

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18386 of Kyung Rhee on behalf of Sylvia Kotz Realty Revocable Trust, pursuant to 11 DCMR § 3104.1, for a special exception renewal¹ to permit a surface parking lot under § 213, in the DC/R-5-B District at premises 1629 Corcoran Street, N.W. (Square 179, Lot 71).

HEARING DATE: September 11, 2012
DECISION DATE: September 11, 2012

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

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”) 2B and to owners of property within 200 feet of the site as well as to the Office of Planning (“OP”). The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. ANC 2B submitted a timely written report of support. The ANC’s report indicated that at a duly noticed and regularly scheduled meeting held July 11, 2012, at which a quorum was present, the ANC voted 8:0, to support the application. (Exhibit 24.) The Office of Planning (“OP”) submitted a timely report dated September 4, 2012 recommending approval of the application with conditions. (Exhibit 28.) The District Department of Transportation (“DDOT”) submitted a report of “no objection.” (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under § 213 of the Zoning Regulations. 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.

¹ This application is for a renewal of a prior approval that was granted in 2007 pursuant to BZA Order No. 17618.

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Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 213, 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 § 3100.5, 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.

It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT** to the following conditions:

1. Approval shall be for TEN (10) YEARS from the effective date of this order.
2. A minimum of approximately 20.8% of the lot shall be landscaped and maintained, as shown on the revised special exception plat/site plan, approved in BZA Order No. 17618, under Exhibit 27, dated May 18, 2007.
3. The McDonald's franchise operator shall:
 - a. Maintain a landscape maintenance agreement for semi-annual landscape maintenance;
 - b. Promptly contact the landscaping company with whom it has an agreement in the event any plantings appear distressed or dying and to have the company treat and/or replace affected plantings; and
 - c. Provide daily, weekly, and/or as needed regular maintenance and upkeep of landscaping, including watering, weeding, and removal of debris from the landscape area.
4. The trash enclosure shall be kept in a neat and tidy condition, and locked and securely covered when not in active use.

VOTE: 4-0-1 (Lloyd J. Jordan, Michael G. Turnbull, Nicole C. Sorg, and Jeffrey L. Hinkle to **Approve**; Rashida Y.V. MacMurray, not present, not voting.)

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

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

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: September 14, 2012

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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, 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.