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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, AICP, Case Manager
Joel Lawson, Associate Director Development Review
DATE: February 26, 2013
SUBJECT: BZA Case 18474 – 1232 9th Street, N.W. - Supplemental

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18474
EXHIBIT NO. 46

I. BACKGROUND

On December 18, 2013 the Board postponed the hearing of the subject application to March 5, 2013 at the request of the applicant to permit the applicant to revise its application to request three area variances. The three area variances are to allow the use of an exterior facility for the keeping of animals in conjunction with animal boarding, pet grooming and animal shelter uses. This report provides the Office of Planning analysis of that request.

The Office of Planning continues to recommend approval of the animal boarding, pet grooming and animal shelter uses, as described in its report to the Board of December 11, 2012.

II. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following area variances:

- § 735.6, Outdoor Facility for Animal Boarding (none permitted; one proposed);
- § 736.5, Outdoor Facility for Pet Grooming; (none permitted; one proposed); and
- § 739.6, Outdoor Facility for Animal Shelter (minimum 200 feet from an existing residential use or residential district required; 82 feet proposed.)

subject to the following conditions:

1. Approval of the use of the roof deck as an outdoor facility shall be for a period of five (5) years, after which the applicant must return to the Board and the ANC if an extension of time is desired.
2. No animals shall be permitted on the roof deck between the hours of 6:00 p.m. and 9:00 a.m.
3. No more than five (5) animals shall be permitted on the roof deck at any one time.
4. A Wagtime employee shall be on the roof deck at all times when animals present are present.
5. A Liaison Committee shall be established to address neighborhood concerns regarding the operation of the site. The committee shall include a representative from Wagtime and a neighborhood representative selected by the ANC commissioner in whose district

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the business is located. Names of committee members shall be submitted to the ANC within sixty (60) days of the approval of the application by the Board.

6. Six months after the granting of the application by the Board the Liaison Committee shall review the applicant's operation and report its findings to the ANC. The review period shall extend for the entirety of the five year approval period. If at any time the ANC finds that the conditions of approval are not being met, it shall recommend changes to the variance agreement to the Board, up to and including revocation of the area variances.

III. REVISED APPLICATION IN BRIEF

The applicant proposes to use the existing second floor roof deck, located at the rear of the building, as an outdoor facility for no more than five animals at any one time. This would be the only outdoor facility available for the animal boarding, pet grooming and animal shelter uses. A Wagtime employee would be outside with the animals at all times. Use of the facility would be limited to the hours of 9:00 a.m. to 6:00 p.m. Animals would continue to be able to be walked by the applicant within the public domain.

Outdoor facilities associated with animal boarding and pet grooming uses are not permitted, and therefore require a variance to the special exception criteria. Outdoor facilities for animal shelters are permitted, provided they are located a minimum of two hundred feet from any existing residential uses or residential districts. To the north the nearest residential use is located 82 feet from the subject property, and to the south the nearest residential use is 170 feet away. No residential uses or districts are located within two hundred feet to either the east or west.

IV. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from §§ 735.6 and 736.5

1. Animal Boarding

735.6 External yards or other exterior facilities for the keeping of animals shall not be permitted.

2. Pet Grooming

736.5 External yards or other external facilities for the keeping of animals shall not be permitted.

i. Exceptional Situation Resulting in a Practical Difficulty

The subject property is improved to accommodate several animal related uses, including animal shelter, animal boarding and pet grooming. Interior areas of building have been designed as recreation areas for the animals. However, these are all located indoors and provide no opportunity for outdoor recreation for the animals that board at the site or are left at the site for grooming until picked up by

their owners. The exceptional situation is that the subject property is improved with a second-story outdoor deck above the grade of the rear alley at the rear of the building in a location inaccessible to neighboring properties, and the second story location alters the impact the use would have on surrounding properties.

ii. No Substantial Detriment to the Public Good

The application proposes that use of the space be limited to day time hours, or between 9:00 a.m. to 6:00 p.m. only. Use of the space would not be permitted in the evening, night or early morning hours, when nearby residents would most likely be expected to be home. At least one employee would be present when any animals, limited to a maximum of five, would be on the roof, to address any situations as they occur. The applicant would also be a part of a community liaison that would report to the ANC any operational issues.

iii. No Substantial Harm to the Zoning Regulations

The granting of these variances would permit the applicant to operate an exterior facility within a controlled environment to ensure that nearby properties are not adversely affected. Therefore, there would be no substantial harm to the Zoning Regulations.

735.5 The Board may impose additional requirements pertaining to the location of buildings or other structures; entrances and exits; buffers, barriers, and fencing; soundproofing; odor control; waste storage and removal (including frequency); the species and/or number and/or breeds of animals; or other requirements, as the Board deems necessary to protect adjacent or nearby property.

736.7 The Board may impose additional requirements as it deems necessary to protect nearby properties.

The Office of Planning recommends that the conditions of approval as noted at the beginning of this report be adopted as additional requirements to protect nearby properties.

b. Variance Relief from § 739.6, Animal Shelter

Animal Shelter

739.6 External yards or other external facilities for the keeping of animals shall not be permitted unless the entire yard is located a minimum of two hundred (200) feet from an existing residential use or Residence District.

i. Exceptional Situation Resulting in a Practical Difficulty

Although the space is located less than two-hundred feet from residential uses, it is located along an alley system that includes a mixture of uses,

including residential and commercial. This alley system provides the principal and rear access to many of these properties, increasing the amount of activity otherwise associated with an alley, including that of nearby squares.

ii. No Substantial Detriment to the Public Good

The application proposes that use of the space be limited to day time hours, or between 9:00 a.m. to 6:00 p.m. only. Use of the space would not be permitted in the evening, night or early morning hours, when nearby residents would most likely be home. At least one employee would be present when any animals, limited to a maximum of five, would be on the roof, to address any situations as they occur. The applicant would also be a part of a community liaison that would report to the ANC any operational issues.

iii. No Substantial Harm to the Zoning Regulations

The granting of this variance would permit the applicant to operate an exterior facility within a controlled environment to ensure that nearby properties are not adversely affected. Therefore, there would be no substantial harm to the Zoning Regulations.

739.7 The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties

The Office of Planning recommends that the conditions of approval as noted at the beginning of this report be adopted as additional requirements to protect nearby properties.

The Historic Preservation Office (HPO) had no additional comments on the revised application.

V. COMMENTS OF OTHER DISTRICT AGENCIES

No additional comments were received from other District agencies.

VI. COMMUNITY COMMENTS

ANC 2F, at its regularly scheduled meeting of February 6, 2013, voted to support the application subject a list of conditions.