

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16264 of Rite Aid of Washington, D.C., pursuant to 11 DCMR 3108.1, for special exception under Subsections 2514.2 and 214.1 to allow extension of a use allowed in a lesser restrictive C-2-A zone into a more restrictive R-1-B zone and to locate accessory parking spaces for a permitted use across a zone boundary line within the R-1-B zone for construction of a retail drugstore structure in an R-1-B District at premises 1401 Rhode Island Avenue, N.E. (Square 4128, Lot 79).

HEARING DATE: October 15, 1997

DECISION DATE: October 15, 1997 (Bench Decision)

AMENDED SUMMARY ORDER

The Board of Zoning Adjustment's (BZA) final order dated November 4, 1997 is amended to eliminate Condition No. 9, making the Board's order consistent with the plans of record. In all other respects, the initial order and the amended order are the same.

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) 5B and 5A and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC-5B. ANC-5B, which is automatically a party to this application, submitted a written statement in support of the application. As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to Subsections 2514.2 and 214.1. 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. 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 3108, 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. It is therefore ORDERED that this application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. All areas devoted to driveways, access lanes, and parking areas shall be paved and maintained with bituminous concrete or brick materials, or a combination of these materials, which form an all-weather impervious surface, and which is a minimum of four inches (4 in.) in thickness.

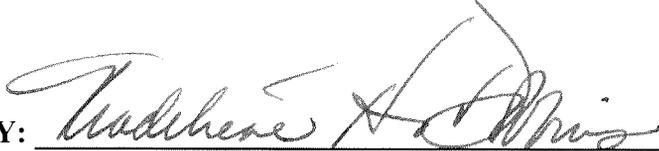
2. The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line.
3. No other use shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the district in which the parking lot is located.
4. No vehicular entrance or exit shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended.
5. Any lighting used to illuminate the accessory parking spaces shall be arranged so that all direct rays of the lighting are confined to the surface of the parking lot.
6. The parking lot shall be kept free of refuse and debris.
7. The parking lot shall be landscaped with trees and shrubs covering a minimum of five percent (5%) of the total area of the parking lot. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
8. All parts of the lot not devoted to parking areas, driveways, access lanes, attendant's shelter, or required screening walls shall be kept free of refuse and debris and shall be paved and landscaped. Landscaping shall be maintained in a healthy growing condition, and in a neat and orderly appearance.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 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: 4-0 (Susan Morgan Hinton, Sheila Cross Reid, Betty King and Maybelle Taylor Bennett to grant; Laura M. Richards, not present, not voting).

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

ATTESTED BY:



MADALIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

NOV 25 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

Ord16264/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16264

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 25 1997 a copy of the amended order entered on that date in this matter was mailed postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed blow:

Norman M. Glasgow, Esquire
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Allen H. Mushinsky, AIA
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George A. Boyd, Chairperson
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1355-57 New York Avenue, N.E.
Washington, D.C. 20002

Attested By:

A handwritten signature in black ink, appearing to read "Madeliene H. Dobbins", written over a horizontal line.

MADELIENE H. DOBBINS
Director

Date: NOV 25 1997