

Attachment to Form 140 – Request for Party Status of Katherine Belinski -BZA Case No. 21404

PARTY AND WITNESS INFORMATION:

1. Parties.

Katherine Belinski owns the townhome adjacent to the Applicant's property located at 5032 Nebraska Ave NW, Washington, DC 20008. Her property is attached and within 200 feet of the Applicant's property. As a result of this proximity, Ms. Belinski and her family will be adversely affected and aggrieved in a manner distinct from the general public.

A list of witnesses who will testify on the party's behalf:

Kate Belinski, property owner, who will testify on the adverse impacts to her property.

Ms. Belinski may also present one or more subject matter experts to discuss potential issues with load-bearing on the party walls as well as run-off and drainage issues. In the event such witnesses are called, their CV and qualifications will be forwarded prior to testimony.

Ms. Belinski reserves the right to identify and call additional witnesses based on any revised plans.

2. 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

Ms. Belinski may present one or more subject matter experts to discuss potential issues with load-bearing on the party walls as well as run-off and drainage issues. In the event such witnesses are called, their CV and qualifications will be forwarded prior to testimony.

Ms. Belinski will also present a zoning expert to address zoning compliance issues, whose name and CV is forthcoming.

3. The total amount of time being requested to present your case:

One hour, to be shared with any other persons granted opposition party status.

PARTY STATUS CRITERIA:

1. How will the property owned or occupied by such a person, or in which the person has an interest be affected by the action requested of the Commission/Board?

As a result of the negative impacts described below, Ms. Belinski has an interest in opposing the proposed home addition and renovations and the requested special exceptions. Ms. Belinski owns the adjacent townhome, where she resides with her husband and 5-year old daughter. Ms. Belinski purchased the home twenty years ago in a dilapidated state and has carefully and respectfully restored the home to its current highly functional and desirable state. Ms. Belinski and her family make extensive use of their rear garden, which currently enjoys plentiful natural light during the course of the day. The proposed addition would cut off a significant amount of light and would tower over the garden. Having lived here since 2006, Ms. Belinski has extensive knowledge of the water and runoff issues in the neighborhood and has significant concerns that the proposed addition would divert water into Ms. Belinski's basement. The proposal does not address the structural strains that building an extra story, moving floor joists and digging extensive excavations would place on Ms Belinski's shared walls and foundation, which already have significant cracks. Indeed, Ms. Belinski understands that architects have examined other middle units on the block and found that the foundations would not support the extra load of a bump up. There is no evidence that the proponent developers have done any studies on the load issues.

Finally, the proposed addition is out of character of the neighborhood and would be visible from both Connecticut Avenue northbound and even more significantly from the alley, thus negatively impacting not only the neighbors on Nebraska Avenue, but also on Connecticut Avenue and Chevy Chase Parkway. Ms. Belinski bought this home due to the extremely desirable location, friendly and walkable neighborhood, excellent schools, appealing green space, and natural light. This 5000 block of Nebraska Avenue is a community where neighbors socialize with one another across garden fences, kids ride bikes in the alley and everyone looks forward to the annual block party. Erecting a monolithic structure in the middle of the block will only serve to undermine this community spirit and cause a race to the bottom on future renovations. It will also significantly negatively impact the property value of Ms Belinski's home.

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

Ms. Belinski owns the attached townhome (5032 Nebraska Ave NW) on the Southwest side of the Applicant 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.)

Zero - Ms. Belinski's property is attached to the Applicant's main home and is located within 200 feet of the proposed 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 Commission/Board is approved or denied?

Under Subtitle D 5201.4, an applicant for special exception relief has the burden to justify a proposed special exception. As it stands, there is no question that the proposed home addition and ADU will have a "substantially adverse effect on the use or enjoyment" of Ms. Belinski's adjacent dwelling. The regulations further state, "specifically (a) the light and air available to neighboring property shall not be unduly affected. (b) The privacy of use and enjoyment of neighboring property shall not be unduly compromised..... (c) The proposed addition ... as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the street and alley frontage" To grant these exceptions, the exceptions must "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and . . . not tend to affect adversely the use of neighboring property." None of these prerequisites are true here. Ms. Belinski's property will be unduly compromised by the following impacts:

(a) Light and air.

Ms. Belinski's property includes a private garden, patio with ample sunlight, and cross-breezes. Ms. Belinski is an avid gardener and her family spends a significant amount of time in the spring, summer and fall on the patio and in the garden. These features add value to the property and enhance Ms. Belinski's family's quality of life and enjoyment of the

property. The Applicant seeks special exceptions to eliminate the required 5-foot side yard and build an addition all the way to the shared property line. The proposed addition would extend the current structure more than 19 feet beyond its current rear wall, and stand 39 feet tall, towering over the adjacent properties, including Ms. Belinski's. According to the Applicant's Statement, the first floor of the proposed renovation will extend 22 feet beyond the rear wall of Ms. Belinski's property on the second floor. The proposal adds a third story to the main home as well as a roof deck over part of the existing second floor roof. The proposed third story and roof deck will be directly adjacent to Ms. Belinski's second-floor bathroom skylights. These skylights are solar powered and Ms. Belinski keeps them open for most of the spring and fall to bring fresh air into the home. The proposed addition of the third story and roof deck will impair the light and fresh air coming into Ms. Belinski's home through the skylights.

Due to the disproportionate massing of the proposed expansion of 5034 Nebraska Ave NW, Ms. Belinski and her family will be substantially affected by lost light in backyard patios, gardens and rear facing bedroom and kitchen windows during the day. The property will undoubtedly experience substantial loss of light and fresh air in their home and garden. Indeed, Ms. Belinski's property would be dwarfed by the main home extending 30 feet both above her property and beyond the end of Ms. Belinski's home. Significantly, the full impact of this renovation on light is yet to be determined because the Applicant has not submitted a shade study, for any of the four seasons, for consideration by the BZA or Ms. Belinski. Without a shade study, the Applicant cannot sustain its burden of proving that the special exception would not have undue impacts on neighbors' light and air.

(b) Privacy, use and enjoyment of neighboring properties.

Ms. Belinski purchased this property in large part because of its garden, shade trees and airy backyard. The current proposal dramatically limits the rear yard space of the Applicant's home, which is a defining feature of the property and buffers Ms. Belinski's home. The proposal inaccurately depicts the rear of the property and makes it appear as if there is a garden space back to the property line. However, in reality, almost all of the current rear garden space at 5034 will be covered by the structure under the proposal, leaving only the elevated one-car parking pad between the new structure and the property line at the alley. The parking pad is on a grade at least 3 feet above the grade of the garden, but the proposal makes no mention of that.

The elimination of almost the entirety of the yard space, replacing it instead with building structures, will dramatically impact Ms. Belinski's yard and their ability to use or enjoy their

yard. This is a fraction of the open space that Ms. Belinski enjoys, at the moment, from their yard; it will unduly impact Ms. Belinski's use and enjoyment of the yard.

Moreover, Ms. Belinski has significant concerns about the impact of storm water runoff. Nebraska Avenue is on a slight grade from Fessenden as the high point and graded down towards Connecticut Avenue. As such, rainwater runoff in large storms flows across the yards towards the large storm drains at the bottom of the alley. Erecting what would effectively be a dam in the middle of the block would undoubtedly direct the water into Ms. Belinski's small storm drain beneath her basement stairs; a drain that already gets overwhelmed under existing conditions. Adding any additional runoff would certainly lead to flooding in Ms. Belinski's finished and well-used basement. Ms. Belinski is also concerned about the effect of the massive excavation that will be undertaken to extend the cellar 19 feet back and 19 feet across the property. That will be a significant alteration to the water patterns on the block.

Further, the proposed renovation poses significant privacy concerns. Ms. Belinski's home has two skylights in the upstairs bathrooms that will be visible from any roof deck and possibly the third floor, depending on where windows are situated. The skylights are clear glass, and as discussed above, Ms. Belinski often has them open in the spring and fall to allow for air circulation. Moreover, the rear decks and roof deck will all overlook Ms. Belinski's yard. Ms. Belinski and her family spend a significant amount of time in the yard, as do many of the other neighbors on Nebraska Avenue.

The proposal creates what is clearly intended to be a separate rental unit in the basement.¹ It is a 2-bedroom unit with front and rear access, bathroom, kitchen and living space. The rear of the house only has room for a one-car parking space due to the width of the property. Thus, there will only be one parking space to be shared across a two-bedroom rental unit and a three-bedroom home. This added traffic, tenants moving in and out of the rental unit and movement of additional trash bins will increase the frequency of noise and reduce backyard privacy.

¹ The Applicant's statement fails to disclose that an accessory apartment is intended and therefore fails to provide any statement that the project will satisfy the applicable zoning requirements in U-253.8. This omission should be rectified. Moreover, the adjoining neighbor on the other side of the Applicant's property has solar panels on their roof, yet the application fails to include any of the information or affidavits required by Subtitle D-204.1(d). Rejection of the application is warranted on this basis alone.

(c) Noise.

Ms. Belinski's property will also experience increased noise. The added traffic, tenants moving in and out of the rental unit, and movement of additional trash bins and delivery vehicles will increase the frequency of noise. Noise from any AC unit abutting these properties' patios, decks and windows will be loud and disruptive. Finally, there is increased noise to be expected with this massive construction project.

(d) Adverse impacts on parking and traffic.

The Applicant does not address where the basement rental unit occupants will park, and there is no room for any additional parking on the lot. There is no street parking on Nebraska Avenue during the day. Any added cars in the alleyway and added trash bins will make it more difficult to maneuver cars in and out of the alleyway. It is inevitable that the occupants will try to park additional vehicles on the back alley, potentially blocking Ms Belinski's access to her garage.

(e) Visual intrusion

The proposed renovation will be visible from Connecticut Avenue northbound, from the shared alley and from Ms. Belinski's home. The 5000 block of Connecticut Avenue consists of 5 triple units that are almost 90 years old. Although most of the homes have had exterior renovations, the facades have remained uniform, allowing for a cohesive and attractive view from the road. No other home on the street has added a third story or a second-story roof deck, and with one exception at the end of the block, where the home is set forward significantly and retained a large back yard, all of the other additions to the rear of the properties on the street have been reasonable and respectful of the adjoining properties and have been supported by the neighbors with some modifications. By contrast, this property will substantially visually intrude upon the character, scale, and pattern of houses along the street and alley, impair the zone plan, and devalue Ms Belinski's property.

Significantly, with respect to the other additions on homes in the 5000 block of Connecticut Avenue over the past decade, the adjoining neighbors and the neighborhood in general were supportive, owing to the respectful scale and keeping with the character of the neighborhood. By contrast, neither of the adjoining neighbors support the proposed renovations of 5034 Nebraska Avenue under the current plans due to the grossly outsized scale of the project.

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.

(a) construction concerns.

The proposed renovations to the main home will impact the party walls shared with 5036 and 5032 Nebraska Avenue NW. The project proposal indicates that all existing floors, and the existing roof, will be demolished and rebuilt, meaning that all cross-bracing for the two adjacent homes with shared walls will be removed and replaced. Strengthening the party walls would require digging and strengthening footings or retaining walls on adjacent properties. The Application contains no indication of how the adjacent properties will be protected. In addition to the quite reasonable safety concerns arising from this proposal, such an undertaking will undoubtedly result in undue encroachment on Ms. Belinski and her family's use and enjoyment of their home with noise, dust, traffic, and seismic vibrations. Ms. Belinski would like the Applicant to work with them in developing a construction management agreement.

Construction on this scale also raises the question of whether the existing foundations can withstand the weight of such a grossly enlarged structure, not just during the period of construction, but into the future. The proposal does not address the structural strains that building an extra story, moving floor joists and digging extensive excavations would place on Ms. Belinski's shared walls and foundation, which have needed repairs in the past due to cracks from settling and road construction. Indeed, Ms. Belinski understands that architects have examined other middle units on the block and found that the foundations would not support the extra load of a bump up. There is no evidence that the proponent developers have done any studies on the load issues. If the additional load causes subsidence or displacement in a year, or ten years, the effects on the Belinski home would be catastrophic. Without addressing both these near- and long-term impacts, Applicant cannot sustain its burden to show that the special exceptions are merited and will not unduly impact Ms. Belinski's property.

Finally, the Belinski home has a functioning chimney on top of the roof above the second story. Based on Applicant's proposal, Ms. Belinski's chimney would vent alongside Applicant's roof deck. The Applicant has not addressed whether this creates a fire hazard for the Applicant's property, Ms. Belinski's property, or any of the other adjoining rowhouses

and the neighborhood at large, nor has the Applicant requested permission to build the Ms. Belinski's chimney to a point above the Applicant's newly renovated home.

(b) Zoning compliance issues

In Form 135 - Zoning Self-Certification the Applicant certifies that they request an exception to the requirement for "1, 5 ft. (existing Nonconforming)" side yard. However, D § 208.7 stipulates that "an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be reduced or eliminated; and provided further, that the width of the side yard adjacent to the extension or addition shall be a minimum of five feet (5 ft.)." The Applicant mistakenly reads this to require a single, five foot (5 ft.) side yard. The intent of the zoning code in question is clarified by the language of two earlier clauses in the same code, D -§§ 208.2 & 208.3, which require "(2) side yards, each a minimum of eight feet (8 ft.) in width, shall be provided for all detached buildings.... one (1) side yard, a minimum of eight feet (8 ft.) in width, shall be provided for all semi-detached buildings." The Applicant's property is only a rowhouse due to its nonconforming (non-existent) side yards. The Applicant cannot further exacerbate this nonconformity by assuming that the non-conforming side yard renders the structure a "semi-detached" building that requires only a single 8-foot side yard. In fact, two eight-foot side yards are required for the structure itself. This interpretation is consistent with the zoning regulations as a whole, which do not permit extensions of nonconforming structures, and which therefore require an interpretation in which a minimum side yard clearance applies to new construction based on the number of exposed side walls in the new structure. In a structure with two exposed side walls (a fully detached building) two eight foot (8 ft.) side yards are required; in a structure with one exposed side wall (a semi-detached building), one eight foot (8 ft.) side yard is required on the exposed side. Accordingly, D § 208.7 must be interpreted as requiring an extension with two exposed side walls, such as that proposed by Applicant to have a minimum five foot (5 ft.) side yard on each exposed side, to protect the light and air of both adjacent neighbors. See A-§ 101.1(a) (rules of interpretation)

(c) Impact on the zone plan.

Another concern is that if the special exceptions are granted here, the same zoning exceptions could be granted to other neighboring properties, allowing them to extend more than 10-feet beyond neighboring properties and similarly eviscerate their yards, creating a domino effect where the townhomes take up more and more of the lots with less and less

green-space. This would exacerbate the problems described above and further undermine the quality of the neighborhood.

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.

Ms. Belinski owns the attached townhome, by definition placing her in a significantly different position than the general public. For the reasons detailed above, the proximity of the renovation to the Applicant's home will uniquely and negatively impact the light, air quality, and privacy of Ms. Belinski's property. The significant construction will also more greatly impact Ms. Belinski and her family because the homes are attached, significant noise will be created, and there will be a great impact to quality of life during construction. There are also more significant safety concerns due to (1) any impact the proposed construction will have on the shared walls and foundations on which the rowhouses are built; (2) the impact of a massive 19 foot by 19 foot excavation eliminating almost all of the yard, and (3) the fire hazard created by the location of the Applicant's third story and the existing chimney on Ms. Belinski's property. None of these safety concerns have yet been addressed or discussed.

Conclusion

Ms. Belinski opposes the special exceptions requested for the home at 5034 Nebraska Avenue NW for the reasons stated above. However, Ms. Belinski is open to discussing a compromise solution with the Applicant.

Certificate of Service

I hereby certify that, on January 7, 2026, a copy of the foregoing Form 140 was served by email on the following:

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