

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Order No. 18227-A of Application of 1700 New York Avenue LLC on behalf of the Corcoran Gallery of Art, Motion for Modification of Approved Plans for Application No. 18227, pursuant to § 3129 of the Zoning Regulations, for a modification to BZA Order No. 18227 granting a variance from the parking requirements of 11 DCMR § 2101.1, to provide 38 parking spaces in lieu of 44 parking spaces previously approved, for the development of an office building as an addition to the existing building in the SP-2 District at premises 1700 New York Avenue, N.W. (Square 171, Lot 34).

The original application was pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the floor area ratio requirements under section 531, a variance from the off-street parking requirements under subsection 2101.1, a special exception for office use under section 508, and a special exception from the roof structure requirements under section 411, to allow the development of an office building as an addition to an existing building in the SP-2 District at premises 1700 New York Avenue, N.W. (Square 171, Lot 34).

HEARING DATE (original application):	June 21, 2011
DECISION DATE (original application):	June 21, 2011
FINAL ORDER ISSUANCE DATE (original application):	June 24, 2011
HEARING DATE ON MODIFICATION:	June 26, 2012
MODIFICATION DECISION DATE:	June 26, 2012

SUMMARY ORDER ON REQUEST FOR MODIFICATION

Background.

On June 21, 2011, the Board of Zoning Adjustment (the “Board” or “BZA”) approved the application of 1700 New York Avenue LLC on behalf of the Corcoran Gallery of Art (the “Applicant”). The Applicant’s original request was for a variance from the floor area ratio requirements under § 531, a variance from the off-street parking requirements under § 2101.1, a special exception for office use under § 508, and a special exception from the roof structure requirements under § 411, to allow the development of an office building as an addition to an existing building in the SP-2 District at premises 1700 New York Avenue, N.W. (Square 171, Lot 34).

BZA Order No. 18227, approving the original request, was issued June 24, 2011. (Exhibit 38.)

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As approved in BZA Order No. 18227, the project included 44 approved parking spaces to be provided in the below-grade parking facility.

Request for Modification of BZA Order No. 18227

On March 22, 2012, the Applicant initially filed a request for a minor modification to Order No. 18227, to the grant of a variance from the parking requirements of 11 DCMR § 2101.1. The modification would allow the Applicant to lower the number of parking spaces provided in the below-grade parking facility, from the previously approved 44 parking spaces to 38 proposed spaces, pursuant to § 3129 of the Zoning Regulations. (Exhibit 40.) The record indicates that the request for modification was served on all of the parties to the case: the Office of Planning (“OP”) and Advisory Neighborhood Commission (“ANC”) 2A, the affected ANC. (Exhibit 40.)

Pursuant to § 3129.4, all parties are allowed to file comments within 10 days of the filed request for modification. The parties to this case did file comments to the request. OP submitted a report, dated April 3, 2012, recommending approval of the Applicant’s request to modify the required number of parking spaces relief granted under Order No. 18227, to allow the Applicant to provide 38 parking spaces in lieu of the 44 parking spaces previously approved, for the development of an office building as an addition to the existing building in the SP-2 District at premises 1700 New York Avenue, N.W. (Exhibit 42.) The affected ANC, ANC 2A, which was a party to the underlying case, submitted a report, dated March 30, 2012, in support of the motion. The ANC’s report indicated that at a duly noticed, regularly scheduled meeting on March 21, 2012, with a quorum present, ANC 2A voted 4:0:0 to support the request for a modification. (Exhibit 41.)

Section 3129, specifically § 3129.3, indicates that a request for minor modification “of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application.” The motion was filed within the two-year period following the final order in the underlying case.

Limited-Scope Public Hearing Required

Subsection 3129.7, states that “[a] request to modify other aspects of a Board order may be made at anytime, but shall require a hearing.” At its decision meeting of April 10, 2012, the Board determined that the Applicant’s modification request was not minor and required a limited-scope hearing to review the request. On April 11, 2012, the Applicant submitted an application for a modification to BZA Order No. 18227 related to the previously approved variance from the parking requirements. (Exhibit 44.) That application contained plans showing both the approved plans for parking spaces as well as the proposed modification to those plans.

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 6 and 44.)

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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”) 2A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2A, which is automatically a party to this application.

As heretofore mentioned, ANC 2A submitted a report in support of the application for modification of the underlying order. The ANC report stated that at a duly noticed, regularly scheduled meeting on March 21, 2012, with a quorum present, the ANC voted 4:0:0 to support the requested modification. (Exhibit 41.) In addition to its previously submitted report of April 3, 2012, the Office of Planning (“OP”) submitted a second report, dated June 19, 2012, in support of the modification of the previously approved application and order. (Exhibit 56.) The District Department of Transportation (“DDOT”) also submitted a report in support of the modification to the previously approved application. (Exhibit 55.)

Modification to Variance Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a modification to the variance from § 2101 previously approved by the Board in BZA Case No. 18227. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a modification to the variance from § 2101, the Applicant has met its burden of proof under 11 DCMR 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, 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. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application for modification of Order No. 18227, pursuant to the revised plans in Exhibit 54, Tab H, is hereby **GRANTED**. In all other respects Order No. 18227 and the plans approved therein remain unchanged.

VOTE on Original Application (June 24, 2011): 4-0-1

(Nicole C. Sorg, Jeffrey L. Hinkle, Lloyd J. Jordan, and Greg M. Selfridge to APPROVE. Meridith H. Holdenauer not present, not voting.)

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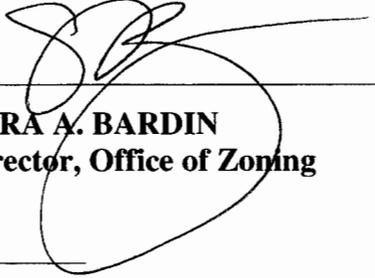
VOTE on Modification of Order No. 18227: 4-0-1

(Lloyd J. Jordan, Nicole C. Sorg Jeffrey L. Hinkle and Anthony Hood to APPROVE. Rashida MacMurray, not present, not voting.)

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

A majority of the Board members approved the issuance of this summary order.

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: **JUL 05 2012**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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As Director of the Office of Zoning, I hereby certify and attest that on JUL 05 2012, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANC's and SMD's that have opted to receive notices thusly, 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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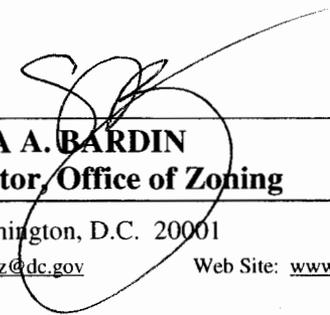
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