BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

RE: Application of Tonya Harris, TON, Inc., for Variances from Number of Stories and Building Height Requirements and for Special Exception from Lot Occupancy Requirements for 906 T St., NW	)	Case. No. 17218 Hearing Date: 11/16/04

MOTION TO PERMIT LATE FILING OF REPLY TO WRITTEN ARGUMENT OF APPLICANT

The Westminster Neighborhood Association (WNA) herein requests that it be permitted to file the attached Reply to Applicant's Hearing Testimony/Argument of Applicant which was provided to WNA at the time this matter was heard on November 17, 2004. Counsel for WNA, who does not regularly practice before this Board, was unaware that written legal arguments should not be filed unless the record is specifically left open to permit them.

WNA had no time to review Applicant's written Argument prior to the hearing nor to make any argument based on it. WNA believes the attached Reply clarifies the issues and provides WNA's argument in a more orderly format than was presented at the hearing. WNA is not attempting to introduce any new facts or evidence by this Reply. It contains only legal argument on the issues it believes have been raised to this Board and believes this Reply will be helpful to the Board in analyzing these issues.[1]

[1] WNA attempted to obtain consent from the other parties in this action. While the full ANC will not meet prior to the filing of this Motion, the single member ANC representative for the area in which this property is located, Phil Spalding, has no objection to WNA's filing of this Response. Applicant's counsel could not be reached.

BZA
Case No. 17218
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Board of Zoning Adjustment
District of Columbia
CASE NO. 17218
EXHIBIT NO. 42

WHEREFORE, WNA requests that this Motion be granted and that the record be opened to receive the attached Reply into the record and to be considered by the members of the Board prior to any decision being rendered.

Submitted by,

Lynn H. Johnson, Esq.
1413 K Street, NW, Suite 1500
Washington, D.C. 20005
Tele. (202) 371-0962
Counsel for Westminster Neighborhood Association

CERTIFICATE OF SERVICE

I hereby certify that on the 30 day of November 2004, a copy of the foregoing Motion To Permit Late Filing of Reply to Written Argument of Applicant was served by messenger to:

Robert Cooper, Esq.
Jackson and Campbell
1120 20th Street, NW, Suite 300-South
Washington, DC 20036

Deborah Thomas, Chair
ANC 1B
1440 W Street, NW, Apt. B-1
Washington, DC 20009

Andrew Altman, Director
Office of Planning
801 N. Capitol Street, NW, Suite 4000
Washington, DC 20002

Phil Spalding, Secr.
ANC 1B
1929 13th St., NW
Washington, DC 20009

Lynn H. Johnson, Esq.