

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Order No. 18621-A of Application of The Laborers’ International Union of North America (LiLUNA), Motion for Minor Modification of Approved Plans for Application No. 18621, pursuant to § 3129 of the Zoning Regulations.

The original application was pursuant to 11 DCMR §§ 3104.1 and 3103.2, for special exceptions under §§ 508, 537, 774, 777, and 2514, and for variances under §§ 530, 531, and 2001 to construct additions to an existing office building in the SP-2 and C-4 Districts at premises 901 16th Street, N.W. (Square 199, Lots 61 and 824).

HEARING DATE (original application):	October 1, 2013
DECISION DATE (original application):	October 1, 2013
FINAL ORDER ISSUANCE DATE (Order No. 18621):	October 10, 2013
DECISION DATE FOR MINOR MODIFICATION:	May 13, 2014

SUMMARY ORDER ON REQUEST FOR MINOR MODIFICATION OF APPROVED PLANS

Background

On October 1, 2013, the Board of Zoning Adjustment (the “Board” or “BZA”) approved the application of The Laborers’ International Union of North America (LiLUNA) (the “Applicant”). The Applicant’s original request was for special exceptions under §§ 508, 537, 774, 777, and 2514, and for variances under §§ 530, 531, and 2001 to construct additions to an existing office building in the SP-2 and C-4 Districts at premises 901 16th Street, N.W. (Square 199, Lots 61 and 824). BZA Order No. 18621, approving the original request, was issued on October 10, 2013. That order approved the requested special exceptions and variances to allow the construction of additions to an existing office building, per the approved plans at Exhibit 23 as refined by the Applicant’s PowerPoint at Exhibit 30. Those plans included a roof plan with a four foot screening wall. (Exhibit 37.)

Request for Minor Modification of the Approved Plans

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The Applicant submitted a request for minor modification of the approved plans on April 30, 2014. In the motion the Applicant requested a modification to the approved plans so as to increase the height of the rooftop enclosing (screening) walls from the approved four feet in height to seven feet, two inches, per sheets 10 and 11 under Tab A, Exhibit 40. The Applicant indicated that, since Order No. 18621's approval, it had refined its plans to apply for building permits and, because the mechanical equipment to be placed on the roof was taller than first expected, it had modified its roof plan so the rooftop wall would fully cover or screen the rooftop mechanical equipment, as required under § 411.6. That subsection says in part: "when consisting solely of mechanical equipment, the equipment shall be enclosed fully..."¹ According to the Applicant, the proposed additional height would be "within the permitted 18-foot, 6-inch maximum height permitted..." Moreover, the Applicant confirmed that both the Historic Preservation Office and the neighboring property owner to the east are in support. (Exhibit 40.) The Applicant also stated for the record that this modification of plans does not affect the previously approved zoning relief or require additional relief or any other changes in the application. Moreover, the Applicant stated that the change does not affect the two conditions of the present Order. (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") 2B, 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 report, dated April 30, 2014, recommending approval of the Applicant's requested minor modification to construct a higher, 7.16 foot wall enclosure in order to fully screen the structures on the roof, such as exhaust fans, boiler exhaust and HVAC equipment, which were taller than first anticipated. No new areas of relief are required. OP noted that although there would be an increase in this portion of the screen wall, it is still well below the permitted 18.5 feet of height. OP also noted that the proposed increase would continue not to overshadow the historic character of the building and had been reviewed by the Historic Preservation Office. (Exhibit 41.) The affected ANC, ANC 2B, 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.

¹ Although the approved special exception is to § 777, the section by reference includes § 411 requirements.

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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 is minor and 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.

It is therefore **ORDERED** that this application for modification of approved plans is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS IN ORDER 18621, AS MODIFIED BY THE REVISED PLANS, DATED APRIL 25, 2014, AT TAB A AT EXHIBIT 40.** In all other respects, Order No. 18621 remains unchanged.

VOTE on Modification of Order No. 18621: **4-0-1**

(Lloyd J. Jordan, Robert E. Miller, Marnique Y. Heath, and Jeffrey L. Hinkle², to APPROVE; and S. Kathryn Allen, not present or participating.)

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:  _____ for

SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: May 15, 2014

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.

² Board member Hinkle noted for the record that although he had not participated in the underlying case, he had read the record and was ready to deliberate on the request for modification.