

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13888 of Mary F. Colbert, Trustee for the Sylvie G. Masters Trust, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from gas station and garage, repairs incidental to cars stored in building known as 1105 W Street, N.W., first floor to garage, repairs incidental to cars stored in building known as 1105 W Street, N.W., first floor, in an R-5-B District at the premises 2200 - 11th Street, N.W., (Square 302, Lots 833-835 and 53).

Hearing Date: April 13, 1983

Decision Date: April 13, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located at the northwest corner of the intersection of W and 11th Streets, N.W. and is known as premises 2200 11th Street, N.W. and 1105 W Street, N.W. It is zoned R-5-B.

2. The subject property is rectangular in shape and is improved with a one-story brick garage building originally constructed in 1932 and a one-story gas station which was constructed in 1904. The expansion of the facility in 1940 was pursuant to BZA appeal No. 235. The two structures are contiguous and two existing doorways provide for internal circulation between the structures. Both structures are currently vacant.

3. The subject premises were formerly used as a gas station, repair shop and auto parts shop. Two gas gasoline pumps which served the former use have been removed and the tanks filled with sand and rendered inoperable. The applicant proposes to operate a repair garage only at the site.

4. The subject property is located in the Shaw Urban Renewal Area. To the north of the site are three row dwellings followed by a three story office building operated by the Children's Hospital Child Health Care/Development Program. Further north, on the southwest corner of 11th Street and Florida Avenue, is the Florida Avenue Grill restaurant, followed by Cardozo High School in the R-5-B District. To the east is 11th Street, followed by a PEPCO warehouse now owned by Howard University in the C-M-1

District. To the south across W Street is a Baptist church in the R-5-B District. To the west is a ten foot wide public alley, followed by a large vacant lot in the R-5-B District.

5. The Shaw Urban Renewal Area is basically characterized by medium density residential development. The northern portion has remnants of a once active, but now deteriorated, industrial area that included dairies, construction-related businesses and light industries.

6. Under Sub-section 7104.2 of the Zoning Regulations if approved by the Board of Zoning Adjustment, a class II non-conforming use may be changed to a use which is permitted in the most restrictive district in which the existing non-conforming use is permitted.

7. Though vacant now the previous use of the premises was as a combination of gas station and repair garage pursuant to Certificate of Occupancy No. B97336, dated March 17, 1976. Such use is a Class II non-conforming use. A gasoline service station is first permitted in the C-1 District. A repair garage is first permitted in the C-2 District. A combined gasoline station/repair garage is first permitted in the C-2 District. The existing non-conforming use, therefore, may be changed to a repair garage in accordance with Sub-section 7104.2.

8. In exercising its authority granted by Section 7104, the Board must find that the proposed use is either a neighborhood facility or the type of use which although not a neighborhood facility would not be objectionable.

9. The customer base which supported the former gas station use was for the most part, generated by employees of Children's Hospital, Thompson's Dairy and PEPCO. Those uses are no longer located in the area creating a substantial decline in the market for gasoline sales. Several automobile repair shops in the immediate vicinity of the premises have been displaced by land acquisitions of Howard University and their operators have expressed an interest in relocating to the premises.

10. The proposed use is a neighborhood facility in that it will serve the automobile repair needs of residents of the surrounding neighborhood and is expected to provide employment for area residents.

11. The proposed use will generate considerably less traffic than the currently permitted gas station use and will not create any dangerous or other objectionable traffic conditions. There are two curb cuts on each of the adjoining streets into the premises. The southern curb cut on the 11th street frontage will be eliminated to permit the

parking layout as shown on the site plan marked as Exhibit No. 27 of the record.

12. Nine parking spaces will be provided on-site as evidenced by the site plan marked as Exhibit No. 27 of the record. The on-site parking spaces will be used by employees, vehicles awaiting repairs, and delivery vehicles. All overnight storage of vehicles awaiting repair will be inside the service building.

13. The Office of Planning, by memorandum dated April 5, 1983, recommended that the requested relief be granted subject to the following conditions:

- A. The applicant should provide the Board with a scaled site plan showing the removal of the defunct pump island, the location of parking spaces for employees, and customers, and the location, type and number of landscaping materials to be installed.
- B. Lot 832 which serves as a buffer area separating the garage structure on the site from the nearest residentially developed lot to the north should be cleaned of debris, landscaped and maintained. This lot should be made inaccessible by automobiles.
- C. The operation of the site's driveways and parking area shall comply with the following provisions:
  1. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
  2. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
  3. 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.
  4. Any lighting used to illuminate the site shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.
- D. The hours and days of operation shall be within 7 a.m. to 6 p.m., Monday through Saturday.

- E. No body or fender work shall be performed on the site.
- F. No repairs or installation of parts shall be performed outside of the garage.
- G. No overnight outside storage or parking of automobiles.
- H. The curb cut entrances to the site should be combined off to impede vehicular access to the site after hours.
- I. No trash or autoparts should be stored outside.
- J. There shall be no more than one sign on the premises and that sign shall not exceed 3 feet by 5 feet in dimension.

The Office Planning was of the opinion that the removal of the gasoline station use at the subject site would reduce the degree of the existing non-conformity.

14. In addressing the recommendation of the Office of Planning, the Board finds that the evidence of record and testimony at the public hearing demonstrate that the gasoline pumps have already been removed and that the location of parking spaces on-site meets the Planning Office's concerns. The applicant testified that the entire site is paved and thus no on-site landscaping can be provided. The applicant will maintain grass plantings in the island areas located on adjacent public space. The applicant does not own lot 832, and therefore the Office of Planning's recommended Condition B is in appropriate.

15. The Board concurs with the recommendation of the Office of Planning as amended by the facts set forth in finding of fact No. 14.

16. Advisory Neighborhood Commission 1B made no recommendation on the subject application.

17. There was no opposition to the granting of the subject application at the public hearing, or of record.

#### 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, the granting of which requires proof that the applicant has complied with the requirements of Sub-sections 7104.2 and 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The

proposed use is permitted in the most restrictive district in which the former use is permitted. The Board also concludes that the change of non-conforming use represents a move toward a less intense use and that the change as hereinafter conditioned will not adversely affect the present character or future development of the neighborhood and that the use will be in harmony with the general purpose and intent of the Zoning Regulations. Accordingly, it is ORDERED that this application is hereby GRANTED SUBJECT to the following CONDITIONS:

1. The existing gas pumps shall be removed and parking spaces shall be clearly delineated on the site in accordance with the site plan marked as Exhibit No. 27 of the record.
2. The operation of the site's driveways and parking area shall comply with the following provisions:
  - a. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
  - b. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
  - c. 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.
  - d. Any lighting used to illuminate the site shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.
3. The hours and days of operation shall not exceed from 7 A.M. to 6 P.M., Monday through Saturday.
4. No body or fender work shall be performed on the site.
5. No repairs or installation of parts shall be performed outside of the garage.
6. No outside storage or parking of automobiles shall occur when the garage is not in operation.
7. The curb cut entrances to the site shall be closed with a chain or cable to prevent vehicular access to the site when the garage is not in operation.

8. No trash or auto parts shall be stored outside, except for a covered trash container to be located at the northwest corner of the property accessible from the alley along the western boundary of the property,
9. There shall be no more than one sign on the premises. That sign shall not exceed three feet by five feet in dimension.

VOTE: 4-0 (Walter B. Lewis, Carrie Thornhill, William F. McIntosh and Charles R. Norris to grant; Douglas J. Patton not present, not voting)

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

ATTESTED BY:   
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: JUL 13 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 CONSUMER AND REGULATORY AFFAIRS.

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