

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12230, as amended, of Donohoe Construction Co., Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7205.3 and pursuant to Paragraph 8207.11 for a variance under Paragraph 3101.48 and Sub-paragraph 3101.411 to allow an accessory parking lot within the R-2 District, premises 5100 Wisconsin Avenue, N. W., and office Building & Theater within the C-2-A Commercial District, at Rear of 5100 Wisconsin Avenue, N. W., Square 1656, Lot 9 and part of Lot 807.

HEARING DATE: November 17, 1976

DECISION DATE: November 17, 1976 (Bench Decision)

FINDINGS OF FACT:

1. The Chair permitted applicant to amend the application at the Public Hearing to include a variance, pursuant to Paragraph 8207.11, from Paragraph 3101.48 and Sub-paragraph 3101.411.

2. By BZA Order No. 7353, dated July 16, 1963, the Board approved the establishment of accessory off-street parking on a part of the lot now designated lot 9, on which the principle C-2 use is presently located.

3. By BZA Order No. 8552, dated March 22, 1966 the Board approved the establishment of accessory parking on part of what is now lot 807.

4. By BZA Order No. 9736-37, dated August 14, 1968 the Board approved the establishment of accessory parking for 5100 Wisconsin Avenue and granted a variance to permit parking spaces beyond 200 feet from the premises the spaces were intended to serve. Applicant was unable to carry out the provisions of the Order because of a dispute involving title to lot 807.

5. BZA Order No. 11577, dated April 17, 1974, denied the application of Olga M. Mazza, trustee, for the same site and similar request as the present application. The

Board found no hardship was established to justify the granting of the variance and that if the variance were granted it would adversely affect the use of neighboring property.

6. The subject property is located in an R-2 District, is a wooded park area (unimproved land) and is adjacent to an existing accessory parking lot that services 5100 Wisconsin Avenue, N. W. The existing lot has seventy-two (72) parking spaces for the commercial customers of the office building and theater at 5100 Wisconsin Avenue, N. W.

7. Applicant now seeks either as accessory parking or as a public parking lot to add seventy-nine (79) more spaces consisting of thirty-six (36) spaces for commercial customers and forty-three (43) spaces to be rented on a monthly basis.

8. The variance applicant seeks is to locate the parking 450 feet back from the existing commercial district, whereas Sub-paragraph 3101.48(A) requires the lot to be within 200 feet of a commercial district.

9. Excluding the Wisconsin Avenue commercial corridor, the surrounding area, known as Friendship Heights, is predominantly residential in nature.

10. There was testimony that applicant suffers a hardship by reason of the shape of the property, the adverse ownership and that the property is not suitable for its zoned use, Applicant further testified that the most reasonable use of the property is for off-street parking since it is a use that is established in the area and compatible with the area. Within the square the subject property is the only part not devoted to a commercial use or to a parking facility which serves a commercial use.

11. Although requested, no Department of Transportation report had been received on the application. In a 1974 report on the prior BZA application No. 11577 DOT stated no objections but suggested three conditions if approval should be granted, such conditions relating to parking on Garrison and Harrison Streets and restrictions on access.

12. The Municipal Planning Office recommended that the application be denied since there had been no substantial change of circumstances in land use patterns or other physical conditions since the Board last considered this

same subject matter and had denied the application.

13. Vigorous opposition to the granting of the application was registered at the public hearing by persons living in the neighborhood, by the Friendship Neighborhood Coalition, a Neighborhood association of property owners and residents. ANC-3E was on record as opposing the application. The opposition was primarily based on increased automobile traffic with its accompanying noise and pollution; the loss of the present wooded park area; and that the park area, a buffer between the commercial and residential portion of that strip of Wisconsin Avenue and the site, could be used for the residential purpose for which it was zoned.

14. There was ample testimony by applicant and the parties in opposition that there was a need for parking in the area. The parties in opposition testified that a substantial part of the need for parking was created by a tenant in the 5100 Wisconsin Avenue building who had been allowed to expand his business.

15. The parties in opposition testified that they would prefer to suffer the disadvantages of insufficient parking in the area rather than permit another lot to be used for parking in this area zoned R-2.

CONCLUSIONS OF LAW:

The block in which the property is located is zoned R-2. By a series of BZA Orders approving parking lots, the character of that block has been changed, contrary to the purposes of the R-2 zoning. The Board concludes that the granting of this special exception would not be in harmony with the general purpose and intent of the Zoning Regulations and Maps and would tend to affect adversely the use of neighboring property.

The variance that applicant seeks is substantial. Applicant asserts a hardship based upon the shape of the property, adverse ownership of the property and the fact that because of its location in the square it cannot be used for residential purposes. The Board finds that the evidence does not support applicant's assertions, and that the burden of proof upon the applicant has not been met. The Board concludes that to grant the variance would result in substantial detriment to the public good and substantially impair the intent, purpose

and integrity of the zone plan. Accordingly, it is ORDERED
that the application be DENIED.

VOTE: 5-0 (Theodore F. Mariani, Lilla Burt Cummings,
Esq., Leonard L. McCants, Esq., William
F. McIntosh and William S. Harps).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 8 JUL 1977