

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13204, as amended, of Pedro and Paulo Petrovitch, 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 as accessory parking for an auto repair shop in an R-5-B District at the premises 1309-1311 P Street, N.W., (Square 241, Lots 800 and 801).

HEARING DATE: April 16, 1980
DECISION DATE: July 2, 1980

FINDINGS OF FACT:

1. The subject site was advertised as Square 241, Lots 89, 800 and 801. This was in error since the applicants did not own Lot 89 when the application was filed. In all previous Orders of the BZA which permitted the proposed use ownership of Lot 89 was in the applicants. The three lots were first approved for accessory parking by the BZA in Order No. 6923 dated 1962. It was most recently approved in BZA Order No. 12242, dated March 21, 1977, for a period of three years.
2. The subject Lots 801 and 800 are located on the north side of P Street between 14th Street and Kingman Place, N.W. and are known as 1309 and 1311 P Street, N.W. They are in an R-5-B District.
3. The applicants operate an auto repair shop of three stories in height at the northeast corner of the intersection of 14th and P Streets, N.W. The subject parking lot is located directly east of the repair shop and separated from it by a ten foot public alley.
4. The lot is forty feet wide by 125 feet deep. It contains spaces for thirty cars in two rows. Seventeen spaces are located in the eastern row, perpendicular to and approximately two feet from the east side lot line. Thirteen spaces are located in the western row adjacent and at an angle to the alley. Access to all spaces is from the ten foot wide public alley which connects to P Street. The eastern row of spaces is accessible only by crossing the western row of spaces.

5. The lot is used by both the Petrovitch business and the Market Tire operation located immediately adjacent to Petrovitch and directly across from the north end of the parking lot. Approximately eight to ten spaces are used by Market Tire, with the remainder used by the applicant.

6. The Petrovitch business uses all three floors of the building it occupies. The first floor is used for automotive repair, the second floor for body and fender work, the third floor for painting and storage.

7. Row dwellings adjoin the parking lot along P Street and a small apartment building along Kingman Place adjoins the lot to the north. The ten foot public alley separating the parking lot from the auto repair shop also forms the boundary between a C-M-3 District to the west and the R-5-B District wherein the parking lot is located. The R-5-B District encompasses the area around Logan Circle. To the north is an R-4 District and to the south is an R-5-C District and a C-2-B District. In general, 14th Street in this area is devoted to commercial uses and there are a number of auto repair shops and other automobile related business establishments within a few blocks north and south of P Street. The areas to the north and east are predominantly residential and include the Logan Circle area. Row dwellings, some of which are quite large, are the predominant building type in these areas.

8. The subject auto repair shop and parking lot are in operation from Monday through Friday. There are fourteen employees. The lot is unenclosed. It is available to the neighborhood after working hours. There is no attendant on the lot. A customer leaves the car at the repair shop and it is driven to the parking lot by an employee of the applicant. The applicants clean and maintain the parking lot.

9. The Office of Planning and Development, by report dated March 27, 1980, recommended that the application be approved with conditions. The OPD reported that the application was referred to the Department of Transportation for its review and report. The OPD noted that on-street parking is extremely limited in the immediate vicinity. No parking is allowed on P Street, and 14th Street has metered parking. Parking on Kingman Place is unrestricted. However, it is a small residential street and many cars were illegally parked at the time of the OPD inspection of the site

The Office of Planning and Development was of the opinion that this parking lot is reasonably necessary to accommodate customers of the adjacent auto repair shop. An inspection of the property revealed that the lot was free of trash and debris. It was OPD's opinion that the lot does not result in objectionable traffic conditions nor does it adversely affect the present character and future development of the neighborhood. The OPD recommended that this application be approved for a period of three years subject to compliance with the provisions of Article 74 of the Zoning Regulations. Except as to the physical condition of the parking lot the Board so finds.

10. There were letters in support of the application filed in the record. There was a petition of record, some seventeen signatures in favor of the application on the grounds that the parking lot eased the limited street parking in the neighborhood and that the applicants maintained a clean and safe lot, enjoyed a good reputation in the neighborhood and were considered good neighbors.

11. The Commissioner from single member district ANC-2C01 recommended that the application be GRANTED on the grounds that the single member district residents recommended it. The Board is required by statute, to give "great weight" to the issues and concerns of the Advisory Neighborhood Commission only in that situation where the recommendation of the entire ANC is concerned and not to the single member commissioner. No written recommendation by ANC-2C was filed in the subject application.

12. There were letters of record in opposition to the application including one from Councilmember John A. Wilson. There was a petition of some thirty-seven signatures in opposition to the application. At the public hearing one party, the next door neighbor on P Street appeared in opposition. The general grounds of the opposition were that the applicants had not complied with the conditions of the previous Orders of the Board in that they had not met the requirements of Article 74 of the Zoning Regulations and that the continuation of the present use does affect adversely the present character and future development of the neighborhood. More specifically, it was asserted that the parking lot is a nuisance to the community because of the problems which emanate from the lot such as disturbing noises, abandoned cars, litter, prostitutes, late night parking, use of the site on weekends by neighbors for their own auto repairs, congregation of crowds in the evenings and weekends and that the applicants had leased part of the lots. It was further asserted that the immediate neighborhood has undergone substantial improvement through renovation of both commercial and residential properties and many vacant properties have been returned to residential use and since the subject site is in an R-5-B District, residential use should be encouraged.

13. The Board, prior to making its decision, directed the opposition to serve its extensive statement of opposition on the applicants and for the applicants to serve their reply thereto upon the opposition.

14. The Board directed the staff to make an inspection of the site and file a report. The report was served on the parties prior to the decision making meeting of July 2, 1980. The staff reported that it personally inspected the parking lot located at 1309-1311 P Street, N.W. operated by Pedro and Paulo Petrovitch as an adjunct to the automobile repair business operated at the corner of 14th and P Streets, N.W. It inspected the property on Tuesday, May 27, between 4:30 and 5:00 P.M., on Thursday, June 12, between 7:45 and 8:15 A.M. and Tuesday, June 24 between 11:15 and 11:45 A.M. The lot was fully occupied during the evening and mid-day inspections, and cars were filling the lot in the morning, ten cars as of 8:00 A.M. The staff found that there is no room for addition parking in the building. The parking for both the auto repair and tire business appears to be a reasonable and necessary adjunct to those businesses, in order to keep cars from parking on surrounding streets.

There was one issue related to the parking lot upon which the staff was unable to make a conclusive determination. The opposition alleges that the parking lot extends over the property line into public space. The lot does in fact extend past the fronts of the adjoining buildings, but the staff was unable to determine where these buildings are located relative to the lot lines. After considerable research, the staff determined that the property line is twenty-nine feet back from the curb. By the best estimate of the staff, two or four parking spaces may actually be in public space. The staff found on its inspection that the lot is not maintained in a first-class manner. It is paved with an all-weather asphalt surface which has been patched many times in many places and is rough and uneven. The lines marking the spaces are faded and difficult to see. There are two signs marking the lot for private parking. Both are faded with peeling paint. One is leaning over at an angle. There are weeds, broken glass and other trash on the edges of the lot. That is also true of the alley and much of the area in general. The Board so finds.

15. The Board is appreciative of the diligent efforts the opposition has demonstrated in alerting the Board to the concerns of some of the neighborhood residents. In addressing these concerns, the Board states that it must be clear to all parties that the relief sought is through a special exception. It is not a matter-of-right. It is sufficient in granting the accessory parking that the applicants comply with the requirements of Paragraph 3104.44 of the Zoning Regulations. Even though the subject lots are zoned R-5-B it is not required of the applicants that they demonstrate that the subject property cannot be put to a residential use.

The subject use has been in existence since 1962. The records of the BZA do not reflect that prior to the present application such opposition was engendered. Now that the opposition is known, the Board is empowered to impose further conditions on any grant that should meet the concerns of the opposition. That is not to say, however, that the Board must act as the enforcement agency for all the asserted evils listed by the opposition. If there is loitering, crime, prostitution, noise, abandoned cars, there are agencies of the District of Columbia Government which have the jurisdiction and authority to control such activities. The Board cannot.

There are elements of the opposition's concerns that fall within the responsibility of the applicants. The Board can and will impose conditions, hereinafter listed, that will insure the applicant's duty to operate and maintain the subject lots in an approved manner. The applicants will be given an opportunity over a very limited time period to establish if they are responsive to the conditions. The applicants are further alerted that any change in the conditions of the Certificate of Occupancy must be reported to the Zoning Administrator.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicants are seeking a special exception, the granting of which requires a showing of compliance with the requirements of the provisions of Paragraph 3104.44 of the Zoning Regulations. The Board concludes that with the conditions imposed hereinafter, the applicant will satisfy the requirements of Paragraph 3104.44 of the Zoning Regulations and 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. As stated in Finding No. 15, the Board does not minimize the grounds of the opposition and cautions the applicants to be attentative thereto. The Board reasserts that since the relief requested by the applicants is through a special exception, the applicants are not required to put the subject lots to residential use. The Board also reasserts that many of the grounds of the opposition can be met through enforcement by other departments of the District of Columbia Government and that the BZA has no such jurisdiction. 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 entire lot shall be resurfaced and relined.

- c. The applicant shall clean the lot on a daily basis, and maintain a log showing when and by whom such cleaning was accomplished.
- d. The applicant shall erect a six foot wrought iron fence across the front of the lot and landscape the area in front of the fence with evergreen shrub hedges.
- e. The present signs shall be removed.
- f. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- g. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- h. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- 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 (Walter B. Lewis, Connie Fortune, William F. McIntosh, 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:

25 AUG 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.