

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19004 of 1933 Montana Ave LLC, as amended¹, pursuant to 11 DCMR § 3104.1 for a special exception under § 214 to allow accessory parking (14 spaces) for a new office use at 920 Bladensburg Road located across the alley from the subject property which is located in the R-4 District at the southeast corner of 16th Street, N.E. and Oates Street, N.E. (Square 4073, Lots 52 and 803.)

HEARING DATES: June 9, 2015, September 15, 2015, October 20, 2015² and December 15, 2015

DECISION DATE: January 12, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5 – original; Exhibit 34 – revised.)

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”) 5D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. ANC 5D submitted a report noting that at a duly noticed public meeting, the ANC voted to support the application.³ (Exhibit 27.)

¹ The application was originally advertised to request special exceptions from the number of parking spaces requirements under § 2108.2, the accessory parking space location requirements under § 2116.7, and the parking space accessibility requirements under § 2117.4, to allow a new medical office use. The Applicant amended the application in the Prehearing Statement and submitted a revised Self Certification form (Exhibits 33 and 34) and the caption has been changed accordingly.

² The hearing on this application was postponed from the June 9th, September 15th, and October 20, 2015 public hearing sessions.

³ The Board noted that the report did not indicate how many members constitute a quorum, nor did it provide the vote count as required by 11 DCMR § 3115.1(d) and (g). Therefore, the ANC report cannot be given great weight.

BZA APPLICATION NO. 19004
PAGE NO. 2

The Office of Planning (“OP”) submitted two reports regarding the application. In the first report, dated June 2, 2015, OP indicated that it was unable to provide a recommendation based on the relief as originally requested. (Exhibit 24.) OP encouraged the Applicant to clarify the zoning relief and address other issues related to the application. OP filed a supplemental report on December 8, 2015, expressing support for the revised application.⁴ (Exhibit 35.) OP stated that it supports the Applicant’s revised request, but would also support “an enhanced landscaping plan to more effectively buffer the proposed parking lot from the adjacent residential uses.” In response, the Board requested that the Applicant submit a revised landscape plan, which the Applicant filed into the record on January 5, 2016. (Exhibit 39.)

The D.C. Department of Transportation (“DDOT”) filed a request for waiver of the seven-day time period for filing the report to allow the agency time to conduct its assessment of the application. (Exhibit 29.) DDOT filed its report on October 15, 2015, indicating that it had no objection to the proposal. (Exhibit 32.)

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 a special exception under § 214. 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 averse to any party.

Based upon the record before the Board and having given great weight to the OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 214, 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. It is therefore **ORDERED** that this application, is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 39 – REVISED SITE PLAN.**

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May 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.

⁴ OP stated that “the Applicant revised the initial application, which incorrectly requested relief under Sections 2116.7; 2108.2; and 2117.4, and also proposed twenty-one (21) parking spaces, some of which would be stacked. The Applicant is requesting to amend the Application to reduce the number of proposed spaces to fourteen (14), and to amend the request to be under Section 214.” (Exhibit 35.)

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: January 29, 2016

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 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL 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.

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.