

D.C. Board of Zoning Adjustment
441 4th Street N.W., Suite 200 South
Washington, D.C. 20001
bzasubmissions@dc.gov

Friends of the Field)	
)	
)	
Party in Opposition,)	
)	
v.)	BZA Case No. 20643
)	
The Maret School)	
)	
Applicant.)	

OPPOSITION TO MOTION TO REOPEN THE RECORD

Friends of the Field (“Friends”), a Party in Opposition in Board of Zoning Adjustment (“BZA” or the “Board) Case Number 20643 (the “Project”), by undersigned counsel and pursuant to 11 Y DCMR § 700.4, files this Opposition to the Applicant’s Motion to Reopen the Record for the reasons set forth below.

All parties have been served pursuant to 11 Y DCMR § 407.3.

Justification for Opposition

On May 2, 2023, the Applicant filed a Motion to Reopen the Record (the “Motion”) and asked the Board to grant a waiver pursuant to 11 Y DCMR § 101.9 to allow for a Reply to Friends’ Opposition to Applicant’s Request for Clarification/ Reconsideration of Conditions of BZA Order No. 20643 (the “Reply”). In its Motion, the Applicant states that the basis for the requested waiver is to allow the Applicant to argue that there was a problem with the service of the Petition for Review (the “Petition”), a matter that: (1) Friends explains below; (2) has since

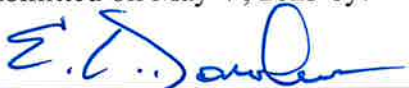
been corrected; and (3) does not affect the result that the Applicant's Request for Clarification/ Reconsideration of Conditions of BZA Order No. 20643 (the "Request") must be dismissed.

Friends filed the Petition on April 18, 2023. The Applicant filed the Request on April 21, 2023. Friends refiled the Petition on April 28, 2023 and served all parties¹.

11 Y DCMR § 700.4 clearly states as follows, "No party may file a motion for reconsideration or rehearing after a petition to review an order granting or denying a special exception or variance application or affirming or reversing a decision on appeal has been filed with the District of Columbia Court of Appeals **and any pending motion for reconsideration or rehearing shall be dismissed if such a petition is filed.**" (Emphasis added.)

Even if the official date of filing is April 28, 2023 and not April 18, 2023, 11 Y DCMR § 700.4 makes it clear that the pending Request must be dismissed. Whether the Petition was filed before or after the Request is completely irrelevant and wholly immaterial. The Board's consideration of the Applicant's Motion, the requested waiver and any Reply allowed upon the reopening of the record are and would be a waste of the Board's time as the result remains unchanged. There is now a Petition for Review pending in the D.C. Court of Appeals that was lawfully and timely served on all parties of record and so the Applicant's Motion and Request must be dismissed.

Submitted on May 4, 2023 by:



Edward L. Donohue (D.C. Bar No. 412301)
For Friends of the Field, Party in Opposition

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¹ D.C. Court of Appeals Case No. 23-AA-0360


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CERTIFICATE OF SERVICE

I hereby certify that on May 4 , 2023, I sent a copy of the OPPOSITION TO MOTION TO REOPEN THE RECORD to counsel for the Applicant, Paul Tummonds, via electronic mail to ptummonds@goulstonstorrs.com, to ANC 3/ 4G Chair Lisa Gore, via electronic mail to 3G01@anc.dc.gov, and to the Office of Planning, via electronic mail to jennifer.steingasser@dc.gov.



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