

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Order No. 18606-A of The Family Place**, pursuant to 11 DCMR Subtitle Y § 703, for a modification of consequence to three of the conditions of BZA Order No. 18606, to permit a community service center in the R-5-B (now RA-2) District at premises 3309 16th Street N.W. (Square 2676, Lot 469).

The original application (No. 18606) was pursuant to 11 DCMR § 3104.1, for a special exception for a community service center under § 334, (last approved by BZA Order No. 17728) in the R-5-B District at premises 3309 16th Street, N.W. (Square 2676, Lot 469).<sup>1</sup>

<b>HEARING DATE</b> (Case No. 18606):	September 17, 2013
<b>DECISION DATE</b> (Case No. 18606):	September 17, 2013
<b>ORDER ISSUANCE DATE</b> (18606):	September 25, 2013
<b>MODIFICATON DECISION DATE:</b>	September 12 <sup>2</sup> and October 17, 2018

**SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE**

**BACKGROUND**

On September 17, 2013, in Application No. 18606, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by The Family Place (the “Applicant”) for a special exception for a community service center under § 334, (last approved by BZA Order No. 17728) in the R-5-B District at premises 3309 16th Street, N.W. (Square 2676, Lot 469). The approval was subject to 11 conditions. In the original case, the affected Advisory Neighborhood Commission (“ANC”), ANC 1A, submitted a report in support of the application. (Exhibit 24 in Case No. 18606.)

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<sup>1</sup> The 1958 Zoning Regulations were in effect when BZA Case No. 18606 was heard and decided by the Board. The 1958 Zoning Regulations were repealed and replaced in their entirety by the 2016 Zoning Regulations on September 6, 2016. Pursuant to Subtitle A § 102 of the 2016 Zoning Regulations, the use authorized by BZA Order No. 18606 is vested under the provisions of the 1958 Zoning Regulations. The zone districts were renamed in the 2016 Zoning Regulations. Thus, the R-5-B District is now the RA-2 District under the 2016 Regulations. This is reflected on the Zoning Map. This change in nomenclature has no effect on the vesting or validity of the original application.

<sup>2</sup> At the September 12, 2018 public meeting, the Board continued its decision to allow the full ANC to consider the modification.

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The Board issued Order No. 18606 on September 25, 2018. (Exhibit 4 in Case No. 18606-A.<sup>3</sup>)

**MOTION FOR MODIFICATION OF CONSEQUENCE**

On June 19, 2018, the Applicant submitted a request to modify the approval of Application No. 18606, to change three of the 11 conditions in the order for that application. The Applicant submitted the request as a Modification of Consequence. (Exhibits 1-7.)

A “modification of consequence” means 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. (11-Y DCMR § 703.4.) This process does not require holding a public hearing. A decision on a request for a minor modification or a modification of consequence shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application. (11-Y DCMR § 703.12.) In its deliberations, the Board determined that the request should be classified as a modification of consequence, as it met the definition of Subtitle Y § 703.4.

In the original order dated September 25, 2013, the Board granted a special exception for a community service center use under § 334 in the R-5-B (now RA-2) District at premises 3309 16th Street, N.W. (Square 2676, Lot 469). The approval was subject to 11 conditions, including a term of eight years:

1. Approval shall be for a period of eight (8) years.
2. The hours of operation shall be from 9:00 AM to 7:30 PM, Monday through Friday, with occasional meetings on weekends or week nights.
3. The number of full time employees shall not exceed 13.
4. There shall not be more than 45 persons participating at the center at one time.
5. Two (2) parking spaces shall be provided on-site.
6. All loading and trash pick-up shall occur at the rear of the building from the public alley.
7. Trash shall be picked up from the center two (2) times a week. Bulk trash shall not be placed outside more than 24 hours prior to its scheduled removal.
8. Dusk-to-dawn lighting shall be maintained at the front and rear of the building.

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<sup>3</sup> The exhibits cited in this order from here on are to the record of Case No. 18606-A.

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9. Bilingual signage shall be maintained at the front door indicating the times that donations are accepted and that loitering is not permitted.
10. The Family Place shall hold meetings to discuss the center's operations on a quarterly basis with the neighbors in the 3300 block of 16th Street, the Advisory Neighborhood Commission and the Single Member District Commissioner. The meetings shall be advertised through hand-delivered flyers and electronic media.
11. The applicant shall offer a commute incentive to employees/or transit use.

The Applicant proposes to increase its service offerings after receiving a dedicated source of funding; no structural changes to the three-story building are planned. The use was first authorized by the BZA in 1987 (Order No. 14327, seven conditions, including a maximum of 30 participants and eight staff, two-year term), and was renewed in 1991 (Order No. 15530, six conditions; 45 participants, 13 staff, 10-year term), in 2002 (Order No. 16910, eight conditions; 45 participants, 13 staff, five-year term), in 2008 (Order No. 17728, nine conditions; 45 participants, 13 staff, five-year term), and 2013 (Order No. 18606, 11 conditions; 45 participants, 13 staff, eight-year term).

The modifications would eliminate the term of approval (*i.e.* delete Condition No. 1) and change two other conditions (Nos. 2 and 4) to allow the community service center to remain open longer and to accept more participants. Specifically, Condition No. 2 would be altered to extend hours of operation by two hours: "The hours of operation shall be from 8:30 am – 9:00 pm, Monday through Friday, with occasional meetings on weekends or week nights" (currently 9:00 AM to 7:30 PM), and Condition No. 4 would allow an increase of 15 in the number of participants: "There shall not be more than 60 persons participating at the center at one time" (currently 45). The other conditions adopted in 18606 would remain in effect.

In the modification request, the Applicant stated that the modification was needed, given that the Applicant had received a dedicated funding stream from the District for its adult education programs which will allow the Applicant to expand its free services in order to further assist those community members who already rely on the community center and to reach new members of the community who would benefit from the Applicant's programs. In order to capitalize on this new dedicated funding stream by expanding its services to the community, the Applicant proposes to extend its hours of operation and increase the number of on-site participants. Also, the Applicant proposes to remove any term of approval for the CSC. (Exhibit 3.)

The Applicant's request complies with 11 DCMR Subtitle Y § 703.4, which defines a modification of consequence as 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."

Pursuant to Subtitle Y §§ 703.8-703.9, the request for a modification of consequence shall be served on all other parties to the original application and those parties are allowed to submit comments within ten days after the request has been filed with the Office of Zoning and served on

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all parties. The Applicant provided proper and timely notice of the request for modification of consequence to Advisory Neighborhood Commission (“ANC”) 1A, the only other party to Application No. 18606. ANC 1A submitted a report stating its support for the modification. The ANC’s report indicated that at a duly noticed, regular public meeting on October 10, 2018, at which a quorum was present, the ANC voted unanimously (8-0-0) to recommend approval of the modification. (Exhibit 11.)

The Applicant also served its request on OP. OP submitted a report dated August 30, 2018, recommending the Board approve the modification requested by the Applicant. (Exhibit 9.) DDOT submitted a report dated August 24, 2018, recommending no objection to approval of the application. (Exhibit 8.)

On October 17, 2018, the Board deliberated on and approved the modification request.

As directed by 11 DCMR Subtitle Y § 703.4, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a modification of consequence. 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 of consequence to the approval in Case No. 18606, the Applicant has met its burden of proof under 11 DCMR Subtitle Y § 703, that the proposed modification has not changed any material facts upon which the Board based its decision on the underlying application that would undermine its approval.

As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant the request would not be adverse to any party and therefore an order containing full finding of facts and conclusions of law need not be issued pursuant to D.C. Official Code § 2-509(c) (2012 Repl.). 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 consequence of the Board’s approval in Application No. 18606-A is hereby **GRANTED SUBJECT TO MODIFIED CONDITIONS, TO READ AS FOLLOWS:**

1. The hours of operation shall be from 8:30 AM to 9:00 PM, Monday through Friday, with occasional meetings on weekends or week nights.
2. The number of full time employees shall not exceed 13.
3. There shall not be more than 60 persons participating at the center at one time.
4. Two (2) parking spaces shall be provided on-site.
5. All loading and trash pick-up shall occur at the rear of the building from the public alley.

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6. Trash shall be picked up from the center two (2) times a week. Bulk trash shall not be placed outside more than 24 hours prior to its scheduled removal.
7. Dusk-to-dawn lighting shall be maintained at the front and rear of the building.
8. Bilingual signage shall be maintained at the front door indicating the times that donations are accepted and that loitering is not permitted.
9. The Family Place shall hold meetings to discuss the center's operations on a quarterly basis with the neighbors in the 3300 block of 16th Street, the Advisory Neighborhood Commission and the Single Member District Commissioner. The meetings shall be advertised through hand-delivered flyers and electronic media.
10. The applicant shall offer a commute incentive to employees/or transit use.

In all other respects, Order No. 18606 remains unchanged.

**VOTE ON ORIGINAL APPLICATION ON SEPTEMBER 17, 2013: 4-0-1**

(Lloyd L. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE with one Board seat vacant.)

**VOTE ON MODIFICATION OF CONSEQUENCE ON OCTOBER 17, 2018: 5-0-0**

(Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Peter G. May (by absentee vote) to APPROVE.)

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

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

**ATTESTED BY:**

  
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**SARA A. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** October 19, 2018

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.