

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13033 of Louis Burman, 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 and for a variance from Sub-Paragraph 4101.413 to permit all-day commuter parking in an SP-2 District at the premises 1435 Massachusetts Avenue, N.W., (Square 212, Lots 833, 809 and 808).

HEARING DATES: September 12 and November 14, 1979

DECISION DATES: October 3 and December 5, 1979

FINDINGS OF FACT:

1. The application was originally heard on September 12, 1979. The Board had a further hearing of the application on November 14, 1979.

2. The subject property is located on the north side of Massachusetts Avenue near its intersection with 15th Street, in an SP-2 zone district at premises known as 1435 Massachusetts Avenue, N.W.

3. The subject lot is 38,000 square feet in area and is currently operated as a parking facility pursuant to this Board's Order No. 12419, dated July 21, 1977.

4. The applicant proposes the continuation of a parking lot for approximately three years. At that time, the applicant proposes to develop the property as part of a planned unit development process or in accordance with current SP-2 zoning requirements.

5. To the south of the subject property is Highland Terrace (which runs parallel to and directly adjacent to Massachusetts Avenue, N.W.).

To the west, is 15th Street. To the north is a public alley (and lot 840) and to the east is an apartment building known as the Heatherington Apartments. Access to the property is currently provided from 15th Street, N.W.

6. The subject area abounds with office, commercial and residential uses. There are few, if any, commercial retail uses.

7. This lot has served as a parking facility for approximately twenty years. It was first permitted by this Board on December 21, 1959, pursuant to Order No. 5776.

8. The lot is now leased by the Diplomat Parking Corporation. It serves as an attended facility, with hours of operation from 7:00 A.M. to 7:00 P.M. The lot accommodates approximately 200 cars.

9. Nearly all of the parking on the subject site is daily parking for all day commuters. Approximately sixty percent of the all day parkers have monthly contracts. Approximately five percent of the customers of the lot are transient parkers, even though the lot is rarely full and space is usually available for such parkers.

10. The applicant testified that there was not enough retail business surrounding the subject site to generate short term parking sufficient to adequately use the lot on a daily basis, and therefore requests a variance from the prohibition against all-day commuter parking.

11. The lot is used by the National City Christian Church for their evening and Sunday services, as well as tenants parking from apartments in the vicinity of the subject lot.

12. There was no report from Advisory Neighborhood Commission 2C on this application.

13. The Department of Transportation by report dated September 17, 1979, recommended approval of the application limited to short-term parking of less than six hours in time. This recommendation was given in support of the overall transportation programs of the city.

The Department of Transportation reported that unchecked long term parking supply is inconsistent with the city and regional efforts to increase ride-sharing and transit riding for work purposes.

14. The applicant testified that the lot catered to car and van pools, and that in fact because it is a surface lot, it is the only lot in the immediate area able to accommodate the vans used for van-pooling.

15. There was no opposition to the granting of this application, as the Board disallowed testimony by the Dupont Circle Citizens Association on the grounds that this lot is not within the bounds of that Citizens Association.

16. There were several letters of support from surrounding property owners.

17. The Office of Planning and Development by supplemental informational report dated September 28, 1979, reported to the Board on the condition of the lot. The Office of Planning and Development recommended that the applicant repair the cracked retaining wall and police the area vigorously, and that the retaining wall and steps be maintained, since their removal could result in erosion of adjacent grades.

CONCLUSIONS OF LAW AND OPINION:

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 the 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 National City Christian Church as well as surrounding apartment tenant parking.

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 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 July 21, 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, Charles R. Norris and William F. McIntosh to grant the special exception; Leonard L. McCants to grant by proxy; Chloethiel Woodard Smith not voting; not having heard the case.

5-0 (John G. Parsons, Charles R. Norris, Connie Fortune, William F. McIntosh and Leonard L. McCants to grant variance).

ATTESTED BY: \_\_\_\_\_



STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

10 MAR 1980

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.

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."