

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19020-B of Jemal’s Bulldog L.L.C., pursuant to 11 DCMR Subtitle Y § 704, for a modification of significance to the plans approved in BZA Order No. 19020 and 19020-A, and pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception from the penthouse regulations of Subtitle C § 1500.3(c) to include a nightclub, bar, cocktail lounge, or restaurant use in the penthouse of an existing 13-story hotel building with cellar in the D-5-R Zone at premises 1011 K Street, N.W. (Square 342, Lot 61).

HEARING DATE (19020):	June 23, 2015
DECISION DATE (19020):	July 28, 2015
ORDER ISSUANCE DATE (19020):	January 28, 2016
ORDER ISSUANCE DATE (19020-A):	January 29, 2016
MODIFICATION HEARING DATE:	June 12, 2019
MODIFICATON DECISION DATE:	June 12, 2019

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF SIGNIFICANCE

BACKGROUND

On July 28, 2015, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by Jemal’s Bulldog L.L.C. (the “Applicant”) in Application No. 19020 under the Zoning Regulations of 1958 for variances from the court requirements under § 776, the off-street parking requirements under § 2101.1, and the loading requirements under § 2201.1, and pursuant to § 3104.1, a special exception from the rear yard requirements under § 774, to construct a new 13-story hotel building with cellar at premises 1011 K Street, N.W. (Square 342, Lots 4, 5, 53, and 809). (the “Subject Property”).

The Board granted the application and issued Order No. 19020 on January 28, 2016. The Board’s approval was subject to 11 conditions. The Board issued Corrected Order No. 19020-A on January 29, 2016 to correct the citation to the exhibit containing the approved plans.

MODIFICATION OF SIGNIFICANCE

On April 5, 2019, the Applicant submitted a request for a Modification of Significance to the plans and relief previously approved in Orders No. 19020 and 19020-A. (Exhibits 1-7.)

In the request, the Applicant proposes to modify the plans to incorporate a nightclub, bar, cocktail lounge, or restaurant use in the penthouse of the approved building. Revised plans

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reflecting this modification were filed to the record. (Exhibit 3.) Based on the proposed modification, the Applicant also requests a special exception from the penthouse regulations of Subtitle C § 1500.3(c). The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. (Exhibit 2.)

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a minor modification or modification of consequence¹ requires a public hearing and is a modification of significance. The Applicant's request complies with Subtitle Y § 704, which provides the application requirements and the Board's procedures for considering requests for modifications of significance.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2C and adjacent ANC 2F, as well as to owners of property located within 200 feet of the site. Neither ANC 2C nor ANC 2F submitted a written report to the record.

The Office of Planning ("OP") submitted a report recommending approval of the requested modification of significance. (Exhibit 30.) OP noted that their recommendation is subject to the Applicant making the required contribution to the Housing Production Trust Fund and requested that the Applicant provide an estimate of the contribution. The Applicant provided an estimate for the record. (Exhibits 32-32A.) The District Department of Transportation submitted a report stating that it had no objection to the modification request. (Exhibit 27.)

As directed by Subtitle X § 901.2 and Subtitle Y § 704, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for special exception and modification of significance. The only parties to the case were the ANC and the Applicant. 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.

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 special exception from the penthouse regulations of Subtitle C § 1500.3(c) to include a nightclub, bar, cocktail lounge, or restaurant use in the penthouse of an existing 13-story hotel building with cellar in the D-5-R Zone, the Applicant has met the burden of proof under Subtitle X § 901.2, that the requested relief 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. The Board also concludes that in seeking a modification of significance to Orders No. 19020 and 19020-A, the Applicant has met its burden of proof under Subtitle Y § 704.

¹ See, Subtitle Y §§ 703.3 and 703.4.

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Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application for modification of significance is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED MODIFIED PLANS IN EXHIBIT 3.**²

In all other respects, Orders No. 19020 and 19020-A remain unchanged.

VOTE: 3-0-2 (Frederick L. Hill, Lorna L. John, and Anthony J. Hood to APPROVE; Lesylleé M. White and Carlton E. Hart not participating.)

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: June 14, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

² In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.