,



Sarah Nickel



Taylor Nickel