

AMENDED ATTACHMENT A
TO APPLICANTS' MOTION FOR MINOR MODIFICATION
PURSUANT TO § 3129
Case No. 18514

Applicants Andrew Daly and Patricia Jordan (the "Applicants") submit this Motion to Modify Plans pursuant to § 3129. Included herewith are the final modified plans (the "Final Plans") which contain minor modifications to the plans (the "Original Plans") approved by the Board in a Summary Order on October 16, 2013. A motion to waive the time limitations of § 3129.3 is also being submitted concurrent with this Motion.

I. Background

The Board's Summary Order granting approval for the Applicants' plans was issued in this case on October 15, 2013. Thereafter, the Applicants proceeded to obtain a Garage Permit (No. G1500009) from DCRA, which was issued on May 20, 2015. Upon commencement of the construction, conditions in the field created a dispute between the Applicants and their next-door neighbor, Patricia Schaub ("Ms. Schaub") of 1118 Park Street N.E. Ms. Schaub soon filed a lawsuit in the Superior Court of the District of Columbia claiming, *inter alia*, that the Applicants' construction had damaged her property, including a garage that encroached onto Applicants' property. Ms. Schaub also appealed the Garage Permit (BZA Case No. 19092). Both Ms. Schaub's lawsuit and her appeal have been dismissed with prejudice, pursuant to a settlement agreement between her and the Applicants (the "Settlement Agreement"). Also pursuant to the Settlement Agreement, the Applicants surrendered their previously-issued Garage Permit.

No construction has occurred at the garage site since July 2015, other than the stairs adjacent to the garage, which are not relevant to either the litigation of Ms. Schaub's BZA Appeal. Before stopping work, the Applicants' contractor built the south and east wall of the garage and installed footers, but given subsequent review by the Applicants' engineering professionals, none of those elements will be used in the final planned construction. This Motion to Modify seeks to ensure the Summary Order is square with the Applicants' Final Plans before construction is continued.

In a hearing held March 24, 2016, HPRB approved the plans, pursuant to minor suggested changes. The Final Plans provide for the only physical (non-cosmetic) change suggested by HPRB. The Applicants are continuing to work with their architect and HPO staff to select particular colors and materials for the garage door and roof-deck posts and railings. These yet-to-be determined characteristics will have no impact on the size, shape, or massing of the structure.

II. The Modifications Are Minor and Comply with the Summary Order

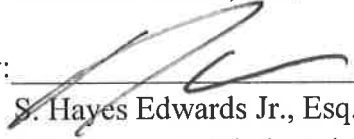
The Applicants' plans have also been subject to structural review and revision, without any material effect on the design aspects for which variances were granted by the Board in this case. These construction changes came about as a result of the Applicants' efforts to settle the issues raised by Ms. Schaub, which resolution culminated in the Settlement Agreement. During that process, the Applicant also received advice from structural engineers retained for the purposes of the lawsuit, which advice has been incorporated into the present plans. In particular, the Applicants and their professionals sought to devise a system for building next to a garage that lacked any frost footer.

Between the Board's Summary Order of October 2013 and the present, other minor modifications have been made to the plans (and approved by HPO on March 24, 2016), as reflected in the Final Plans. Although at no time have the Applicants sought or intended to build anything other than what the relevant authorities have specifically approved. First, the Applicants changed the garage's exterior from CMU block to a brick facing, a change which in no way implicates any of the variances granted by the Board. Likewise, the roof-deck materials were changed to a post/railing design. The Final Plans also increased the length of the garage from 15 feet 4½ inches to 15 feet 5½ inches (a change of one inch) and the width from 9 feet to 9 feet ½ inch (a change of one-half inch). The Final Plans also replaced the "captain's ladder" to the roof deck with a spiral staircase and added a small sink to the garage interior. As for the parking space, although the Final Plans include a thicker interior wall on the west side of the garage than the Final Plans, the opening for the parking space will remain at the same width, meaning that the usable width of the parking space (approved in the Summary Order) will not change. Finally, pursuant to HPRB's review and approval, the Applicants have "stepped" the roof deck back, so that the north edge of the deck is now 3 feet, 2½ inches from the north edge of the structure. As described above, the Applicants and their architect are presently working to determine suitable colors and materials for the garage door and some roof-deck elements.

WHEREFORE, the Applicants request an Order from the Board stating that the minor modifications included in the Final Plans are approved pursuant to § 3129. The Applicants request that the Order state that this approval allows for further minor modifications only as required to gain the approval of the Historic Preservation Review Board, including the materials and appearance of the roof deck included in the Final Plans.

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Amended Exhibit A to Applicants' Motion to Modify the Approved Plans was filed electronically with the Office of Zoning and was served by electronic mail as indicated, this 11th of April, 2016, upon the following:

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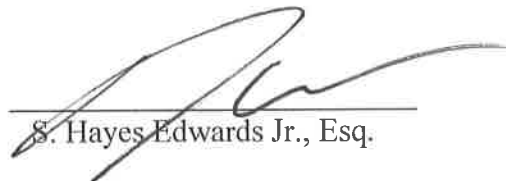
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