

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.:

Motion of: Applicant Petitioner Appellant Party Intervenor Other _____

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

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

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 day of

Month	,	Y	Y	Y	Y	Y
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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: *Stephen Jackson*

Print Name:

Address:

Phone No.: E-Mail: Board of Zoning Adjustment
District of Columbia
CASE NO. 21329
EXHIBIT NO. 42

MOTION TO REOPEN THE RECORD

Points and Authorities supplement

Applicant Stephen Jackson respectfully moves the Board of Zoning Adjustment, pursuant to Subtitle Y § 602.6, to reopen the record in the above-captioned matter for the limited purpose of accepting the attached Supplemental Submission (Attachment A) and exhibits. In support of this Motion, the Applicant states as follows:

I. BACKGROUND

1. On November 5, 2025, the Board held a public hearing on this application. During the hearing, Chair Hill posed the following question:

"Do you know what you're allowed to do by matter of right? Like, are you allowed to do that Juliet balcony thing that was originally on the plan?"

2. The Applicant, appearing pro se and not being a zoning attorney, could not answer. The Applicant stated: "That's a good question... I don't know."
3. Chair Hill also asked the Office of Planning: "Do you know what they're allowed to do up there as a matter of right, if anything?" The question was not fully resolved.
4. The Board closed the record on November 5, 2025, except for two specific items: (1) proof of outreach to neighbors, and (2) photos of the block face.
5. The Applicant provided these two specific items by the deadline of November 24, 2025.
6. On December 3, 2025, the Board convened for a decision meeting. The Board was unable to reach the three votes required, and the matter was continued to December 10, 2025.
7. This Motion is filed at the earliest opportunity following the December 3, 2025 meeting.

II. STANDARD FOR REOPENING

7. Subtitle Y § 602.6 provides that supplemental material submitted after the close of the record shall not be accepted unless accompanied by "a separate request to reopen the record." Such request "must demonstrate good cause and the lack of prejudice to any party."

III. GOOD CAUSE EXISTS TO REOPEN THE RECORD

A. The Submission Answers Chair Hill's Question

8. The attached Supplemental Submission answers Chair Hill's question from the November 5, 2025 hearing regarding what the Applicant could build as a matter of right.

9. **The answer:** The DOB-approved plans for this property included a Juliet railing (ULTRA Aluminum Juliette) at the second-floor door, which would protrude over the porch roof and be visible from the street. ANC Commissioner Eckenwiler conceded at the November 5, 2025 hearing that such a Juliet railing would be permissible "as a matter of right."
10. This information is directly relevant to the Board's evaluation of whether the Applicant's guardrails "substantially visually intrude" upon the character of the street under E § 204.4(a)(3). If a visible metal Juliet railing is acceptable without BZA review, guardrails of similar material and appearance cannot logically constitute a "substantial" visual intrusion.
11. To be clear, the Applicant does not contend that the approved Juliet railing and the constructed guardrails are identical configurations. Rather, the Applicant submits that the existence of an approved, matter-of-right, visible metal railing element is relevant to the Board's evaluation of whether the constructed guardrails constitute a "substantial" visual intrusion under § 204.4(a)(3).
12. The Applicant, appearing pro se without legal training, could not reasonably have anticipated that Chair Hill would inquire about matter-of-right alternatives or that the relevance of the approved Juliet railing would become material. While the Juliet railing specifications were technically available in the permit file, their significance to the § 204.4(a)(3) analysis became apparent only after Chair Hill's question and Commissioner Eckenwiler's concession that the Juliet railing would be permissible "as a matter of right."

B. The Submission Addresses Concerns Raised During December 3 Deliberations

13. During the December 3, 2025 deliberations, the Board discussed concerns not previously raised—specifically, that the deck is a "usable deck" and that visible furniture, umbrellas, and activity might affect the character of the street.
14. These concerns could not have been anticipated or addressed before December 3, 2025, because they were first articulated during that meeting's deliberations.
15. The attached Supplemental Submission addresses these concerns by analyzing how the applicable legal standard under E § 204.4(a)(3)—whether the "construction" substantially visually intrudes—relates to concerns about future "use" of a structure.
16. The Applicant could not have submitted this analysis earlier:
 1. The record closed on November 5, 2025, except for the two specific items enumerated by the Board.
 2. Submitting unrequested materials would have been improper under Y § 602.6.
 3. December 3, 2025, was a decision meeting at which no additional submissions were permitted.

4. The specific framing of the issue – particularly concern about deck "use" versus construction – emerged only during the December 3 deliberations.
17. This filing is the Applicant's first procedurally appropriate opportunity to address Chair Hill's question and the concerns raised during deliberations.

C. The Exclusive Record Rule Requires Reopening

18. Subtitle Y § 603.1 provides that "no decision or order of the Board on an application or appeal shall be made except upon the exclusive record of the proceedings before the Board."
19. The concerns raised during the December 3 deliberations – specifically, that the deck might be used for tables, chairs, umbrellas, and visible activity – were not part of the evidentiary record developed at the November 5 hearing. These concerns were first articulated during deliberations, outside the Applicant's presence and without opportunity to respond.
20. If the Board denies relief based on these extra-record concerns, the decision would violate § 603.1. Reopening the record to allow the Applicant to address these concerns is necessary to ensure a lawful decision based exclusively on the record.

IV. REOPENING WILL NOT PREJUDICE ANY PARTY

21. ANC 6C, the only party in opposition, will have an opportunity to respond pursuant to Subtitle Y § 602.7.
22. The attached submission contains no new facts about the property or the construction. It consists of:
 1. The Juliet railing product specifications from the DOB-approved plans (already part of the permit file. Part of this sheet is already included in Exhibit 31, which is the Power Point presentation of ANC 6C.
 2. Legal analysis of published zoning regulations
 3. Argument regarding the proper application of the E § 204.4(a)(3) standard
23. Commissioner Eckenwiler has demonstrated thorough familiarity with the zoning code throughout these proceedings and is well-positioned to respond to legal argument.
24. No party has relied to its detriment on the absence of this information. The vote has not yet occurred.

V. CONCLUSION

25. The Applicant respectfully requests that the Board reopen the record for the limited purpose of accepting the attached Supplemental Submission (Attachment A) and the approved Juliet railing product specifications (Attachment B).
26. The Applicant further requests that the Board consider this submission prior to taking a vote at the December 10, 2025 meeting, or alternatively, that the Board continue the vote to allow adequate time for review and any response from ANC 6C.

Respectfully submitted,

Stephen Jackson
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December 3, 2025

Attachments:

- Attachment A: Supplemental Submission Regarding the Special Exception Standard
- Attachment B: Approved Juliet Railing Product Specifications (from DOB-Approved Plans, Sheet A300)