

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17475-B of Jemal's Giant LLC, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 772, a variance from the residential recreation space requirements under section 773, a variance from the side yard requirement under section 775 and pursuant to 11 DCMR 3104.1, for a special exception from the requirement that rooftop elements be placed in one enclosure under section 411, to allow the construction of a new 297 unit apartment building in the C-2-A District at premises 3460 14th Street, N.W. and 1439 Newton Street, N.W. (Square 2678, Lots 706, 832, and part of Lots 705 and 707).

HEARING DATE: May 23, 2006
DECISION DATE: May 23, 2006 (Bench Decision)
DECISION DATE ON MODIFICATION: September 19, 2006

SUMMARY ORDER ON MINOR MODIFICATION
OF APPROVED PLANS

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. ANC 1A submitted a report in support of the application, however the report did not meet the requirements of §3115, entitling it to great weight. The Office of Planning (OP) also submitted a report in support of the application.

REQUEST FOR MINOR MODIFICATION OF PLANS

The above-captioned application was approved by the Board of Zoning Adjustment (Board) by Order Nos. 17475 and 17475-A, dated June 7, 2006 and June 14, 2006, respectively. On August 17, 2006, the applicant filed a motion (Exhibit 36) with the Board requesting to make a minor modification to the approved plans. The modifications

involves 1. A request to reduce the number of parking spaces from 249 to 247, 2. The addition of new balconies to the units located within the court yards of the building, 3. A re-design of the rooftop structures; and, 4. Additional landscaping and passive recreation in the courtyards with no reduction in recreation space as shown in Exhibit 36, in the record. A modification of approved plans is allowed with Board approval under the provisions of section 3129 of the Zoning Regulations. The Applicant served ANC 1A and the OP, the parties to the application, with the motion by first class mail.

By memorandum dated September 12, 2006, the OP (Exhibit 37) stated that it has no objection to the proposed changes and finds that the request constitutes a minor change to the approved plans. The OP recommends approval of the requested changes as a minor modification. The ANC did not comment on the request for minor modification.

On September 19, 2006, at its public meeting, the Board concluded that the requested modification of plans was timely filed pursuant to subsection 3129.3, is minor in nature and does not change the material facts the Board relied upon in approving the original application.

Pursuant to 11 DCMR § 3101.6 and 3129.1, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that the **MODIFICATION of APPROVED PLANS be GRANTED** subject to the revised plans (Exhibit No. 36) in the record.

VOTE: 5-0-0 (Geoffrey H. Griffis, John A. Mann II, Ruthanne G. Miller, Curtis L. Etherly, Jr. and Anthony J. Hood to approve).

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

Each concurring member approved the issuance of this order.

ATTESTED BY: _____


JERRILY R. KRESS, FAIA
DIRECTOR, OFFICE OF ZONING *JK*

FINAL DATE OF ORDER: SEP 21 2006

UNDER 11 DCMR 3125.9, "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 FOR THE BOARD OF ZONING ADJUSTMENT."

BZA APPLICATION NO. 17475-B
PAGE NO. 3

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment**



BZA APPLICATION NO. 17475-B Minor Modification Order

As Director of the Office of Zoning, I hereby certify and attest that on September 21, 2006, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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BZA APPLICATION NO. 17475-B
PAGE NO. 2

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ATTESTED BY:



JERRILY R. KRESS, FAIA
Director, Office of Zoning 