



**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Karen Thomas, Case Manager  
 Joel Lawson, Associate Director Development Review  
**DATE:** April 3, 2012  
**SUBJECT:** **MODIFICATION REQUEST - BZA 18227A** - 1700 New York Ave., N.W.

## I. RECOMMENDATION

The Office of Planning **recommends approval** of the requested modification, including a reduction in the number of approved on-site parking spaces, as requested by the applicant pursuant to Section 3129 of the Zoning Regulations.

## II. BACKGROUND

BZA Order 18227, dated June 24, 2011, approved by Summary Order, variance relief from § 2101 since a decision would not have been adverse to any party, and as no parties appeared at the public hearing in opposition to the case.

The Zoning Regulations required 83 parking spaces for the project. Given the difficult site conditions and related practical difficulties, the application was approved for **43 zoning compliant** parking spaces, 1 compact space and an additional 38 parking spaces located within tandem and/or vault spaces that did not count for zoning purposes for a total of 82 spaces.

During the preparation of the approved construction drawings, it was discovered that the conditions that limited the below-grade excavation and resulting layout of the parking facilities as identified in the variance application were more difficult than previously thought. Specifically, the GSA Steam Tunnel that runs along New York Avenue would further limit excavation within a portion of the proposed vault space, and an additional egress stair would be required due to modification in the excavation area.

These changes, which are based on the same facts as was originally presented to the BZA, would result in the loss of ten on-site parking spaces such that **38 zoning compliant spaces**, 1 compact space and 33 parking spaces located within tandem and/or vault spaces could be provided. This would reduce the actual number of on-site spaces to be provided from 82 to 72 as summarized below.

<b>Parking Requirement - § 2101</b>	<b>Approved Variance Relief</b>	<b>Requested Modification</b>
83 on-site spaces	43 spaces 1 compact space 38 tandem and /or vault spaces <b>Total = 82 spaces</b>	<b>38 spaces</b> <b>1 compact space</b> <b>33 tandem and / or vault spaces</b> <b>Total = 72 spaces</b>



### III. OP ANALYSIS - § 3129 MODIFICATION OF APPROVED PLANS

In a submission dated March 22, 2012, the applicant requested the following modifications to the approved application:

*3129.2 The Board shall consider requests to approve minor modifications to plans approved by the Board, as set forth in §§ 3125.7 and 3125.8. The request shall be in writing, shall state specifically the modifications requested and the reasons therefore and include a copy of the plans for which approval is now requested.*

The applicant submitted its request in writing with a copy of the approved plans to the Office of Zoning as required on March 16, 2012.

*3129.3 A request for minor modification of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application.*

The final date of order as noted by the Board's Summary Order is June 24, 2011, which is within the two year time period.

*3129.4 All requests for minor modifications of plans shall be served on all other parties to the original application at the same time as the request is filed with the Board. A party shall have ten (10) days within which to submit written comments that such party may have concerning the requested modification.*

The Applicant submitted its request timely and met with ANC2A on March 21, 2012 which was the only party to the original application. The ANC voted unanimously to approve the request.

*3129.5 A decision on a request for minor modification of plans 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.*

The applicant submitted its request to the Board, OP and to DDOT with relevant plan changes. Since no parties appeared in opposition to the original proceedings no other parties were served with respect to this request.

*3129.6 Approval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts upon which the Board based its original approval of the application.*

No changes to building footprint would result from this proposal nor would any additional forms of zoning relief be required by this proposal. All modifications would be located below-grade, with changes imperceptible from outside of the subject property.

*3129.7 A request to modify other aspects of a Board order may be made at any time, but shall require a hearing.*

No other aspects of the approved design are anticipated to require additional relief or modification. The applicant understands that any additional modifications may require a public hearing.

*3129.8 The scope of a hearing conducted pursuant to § 3129.7 shall be limited to impact of the modification on the subject of the original application, and shall not permit the Board to revisit its original decision.*

As previously stated, further site testing discovered that the conditions that limited the below-grade excavation and resulting layout of the parking facilities as identified in the variance application were more difficult than previously thought. The exceptional situation identified in the approved application continues to present a practical difficulty in the ability for the applicant in providing the required number of on-site parking spaces.

It is not anticipated that the minimal reduction of the number of approved parking spaces would adversely impact the original application as the site is located downtown with a variety of transit options. In addition, the applicant has committed to TDM measures outlined in its original application to encourage reduced trips to the site by employees. Therefore, **OP recommends approval** of the requested modification as there would be no change to the material facts upon which the Board made its original decision.