

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13159 of Inez Cushard, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.48 to continue the use of a parking lot and to modify conditions "c" and "d" of prior BZA Order No. 12717 in an R-2 District at the rear of premises 4926 Wisconsin Avenue, N.W., (Square 1671, Lot 30).

HEARING DATE: February 13, 1980

DECISION DATES: March 3 and April 2, 1980

FINDINGS OF FACT:

1. This application was advertised as a special exception under Paragraph 3101.48. At the public hearing the Board granted the applicant's request to amend the application to have it processed under Paragraph 3101.410 which relates to accessory passenger automobile parking spaces. The Board noted that in its two prior Orders the application was amended thusly. The Board also waived Section 3.5 of the Supplemental Rules of Practice and Procedure before the BZA which requires that in an application to establish or continue a parking lot the owner be present at the public hearing. The Board noted the advanced age of the owner, the fact that the owner's property manager was present and that there was no opposition to the waiver by the parties.

2. The subject lot is surrounded on all four sides by public alleys. Its address is rear 4926 Wisconsin Ave., N. W. It is in an R-2 District.

3. By BZA Order No. 12331, dated June 16, 1977, the Board granted the applicant permission to establish this lot. Among the conditions to the grant of the application was that the applicant would construct a masonry wall forty-two inches high and that she would install a chain link steel-post perimeter enclosure for the sides nearest the commercial zoning in accordance with the revised site plan filed on May 9, 1977. The grant was for one year.

4. By BZA Order No. 12717, dated October 17, 1978, the board granted the continuance of the parking lot for one year. It noted the great opposition to the manner in which the lot was maintained and not to the use of the lot itself. It further conditioned the Order with conditions "C" and "D" which stated as follows:

- c. The applicant shall increase the size of the chain located along the eastern side of the lot to a minimum diameter of 1 1/2 inches.
- d. Trees with a minimum caliper of 2 1/2 to 3 inches shall be planted in the void areas of the southeast and southwest corners of the lot where cars cannot park due to the design of the lot, as shown on the plan marked as Exhibit 10 of the record.

The applicant, under the subject application, is requesting a modification of both these conditions which will be discussed below.

5. The lot presently serves as accessory parking for commercial buildings on Lots 20 and 21, in the subject Square 1671, having the addresses of 4922 and 4926 Wisconsin Avenue, N.W. The commercial buildings are in a C-2-A District and are located between Ellicott and Fessenden Streets, N.W.

6. The subject lot has been used as an accessory parking lot for over twenty-five years, It contains approximately thirty parking spaces which are leased exclusively by the tenants of 4922 and 4926 Wisconsin Avenue, N. W.

7. The parking spaces are in an open area located in their entirety within 200 feet of the area to which they are accessory and are separated only by an alley from the commercial buildings.

8. It is economically impractical to locate parking spaces within the principal buildings or on the same lot because of the restricted size of the lot caused by adverse adjoining ownership and substantial improvements on such lot. The Board notes that strip zoning along Wisconsin Avenue does not extend to a depth that includes the alley lot.

9. The applicant testified that a caretaker is hired to clean the subject parking lot three times per week. The applicant further testified that no complaints were received as to the operation and maintenance of the lot.

10. The applicant requested that conditions "c" and "d" of the Board's prior order be modified. The applicant testified that she had complied with the Board's Order as to the fence but still the chain is frequently broken from the cars using the

alley and that it is a tremendous expense to have to replace it continually. The applicant questioned whether the chain served a useful purpose.

As to the planting of trees in the void areas of the southeast and southwest corners of the lot, the applicant's landscaper, testified that it was a difficult condition to comply with since the portion of the lot was paved over. Further the soil was compacted so that digging down formed a container. There is no place for the water to go. In this kind of condition trees survive poorly since there is either too much water or when its dry, it is very dry because there is no water. The applicant proposed to submit a new landscaping plan.

11. The DOT by memorandum received February 12, 1980 reported that the application had been reviewed and no adverse impacts were identified. It further reported that it had received no complaints. An inspection showed the existing facilities to be in good condition.

12. ANC-3E, the Friendship Neighborhood Coalition and an individual property owner were opposed to the manner in which the subject parking lot was maintained but not to the use of the site as a parking lot. The opposition stated that the applicant had not complied with the Board's prior order in that trees were never planted and that the chain fence was broken in many places and that the posts had been knocked down or bent over; that the masonry wall was broken off in sections and cracked in other sections, that the lot was not cleaned but littered with cans, bottles and other trash; there was a dumpster on the parking lot occupying one of the parking spaces and that this dumpster generated further trash. The opposition urged that approval of the lot **should** be for a period of one year so that the lot could be monitored.

13. At its public meeting of March 5, the Board tentatively approved conditionally the application. The Board requested the applicant to submit a detailed landscaping plan and a program for the policing and maintenance of the lot. The additional evidence requested was served on all the parties. All opposing parties agreed to the landscaping plan. The ANC further stated that it planned to contact the stores on Wisconsin Avenue and seek their cooperation in keeping the lot clean.

14. The Board concurs with the objections raised by Advisory Neighborhood Commission 3E, the Friendship Neighborhood Coalition and individual neighbors. It notes that the opposition expressed is not that the application should not be granted, but if granted, that the aforementioned objections should be included as conditions to the granting of the application. The Board again concurs.

CONCLUSIONS OF LAW:

The Board is required to give "great weight" to the issues and concerns raised by the ANC. It notes that said issues and concerns were also voiced by a neighborhood association and residents. The applicant has been dilatory in conforming to the conditions imposed by the previous Order of the Board, but appears to be coming into conformance. Based on the record, and with the conditions hereinafter listed, the Board concludes that the application can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property, if the below listed conditions are adhered to and if the visual impact of the unsightliness of the lot is reduced. The Board further concludes that the application has substantially conformed with Sub-paragraph 3101.410 of the Zoning Regulations. Accordingly, it is 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 Final Order.
- b. The trash dumpster shall be removed and not maintained on the lot.
- c. The property shall be cleaned of all trash and debris on a regular basis three days per week, namely Sunday, Wednesday and Friday.
- d. The masonry wall shall be repaired and maintained at all times, regardless of weather or availability of materials.
- e. The property shall be properly landscaped in accordance with the plans marked as Exhibit No. 32 of the record.

Application No. 13159  
Pate No. 5

- f. The chains and posts along the eastern boundary shall be replaced and repaired in an orderly manner.
- 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. Bumper stops **shall** be erected and maintained for the protection of all adjoining buildings.
- i. No vehicle or any part thereof shall **be** permitted to project over any lot or building line or on or over the public space.
- j. 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.
- k. 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.
- l. 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, William F. McIntosh, Connie Fortune and Leonard L. McCants to grant, 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

Application No. 13159  
Page No. 6

FINAL DATE OF ORDER: 15 JUL 1980

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.

1b