

Attachment to Form 140 – Request for Party Status of Jason and Patricia Kovacs, -BZA
Case No. 21404 (512 Taylor, LLC)

PARTY AND WITNESS INFORMATION:

1. Parties.

Jason and Patricia Kovacs own the semidetached rowhouse adjacent to the Applicant's property located at 5034 Nebraska Ave NW, Washington, DC 20008. Their property is attached and within 200 feet of the Applicant's property. As a result of this proximity, Mr. & Ms. Kovacs 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:

Jason Kovacs, and possibly Patricia Kovacs, property owners, who will testify on the adverse impacts to their property.

Mr. & Ms. Kovacs may also present one or more subject matter experts to discuss their solar panels, and/or the shading of their property. In the event such witnesses are called, their CV and qualifications will be forwarded prior to testimony.

Mr. & Ms. Kovacs reserve the right to identify and call additional witnesses based on any revised plans.

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

One hour.

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, Mr. & Ms. Kovacs have an interest in opposing the proposed addition and renovation, and the requested special exception(s). Mr. & Ms. Kovacs own the adjacent row house. They currently reside in this home with their two children, and have a significant interest in maintaining their use and enjoyment of the privacy, air, light, and outdoor spaces of the property. Their home also represents their largest single concentration of savings. Mr. & Ms. Kovacs also therefore have a significant financial interest in preserving the future rental and resale value of their home at a fair market price. The home is

currently considered extremely desirable based on the location, walkable neighborhood, proximity to high-quality schools, appealing green space, and natural light. Mr. & Ms. Kovacs therefore have both an immediate personal, and a long-term financial interest in the action requested of the Board.

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

Mr. & Ms. Kovacs own the attached rowhouse (5036 Nebraska Ave NW) on the North 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 - Mr. & Ms. Kovacs' home is attached to the Applicant's main home and is located within 200 feet of 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 will have a "substantially adverse effect on the use or enjoyment" of Mr. & Ms. Kovacs' 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....." 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." Neither prerequisite is true here. Mr. & Ms. Kovacs' property will be unduly compromised by the following impacts:

(a) Light and air.

Mr. & Ms. Kovacs' property includes a small private back yard, and a second-floor roof deck with ample sunlight, and light summer breezes. The Kovacs home is also equipped with a functioning solar panel in the northernmost corner of the roof. These features add value to the property and enhance Mr. & Ms. Kovacs' quality of life and enjoyment of the property. The Applicant seeks a special exception to eliminate the required 5-foot side yard and build an

addition all the way to the shared property line.¹ The proposed addition would extend the current structure more than 19 feet beyond its current rear wall, and stand 39 feet tall, forming a massive barrier along the Kovacs' southern property line, that would extend for nearly half the total length of their back yard, almost the entirety of the portion of their yard not currently set aside for alley-adjacent off-street parking, and tower 15 feet above the Kovacs' roof.

Due to the disproportionate bulk of the proposed expansion of 5034 Nebraska Ave NW, Mr. & Ms. Kovacs will be substantially affected by lost light in the back yard, gardens, roof deck, and rear-facing bedrooms, kitchen, and home office windows during the day. Nebraska Avenue runs northeast to southwest. The Kovacs home and the Applicant's property are on the northwest side of the street, and face roughly southeast. The back yards of these homes are therefore angled toward the northwest, and get most of their sunlight in the afternoons. Because of the angle of the homes and yards, the proposed addition cuts off daylight from the Kovacs' back yard and rear deck, from both the south and west, and boxes a significant portion of their yard and several of the home's rear windows into a permanently shaded corner. The Kovacs property will undoubtedly experience substantial loss of light and fresh air in their home, deck, yard, and gardens due to the blocked southern exposure.

The proposed addition extends roughly 10 ft. beyond the farthest rear wall of the ground floor of the adjacent buildings -- but only on the ground floor. On the proposed second and third floors of the addition, it extends almost 22 ft. beyond the farthest rear wall of the adjacent buildings. Both 5036 and 5032 Nebraska Ave NW have 12x12 foot wings on the rear ground floor, adjacent to their dining rooms. These are single-room structures, evidently original to the homes, with conforming side yards (>5 ft on the sides facing 5034, and >8 ft on the detached sides). The existing structures are low-profile, leaving the neighboring homes plenty of light, air, and side clearance. The rear ground floor wing at 5036 also includes a roof deck, accessed by second-floor french doors, which serves as outdoor space for the entire family when the weather is good. It gets excellent light and breezes in the spring, summer, and fall, and the family grows grapes, herbs, vegetables, flowers, and a lemon tree there during the warm season. The proposed

¹ 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 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." This language implies a scheme 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. A rowhouse extension with two exposed side walls, such as that proposed by Applicant, may therefore be inferred to require a five foot (5 ft.) side yard on each exposed side, to protect the light and air of both adjacent neighbors.

addition is a towering three-story structure, with no side yards, that would totally overwhelm the adjacent homes, and unduly compromise the availability of daylight to the second floor deck at the Kovacs home. In this regard the proposed addition fails to satisfy the letter of the DC Zoning Code, insofar as it requires an exception from the 5 ft. side yard requirement; it also fails to satisfy the intent of the Code, by reaching approximately 22 ft beyond the back wall of the adjacent structure on the top two floors. The proposed addition also includes a second-floor projecting balcony, 3 feet deep, obstructing sunlight to the Kovacs' back yard for fully 25 feet from their back door, and from the second floor rear wall of their home where their second-floor deck begins.

The third floor addition is also likely to block sunlight to the Kovacs' working rooftop solar panels. However, the full impact of this renovation on light is yet to be determined because the Applicant has not, as of January 6th, 2026, submitted a shade study, for any of the four seasons, for consideration by the BZA or Mr. & Ms. Kovacs. 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.

The homes along Nebraska Avenue face a busy cross-town commuter road. Most of the family and social life of the block happens in its back yards, and the Kovacs family particularly relies on their second-floor back deck, as well as the gardens, patio, and seating area in the back yard for relaxation and enjoyment. The current proposal dramatically limits the rear yard space of the Applicant's home, and closes in the Kovacs home. The proposal includes a backyard of 28 feet, approximately 20 of which is currently used as off-street parking, and requests a special exception from the from the side yard requirements of D-207. The Applicant proposes to fill the 8 feet of open back yard with a raised deck, at an elevation of roughly 5 feet above the existing grade, beneath a 3-foot second floor balcony.

The elimination of roughly 27 feet of yard space, replacing it instead with building structures, will dramatically impact Mr. & Ms. Kovacs' yard and their ability to use or enjoy it because, instead of open and sunlit skies, the Kovacs will now be looking into the Applicant's 39-foot-tall wall, deck, and balcony, except for a small patch of roughly 20 feet, 15 of which the Kovacs currently use for off-street parking. This is a fraction of the open space that Mr. & Ms. Kovacs enjoy, at the moment, from their yard; it will unduly impact Mr. & Ms. Kovacs' use and enjoyment of the yard.

Further, the proposed renovation poses significant privacy concerns. The Kovacs home has two skylights in the upstairs bathrooms that will be visible from (indeed, nearly adjacent to) the Applicant's proposed roof deck, and possibly the third floor, depending on where windows are

situated and what can be viewed from the Applicant's proposed third-floor addition. Moreover, the back deck and second-floor balcony will all overlook Mr. & Ms. Kovacs' back yard. The Applicant's Statement does not discuss this privacy concern as to Mr. & Ms. Kovacs property (on the north).

(c) Visual intrusion

The proposed renovation is visible from the alley, the Kovacs home, and Nebraska Ave NW. The area is characterized by two-story dwellings with small, private back yards and off-street parking. The proposed house is a three-story dwelling (with basement level) and back yard deck, that will project more than 20 feet out from the adjacent structures on the second and third floors. This property will substantially visually intrude upon the character, scale, and pattern of the three-unit row house structure it is part of, as well as the rest of the houses along the street or alley frontage, and devalue Mr. & Ms. Kovacs' property, make it less desirable to rent (should the Kovacses ever choose to do so), and make Mr. & Ms. Kovacs ultimately less able to enjoy the property. The proposed renovation is far larger than any other home on the 5000 block of Nebraska Avenue Northwest, save that at 5042 Nebraska Ave NW (Case No. 20839), cited to by the Applicant. However, the Applicant elides several relevant points about that case: the center row building in that case is in one of two three-dwelling units on the block that is set significantly closer to Nebraska Avenue NW, providing it with a much longer back yard than most other units. The yard in question is also terraced, with the home located below the level of most of its back yard, the alley, and the other homes on the block, significantly reducing its visual impact on the block as a whole. Finally, the addition at 5042 was only two stories, matching the height of the two neighboring structures, and the length of an existing (single story) addition belonging to their neighbor to the south. In other words, that addition was less visible from the alley, by virtue of being terraced down, matched the footprint of one of its neighbors to the south, and received approval from both adjacent neighbors before construction began. Conversely here, the proposed addition includes a third story, is nearly at grade with the alley, is in a section of rowhouses with much smaller back yards, is vastly larger than the adjacent structures and extends far beyond them, and the immediate neighbors are opposed.

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 Mr. & Ms. Kovacs' use and enjoyment of their home with noise, dust, traffic, and seismic vibrations. The Kovacses 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. If the additional load causes subsidence or displacement in a year, or ten years, the effects on the Kovacs 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 Mr. & Ms. Kovacs property.

Finally, the Kovacs home has a chimney on top of the roof above the second story. Based on Applicant's proposal, Mr. & Ms. Kovacs' chimney would vent alongside Applicant's third floor deck. The Applicant has not addressed whether this creates a fire hazard for the Applicant's property, the Kovacs' property, or any of the other adjoining rowhouses and the neighborhood at large, nor has the Applicant requested permission to build the Kovacs' chimney to a point above the Applicant's newly renovated home.

(b) Impact on the zone plan.

Another concern is that, if the special exceptions are granted here, it will trigger a race to the bottom in future home sales and renovations. With its back yard overshadowed by the monolith of the proposed addition, the Kovacs home may only be suitable for resale to an owner who plans to match the Applicant's design, likely at a significant loss compared to its current value. If the same zoning exceptions were granted to other neighboring properties, allowing them to extend more than 10-feet beyond neighboring properties, and similarly eviscerate their yards, it could create a domino effect where the rowhouses take up more and more of the lots with less and less green-space. This would exacerbate each of the problems described above and further undermine the quality and character 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.

Mr. & Ms. Kovacs own the attached rowhouse, by definition placing them in a significantly different position than the general public. For the reasons detailed above, the proximity of the

renovation to this home will uniquely and negatively impact the light, air quality, and privacy of Mr. & Ms. Kovacs' property. The significant construction will also more greatly impact Mr. & Ms. Kovacs, and their ability to sell or rent the property, 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; and (2) the fire hazard created by the location of the Applicant's third story deck and the existing chimney on Mr. & Ms. Kovacs' property. Neither safety concern has yet been addressed or discussed.

Conclusion

Mr. & Ms. Kovacs oppose the special exception requested for the rowhouse addition at 5036 Nebraska Avenue NW for the reasons stated above. However, Mr. & Ms. Kovacs are open to discussing a compromise solution with the Applicant.