

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Order No. 18390-A of Application of Community Three Development LLC, Motion for Minor Modification of Approved Plans for Application No. 18390, pursuant to § 3129 of the Zoning Regulations.

The original application was pursuant to 11 DCMR § 3103.2, for a variance from the drive aisle width requirements under § 2117.5 and a variance from the compact space requirements under § 2115.2, to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building, in the C-2-A District at premises 435 R Street, N.W. (Square 508, Lots 52, 53, and 66).

HEARING DATE (original application):	July 31, 2012
DECISION DATE (original application):	July 31, 2012
FINAL ORDER ISSUANCE DATE (Order No. 18390):	August 6, 2012
DECISION DATE FOR MINOR MODIFICATION:	July 9, 2013

SUMMARY ORDER ON REQUEST FOR MINOR MODIFICATION OF APPROVED PLANS

Background

On July 31, 2012, the Board of Zoning Adjustment (the “Board” or “BZA”) approved the application of Community Three Development LLC (the “Applicant”). The Applicant’s original request was for variances from the drive aisle width requirements under § 2117.5 and from the compact space requirements under § 2115.2, to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building, in the C-2-A District at premises 435 R Street, N.W. (Square 508, Lots 52, 53, and 66). BZA Order No. 18390, approving the original request, was issued on August 6, 2012. That order approved the requested variances to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building, per the approved plans at Exhibit 25. (Exhibit 31.)

Request for Minor Modification of the Approved Plans

The Applicant submitted a request for minor modification of the approved plans on June 28, 2013. In the motion the Applicant indicated that it was requesting a modification to the parking

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plan because during the technical review subsequent to the BZA's granting of the requested variances and prior to the issuance of the building permit, the Department of Consumer and Regulatory Affairs ("DCRA") technical staff directed the Community Three LLC (the "Applicant") to create a pedestrian egress separate from the driveway, leading the Applicant to revise its parking plan. The resulting revised parking plan is consistent with the plan approved by the BZA and the relief provided. According to the Applicant, the plan has simply been "refined to effect the changes that DCRA technical staff directed [the Applicant] to make." (Exhibit 33.) 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") 2C, the affected ANC, and the Single District Member.

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 and thus is timely.

Pursuant to § 3129.4, all parties are allowed to file comments within 10 days of the filed request for modification. OP submitted a timely report on the minor modification of site plan, dated July 2, 2013, recommending approval of the Applicant's requested minor modification to satisfy DCRA's requirement of providing a separate pedestrian egress at the rear of the property on the Applicant's site plan. OP noted that the modification request would also amend the relief provided in Order No. 18390 by increasing the number of compact spaces per § 2215 to six compact spaces. No new areas of relief are required. (Exhibit 34.) The affected ANC, ANC 2C, did not submit a report.

No objections to the request for minor modification were submitted by any parties to the case. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

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 for modifications of approved plans. Subsections 3129.5 and 3129.6 of the Zoning Regulations authorizes the Board to grant, without a hearing, requests for minor modifications of approved plans that do not change the material facts upon which the Board based its original approval of the application. (11 DCMR § 3129.6.)

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking a modification to the approved plans, the Applicant has met its burden of proof under 11 DCMR § 3129, that the modification no material facts have changed upon which the Board based its decision on the underlying application that would undermine its approval.

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.

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It is therefore **ORDERED** that this application for modification of approved plans is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 25, AS MODIFIED BY THE REVISED GROUND FLOOR PLAN, DATED JUNE 2013, AT EXHIBIT 33.** In all other respects, Order No. 18390 remains unchanged.

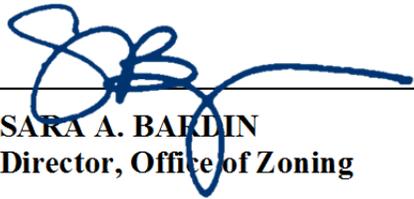
VOTE on Modification of Order No. 18390: 3-0-2

(Lloyd J. Jordan, Jeffrey L. Hinkle, and S. Kathryn Allen to APPROVE; no Zoning Commission member participating or voting; the third Mayoral appointee vacant.)

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: July 10, 2013

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.