

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Order No. 18640-A of Barry S. Jackson, Motion for Modification, pursuant to § 3129 of the Zoning Regulations.

The original application (No. 18640) was pursuant to 11 DCMR § 3104.1 for a special exception under § 223 of the Zoning Regulations to allow a two-story rear addition and a two-story garage addition to a row dwelling not meeting the zoning requirements for lot occupancy under § 403.2 or rear yard requirements under § 404.1 in the R-4 District at 761 10th Street, S.E. (Square 950, Lot 94).

HEARING DATE (Original application):	October 29, 2013
DECISION DATE (Original application):	December 17, 2013
FINAL ORDER ISSUANCE DATE (Original application):	May 27, 2014
HEARING DATE (Modification):	October 6, 2015 ¹ and November 24, 2015
DECISION DATE (Modification):	December 1, 2015

SUMMARY ORDER ON REQUEST FOR MODIFICATION

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5 in the record of Application No. 18640.)

On December 17, 2013, the Board approved Application No. 18640 of Barry S. Jackson (“the Applicant”), pursuant to § 3104.1 for a special exception under § 223 of the Zoning Regulations to allow a two-story rear addition and a two-story garage addition to a row dwelling not meeting the zoning requirements for lot occupancy under § 403.2 or rear yard requirements under § 404.1 in the R-4 District.

¹ The motion was originally for a minor modification and was considered at the Board’s public meeting on October 6, 2015. At that time, the Board determined that the modification required a public hearing, and set the request down for a public hearing on November 24, 2015.

BZA APPLICATION NO. 18640-A
PAGE NO. 2

REQUEST FOR MINOR MODIFICATION

On July 31, 2015, the Applicant submitted a request for minor modification of the plan approved by the Board in order to make several design changes. (Exhibit 1.) Specifically, the Applicant proposed to move the approved trellis from the south side of the property to the north side of the property, replace and reposition the rear door, change the material of the fence from wood to brick, and change the window design. (Exhibit 8.) The Applicant submitted revised plans to demonstrate the proposed modification and additional renderings to illustrate its proposal. (Exhibits 5 and 11.)

Pursuant to § 3129.4, all parties are allowed to file comments within 10 days of the filed request for modification. The site of this application is located within the jurisdiction of Advisory Neighborhood Commission ("ANC") 6B, which is automatically a party to this application. The ANC submitted a report on September 14, 2015, which stated that at a regularly scheduled and properly noticed meeting on September 8, 2015, at which a quorum was present, the ANC considered the modification request. ANC 6B voted 9-0-0 to support some of the modifications requested, but to oppose the repositioning of the trellis to the north side of the property. (Exhibit 7.)

During the public meeting on October 6, 2015, the Board considered this request and determined that the proposed changes exceed the scope of a minor modification and that, in light of the ANC's opposition to certain elements of the proposal, the request would require a limited hearing. Accordingly, the Board set the request for modification down for a public hearing on November 24, 2015.

HEARING ON REQUEST FOR MODIFICATION

The Office of Planning ("OP") submitted a timely report recommending approval of the request, noting that the proposed changes would not unduly compromise the light, air and privacy available to neighboring properties. (Exhibit 12.) The District Department of Transportation ("DDOT") submitted a report of no objection. (Exhibit 10.)

In advance of the Board's public hearing on November 24, 2015, ANC 6B submitted a second report, dated November 16, 2015, indicating that it considered the request again at a regularly scheduled and properly noticed meeting on November 10, 2015, at which a quorum was present. The ANC voted 10-0-0 to remain in opposition to the repositioning of the trellis, but to support all other aspects of the modification request. (Exhibit 14.)

Pursuant to § 3129.8, the scope of the hearing for a request for modification shall be limited to reviewing the impact of that modification on the subject of the original application. The Board held a public hearing on November 24, 2015 on this motion, pursuant to § 3129.7, and heard the request for a modification to the approval for special exception relief.

During the public hearing on November 24, 2015, the Applicant indicated that it was willing to revise its plans to maintain the original position of the trellis on the south side of the property, at

BZA APPLICATION NO. 18640-A
PAGE NO. 3

the request of the ANC and adjacent neighbor. The Board requested that the Applicant submit revised plans for its consideration and scheduled the case for decision on December 1, 2015. The Applicant submitted revised plans showing the trellis in its original location, but containing all other proposed modifications. (Exhibit 16.)

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 modification of approval. Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a modification to the original approval in Case No. 18640, the Applicant has met its burden of proof under 11 DCMR § 3129, that the modification has not changed any material facts upon which the Board based its decision on the underlying application that would undermine its approval. The only parties to the case were the ANC and the Applicant. Based on the revised plans submitted by the Applicant, (Exhibit 16,) the Board's decision to approve the modification is consistent with the ANC's recommendation to maintain the original position of the trellis. 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.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, 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 the Board's approval in Application No. 18640 is hereby **GRANTED, SUBJECT TO THE APPROVED MODIFIED PLANS IN EXHIBIT 16.**

In all other respects, Order No. 18640 remains unchanged.

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Marcie I. Cohen, by absentee vote, to APPROVE; Jeffrey L. Hinkle not participating and one Board seat vacant.)

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

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

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: December 7, 2015

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.