

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12827, of Amoco Oil Company, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 5102.41 to modify an existing gasoline service station in the C-2-A District at the premises 7605 Georgia Avenue, N.W., (Square 2961, Lot 824).

HEARING DATE: December 13, 1978
DECISION DATE: January 10, 1979

FINDINGS OF FACT:

1. The subject site is located in the C-2-A District on the east side of Georgia Avenue between Juniper and Hemlock Streets, known as 7605 Georgia Avenue, N.W.
2. The subject site is 12,650 square feet in area and is improved with a full service gasoline service station.
3. The existing station consists of three service bays, four gasoline pumps and a service station office.
4. Immediately adjacent to the site to the north is a six story apartment house. To the east, across the alley are residences which front on 9th Street, N.W.
5. The applicant proposes to make the following changes:
 - A. Remove the four existing pumps on the two islands and replace them with four self service pumps on two islands.
 - B. Construct a 28 X 47 foot canopy above the pumps with lights shining directly toward the pavement.
 - C. Convert portions of the service station office into a security cashier's booth and vending area.
 - D. Extend the existing hours of operation from 6:00 a.m. to 10:00 p.m. to twenty four hours per day.
 - E. Install a 10,000 gallon gasoline tank for premium unleaded gasoline.

6. The three existing service bays will remain in operation.
7. There will be no change in the existing driveways and curb cuts, although on-site traffic circulation will be improved by the proposed changes.
8. The installation of the canopy with the new lighting and the removal of the existing light structures will prevent any adverse effects because of light.
9. The station was originally approved by the Board in Case No. 5481 by Order dated May 27, 1959, with the condition that the hours of operation were to be limited to no later than 10 p.m. as a result of citizen opposition. The subject gasoline station was approved for modifications by BZA Order No. 10764 dated May 12, 1971, to add a room for storage at the rear.
10. There will be no expansion of the existing service station as a result of this application.
11. The station is separated by an alley at the rear of the property from a residential district.
12. The Department of Transportation, by memorandum dated October 25, 1978, stated that no adverse traffic impacts had been identified from the proposed project. The Board so finds.
13. By report dated December 7, 1978, the Municipal Planning Office recommended that the application be approved providing that the applicant shows that there is compliance with D.C. Law 1-123. That law prohibited the conversion of a full service retail service station into a non-full service facility until January 1, 1979. The Board finds that the changes proposed herein would not result in the conversion of this station, since the three service bays will remain unchanged.
14. There was no report from Advisory Neighborhood Commission 4B.
15. There was no opposition to the case.
16. At the public hearing, the Board requested the applicant to supply information concerning the number of potential customers between the hours of 10 p.m. and 6 a.m. if the station were allowed to go to twenty-four hour operation.
17. By letter dated December 26, 1978, the applicant stated that approximately 100 additional patrons per day would be served if the extended hours of operation were approved.

18. The Board finds that in the general vicinity of the subject site there are other gasoline stations which are open twenty-four hours, including at least one Amoco station.

19. The Board finds that the immediate proximity of residential uses makes it reasonable to continue to restrict the hours of operation to those originally required by the Board, to avoid adverse effects particularly because of noise in late evening and early morning hours.

20. On October 20, 1977, the Executive Director of the Zoning Secretariat, on behalf of the Board, requested the advice of the Office of the Corporation Council on the applicability of Law 1-123 to BZA proceedings. By memorandum dated November 22, 1977, the Office of the Corporation Council advised the Board that it believed that the standards set forth in the Zoning Regulations for the Board to use in hearing this special exception were not sufficiently broad to enable the BZA to reach issues embraced in Title III of Law 1-123. The responsibility for enforcement of D.C. Law 1-123 is vested in the Mayor, and has been delegated to the Director, Department of Economic Development. Pursuant to that delegation, the applicability of Law 1-123 will be determined at the time of review of applications for building permits.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes based upon the above Findings of Fact that the applicant has met the requirements set forth in Paragraph 5101.41 and the relevant portions of Article 74 of the Zoning Regulations and that the approval of the specific physical changes proposed will be in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property in accordance with the Regulations and Maps. The Board further concludes that the physical changes proposed in the application will not change the present operational characteristics of the station.

In special exceptions cases, the Board's discretion is limited to a determination of whether the exception sought meets the requirements of the regulation. Stewart v. D.C. Board of Zoning Adjustment, 305 A.2d 516, 518 (D. C. App. 1973). The Board is aware of the requirements of D.C. Law 1-123, but concludes that it is not the body charged with enforcement of that law. The Board notes however, that the evidence of record in this application seems to indicate that no conversion of full service to non-full service is proposed or contemplated.

The Board further notes that favorable consideration in this case should not be construed as binding on the authorities responsible for reviewing applications for other clearances.

As to the request to change the hours of operation, the Board concludes that approval of such a request would likely have adverse consequences on surrounding properties because of noise generated in late evening and early morning hours. The Board notes that there are other gasoline stations in this area which are open during those hours.

It is therefore ORDERED that the application be GRANTED subject to the CONDITION that the hours of operation shall remain from 6 a.m. to 10 p.m. as previously approved by the Board in Case No. 5481.

VOTE: 4-1 (Ruby B. McZier, Charles R. Norris, William F. McIntosh and Chloethiel Woodard Smith to GRANT, Leonard L. McCants opposed, and Chloethiel Woodard Smith also dissenting only as to the hours of operation).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 28 FEB 1979

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.