

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13115, of Ethel C. Lessig, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to continue to operate a parking lot in an R-5-B District at the premises 1524 "O" Street, N.W. (Square 195, Lot 834).

HEARING DATE: January 16, 1980

DECISION DATE: April 2, 1980

FINDINGS OF FACT:

1. The subject property is located on the south side of "O" Street between 15th and 16th Streets, N.W. and is known as 1524 "O" Street, N.W. It is in an R-5-B District.

2. The subject site is twenty feet wide by 97.20 feet deep. It accommodates nine cars. There is no attendant. Access to the parking spaces is through a fifteen foot alley to the west of the site.

3. There is a larger parking lot directly to the east of the subject site. Across "O" Street to the north-east is another parking lot.

4. The applicant testified that the present tenants of the subject parking lot are on a month-to-month basis. They pay twenty-one dollars a month to use the lot. The lot provides mostly commuter parking for parties who work in the immediate area. The hours of operation are from 8:30 A.M. to 5:00 P.M. There are no chains to close off the lot. At night and during the weekends, the lot is available for neighborhood uses. Because of the limited size of the lot, there are no traffic congestion problems caused by the lot.

5. The subject lot has been in existence for approximately twenty years. It was last approved by the BZA in Order No. 11294, dated October 1, 1974, for a period of five years. The lot is in compliance with the requirements of Article 74 of the Regulations.

6. The applicant testified that the lot is checked periodically by her. She relies upon the users of the lot to advise her of any problems with the maintenance of the lot. The applicant further testified that none of the property owners brought any complaints to her attention.

7. The applicant has no immediate plans to develop the subject site. There was testimony that because of its size it may not be adequate for a residence. There was also testimony that there was much available land on N Street in the immediate neighborhood that could be developed for residences that was standing idle.

8. The applicant testified that she had never received an offer to purchase the subject property.

9. The Dupont Circle Citizens Association objected to the application on the grounds that the lot was not reasonably necessary and convenient to other uses in the vicinity, that provisions for commuter parking in residential zones was contrary to policies of the Department of Transportation and that the lot could be used for housing.

10. Two owners of property within the immediate area of the subject property opposed the application primarily on the grounds that it was not maintained properly. They complained of dirt and litter that is allowed to accumulate and that the lot was used by prostitutes and dope users at night.

11. Advisory Neighborhood Commission - 2B, by letter dated January 16, 1980, opposed this parking lot which is situated on residential land and operates completely as a commuter parking lot. The ANC advised that neighbors report the lot is filled with trash and serves as an area for heroine addicts and prostitutes at night. A large house was torn down to accommodate the lot which has been in operation for 25 years. For those reasons, the ANC argued that the lot was not in conformance with Sub-paragraph 3104.433 of the Zoning Regulations which requires that the present character and future development of the neighborhood not be adversely affected, and that the parking lot be reasonably necessary and convenient to other uses in the neighborhood. The ANC commended the Board's decision to no longer extend a special exception to a parking lot on residential land at 1513-19 "O" Street. The ANC recommended that the Board do the same in this case and permit construction for residential use to become a possibility.

12. The Board is required by statute to give great weight to the issues and concerns of the ANC. In addressing those concerns as well as those of the Dupont Circle Citizens Association and private citizens, the Board notes that the subject application is for a special exception. The applicant must satisfy the requirements of Paragraph 3104.44 to obtain relief. The applicant need not establish that his property cannot be used for residential purposes. As to the issues of trash and debris, the Board notes that none of the opposition at any time has approached the applicant with any complaints. The Board does note however, that the applicant's method of cleaning off the lot leaves much to be desired. For this reason, as stated below as a condition to the granting of the application, the grant will be for one year so that the property can be maintained. The Board further notes that the lot services the neighborhood at night and during the weekend. Also, the lot is of a small size. With the availability of other lots in the neighborhood for residential purposes, the Board is of the opinion that the existence of the subject lot for one year will not adversely affect the present character and future development of the neighborhood. As to the use of the lot by prostitutes and narcotics addicts, the Board finds that such uses are unlawful, and that it is the responsibility of the Metropolitan Police Department to enforce such laws against such activities. The Board further notes that dismissal of this application would have no practical effect on such uses.

13. The Board has also given careful consideration to the issue of all day parking. The Board notes that the lot can accommodate only nine cars. As such, it is too small to warrant an attendant to supervise use of the lot for parking on other than an all day basis. For this reason, the Board will allow all-day commuter parking for the time period stipulated in the approval of the application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the relief requested in this application is a special exception as provided for in Paragraph 3104.44 and Sub-section 8207.2 of the Zoning Regulations. In order to be granted such an exception, the applicant must demonstrate that she has complied with all of the requirements of those Regulations. In the subject application, the Board concludes that the application has so demonstrated. The lot is relatively small, and will not generate any significant traffic to cause adverse or dangerous traffic conditions. The lot serves uses located in the area, and is necessary and convenient to such uses. The lot is also used by area residents in the evening. With the exception of some accumulation of trash, the lot has been kept in compliance with the Zoning Regulations and previous Orders of this Board. The Board therefore concludes that the applicant has met the burden of showing that the application should be granted.

The Board concludes that the applicant has not requested a variance. The applicant is therefore not required in this application to prove that the property cannot be used for a purpose permitted in the R-5-D District. As stated above, the applicant has proven all that is required.

The Board notes however, that the lot is being used for all-day commuter parking. Consistent with stated city policies and at the same time a Metrorail service is expanding throughout the metropolitan area, the Board has been acting to reduce the availability of all-day commuter parking, particularly in residential neighborhoods. The Board notes that in this case, the applicant has no plans to develop the property, that no one has offered to purchase the property from the applicant. The Board concludes that the lot is not too small and that it can be developed with a residential use in the future. The Board further concludes that with the gradual opening of more Metrorail services, over a period of time parking lots serving all day parking will no longer be necessary. The Board concludes in this case for the reasons stated in Findings of Fact No. 13, that all day commuter parking should be permitted for a short period.

The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled, but for the reasons stated in this Order, will grant the application. The Board concludes however, that the application should be GRANTED for ONLY ONE YEAR. This will allow the applicant the opportunity to find some use for the property other than all-day commuter parking. It will also allow the Board to assess whether the lot is being properly cleaned, if the applicant determines to reapply to the Board.

It is therefore ORDERED that the application is GRANTED SUBJECT to the FOLLOWING CONDITIONS:

- a. Approval shall be for a period of ONE YEAR from the date of the expiration of the previous certificate of occupancy, namely October 1, 1979.
- 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. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.

- d. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- e. 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.
- f. 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.
- g. 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, Connie Fortune and Leonard L. McCants to GRANT; John G. Parsons to GRANT by PROXY, Charles R. Norris 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: 27 MAY 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."