

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13676, of Church Street Corporation, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to continue the operation of a parking lot in an R-5-B District at the premises 1522-1526 Church Street, N.W., (Square 194, Lots 50, 51 and 52).

HEARING DATES: February 17 and April 14, 1982
DECISION DATE: May 5, 1982

FINDINGS OF FACT:

1. The subject property is located on the south side of Church Street, N.W. between 15th and 16th Streets, N.W. at the premises 1522-1526 Church Street, N.W.
2. The application was originally scheduled for public hearing on February 17, 1982. 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 the affidavit of posting had been filed four days prior to the public hearing instead of five days. The Chair waived the rule for good cause shown. The Board determined to continue the hearing until April 14, 1982, to provide an opportunity for the parking lot attendant to appear and to permit a representative of the Department of Transportation to be available for cross-examination. The Chair overruled the objection of the Dupont Circle Citizens Association and an individual citizen to the continuance of the public hearing.
3. At the February 17, 1982 public hearing, the issue was raised as to whether Church Street Corporation was in fact the record owner of the subject property. In response to the Board's request, the applicant filed a copy of a deed, dated July 22, 1980 and recorded in the Land Records of the District of Columbia as Instrument No. 24465 on July 31, 1980, as proof that Church Street Corporation is the present record owner.
4. The subject property is located entirely in the R-5-B District and was originally established as a parking lot by the Board of Zoning Adjustment in BZA Order No. 6874, dated July 24, 1962.

5. The Board last granted permission to continue the parking lot in BZA Order No. 13414, dated April 23, 1981, until December 31, 1981. The applicant testified in that proceeding that it had immediate plans to develop the site and requested said termination date.

6. The subject site is bounded on the north by Church Street, N.W., and beyond that, the northern half of Square 194, on the west by Lots 802, 801 and 800 and beyond that, 16th Street, N.W., on the south by a public alley and on the east by Lots 84-89, with Saint Luke's Church and 15th Street, N.W. beyond. Access to the property is currently provided from Church Street, N.W.

7. The subject property consists of three adjacent lots totalling approximately 6,270 square feet. It is sixty-six feet wide and ninety-five feet deep. The lot accommodates twenty-six vehicles.

8. The lot is operated from 7:00 A.M. to 5:30 P.M., Monday through Friday. An attendant is on duty during the working hours. The lot is not secured in any way. Approximately half of the renters of spaces are all-day commuter parkers who are on a monthly contract.

9. The subject parking lot has served the surrounding area for the past twenty years primarily as commuter and guest parking for the SP office uses on 16th Street. The subject lot also provides overnight parking for neighborhood residents and overflow parking for St. Luke's Church and the Foundary Methodist Church. The applicant submitted a list of twelve persons who rent spaces on a monthly basis. Five were employed at the National Rifle Association, at 16th Street and Rhode Island Avenue, N.W., three at the National Geographic at 17th Street, N.W., three at offices on Connecticut Avenue, N.W. and one was a resident of 16th Street, N.W.

10. The lot attendant and the applicant testified that they have received no complaints about the operation and maintenance of the lot. There is a sign on the attendant's shack listing the name and phone number of a party to be contacted on all inquiries regarding the lot. The lot is supervised at all times by the attendant on duty. Trash is collected daily. The present attendant was hired April 1, 1982. He testified that all of the conditions of the Board's prior Order are observed.

11. Given the small size of the lot, only a few vehicles enter and exit the parking lot during peak hour conditions. The Board finds that there is minimal impact on the highway system.

12. When market conditions permit, the applicant proposes to develop the subject property for residential use in accordance with the R-5-B zone.

13. The Department of Transportation, by memorandum of December 11, 1981, reported that the parking lot is no longer used by the Christian Service Corps employees and guests. The Corps has relocated in Maryland. The lot is now used for all-day commuter parking. The lot was observed to be in poor maintenance and overcrowded. Cars were observed being jockeyed onto Church Street with several at a time being stored on the street to allow vehicles on the lot to exit. The DOT recognized the applicant's desire to continue use of the property as a parking lot because of the hardship in funding proposed development. However, the DOT recommended that as conditions for granting the application, the Board require that the lot be used only for short term parking, that the lot be restriped to delineate each nine foot by nineteen foot parking space, that adequate aisle width be provided for vehicle maneuvering, that wheel barriers be installed adjacent to the public alley to prevent protrusion into public space, and that the parking lot be cleaned and maintained.

14. At the April 14th hearing, the representative of DOT testified that conditions had changed since the date of the report. On the basis of reinspection of the lot, the lot was well-maintained and cars were being properly parked. The representative of DOT did recommend that the Board impose as a condition of its granting the application that the lot be used only for short term parking.

15. The Board concurs with the findings of the DOT as expressed at the April 14th hearing. In response to the recommendation by DOT that a condition be imposed restricting the use of the lot to short term parking, the Board finds that Paragraph 3104.44 contains no condition that the lot be used as short-term parking. The Board has authority to impose conditions on the granting of a special exception for the protection of surrounding properties. The record in this case does not reflect that a condition regarding short-term parking is necessary or appropriate.

16. The Dupont Circle Citizens Association opposed the application on the grounds that the site is zoned residential and that it should be put to a residential use, that the site has existed too long as a parking lot and that the current economic times should be no basis to continue a parking lot rather than develop the site. The DCCA also argued that the applicant has failed to establish that the lot is reasonably necessary and convenient to other uses in the vicinity.

17. Advisory Neighborhood Commission 2B opposed the application. The ANC testified that the Board's Order of September 11, 1978 granted permission for one year and noted the continuation should be "for a limited period of time" to allow the new purchaser to reach some determination as to the future use of the building. Then, the Board's Order of April 23, 1981 noted that evidence of immediate plans to build on the site was presented to the Board. As conditioned by the Board, the lot was to terminate on a fixed date and the Board further found that the applicant was moving expeditiously to terminate the parking lot and to commence building. Now the applicant has returned for another special exception claiming funding has been delayed. The ANC further noted that the report of the DOT of December 11, 1981 noted that the applicant was not operating pursuant to the conditions of the prior Order of the Board. The ANC argued that the financial interests of one owner have to be weighed here against the public interest. However, the Zoning Regulations do not address owner financial interest as a consideration in determining whether an application should be denied or approved. Therefore, the arguments made before the Board in the file regarding lack of funding by the applicant cannot have the same merit as both the applicant's disregard of the Board's previous conditions and the deleterious effects of the lot on the neighborhood and the city in terms of tax base and air quality standards.

17. The Board is required by statute to give great weight to the issues and concerns of the ANC. In addressing those concerns as well as those of the DCCA, the Board finds that the applicant is seeking its relief through a special excetion not a use variance. The applicant has no burden to establish that the property cannot be used for residential purposes. If the applicant meets the requirements of the section under which the special exception is sought, the application must be granted. As to the ANC's concern regarding the applicant's failure to comply with the conditions of the prior Order of the Board as reported in the DOT's memorandum of December 11, 1981, the Board finds that the DOT's testimony at the public hearing of April 14, 1982 negates its prior report. As to the issues of finances, the Board agrees that this is not a basis to grant the relief requested nor is the Board using such a basis to grant the relief. Lastly, as to the issue of whether the lot is reasonably necessary and convenient to other uses in the vicinity, the Board finds that based on Finding No. 9 the applicant has met its burden of proof as to this issue.

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 proof that the applicant has met the requirements of Paragraph 3104.44 of the Zoning Regulations.

The Board concludes that the applicant has substantially complied with the requirements of Paragraph 3104.44 of the Zoning Regulations. As indicated by the testimony of the representative of the applicant, the parking lot attendant, and the Department of Transportation, the conditions imposed by the Board in its prior Order are complied with and the lot is well-maintained.

The Board further concludes that because of the small size of the lot and its location, the continued use of the parking lot will not create dangerous or other objectionable traffic conditions and will not adversely affect the present character and future development of the neighborhood. The Board concludes that the subject parking lot is reasonably necessary and convenient to other uses in the vicinity, which include SP office uses and church uses, and is also used for overnight and weekend parking by neighborhood residents.

The Board further concludes that the subject parking lot will be in harmony with the general purpose and intent of the Zoning Regulations and that it will not adversely affect the use of the neighboring property in accordance with said Zoning Regulations. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled.

Accordingly, it is ORDERED that this application be GRANTED subject to the following CONDITIONS:

- A. Approval shall be for a period of THREE years from the date of expiration of the previous certificate of occupancy, namely December 31, 1981 which may be renewed at the discretion of the Board upon the filing of a proper application.
- 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: 3-1 (Walter B. Lewis, Connie Fortune, William F. McIntosh to GRANT; Douglas J. Patton OPPOSED to the Motion; 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
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: SEP 13 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.