

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12717, of Inez Cushard, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.48 to continue the use of a parking lot in the R-2 District at the rear of premises 4926 Wisconsin Avenue, N.W., (Square 1671, Lot 30).

HEARING DATE: August 16, 1978
DECISION DATE: September 6, 1978

FINDINGS OF FACT:

1. This application was advertised as a special exception under Paragraph 3101.48. At the Public Hearing, the Chairman granted the applicant's request to amend the application to have it processed under Paragraph 3101.411.
2. The subject lot is an alley lot located in the R-2 District. It's address is rear 4926 Wisconsin Avenue, N.W.
3. By BZA Order No. 12331, dated June 16, 1977, the Board granted the applicant permission to establish this lot. Among the conditions to the grant of the application was that the applicant would construct a masonry wall forty-two inches high and that she would install a chain link steel-post perimeter enclosure for the sides nearest the commercial zoning in accordance with the revised site plan filed on May 9, 1977.
4. The lot presently serves as accessory parking for commercial buildings on Lots 20 and 21, in the subject Square 1671, having the addresses of 4922 and 4926 Wisconsin Avenue, N.W. The commercial buildings are in a C-2-A District and are located between Ellicott and Fessenden Streets, N.W.
5. The subject lot has been used as an accessory parking lot for over twenty-five years. It contains approximately thirty parking spaces which are leased exclusively by the tenants of 4922 and 4926 Wisconsin Avenue, N.W.
6. The parking spaces are in an open area located in their entirety within 200 feet of the area to which they are accessory and are separated only by an alley from the commercial buildings.

7. It is economically impractical to locate parking spaces within the principal buildings or on the same lot because of the restricted size of the lot caused by adverse adjoining ownership and substantial improvements on such lot. The Board notes that strip zoning along Wisconsin Avenue does not extend to a depth that includes the alley lot.

8. The prior BZA Order was dated June 16, 1977. Construction of the aforementioned masonry wall was not commenced until April 1978.

9. A caretaker is hired by the applicant to clean the subject parking lot three times per week.

10. The application was referred to the Department of Transportation for its review and report. By report dated June 19, 1978, the Department reported that no adverse impacts had been identified and that the existing facilities were being refurbished and appeared in good condition.

11. The Advisory Neighborhood Commissioner for single member district 3E-03, the Friendship Neighborhood Coalition and several neighbors made an inspection of the subject parking lot and pictures were submitted into the record. All were in opposition to the application unless the conditions which were a part of the grant in the previous BZA Order No. 12331, dated June 16, 1977, were respected and enforced by the applicant. Persons in opposition also requested the following items: (1) A shallow trench immediately outside the masonry wall surrounding the parking lot should be filled in. (2) The contractor's debris should be removed from the public and private space. The debris includes a drum filled with concrete, boards in the alley and lumps of contractor's excess asphalt at the entrance to the garage at 4209 Ellicott Street. (3) The chain fence located along the eastern side of the lot is inadequate. It has been broken from time to time because it is too frail. There is no locking mechanism for the chain. In addition, a specific objection was also raised to the applicant's request for a grant for an indefinite term. The opposition requested that the Board grant the application for no more than one year as a test period of the good faith of the applicant. They stated that they have had only a few months to observe the operation of the subject lot.

12. The Board concurs with the objections raised by Advisory Neighborhood Commission 3E-03, the Friendship Neighborhood Coalition and individual neighbors. It notes that the opposition expressed is not that the application should not be granted, but if granted, that the aforementioned objections should be included as conditions to the granting of the application. The Board again concurs.

CONCLUSIONS OF LAW:

The Board is required to give "great weight" to the issues and concerns raised by the ANC. It notes that said issues and concerns were also voiced by a neighborhood association and residents. The applicant has been dilatory in conforming to the conditions imposed by the previous Order of the Board, but appears to be coming into conformance. Based on the record, and with the conditions herein-after listed, the Board concludes that the application can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property, if the below listed conditions are adhered to and if the visual impact of the unsightliness of the lot is reduced. The Board further concludes that the application has substantially conformed with Sub-paragraph 3101.411 of the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- a. Approval shall be for a period of one year from the date of expiration of the previous Certificate of Occupancy which may be renewed at the discretion of the Board upon the filing of a proper application.
- b. The applicant shall immediately remove the trash and debris from the lot and shall make arrangements to insure that the lot remains clean of trash and debris in the future.
- c. The applicant shall increase the size of the chain located along the eastern side of the lot to a minimum diameter of 1 1/2 inches.
- d. Trees with a minimum caliper of 2 1/2 to 3 inches shall be planted in the void areas of the southeast and southwest corners of the lot where cars cannot park due to the design of the lot, as shown on the plan marked as Exhibit 10 of the record.

- e. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- f. An eight inch coping shall be erected and maintained along each side of all driveways to protect the public space.
- g. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- h. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- i. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
- j. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
- k. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 5-0 (William F. McIntosh, Charles R. Norris Chloethiel Woodard Smith and Leonard L. McCants to GRANT; John G. Parsons to GRANT by PROXY).

ATTESTED BY:



STEVEN E. SHER
Executive Director

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

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FINAL DATE OF ORDER: 17 OCT 1978

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.