

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 12806, of HO-WAR Plumbing Corporation, Enid N. Warner, Carolyn E. Warner and Mary E. Howard, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the use of a parking lot in the SP-2 District at the premises 300-314 "I" Street, N.W. (Square 528, Lots 15-21 and 816-818).

HEARING DATE: June 13, 1979

DECISION DATE: June 13, 1979 (Bench Decision)

FINDINGS OF FACT:

1. This application was first heard and granted from the bench on January 24, 1979, subject to the conditions that the approval be for a period of four years, that the lot be cleaned every morning and that the applicant comply with Article 74 of the Zoning Regulations. No Order was issued at that time.
2. The Board subsequently determined that no evidence was contained in the record regarding conformance with Sub-Paragraph 4101.413 and that a further hearing should be conducted on the issue of "whether the subject parking facility does or does not provide all-day commuter parking."
3. At the further hearing, the Board granted an amendment to the application to allow the applicant to request a variance from Sub-Paragraph 4101.413 of the Zoning Regulations to provide all-day commuter parking.
4. The subject property occupies the entire south side of "I" Street, between 4th and 3rd Streets, N.W. The premises is known as 300-314 "I" Street, N.W., and is in the SP-2 District.
5. The property has an area of 16,570 square feet and occupies the northern portion of Square 528. A public alley, with access to 4th and 3rd Streets borders the subject lots to the south. The subject property is presently operated as a parking lot, containing sixty-nine parking spaces.

6. All of the Streets bordering the subject lot have unrestricted parking. Access to the lot is via "I" Street and the public alley.

7. Portions of the lot were established in 1970 by BZA Application No. 10418 with subsequent approval of the entire lot for parking purposes in BZA Order No. 11939, issued in 1975. The lot is being used for all-day commuter parking. Changes in the text of the SP Regulations adopted on September 14, 1978, no longer permit the operation of the lot for all-day commuter parking.

8. The applicant has been in compliance with previous Orders issued by the Board.

9. The vicinity of the subject square has a mixture of uses. C-2-B zoning (medium-high density) which is designed to provide substantial amounts of employment, housing and mixed uses is to the north of the subject lot. To the west across Fourth Street is mixed use residential and commercial; south of the subject site is another parking lot and the Second Baptist Church.

10. The applicant testified that trash was dumped on the lot by nearby residents and passers-by. However, attempts to keep the lot free of debris have been made and have been continued. The lot is cleaned every two weeks by hired help and everyday by the attendant. The Board believes that the lot needs to be thoroughly cleaned more often than twice per month.

11. The applicant is requesting a special exception to continue the use of the parking lot. Pursuant to Sub-Paragraph 4101.413 the parking facility must serve either residential uses or provide short-term parking for retail, service and public facility uses, but must not provide all-day commuter parking. The applicant therefore requests a variance from the regulations in this regard.

12. The majority of persons parking on the lot are all-day commuters, but approximately seven to ten per cent of the spaces serve residential uses. The lot is also used by the Second Baptist Church on Tuesday nights and on Sundays.

13. The area is not well served by public transportation. The all-day commuter parking at the subject site serves many employees of the Chester Arthur Office Building located at the northwest corner of the intersection of 4th and "I" Streets, N.W.

14. There are few retail facilities in the vicinity which would generate sufficient short-term parking demand to permit reasonable utilization of the lot.

15. An expert traffic witness testified that the noise generated by the sixty-nine cars now using the site to be negligible compared with that generated by the existing traffic. The Board so finds.

16. The residential uses to the west of the lot are more affected by the traffic flow on Fourth Street than from the use of the subject lot.

17. The hours of operation of the lot are 7:00 a.m. - 4:30 p.m. An attendant is present during the operational hours. Maintenance is on a daily basis and the lot is periodically policed during the day. Neither the owner nor the operator of the lot, RBI Parking Inc., have received any complaints concerning the operation of the lot.

18. The applicant proposes to develop the subject site with 125 residential units. The financing and construction of the development is estimated to take three to four years.

19. Continuation of the existing parking facility is the only reasonable short-term interim use of the property. If the variance requested is denied, the site would lie idle for three to four years.

20. The Department of Transportation, by memorandum dated December 5, 1978, stated during an on-site inspection of the subject parking lot, violations of Paragraphs 7404.12 and 7404.22 were observed. They were:

- a. Two wheel barriers missing on the 4th Street side of the lot.
- b. Trash on the lot and in public space on three sides of the lot.
- c. Sandbox eighteen feet-by-seventeen feet in public space on the "I" Street side.
- d. Vehicles are being illegally parked in the public space on the 3rd Street side of the lot.

In addition, the memorandum rated the appearance of the existing facility as poor.

However, the Department of Transportation recommended that upon correction of the noted violations, the permit be granted for no longer than a four year period after which a reapplication would be reevaluated to determine the accessibility by transit of the facilities served by the subject parking lot.

21. Advisory Neighborhood Commission - 2C made no recommendation on the application.

22. Letters and petitions in support of the application were received from the Second Baptist Church and the commuters from the Chester Arthur Office Building and other businesses in the area.

23. There was no opposition to the application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a special exception and a variance. As to the special exception, the Board concludes that the applicant has substantially met the requirements of Paragraph 4101.41 of the Zoning Regulations. The subject parking lot had been in existence on October 5, 1978 under approval of the BZA. Pursuant to Sub-section 4101.411, the use is not likely to be objectionable to adjoining property owners because of noise, traffic or other objectionable conditions due to the location of the subject site and surrounding uses. Pursuant to Sub-section 4101.412, the present character and future development of the neighborhood will not be affected adversely by the use because of its nature of operation, use as a facility which serves both local residents and commuters and existence as an interim use. Pursuant to Sub-section 4101.413, the lot is used in part for residential parking and for parking for the Second Baptist Church.

The applicant complies with the provisions of Sub-section 8207.2 because the proposed continued use of the site for parking purposes for a limited period of time is in harmony with the general purposes and intent of the Zoning Regulations and will not tend to adversely affect the use of neighboring properties.

As to the variance, the Board concludes that the requested variance is a use variance, because the variance requested relates to the manner in which the parking spaces will be used. In order to grant a use variance, the applicant must demonstrate that there is an undue hardship upon the owner arising out of some unique or exceptional condition of the property. The Board concludes that the subject site has no other reasonable interim use than the continuation of the existing parking facility. The Board concludes that there are not sufficient facilities in the area to generate enough demand for short-term parking and that restriction of use of the lot to other than commuter parking only would create a hardship for the owner.

The Board further concludes that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The proposed parking lot use because of its nature of operation will not adversely affect the present character and future development of the neighborhood. In addition, as evidenced by the letters and petitions submitted in this case, there is a need for this lot which services many uses. Therefore, this use, as further conditioned by this Order, is appropriate for the site.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- a. Approval shall be for a period of four years from the date of expiration of the previous Certificate of Occupancy.
- b. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- c. An eight inch coping shall be erected and maintained along each side of all driveway to protect the public space.
- d. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- e. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- f. 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.
- g. 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.

h. 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: 3-0 (Chloethiel Woodard Smith, Charles R. Norris, William F. McIntosh to GRANT; Leonard L. McCants and 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:

14 AUG 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.