

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12698, of Howard Bernstein, et al, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to continue the use of a parking lot in the R-5-B District at the premises 1606 Corcoran Street, N.W.

HEARING DATE: August 23, 1978
DECISION DATE: December 6, 1978

FINDINGS OF FACT:

1. The subject property is located in an R-5-B Zone District.
2. The subject property is presently operating as a parking facility pursuant to the Board's previous Order 12337 dated March 24, 1977.
3. The 1600 block of Corcoran Street is predominantly residential in use. The majority of the buildings are in good condition.
4. The parking lot is paved with an impervious surface and can accommodate nine cars.
5. The subject parking lot is located 2500 feet from the Que Street entrance of the Dupont Circle Metro Station.
6. The applicant proposes the continuation of the parking facility.
7. The parking facility has been used in the past primarily by the residents of the Corcoran House apartments, located to the east of the subject site.
8. The Department of Transportation by report, dated July 27, 1978, recommended that the application be approved for a period not to exceed four years with the stipulation that the brick wall be repaired. The Department report was based on the incorrect assumption that the property is used for parking by business tenants. The Board therefore cannot give great credence to the report of the Department of Transportation.

9. One of the conditions that the Board imposed on the grant of the previous application was that "The low brick wall separating the parking lot from Corcoran Street be repaired". The representative of the applicant testified that the wall had been repaired. There is, however, evidence of record in the form of testimony of community residents, the ANC, and the Department of Transportation and the Municipal Planning Office that the wall is in need of repairs at present, and is not in compliance with the Board's previous Order. The Board finds that the wall is not now in compliance with the Board's Order.

10. The Board is empowered to impose reasonable conditions upon the granting of an application to protect adjoining properties or the surrounding area from adverse impacts. The Board finds that the requirement for provision and maintenance of the wall is a reasonable requirement to prevent vehicles from projecting onto public space and to aid in screening the lot from public space to minimize the visual impact of the lot.

11. The Board finds that the applicant has not demonstrated his intent to fully comply with the requirement of the Board's previous Order by maintaining the property in conformance with that Order. The Board finds therefore, that it cannot rely upon the applicant to comply with any conditions on the possible granting of the present application, and the Board therefore cannot insure that the future operation of the parking lot will not have an objectionable affect on the present character or future development of the area.

12. Advisory Neighborhood Commission 2B opposed the application on the grounds that the applicant had failed to comply within all of the provisions of the previous Order which stipulated that the applicant repair a brick wall on the property, that the applicant had failed to apply for a continuation of the lot prior to the expiration of the present certificate of occupancy and that the residential commuter parking ban will enable area residents to have ample parking spaces on the street.

13. The Dupont Circle Citizens Association was in opposition to the case on the grounds that the property could be used for residential purposes.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that as a special exception request, the application in this case must be granted if the applicant demonstrates that he has complied with all of the requirements of the Zoning Regulations. The record in the case is clear that the applicant has not made a consistent and sustained effect to keep the lot in compliance with the previous Order of the Board. The Board concludes that it is not reasonable for the Board to expect that the applicant would comply with any conditions which would be imposed on the granting of this application, and without such compliance, the Board concludes that the applicant cannot assure that the lot will be operated and maintained in a manner that would not have an adverse impact on the present character and future development of the area. The Board also takes note of the position of the Advisory Neighborhood Commission, to which the Board is required by statute to give "great weight" in its decision. The Board concurs with the position of the ANC. It is therefore ORDERED that the application is hereby DENIED.

VOTE: 3-1 (Charles R. Norris, William F. McIntosh and Leonard L. McCants to DENY, Chloethiel Woodard Smith opposed, Theodore F. Mariani not present, not voting).

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

22 JAN 1979