

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18207 of 4926 Wisconsin Avenue LLC, pursuant to 11 DCMR § 3104.1 for a special exception to allow the continued use of a parking lot (last approved by BZA Order No. 17151) under § 213 in an R-2 District at premises rear 4926 Wisconsin Avenue, N.W. (Square 1671, Lot 30).

HEARING DATE: May 10, 2011

DECISION DATE: May 10, 2011 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

The Board of Zoning Adjustment (“Board” or “BZA”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 3E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. ANC 3E submitted a resolution on April 23, 2011, in support of the Applicant’s project with conditions. The ANC’s report indicated that at a duly noticed public meeting with a quorum present, the ANC voted to approve the motion by a unanimous vote of 5:0. (Exhibit 23.) The Office of Planning (“OP”) submitted a timely report dated May 3, 2011 indicating that it recommended conditioned approval of the application. (Exhibit 26.)

A party status application in opposition was filed by Ms. Mary K. Quirk; however, at the hearing she withdrew her party status application and chose to testify as an individual witness. (Exhibit 24.) There were no other letters or witnesses in support or opposition.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception to allow the continued use of a parking lot under § 213 in an R-2 District. Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and

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213, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board therefore concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, 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 is hereby **GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. This approval shall be for a period of SEVEN (7) YEARS, beginning on the date upon which the order became final.
2. The hours of operation shall be from 7:00 a.m. to 7:00 p.m., Monday through Friday, 9:00 a.m. to 7:00 p.m. on Saturday, and 11:00 a.m. to 6:00 p.m. on Sunday. The parking lot shall operate as valet only from 7:00 p.m. to 11:30 p.m., Monday through Saturday.
3. The property shall be secured during all hours that it is not in operation.
4. Trash and debris on the property shall be picked up on a weekly basis.
5. There shall be no trash containers kept on the lot. Trash shall be disposed of by the business the parking lot serves.
6. The masonry wall surrounding the lot as well as the guardrail shall be maintained in good condition at all times. Graffiti shall be removed expeditiously.
7. The landscaping provided on the lot shall be maintained in a healthy growing condition and shall have a neat and orderly appearance. Planter boxes shall be maintained in a good state of repair and replaced as necessary.
8. The applicant shall post and maintain a sign giving information on whom to contact in the event of complaint or emergency.
9. The two substandard parking spaces located in the northern and western areas of the parking lots shall be posted with signs reserving them for compact cars.
10. Bumper stops shall be maintained for the protection of all adjoining property lines on or over the public space.

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11. All potholes shall be repaired expeditiously.
12. The applicant shall maintain, through its designated representative, an ongoing liaison with Advisory Neighborhood Commission 3E and the property owners in the square to resolve any issues that might arise due to the operation of the parking lot and the applicant shall meet annually with the ANC.
13. The valet operator shall not access the parking lot from 43rd Street, N.W.
14. The applicant shall post and maintain a sign indicating that all ingress and egress to the lot should be from either Ellicott Street or Fessenden Street, N.W.

VOTE: 4-0-1

(Nicole C. Sorg, Greg M. Selfridge, Lloyd J. Jordan, and Jeffrey L. Hinkle to Approve; Meridith H. Moldenhauer neither participating, nor voting.)

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

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

ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: MAY 13 2011

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THEREOF, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT

DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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As Director of the Office of Zoning, I hereby certify and attest that on **MAY 13 2011**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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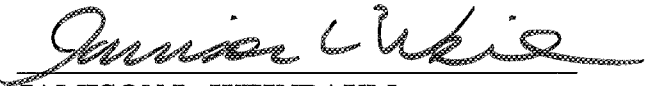
Chairperson
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ATTESTED BY:


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