

March 8, 2018



Alyssa L. Bigley

Direct Phone 202-747-0767

Direct Fax 202-683-9389

abigley@cozen.com

VIA IZIS

Frederick Hill, Chairperson
Board of Zoning Adjustment
441 4th Street NW Suite 210S
Washington, DC 20001

**Re: BZA Application for 1371-1375 H Street NE
Square 1027; Lot 0166 – Application for Special Exception Relief**

Dear Chairperson Hill and Members of the Board:

Please accept for filing the enclosed application of DC Super Pack LLC (the “Applicant”). The Applicant requests special exception relief pursuant to 11 DCMR § X-901.2 and Subtitle H § 1109.1(a) for animal boarding use in the NC-15 Zone.

The application package includes the following materials:

1. BZA Form 120, Application for Variance/Special Exception
2. BZA Form 126, Fee Calculator
3. BZA Form 135, Self-Certification
4. Agent Authorization Letter
5. Certificate of Proficiency
6. Plat showing the existing structure on the Property
7. Zoning Map
8. Photographs of the Property
9. Baist Atlas Map
10. Statement of Existing and Intended Use
11. Statement of the Applicant
12. Architectural Plans
13. Summary of Witness Testimony
14. Statement of Community Outreach
15. List of names and mailing addresses of owners of all property within 200 feet of the boundaries of the Property
16. Certificate of Service upon the Office of Planning and the affected Advisory Neighborhood Commission

We believe that the application is complete and acceptable for filing, and request that the Board scheduled a public hearing for the application as soon as possible. If you have any questions please do not hesitate to contact me on behalf of the Applicant.

Thank you for your attention to this application.

Sincerely,

COZEN O'CONNOR

A handwritten signature in blue ink, appearing to read "Alyssa L. Bigley". The signature is written in a cursive style with a horizontal line underneath the name.

Alyssa L. Bigley

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**APPLICATION OF
DC SUPER PACK LLC**

**1371-1375 H STREET NE
ANC 6A**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of the Applicant, DC Super Pack LLC t/a Atlas Doghouse (the “Applicant”), the tenant of the property located at 1371-1375 H Street NE (Square 1027, Lot 0166) (the “Property”) in support of its application for special exception relief pursuant to 11 DCMR Subtitle X § 901.2, from Subtitle H § 1109.1(a) in order to operate an animal boarding use (“Pet Care Use”) in the NC-15 Zone.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the special exception relief requested herein pursuant to Subtitle X § 901.2 and Subtitle Y § 100.3 of the Zoning Regulations of 2016.

III. BACKGROUND

A. The Property and the Surrounding Neighborhood

The Property, comprised of Lot 0166 on Square 1027, is a rectangular lot in the NC-15 Zone District that is located on the H Street NE corridor. A copy of the zoning map is attached at **Exhibit A** and a copy of the baist map is attached at **Exhibit B**. The Property has a total land area of 5,040 square feet, and is improved with two one-story commercial structures. The Applicant is a tenant occupying the structure on the eastern portion of the lot.

The Property is located in the H Street Corridor / Atlas Arts District. Square 1027 is bound by G Street and Maryland Avenue NE to the south, 13th Street NE to the west, H Street

NE to the north and 14th Street NE to the east. The square is trapezoidal, split-zoned, and bifurcated by an alley system with numerous alley lots. The NC-14 and NC-15 make up the north and eastern edges of the Square, the central alley lots are zoned MU-4, and the west and southern portion of the Square is in the RF-1 zone. To the south, an alley separates the Property from residential uses. The H Street NE arts and commercial corridor lies to the north, with mixed-use development comprised of retail, eating and drinking establishments, and large apartment buildings. The Sunburst Plaza intersection is approximately one block east of the Property.

B. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is well-serviced by a number of public transportation options, which serve both customers and employees alike. On walkscore.com the Property is deemed a “walker’s” and “biker’s paradise.” In addition, the area is considered having “good transit.” The H & 13th Street NE DC Streetcar stop is located about two blocks west of the Property. Further, the NoMa-Gallaudet U Metrorail Station serving the Red Line is 1.1 miles from the Property. Finally, Metrobus lines X1, X2, X3, X8, X9, D4, B2, and D8 are all within 0.1 miles (about 2 blocks or less) from the Property.

C. The Project

The Applicant is a dog grooming and dog daycare business that also provides limited boarding services and associated retail on the Property. As such, the business is defined as an “animal boarding” use pursuant to Subtitle B § 100.2 of the Zoning Regulations.

The Applicant is a professional in the industry experienced in Pet Care Uses in the District, and they do not seek to alter the Property from its current condition. The Applicant had been operating this use at the Property in good faith since January 1, 2018. However, the

Applicant received notice from the Department of Consumer and Regulatory Affairs (“DCRA”) on February 20, 2018 informing them that in order to continue the Pet Care Use on the first floor of the Property, the Applicant required zoning relief from Subtitle H § 1109.1(a), subject to the conditions of H § 1105.1(a).

IV. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW

Under D.C. Code § 6-641.07(g)(2) and 11 DCMR X § 901.2, the Board is authorized to grant a special exception where it finds the special exception:

- (1) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (2) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (3) Subject in specific cases to special conditions specified in the Zoning Regulations. 11 DCMR Subtitle X § 901.2.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific requirements for the relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion . . . is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Wash. v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

V. APPLICANT MEETS BURDEN FOR SPECIAL EXCEPTION RELIEF

A. The Relief is Harmonious with the General Purpose and Intent of the Zoning Regulations and Maps

The proposed Pet Care Use will be in harmony with the general purpose and intent of the Zoning Regulations and related maps. The NC-15 Zone is intended to permit mixed-use

development at a medium density. Subtitle H § 900.9. Further, animal care and animal boarding use is a designated use in the NC zone. Id. at § 1101.2(a). But for the fact that Property is a one-story structure at-grade, the Applicant would otherwise be able to operate as a matter-of-right in this zone. There is no cellar or below-grade basement level on the Property. Therefore, the business is located on the ground floor of the Property and cannot comply with the below-grade operational requirement in the NC-15 Zone.

B. The Proposed Relief will not Adversely Affect the Use of Neighboring Property

The use of neighboring property will not be adversely impacted by the special exception relief for the proposed Pet Care Use. As explained below, the Applicant employs specially-designed materials to limit objectionable animal noise, odor, and waste. The Applicant has had no complaints or objectionable encounters with neighboring property owners. To the contrary, the small business benefits the thriving neighborhood, particularly those pet-owning neighbors who seek professionally-trained dog boarding, care, and grooming services within walking distance from their homes.

C. The Project Satisfies the Special Exception Requirements for Pet Care Use

Subtitle H § 1109.1(a) permits animal care and boarding uses in the NC-15 Zone through special exception if the use does not meet the conditions of Subtitle H § 1101.4[g]¹, subject to the conditions of Subtitle H § 1105.1(a). The Applicant’s Pet Care Use does not meet the conditions of Subtitle H § 1101.4(g)(3): “an animal boarding use *located in a basement or cellar . . .*” (emphasis added). Consequently, the Applicant seeks a special exception and meets the requirements and conditions of Subtitle H § 1105.1(a) as follows:

¹ The Zoning Regulations reference “Subtitle H § 1101.4(h),” but this subsection does not exist in the Regulations. As such, the Applicant refers to “Subtitle H § 1101.4(g)” in this filing, which outlines the conditions for the Pet Care Use.

(1) The use shall not be located on a lot that abuts an R, RF, or RA zone;

The Property only abuts lots located in the NC-15 Zone. See zoning map at **Exhibit A**.

(2) The use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste;

The Pet Care Use is located and designed so that adjacent properties are not subject to objectionable conditions. The building and the Applicant's operations therein are designed to avoid objectionable conditions from pet noise, odor, or waste.

(3) The use shall take place entirely within an enclosed and soundproofed building in such a way so as to produce no noise or odor objectionable to nearby properties. The windows and doors of the premises shall be kept closed;

The Project utilizes industry standard materials to prevent disturbance of the neighboring properties due to noise or odor. There are no windows facing adjacent properties, and the windows and doors of the façade on H Street NE remain closed both during and outside hours of operation.

(4) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odors shall be controlled by an air filtration system (for example, High Efficiently Particulate Air "HEPA" filtration) or an equivalently effective odor control system;

The Applicant encloses animal waste in disposal containers within the existing building, and the waste is collected twice weekly by a qualified waste disposal company. See waste removal contract at **Exhibit C**. In addition, the building air filtration system effectively controls any potential odors.

(5) External yards or other external facilities for the keeping of animals shall not be permitted;

The Property features no open spaces or external yards. The Pet Care Use takes place within the structure.

(6) The sale of pet supplies shall be permitted as an accessory use;

The Applicant shall continue to sell pet supplies, including food, toys, etc., as an accessory use on the Property.

(7) The principal use shall not be for the housing, feeding and care of stray or abandoned animals whether for profit or not for profit; and

The Applicant does not and will not house, feed, or care for abandoned or stray animals on the Property.

(8) The Board of Zoning Adjustment may impose additional requirements pertaining to the location of building entrances or exits; buffers, 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 of Zoning Adjustment deems necessary to protect adjacent or nearby property;

The Applicant will work with the Board of Zoning Adjustment if they should propose additional requirements for the Pet Care Use.

Therefore, for the reasons stated herein, the Applicant meets the special exception standard for Pet Care Use on the Property.

VI. COMMUNITY OUTREACH

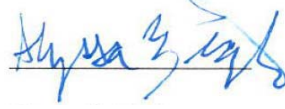
Pursuant to Advisory Neighborhood Commission (ANC) 6A's procedures and guidelines, the Applicant will contact ANC 6A shortly after the application is filed. The Applicant will present to ANC 6A and the zoning subcommittee at the next available public meetings.

CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted,

COZEN O'CONNOR



Alyssa L. Bigley
1200 19th Street NW, 3rd Floor
Washington, D.C. 20036
abigley@cozen.com
202-747-0767
Counsel for the Applicant

Certificate of Service on Office of Planning and Advisory Neighborhood Commission

I certify that on the 8th day of March, 2018, a copy of this Application was served, via email, on the Office of Planning and Advisory Neighborhood Commission, as follows:

District of Columbia Office of Planning
c/o Joel Lawson, Deputy Director
1100 4th Street SW, Suite E650
Washington, DC 20024
Joel.lawson@dc.gov

Advisory Neighborhood Commission 6A
c/o Phil Toomajian, Chairperson
6A02@anc.dc.gov

Advisory Neighborhood Commission 8A
c/o Stephanie Zimny, SMD Commissioner
6A06@anc.dc.gov



Alyssa L. Bigley