

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13578 of the Trustees of Vermont Avenue Baptist Church, 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 1601-03, 1607-09, rear of 1605 12th Street and 1117 Q Street, N.W., (Square 309, Lots 1, 813, 812, 801, 5 and 44).

HEARING DATE: October 21, 1981

DECISION DATES: November 4 and December 2, 1981

FINDINGS OF FACT:

1. The application appeared on the Preliminary Calendar since the applicant had not complied with Section 3.33 of the Supplemental Rules of Practice and Procedure before the BZA in that it had posted the subject property eight days prior to the Public Hearing instead of the ten days as required by the Rules. The opposition present advised that he had seen the poster and had no objection to the application going forward on the merits. The Chair ruled to waive the normal posting requirements and proceed with the hearing.

2. The subject property is located at the northeast corner of the intersection of 12th and Q Streets, N.W. and is known as premises 1601-03, 1607-09, rear of 1605 12th and 1117 Q Street, N.W. It is in an R-4 District.

3. The parking lot is U-shaped, surrounding on three sides the apartment building located at 1605 12th Street. The apartment house has three units and is occupied. The parking lot as well as the apartment house is owned by the Church. There is a 10.17 foot wide public alley located to the rear of the 12th Street addresses and east of the Q Street address. There are two entrances to the lot from 12th Street and one entrance from Q Street.

4. The subject lot presently serves as accessory parking for the Vermont Avenue Baptist Church. The lot is located at a distance of approximately 250 feet from the Church. The lot is for the exclusive use of the Church membership and visitors to the Church on Sundays and some weekdays.

5. The subject parking lot was last approved in BZA Order No. 12685, dated September 21, 1978. It was approved for a period of four years commencing from July 21, 1977, the date of expiration of the last valid Certificate of Occupancy. The Prior Order, BZA No. 12392, dated September 21, 1977, had been approved for three years. The applicant never obtained a Certificate of Occupancy following that order.

6. The congregation totals approximately 4000 members of which 3000 are active. When Sunday morning services are conducted, the subject parking lot is filled including stack parking. During the time of the services, two volunteers from the congregation direct traffic on the lot.

7. The applicant testified that on Sunday it is impossible to find on-street parking not only in the immediate area of the subject lot but also in the surrounding neighborhood. The applicant further testified that although there are many vacant buildable lots in the neighborhood the streets are packed with vehicles because of the many churches in the area which conduct Sunday services at approximately the same hour as the subject Church. Most of parishioners of the church have since left the neighborhood but return to the Church on Sunday. The applicant believes that if the lot was not available for its parishioners the membership would decline.

8. The Church employs two full time janitors during the day and one part-time janitor at night. All three work under a supervisor who directs the cleaning of the parking lot. The applicant testified that it has received no complaints about the operation and maintenance of the lot.

9. The applicant testified that it has complied with all the conditions in the prior Order of the Board.

10. The Department of Transportation, by memorandum dated August 28, 1981, reported that it identified no adverse impacts arising from the lot. The lot is used for private parking for the congregation. The lot was observed to be clean and in good condition. The DOT had no objection to the granting of the continued use. The DOT noted that the parking plan attached to the subject application did not reflect the actual delineation of the lot. The Board so finds.

11. Opposition to the application was registered at the public hearing by a property owner who resides diagonally across from the lot. The objectant asserted that he was also speaking on behalf of other property owners. The grounds of objection were as follows:

a. While the Church has made a very valuable

contribution to the area, the special exception requested does not directly affect any activities of the Church. For the few hours a week that the parking lot is in use, the mostly out-of-state parishioners could park on the street or in other lots close to the Church. The opposition alleged that, even on Sunday mornings there is parking space available within a four block radius of the Church. There are commercial parking lots almost adjacent to the Church on Vermont Avenue. In general, there is sufficient off-street parking.

- b. The opposition testified that the parking lot causes objectionable traffic conditions in the area on Sunday morning. This results from cars lining up in the street, vying for spaces in the parking lot and creating traffic jams on 12th and Q Street. This situation would be eliminated if the property were not used as a parking lot.
- c. The opposition argued that the lot is a visual eyesore and, in fact, has no masonry wall which screens it from contiguous residential property as is generally the intent in Section 7404.21 of the Zoning Regulations. Although the lot is generally clean, recent visits to the property have disclosed occasional heroin syringes, liquor bottles and other garbage in the area. Despite the fact that the Church has fairly regular activities, the opposition argued that the parking lot is rarely utilized and despite one or two floodlights is not generally well-lit. The opposition testified that the applicant has failed to patrol this property during period of non-use. Thus, it is a potential breeding ground for drug addiction, prostitution, robbery and rape in this area.
- d. The parking lot in question is adjacent to the Logan Circle historical area. The opposition stated that the lot is the only non-conforming use in the immediate area. The opposition alleged that the parking lot has numerous adverse impacts on the neighborhood. The lot has discouraged development in the neighborhood because of the visual unattractiveness of the lot. Other property owners have been unwilling to renovate adjacent property or build new units. The parking lot also causes considerable noise on Sunday mornings. Further, the lot has a depressing effect on property values, adversely affecting local taxpayers. The parking lot degrades the present character of the neighborhood by making it appear commercial and industrial rather than

residential, for which it is currently zoned. The parking lot further detracts from the beautiful historical homes in the neighborhood and the Victorian setting. It is because of the presence of the parking lot that the 1200 block of Q Street, N.W., and surrounding areas have experienced relatively little renovation and certainly much smaller renovation than in the contiguous area of the Logan Circle Historical District.

- e. The applicant's certificate of occupancy, Permit B-111108, expired on July 21, 1981. Thus the applicant is technically operating the property as a parking lot in violation of the D.C. Zoning Regulations.

12. Advisory Neighborhood Commission 2C made no recommendation on the application.

13. The Board in addressing the issues of the opposition finds as follows:

- a. There is no evidence of record to reflect that the opposition is speaking for other than himself.
- b. There is a conflict between the testimony of the applicant and the opposition as to the availability of on-street parking. The applicant has long tenure in the neighborhood. The opposition, by his own statement, has lived in the area for two years. Absent some traffic surveys and substantial evidence on the part of the opposition, the Board finds the opposition's belief are generalities without substance. The Board is more persuaded by the testimony of the applicant. Also, the existence of out-of-state licensed cars is not germane to the determination of the special exception.
- c. The Board, in further questioning the applicant on redirect examination, finds some merit in the issues of opposition as to the cleaning and policing of the lot and landscaping. As hereinafter conditioned, the Board will approve and require a landscaping plan to be implemented. The applicant is now aware of further policing of the area that is needed and will take more prudent means to clean up the area of syringes and liquor bottles as well as other debris.
- d. The subject property lot is not a non-conforming use. It is a use permitted by the Zoning Regulations through a special exception. As to

the adverse impacts on traffic and the neighborhood, the Board finds no substantial evidence of record establishing a causal connection between the parking lot and the alleged lack of development or renovation in the neighborhood. The Board notes the findings of the DOT report cited in Findings of Fact No. 10.

- e. While the applicant is technically without a Certificate of Occupancy for the site the, record reflects that the applicant did file the subject application prior to the termination of the valid Certificate of Occupancy as recommended by the Zoning Administration's office.
- f. The applicant is seeking his relief through a special exception. It has no burden to prove that the site can't be used for residential purposes. Its burden is to comply with the requirements of Paragraph 3104.44 of the Zoning Regulations.
- g. As to the alleged illegal activities of prostitution, robbery, rape, etc that occur on the lot, denial of the subject application does not diminish the likelihood that such activities will occur. Furthermore, prevention of such activities in violation of the law is the responsibility of the Metropolitan Police Department not the BZA.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 3104.44 of the Zoning Regulations and that the relief requested 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. The Board concludes that the applicant has so complied. No dangerous or otherwise objectionable traffic conditions result from the subject use. There was no substantial evidence that the present character and future development of the neighborhood will be affected adversely. The DOT recommended approval of the continuation of the lot. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- A. Approval shall be for a period of FOUR years from the date of expiration of the previous certificate of occupancy, namely until July 21, 1985.
- B. The security chain cable on the perimeter of the parking lot shall be repaired and kept in repair.

- C. A chain link fence shall be installed on 12th Street and Q Street.
- D. The outside woodwork on the house located on the parking lot shall be painted.
- E. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- F. Bumper stops shall be located and maintained for the protection of all adjoining buildings.
- G. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- H. The applicant shall diligently police all parts of the lot, so as to keep the lot free of refuse or debris. The lot shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. The landscaping plan marked as Exhibit 18 of the record shall be implemented.
- I. 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.
- J. 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: 5-0 (Walter B. Lewis, Charles R. Norris, William F. McIntosh and Connie Fortune to grant, Douglas J. Patton to grant by proxy)

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

APR 14 1982

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.