

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19336-A of Edward Gonzalez, pursuant to 11 DCMR Subtitle Y § 703, for a minor modification to the plans approved by BZA Order No. 19336 to convert office space to residential apartments on the first floor of an existing building in the R-17 Zone at premises 2405 I Street, #1-A, N.W. (Square 28, Lots 157, 2001).

HEARING DATE (Case No. 19336):	October 4, 2016
DECISION DATE (Case No. 19336):	October 4, 2016
ORDER ISSUANCE DATE (Case No. 19336):	October 11, 2016
MODIFICATION DECISION DATE:	May 23, 2018

SUMMARY ORDER ON REQUEST FOR MINOR MODIFICATION

BACKGROUND

On October 4, 2016, in Application No. 19336, the Board of Zoning Adjustment (“Board” or “BZA”), approved the self-certified request of Edward Gonzalez (the “Applicant”) for special exceptions under the nonconforming use requirements of Subtitle C § 204, and the parking requirements of Subtitle C § 705, to convert office space to residential apartments on the first floor of an existing building in the R-17 Zone at premises 2405 I Street, #1-A, N.W. (Square 28, Lots 157, 2001).

The Board issued Order No. 19336 on October 11, 2016. (Exhibit 3.) The approval in Order No. 19336 was subject to the approved plans at Exhibit 6 in the record of Case No. 19336.

REQUEST FOR MINOR MODIFICATION

On April 3, 2018, the Applicant submitted a request for a minor modification of the plans approved by the Board in Order No. 19336 (the “Order”) pursuant to 11 DCMR Subtitle Y § 703. (Exhibits 1-7.) The Applicant requested a minor modification to the plans in order to modify the layout of the three residential apartments on the first floor, shown on the plans marked at Exhibit 6 as Units A, B, and C. (Exhibits 4 and 6.) Specifically, the Applicant proposes to modify Unit A from a two-bedroom unit into a one-bedroom unit and proposes to relocate the main entry of Unit C from the front hall to the rear hall. (Exhibits 4 and 6.)

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The Board finds that the Applicant's request complies with 11 DCMR Subtitle Y § 703.3, which defines a minor modification as "modifications that do not change the material facts upon which the Board based its original approval of the application." The proposed modifications to the approved plans deal with the interior layout of the residential units and do not impact the material facts that the Board relied upon in granting special exception relief under the nonconforming use requirements of Subtitle C § 204 and the parking requirements of Subtitle C § 705.

Pursuant to Subtitle Y §§ 703.6-703.9, a request for a minor modification 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 all parties. The Applicant provided proper and timely notice of the request for minor modification to Advisory Neighborhood Commission ("ANC") 2A, the only other party to Application No. 19336, on April 9, 2018. (Exhibit 8.) The ANC was allowed at least ten days to respond, but did not file a written report to the record regarding the request for minor modification.

The Applicant also served its request on the Office of Planning ("OP") on April 3, 2018. (Exhibit 8.) OP submitted a report dated May 11, 2018, recommending approval of the request for a minor modification to the approved plans. (Exhibit 11.)

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 minor modification. Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking a minor modification to the plans approved in Case No. 19336, 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 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.). Therefore, pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application for a minor modification to Order No. 19336 is hereby **GRANTED, SUBJECT TO THE MODIFIED PLANS AT EXHIBIT 6.**

In all other respects, Order No. 19336 remains unchanged.

VOTE ON ORIGINAL APPLICATION ON OCTOBER 4, 2016: 4-0-1

(Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, and Robert E. Miller to APPROVE; one Board seat vacant.)

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VOTE ON MINOR MODIFICATION ON MAY 23, 2018:¹ 5-0-0

(Frederick L. Hill, Robert E. Miller, Carlton E. Hart, Lesylleé M. White, and Lorna L. John 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:


SARA A. BARDIN

Director, Office of Zoning

FINAL DATE OF ORDER: May 31, 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.

¹ As Board Members Hill and Miller were the only two members participating on the original application, Members Hart, White, and John reviewed the record of Application No. 19336 in order to participate in deciding the request for minor modification.