



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



FORM 150 – MOTION FORM

THIS FORM IS FOR PARTIES ONLY. IF YOU ARE NOT A PARTY PLEASE FILE A
FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD.

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.: 21157

Motion of:

☐

Applicant

☐

Petitioner

☐

Appellant

☒

Party

☐

Intervenor

☐

Other

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

Motion to reopen the Record

Points and Authorities:

On a separate sheet of 8 1/2" x 11" paper, 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 instructions).

Consent:

Did movant obtain consent for the motion from all affected parties?

☐ Yes, consent was obtained by all parties

☐ Consent was obtained by some, but not all parties

☒ No attempt was made

☐ Despite diligent efforts consent could not be obtained

Further Explanation:

CERTIFICATE OF SERVICE

I hereby certify that on this

26

D

day of

September

Month

,

2024

Y

Y

Y

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:

☐ Mailed letter

☐ Hand delivery

☒ E-Mail

☐ Other

Signature:

Print Name:

Melinda Roth

Address:

3418 O Street NW

Phone No.:

2027148172

E-Mail:

melindaroth24@gmail.com

Board of Zoning Adjustment

District of Columbia

CASE NO. 21157

EXHIBIT NO. 199

BZA Case 21157

**Movant: Melinda Roth, Party in Opposition
Motion to Reopen the Record**

We hereby move to reopen the record to allow the following:

1. Karen “Cookie” Cruse signed up to be a public witness in opposition and was never granted the chance to provide public testimony. Her planned testimony is attached.

and

2. Closing Statement for the Party in Opposition. This short statement is attached.

We are asking the BZA to grant this motion for the following reasons:

- Subtitle Y Section 409.2 states: *In a special exception or a variance case, public agency representatives, parties, organization representatives, and individuals may appear as witnesses and offer evidence at a hearing.* Mrs. Cruse signed up before the hearing to appear as a witness, exactly as this law provides.
- In addition, Subtitle Y Section 409.1¹ provides the order for testimony during a BZA hearing on variance or special exceptions, and Case 21157 is for both of these forms of zoning relief. This order was not followed during the hearing of September 25, 2024.
- To this extent, the Party in Opposition was greatly prejudiced by having a Party in Support (Chris Itteilag) appear after – instead of before – the Party in Opposition.
- Mr. Itteilag was also recognized later in the hearing and was able to give what constituted a short closing statement, and while the Party in Opposition asked to be heard, this was denied and instead the Applicant gave their Rebuttal/Closing Argument.
- Denying the Party in Opposition the right to refute some of the Party in Support’s statements is highly prejudicial and unfair, especially since most of Mr. Itteilag’s statements were directly related to evidence the Party in Opposition presented (when he should have gone first and would not have had the chance to make some of those comments).

¹ 409.1 The order for presenting evidence and arguments at public hearings on variance and special exception applications shall be as follows: (a) Preliminary and procedural matters; (b) Applicant’s case; (c) Report and recommendations from the Office of Planning; (d) Reports and recommendations from other government agencies; (e) Reports and recommendations from the affected ANC, and the ANC’s witnesses, if any; (f) Parties in support of the application; (g) Individuals and organization representatives in support of the application; (h) Parties in opposition to the application; (i) Individuals and organization representatives in opposition to the application; (j) Individuals and organization representatives who are undeclared with respect to the application; (k) Rebuttal by applicant; and (l) Closing statement by applicant.

- The Party in Opposition was also not given the chance to ask any questions of Mr. Itteilag.
- We recognize this case has a “full” record and has gone on for far too long, but we also believe that everyone should have a chance to be heard. With respect to Ms. Cruse, she has provided testimony in 2020 previously and as an active member of the CAG and in the community as well as someone who has lived near this corner for 50 years, her voice is an important one.

Thank you in advance for your consideration of this matter.