

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 18434 of District of Columbia CVS Pharmacy, LLC**, pursuant to 11 DCMR § 3104.1, for a special exception to permit the continued use of the subject property as a surface parking lot under section 213, in the R-1-B District at premises 4817 U Street, N.W. (Square 1389, Lot 816).

**HEARING DATE:** November 7, 2012  
**DECISION DATE:** November 7, 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 of Zoning Adjustment (“Board” or “BZA”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission (“ANC”) 3D, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 3D, which is automatically a party to this application. ANC 3D submitted a letter, dated November 1, 2012, in support of the application. The ANC noted that at a duly noticed and regularly scheduled public meeting on October 3, 2012, with a quorum present, the ANC voted 6-1-0 to support the application. (Exhibit 28.)

The Office of Planning (“OP”) submitted a report in support of the application, subject to the adoption of fifteen (15) conditions. (Exhibit 27.) The District Department of Transportation (“DDOT”) submitted a letter stating “no objection” to the continuation of the use. (Exhibit 25.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception under § 3104.1 from the strict application of the regulations pertaining to § 213. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1 and 213, that the requested relief can be granted as being in

441 4<sup>th</sup> Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: [dcoz@dc.gov](mailto:dcoz@dc.gov)

Web Site: [www.dcoz.dc.gov](http://www.dcoz.dc.gov)

**BZA APPLICATION NO. 18434**  
**PAGE NO. 2**

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 requirements 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 be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for TEN (10) YEARS from the final date of this order.
2. All areas devoted to driveways, access lanes, and parking areas shall be surfaced and maintained with an all-weather impervious, or acceptable all-weather pervious, surface. In addition to traditional impervious surfaces, allowable all-weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel.
3. The parking lot shall be designed so that no vehicles or any part of a vehicle projects over any lot line or building line.
4. 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.
5. No vehicular entrance or exit shall be within forty feet of a street intersection as measured from the intersection of the curb lines extended.
6. Any lighting used to illuminate parking spaces shall be arranged so that all direct rays are confined to the surface of the parking lot.
7. The parking lot shall be landscaped with trees and shrubs covering a minimum of 5% of the total area of the lot. The landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
8. A commercial parking lot management company will be engaged to manage the lot and maintain its appearance and condition.
9. The commercial parking lot management company shall institute a parking system designed to discourage commuter parking.
10. The parking restrictions will apply during the hours of 8 a.m. to 6 p.m.
11. An agent of the parking lot management company will patrol the lot during normal business hours to enforce the parking restrictions.
12. The parking lot management company will be responsible for daily maintenance of the lot, keeping it free of refuse and debris, and for power sweeping the lot four times per year and providing snow removal services when necessary.
13. The parking lot shall be cleaned every three days, and the landscaping maintained every 10 days during the growing season.

**BZA APPLICATION NO. 18434**  
**PAGE NO. 3**

14. The commercial parking lot management company shall maintain signage on the light posts on the interior of the lot, continue maintenance of the lot, and provide a telephone number to call if the lot needs to be cleaned.
15. The applicant shall report to the ANC on a quarterly basis, in writing, regarding the condition of the lot and any other concerns raised by the community.

**VOTE:**       **4-0-1** (Lloyd J. Jordan, Jeffrey L. Hinkle, Nicole C. Sorg, and Robert E. Miller to approve. No other member present due to one vacant seat.)

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

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

**ATTESTED BY:** \_\_\_\_\_

  
**SARA A. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** November 16, 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 THEREOF, 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,

**BZA APPLICATION NO. 18434**  
**PAGE NO. 4**

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.