

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13909, of Exxon Corporation, USA, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 5101.41 for a proposed modification and enlargement of a gasoline service station in a C-1 District at premises 5030 Connecticut Avenue, N.W., (Square 1985, Lots 5, 9, 10 and 11).

HEARING DATE: September 15, 1983  
DECISION DATES: October 5, 1983 and  
November 2, 1983

FINDINGS OF FACT:

1. At the public hearing the Board considered two preliminary matters raised on behalf of the opposition to the application:

- a. A motion to postpone the hearing for the alleged failure to give notice to the owners of cooperatives in the apartment building at 5112 Connecticut Avenue, N.W. The motion was denied on the grounds that the cooperative apartment building was farther than 200 feet from the subject gasoline station and, under the Supplemental Rules of Practice and Procedure before the Board, was not entitled to receive notice.
- b. Nella Lloyd of 3617 Fessenden Street and Maria Aveleyra of 5020 Nebraska Avenue, N.W. contended that they were not formally notified of the public hearing. The Board determined that notice of the hearing was mailed to those persons, that the notices had not been returned by the Postal Service, and that proper notice in accordance with the Supplemental Rules had been given.

2. The subject site is located on the southwest corner of the intersection of Connecticut and Nebraska Avenues, N.W. The site is in a C-1 District and is known as premises 5030 Connecticut Avenue, N.W.

3. The site is formed by four contiguous lots whose combined shape is a four-sided figure with right angles at the southeast and southwest corners, an acute angle at the northeast corner and an obtuse angle at the northwest corner. The area of the site is 14,733.0 square feet. Its

dimensions are 160.0 feet on the east or Connecticut Avenue frontage, 141.21 feet on the northwest or Nebraska Avenue frontage, 85.55 feet on the west along the public alley, and 120.0 feet on the south adjacent to other commercial properties.

4. The site is improved with an existing gasoline service station located on Lot 5 at the northernmost part of the site, facing Connecticut Avenue, Nebraska Avenue and a public alley. The three southern lots, 9, 10 and 11, are currently vacant. Each lot extends from Connecticut Avenue to the public alley at the rear.

5. There is access to the site from Connecticut Avenue on the east and from Nebraska Avenue on the northwest. The egress from the site is onto Connecticut Avenue only. The public alley on the west is currently used as a secondary access to the automobile service area of the existing station at the southern portion of Lot 5.

6. The C-1 District in which the subject site is located encompasses a two-block strip along Connecticut Avenue, N.W. The subject square is zoned C-1 to the east of the public alley and R-2 to the west of the public alley.

7. The subject site is at the northwest corner of the C-1 District. Adjacent to the site on the south is a cluster of small shops that cater to local shopping needs. These include a restaurant, Clover Market, United Title and Escrow Co., The Chef's Place deli, Yarns and Twines, Elm's beauty salon, Perpetual American Bank, and a drive-through Sunoco gasoline station at the northeast corner of the next square. Three small retail stores on the subject lots 9, 10 and 11 were demolished in 1981 to make way for the proposed expanded gas station.

8. On the east side of Connecticut Avenue, directly opposite the subject site, there is a row of townhouse-style office buildings at the northeast corner of the C-1 District. This office complex is on the site of a former Exxon station that was demolished to make way for the office construction. The remainder of the block is a cluster of retail uses that includes restaurants, banks, a liquor store, a hardware store, a dry cleaners, a picture-framing shop, and an Amoco gasoline station at the southeast corner of the C-1 District.

9. The subject C-1 District has existed for many years with a gasoline station on each of the four corners of the C-1 area in/near the 5000 block of Connecticut Avenue.

10. The existing station was built in 1925 and has served the neighborhood area for fifty-eight years. Its original design had two service bays and two pump islands.

The original station was covered with a canopy. In 1950, Exxon rebuilt the station in its current configuration, in response to the need for periodic upgrading of facilities. In 1970, Exxon purchased the three lots adjacent to the site on the south for purposed of expansion. The lots gave the site an additional sixty-feet of frontage and enabled Exxon to plan a modernized and expanded station. The oil embargoes in the 1970's delayed expansion plans for ten years. The applicant is now seeking to implement expansion and modernization plans for the station. All existing improvements would be demolished and replaced.

11. The current application is the third case that the applicant has brought before the Board concerning this site in a two-year period. In 1981, BZA Application No. 13458 was filed proposing an Exxon self-service gasoline station, a gas-and-go-station, with no service facilities. That application was withdrawn by the applicant. In 1982, BZA Application No. 13781 was brought before the Board. This case required a rear yard variance for the location of a kiosk. The Board dismissed that application due to a modification of plans for the station after advertisement of the case that made the notice of the hearing legally insufficient. In the present application, Exxon is seeking a special exception under Paragraph 5101.41 of the D.C. Zoning Regulations for the proposed modification and enlargement of the subject gasoline service station in the C-1 District.

12. The C-1 District is designed to provide convenient retail and personal service establishments for the day-to-day needs of a small tributary area, with a minimum impact upon surrounding residential development. Such districts will only permit low-bulk development and, in general, are mapped only in outlying areas. Some community facilities, housing and mixed uses, as well as the usual neighborhood shopping and service establishments, are permitted.

13. The granting of the subject special exception is governed by Paragraph 5101.41 and Sub-section 8207.2 of the D. C. Zoning Regulations. Sub-section 8207.2 authorizes the Board to grant special exceptions where in the judgement of the Board such special exceptions will be in harmony with the general purpose and intent of the zoning regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and Maps.

14. Paragraph 5101.41 provides that, if approved by the BZA, a gasoline service station may be enlarged, subject to the special provisions of Article 74, and provided that:

- a. The station shall not be located within twenty-five feet of a Residence District unless separated therefrom by a street or alley;
- b. The operation of the use will not create dangerous or other objectionable traffic conditions; and
- c. The Board may impose requirements pertaining to design, appearance, screening, lighting, or such other requirement as it shall deem necessary to protect adjacent or nearby property.

15. Article 74 provides that a gasoline service station to be enlarged shall be subject to the following special provisions:

- a. No portion of the structure or premises to be so used shall be located within twenty-five feet of a Residence District unless separated therefrom by a street or alley;
- b. No such use shall have a vehicular entrance or exit connected with a street at a point closer than twenty-feet to any Residence District existing at the time such use is established, unless separated therefrom by a street or alley;
- c. No driveway of any entrance or exit to such use shall be closer than twenty-five feet to a street intersection as measured from the intersection of the curb lines extended and,
- d. All grease pits or hoists hereafter constructed or established as part of such use shall be within a building.

16. The existing station is a full service station with two service bays for minor repairs. The station is authorized by the D.C. government to conduct automobile reinspections. There are two pump islands, one of which is for self service gasoline sales. The existing station is too small to efficiently meet customer needs. A maximum of four cars can be serviced at the gasoline pumps. Poor internal circulation and traffic congestion have caused cars to backup in the street while waiting for service. The location of the existing entrance and exit points on Connecticut Avenue creates a potential safety hazard as does alley access to the service area. The applicant proposes to demolish the existing improvements and remove the existing equipment. In their place, the applicant will construct an all-new station with an updated design, a redesigned site plan, and relocated ingress and egress points.

17. The proposed station would provide full service with a two-bay service garage, as in the existing station. The service garage would be relocated to the southern portion of the site providing more space for vehicular circulation through the gasoline pump service area. Three new pump islands would be constructed parallel to Connecticut Avenue. The new location of the pump islands would improve internal circulation and permit a maximum of six cars to be serviced at one time. The equipment for dispensing air and water will be located on the pump islands and along the southern boundary of the station. A canopy will be constructed over the pump island area for customer convenience and to improve visibility at night through concentrated driveway lighting provided by the canopy lights. Motorists leaving the pump island area will have better initial visibility provided by the canopy lights, especially during rainy weather.

18. The existing curb-cuts, one on Nebraska Avenue and two on Connecticut Avenue would be removed and replaced with a new pattern of access. The access pattern as proposed by the applicant would include a two-way curb cut on Nebraska Avenue and two curb cuts at the southern portion of the Connecticut Avenue frontage. The public alley adjacent to the station would no longer be used for access to the station. The alley would be used for access to a trash container located at the southwest corner of the site behind the service building.

19. The site would be resurfaced and screened with fencing and landscaping. The landscape plan provides for the screening of the station from the residential district across the public alley by a fence along the western edge of the property. Existing trees would be preserved around the periphery of the site and curb-cuts have been located so as to preserve the trees. The landscaping would include trees, shrubs, and small plants. The setback and location of the structures of the new facility would provide better visibility and accessibility from the street and improve traffic flow into and out of the site.

20. The number of employees would remain at a total of twelve, with a maximum of five people working during daylight hours. There would be three employees in the evening until 8:00 P.M. and only two employees from 8:00 P.M. to 11:00 P.M. Only the manager would park on the premises. Most employees would use public transportation. The hours of operation would be from 7:00 A.M. to 11:00 P.M. Monday through Friday, 8:00 A.M. to 11:00 P.M. on Saturday, and 10:00 A.M. to 6:00 P.M. on Sunday. The hours would be tailored to the needs of the neighborhood since there is not enough business to provide twenty-four hour service.

21. The applicant circulated a Customer Service Questionnaire to 296 customers of the existing station. Of the customers surveyed, 136 lived in the District of Columbia and ninety lived in the neighborhood of the subject station. If the subject station were to have more pumps in operation, eighty-seven customers reported that their use of the station would increase and 206 customers reported that there would be no change in their use of the station. The customer responses indicated that 160 frequent the station during the morning rush hour and 108 frequent the station during the evening rush hour. The survey indicated that 243 customers used the station on weekdays and sixty-eight customers used the station on Saturday and Sunday. If the station were open for additional hours of operation, 231 customers reported that there would be no change in their use of the station and sixty-three customers reported that their use would increase.

22. All portions of the subject premises and the structures thereon are located within the C-1 District and are separated from the nearest Residence Districts by a public alley adjacent to the subject property on the west and by Nebraska Avenue which is adjacent to the subject property on the northwest. All structures on the premises are located more than twenty-five feet from the nearest Residence District.

23. All entrances and exits to the subject premises are located more than twenty-five feet from the nearest Residence District and are separated from said residence districts by a public alley on the west and by a public street on the north.

24. All driveways that enter or exit the subject premises are more than twenty-five feet from the nearest street intersection as measured from the curb lines extended.

25. No grease pits or hoists would be constructed or established outside of a service building.

26. A traffic analysis prepared by the applicant's traffic expert demonstrated that the subject intersection is relatively safe based on observations of pedestrian and vehicular traffic and the number of reported accidents. The new traffic pattern proposed for the subject station is expected to make the intersection even safer. Elimination of the curb-cut now located behind a traffic safety island at the subject intersection is expected to eliminate a potential safety hazard. The level of traffic anticipated to be generated by the new station could be accommodated without a negative impact on traffic or safety in the surrounding area.

public meeting of November 2, 1983. The Board reopened the record in the case for the submission of a report from the D.C. Department of Transportation on the following:

- a. The impact of lowering to ten feet the Exxon logo sign on the northernmost corner of the site.
  - b. The effect of curb cut close to the bus stop on Nebraska Avenue.
  - c. The effect of curb cuts on existing old trees and protective treatment standards to ensure health of trees.
  - d. The width of all curb cuts.
  - e. The use of all curb cuts for ingress or egress, or both, and the appropriate signs or pavement markings.
30. In its supplemental memorandum, dated October 19, 1983, the DOT advised the BZA that:
- a. The lowering of the total height of the Exxon logo sign from twenty-feet to fifteen feet would have no negative impact on motorist safety.
  - b. The existing bus stop on Nebraska Avenue is slated for removal, regardless of the location of the proposed Exxon curb cut. There is a bus stop on the east side of the intersection of Nebraska and Connecticut Avenues.
  - c. The DOT was of the opinion that the proposed curb cuts would not endanger the health of the existing trees. To further prevent the possibility of injuring any trees during construction, no curb opening should be less than ten feet from an existing tree. Accordingly, DOT recommended that the southernmost driveway on Connecticut Avenue be reduced to twenty feet in width.
  - d. Except as modified in item "c" above, the width of the driveways should remain as shown on the revised plan dated October 26, 1982.
  - e. The northernmost driveway on Connecticut Avenue, immediately adjacent to the right turn lane, is limited to inbound vehicles and should be marked "Entrance Only." To prevent vehicles from existing via this driveway, a "No Exit" sign will be posted on both the north and south sides of the driveway. The driveway on Nebraska Avenue and the

southernmost driveway on Connecticut Avenue will be used for both ingress and egress.

31. In a further memorandum dated November 4, 1983, the D.C. DOT Office of Mass Transit reported that it had reviewed the applicant's proposal and had no objection to the station. The DOT reported that the bus stop for the routes traveling east on Nebraska Avenue is on the other side of Connecticut Avenue and the station expansion should not effect it at all. The Office noted that the new Route 39 bus on its inbound leg travels east on Nebraska to south on Connecticut Avenue. If there is a reduction in the turning radius at this location the bus will be forced up on the sidewalk which over time will destroy the curb.

32. The Board concurs with the reasoning and recommendations of the DOT and takes note that the design of the proposed gasoline service station would not alter the turning radius at the subject corner. The grant of this application would incorporate the design and plans of record as the only design and plans approved for implementation. Any changes in the plans would require the Board's approval.

33. Advisory Neighborhood Commission 3F, by letter dated September 7, 1983, reported that the ANC had no objection to the approval of the application with the following stipulations:

- a. Parking space for car storage be stipulated by the Board of Zoning Adjustment;
- b. Signs be posted warning motorists that children are crossing in these crosswalks; and
- c. The District of Columbia Department of Transportation's permission is obtained concerning use of the canopy and any encroachment on public property.

The Board concurs with the recommendations of ANC 3-F and takes note that the applicant has agreed to comply with the three requirements of the ANC. The applicant's coordination with DOT for all design and construction elements in public space has been included as a condition of the grant of this application. The applicant has designated nine parking spaces on the site plan of record and that site plan would be incorporated in the grant of this application as the only plans approved for implementation. The applicant has also obtained a school crossing area sign from the D.C. government and will post the sign near the subject intersection. Any changes in these plans would require the Board's approval.

34. The ANC Commissioner for Single Member District 3F06, by letter dated September 14, 1983, reported that the residents of SMD 3F06, particularly those near the station site, are unalterably opposed to twenty-four hour operation at the Exxon station at any time. The opponents do not see benefit to the neighborhood in a twenty-four hour operation.

35. There was opposition to the application from neighbors including an owner of a nearby cooperative apartment building and residents of a nearby senior citizen residence. The concerns include the safety of pedestrians passing the gas station to get to the C-1 District to shop and the safety of school-aged children walking past the station to reach the nearby Murch Elementary School. The concerns were also expressed in relation to children leaving the Murch After-School Program between 4:30 P.M. and 5:00 P.M. at a time when there was no school crossing guard at the subject intersection. The senior citizens from nearby apartment buildings also expressed concern that any increase in traffic at the station would jeopardize their safety while shopping in the C-1 District.

36. The Murch Home and School Association submitted a resolution to the record disapproving the proposed use because of the danger imposed on the school children due to the increase in traffic.

37. A petition with thirty signatures of residents in the immediate area in opposition was submitted to the record. Their concerns were that there was enough commercial space in the community already devoted to gasoline stations and the vehicular traffic that stations attract. It was their opinion that the applicants did not adequately address the questions of environmental pollution or traffic safety. The preamble to the petition was formulated by one witness who testified at the public hearing.

38. Concern was also expressed that the design of the proposed station did not differ significantly from the plans submitted in the previous two applications which the neighbors opposed. Neighbors were of the opinion that the demolition of three stores on the expansion lots purchased by Exxon had caused a negative impact on the existing C-1 District and that the expansion of the subject station would cause further negative impact.

39. Further opposition testimony concerned an accident in which a school-aged child was struck by an automobile one block from the subject station approximately three years ago. The father of the injured child cited this incident as evidence that the area is dangerous and cannot accommodate any increase in traffic.

40. The opposition also doubted the traffic analysis's conclusion that the intersection is safe. Further questions were raised by a statistician who objected to the methods used to make the pedestrian survey on which the conclusions about safety were based. The opponents also disputed the findings of the traffic analyst that most school-aged children use Nebraska Avenue as their route for pedestrian travel. They asserted that the children travel down Connecticut Avenue because that brings them directly to Murch Elementary School which is located at 36th and Ellicott Streets, one block from Connecticut Avenue. The opposition also were concerned that the traffic analyst was unaware of a bus stop on Nebraska Avenue abutting the proposed station.

41. As to the issue of safety, the Board finds that the design of the new station will assure greater safety for pedestrian through the relocation and designation of curb-cuts, exits and entrances. Visibility will be improved through the relocation of structures and the provision of canopy lighting and the design will reduce the potential for automobile-pedestrian conflicts by an improved circulation pattern that prevents the backup of cars into the streets. The elementary school children and senior citizens who must walk past the subject gasoline service station to reach the nearby Murch Elementary School and the C-1 Shopping Area should not be jeopardized by automobiles entering or exiting the station because, as conditioned by the Board, no cars will be permitted to make left-turns into the station from Connecticut Avenue.

42. As to the impact of the proposal on the subject C-1 District, the Board finds that there will be no incompatibility of the proposed gasoline service station with the functioning of the C-1 District because the neighborhood shopping area will continue to include a wide variety of stores and restaurants on both sides of Connecticut Avenue. The expansion of the subject station has displaced only three stores while eight or nine stores remain on each side of the street and offer a mixture of retail uses geared to local shopping needs. The C-1 District will continue to function with this mixture that includes three gasoline service stations located at the corners of the strip development. The shopping area has long existed compatibly with four gasoline service stations, one on each corner. The servicing of long-term customers will not change the essential character of the shopping area, which is for neighborhood shopping. Part of the customer volume at the subject station includes neighborhood residents. The automotive services and repair facilities at the station were designed primarily in response to the concerns of neighborhood residents expressed at community meetings. The Board, as discussed below, further finds that the proposed expansion and modification of the subject gasoline service station

meets all the requirements for the granting of a special exception. The nature of a special exception is that it is deemed compatible with a given District.

43. As to the impact of the proposal on the surrounding neighborhood, the Board finds that there will be no adverse impact due to increased traffic volume since the increased customer volume of the subject gasoline station will be drawn largely from traffic already utilizing the Connecticut Avenue traffic corridor. The anticipated increase in customer volume will bring the station's traffic to a level that existed compatibly within the surrounding neighborhood prior to the 1970's energy crisis. Such a volume could continue to be compatible with the neighborhood if traffic is properly managed for safety. The proposed design of the expanded station includes traffic circulation patterns that should provide the necessary safety.

44. The Board notes that the plans proposed include a trash container located at the southwest corner of the site, behind the service building, to be accessed from the alley. In order to remove further traffic from the alley, and to provide a more compatible arrangement at the side of the site facing the Residence District, the Board will require screening along the west side of the property and will require that the trash container be located on the south side of the service building with access from the Connecticut Avenue side.

45. As to the opposition's challenge to the validity of the survey methods and the conclusions of the applicant's expert traffic witness, the Board finds that such opposition has made no independent surveys to contradict the testimony of the expert witness on germane issues. The Board does not find the testimony of the opposition witnesses, regardless that they reside in the immediate neighborhood, to be more persuasive. Rather, the Board finds that such testimony was of a general nature without statistics to support it.

46. The Zoning Regulations permit gasoline service stations to be established, expanded and modified in the C-1 District, subject to the conditions of a special exceptions. These conditions do not require the Board to consider the maximum size for a gasoline service station in the C-1 District or the maximum number of gasoline service stations in a given area.

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 for the modification and enlargement of a gasoline service station in a C-1 District. The granting of such a special exception requires a showing through substan-

tial evidence that the applicant has complied with the requirements of Paragraph 5101.41.

The Board concludes that the applicant has met its burden of proof. The proposed station will be separated from the nearest Residence District by a public street on the northwest and by a public alley on the west. The property adjacent to the station on the south and east is zoned C-1 and forms a commercial district of which the subject station is a part. All structures, vehicular entrances, and driveways of the proposed service station will be located more than twenty-five feet from the nearest Residence District. There will be no grease pits or hoists constructed outside of the service building. Further, the operation of the use will not create dangerous or other objectionable traffic conditions. The proposed station will have a vehicular circulation pattern that provides greater safety for the neighborhood than that which obtained in the existing station. The Board has imposed requirements as conditions of this order which pertain to design, appearance, screening, lighting, signage, traffic patterns and trash disposal as it has deemed necessary to protect adjacent or nearby property. The Board concludes that it has given "great weight" to the issues and concerns of ANC 3F, as required by statute.

The Board further concludes that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property. Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The height to the top of the sign located at the northern corner of the site shall not exceed 15 feet, 1½ inches.
2. The northernmost driveway on Connecticut Avenue, immediately adjacent to the right turn lane shall be limited to inbound vehicles and shall be marked "Entrance Only." To prevent vehicles from exiting via this driveway, a "No Exit" sign shall be posted on both the north and south sides of the driveway. The driveway on Nebraska Avenue and the southernmost drive on Connecticut Avenue shall be used for both ingress and egress.
3. No curb cut and driveway shall be located within ten feet of an existing tree. The southern driveway shall be reduced to twenty feet in width.
4. There shall be no left turn permitted from the northbound lanes of Connecticut Avenue into the subject property. The applicant shall post signs

at each of the two driveway entrances on Connecticut Avenue indicating "No Left Turn."

5. The applicant shall install a continuous screening wall extending south from the west wall of the proposed building to the southern property line. The wall shall be finished with the same color and material as the west wall of the building, and shall be six to eight feet in height.
6. The trash dumpster shall be located to the south side of the proposed building, enclosed by the wall of the building, and the screening wall described in Condition No. 5 above. The trash dumpster shall be no higher than the height of the screening wall. A gate shall be installed to enclose the area where the dumpster is located. The gate shall be of the same height, material and color as the screening wall referred to above.
7. The applicant shall coordinate all design and construction elements within public space with the Department of Transportation, and shall assume their cost.

VOTE: 4-0 (Lindsley Williams, Carrie L. Thornhill, William F. McIntosh and Charles R. Norris to grant; Douglas J. Patton not voting, having recused himself).

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

ATTESTED BY:



STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER:

MAR 15 1984

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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