

BOARD OF ZONING ADJUSTMENT
SPECIAL EXCEPTION APPLICATION
APPLICANT'S STATEMENT

Robert M. Holland et al. (Owner/Applicant)
3820-3826 McKinley Street, N.W.; Square 1859, Lots 49, 50, 51, and 92

I. Introduction.

This application requests special exception approval pursuant to Section 214 of the District of Columbia Zoning Regulations for the continued use of accessory parking spaces in the R-2 Zoning District located at 3820-26 McKinley Street, N.W. (Square 1859, Lots 49, 50, 51, and 92) (the “**Property**”). The Property was first approved and established for accessory parking in 1953, and this approval has been renewed at least nine (9) times since then, with the most recent approval in 2009. In all previous approvals, the number of parking spaces approved was from thirty-two (32) to thirty-four (34) spaces. It appears, however, that the parking lot has operated with forty-one (41) spaces for some time. This Application therefore requests an increase in the previously approved number of parking spaces to reflect the accurate existing number of forty-one (41) parking spaces. The area of the parking lot has not increased. The configuration and layout of the spaces within the same land area has changed, increasing the number of spaces originally approved in 1953 as well as in the most recent approval in 2009.

The parking spaces are used by customers of CVS Pharmacy, American City Diner, Arucola Italian Restaurant, Bread & Chocolate Bakery, and Chevy Chase Wine & Spirits, which front on the 5500 block Connecticut Avenue, N.W., just below Chevy Chase Circle. The Applicant requests approval to continue operation of the accessory parking spaces – with the increased number of spaces as noted above - under the same conditions under which this use was most recently approved in BZA Order No. 17904 issued in May of 2009, with the exception that: (i) the Applicant requests approval for a period of ten (10) years; and (ii) the condition requiring planting of parking lot landscaping has been met and the condition should require maintenance rather than planting.

II. Description of the Property and Surrounding Neighborhood.

The Property is located south of the 5600 block of Connecticut Avenue. To the west of the Property, across a public alley, is a residential neighborhood. The adjacent residential

neighborhoods are buffered from the Property by a high wooden fence, the public alley, and several mature trees as shown in the aerial photographs attached with the Application. Aerial and ground photographs of the parking lot are attached to this Application.

III. BZA Special Exception History.

The use of the Property for thirty-two (32) accessory parking spaces was first approved by the Board of Zoning Adjustment in 1953 by BZA Order No. 3617. Since 1953, there have been at least nine (9) 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. 17904, was granted in 2009 for a period of five (5) years. This approval expires on May 7, 2014. The Applicant is requesting an approval of forty-one (41) spaces with the same conditions included in BZA Order No. 17904 (copy attached hereto as Exhibit A), with the exception that: (i) the Applicant requests approval for ten (10) years instead of five (5) years; and (ii) the condition requiring planting of parking lot landscaping is updated to instead require *maintenance* of the existing parking lot landscaping.

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 forty-one (41) 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 forty-one parking spaces (41) parking spaces are safely within 200 feet of the CVS Pharmacy and the other commercial establishments on Connecticut Avenue 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 contiguous to the CVS Pharmacy and the commercial establishments on Connecticut Avenue to which the parking spaces are an accessory.

Section 214.5 *All provisions of chapter 23 of this title regulating parking lots shall be complied with, except that the Board may in an appropriate case under § 2303.3 modify or waive the conditions specified in § 2303.2 where compliance would serve no useful purpose.*

The Application meets the requirements of Chapter 23 of the Zoning Regulations regarding parking lots, and requests modifications or waivers from the requirement that the parking lot shall be screened from all contiguous residential property by a solid masonry wall 12

inches thick by 42 inches high. The parking lot has operated for sixty (60) years without such a wall, and the lot is also buffered by a six-foot high wooden fence and an abutting alley to the west.

Regarding 2303.1:

- (a) the parking lot is surfaced and maintained with an all-weather surface of asphalt;
- (b) no parking spaces project over any lot line or building line;
- (c) no other use is conducted on the parking lot;
- (d) the entrance to the parking lot is about 100 feet from the intersection of Connecticut Avenue and McKinley Street.
- (e) any lighting is directed down to the surface of the parking lot; and
- (f) the parking lot is kept free of debris and refuse, and is landscaped in areas which require it.

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.*

It would be impossible to locate accessory parking spaces on the same lot as the CVS Pharmacy and the other commercial establishments on Connecticut Avenue because those buildings occupy almost all of the available land to the east of the alley.

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.*

To the Applicant's knowledge, the Applicant has not received a complaint about the operation of the parking lot since the last approval in 2009. The traffic pattern conveniently moves traffic from the entrance on McKinley Street. The parking lot has separate lanes for the entrance and exit to the main portion of the lot, one way circulation around the lot, and an egress through the alley to Morrison Street to the south. The Property is well-buffered from the adjacent residential zone by wooden fencing, a public alley, and mature trees at the rear of the residential properties. The parking spaces have been used for at least sixty (60) years and provide a valuable parking resource for CVS and the other commercial establishments which the parking lot serves, providing an outlet for cars which might otherwise park in the adjacent residential neighborhood.

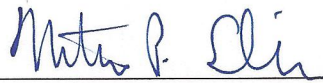
Section 3104.1 *Special Exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.*

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

V. 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,

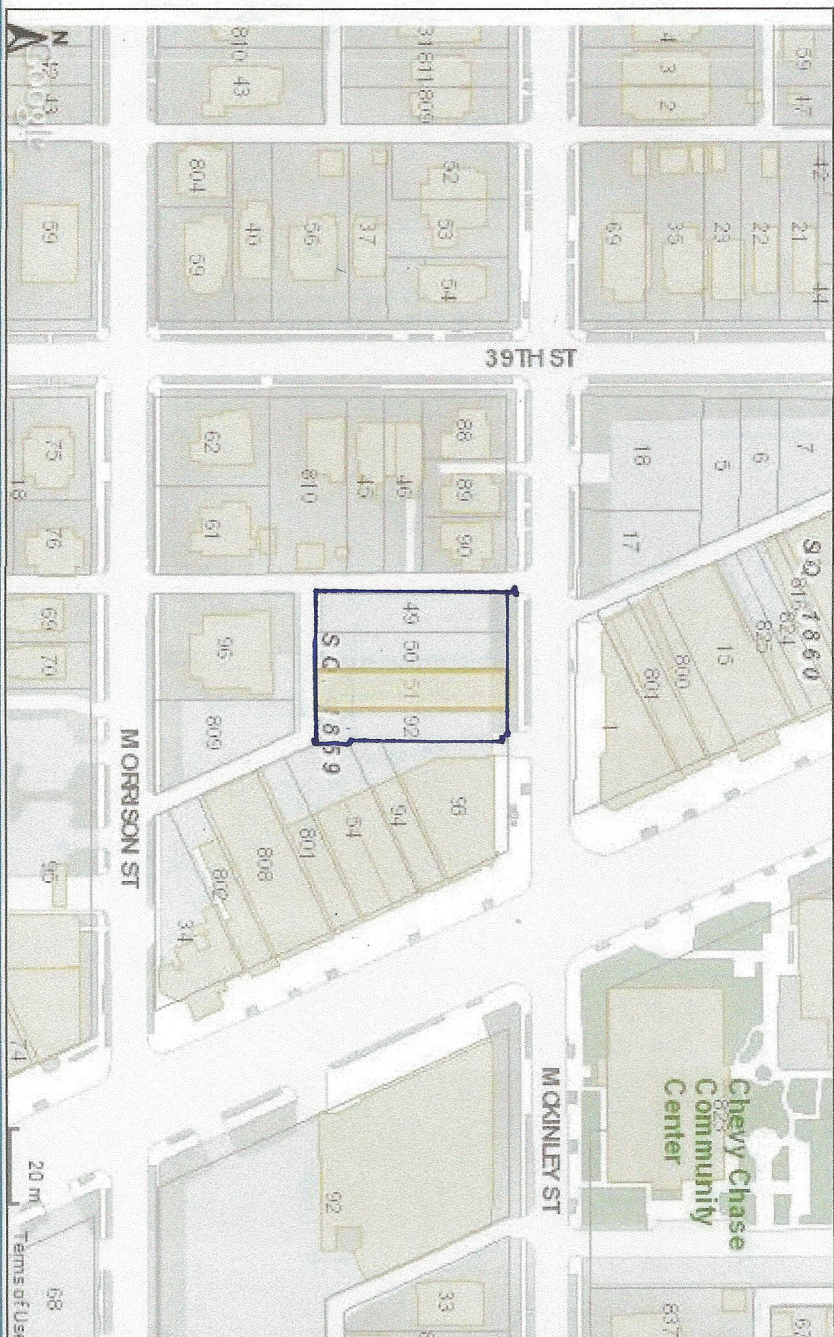
A handwritten signature in blue ink, appearing to read "Martin P. Sullivan", is written over a horizontal line.

Martin P. Sullivan, Esq.
March 4, 2014



Zoning Report for Square: 1859 Lot: 0051

March 3, 2014



Zoning Layers

- Zone Districts
- Pending Zones
- Overlays
- Pending Overlays
- Base Index
- Historic Districts
- Active PUDs
- Pending
- TDRs
- Campus Plans
- CEA

Latitude: NaN Longitude: NaN

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DC Office of Zoning

www.dcoz.dc.gov

Zoning Data Summary*

Square/Staff/Lot	1859 / n/a / 0051
Premises Address	MCKINLEY ST
Zoning District (s)	R-2
Overlay District (s)	
Pending Zoning District(s)	
Pending Overlay District(s)	
PUDs	None
Pending PUDs	None
Ward	3
Council Member	Mary M. Cheh
ANC	3G
ANC Chairperson	undefined
SMD	3G06
Commissioner	Jim McCarthy

* For a detailed explanation of zoning related terms, please refer to the DC Zoning Map Glossary available at http://maps.dcoz.dc.gov/css/Map_App_User_Guide/Glossary.pdf.

** To the extent an active PUD exists on a particular site, the PUD zoning depicts the zoning in effect for that site.

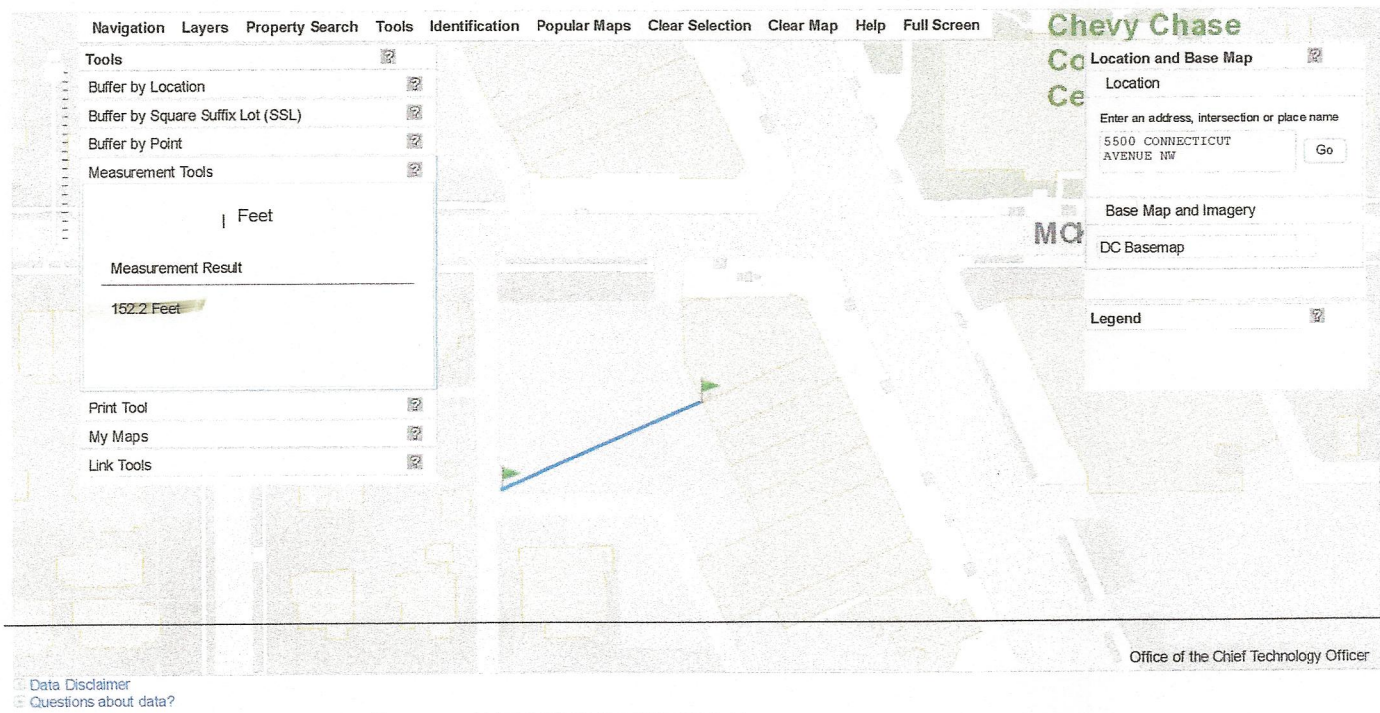


Exhibit B

Showing the maximum distance of 150 feet
from the far edge of the parking lot to the entrance to CVS