

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 16019** of the **Marjorie Merriweather Post Foundation of the District of Columbia**, pursuant to 11 DCMR 3107.2, for a variance from Subsection 201.1 to allow additions to and modifications of existing structures, new construction and modification of certain conditions of previous Board Orders governing the operation of an approved museum in an R-1-A District at premises 4155 Linnean Avenue, N.W. (Square 2245, Lot 800).

**HEARING DATE:** January 18, 1995  
**DECISION DATE:** March 1, 1995

**DISPOSITION:** By Order dated October 26, 1995, the Board GRANTED the application by a vote of 4-0 (Susan Morgan Hinton, John G. Parsons, Laura M. Richards and Craig Ellis to grant; Angel F. Clarens not voting, having recused himself).

By Order dated June 26, 1996 the Board DENIED an opponent's motion for reconsideration by a vote of 4-0 (John G. Parsons, Susan Morgan Hinton and Laura M. Richards to deny; Craig Ellis to deny by absentee vote; Angel F. Clarens not voting having recused himself).

**MODIFICATION ORDER**

The Board initially granted Application 16019 by its order dated October 26, 1995 to allow additions to and modifications of existing structures, new construction and modification of certain conditions of previous Board Orders governing the operation of the Hillwood Museum. By letter dated November 30, 1998, counsel for the applicant filed a motion to waive the six-month filing requirement and a waiver to allow the current Board Members to decide this motion for modification of approved plans.

**THE WAIVER REQUESTS:**

Pursuant to 11 DCMR 3301.1, the Board may waive its rules where good cause is shown and where the Board determines that granting the waiver will not prejudice the rights of any party.

In this case, the applicant is requesting that the Board waive Section 3335.3 which requires an applicant to file for a modification of plans within six months of the final date of the Board's order. Under the Board's Rules, to be timely this motion should have been filed by April 26, 1996. The motion was filed on November 30, 1998, after the six month time limit had run. It is the applicant's position that to waive this rule will not prejudice any party to the application.

The Board **granted** the waiver of the six-month filing requirement and thereby implicitly determined that good cause had been shown and that granting the waiver would not prejudice the rights of any party.

The applicant is also requesting waiver of Section 3335.6 which states that a Board Member shall not vote on a request for a modification of plans unless that member participated in the original decision. The make-up of the Board has changed since the original decision on Application 16019. It is the applicant's position that to waive this rule will not prejudice any party to the application.

With regard to this waiver request the Board notes that the record was provided to all of the current members of the Board to allow them to participate and make an informed decision on the motion. None of the other parties submitted a statement addressing this waiver request. Therefore, the Board determines that no party to the application would be prejudiced by the granting of this waiver. Consequently, the Board hereby grants the waiver of Subsection 3335.6.

The Board allowed for the submission of the modification motion.

#### **THE MOTION FOR MODIFICATION OF PLANS:**

The motion for modification of approved plans must meet the requirements of Section 3335. Specifically, the test for review under Subsection 3335.7 states "Approval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts the Board relied upon in approving the application."

The modification of approved plans requested by the applicant will allow the applicant to (1) renovate the currently existing guardhouse at the main entrance to the Hillwood Museum into a restroom; (2) construct a new guardhouse directly across from the proposed restroom facility at the main entrance and; (3) replace the existing guardhouse at the service entrance with a newly constructed guardhouse.

The applicant stated that the requested modifications will ease access to the Hillwood Museum thereby reducing traffic congestion at the Hillwood Museum's entrances. Also, the additions will greatly improve the working conditions for several of the Hillwood Museum's employees and add to the aesthetics of the Hillwood Museum grounds as a whole. The applicant also stated that the newly created restrooms will be ADA accessible.

The renovation of the main guardhouse into restrooms will not increase the size of the structure. The newly constructed main guardhouse will be 100 square feet, while the newly constructed service entrance guardhouse will be 140 square feet.

Finally, in the applicant's letter dated November 30, 1998, the applicant requested that the Board grant it the flexibility to move the exact location of the **service entrance guardhouse** up to four feet to the east. The applicant indicated that such flexibility is necessary because the applicant is currently completing a survey of the property to determine the precise location of the property

lines. Once the survey is complete, the applicant will know exactly where it must build the service entrance guardhouse in order to comply with the building restriction line.

By letter dated December 11, 1998, the applicant amended the motion for modification by **eliminating the request for flexibility** in the location of the guardhouse.

None of the parties to the application submitted comments on the proposed modification of plans.

Upon consideration of the motion, the lack of response from the parties and the record in this case, the Board concludes that the proposed modifications to the approved plans are minor in nature and do not materially change the facts relied upon by the Board in deciding the initial application.

In light of the foregoing, it is **ORDERED** that the motions for waiver and modification of plans are **APPROVED, SUBJECT** to the **CONDITION** that construction shall be in accordance with the letter from Wilkes, Artis, Hedrick & Lane, dated November 30, 1998 with attached plans (**Exhibit No. 87**), and the supplementary letter from Wilkes, Artis, Hedrick & Lane, dated December 11, 1998 (**Exhibit No. 88**) with attached plans. In all other respects, the previous orders of the Board shall remain in full force and effect.

**DECISION DATE: February 3, 1999**

**VOTE: 4 - 0** (Sheila Cross Reid, Betty King, Jerry H. Gilreath to grant; John G. Parsons to grant by absentee vote; Anthony Hood not voting, not having heard the case)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

ATTESTED BY:   
**SHERI M. PRUITT-WILLIAMS**  
Interim Director

**FINAL DATE OF ORDER:**                     MAR - 3 1999                    

PURSUANT TO D.C. CODE § 1-2531 (1987), SECTION 267 of D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF

APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

**16019ord/twr/ljp**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 16019**

MAR - 3 1999

As Interim Director of the Office of Zoning, I certify and attest that on \_\_\_\_\_ a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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Attested By:   
**SHERI M. PRUITT-WILLIAMS**  
Interim Director

Attest/ljp