

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Request for a Modification of Consequence to BZA Order No. 18701-E

1247 ESE, LLC

1247 E Street, SE (Square 1019, Lot 43)

I. INTRODUCTION.

This Statement is submitted on behalf of 1247 ESE, LLC (the “**Applicant**”), owner of the property located at 1247 E Street, SE (Square 1019, Lot 43) (the “**Subject Property**”). In BZA Case No. 18701-A (the “**Application**”), the Board granted use variance relief to operate a restaurant in the first-floor space within the existing building (the “**Building**”) located at the Subject Property. The Subject Property is located in the RF-1 zone district. The Building has been used as a mixed-use building for its entire 100-year plus history, including grocery store, confectioner use and office space (1992-2013) following BZA Order No. 15694. In BZA Case No. 18701-E, the Board approved a Modification of Significance to expand the uses permitted within a portion of the ground floor and cellar to include general retail and office uses, in addition to restaurant uses as previously permitted by a use variance, and a Time Extension for an additional two (2) years. The ANC (6B) supported the Application and the Office of Planning recommended approval of the Application. The Application was approved via Summary Order dated March 1, 2022 (the “**Summary Order**”). The Summary Order has been included with this Modification.

The Summary Order includes condition #3 which states: “Operating times shall not exceed 7:30 a.m. to 8:00 p.m., Monday through Friday, and 9:00 a.m. to 8:00 p.m., Saturday and Sunday.” The Applicant is now requesting a Modification of Consequence to revise this condition so that the operating hours on Friday, Saturday, and Sunday are 7:00 a.m. to 8:00 p.m. Accordingly, the Applicant is not seeking additional relief nor any change in the floor plans. As Modifications of Significance contemplate far more substantial project modifications than what is proposed for the

subject Modification, the request can safely be processed as a Modification of Consequence, and not Significance.¹

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the Modification of Consequence pursuant to Subtitle Y § 703.

III. MODIFICATION OF CONSEQUENCE REQUIREMENTS ARE SATISFIED.

Pursuant to Y § 703.4, the term “modification of consequence” shall mean a proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board. As the requested modification is to change a condition cited by the Board on the final Summary Order, the modification qualifies as a Modification of Consequence.

Subtitle Y § 703.6 requires that an application for a technical correction, minor modification, or modification of consequence approval shall be made in an appropriate manner provided by the Director. The applicant shall furnish two (2) copies of all information required by the form at the time of filing the application, including the following: (a) A completed application form; (b) The nature of, reason(s), and grounds for the technical correction, minor modification, or modification of consequence; (c) A copy of any Board final order, map, plan, or other action or relief proposed to be modified or corrected; and (d) Proof of service to all parties.

The Applicant has completed the Application form, a copy of the Board final order, and has a Certificate of Service. As described above, the Applicant seeks to increase the hours of operation on Friday, Saturday, and Sunday to be 7:00 a.m. to 8:00 p.m. This would increase the Building’s total operating hours from 84.5 to 89 hours weekly, which is only a five percent (5%) increase. See below for the proposed request:

Day	Summary Order Operating Hours	Proposed Operating Hours
Monday	7:30 AM - 8:00 PM	No Change
Tuesday	7:30 AM - 8:00 PM	No Change
Wednesday	7:30 AM - 8:00 PM	No Change
Thursday	7:30 AM - 8:00 PM	No Change

¹ Examples of “Significant” changes include adding a full third story, changing a campus plan, adding additional relief, adding 100+ residential units. See Case Nos. 19466A, 17703C, 18744A, 19819A, 19917A, and 19020B.

Friday	7:30 AM - 8:00 PM	7:00 AM - 8:00 PM
Saturday	9:00 AM - 8:00 PM	7:00 AM - 8:00 PM
Sunday	9:00 AM - 8:00 PM	7:00 AM - 8:00 PM

The Applicant is proposing to use the Building as a hair salon—a permissible use under Condition #1 of the final Summary Order—because it is a “General Service Use as permitted pursuant to Section U-512.1(l), as such use is defined and described in Section B-200.2(cc).” Thus, the Applicant is only proposing to add four and a half (4.5) hours of operation to the already BZA-approved use for the Building. The Applicant requests the additional hours to include the periods of peak usage for the hair salon, which will be during weekends and Friday mornings. The proposed operating hours will allow the hair salon to accommodate customers who work regular office hours during the week. As a hair salon is already a BZA-approved use for this Building and has a relatively low noise impact, a four and a half (4.5) hour increase to the total number of weekly operating hours is unlikely to undermine the intent of the original operating hours condition on the final Summary Order. Accordingly, the Applicant is seeking this Modification of Consequence.

IV. CONCLUSION.

For the reasons outlined in this Statement, the Applicant respectfully requests the Modification of Consequence as detailed above.

Respectfully Submitted,

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June 30, 2022

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