

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18925 of Hwa Golden, as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception from the accessory parking lots requirements under § 214, to continue to operate² an accessory parking lot containing 40 spaces in the R-1-B District at premises 6400 Georgia Avenue, N.W. (Square 2945, Lot 852).

HEARING DATE: March 31, 2015
DECISION DATE: March 31, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

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 Advisory Neighborhood Commission (“ANC”) 4A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. The ANC submitted a written report that indicated that at a regularly scheduled, duly noticed public meeting of the ANC held on March 3, 2015, at which a quorum was present, the ANC voted to recommend approval of the application for the continued use of an accessory parking lot at the subject property subject to the execution of a Voluntary Agreement. (Exhibit 23.)

¹ The Applicant amended the application by clarifying that it was requesting special exception relief from accessory parking lot requirements, which come under § 214, instead of § 213 as originally requested. (Exhibit 24.) The caption has been changed accordingly.

² OP indicated in its report that the subject property was established as an accessory parking about 1951 to serve the commercial building located at the northwest corner of Georgia Avenue and Tuckerman Street. According to OP, the Board extended the approval of the use of the subject property as accessory parking up to four times since then. (Exhibit 26.) Three of those prior approvals for this use of the same lot, all granted subject to conditions include: BZA Case Nos. 12253 (1977, five-year term); 13723 (1982, three-year term); 14998 (1989, five-year term).

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The Office of Planning ("OP") submitted a timely report recommending approval of the application with conditions, including a term of five years, (Exhibit 26) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report of no objection with one condition. (Exhibit 27.)

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 from the accessory parking lot requirements under § 214, to continue to operate an accessory parking lot containing 40 spaces in the R-1-B District. 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.

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 for special exception relief, pursuant to 11 DCMR § 3104.1 and § 214, and 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 § 3125.5, 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 APPROVED PLANS AT EXHIBIT 6 AND WITH THE FOLLOWING CONDITIONS:**

1. Approval shall be for a period of **FIVE (5) YEARS**, beginning on the date upon which the order became final.
2. Hours of operation shall be Monday through Saturday, 7:00 a.m. to 9:00 p.m.
3. Gates at the entrance and exit shall be closed and locked when the lot is closed.
4. Fencing shall be maintained along the northern and eastern sides of the lot.
5. Pavement and wheel stops shall be repaired and/or replaced as necessary to maintain an all-weather surface. Parking lot striping shall be maintained in good condition and directional arrows shall be painted on the surface of the lot indicating the direction of traffic through the lot. Applicant shall consider the use of permeable paving materials when appropriate.
6. Existing brick wall and cap shall be repaired and maintained in good condition.

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7. Grass strip on the east side of the parking lot and the open space on the west side of the parking lot shall be kept free of refuse and maintained in a healthy growing condition.
8. Up to five dumpsters may be kept within the lot.
9. Location of the light pole shall be indicated on the plan.

VOTE: **4-0-1** (Lloyd J. Jordan, Anthony J. Hood, Marnique Y. Heath, and Jeffrey L. Hinkle, to APPROVE; one Board seat vacant.)

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: April 3, 2015

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 TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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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, 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.