

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13743 of Charles C. Wilkes and Hugh V. Gittinger, Jr., 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 for a variance from the prohibition against all day commuter parking (Sub-paragraph 4101.413) in an HR/SP-2 District at the premises 732-738 - 5th Street, N.W., (Square 486, Lots 21-25).

HEARING DATE: May 12, 1982  
DECISION DATE: June 2, 1982

FINDINGS OF FACT:

1. The subject property is located on the west side of 5th Street, between G and H Streets, N.W. It is known as 732-738 - 5th Street, N.W., and is in an SP-2 District.

2. The subject property is currently operated as a parking lot pursuant to BZA Order No. 13196, dated July 15, 1980. That order approved use of the lot for parking until March 3, 1982.

3. The applicants propose to continue to operate the lot and request a variance from the provision of Sub-paragraph 4101.413 to permit all-day commuter parking.

4. The subject property is 125 feet wide and eighty-five feet deep. The subject lot accommodates forty-four vehicles, parked eleven abreast in four rows.

5. The subject lot is operated in conjunction with three other parking lots located in the northern half of Square 486. These three parking lots are operated by PMI, Inc. as is the subject lot, but are under different ownerships and are operating as special exceptions pursuant to BZA Order Numbers 13147, 13342 and 13803. The subject lot is separated from the other three parking lots by a 16.75 foot wide public alley which runs parallel to 5th Street.

6. The parking attendant who is responsible for the subject lot, in conjunction with the three lots mentioned in Finding of Fact No. 5, has an attendant's shelter located on lot 806, Square 486. Access to the subject parking lot is from 6th Street through lot 806 and through the public

alley. The driveway shown on the plans as entering the parking lot from 5th Street is blocked by wheel stops and is not in use.

7. The hours of operation of the subject lot are from 7 A.M. to 6 P.M., Monday thru Friday. At other hours, the lot is left open for use by anyone in the neighborhood.

8. There is a total of approximately 150 spaces on all of the lots operated by PMI in the subject square. Of this total, approximately 100 spaces, or two thirds, are used for commuter parking. The remaining spaces are available on a daily basis. Many of the monthly spaces are leased by the D.C. Department of General Services as parking for official vehicles.

9. The immediate neighborhood consists of restaurants, carry-outs, bars and vacant structures. Located nearby are the General Accounting Office, Bergman's laundry, St. Mary's Church, the North, South and East Potomac Buildings, and the Wah Luck Apartment Building.

10. There was testimony that the other uses in the near vicinity of the subject parking lot do not generate sufficient patronage to the lot to make it a viable operation without the commuter parking.

11. The lot has been operated in the past so as not to create dangerous or objectionable traffic conditions. There is no evidence that conditions have materially changed so as to cause objectionable conditions in the future. The operator noted in his testimony that the construction of the Wah Luck Apartment house replaced a parking lot and therefore increased the need for the subject facility.

12. The lot is in compliance with the appropriate requirements of Article 74 and the conditions of the prior BZA Order.

13. The applicant testified that he was considering alternative development plans including plans for a hotel or a headquarters building for the American Optometric Association. The applicant testified further that the total square footage of his land holdings in the square are fifteen feet short of the area requirements for a planned unit development. He expects to have completed preliminary drawings and to apply for any required relief before the Board of Zoning Adjustment or the Zoning Commission within the next six months.

14. The representative of PMI testified that he had received no complaints about the appearance, maintenance and operation of the subject lot.

15. There was no report from Advisory Neighborhood Commission - 2C.

16. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception and a use variance. As to the special exception the Board concludes that the applicant has substantially complied with the requirements of Paragraph 4101.41 of the Zoning Regulations and that the 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 affect adversely the use of neighboring property. As to the use variance, the variance to permit all-day commuter parking, this requires a showing of a hardship upon the owner of the property that arises from the property itself. The Board notes that approximately two thirds of the subject parking lot is used for commuter parking, that the other uses in the near vicinity of the subject parking lot do not generate short term parking needs and that part of the subject lot, in addition to the other three adjacent parking lots operated basically as one unit, is leased to the D.C. Government for official vehicles. The Board concludes that since one part of the subject property is leased for commuter parking and that the physical location of the parking lot precludes its use by short term parkers, the hardship is inherent on the property. The Board further concludes that the granting of this use variance as hereinafter conditioned, will not cause substantial detriment to the public good nor substantially impair the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the special exception and variance are GRANTED SUBJECT to the following CONDITIONS:

- a. Approval shall be for a period terminating on March 3, 1984.
- 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 and Charles R. Norris to grant; William F. McIntosh to grant by proxy; Douglas J. Patton not present, not voting).

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

ATTESTED BY:

  
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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.