

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13413, of the Corcoran Gallery of Art, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 7205.3 to provide accessory parking spaces at 2015 Massachusetts Avenue, N.W., for the subject premises, or in the alternative, for a variance from the parking requirements (Sub-section 7202.1) to use the first, second, third and fourth floors of the subject premises as professional offices in a C-2-A District at the premises 1503 - 21st Street, N.W., (Square 95, Lot 804).

HEARING DATE: January 28, 1981  
DECISION DATE: April 1, 1981

STATUS: The Board GRANTED the special exception by a vote of 3-1 (Charles R. Norris and Connie Fortune to GRANT; Douglas J. Patton to GRANT by PROXY; William F. McIntosh OPPOSED).

FINAL DATE OF ORDER: June 9, 1981

ORDER

On June 19, 1981 Advisory Neighborhood Commission - 2B filed a timely Motion for Reconsideration and Rehearing. The motion alleged basically that the ANC was denied a fair hearing and that the Board had not given the "great weight" to the ANC that is required by statute. Upon consideration of the Motion, the reply of applicant and the Final Decision, the Board concludes that the motion provides no new material evidence that the Board had not previously considered. At the public hearing all interested parties, including the ANC, were afforded the opportunity to give testimony and present their evidence. The Board further concludes that it has addressed the issues and concerns of the ANC, and has thus accorded to them the great weight required by the statute. The Board is not required to accept or agree with the position of the ANC. Accordingly, it is ORDERED that the Motion for Reconsideration and Rehearing is DENIED.

VOTE: 4-0 (Charles R. Norris, Connie Fortune, Douglas J. Patton and William F. McIntosh to DENY; Lindsley Williams ABSTAINED).

BZA APPLICATION NO. 13413  
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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 27 JUL 1981

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



BZA Application No. 13413, of the Corcoran Gallery of Art, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 7205.3 to provide accessory parking spaces at 2015 Massachusetts Avenue, N. W., for the subject premises or in the alternative, for a variance from the parking requirements (Sub-section 7202.1) to use the first, second, third and fourth floors of the subject premises as professional offices in a C-2-A District at the premises 1503 21st Street, N. W., (Square 95, Lot 804).

HEARING DATE: January 28, 1981

DECISION DATES: February 4, March 4 and April 1, 1981  
and June 3, 1981

FINDINGS OF FACT:

1. The subject property is located in a D/C-2-A District on the east side of 21st between "P" Street and Massachusetts Avenue, N. W. The premises is known as 1503 21st Street, N. W.

2. The subject lot is irregularly shaped, having a width of 51.84 feet at the front and 57.67 feet at the rear.

3. The subject property is improved with a four story brick structure extending the full width of the lot.

4. The subject building was constructed in the early 1900's as a single family dwelling. It was used as such until 1951, when it was converted to commercial use. In 1963 it became an art gallery. Since 1968, the Corcoran Gallery has owned the property and used it as a museum and art school run by the gallery. At its maximum occupancy, the building accommodated seven staff members and thirty-two student artists. The building is presently vacant.

5. The applicant proposes to sell the building to the law firm of Margolius, Davis and Finkelstein, which would use the entire building for its law offices. The firm now has a total of sixteen employees. It projects that ultimately it would have approximately thirty employees. The office hours of the firm are from 9:00 A.M. to 5:30 P.M.

6. In a C-2-A District, an office is required to provide one parking space for each 600 square feet of gross floor area above 2,000 square feet. The subject building contains 7,711.33 square feet of gross floor area, and would thus normally be required to provide ten parking spaces. Because the building was

built prior to 1958, Sub-section 7201.2 requires that parking spaces be provided only to the extent that the required spaces exceed the number required for the previous use. The applicant is therefore required to provide six spaces on the site.

7. The subject site has no off-street parking. There are no alleys providing access to the rear yard. Because the building occupies the full width of the lot at the front, it is thus not possible to provide parking on an open area of the lot. It is not possible to provide parking in the building.

8. The applicant therefore seeks relief from the requirement to provide six spaces on-site. The applicant seeks either a variance to provide no parking or a special exception under Sub-section 7205.3 to provide the required parking on another lot.

9. The applicant proposes to lease six spaces in the garage of the Embassy Row Hotel. The Hotel is located at 2015 Massachusetts Avenue, which is approximately 350 feet from the property. The Hotel's agreement to provide such spaces for a period of ten year is marked as Exhibit No. 11 of the record. The six spaces which the Hotel proposes to lease are not parking spaces required for the Hotel under the Zoning Regulations.

10. The square in which the property is located has no available areas to provide off-street parking for the subject site. To the north of the site is the existing embassy and chancery of the Government of Indonesia. To the south of the site are three four-story buildings, one of which is vacant, one of which is devoted to residential use and one of which is devoted to office use. To the east of the site is the rear of a lot containing a building devoted to office and residential use. The remainder of the square is devoted to office uses and existing accessory parking.

11. The location of the six accessory parking spaces at 2055 Massachusetts Avenue will provide reasonable and convenient parking facilities for the subject site. The Hotel is within one block of the site, and is only a two minute walk away.

12. The spaces to be provided are located in the existing garage of the Hotel, and are not visible from public view. They are thus preferable to spaces located in a parking lot.

13. Advisory Neighborhood Commission 2-B, by statement dated January 28, 1981 opposed the application. The ANC was concerned about the use of the entire building for office space. The ANC argued that the subject building exceeded the permissible commercial FAR of 1.5. The ANC was also concerned about the impact on the parking situation in the neighborhood. The ANC cited other developments in the area which contributed to the

parking problems. The ANC questioned whether the spaces in the Embassy Row Hotel would actually be available.

14. The Dupont Circle Citizens Association noted the same concerns as the ANC as to the office FAR and parking. The Association opposed the variance to eliminate the parking entirely, but did not oppose the special exception regarding providing the parking off-site. The Association also raised questions concerning the location of certain air-conditioning equipment and the facade of the building.

15. The Board is required by statute to give "great weight" to the issues and concerns of the Advisory Neighborhood Commission. In response to those issues, and others raised at the hearing, the Board finds as follows:

- A. The subject property is located in a D/C-2-A District. Office use is permitted in such district as a matter-of right.
- B. The previous use of the property as a museum and art school was not a residential use, even though such a use is permitted in a residential district. As defined by Webster's Unabridged Dictionary, "residential" means "used, serving or designed as a residence." A "residence" is "a building used as a home." The entire building is therefore eligible to be used for office space, and no variance is required.
- C. The Board is mindful of the scarcity of parking in the subject area. For that reason, the Board will not grant a parking variance, but will require that parking be provided off-site.
- D. There is parking available in the Embassy Row Hotel. The Hotel has no parking lease agreements other than that which it entered into with the subject law firm. Under BZA Order No. 12181, the Hotel has the right to lease nine parking spaces. Those parking spaces exceeded the amount required for the Hotel by the Zoning Regulations.
- E. The applicant in the subject case cannot be deprived of zoning relief because other developments may occur in an area which are not required to and do not provide parking.
- F. The issues raised as to the location of air-conditioning equipment and the facade of the building are not material to the application.

16. After the hearing and prior to the meeting of the Board to consider the application, ANC 2-B filed a Motion for Summary Denial. The ANC argued that the Embassy Row Hotel was utilizing more parking spaces than it is permitted to have under the Zoning Regulations. The ANC further argued that the lease of spaces by the Hotel as proposed would be contrary to the intent of the Zoning Regulations for SP Districts. The ANC further alleged that the spaces in the Hotel garage are not open spaces, and Sub-section 7205.3 is thus not applicable. The ANC also requested further hearings on those issues.

17. The applicant responded to the ANC's Motion by arguing that the Motion is inappropriate under the Board's Rules. The applicant further argued that the Hotel has the right to lease nine spaces under BZA Order No. 12181, that six of those spaces are to be leased to the subject law firm, that the Hotel has no other lease for parking and that there was no impediment for the Hotel to lease the spaces to the law firm. The applicant further argued that the rezoning of the subject property from R-5-D to SP-1 did not alter the Hotel's right to lease spaces under Order No. 12181. The applicant further argued that the Board's consistent interpretation of Sub-section 7205.3 has been to allow parking spaces located in garages.

18. The ANC filed a second Motion to Reopen the Record and for Further Hearings. In that motion the ANC argued that the use of the parking spaces in the Hotel was not in conformity with the Zoning Regulations, and consequently the application must be denied. The applicant responded that the alleged zoning violation is a matter for the Zoning Regulations Division to handle in accordance with proper procedures, and was not a basis to deny the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking either a special exception or a variance. In order to be granted the requested exception, the applicant must demonstrate that it has complied with the requirements of Sub-sections 7205.3 and 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied.

The Board concludes that it is not practical to locate the required parking spaces on the property at 1503 21st Street, because there are no alleys or appropriate ingress and egress to the rear of the building. The Board concludes it is not possible to locate such spaces on adjoining properties or in the same square. The Board concludes that the use of six spaces in the Embassy Row Hotel garage is reasonable and convenient to the subject building and that such spaces are less than 800 feet from the subject site.

The Board further concludes that there is no provision under the Zoning Regulations or the Supplemental Rules of Practice and Procedure for the filing and consideration of a Motion for Summary Denial. If an application is properly before the Board, as is the subject application, the Board must hear it, and decide it on the merits. This case was heard, and the Board must evaluate and make findings and conclusions on contented issues. The motion for Summary Denial is thus denied.

In determining that the application can be granted as a special exception, the request for a variance is moot. The Board therefore makes no conclusions as to the requested parking variance.

As to the Motion for Further Hearings, the Board has explicitly determined that the Embassy Row Hotel has the right granted by BZA Order No. 12181 to lease nine parking spaces. Six of those nine spaces would be committed to the subject law firm. If there are any zoning violations in the Hotel's use of the garage, the Zoning Regulations Division can appropriately enforce the Regulations. The Motions for Further Hearing are thus denied.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. The Board further concludes that the special exception can be granted as 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. It is therefore ordered that the application is granted as a special exception SUBJECT to the condition that the certificate of occupancy for professional office use of the premises at 1503 21st Street, N. W. shall be valid only as long as the owner of that property has a lease for six parking spaces located in the garage of the Embassy Row Hotel at 2015 Massachusetts Avenue, N. W.

VOTE: 3-1 (Charles R. Norris, and Connie Fortune to grant, Douglas J. Patton to grant by proxy, William F. McIntosh opposed).

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

ATTESTED BY: Steven E. Sher  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 9 JUN 1981

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.