

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13797, of Isadore and Charles Egber, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to continue to operate a parking lot in R-4 and C-2-A Districts at the premises 1937-1943 12th Street, N. W., (Square 305, Lots 17, 800, 801 and 803).

HEARING DATE: July 21, 1982  
DECISION DATE: September 1, 1982

FINDINGS OF FACT:

1. The subject parking lot is located on the east side of 12th Street approximately sixty feet south of its intersection with U Street, N. W. It is known as 1937-43 12th Street, N. W. It is zoned R-2 and C-2-A.

2. The subject parking lot serves mainly a liquor store which is owned by the applicants and is located on the southeast corner of 12th and U Streets, N. W., north of the subject parking lot. The applicants own additional retail stores on U Street and allow patrons of these stores to use the parking lot without charge.

3. The parking lot consists of four lots. Lots 17 and 803, known as 1937-39 12th Street, N. W., are located in an R-4 District. Lots 801 and 800, known as 1941-43 12th Street, N. W. are located in a C-2-A District. The applicants seek the Board's permission to use that part of the parking lot located in the R-4 District which serves a commercial use. Parking in the C-2 District is permitted as a matter-of-right.

4. To the north of the subject parking lot is the applicant's liquor store. To the east, is a fourteen foot wide alley. To the south, is a sixty-five foot wide vacant lot followed by row dwellings. To the west is 12th Street, N. W.

5. The parking lot was established pursuant to BZA Order No. 4134 in June, 1955, for two years. BZA Order No. 4788, dated July 12, 1957, granted a continuance of the parking lot for five years. The parking lot was operating without a Certificate of Occupancy from the date of expiration of BZA Order No. 4788 until the Board granted permission to operate the lot for three years pursuant to

BZA Order No. 12883, dated April 25, 1979. The applicant proposes to continue to use the property for parking to serve the nearby retail uses.

6. Access to the parking lot is both from the alley and 12th Street. The driveway is twenty-five feet wide. The lot is approximately 5,859 square feet in area and is relatively flat. The lot is unattended and there are no structures on the lot. The applicant testified that the lot is regularly used by pedestrians and police cars as a short-cut to and from the public alley located to the east of the lot.

7. The applicant testified that the site is asphalt paved but that parking spaces are not marked off, that there are logs along the southern lot line which serve as wheel stops, and that the lot is swept on a daily basis.

8. Mr. Tom Lodge, representing the Logan Circle Community Association and the Central Northwest Civic Association appeared at the public hearing and testified that the parking lot presents a problem to the neighborhood with regard to trash and debris which accumulates on the lot and the illegal activities which take place on the lot after the retail establishments are closed. Mr. Lodge recommended that the lot should be fenced at the property line with an eight foot chain link fence with barbed wire at the top and should not remain open after the business hours of the area retail establishments which it serves.

9. The applicant, in rebuttal to Mr. Lodge's statement, objected to fencing the lot because of its use as a short rout to the alley by police cars. The applicant further stated that the lot is swept daily and, although the lot does collect trash from parkers and pedestrians, the accumulation of trash referred to by Mr. Lodge is on an adjacent lot used by the YMCA as a vegetable garden.

10. The Board notes that the photographs marked as Exhibit No. 5 of the record show an accumulation of trash on the subject parking lot. The Board will direct that the applicant police the lot on an "as needed" basis rather than just daily. The Board further finds that a fence should be installed to present unauthorized use of the lot after business hours.

11. The Board directed the staff of the Office of Planning and Development to contact the Metropolitan Police Department to determine whether or not fencing the lot would interfere with the carrying-out of police business in the area. By memorandum, dated August 12, 1982, the M.P.D. informed the Board that the erection of the fence would not adversely affect any current or anticipated operations at this location.

12. The Department of Transportation, by memorandum dated June 3, 1982, offered no objection to the continuation of the use of the site as a parking lot but indicated that re-striping of the lot is needed to delineate each nine by nineteen foot parking space.

13. Advisory Neighborhood Commission 1B made no recommendation regarding the subject application.

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. In order to be granted such an exception, the applicant must demonstrate compliance with the requirements of Paragraph 3104.44 of the Zoning Regulations. The Board concludes that with the conditions hereinafter imposed there will be compliance with the requirements of that paragraph. There is no commercial advertising sign on the lot since no rates are charged for parking. The Department of Transportation offered no objection to continued use of the lot which indicated that no dangerous or otherwise objectionable traffic conditions have resulted from the use of the parking lot. The lot is reasonably necessary and convenient to other uses in the vicinity with no adverse impacts. The Board further concludes that the special exception to use the two lots in the R-4 District 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. The two lots in the C-2-A District can be used as a matter-of-right.

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

- a. Approval shall be for a period of FOUR YEARS from the date of expiration of the prior order, namely from April 25, 1982.
- b. All open sides of the lot shall be enclosed by an eight foot high chain link fence.
- c. The gate(s) to the lot shall be locked at all times that the lot is not in operation.
- d. The parking lot shall be cleaned at least on a daily basis, and shall be cleaned often enough to insure that trash and debris do not accumulate.
- e. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.

- f. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- g. No vehicle or anypart thereof shall be permitted to project over any lot or building line or on or over the public space.
- h. 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.
- i. 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.
- j. 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 (Lindsley Williams, Connie Fortune and Charles R. Norris to grant; Douglas J. Patton to grant by proxy; William F. McIntosh 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: NOV 22 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.