

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA Application No. 13216, of John R. Pinkett, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.52, or in the alternative Paragraph 3104.44, to continue the operation of a parking lot in an R-4 and C-2-A District at the premises 1513-1517 9th Street, N. W., (Square 397, Lot 30).

BZA Application No. 13217, of John R. Pinkett, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to continue the use of a parking lot in an R-4 District at the premises 1529 9th Street, N. W., (Square 397, Lot 813).

HEARING DATE: April 23, 1980

DECISION DATES: May 7 and June 4, 1980

FINDINGS OF FACT:

1. At the public hearing, the Board determined that the applicant had failed to comply with a portion of Section 3.33 of the Supplemental Rules of Practice and Procedure. That section requires that the applicant post a notice of hearing on the property, and not less than five days before the date of the hearing, file with the Board an affidavit demonstrating compliance with the posting rule. The affidavit in these cases was filed only two days before the hearing. The applicant testified that the original posters had been removed, and that replacement posters had to be secured. This delayed the filing of the affidavit. The applicant testified that the property had been properly posted in accordance with the Supplemental Rules. For good cause shown, the Board waived the timely filing requirements for the affidavit.

2. Both of the subject properties are located on the east side of 9th Street between P and Q Streets. Both properties are owned and used by the applicant. Both were last approved in one application by the Board. The Board therefore consolidated the cases for the purpose of public hearing.

3. The property located at 1513-1517 9th Street is a part of Lot 30. The lot is split zoned with the southern portion zoned C-2-A and the northern portion zoned R-4. The portion zoned C-2-A is completely occupied by a two-story brick office building known

as 1507 9th Street occupied by the applicant. The portion of lot 30 zoned R-4 is used as a parking lot which can accommodate nine cars.

4. The property located at 1529 9th Street is used as a parking lot to accommodate four cars.

5. Both parking lots are for the use of employees of the applicant. The lot at 1513-17 is also used by customers and clients of the applicant. That lot is also used in the evenings, on Saturdays and on Sundays by persons attending the Shiloh Baptist Church, which is located across the street at the northwest corner of the intersection of 9th and "P" Street, N. W. There is no charge for the use of the lot.

6. The applicant has used both parking lots as accessory parking to service its adjacent offices since it acquired the property in 1964. The Board has periodically approved the use of the lot, most recently in Application No. 12318 by Order dated May 27, 1977.

7. For the lot at 1529 9th Street, the applicant requested a special exception under Paragraph 3104.44. For the lot at 1513-1517 9th Street, the applicant requested consideration by the Board under either Paragraphs 3104.44 or 3104.52. The Board has no jurisdiction under Paragraph 3104.52. That paragraph permits, without Board approval, parking spaces which are accessory to a principal R-4 use located on the same lot as that use. The R-4 paragraph that gives the Board jurisdiction over accessory parking is 3104.45. However, that paragraph applies to "accessory parking spaces elsewhere than on the same lot or part thereof on which any principal R-4 or R-5 use is permitted..." (emphasis added). Since the subject spaces are accessory to a commercial use, Paragraph 3104.45 is not applicable. Paragraph 3104.44 is therefore, the proper relief open to the applicant.

8. The applicant has over forty employees, over fifteen of which are real estate salesmen, property managers, insurance salesmen or real estate appraisers. The appraisers and salesmen use their cars in their business, not just to drive to and from work.

9. The office building located at 1507 9th Street contains 7,984 square feet of gross floor area. No parking is required because the building existed prior to May 12, 1958, and was used commercially prior to May 12, 1958 legally without parking.

If the building was erected today, it would require ten parking spaces. Granting the two applications will enable the applicant to provide thirteen parking spaces for the use of its employees and clients on the two lots.

10. Both properties are in compliance with the applicable requirements of Article 74 and all of the conditions of the previous BZA Order. The lot is paved with an all-weather impervious surface. The spaces are clearly marked. There is a brick wall at the front of the lot at 1513-1517 9th Street. There are no commercial advertising signs posted on the lot. The lot is swept clean on a daily basis.

11. There are a large number of non-conforming commercial uses located on both sides of 9th Street between "P" and "Q" Streets. The Shiloh Baptist Church is located at the northwest corner of the intersection of 9th and "P" Streets. The Church has also cleared a large parcel adjoining the existing building on the north for future construction of an addition. There is a large Giant Supermarket and other commercial uses located on the east side of 9th Street between "P" and "Q" Streets.

12. Access to both lots is from 9th Street, which is a six lane wide, heavily traveled street. No dangerous or objectionable traffic conditions have existed in the past, and none are likely to occur in the future.

13. The applicant requested the Board to approve the use of the lot at 1513-1517 for an indefinite period.

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

15. There was no opposition to either application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that both applications are properly before the Board under Paragraph 3104.44, as set forth in Finding of Fact No. 7. The Board has no jurisdiction to consider relief under Paragraph 3104.52.

The Board concludes that the applicant has established all of the facts necessary for the Board to grant the requested special exceptions. All of the provisions of Article 74 have

been complied with. There are no commercial advertising signs on the lot. There will be no dangerous or objectional traffic conditions. The lots have not and will not adversely affect the present character or future development of the area. The lots are reasonably necessary and convenient to the office use to which they are accessory. The Board concludes that the applicant has met its burden of proof. The Board further concludes that the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps, and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps.

As to the request of the applicant to approve the lots for an indefinite period, the Board concludes that there is no provision of the Regulations which requires the Board to set a time limit on approval of a parking lot. The Board has usually approved parking lots for limited specified periods because such lots are ordinarily interim uses, being held by the owners pending future development. Furthermore, the Board is also able to review the manner in which the lot is operated, to assess its impact on the neighborhood. In the subject case, the Board concludes that it is unnecessary from either perspective to continue to require this applicant to periodically reapply to the Board for permission to use both the lots. The record reflects that the lots are not being held for development but provide accessory parking serving the needs of the applicant. Further, the lots have consistently met and exceeded the standards of the regulations since 1964, and have consistently been maintained in an exemplary manner. It is therefore ordered that the applications are hereby granted, subject to the following conditions:

- a. Approval for the parking lots shall remain in effect as long as the lots are reserved for the exclusive use of the John R. Pinkett Real Estate and Insurance Agency. Upon termination of this use at 1507 - 9th Street, N. W., the parking lots shall also cease operation.
- 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.
- h. The Board reserves the right to direct revocation of the Certificate of Occupancy upon a proper showing that any of the conditions of the order or the Zoning Regulations have been violated.

VOTE: 4-0 (Walter B. Lewis, William F. McIntosh, Connie Fortune and Leonard L. McCants to grant, Charles R. Norris not present, not voting).

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

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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.