

**BOARD OF ZONING ADJUSTMENT**  
**SPECIAL EXCEPTION APPLICATION**  
**APPLICANT'S STATEMENT**

**Robert M. Holland (Owner/Applicant)**  
**Magruder's (Tenant)**

**3831 McKinley Street, NW; Square 1860, Lots 5,6,7,17, and 18**

I. Introduction.

This application requests special exception approval pursuant to Section 214 of the District of Columbia Zoning Regulations for the continued use of fifty-five (55) accessory parking spaces in the R-2 Zone District at 3831 McKinley Street, N.W (Square 1860, Lots 5, 6, 7, 17, and 18 (the "Property"). The Property was first approved and established for accessory parking in 1959, and this approval has been renewed at least ten times since then, with the most recent approval in 2003. The parking spaces are used by customers of Magruder's of Chevy Chase, a wine and spirit shop and deli, which fronts on Connecticut Avenue NW, just below Chevy Chase Circle. The rear (west side) of Magruder's is separated from the Property by a fifteen foot alley. The Applicant requests approval to continue operation of the accessory parking spaces under the same conditions under which this use was approved in BZA Order No. 17069 issued in December, 2003.

II. Description of the Property and Surrounding Neighborhood.

The Property is located west of the 5600 block of Connecticut Avenue, separated by a fifteen (15) foot alley. To the west of the Property, across 39<sup>th</sup> Street, and to the south, across McKinley Street, are residential neighborhoods. The adjacent residential neighborhoods are substantially buffered from the Property by many tall, mature trees, as shown in several photographs attached to this Application.

III. BZA Special Exception History.

The use of the Property for fifty-six (56) accessory parking spaces was first approved by the Board of Zoning Adjustment in 1959 by BZA Order No. 5664. Since 1959, there have been at least ten further BZA approvals granting the continued use of the Property. These approvals were granted with various conditions. The most recent approval, BZA Summary Order No.

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17069, was granted in 2003 for a period of five years. The attorney monitoring the need for a renewed approval passed away some time after the 2003 approval, and the Applicant failed to renew on time. The current use, therefore, is in need of immediate approval in order to lawfully continue the current use. The Applicant has already had discussions with Advisory Neighborhood Commission 3G, in which the Commission expressed a desire that any new approval incorporate the same conditions provided in BZA Order No. 17069, including a five year time limit. The Applicant is therefore requesting such an approval with those same conditions, as included in BZA Order No. 17069 (copy attached hereto as Exhibit A).

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IV. The Application Satisfies Special Exception Requirements of Sections 3104 and 215.

A. Overview. Pursuant to Section 3104.1 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Section 214 of the Zoning Regulations.

Uses that are permitted by special exception are deemed compatible with other uses permitted in that particular zoning classification provided certain requirements are met. In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000). This application provides satisfactory evidence that the Applicant has satisfied the relevant zoning requirements of Sections 214 and 3104.1, as described below.

B. The Special Exception Requirements.

The proposal in this application satisfies the requirements of Sections 214 and 3104.1 of the Zoning Regulations necessary to approve the proposed use of fifty-six (56) accessory parking spaces, as follows.

**Section 214.2** *Accessory parking spaces shall be in an open area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade.*

The parking spaces on the Property are in an open area on the same level as the adjacent finished grade.

**Section 214.3** *Accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory.*

All of the fifty-five (55) parking spaces are safely within 200 feet of the Magruder's store to which the spaces are accessory. As shown on the attached Exhibit B.

**Section 214.4** *Accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.*

The parking spaces are separated only by an alley from the Magruder's store to which the spaces are accessory.

**Section 214.6** *It shall be deemed economically impracticable or unsafe to locate accessory parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:*

- (a) *Strip zoning or shallow zoning depth;*
- (b) *Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;*
- (c) *Unusual topography grades, shape, size, or dimensions of the lot;*
- (d) *The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or*
- (e) *Traffic hazards caused by unusual street grades or other conditions.*

As reflected in prior approvals for this Property, the Zoning Map reflects that it would be economically impracticable to locate accessory parking spaces on the same lot because of the existing strip zoning and restricted size of the lot caused by adverse adjoining ownership. (BZA Order No. 16233).

**Section 214.7** *Accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.*

In the Applicant's knowledge, the Applicant has not received a complaint, nor heard of any complaints, about the operation of the parking lot since the last approval in 2003. The ingress and egress are conveniently located on McKinley Street, away from the busy traffic on Connecticut Avenue. The Property is well-buffered from the adjacent residential zone by tall, mature trees. Finally, the parking spaces have been used for over fifty (50) years and provide substantial parking that may otherwise expand into the adjacent residential neighborhood.

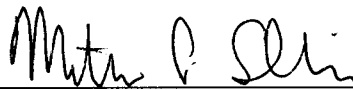
**Section 3104.1** *Special Exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.*

For the same reasons noted in the above paragraph, special exception relief will not tend to adversely affect the use of neighboring property.

VIII. Conclusion.

For the reasons stated above, this application meets the requirements for special exception approval by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,



Martin P. Sullivan, Esq.  
October 26, 2011