

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13694 of Amy Goldstein and Ruth Small, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to operate a parking lot and for a variance from the prohibition against all day commuter parking (Sub-paragraph 4101.413) in an SP-2 District at the premises 1114-16 - 13th Street, N.W., (Square 247, Lot 852).

HEARING DATE: February 24, 1982
DECISION DATE: March 3, 1982

FINDINGS OF FACT:

1. The subject property is located on the west side of 13th Street between L Street and Massachusetts Avenue, N.W. and is known as premises 1114-16 - 13th Street, N.W. It is zoned SP-2.

2. By Order No. 13536, dated October 14, 1981, the Board dismissed an application to continue the use of a parking lot on the subject premises. This dismissal was based on the applicant's lack of diligence in prosecuting the application before the Board, inadequate representation at two public hearings, and operation of the lot without a valid Certificate of Occupancy. The applicants subsequently filed a Motion for Reconsideration of BZA Order No. 13536 on the grounds that the Board did not consider the merits of the case. By Order dated November 25, 1981, the Motion for Reconsideration was denied.

3. The parking lot was closed November 6, 1981, one day after the subject application was filed.

4. Prior to BZA Order No. 13536, the lot was operating under BZA Order 12613 which expired on May 24, 1981. The applicants now propose to re-establish operation of the subject lot for thirty parking spaces instead of twenty-three as approved by the Board in BZA Order No. 12613, for a period of four years from the date of expiration of that order in accordance with the Board's authority under Paragraph 4101.41.

5. The condition of the lot is the same as existed when the lot was in operation pursuant to BZA Order No. 12613. No adverse effects on the immediate area were

generated or are likely to be caused by the operation of this lot.

6. The operator of the lot testified that the lot is used for residents' parking after 6 P.M. but that there is not sufficient demand for residential parking to operate the lot for that purpose alone. He also testified that there are monthly lease agreements for all-day parking for approximately thirteen cars and that there has been no demand at this location for short term parking. The Board so finds.

7. The parking attendant on the subject lot testified that the lot is open from 8 A.M. to 6 P.M., the lot is cleaned on a daily basis, and the lot has a capacity for approximately thirty cars.

8. Uses in the immediate vicinity of the subject lot include a cocktail lounge to the north, offices and an Exxon Service Station to the south, a parking lot to the west separated from the subject lot by an alley, and a ninety-foot apartment building which provides garage parking to the east across 13th Street.

9. By statement dated March 1, 1982, the applicant attested that an exceptional condition exists on the subject lot in that the lot is paved and graded in such a way that the only reasonable use of the premises without substantial physical improvements is for parking purposes and, in addition the immediate vicinity of the lot contains few commercial uses that would generate a short-term parking demand.

10. One of the applicants testified that two real estate brokers are currently trying to sell the property but have not yet received a reasonable offer. The applicant also testified that if the application is denied there will be no reasonable interim use of the property and he will suffer a financial loss until the property is sold.

11. Advisory Neighborhood Commission 2C made no recommendation in this application.

12. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and 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 lot was in existence on October 5, 1978 under Board approval. The use is not likely to become

objectionable because of noise, traffic or other objectionable conditions due to the location of the subject site on 13th Street between Massachusetts Avenue and L Strteet and the nature of the surrounding uses. The lot is an interim use of the site and will not adversely affect the present character and future development of the area. The lot is used, in part, for residential parking. The Board concludes that approval of this special exception, as hereinafter conditioned, can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to adversely affect the use of neighboring property.

As to the requested variance, the Board concludes tht such a variance is a use variance, because the relief requested relates to the manner in which the parking spaces will be used. In order to grant the use variance, the applicant must demonstrate that there is an undue hardship arising out of some unique or exceptional condition of the property. The Board concludes that there is no other reasonable interim use of the subject property than the continuation of the subject parking facility. The Board further concludes that there are not sufficient facilities in the area to generate a demand for short-term parking and that restriction of the 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 sustantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and map.

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

- A. Approval shall be for a period of ONE YEAR from the final date of of this order.
- 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: 4-1 (Connie Fortune, Douglas J. Patton, William F. McIntosh and Walter B. Lewis to GRANT; Charles R. Norris opposed to the motion).

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

ATTESTED BY: 
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUL 16 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.