

Before the Board of Zoning Adjustment, D. C.

Application No. 11973 of Capital Properties, Inc., pursuant to Section 8207.2 of the Zoning Regulations for a special exception to permit a parking lot in the R-4 zone, as provided by Section 3104.44 of the Regulations, at the premises 213-215 E Street, N.E., Lots 831 and 832, Square 755.

HEARING DATE: August 20, 1975
DECISION DATE: September 5, 1975

FINDINGS OF FACT:

1. Applicant proposes to continue use of a parking lot serving an adjacent three (3) story office building during office hours only. The parking lot accommodates approximately eighteen (18) to twenty-two (22) automobiles.

2. The parking lot was previously approved in BZA Order No. 11332 for a two (2) year period and the Certificate of Occupancy expired June 26, 1975.

3. BZA Order No. 11332 incorporated the conditions set forth in the previous BZA Order No. 9436 relating to the subject property wherein the Applicant was required to comply as follows:

- (a) To erect a forty-two (42) inch brick wall approximately thirteen(13) inches thick.
- (b) To install decorative coping along the E Street frontage.
- (c) To supervise, maintain and clean the lot.
- (d) To erect a chain in order to close the lot at night.

4. Substantial opposition to the application was raised by neighbors of the subject parking lot. The record indicates a letter and testimony at public hearing from an abutting property owner, letters from other neighbors in the immediate area and a signature sheet of neighbors who attended the public hearing but did not testify. The basis of the opposition was consistent and centered on the following substantive points:

- (a) The lot is not well maintained and no effort has been made to screen the lot from the adjacent residential uses,
- (b) There is not now and has not been for some extended period of time a chain erected to close the lot at night. Access is therefore convenient for persons drinking in their automobiles at night and no weekends creating a nuisance and danger to the neighborhood. Also the rear of the lot at high rates of speed creating a hazardous situation.
- (c) Automobiles are parked all the way up to the sidewalk including on the public space.

(d) There is adequate existing parking to accommodate the tenants of the office building served by the subject parking lot and the existence of the lot does not alleviate any parking problems for residents of the area.

Convenient public transportation also offsets the necessity of the parking lot to the office building which it serves,

(e) The parking lot is not an acceptable transition to the neighbors, between the commercial office building use and the residential area thus lowering the value of the residential properties.

5. The opposition also stated a procedural objection to the Applicant's posting of the property three (3) days late and at a location where it could not easily be read by any passerby. The opposition only wanted the objection noted and not to be used as a technical bar to the Board's hearing the case due to inadequate notice.

6. The Applicant testified that the location of the posting sign was chosen so as to protect it from vandalism. Applicant further testified that any failure to comply with previous BZA conditions was due to ignorance although the required chain had been erected but was subsequently removed by vandals.

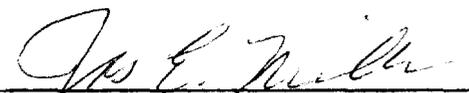
7. There was no objection to the application by the Department of Highways and Traffic,

CONCLUSIONS OF LAW:

Based upon the above findings of fact and the evidence of record the Board finds that the Applicant has failed to carry the required burden of proof for the special exception pursuant to Sections 3104.44 and 8207.2 of the Zoning Regulations. Applicant has not rebutted opposition to the parking lot relating to complying with the provisions of Article 74 of the Regulations, to adverse effects upon the present character and future development of the neighborhood, and to the reasonable necessity and convenience of the parking lot to other uses in the vicinity. The Board notes the waiver by the opposition of any objection to inadequate notice due to improper posting. It is the opinion of the Board that the special exception would not be in harmony with the general purpose of the Zoning Regulations and will have an adverse affect upon the use of neighboring property.

ORDER: It is hereby ordered that the above application be DENIED,

VOTE: 3-1-0 (Mr. Harps dissenting, Mr. Scrivener not present, not voting).

ATTESTED: 
JAMES E. MILLER,
Secretary to the Board

Final Date of Order: Dec. 12, 1975