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August 29, 2013

VIA HAND DELIVERY

Chairman Lloyd Jordan
D.C. Board of Zoning Adjustment
441 4th Street NW, Suite 210S
Washington, DC 20001

Re BZA Case No. 18463 – Motion for a Minor Modification

Dear Chairman Jordan and Members of the Board

Enclosed please find one original and 15 copies of the Applicant's motion for a minor modification of one condition in the order in the above-referenced case, approved on December 18, 2012. The applicable forms and a check for the filing fee are also enclosed.

The Applicant requests that this motion be considered at the Board's September 24, 2013 public meeting. This will provide ANC 6A ample time to consider and report on this motion at their next public meeting.

Should you or your staff have any questions, please do not hesitate to contact me.

Sincerely,



Cary R. Kadlec

Enclosures
DCDOCS\7082004.1

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18463
EXHIBIT NO. 41



BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA



FORM 152 – MOTION FOR MINOR MODIFICATION

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: 18463

Motion for Minor Modification to:

☒ Final Order

☐ Approved Plan

☐ Amount of Relief

☐ Other _____

Points and Authorities:

Below and/or on a separate sheet of 8 1/2" x 11" paper, state each and every reason why the Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map.

See attached

CERTIFICATE OF SERVICE

I hereby certify that on this

2

9

day of

August

,

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I served a copy of the forgoing motion or request to each Applicant, Petitioner, Appellant, Party, Intervenor, and the Office of Planning on

the above referenced BZA case via:

☐ Mailed letter

☐ Hand delivery

☒ E-Mail

☐ Other _____

Signature:

Print Name:

Cary Kadlecek

Firm/Organization:

Goulston & Storrs, PC

Address:

1999 K Street NW, Suite 500, Washington, DC 20006

Phone No.:

202-721-0011

E-Mail:

ckadlecek@goulstonstorrs.com

To be notified of hearing and decision: (Maker of Motion or Authorized Agent)

In the event an authorized agent files a motion on behalf of the Maker of the Motion, a letter signed by the Maker of the Motion authorizing the agent to act on his/her behalf shall accompany the notice of application, petition, or appeal.

Print Name:

Cary Kadlecek

Address:

Goulston & Storrs, 1999 K Street NW, Suite 500, Washington, DC 20006

Phone No.:

202-721-0011

E-Mail:

ckadlecek@goulstonstorrs.com

BZA CASE NO. 18463
Applicant's Statement in Support of Minor Modification

The Applicant requests that the Board approve, as a minor modification, a change to condition #3 in Order No 18463. The Applicant proposes that the new condition #3 should state as follows (changes in **underline bold**):

*The Applicant shall pay **\$25,000** of the cost for installing a Capital Bikeshare station at a location agreed upon by the Applicant and the ANC, provided that Capital Bikeshare is able to find a suitable location **This condition shall be satisfied once the Applicant makes the payment.***

The Applicant proposed paying the cost of installing a Capital Bikeshare station after extensive negotiation and a resulting agreement with ANC 6A. It was this agreement on which the Board based its decision to approve the original application. The Applicant offered this condition in response to the ANC's concerns about traffic and as a transportation demand mitigation measure. At the time, both the Applicant and the ANC agreed that this proposal was a reasonable offer without knowing the full cost of installing a Capital Bikeshare station.

Following recent conversations with DDOT, the Applicant learned that the cost of installing a Capital Bikeshare station is at least \$75,000. This is significantly more than either the Applicant or the ANC anticipated, and it will add a major cost to the project for which the Applicant did not account. Had the Applicant known the considerable cost of installing a Capital Bikeshare station, it would have offered something different to the ANC in working toward a compromise. The burden of the full cost of a Capital Bikeshare station is much greater than the potential impact of the relief (two additional residential units) that the Applicant was granted in this case.

Nevertheless, the Applicant is committed to the agreement it reached with the ANC and to having a Capital Bikeshare station installed in a location nearby. Upon learning of the significant installation cost, the Applicant contacted the ANC to discuss a possible solution to this unanticipated cost. The ANC agreed that this expenditure is much greater than they anticipated too, and they indicated that they did not intend to impose such a large expense on the Applicant. The ANC agreed that the Applicant's proposed contribution of \$25,000 is consistent with the agreement that the parties previously reached. While the ANC has not formally voted on the proposed modification, the Applicant expects that the ANC will vote to support this proposal at its September 12th meeting.

The proposed modification will not harm any parties and will accomplish the same goal as the original condition #3. The ANC was the beneficiary of the original condition, and the ANC's support of the modification indicates its consistency with the agreement and the original Order. Furthermore, DDOT has indicated that it still plans to locate a Capital Bikeshare station in the vicinity of the project with the contribution from the Applicant, but, ultimately, DDOT will decide when and where it will be installed. Therefore, the Board can grant the requested minor modification without harm or prejudice to any party to the proceeding.



BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 126 – BOARD OF ZONING ADJUSTMENT FEE CALCULATOR

Per §3180 of the Zoning Regulations, at the time of the filing of an application or an appeal with the Board of Zoning Adjustment, the applicant or appellant shall pay a filing fee in accordance the fee calculator below. In the case of an application combining two (2) or more actions, or for an application requesting consideration of more than one alternative, the fee shall be the total of the amounts for each action or alternative computed separately. However, for applications involving owner-occupied, one-family dwellings or flats, regardless of the number of variances, special exceptions, or alternatives requested, the fee is three hundred and twenty-five dollars (\$325.00). A department, office, or agency of the Government of the District of Columbia shall not be required to pay a filing fee where the property is owned by the agency and the property is to be occupied for a government building or use.

APPLICATION OR APPEAL TYPE:

FEE

UNIT

TOTAL

VARIANCE:

Owner-Occupied Dwelling	\$325		
All Other Variances Per Section Requested	\$1,040		

TOTAL FOR VARIANCES:

SPECIAL EXCEPTION:

Parking Lot/Garage/Accessory Parking (per space)	\$104		
Child Development Center (per student)	\$33		
Private School (per student)	\$33		
Residential Under §353	\$520		
CBRF (per person)	\$104		
Office Use in SP (per 100 square feet)	\$52		
Roof Structures	\$2,600		
Hotel or Inn in SP (per room or suite)	\$104		
Gasoline Service Station	\$5,200		
Repair Garage	\$1,560		
Home Occupation	\$1,560		
Accessory Apartment Under §202	\$325		
Theoretical Lot Under §2516	\$1,560		
Additional Theoretical Lot Under §2516	\$520		
Recycling Facility Under §802	\$5,200		
Antenna Under §211	\$2,600		
Any Other Special Exception	\$1,560		
Chancery (per 100 square feet)	\$65		
Owner-Occupied Special Exception	\$325		
Time Extension/Modification – Owner Occupied	\$130		
Time Extension/Modification – All other (percentage of filing fee)	26%	\$3120	\$811.20

TOTAL FOR SPECIAL EXCEPTIONS: \$811.20

APPEAL:

NCPC/ANCs/Citizens Association/Civic Association/Not-for-Profits	\$0		
All other organizations, groups or persons	\$1,040		

TOTAL FOR APPEALS:

GRAND TOTAL: \$811.20

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22 2405)

Name:

Signature:

8/29/13

Exhibit No. _____

Last Revised (10/18/10)

Case No. _____