

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14019, of Amy Goldstein and Ruth Small, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to operate a parking lot and for a variance from the prohibition against all day commuter parking (Sub-paragraph 4101.413) in an SP-2 District at the premises 1114-16 13th Street, N.W. (Square 247, Lot 852).

HEARING DATE: September 21, 1983
DECISION DATE: October 5, 1983

FINDINGS OF FACT:

1. The subject property is located on the west side of 13th Street between L Street and Massachusetts Avenue, N.W. and is known as premises 1114-16 13th Street, N.W. It is zoned SP-2.

2. The subject site is in the process of being sold by the current owners. The sale is not contingent upon the BZA approval.

3. The applicants requested permission to continue the parking lot use for approximately three and one half years, until May 24, 1987. This request was based upon the Zoning Commission Order No. 394, effective May 6, 1983, which amended the Zoning Regulations to allow the continuance of a parking lot for six years after the expiration of the certificate of occupancy, which was in effect on October 5, 1978. In this case, that certificate of occupancy expired on May 24, 1981.

4. By Order No. 13694, dated July 16, 1982, the Board granted an application to allow the property to be used as a parking lot for all-day commuter parking for a period of one year from the date of that Order.

5. The condition of the lot is currently the same as existed when the lot was approved by the Board pursuant to BZA Order No. 13964. No adverse effects on the immediate area are generated or are likely to be caused by the operation of this lot.

6. The lot is open from 7:45 A.M. to 6:00 P.M. The lot is cleaned on a daily basis. The lot has a capacity for approximately thirty cars.

7. The lot is used for residential parking without charge after 6:00 P.M. There is not sufficient demand for residential parking to operate the lot for that purpose alone. There are monthly lease agreements for all-day parking for approximately nine cars. There has been no demand at this location for short-term parking. Short-term parking is available on both sides of 13th Street where there are parking meters.

8. Uses in the immediate vicinity of the subject lot include a cocktail lounge to the north, offices and an Exxon service station to the south, a parking lot to the west separated from the subject lot by an alley, and a ninety-foot apartment building which provides garage parking to the east across 13th Street. The present character and future development of the neighborhood will not be affected adversely by the subject lot.

9. The facilities on this lot have been found on prior occasions to be non-objectionable to adjoining and nearby property owners. The noise and the traffic generated by cars using this lot is negligible compared to the noise generated by the existing traffic flow along 13th Street, Massachusetts Avenue and L Street. There have been no complaints from surrounding users as to the operation of this lot.

10. The lot complies with the requirements of Article 74.

11. An exceptional condition exists on the subject lot in that the lot is paved and graded in such a way that the only reasonable use of the premises without substantial physical improvements is for parking purposes. In addition, the immediate vicinity of the lot contains few commercial uses that would generate a short-term parking demand.

12. Advisory Neighborhood Commission 2C, by letter of September 13, 1983, advised that it had received no citizen objection to this application.

13. There is no other reasonable interim use of the property. The applicant would suffer a financial loss if the application is denied. The contract purchaser testified that the site will be developed as soon as market conditions permit.

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

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the record, the Board concludes that the applicant is seeking a special exception and a variance. As to the special exception, the Board concludes that the applicant has substantially met the requirements of Paragraph 4101.41 of the Zoning Regulations. The subject lot was in existence on October 5, 1978, under Board approval. The use is not likely to become objectionable because of noise, traffic or other objectionable conditions due to the location of the subject site on 13th Street between Massachusetts Avenue and L Street and the nature of the surrounding uses. The lot is an interim use of the site and will not adversely affect the present character and future development of the area. The lot is used, in part, for residential parking. The Board concludes that approval of this special exception, as hereinafter conditioned, can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to adversely affect the use of neighboring property.

As to the requested variance, the Board concludes that such a variance is a use variance because the relief requested relates to the manner in which the parking spaces will be used. In order to grant the use variance, the applicant must demonstrate that there is an undue hardship arising out of some unique or exceptional condition of the property. The Board concludes that there is no other reasonable interim use of the subject property than the continuation of the subject parking facility. The Board further concludes that there are not sufficient facilities in the area to generate a demand for short-term parking and that restriction of the use of the lot to other than commuter parking only would create a hardship for the owner. The Board further concludes that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and map.

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

- A. Approval shall be for a period terminating on May 24, 1987.
- B. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- C. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- D. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.

- E. 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.
- F. 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.
- G. 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: 3-1 (Carrie L. Thornhill, William F. McIntosh and Maybelle T. Bennett to grant; Douglas J. Patton dissenting as to the time period; Charles R. Norris 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: JAN 24 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 LICENSES, INVESTIGATIONS AND INSPECTIONS.

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