

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13805, of 5501 Connecticut Avenue Associates, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.49 to continue to operate a parking lot in an R-1-B District at the premises 3725 Livingston Street, N.W., (Square 1868, part of Lot 69).

HEARING DATE: July 28, 1982
DECISION DATE: September 1, 1982

FINDINGS OF FACT:

1. The subject property lot is located on the north side of Livingston Street between Connecticut Avenue and Chevy Chase Parkway and is known as premises 3725 Livingston Street, N.W. It is located in an R-1-B District.

2. The subject parking lot is part of Lot 69. The western-part of Lot 69 is zoned C-1 and fronts on Connecticut Avenue. The commercial portion of the property is improved with a two story building. The lower story is occupied by five retail stores. The upper story is occupied by offices.

3. The retail stores are occupied by Circle Liquor Store, Chevy Chase Seafood Market, Fishery Seafood Restaurant, American Security and Trust Bank and Abbey Carpet. The subject parking lot services the customers/clients of the five retail stores.

4. Parking and access to the second story office space are provided north of the property by an elevated parking lot and entrance which are approximately level with the second story. The parking provided for the offices is not part of the subject application.

5. The Board in BZA Order No. 12259, dated May 31, 1977, granted permission to the applicant to establish fifteen accessory parking spaces in the R-1-B portion of Lot 69 for a period of five years. The Board found that there was a demonstrated need for the spaces, that they alleviated traffic congestion on the surrounding residential streets and Connecticut Avenue and that the relief as conditioned by the Board, would not become objectionable to neighboring property. The applicant now seeks permission to continue the operation of the lot.

6. The proposed lay-out of the parking lot has not changed since the issuance of the Board's last Order, wherein the Board found that the applicant complied with Sub-section 3101.411. In addition, the twenty-five foot buffer zone between the parking and the adjacent residential property to the east is still maintained. The need for the spaces by the retail business still exists.

7. The tenant-in-chief of the commercial buildings, under his lease, is responsible for the operation and maintenance of the subject parking lot. He owns the Circle Liquor Store, Chevy Chase Seafood Market and the Fishery Seafood Restaurant. He testified that he has received no complaints about the operation and maintenance of the lot from the users of the lot, the immediate property owners and the ANC itself. The lot is cleaned daily at 10:15 A.M. and inspected at 4:00 P.M. There are two daily trash pick-ups at 10:00 A.M. and 5:00 P.M. There is a maintenance contractor who cuts all grass every two weeks. Twice a year, a landscape contractor attends to the landscaping. There is an attendant for the lot on weekends.

8. The Department of Transportation, by memorandum dated June 3, 1982, reported that the subject lot is used by customers of the adjacent businesses on Connecticut Avenue. The lot was observed to be clean and in very good operational and physical condition. The DOT had no objections to the continuance of the lot.

9. The applicant testified that it was in conformance with all of the conditions of the prior Order of the Board except condition "K" which required a "Right Turn Only" sign to be placed on the exit on Livingston Street. The sign has been taken down. The applicant was unable to establish when, why and by whom the said sign was removed. A subsequent staff inquiry of the DOT disclosed that a search of the DOT records disclosed no history of the sign as to its installation or removal. The DOT in its memorandum of August 26, 1982, replied that a new sign can be installed to satisfy the previous Order of the Board.

10. Advisory Neighborhood Commission 3G, by letter of July 20, 1982, stated that it opposed the application. The ANC reported that the Board in its prior Order conditioned the grant of the application. The complaints cited by the Commission are in direct violation of those conditions. The ANC opposed the special exception to continue the parking lot until such time as the applicant makes improvements which comply with the BZA Order.

The ANC noted that:

- a. The applicant has failed to maintain the landscaping in a healthy and growing condition that is also neat and orderly in appearance.
- b. The property, in part, has not been kept free of refuse and debris.
- c. Frequently, trash has been picked up after 10:00 P.M.

The ANC requested that, if the lot were approved, the Board impose conditions similar to those cited in the previous Order.

In addition, the ANC requested that any exception granted be only for two years.

11. The Board is required by statute to give great weight to the issues and concerns of the ANC when such recommendation is reduced to writing. The Board finds that the ANC assertions as to violations of conditions are contradicted by the applicant's witnesses. The witnesses were physically present at the public hearing and subject to cross-examination by the Board. The Board raised the concerns of the ANC with the witnesses who responded that the ANC was in error. The photos submitted to the record by the applicant evidence that the property has not been maintained as well as it could be, particularly as regards landscaping. The Board finds that this condition does not warrant a denial of the application. The Board will still impose the conditions of its prior Order as requested by the ANC. If the conditions are not met, the ANC can look toward enforcement of the Order through proper channels. The Board notes that the ANC did not voice its concerns directly to the applicant, and suggests that such direct communication is beneficial and may lead to early resolution of problems.

12. There was no further opposition to the application at the public hearing or of record.

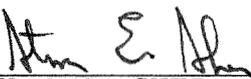
CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires proof of compliance with Paragraph 3101.49 of the Zoning Regulations. The Board concludes that the applicant has met its burden-of-proof. The physical lay-out of the parking lot remains unchanged since last approved by the Board. The need for the spaces persists. There is no evidence that the relief has caused any adverse traffic impact. The Board further concludes that the special exception can be granted, as conditioned herein, as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to have an adverse impact on the use of neighboring property.

- h. 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
- i. The layout and number of parking spaces shall be in accord with the revised plan submitted March 3, 1977 in BZA File No. 12259.
- j. Directional arrows, as shown on the revised parking plan of the aforementioned date of March 3, 1977 will be placed on the pavements, to establish a one-way driving pattern.

VOTE: 3-0 (Walter B. Lewis, Connie Fortune and Charles R. Norris to GRANT; Douglas J. Patton and 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
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.