

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14074, of Electrical Workers Benefit Association, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 4101.3) to use the subject premises as a parking lot for all day commuter parking in an SP-2 District at premises 1310 - 13th Street, N.W., (Square 243, Lot 822).

Application No. 14075, of Electrical Workers Benefit Association, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the use of the subject premises as 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 premises 1303-1311 N Street, N.W., (Square 243, Lot 826).

HEARING DATE: December 14, 1983
DECISION DATE: January 11, 1984

FINDINGS OF FACT:

1. The subject applications are consolidated by the Board for the purposes of this order since both lots are owned by the Electrical Workers Benefit Association, they share a common boundary, many of the facts regarding both cases are the same, and both were heard and disposed of at the same time.
2. The subject properties are located on the northwest corner of the intersection of 13th and N Streets, N.W. and are known as premises 1303-1311 N Street and 1310 13th Street, N.W. The subject properties are zoned SP-2.
3. Both of the subject properties are basically rectangular in shape with no topographic irregularities. Lot 826 is 14,362 square feet in area. Lot 822 is 2,270 square feet in area.
4. Both of the above-referenced lots were first approved for parking lot use pursuant to BZA Order Nos. 6571-75 dated December 18, 1961. Apparently due to administrative oversight, Lot 822 was never included on the certificate of occupancy for operation of the parking lot at the corner of 13th and N Streets, which also included the large Lot 826. The Board approved the continuation of parking use on both lots in BZA Orders 7049/50 dated

December 17, 1962. BZA Order Nos. 7553, 9883, 11615, 12227 and 13192 subsequently approved the continuation of parking lot use on Lot 826 but not on Lot 822. Continued commercial parking lot use for commuter purposes was last approved for Lot 822 together with Lot 826 in BZA Order Nos. 13921/13922, dated June 14, 1983. Approval was until March 21, 1984. In Order No. 13921, since Lot 822 had recently been determined to have no certificate of occupancy as a parking lot, the relief granted was a use variance. Lot 826 had a certificate of occupancy and its relief was through a special exception.

5. The amendments to the SP regulations set forth in Paragraph 4101.41 of the Zoning Regulations permit the subject parking lot to continue for an additional two year period with the approval of this Board. Accordingly, the applicant requests continuation of the parking lot use on both of the subject lots which would otherwise expire n March 21, 1984.

6. In amending the SP regulations, the Zoning Commission noted that, "significant new mixed-use or residential development has not occurred. The state of the economy and the condition of the financial market has resulted in little new development activity in the SP areas. ... The assumptions underlying the four year phase-out period have thus changed." The Commission also noted that "to preclude interim parking use of these existing unimproved properties may well result in the properties being left vacant and unattended, and potentially adversely affecting the areas in which they are located."

7. The Board has jurisdiction to grant the applications pursuant to Paragraph 8207.11 and Sub-section 8207.2 of the Zoning Regulations.

8. The subject property was formerly owned by the D.C. Government but was sold at public auction to the applicant. At public auction, the D.C. Government advertised the property for sale as a parking lot and represented that the lot, comprised of both Lots 822 and 826, was available for use as commuter parking. The applicant relied in good faith upon the representations made by the District of Columbia Government in purchasing the property.

9. Uses surrounding the subject properties include the eight-story Eddystone Apartment House to the west, an Amoco Service Station and liquor store to the east across 13th Street, the former Hysong Funeral Parlor which is vacant and for rent as SP office space to the south, the Logan Park building, a condominium apartment house with ground floor office space, to the southeast across 13th Street, and row dwellings to the north.

10. Lot 826 has a capacity of sixty-five attendant parked cars and an attendant's shelter. Lot 822 has a capacity for ten attendant-parked cars when operated in conjunction with Lot 826. Lot 822 alone could not provide ten parking spaces because the lot is too small to provide an access aisle. Both lots are paved and in compliance with the provisions of Article 74 and the conditions imposed by the Board's previous orders.

11. The applicant intends to operate both lots jointly as one parking facility with a combined capacity of seventy-five parking spaces. There are five additional spaces which are used for maneuvering purposes. The applicant's insurance policy prohibits more than the use of seventy-five spaces for parking.

12. The present hours of operation are from 7:00 A.M. to 7:00 P.M., weekdays. There is an attendant present at all times the lot is in operation. Maintenance is on a daily basis and the lot is policed twice a day by the attendant, before opening and after closing.

13. The applicant requested extension of weeknight hours to 9:00 P.M. and the option of week-end hours on a trial basis to make the operation more cost effective and also convenient to workers and residents in the area. Several residents in the area have indicated a need for secure parking for overnight and weekend visitors and longer hours of operation will enable the applicant to meet this need. The lot will continue to be secured during all hours it is not in operation.

14. The lot is operated on an in-and-out commercial basis with some monthly lease contracts for use of both commuters and area residents. The lot is available for use of area residents. The lot is available for use of area residents. The applicant has worked out an arrangement with a nearby church to permit the use of the lot during Sunday services. The church was given a key to the lot.

15. The applicant estimated that thirty percent of the users are short term parkers. Some forty percent is all day commuter parking. The remaining thirty percent are residents who park their cars all day.

16. The applicant has received no complaints about the operation and maintenance of the lot.

17. There has been no basic change in the development of the neighborhood since the last public hearing on the application. The Board finds that the continued use of the parking lots will not affect adversely the character and future development of the neighborhood.

18. The traffic consultant's report made in the Spring of 1983 and accompanying the previous application Nos. 13921/13922 noted that approximately 305 parking spaces had recently been removed from the area due to the closing of several parking lots. The updated report reveals that 140 more spaces have been removed from public use. The current demand in the area from M Street to P Street and from 11th to 15th Streets is for 250 commuter parking spaces, ninety residential spaces and seventy shopper spaces.

19. The traffic consultant also testified that 13th Street is a major arterial carrying commuters. The noise generated by seventy-five cars using the subject site is negligible compared to that generated by the existing traffic flow.

20. The applicant requested continuance of the lots for two additional years. The applicant intends to develop the site with SP-2 uses as soon as it is economically practicable.

21. The applicant proposes to develop the lots jointly in the future. The development now of Lot 822 for a building and use permitted in the SP District, only to demolish that building to allow for the joint development of both lots in the future, would be costly and unreasonable for the applicant. The alternative would be to allow the lot to remain vacant and unproductive during the interim period.

22. The applicant testified that the subject location is not suitable at the present time for development. If it were to be developed for an office facility, the applicant's calculations were there are 58,235 square feet that could be built. The cost would be around \$80 per square foot. Hard costs would be \$4,658,000, land would cost \$1,100,000, for a total cost of \$5,748,000. The applicant was of the opinion that it would not be able to rent the office building and receive a rate of return that would be commensurate with the risk that the applicant would take in the development process.

23. The applicant is of the opinion that, of all the permitted uses in the SP-2 District, some sort of commercial use is the most feasible. The size of the site is too small for other large developments and too large for small uses. Although, the applicant intends to develop the properties, the state of the market for the past three years in the subject area has been such as to render development financially infeasible.

24. The Board finds that the subject site, as an interim use, has no reasonable use other than a parking lot.

25. There were many form letters of record in support of the application on the grounds that the lot is well

maintained and that there is a need for safe parking in the area.

26. Advisory Neighborhood Commission 2C made no recommendation on the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and evidence of record, the Board concludes that the applicant is seeking a special exception and variances. In order to be granted the requested exception, the applicant must demonstrate that it has complied with the requirements of Paragraph 4101.41 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. Specifically, the facility, which was in existence on October 5, 1978, is so located and designed, as conditioned herein, that it is not likely to become objectionable to adjoining and nearby property owners because of noise, traffic or other objectionable conditions, nor will the present character and future development of the neighborhood be adversely affected by the use. Additionally, the Board concludes that at present, the lot in part serves residential uses and provides short-term parking for uses in the vicinity.

As to the variance to permit the lawful establishment and continuance of parking use of Lot 822 and for the variance to permit all-day commuter parking on both lots, the Board concludes that the applicant is seeking use variances which require a showing of undue hardship upon the owner that arises from the property itself. The Board concludes that Lot 822 is subject to extraordinary and exceptional conditions in light of its small size, the economy and use history of the area surrounding the subject property which have contributed to the lack of development potential in the area, reliance on the action of the District of Columbia Government, and the fact the lot is contiguous to Lot 826, under common ownership, and intended to be developed jointly. The Board also concludes that the strict application of the Zoning Regulations would result in undue hardship upon the owner in that the property could be put to no reasonable, economically viable use. The need for a variance from Sub-paragraph 4101.413 in order to operate a commuter parking facility in this area has been demonstrated because of the lack of adequate demand for short-term parking facilities in the area and the present inability of the owner to develop the site.

The Board concludes that the requested variances can be granted, as hereinafter conditioned without substantially impairing the intent, purpose or integrity of the zone plan as embodied in the Zoning Regulations and map. It is

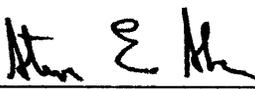
therefore ORDERED that the application be GRANTED subject to the following CONDITIONS:

- A. Approval shall be for a period of two years from the date of expiration of the previous Order, namely from March 21, 1984.
- B. The hours of operation of the lot shall be from 7:00 A.M. to 9:00 P.M. Monday through Sunday. The lot will be secured during all hours it is not in operation.
- 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: 3-0 (Lindsley Williams, Douglas J. Patton and Carrie L. Thornhill to grant; William F. McIntosh not present, not voting; 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: JUN 14 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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