

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19764 of 4926 Wisconsin Avenue, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle C § 710.3 from the parking location restrictions of Subtitle C § 710, and from the use requirements of Subtitle U § 601.1(b) to permit the continued use of the property as a parking lot (last approved under BZA Order No. 18207) in the R-2 Zone at premises 4926 Wisconsin Avenue N.W. (Rear). (Square 1671, Lot 30).

HEARING DATE: June 27, 2018

DECISION DATE: July 18, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 34 (Revised self-certification), 4 (Original), and 15 (Duplicate of original).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 3E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. The ANC submitted a report expressing its support for the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on June 14, 2018, at which a quorum was present, the ANC voted 3-1-0 to support the application without a term limit. (Exhibit 42.)

The Office of Planning ("OP") submitted a timely report dated June 15, 2018, recommending approval of the application with the conditions approved in the Applicant's prior application – BZA Order No. 18207. Although in OP's first report (Exhibit 39), it stated that it would support the application while retaining the condition for a 7-year term limit, in OP's supplemental report, it stated it was not opposed to approval of the application without a term limit. (Exhibit 45.)

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The District Department of Transportation (“DDOT”) submitted a timely report, dated June 15, 2018, indicating that it had no objection to the grant of the application with the condition that the Applicant meet the requirements of 11 DCMR Subtitle C §§ 714 and 715 (screening and landscaping requirements for surface parking lots). (Exhibit 40.)

At the end of the hearing on June 27, 2018, the Board requested that OP provide a recommendation on whether to include a term limit if the application is approved. Also, the Board requested that OP facilitate a conference between the Applicant and DDOT to address whether the proposed landscaped screening would be compliant with Subtitle C §§ 714 and 715. Both the Applicant and OP submitted post-hearing statements.

In its Supplemental Report, OP stated that it would not oppose approval of the application without a term limit. Regarding the landscaping matter, OP reported that DDOT supports the Applicant’s request and does not plan to comment further. OP also stated that OP “would support efforts by the Applicant to augment screening, landscaping, and pervious surface, if and when the parking lot is resurfaced or otherwise significantly improved...”. Further, OP recommends “that existing potholes in the lot be repaired, and that existing planter boxes be fully landscaped and maintained by the Applicant.” (Exhibit 45.) In its post-hearing submissions, the Applicant stated that, after consultation with DDOT and OP, DDOT had accepted that the Applicant’s request for relief under Subtitle C § 710.3(a)(4) adequately addresses screening and landscaping. (Exhibit 44.) These post-hearing matters are addressed in the conditions adopted by the Board in this order.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under Subtitle C § 710.3 from the parking location restrictions of Subtitle C § 710, and from the use requirements of Subtitle U § 601.1(b) to permit the continued use of the property as a parking lot in the R-2 Zone.

The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle C §§ 710 and 710.3, and Subtitle U § 601.1(b), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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.

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It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The hours of operation shall be from 7:00 a.m. to 7:00 p.m., Monday through Friday, 9:00 a.m. to 7:00 p.m. on Saturday, and 11:00 a.m. to 6:00 p.m. on Sunday. The parking lot shall operate as valet only from 7:00 p.m. to 11:30 p.m., Monday through Saturday.
2. The property shall be secured during all hours that it is not in operation.
3. Trash and debris on the property shall be picked up on a weekly basis.
4. There shall be no trash containers kept on the lot. Trash shall be disposed of by the business the parking lot serves.
5. The masonry wall surrounding the lot as well as the guardrail shall be maintained in good condition at all times. Graffiti shall be removed expeditiously.
6. The landscaping provided on the lot shall be maintained in a healthy growing condition and shall have a neat and orderly appearance. Planter boxes shall be maintained in a good state of repair and replaced as necessary.
7. The Applicant shall post and maintain a sign giving information on whom to contact in the event of complaint or emergency.
8. The two substandard parking spaces located in the northern and western areas of the parking lots shall be posted with signs reserving them for compact cars.
9. Bumper stops shall be maintained for the protection of all adjoining property lines on or over the public space.
10. All potholes shall be repaired expeditiously.
11. The Applicant shall maintain, through its designated representative, an ongoing liaison with Advisory Neighborhood Commission 3E and the property owners in the square to resolve any issues that might arise due to the operation of the parking lot, and the Applicant shall meet annually with the ANC.
12. The valet operator shall not access the parking lot from 43rd Street, N.W.
13. The Applicant shall post and maintain a sign indicating that all ingress and egress to the lot should be from either Ellicott Street or Fessenden Street, N.W.

VOTE: 4-0-1 (Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Robert E. Miller (by absentee ballot) to APPROVE; Frederick L. Hill not participating.)

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: July 24, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.2, 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 SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.