

SECOND AMENDED BURDEN OF PROOF STATEMENT IN SUPPORT OF
SPECIAL EXCEPTION APPLICATION
(4926 WISCONSIN AVENUE, LLC)

This application is submitted on behalf of the property owner, 4926 Wisconsin Avenue, LLC (“Applicant”) the owner of a parking lot at 4926 Wisconsin Avenue, N.W. (Rear) (Square 1671, Lot 30) (“Property”). The Applicant requests perpetual special exception relief in order to continue to use the Property as an accessory surface parking lot.

I. BACKGROUND

The Property is the subject of a Special Exception for a period of seven (7) years which was granted by Bench Decision dated May 10, 2011 and Order with final date of May 13, 2011 (BZA Order No. 18207) entered at the request of 4926 Wisconsin Avenue, LLC. Pursuant to BZA Order No. 17151 issued with a final date of May 3, 2004, Applicant’s Managing Members (Peter Pappas and Patricia Georgilakis) as Applicant’s predecessors in interest, previously secured a seven (7) year special exception to operate a parking lot at the site. The Board of Zoning Adjustment (the “Board”) originally approved the site to be used as a parking lot on November 29, 1989 pursuant to Order No. 15181.

Pursuant to condition 2 of BZA Order No. 18207, the parking lot hours of operation are 7:00 a.m. to 7:00 p.m., Monday through Friday, 9:00 a.m. to 7:00 p.m. on Saturday, 11:00 a.m. to 6:00 p.m. on Sunday, and valet only operation from 7:00 p.m. to 11:30 p.m. on Monday through Saturday. BZA Order No. 18207 permits by special exception the operation of a 27 space parking lot, and Applicant seeks a special exception to continue to operate a 27 space parking lot.

As of the date Peter G. Pappas and Patricia Georgilakis acquired the Property in January, 2002 through the date that the Property was transferred to Applicant and continuing till the present time, Deoudes-Magafan Realty, Inc., as manager, has operated the parking lot, including arranging for maintenance and security. Deoudes-Magafan Realty, Inc. is an experienced property management firm which manages numerous properties in the Washington, D.C. area. Deoudes-Magafan Realty, Inc. arranged for a professional company to clean the lot on a weekly basis, and more often if needed. A principal of Deoudes-Magafan, Realty, Inc. routinely visits the parking lot to ensure that the neighbors will not have any problems with the parking lot. The manager has operated the parking lot in compliance with the conditions imposed by the grant of the Special Exception, and neither the Applicant nor the property manager is aware of any complaints regarding the parking lot operation.

Applicant again seeks approval upon the same terms and conditions as imposed on the grant in BZA Order No. 18207, but this time with no term limit.

II. SPECIAL EXCEPTION RELIEF

The Applicant seeks a special exception pursuant to Subtitle X, Section 901.2, Subtitle C, Section 710.3(a)(4) and Subtitle U, Section 601.1(b) of the D.C. Zoning Regulations to continue use of the Property as accessory parking.

A. General Review Standards

Pursuant to Subtitle X Section 901.2 of the D.C. Zoning Regulations, the Board is authorized to grant special exceptions where it finds that (a) the use of the subject property will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, (b) will not tend to adversely affect the use of the

neighboring property in accordance with the Zoning Regulations and Zoning Maps, and (c) will meet such special conditions as may be specified in the zoning regulations.

B. Relief under Subtitle C, Section 710.3(a) (4).

Pursuant to Subtitle C of Section 710.3 (a)(4) of the Zoning Regulations, the Board of Zoning Adjustment may waive the location restriction (must be within the same lot as the structure served) for accessory vehicle parking spaces under Subtitle C Section 710.2 if the Board determines that it is not practical to locate the spaces in accordance with such restrictions and the location of such parking spaces “on another lot would result in more efficient use of land, better design or landscaping, safer ingress or egress, and less adverse impact on neighboring properties. The parking lot, as proposed, will satisfy all requirements for the grant of the requested Special Exception.

There is not sufficient parking for other uses within the vicinity and the parking lot is reasonably necessary and convenient so that the likely result is a reduction in overspill parking on neighborhood streets. Monthly parkers utilizing the parking lot as of the date hereof include, but are not limited to, employees of Animal Clinic Investigation, Red Coats, and Washington Trophy Center, resulting in these vehicles not parking on the neighborhood streets. Local restaurants having access to the parking lot in connection with evening valet parking also ensures that the restaurant patrons’ vehicles will not be parked on the neighborhood streets during the evening.

C. Relief under Subtitle U, Section 601.1(b).

Subtitle U, Section 601.1(b) allows by special exception on an alley lot in the R zone parking uses not meeting the matter of right standards provided that a publicly operated parking use shall be subject to the following standards:

1. Any use authorized in this section shall not be likely to become objectionable because of noise, traffic or number of employees.

Pursuant to the BZA Order No. 18207, the Board approved the special exception for use of the property as a parking lot subject to 14 conditions. These conditions serve to protect against noise and traffic and remain acceptable to the Applicant. With regard to an objectionable number of employees, an experienced property management firm manages the property but does not have any on-site employees. If the lot is used for evening valet parking in the future, it will be done so with a limited number of individuals. Any evening valet parking should help reduce noise and traffic as it would alleviate the number restaurant patrons' vehicles that are parked on nearby residential streets.

2. The hours of active operation shall be arranged so as not to prove disturbing to or otherwise objectionable to persons residing around the perimeter of the square in which located.

Pursuant to condition 2 of BZA Order No. 18207, the parking lot hours of operation are 7:00 a.m. to 7:00 p.m., Monday through Friday, 9:00 a.m. to 7:00 p.m. on Saturday, 11:00 a.m. to 6:00 p.m. on Sunday, and valet only operation from 7:00 p.m. to 11:30 p.m. on Monday through Saturday. These hours of operation have not been disturbing or otherwise objectionable to persons residing around the parking lot and Applicant would like to continue these hours of operation and.

III. CONCLUSION.

The Applicant requests a perpetual special exception to use the Property as a parking lot. Pursuant to Subtitle X Section 901.5, the Board may impose a term limit on

special exceptions when it determines that a subsequent evaluation of the of the actual impact of the use on neighboring properties is appropriate. The Property has been used as a parking lot for nearly 30 years. Applicant directly and through its Managing Members as predecessors in interest have operated the parking lot since 2002. There has been a substantial amount of time to confirm that operating of the parking lot does not have an adverse impact on the neighboring properties and is actually beneficial to the neighboring properties because it reduces overspill parking on neighborhood streets.

The Board's grant of perpetual special exception relief for continued use of the Property as a parking lot is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under Subtitle X, Section 901.2 Subtitle C, Section 710.3 (a)(4) and Subtitle U, Section 601.1(b) of the Zoning Regulations. For the reasons stated above, Applicant requests that the Board grant perpetual special exception relief of the Property as a parking lot subject to the other conditions previously imposed by Board Order No. 18207.