

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19406-A of Paige Reffe, pursuant to 11 DCMR Subtitle Y § 703.4, for a modification of consequence to the plans approved by BZA Order No. 19406, to permit an increase of the height of a rear wall enclosure, on a rear deck addition of an existing, detached principal dwelling unit in the R-1-B Zone at premises 3300 Lowell Street N.W. (Square 2091, Lot 28).

HEARING DATE (19406):	January 11, 2017
DECISION DATE (19406):	January 11, 2017
ORDER ISSUANCE DATE (19406):	January 27, 2017
MODIFICATION DECISION DATE:	July 17, 2019

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

BACKGROUND

On January 11, 2017, in Application No. 19406, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by Paige Reffe (the “Applicant”) for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1, the rear yard requirements of Subtitle D § 306.1, and the nonconforming structures requirements of Subtitle C § 202.2, to allow a two-story addition to an existing one-family dwelling in the R-1-B Zone at premises 3300 Lowell Street, N.W. (Square 2091, Lot 28). The Board issued Order No. 19406 on January 27, 2017. (Exhibit 2.)

MODIFICATION OF CONSEQUENCE

On March 21, 2019, the Applicant submitted a request for modification of consequence to the plans approved by the Board in Order No. 19406. (Exhibit 1.) The Applicant requested a modification to the plans in order to make changes to the design of the deck area in the right side yard. Specifically, the Applicant proposes to incorporate a gas fireplace and shuttered openings within the patio wall, to change the material of the wall, and to raise the height of the wall to eight feet above grade, exceeding the seven-foot height shown on the approved plans. The Applicant submitted revised plans reflecting these modifications. (Exhibit 13 (Revised), Exhibit 3 (Original).) The Applicant does not indicate that the proposed modification of consequence would require additional relief from the Zoning Regulations.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

Board of Zoning Adjustment
District of Columbia
CASE NO. 19406A
EXHIBIT NO. 17

BZA APPLICATION NO. 19406-A
PAGE NO. 2

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 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 all parties. The Applicant provided proper and timely notice of the request for modification of consequence.

The Applicant submitted a letter requesting a waiver of the two-year time limit on a request for modification of plans, pursuant to Subtitle Y § 703.15. Although that provision specifically references "minor modification," the Board granted the waiver out of an abundance of caution and for good cause.

ANC 3C did not submit a written report to the record. Office of Planning ("OP") submitted a report on July 3, 2019, recommending approval of the proposed modification of consequence to the Applicant's plans. (Exhibit 15.)

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 of approved plans. 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 modification of consequence to the plans approved in Case No. 19406, the Applicant has met its burden of proof under as directed by 11 DCMR Subtitle Y § 703.4.

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. 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. 19406 is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED MODIFIED PLANS IN EXHIBIT 13.**

In all other respects, Order No. 19406 remains unchanged.

VOTE: 5-0-0 (Frederick L. Hill, Anthony J. Hood, Carlton E. Hart, Lorna L. John, and Lesylleé M. White to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

BZA APPLICATION NO. 19406-A
PAGE NO. 3

ATTESTED BY:

A handwritten signature in black ink, appearing to read "Sara A. Bardin", is written over a horizontal line.

SARA A. BARDIN

Director, Office of Zoning

FINAL DATE OF ORDER: July 19, 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.