

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14055 of Perpetual American Federal Savings & Loan Association, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.48 to operate a parking lot in an R-3 District at premises rear 5103 Georgia Avenue, N.W., (Square 3002, Lot 89).

HEARING DATES: October 26, and December 21, 1983
DECISION DATE: December 21, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The application was first scheduled for the Public Hearing of October 26, 1983. A representative of the owner of the lot was present. The operator of the lot was absent. Section 304 of the Supplemental Rules of Practice and Procedure before the BZA requires the presence before the Board of the person who has personal knowledge of and can testify to the day-to-day operation of the parking lot. The owner's representative did not possess such knowledge. The Board continued the application to the Public Hearing of December 21, 1983.

2. The subject site is located on the north side of Gallatin Street, N.W. between Georgia Avenue on the west and 9th Street on the east. The site is in an R-3 District and is known as premises rear 5103 Georgia Avenue, N.W.

3. The subject lot is approximately rectangular in shape. Its dimensions are 165 feet on the east and west sides, 100 feet on the south side, and ninety feet on the north side. The northeast and northwest corners of the lot are truncated to facilitate turns within a public alley system. The lot is located at midblock, with the Perpetual American Bank and its parking lot adjacent on the west across the alley. The lot area is approximately 16,975 square feet.

4. The subject site is improved with a paved at-grade parking lot and a chain-link fence approximately three and a half feet in height that surrounds the lot on all four sides.

5. The subject site has been used as a parking lot since April 21, 1971, when it was established pursuant to the Board's Order No. 10712 which granted conditionally the

use of the subject parking lot for one year. By BZA Order No. 11146, dated December 14, 1972, the Board granted conditionally the continued existence of the parking lot for five years. The approval was renewed for another five years by BZA Order No. 12572, dated February 24, 1978.

6. The last Certificate of Occupancy expired February 24, 1983. On June 27, 1983, the applicant was advised by the office of the Zoning Administrator that an application for a new certificate of occupancy was denied and that the applicant should refile with the BZA. The applicant filed with the BZA on August 18, 1983. The lot has been operating without a valid certificate of occupancy for approximately six months.

7. The parking lot provides fifty-six spaces, six of which are spaces that can only be used for compact cars. Fifty of the parking spaces measure nine feet by twenty feet and accommodate standard sized cars. The subject lot is striped in four rows of parking spaces with three rows running north to south and one row running east to west. The lot has bumper stops and is paved with an all-weather impervious surface.

8. There is access to and from the subject lot through a main gate on the west and emergency access through a gate on the north that is kept locked. A system of twenty foot wide public alleys abuts the subject site on its west, north and east sides. The south side abuts Gallatin Street and provides no access gate. The west gate faces other property in the same ownership and is considered the front of the lot.

9. The subject square is zoned C-2-A to the west of the public alley system. The western or Georgia Avenue frontage of the square is developed with commercial uses. The eastern two-thirds of the square is zoned R-3 and is developed with row dwellings. The subject lot is separated from the residential areas on its north and east by the public alleys.

10. The subject property is owned by the Perpetual American Bank, a branch of which is located immediately west of the subject site on Georgia Avenue. The subject lot is leased to the Chesapeake and Potomac Telephone Company, hereinafter C&P, which is located immediately south of the subject site across Gallatin Street. There is no parking permitted on the south side of Gallatin Street adjacent to C&P. The lot is used for parking by C&P employees and customers and clients.

11. C&P operates and maintains the subject lot. The District Staff Supervisor is responsible for seeing that operations and maintenance are in accordance with the

Board's orders. C&P service employees clean the lot on a regular schedule with additional cleaning as needed.

12. The applicant proposes to continue the parking lot use for five years. C&P is in the process of negotiating a new five year lease for the lot with an option to renew for an additional five years. The subject lease would be contingent on the BZA's approval of the use. Perpetual American has no plans to develop or sell the subject property and no cancellation clause would be in the lease to provide for future development plans.

13. The site would continue to be used solely as a parking lot. There would be no parking attendant, no attendant's structure nor any other structure on the lot. The lot would continue to be used solely by C&P employees and customers. It would not be available to the general public. There would be two spaces reserved for the District Manager and the Division Manager. The other spaces would be allocated on a first-come, first-served basis. There would be seventy employees to be served during a twenty-four hour period. The maximum number on any one shift would be from 8:00 A.M. to 5:00 P.M., when fifty-five employees would be working. The available space has been adequate. On any typical day, most of the parking spaces are used. C&P trucks use the lot only for temporary work stops.

14. The Board of Zoning Adjustment has authority to grant a special exception to continue a parking lot under Sub-section 8207.2 and Paragraph 3101.48 of the Zoning Regulations. Sub-section 8207.2 provides that the Board is authorized 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 neighborhood property in accordance with said zoning regulations and maps.

15. Paragraph 3101.48 provides that parking lots in the R-3 District shall meet the following requirements:

- A. Such use will be located in its entirety within 200 feet of an existing Commercial or Industrial District and such parking lot shall be contiguous to or separated only by an alley from such Commercial or Industrial District.
- B. All provisions of Article 74 are complied with.
- C. Such use is reasonably necessary or convenient to the neighborhood and is so located and all facilities thereof are so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

- D. Before taking final action on an application for such use, the board shall have submitted the application to the District of Columbia Department of Transportation for review and report.

16. The subject parking lot is located in its entirety within 200 feet of the existing C-2-A District that extends along Georgia Avenue, N.W. The parking lot is separated from the subject C-2-A District only by a public alley.

17. The Board, as conditioned hereinafter in the grant of the application will require compliance with the conditions of the prior Order of the Board as to Article 74.

18. The use is reasonably necessary and convenient to the neighborhood and it is so located and all facilities thereof so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic or other objectionable conditions. The C&P office, which is serviced by the subject lot, is located in a C-2-A District but is surrounded by single-family residential and apartment uses. Prior to the agreement with the applicant to use the lot, C&P employees and visitors parked on the surrounding neighborhood streets. The parking lot is necessary and convenient to the neighborhood because it provides more than fifty parking spaces for the private automobiles of employees and business invitees of C&P who might otherwise find it necessary to park in the surrounding residential neighborhoods.

19. Traffic from the parking lot has no adverse impact on the surrounding uses. The C&P office on Gallatin Street is open twenty-four hours daily and employs a total of seventy-three employees who work in shifts. The greatest concentrations of traffic activity occur at 8:00 A.M. when employees report to work and at 5:00 P.M. when they depart. Between those hours, traffic activity is relatively light and consists largely of visitors. During the evening hours, there are only approximately seven employees at work.

20. The D.C. Department of Transportation, by memorandum dated September 15, 1983, reported that the Department of Transportation had no objection to the continuation of the subject use. The Department of Transportation reported that its inspection indicated that the lot is well-maintained, well-landscaped, and adequately screened from the residential dwellings across Gallatin Street. The lot provides essential parking for C&P employees. Its discontinuation would produce spill-over parking on the surrounding streets. The Board concurs with the recommendation of the Department of Transportation.

21. One letter of opposition was submitted to the record from the owner of an adjacent residential property. No grounds for the opposition were given.

22. Advisory Neighborhood Commission 4-D made no recommendations on the application.

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 to continue a parking lot. The granting of such a special exception requires that the proposed use satisfy all requirements listed in Paragraph 3101.4 of the Zoning Regulations. The Board must further find that the relief requested, if granted, 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 neighborhood property in accordance with said zoning regulation and maps.

The Board concludes that the applicant has met its burden of proof. The proposed parking lot use will be located in its entirety within 200 feet of an existing Commercial District and is separated only by an alley from such District. The provisions of Article 74, as hereinafter conditioned, will be complied with. The use is reasonably necessary and convenient to the neighborhood. The lot is so located and designed that its use is not likely to become objectionable to adjoining or nearby property because of noise, traffic or other objectionable conditions. The D.C. Department of Transportation has reviewed the application and reports that it has no objection to the continuation of the subject parking lot.

The Board further concludes that a special exception to continue the subject parking lot 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. The subject parking lot will provide off-street parking space for C&P employees who would otherwise overburden the available parking on nearby residential streets. The Board cautions the applicant to be more diligent in the future to refile before the BZA before the expiration of the existing certificate of occupancy. Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

- A. Approval shall be for a period of five years from the date of expiration of the previous certificate of occupancy, namely from February 24, 1983.
- B. Use shall be limited to the parking of private automobiles only, no trucks.
- 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 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: 4-0 (Lindsley Williams, Carrie L. Thornhill, William F. McIntosh and Douglas J. Patton to grant; Charles R. Norris 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:

APR 30 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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