

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12968, as amended of Hysong Realty Co., Inc. pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the operation of a parking lot and for a variance from Sub-paragraph 4101.413 to permit all-day parking in an SP-2 District at the premises 1304-1312 N St Street, N.W., (Square 245, Lots 811 and 9).

HEARING DATE: June 20, 1979

DECISION DATE: July 11, 1979

FINDINGS OF FACT:

1. The application was amended at the Public Hearing to include a variance from Sub-paragraph 4101.413 to permit all-day parking.
2. The subject property is located on the south side of N Street, N.W. between Vermont Avenue and 13th Street, N.W. It is known as 1304-1312 N Street, N.W. and is in an SP-2 District. The southern portion of the subject square is bounded by M Street and Massachusetts Avenue.
3. Lot 811 is 10,275 square feet in area and Lot 9 is 3,425 square feet in area. The lot is surrounded by a public alley in the rear and a brick wall of four feet in height. A portion of the public alley is thirty feet in width and the remainder is fifteen feet. Access to the parking lot is from N Street, N.W.
4. To the north of the subject parking lot, across N Street, is a commercial parking lot. To the south, is the aforementioned alley and wall; to the west is a nine story apartment building with a private driveway and to the east is a private driveway and the Hysong Funeral Home. The subject area abounds with office, commercial and residential uses. There are few commercial retail uses.

5. The subject parking lot has been in existence for approximately twenty-five years. The continuation of the parking lot was last approved for a period of two years by BZA Order No. 12323, dated March 25, 1979.

6. The lot is now leased by Atlantic Garage, Inc. The hours of operation of the lot are from 8:00 a.m. to 6:00 p.m. There is an attendant present during these operational hours. The lot is used by Hysong Funeral Home in the evening for its visitors. Certain spaces on the lot are also reserved for the Hysong Funeral Home on the occasion of burial services. The subject lot can accommodate eighty-five cars.

7. The lot is cleaned several times a week during the operational hours. The applicant testified that it has received no complaints about the management and upkeep of the parking lot.

8. Nearly all of the parking on the subject site is daily parking for all day commuters. Approximately twenty-five percent of the all day parkers have monthly contracts.

9. The applicant testified that the subject property has been on the market for years and that it is the intent of the owners that the parking lot is an interim use until a purchaser is found. It is proposed that the subject parking lot and the Hysong Funeral Home site will be sold as one parcel.

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

11. 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 Subsection 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 parking for the Hysong Funeral Home.

The applicant complies with the provisions of Sub-section 8207.2 because of 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 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. 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:

1. Approval shall be for a period of TWO years from the date of expiration of the previous Certificate of Occupancy, namely March 25, 1979.
 2. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
 3. An eight inch coping shall be erected and maintained along each side of all driveways to protect the public space.
 4. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
 5. No vehicle or any part thereof shall be permitted to project over any long or building line or on or over the public space.
 6. 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.
 7. 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.
 8. 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: 4-0 (Walter B. Lewis, Chloethiel Woodard Smith, Charles R. Norris to grant, William F. McIntosh to grant by proxy, Leonard L. McCants not voting, not having heard the case).

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

ATTESTED BY: _____

Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

5 SEP 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.