

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

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

**CASE NO.:**

BZA No. 21082

**Motion of:**

Appellant

**PLEASE TAKE NOTICE, that the undersigned will bring a motion to:**

Motion to Reopen the Record

**Points and Authorities:**

Please state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map and where appropriate a concise statement of material facts. If you are requesting the record be reopened, the document(s) that you are requesting the record to be reopened for must be submitted separately from this form. No substantive information should be included on this form.

See Attached

Consent: No attempt was made

Further Explanation: See Attached

**CERTIFICATE OF SERVICE**

I hereby certify that on this

5<sup>th</sup>

day of

July

,

2024

I served a copy of the foregoing Motion to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of Planning

in the above-referenced ZC or BZA case via:

(Email)

**Signature:**

David W. Brown, Counsel for Appellants

**Print Name:**

David W. Brown, Counsel for Appellants

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**BZA Case No. 21082**

**Attachment to Motion to Reopen the Record**

**Points and Authorities:**

The transcript of the June 5, 2024 public meeting discussion of Case No. 21082 is not on file in the case record, but the video of that hearing is a matter of record. What follows is excerpted from that video:

**Vice Chair John:**

After obtaining clarification that DOB and Intervenor were to submit written responses “only to the rebuttal portion” of Appellants’ Ex. 39, the Vice Chair stated her further understanding that “each party would have an opportunity to submit oral closing arguments.” This was not expressed as contingent on whether or not there would be further testimony.

**Chair Hill:** The Chair agreed, stating that “we’ll have oral conclusions.”

The Board as a whole agreed to this outcome.

At the Limited Public Hearing on July 3<sup>rd</sup> (no transcript available), I stated my understanding that there was to be oral closing argument at that time, referencing the Vice Chair’s clarification on this point. Nevertheless, the Chair stated that he felt that the Board had all the information it needed to decide the case. The hearing promptly concluded, with the scheduling of a further Public Meeting on July 17<sup>th</sup>.

The request to reopen the record is being made to restore to Appellants the opportunity that the Board had provided them to present the oral closing argument at the July 3<sup>rd</sup> hearing. Appellants were prepared and intended to present that oral closing at the hearing, but that opportunity was not realized due to Board action at that hearing. That oral closing argument, anticipated to be under 10 minutes in length, was directed primarily at responding to points made by Intervenor and DOB in their rebuttal submissions of June 21<sup>st</sup>. That oral closing has been converted into the attached Supplemental Closing Argument, for which Appellants request that the Board reopen the record to receive it. Appellants believe that its receipt will be in the interests of justice,

**will not be prejudicial to any party, and will not delay the current schedule for resolution of this case.**

**Consent Question:**

**No attempt was made to obtain consent. In their submissions of June 21, 2024, both DOB (Ex. 48) and Intervenor (Ex. 47) stated that there was no need for any closing oral argument at the Limited Public Hearing ordered by the Board to take place on July 3, 2024. In Appellants' subsequent pre-hearing email exchanges with counsel for DOB and Intervenor, their counsel maintained that there was no need for oral closings because they did not intend to conduct any cross-examination of Appellant's expert witness. Based on these responses, Appellants have no reason to believe DOB or Intervenor would consent to the motion to reopen the record for the submission of a written version of the oral closing argument that Appellants were not invited or allowed to present at the Limited Public Hearing on July 3<sup>rd</sup>.**