



**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 day of ,

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: _____

Address: _____

Phone No.: _____ E-Mail: _____

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

Application of
The Maret School

BZA Case No. 20643

**ANC 3/4G's Response to Friends of the Field's
Post-Hearing Submission
March 24, 2022**

ANC 3/4G respectfully requests that the Board of Zoning Adjustment reopen the record to permit the Commission to respond to the Friends of the Field's ("FoF's") unsigned March 23, 2022 "Response to Applicant's Post-Hearing Submission" (Ex. 285). FoF waited until after the record in this case closed to make demonstrably false statements about the Commission and its consideration of this Application.¹ Now FoF's counsel has indicated that it will oppose a motion to reopen the record. The Board will rightly focus on the substantive issues before it rather than FoF's unfounded allegations. The Commission is proud of its work on this case and wishes to have the improperly

¹ Although FoF states that its complaint with the Board of Ethics and Accountability (BEGA) "is a matter of public record" (Ex. 285, page 6), FoF refuses to give the Commission a copy of its complaint, and BEGA regulations require that a complaint be kept confidential. 3 DCMR § 5302.7 ("The identity of an individual who is the subject of a written complaint transmitted to the Board . . . *shall not be disclosed* without the individual's consent unless or until the Board finds reason to believe that the individual has committed a violation and the Board finds that disclosure would not harm the investigation" (emphasis added)).

raised allegations stricken from the record or to have an opportunity to briefly set the record straight.²

As an initial matter, pages 6 through 12 of FoF's response should not be permitted and should be stricken from the record. The Board's March 11, 2022 memo to file only permitted the parties to submit "Responses to Applicant's filings" (Ex. 280). None of FoF's claims in this section in any way respond to the Applicant's March 16, 2022 post-hearing submission (Ex. 282 and its attachments). All of the assertions could have been made at the March 9, 2022 hearing when the Commission could have presented evidence refuting each claim. Instead, FoF attempts to slip these specious claims into the record when the Commission has no formal opportunity to respond. The Board should strike pages 6 through 12 of the FoF's post-hearing submission from the record and disregard it.

To the extent that the Board permits these seven accusations to remain in the record, each of them is inaccurate and is easily refuted.³

1. There were no material omissions in the ANC's recommendation of approval of the Episcopal Center for Children's (ECC's) historic landmark designation. If FoF had reviewed the entire record of the Commission's February 22, 2021 meeting on the Commission's website, it would have known that Maret's lease of the ECC field was

² This response is not intended to comprehensively address every FoF accusation. The Commission's effort to remain concise should not be construed as agreement with any of the FoF's assertions.

³ The Commission refuted most of FoF's allegations in its response to FoF's Motion to Postpone (Ex. 207), and the BZA denied the motion as well as FoF's renewed Motion to Postpone (Ex. 273), finding that those FoF arguments were not germane to this case.

discussed (at 00:57:20-01:00:30 on the video of this meeting). Possible concerns were raised, and Chair Speck indicated that they would be fully explored in future meetings because Maret would need a BZA special exception where the Commission could participate. For purposes of the historic designation, however, the Commissioners and ECC agreed that the leased field would not affect the proposed designation in any way.

2. Commissioner Speck fully disclosed his decades-ago relationship with Maret,⁴ and FoF is so familiar with that history that they know the years that his daughter attended Maret — 1990-1996. There is no evidence that this remote connection influenced Commissioner Speck’s work on this case, that it is material in any respect to the ANC’s work, or that he would derive any personal benefit from the outcome. Indeed, as one of seven Commissioners, Commissioner Speck raised multiple concerns about Maret’s proposal,⁵ and Maret made changes to its plans to address those concerns.

3. Each Commissioner has disclaimed any conflict that would require recusal or any other restriction on participation in this case.⁶ FoF offers no facts suggesting that any Commissioner has a financial or other materially recognizable interest in the outcome here. If elected commissioners were deemed disqualified from participating fully in

⁴ See the Commission’s January 14, 2022 response to FoF’s position statement (January 14th Response), Section 2, posted on the Commission’s website.

⁵ Oddly, FoF contends at page 1 of its post-hearing submission that Commissioners Speck and Higgins suggested that Maret should address an issue that is now central to FoF’s jurisdictional argument. That is the opposite of bias. To the contrary, that entire document demonstrates the Commissioners’ careful questioning of Maret’s initial plans.

⁶ January 14th Response, Section 2.

matters affecting the schools that their children attended 25 years ago, they would be precluded from many matters affecting their constituents who also have children attending those schools. Within our ANC's boundaries, such a rule would preclude many commissioners from participating in matters affecting Lafayette Elementary School, Blessed Sacrament School, or St. John's College High School. Similarly, such a rule could preclude Commissioners from participating in matters affecting Temple Sinai, or the Ingleside and Knollwood senior residences.

Commissioners may have been elected precisely because they can represent parents with children at those schools, members of the synagogue, or residents at a retirement community. Unlike the BZA, the ANC is not an adjudicatory body, and the recusal rules that might apply to the BZA are inapplicable to the elected community representatives.

4. Rather than acting improperly in some fashion, the Commission followed the BZA's instructions in working with Maret when it was preparing its application. The BZA has "strongly encouraged" special exception applicants to contact the affected ANC "to discuss the merits of their application."⁷ Maret properly followed those instructions

⁷ BZA Tutorial on "Burden of Proof/Special Exception," January 12, 2017, page 12.

before submitting its application, and the Commission properly provided feedback based on residents' concerns.⁸

5. For more than two months, the Commission attempted to find compromises that would be acceptable to Maret and the community. We were able to identify many areas of common ground that were incorporated in conditions for approval of the application. FoF members of the Commission's advisory group refused, however, to work with the non-FoF members of that group, who dissented from the FoF proposals on the disputed issues. As FoF agreed, they were at an impasse with Maret on some fundamental questions. Because the parties could not agree, the Commissioners had to consider the merits of the parties' positions as well as the reports from the relevant District agencies. All of the Commissioners agreed with the Commission's final recommendations on those disputed issues. The fact that FoF could not present persuasive arguments for its positions is not evidence of bias in favor of the applicant.

6. The Commission heard extensively from the community and the parties at a series of meetings, including its regular January 10, 2022 meeting, a special meeting on February 1, 2022, and a special meeting on February 24, 2022, that was devoted entirely to consideration of a draft resolution. The Commission also received written comments

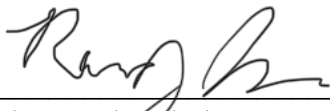
⁸ Before Maret filed the application in this case, the Commission invited it to present its initial plans at the Commission's September 27, 2021 public meeting. As reflected in the detailed minutes on the Commission's website, the Commission heard community concerns during a two-hour discussion. FoF ignores this community meeting and fact that Commissioner Speck promptly gave the markup of Maret's draft application to one of the FoF organizers.

from Maret and FoF. Based on the entirety of all the comments it received, the Commissioners made final changes to be considered at their regular meeting on February 28, 2022. At that point, all the parties' positions were well known, and no further input was required. The Commission unanimously adopted its resolution based on the totality of the information available to it.

7. The Commissioners upheld their oath to decide this matter before it “from the viewpoint of the best interest of the District of Columbia as a whole.” Almost all of the FoF members reside in only one single member district represented by one of the seven Commissioners. Six of the Commissioners represent constituents who are not FoF members and may have very different — but equally strongly held — views. We must also represent ECC’s interests, which are important to our community and the District. FoF seeks to disenfranchise the rest of our ANC in order to exclusively serve the interests of a group of vocal immediate neighbors. That is not our mandate. The Commissioners — like the BZA — must weigh all of competing interests, and we did so in this instance.

The Commissioners stand steadfastly by their resolution and report to the BZA (Ex. 233). As the Board recognized at the March 9, 2022 hearing, this report represents hundreds of hours work by all of the Commissioners, who listened to residents, researched the issues, and analyzed all of the facts. This was not the product of bias but of sincere dedication to serving the community and reliance on the expertise of the District agencies charged with reviewing this application.

Finally, the Board should consider the impact that FoF's tactics will have on those who might consider serving as volunteer, unpaid Commissioners. The job is hard enough without having to endure the kinds of unfounded accusations that FoF has made. We urge the Board to strike FoF's false and unsubstantiated accusations against the Commission from the record (part V of its submission, pages 6 through 12).



Randy Speck, Chair ANC 3/4G

Date: March 24, 2022

On behalf of Commissioners Lisa Gore, John Higgins, Michael Zeldin, Connie Chang, Peter Gosselin, and Charles Cadwell, each of whom reviewed and supports this response.