GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

**Application No. 16840 of Athena Wisconsin, LLC**, pursuant to 11 DCMR § 3104.1, for a special exception to allow a motor scooter sales establishment to locate in an existing building under section 727, and as provided for in section 1533 (Special Exceptions in the Naval Observatory Precinct District), in the NOPD/C-2-A District at premises 2233 Wisconsin Avenue, N.W. (Square 1299, Lot 1006).

Note: The applicant submitted documentation requested by the Board at the conclusion of the public hearing pertaining to designated parking spaces and the lease for the parking spaces.

**HEARING DATE:** February 26, 2002
**DECISION DATE:** March 12, 2002

## SUMMARY ORDER

**SELF - CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3B, and to the owners of property within 200 feet of the site. The application was also referred to the Office of Planning and the National Capital Planning Commission for review and report.

The site of this application is located within the jurisdiction of ANC 3B. ANC 3B, which is automatically a party to this application, did not participate in the application. The Office of Planning submitted a report recommending conditional approval of the application. The National Capital Planning Commission submitted a report stating that the application would not affect the federal establishment or interests.

As directed by 11 DCMR 3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception from the strict application of the requirements of 11 DCMR §§ 3104.1, 727, and 1533. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding.

BZA Case No. 16840 Exhibit No. 29



Board of Zoning Adjustment
District of Columbia
CASE NO.16840
EXHIBIT NO.29

Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR 3104.1 for a special exception under Sections 727 and 1533, which 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. It is therefore **ORDERED** that this application be **GRANTED.**

Pursuant to 11 DCMR 3101.6, 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.

**VOTE:** **5-0-0** (Geoffrey H. Griffis, Anne M. Renshaw, David W. Levy, Curtis L. Etherly, Jr., and John G. Parsons, by proxy, to Approve).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**
Each concurring member has approved the issuance of this order.

**ATTESTED BY:** _____
**JERRILY R. KRESS, FAIA**
**Director**

**Final Date of Order:** MAR 14 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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, 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.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

**BZA APPLICATION NO. 16840**

As Director of the Office of Zoning, I hereby certify and attest that on MAR 14 2002 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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rsn

**ATTESTED BY:**

**JERRILY R. KRESS, FAIA**
**Director, Office of Zoning**