

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



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

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 west side of 5th Street, between G and H Streets, N.W. It is known as 732-738 - 5th 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. 12553, dated March 3, 1978.
4. The applicants propose to continue to operate the lot and request a variance from the provision of Sub-paragraph 4101.413 to permit all-day commuter parking.
5. The subject property is 125 feet wide and eighty-five feet deep. The subject lot accommodates forty-four vehicles, parked eleven abreast in four rows. Access to the lot is from 5th Street and a 16.75 foot wide public alley which parallels 5th Street. The alley connects to G and H Streets, and, through a thirty foot wide east-west alley, to 5th and 6th Streets

There is a ten foot aisle through the lot connecting 5th Street to the alley.

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. 13195, 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 applicants testified that if commuter parking was not allowed, then the lot would have to be closed down. The applicants have been unable to acquire other parcels to make a land assembly large enough to encourage SP-2 development. The applicants 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 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
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.