

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13612, of Paul I. Burman, et al., pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue to operate a parking lot and a variance from Sub-paragraph 4101.413 to permit all day commuter parking in an SP-2 District at the premises 1435 Massachusetts Avenue, N.W., (Square 212, all that portion of Lot 119 formerly Lots 808, 809 and 833).

HEARING DATE: March 10, 1982
DECISION DATE: March 10, 1982 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the northwest corner of the intersection of 15th Street and Massachusetts Avenue, N.W. at premises known as 1435 Massachusetts Avenue, N.W. It is in an SP-2 zone District.
2. The subject property is presently operating as a parking facility pursuant to this Board's Order No. 13033, dated March 10, 1980.
3. The applicant proposes the continuation of this lot as a parking facility until July 21, 1983. The applicant has current plans to develop the subject property with a 400 room hotel, which requires this Board's approval. The applicant testified that the extension is temporary and, if granted, will allow him sufficient time to process the hotel application before the Board. The applicant further stated he has entered into a contract with Swissotel to operate the hotel.
4. The subject property contains approximately 46,487 square feet. The site has approximately 319.61 feet of frontage on Massachusetts Avenue, 90.88 feet of frontage on 15th Street and 84.0 feet of frontage along N Street. The lot accommodates 251 vehicles.
5. The subject property is bounded on the north by N Street, a sixteen foot wide public alley and the Town Terrace West condominium, on the east by the Heatherington apartments, on the south by Highland Terrace, a public street adjacent and parallel to Massachusetts Avenue and on the west by 15th Street and three row dwellings. Access to the property is presently provided from 15th and N Streets.

6. The subject property is within an area of predominantly commercial offices, hotels and residential uses. There are few, if any, commercial retail uses.

7. The subject lot was first approved by this Board on December 21, 1959, pursuant to Order No. 5776.

8. The subject lot has been operated by the Diplomat Parking Corporation since 1956. The lot is operated by three attendants from 7:30 A.M. to 7:00 P.M. Ninety percent of the cars using the lot desire all-day commuter parking.

9. The lot conforms with all of the conditions and requirements of the Board's previous Order No. 13033 including the recommendation of the Office of Planning and Development to repair a cracked retaining wall and vigorous policing of the area. No complaints have been made by neighbors to the applicant and operator.

10. The lot is used by several of the surrounding uses including neighboring churches, residences, hotels and offices. The nearby Holiday Inn and other hotels use the subject lot for overflow parking. The National City Christian Church uses the lot for evening services and programs. Neighboring residential uses use the lot for visitors and overnight parking. Other users of the lot include the National Education Association and the National Housing Center.

11. The application requests a special exception under Paragraph 4101.41 to continue to operate a parking lot in the SP-2 District. The application also requests a variance from Sub-paragraph 4101.413 to permit all day commuter parking in the SP-2 District.

12. There were letters of support from surrounding property owners.

13. There was no report from Advisory Neighborhood Commission 2C.

14. There was no opposition to the granting of this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception and a variance. As to the special exception, the Board concludes that the applicant has substantially met the requirements of Paragraph 4101.41 of the Zoning Regulations. The subject parking lot had been in existence on October 5, 1978 under approval of the BZA. Pursuant to Sub-section 4101.411, the use is not likely to be objectionable to adjoining property

owners because of noise, traffic or other objectionable conditions due to the location of the subject site and surrounding uses. Pursuant to Sub-section 4101.412 the present character and future development of the neighborhood will not be affected adversely by the use because of the nature of operation, use as a facility which serves both local residents and commuters and existence as an interim use. Pursuant to Sub-section 4101.413, the lot is used by neighboring uses such as churches, offices, hotels and residential uses.

The applicant complies with the provisions of Sub-section 8207.2 because the proposed continued use of the site for parking purposes for a limited period of time is in harmony with the general purposes and intent of the Zoning Regulations and will not tend to adversely affect the use of neighboring properties.

As to the variance, the Board concludes that the requested variance is a use variance, because the variance requested relates to the manner in which the parking spaces will be used. In order to grant a use variance, the applicant must demonstrate that there is an undue hardship upon the owner arising out of some unique or exceptional condition of the property. The Board concludes that the subject site has no other reasonable use than the continuation of the existing parking facility. The Board concludes that there are not sufficient facilities in the area to generate enough demand for short-term parking and that restriction of use of the lot to other than commuter parking only would create a hardship for the owner.

The Board further concludes that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The proposed parking lot use because of its nature of operation will not adversely affect the present character and future development of the neighborhood. Therefore, this use, as further conditioned by this Order, is appropriate for the site.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- A. Approval shall be until July 21, 1983.
- 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 (Walter B. Lewis, Connie Fortune, William F. McIntosh and Charles R. Norris to GRANT; Douglas J. Patton not present, not voting).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUL 29 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.