

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13195, of Angelo A. Puglisi, 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 721-23 - 6th Street, N.W., (Square 486, Lots 11 and 12).

Application No. 13196, of Louis P. Gatti and Hugh Gittinger, 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 732-738 - 5th Street, N.W., (Square 486, Lots 21-25).

HEARING DATES: March 19 and May 14, 1980

DECISION DATE: June 4, 1980

DISPOSITION: Both applications No. 13195 and 13196 were heard and determined on the same dates. The Board GRANTED both applications conditionally for a period of TWO YEARS (William F. McIntosh, John G. Parsons, Connie Fortune and Leonard L. McCants to GRANT; Charles R. Norris not voting, not having heard the cases).

FINAL DATE OF ORDERS: July 15, 1980

ORDER

FINDINGS OF FACT:

1. Counsel for the applicants in application Nos. 13195 and 13196 filed a timely motion for reconsideration. Counsel requests the Board to grant both subject applications for a period of FOUR YEARS to conform with the Board's decision on BZA Application No. 13147.

2. Application No. 13147 was heard by the Board on January 23 and March 19, 1980. It was decided on April 2, 1980. The Final Date of the Order was June 2, 1980. The Board GRANTED the application for a period of FOUR YEARS.

3. Application No. 13147 sought the same relief from the Board as did application Nos. 13195 and 13196, namely a special exception to continue the use of a parking lot and for a variance to permit all-day commuter parking. In addition, the premises of all three applications are located in an SP-2 District and all three parking lots are in the same subject square 486.

4. The subject property in BZA Application No. 13147 is located at 727-727 - 6th Street, N.W. (Square 486, Lots 804, 805, 806, 807 and 808).

5. Counsel argues that the Board has determined that all three parking lots, in conjunction with another, are adjacent to one another and are operated as one big parking lot. All four lots have commuter parking contracts. Many spaces are leased by the Department of General Services as all-day parking for their official vehicles. Counsel requests that the subject three parking lots be approved for the same period of four years.

6. Pursuant to Paragraph 4101.41 of the Zoning Regulations, a parking lot in existence on October 5, 1978 under approval by the BZA 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 and, among other requirements, does not provide all-day commuter parking. The BZA has no authority under this paragraph to approve the establishment of any new parking lots.

7. There was no opposition to application Nos. 13195 and 13196. There was opposition to application No. 13147. The Board in Finding No. 10 of BZA Order No. 13147 stated "There was opposition to the application from an adjoining property owner on the basis that the cars using the lot rammed into the side of his building. Bricks have had to be replaced and the inside and outside walls of the building had to be refinished. The problem has been in existence for several years. The opposition testified that he reported the damages to the office of the operator of the lot but to no avail. It is the applicant's position that the damages to the building were not caused by his operation of the parking lot, but by persons using the lot after the commercial operation had closed."

8. The Board held a further hearing on application No. 13147. One of the issues at the further hearing was the extent of the physical damage done to the abutting property.

9. In its Final Order in BZA Order No. 13147 the Board conditioned its grant in condition "b" as follows:

- b. The applicant shall erect a thirty-inch high masonry wall located two feet from the adjoining building to the south within sixty days from the date of this Board's Order.

CONCLUSIONS OF LAW AND OPINION:

The Board is under a mandate in the Zoning Regulations to terminate parking lots in SP-2 Districts. Such parking lots are to be phased out. In application Nos. 13195 and 13196 the Board was of the opinion that a period of two years was sufficient time to accomplish this mandate. In BZA application No. 13147 the Board required the applicant to assume financial expenses in constructing a thirty-inch high masonry wall. In granting the four years the Board was of the opinion that the said financial expenses should be borne over a sufficient period of years.

At the public meeting of September 3, 1980, the motion of Counsel for a Reconsideration was considered. The Board concluded that it had committed no error in deciding application Nos. 13195 and 13196. Accordingly, it is ORDERED that the Motion for Reconsideration is DENIED.

VOTE: 3-0 (Charles R. Norris, Connie Fortune and Leonard L. McCants to DENY; William F. McIntosh not present, not voting).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

22 DEC 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."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13195, of Angelo A. Puglisi, 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 721-23 - 6th Street, N.W., (Square 486, Lots 11 and 12).

HEARING DATES: March 19 and May 14, 1980
DECISION DATE: June 4, 1980

FINDINGS OF FACT:

1. The application was originally advertised to be heard on March 19, 1980. On that date, the Board determined that the property had been posted with notice of the hearing for only six days, instead of the ten days required by Section 3.33 of the Supplemental Rules of Practice and Procedure. The Board continued the matter for hearing on May 14, 1980. The property was properly posted for the May 14, 1980 hearing.

2. The subject property is located on the east side of 6th Street, between G and H Streets, N.W. It is known as 721-723 - 6th Street, N.W., and is in an SP-2 District.

3. The subject property is currently operated as a parking lot pursuant to BZA Order No. 12128, dated February 8, 1977.

4. The applicant proposes to continue to operate the lot, and requests a variance from the provision of Sub-paragraph 4101.413 to permit all-day commuter parking.

5. The subject property is fifty feet wide and eighty-five feet deep. The subject lot accommodates twenty vehicles, parked five abreast in four rows. Access to the lot is from a 16.75 foot wide public alley which parallels 6th Street. The alley connects to G and H Streets, and, through a thirty foot wide east-west alley, to 5th and 6th Streets.

6. The lot is operated by Parking Management Inc., between the hours of 7:30 a.m. and 6:00 p.m. Monday through Friday. There is an attendant on duty. At other hours, the lot is left open for use by anyone in the neighborhood.

7. The lot is operated by PMI in conjunction with other existing lots in the northern half of this square. All of such lots are operated as one. Some of the other parking spaces are before the Board in application No. 13196, which was filed and heard at the same time as this application. An additional part of the lot was recently before the Board in application No. 13147, which was granted for four years by Order dated June 2, 1980.

8. There is a total of approximately 166 cars on all the lots involved. Approximately fifty per cent of that total is rented on a monthly basis. The remaining spaces are available on a daily basis. Many of the monthly spaces are leased by the D.C. Department of General Services as parking for official vehicles.

9. The lot is in compliance with the appropriate requirements of Article 74 and the conditions of the prior BZA Order.

10. The lot has been operated in the past so as not to create dangerous or objectionable traffic conditions. There is no evidence that conditions have materially changed so as to cause objectionable conditions in the future.

11. The immediate neighborhood consists of restaurants, carry-outs, bars and vacant structures. Located nearby are the General Accounting Office, Bergman's laundry, St. Mary's Church and the Potomac Building.

12. There was testimony that the other uses in the near vicinity of the subject parking lot do not generate sufficient patronage to the lot to make it a viable operation without the commuter parking.

13. The applicant testified that if commuter parking was not allowed, then the lot would have to be closed down. The applicant has been unable to acquire other parcels to make a land assembly large enough to encourage SP-2 development. The applicant further testified that the existing market conditions are also unfavorable for development.

14. The representative of PMI, testified that he had received no complaints about the appearance, maintenance and operation of the subject lot.

15. There was no report from Advisory Neighborhood Co Commission - 2C.

16. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception and a use variance. As to the special exception the Board concludes that the applicant has substantially complied with the requirements of Paragraph 4101.41 of the Zoning Regulations and that the special exception, as hereinafter conditioned, 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. As to the use variance, the variance to permit all-day commuter parking, this requires a showing of a hardship upon the owner of the property that arises from the property itself. The Board notes that approximately one-half of the subject parking lot is used for commuter parking, that the other uses in the near vicinity of the subject parking lot do not generate short term parking needs and that part of the subject lot in addition to the other three adjacent parking lots operated basically as one unit, is leased to the D.C. Government for official vehicles. The Board concludes that since one part of the subject property is leased for commuter parking and that the physical location of the parking lot precludes its use by short term parkers, the hardship is inherent on the property. The Board further concludes that with a final two-year limitation conditioning the grant herein, the use variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the special exception and variance are GRANTED SUBJECT to the following CONDITIONS:

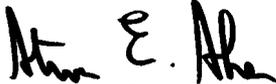
- a. Approval shall be for a period of two years from the date of expiration of the previous Certificate of Occupancy.
- b. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- c. Bumper stops shall 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, John G. Parsons, 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
Executive Director

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.