

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13961, as amended, of Colonial Parking Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4104.41 to continue the operation of a parking lot in an HR/SP-2 District at premises 809-813 6th Street, N.W., (Square 485, Lots 10, 11 and 12).

HEARING DATE: May 11, 1983
DECISION DATE: June 1, 1983

FINDING OF FACTS:

1. This application was originally advertised as a request for either a special exception or a use variance. The precise nature of the relief sought was dependent upon whether and when the Zoning Commission adopted an amendment to Paragraph 4101.41 of the Zoning Regulations pending before the Commission at the time the subject application was filed and advertised. Paragraph 4101.41 was subsequently amended by Zoning Commission Order No. 344, effective May 6, 1983. Prior to the amendment, parking lots in SP Districts in existence as of October 5, 1978, with a valid approval from the Board, could be approved by the Board to continue operating for a period of four years beyond the expiration date of that certificate of occupancy. The amendment extended the four year period to six years, still measured from the expiration date of the occupancy permit in effect on October 5, 1978. The subject application thus qualified to be heard as a request for a special exception.

2. The subject lot is located on the east side of 6th Street between H and I Streets, N.W. and is known as 809-813 6th Street, N.W. It is in an HR/SP-2 District.

3. The property is approximately 5,100 square feet in area and is improved to accommodate parking. There is a fifteen foot public alley to the rear of the property, and a ten foot public alley to the south of the property. To the north and east of the property are residential and church facilities as well as several trade organizations. To the south and west are primarily commercial uses consisting of restaurants and small shops with the exception of the Wah Luck apartment complex. The lot is approximately 1,500 feet from the Judiciary Square Metro station. To the west of the site, the zoning is predominantly commercial. To the east, north and south of the site, the zoning is HR/SP-2.

4. This application is to continue the operation of a parking lot in an SP-2 District, under the provisions of Paragraph 4101.41. The continued use of the lot was approved by the Board in Application No. 12927 through March 18, 1982, and in Application No. 13746 through March 18, 1983.

5. The subject parking lot is leased to the District of Columbia Department of Corrections. D.C. Government vehicles and the private cars of Corrections Department staff are parked on the lot. Because the nature of the work requires use of the vehicles during the day, most parking is on a short term basis. No commuter parking is allowed on the subject lot.

6. The lot provides twenty self-park spaces.

7. Access to the parking lot is from the alleys. There is no curb cut on 6th Street.

8. The applicant has unsuccessfully attempted to purchase additional property north of the subject site in order to gain enough area to develop the site. The applicant has actively attempted to sell the property for the past several years. It has also considered small-scale developments but has been unable to obtain financing arrangements.

9. The applicant has complied with all the requirements of Article 74. There is a concrete curb along 6th Street. There is a metal guard rail to the east, along the public alley. There is a sign on the west side, on 6th Street, advising that the subject lot is reserved for use by the D. C. Department of Corrections staff. Anyone having problems or complaints about the operation or maintenance of the lot would be directed to the applicant by the D. C. Department of Corrections. According to the applicant there were no complaints of record. The applicant did testify, however, that one property located on the south side of the alley abutting the subject lot had incurred damage because of the parking lot.

10. The owner of the property on the south side of the public alley appeared at the Public Hearing in qualified support of the application. He contended that several vehicles exiting the lot, proceeding eastward onto the alley or westward onto 6th Street, bumped into the north wall of the structure on his property. He had observed vehicles so exiting. The applicant and the property owner agreed that vehicles exiting from three parking spaces appeared to be causing the damage to the northeast corner of the adjoining property. The record was left open until May 25, 1983, to receive an agreement between the applicant and the property owner. The agreement was intended as a binding warranty

of the applicant to provide whatever means were necessary to ensure no future damage to the property across the alley from cars exiting the subject lot.

11. The Office of Planning, by report dated May 4, 1983, recommended approval of the subject application. The Office of Planning reported that in the past the subject parking lot had been found to be so located and so designed that it was not likely to become objectionable to adjoining and nearby properties. According to the Office of Planning, since the application last appeared before the Board, little change had occurred relative to the condition and operation of the lot. Also, the lot is maintained by both the applicant and the Department of Corrections. The Office of Planning further reported that the present character and future development of the neighborhood continued not to be adversely affected by the subject use. The parking lot is, a temporary use. The Board concurs with the reasoning of the Office of Planning. However, the Board is cognizant of the harm to the abutting property directly attributable to the parking lot use.

12. Advisory Neighborhood Commission 2C, by letter dated May 4, 1983, reported that the Commission had received no citizen objection to the subject application.

13. By letter dated May 18, 1983, the applicant and the adjoining property owner reached an agreement as to how to prevent further damage to the building located on the south side of the alley. That agreement, marked as Exhibit No. 25 of the record, provides that the applicant will install a post-and-wire barrier along a portion of the southern edge of the subject property, to prevent cars from backing out directly onto the alley. The Board finds that such an arrangement will prevent further damage to the building to the south, and will so condition approval of the application.

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 4104.41. The parking lot use as described in Finding of Fact No. 10 can be reasonably constrained by the conditions below. Thus, the Board concludes that the parking lot is so located and all facilities thereof are so designed that they are not likely to become objectionable to adjoining or nearby property. The Board further concludes that the present character and future development of the neighborhood will not be affected adversely by the use and that the subject lot provides short term parking. The Board further

concludes that the application can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map, and will not tend to affect adversely the use of neighboring property.

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

- a. Approval shall be for a period of TWO YEARS from the date of expiration of the previous order, namely from March 18, 1983.
- b. The applicant shall install four heavy duty pipes, in concrete, linked by link wire rope, along the southern edge of the property as shown on Exhibit No. 25 of the record to prevent vehicles from backing out into the public alley and to protect the building adjacent to the alley to the south from damage caused by vehicles backing out of the subject parking lot.
- c. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- d. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- e. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- f. 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.
- g. 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.
- 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.

VOTE: 5-0 (Carrie L. Thornhill, Maybelle Taylor Bennett, William F. McIntosh, Douglas J. Patton, Charles R. Norris to grant).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: AUG - 8 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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