

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Rehearing of Application No. 13100, of John W. Paris, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue to operate a parking lot in an SP-2 District at the premises 513 E Street, N.W., (Square 488, Lot 830).

HEARING DATE: March 18, 1981

DECISION DATE: April 1, 1981

FINDINGS OF FACT:

1. The subject property is located on the northeast corner of the intersection of 6th and E Streets, N.W. It is in an SP-2 District.
2. By BZA Order No. 9955, dated September 5, 1969 the Board granted conditionally the use of the subject property as a parking lot for a period of five years. It had previously been used as a gasoline service station. By BZA Order No. 11573, dated February 21, 1974, the Board granted conditionally the continued use of the parking lot for five years.
3. By BZA Order No. 13100, dated April 7, 1980, the Board denied the application to continue to operate the subject parking lot. A representative of the owner was present at the public hearing. He testified that he would not commit the owner to any conditions the Board might wish to impose upon the use of the property. The photos of the subject premises that had been submitted to the record reflected that the owner had not complied with the conditions of the prior Order of the Board. The Board concluded that the burden of proof had not been met. The Board further noted that the subject parking lot has been in existence for ten years. During that period the applicant has ignored the conditions imposed by the Board in granting the prior applications. The Board further concluded that the special exception could not be granted as in harmony with the general purpose and intent of the Zoning Regulations and Maps. The present use as exercised adversely affected the use of neighboring property.
4. The applicant filed a Motion for Reconsideration which was denied on May 27, 1980. The applicant appealed to the D.C. Court of Appeals. The D.C. Corporation Counsel moved before the Court of Appeals to remand the case back to the BZA for a new hearing. The Corporation Counsel recommended that the applicant be advised to address himself to Sub-paragraphs 4101.411, 4101.412 and 4101.413 of the Zoning Regulations. These specify that the parking lot will not become objectionable to adjoining and neighboring properties because of noise, traffic or other objectionable conditions, will not adversely impact the present and future development of the area and will serve either residential uses or provide short term parking for retail, service and

public facility uses, but will not provide all day commuter parking. Consequently, this application was scheduled before the Board de novo for a public hearing.

5. The property is located in the Central Employment Area and is in the vicinity of a C-4 District. A new office building is located diagonally across the street from the site. Across the street from 6th Street is a parking garage structure. New construction is presently in progress across E Street. The structures in Square 488, in which the property is located, contain mixed office and residential uses.

6. The subject lot is 45.0 feet by 42.35 feet. It provides four parking spaces for the White House Tours sightseeing Business establishment which is located a few doors away from the subject lot. The lot is used by the sightseeing buses. The lot is unattended and is open. There is no set schedule of hours of operation. A bus may sit on the lot anywhere from thirty minutes to a few days depending on its scheduled run. The owner does not allow private cars to park on the lot. It does not provide all day commuter parking.

7. The lot is cleaned up each morning of debris. The lot is periodically scrubbed down to remove any oil on the surface. The applicant had received complaints from the adjoining owners of the building on E Street about diesel fumes from the buses seeping into their building. There are no windows on that side of the office building. The applicant has corrected this by having the buses parked with their fronts to the wall of the office building.

8. There is no bus repair done on the subject lot. Repair work is done in a garage on First Street.

9. The Office of Planning and Development, by report dated March 12, 1981, recommended that the application be approved conditionally. In its report, the OPD stated that the subject lot has existed on the subject site under previous BZA approvals for a number of years. It was the opinion of the Office of Planning and Development that the continuation of the parking lot will not adversely impact the surrounding area and would not likely become objectionable to adjoining property because of noise, traffic, or other objectionable conditions. Section 4101.41 of the Zoning Regulations under which the special exception is requested, provides that "a parking lot, in existence on October 5, 1978, under approval by the Board of Zoning Adjustment may be permitted by the Board to continue in existence for a period not to exceed four years from the date that the present Certificate of Occupancy expires." The OPD recommended that this application be approved subject to the conditions previously imposed by the Board, plus the proviso that the parking lot should not be used for all-day commuter parking or for bus repair. The Board concurs in the OPD report.

10. The Department of Transportation by memorandum, dated February 27, 1981, reported as follows:

"The Department of Transportation objects to the granting of the special exception to continue to operate a parking lot at 513 E Street, N.W., unless the applicant agrees to obtain a permit from the Department of Transportation to close off the existing driveway on the E Street side and to widen the existing driveway on the 6th Street side. The crossing of the sidewalk by buses in areas not constructed as a driveway has damaged the sidewalk to such an extent that it is now dangerous to the walking public. Unless the applicant agrees to the above conditions, no special exception should be granted."

The applicant agreed to abide by the DOT recommendation if the Board so ordered.

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

12. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires proof that the applicant has met the requirements of Paragraph 4101.41 of the Zoning Regulations. The Board concludes that the requirements have been met. The subject lot was in existence on October 5, 1978, its use is so located and its facilities so designed that they are not likely to become objectionable to adjoining and nearby property because of noise, traffic or other objectionable conditions, the present character and future development of the neighborhood will not be affected adversely by the use and the lot does not provide all-day commuter parking. The Board further concludes that the application, as hereinafter conditioned, can be granted as in harmony with the general intent and purpose of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. 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 the expiration of the previous certificate of occupancy, namely November 18, 1979.
- b. The applicant shall close off the existing driveway on E Street, and shall widen the driveway on 6th Street to the specifications established by the Department of Transportation.

- c. The lot shall be used for the parking of four buses only. The buses shall be parked with their fronts facing the wall of the adjoining existing building to the east.
- d. There shall be no automobile parking on the lot.
- e. The lot shall be cleaned on a daily basis.
- f. There shall be no repair of buses on the lot.
- g. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- h. Wheel stops shall be erected and maintained for the protection of all adjoining buildings.
- 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: 4-0 (William F. McIntosh, Charles R. Norris and Connie Fortune to GRANT; Douglas J. Patton to GRANT by PROXY).

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

9 JUN 1981

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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.