

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Order No. 18496-A of Mid-Cities LLC, Motion for Modification of Condition No. 3 in Order No. 18496, pursuant to § 3129.7 of the Zoning Regulations.

The original application was pursuant to 11 DCMR § 3104.1, for a special exception for the continued operation of an accessory parking lot under section 214, in the R-1-B District at premises 4434 Connecticut Avenue, N.W. (Square 1971, Lots 831 and 832).

HEARING DATE (Original Application):	February 5, 2013
DECISION DATE (Original Application):	February 5, 2013
FINAL ORDER ISSUANCE DATE (No. 18496):	February 7, 2013
HEARING DATE FOR MODIFICATION:	September 17, 2013
MODIFICATION DECISION DATE:	September 17, 2013

SUMMARY ORDER ON REQUEST FOR MODIFICATION

BACKGROUND

On February 5, 2013, the Board of Zoning Adjustment (the “Board” or “BZA”) approved Mid-Cities LLC’s (the “Applicant”) original request for a special exception pursuant to 11 DCMR § 3104.1, for the continued operation of an accessory parking lot under § 214 pursuant to 12 enumerated conditions, including Condition No. 3 which limits the hours of operation of the accessory parking lot in the R-1-B District at premises 4434 Connecticut Avenue, N.W. (Square 1971, Lots 831 and 832).

Specifically, Condition No. 3 stated:

“The hours of operation shall be from 8:00 a.m.to 9:00 p.m.”

BZA Order No. 18496, approving the original request, was issued on February 7, 2013. (Exhibit 30.) As approved in BZA Order 18496, the approval allowed the continued use of the accessory parking lot pursuant to 12 enumerated conditions, including Condition No. 3, hours of operation from 8:00 a.m. to 9:00 p.m.

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MOTION FOR MODIFICATION

On July 24, 2013, the Applicant filed a Request for Modification of Condition No. 3 in Order No. 18349, pursuant to § 3129.7 of the Zoning Regulations with a Certificate of Service providing notice by electronic mail and first class mail to the Office of Planning (“OP”) and Advisory Neighborhood Commission (“ANC”) 3F, the affected ANC. (Exhibit 33.) The Applicant requested modification of Condition No. 3 to extend the operating hours of the accessory parking lot by four hours: *from 8:00 a.m. to 9:00 p.m. to 6:00 a.m. to 11:00 p.m.*

Pursuant to § 3129.7, the Board conducted a hearing on the requested modification on September 17, 2013.¹ OP filed a report dated September 3, 2013 (Exhibit 35) recommending approval of the requested modification and appeared at the hearing. The affected ANC, ANC 3F, which was a party in support to the underlying case, filed a report dated July 26, 2013 in support of the request to extend the hours. The ANC’s report indicated that at a duly noticed public special meeting with a quorum present, the ANC voted 4-0-0 to support the extending of the operating hours for the accessory parking lot and waived its right under § 3129.4. (Exhibit 34.)

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3129, that the requested modification can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. No parties opposed this modification. Accordingly, a decision of the Board to grant this modification would not be adverse to any Party.

The Board concludes that the Applicant’s proposed Modification of Condition No. 3 is well supported and consistent with requirements of § 3129.7 of the Zoning Regulations and represents a modification that does not change the material facts the Board relied upon in approving the original application.

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.

It is therefore **ORDERED** that this application for modification of Condition No. 3 be **GRANTED SO THAT CONDITION NO. 3 IS MODIFIED TO READ AS FOLLOWS:**

3. The hours of operation shall be from 6:00 a.m. to 11:00 p.m.

¹ This case was originally placed on the September 10, 2013 Public Meeting Agenda, but the Board voted to move the case to the September 17, 2013 Public Hearing Agenda for a hearing, in compliance with the Zoning Regulations.

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In all other respects, Order No. 18496 and the conditions approved therein remain unchanged.

VOTE ON ORIGINAL APPLICATION ON FEBRUARY 5, 2013: 4-0-1

(Lloyd L. Jordan, Anthony J. Hood, Nicole C. Sorg, and Jeffrey L. Hinkle to **APPROVE**; the third Mayoral appointee vacant.)

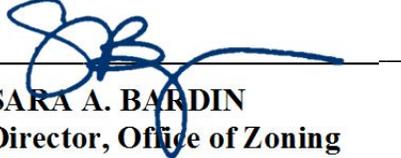
VOTE ON MODIFICATION OF CONDITION NO. 3 (SEPTEMBER 17, 2013): 4-0-1

(Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Michael G. Turnbull to **APPROVE**; 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: September 20, 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.