

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13762, as amended, of Exxon Co., U.S.A., pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 5101.41 for a proposed modification to an existing gasoline station and construction of a canopy and a variance from the prohibition against locating a gasoline service station within twenty-five feet of a residence district (Sub-paragraph 5101.411) in a C-1 District at the premises 4854 Nannie Helen Burroughs Avenue, N.E., (Square 5148, Lot 58).

HEARING DATES: June 9 and December 8, 1982  
DECISION DATES: July 7, October 6 and December 8, 1982  
(Bench Decision)

FINDINGS OF FACT:

1. The subject application was first heard by the Board on June 9, 1982. At that public hearing, the Board considered the applicant's request for a special exception under Paragraph 5101.41 for a proposed modification to an existing gasoline station and construction of a canopy in a C-1 District at the subject premises. At its public meeting of July 7, 1982, the Board granted the application for that relief with conditions.

2. Subsequent to the Board's initial decision and prior to the issuance of a final order, the Board found that the property abutting the subject premises to the north is zoned R-2 and is not separated from the subject premises by a street or alley.

3. Paragraph 5101.41 of the Zoning Regulations authorizes the Board to approve the establishment or enlargement of a gasoline service station in the C-1 District provided that, as stated in Sub-paragraph 5101.411, the station shall not be located within twenty-five feet of a residence district unless separated therefrom by a street or alley.

4. On October 4, 1982, the applicant filed a motion to amend the application and hold a further hearing for the limited purpose of justifying a variance from Sub-paragraph 5101.411. At its public meeting of October 6, 1982, the Board granted the applicant's request and a further hearing was held on December 8, 1982.

5. At the public hearing held on June 6, 1982, counsel for the applicant noted that, as advertised the affected lots were designated as lots 1, 2, 3, 14, 16 and 802 in Square 5148. The memorandum dated February 9, 1982, from the acting deputy chief, Zoning Regulations Division, the plat from the Office of the Surveyor of the District of Columbia, and the applicant's application to the Board, all of which are part of the record, designated the affected lots as lots 1, 24, 25, 26 and 802 in Square 5148. The applicant testified that the lots had been consolidated and given a new record lot designation as lot 58. The application was amended to reflect the new lot number.

6. The subject property is located at the northwest corner of the intersection of Nannie Helen Burroughs Avenue and 49th Street, N.E., and is known as premises 4854 Nannie Helen Burroughs Avenue, N.E. It is zoned C-1.

7. The subject site is presently improved with a three-bay white enamel porcelain building and three pump islands. The existing structure was built in 1959 pursuant to BZA Order No. 5503, dated May 20, 1959, and was in operation as a full service gasoline station with service bays until the dealer retired in 1981.

8. Square 5148 is an irregularly shaped square bounded by 49th Street on the east, Nannie Helen Burroughs Avenue on the south and Hayes Street on the north. To the east, south and west, the site is surrounded by C-2-A and C-1 Districts. Immediately to the north of the site are row dwellings in an R-2 District.

9. At the time the Board approved the establishment of the existing station in BZA Appeal No. 5503, Square 5148 was zoned C-1 in its entirety. Zoning Commission Order No. 221, dated June 16, 1978, amended the Zoning Map for property in and around the right-of-way of the East Washington Railway including the rezoning of several lots in Square 5148 from C-1 to R-2. Included within that rezoning from C-1 and R-2 was Lot 40, which abuts the northern boundary of the subject gasoline station.

10. The applicant proposes to renovate the existing structure, replace the existing white enamel facade with an earth tone finish and install a window for self-service gasoline customers. The existing three pump islands will be removed. Two three-pump islands will be constructed parallel to Nannie Helen Burroughs Avenue with a thirty by fifty foot canopy to protect customers from the elements. All existing curb cuts, sidewalks and curbs are to remain. There will be no enlargement of the site. The modifications will improve on-site traffic circulation and update the station.

11. The applicant requested that if operating conditions permit, the station be allowed to remain open twenty-four hours a day for gasoline sales only. The Board finds that the subject site abuts an R-2 District to the immediate north and that twenty-four hour operation of the station would have an adverse impact on this residential portion of the area by reason of noise, light and activity during late night and early morning hours. The Board will condition the approval of this application accordingly.

12. No vehicular entrance or exit is connected with the street at points closer than twenty-five feet to any residential district. Existing curb cuts will be utilized.

13. The applicant's proposal will not create any dangerous or otherwise objectionable traffic conditions. The proposed modifications will not generate additional traffic and will improve ingress, egress and circulation on the site.

14. The appearance, lighting and other features of the station will not adversely affect any of the neighboring property owners. The lighting will be confined to the canopy and will not be visible outside of the area.

15. No grease pits or hoists will be located on the outside of the premises.

16. The northern boundary of the subject site abuts Lot 45 which is zoned R-2. Lot 40 is improved with a dwelling which was in existence prior to the construction of the existing station. That dwelling continues to be occupied as a residence.

17. At the December 8, 1982 public hearing, the applicant testified that it is not feasible to relocate the existing customer service building to allow for the dedication of a twenty-five foot strip of land devoted to landscaping or open space on that portion of the lot which abuts the residential district. Due to the size and depth of the lot, such relocation of the customer service building would prevent the applicant from meeting customer needs, would impair internal circulation on the site by creating conflicting vehicular movements, reduce the space provided on the site for parking of customer vehicles, and would adversely affect ingress and egress to the site. The removal of the existing customer service building in addition to reducing the applicant's ability to provide customer services, would be impractical due to the existing moratorium on conversion of full service gasoline stations to self-serve and gas only uses as provided in the D.C. Code, § 10-231, 1981 Ed. The Board so finds.

18. The Office of Planning and Development, by memorandum dated June 4, 1982, recommended approval of the special exception subject to the following conditions:

- a. Additional landscaping should be provided and maintained along the northern boundary.
- b. The existing large tree should be pruned and properly maintained.
- c. The proposed chain link fence, along the property's northern boundary, should be substituted with a more aesthetically pleasing fence.
- d. The service station should not operate after 11:00 P.M., nor before 7:00 A.M.

The Board concurs with OPD's recommendations with regard to protecting the residential neighborhood to the immediate north of the subject site through the use of landscaping and fencing. As to the hours of operation recommended by OPD, the Board finds that it has addressed this issue in Finding of Fact No. 6 and the conditions set forth in the Conclusions of Law and Opinion. The tree is not located on lot 58, and is thus not within the Board's jurisdiction.

19. By memorandum dated November 23, 1982, OPD recommended that the requested variance be approved subject to the conditions enumerated in its June 4, 1982, memorandum. It was the opinion of the OPD that a practical difficulty exists in that the land immediately north of the site was rezoned in 1978 making the existing station a non-conforming structure. The OPD was further of the opinion that strict compliance with the Zoning Regulations would require the demolition of the existing structure and jeopardize the use of the site as a gas station because of its size, shape and location. The OPD noted that the proposed gasoline pump islands will be located forty feet from the residential zone boundary and the granting of the requested variance will not result in substantial adverse area impacts as evidenced by the existence of the station at this location without adverse impact prior to the rezoning of the area. The Board concurs with OPD's recommendation.

20. The owner from whom Exxon leases the site, Mr. James Woodson, testified in support of the application. He testified that he is a long-term resident and businessman in the area and that the granting of the subject application would help upgrade the neighborhood.

21. Advisory Neighborhood Commission 7C submitted a letter dated May 26, 1982 to the Board in support of the subject application. The ANC held a regularly scheduled

meeting on May 25, 1982, at which time it adopted a resolution in support of the subject application on the grounds that:

- a. The reopening of the Exxon station would provide the community with another service station;
- b. The reopening of the Exxon station would create jobs;
- c. The reopening of the Exxon station would stimulate economic revitalization;
- d. The reopening of the Exxon station would eliminate the problem of unsightly debris which exists there now;
- e. Renovated property enhances the community;
- f. The canopy will pose no obstruction to existing structures.

The Board concurs.

22. There was no opposition to this application in the record or at the public hearings.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception and a variance. As to the variance, the Board concludes that the relief requested is an area variance, the granting of which requires the showing of a practical difficulty inherent in the property. The Board concludes that the existence of the structure on the site prior to the change of zoning of the abutting property constitutes an exceptional situation or condition as evidenced in Finding of Fact Nos. 17 and 19. The applicant has demonstrated that the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties. The Board further concludes that the variance may be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations.

The granting of the special exception requires that the applicant must demonstrate compliance with Paragraph 5101.41 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that, in view of the granting of variance relief from Sub-paragraph 5101.411 above, the applicant substantially complies. The proposed modification will improve the appearance of the station and improve traffic

circulation on the site. The application will not result in intensification of the existing service station use.

The Board further concludes that the special exception 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 in accordance with the regulations and maps.

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

- a. The hours of operation shall not exceed from 6:00 A.M. to 11:00 P.M.
- b. The stockade fencing as shown on Exhibit No. 26A shall be replaced with six foot high alternate board-on-board fencing. That fencing shall be extended from the post where it is indicated to stop on Exhibit No. 26-A along the west side lot line to the front of the lot at a height of between thirty and forty-two inches.
- c. All direct rays of lighting used to illuminate the site shall be confined to the surface of the site.
- d. Landscaping shall be as shown on the approved plan and shall be maintained in a healthy growing condition.

VOTE as to the special exception on July, 7, 1982: 4-0  
(Connie Fortune, Lindsley Williams, William F. McIntosh and Charles R. Norris to GRANT; Douglas J. Patton not voting, not having heard the case).

VOTE as to the variance on December 8, 1982: 3-0 (Lindsley Williams, William F. McIntosh and Charles R. Norris to grant; Carrie Thornhill and Douglas J. Patton not voting, not having heard the case).

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:

MAR 11 1983

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.

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