

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14088 of Angelo A. Puglisi, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the use of a parking lot and for a variance from Sub-paragraph 4101.413 to permit all-day commuter parking in an HR/SP-2 District at the premises 727-729 - 6th Street, N.W., (Square 486, Lots 804, 805, 806, 807 and 808).

HEARING DATE: January 25, 1984
DECISION DATE: February 1, 1984

FINDINGS OF FACT:

1. The subject property is located on the east side of 6th Street between G and H Streets, N.W. It is known as 727-729 - 6th Street, N.W. and is in an HR/SP-2 District.

2. BZA Order No. 12111, dated December 1, 1976, granted the continuation of the subject lots 804, 806 and 807 as a parking lot for three years.

3. BZA Order No. 12554, dated March 8, 1978, granted the use of the subject lot 808 to be used in conjunction with lots 804, 805, 806 and 807, with its use to expire on December 1, 1979, at the same time as lots 804, 805, 806 and 807.

4. BZA Order No. 13147, dated June 2, 1980, permitted the continuance of the subject parking lot to December 1, 1983.

5. The subject lots are eighty-five feet in depth and range from 12.50 feet to 16.67 feet in width. The subject parking lot accommodates twenty-six cars. Its hours of operation are from 7:30 A.M. to 6:00 P.M., Monday through Friday. There is an attendant on duty. Access to the lot is from 6th Street and from the 16.75 foot wide public alley to the east of the property. The lot is not chained off.

6. The applicant also owns Lots 11 and 12 in the subject square which are used as a parking lot and are before the Board in BZA Case No. 14104. The 500 H Street Limited Partnership owns Lots 21 through 25 in the subject square also used as a parking lot and now before the Board in BZA Application No. 14111. Ruby's Restaurant owns Lot 36 in the subject square also used as a parking lot, which was

before the Board in BZA Application No. 13814. All four parking lots are operated by Parking Management Inc. (PMI) as one large parking lot. All but the Ruby's Restaurant have have commuter parking contracts. In the three other parking lots, many spaces are leased by the D.C. Department of General Services as all day parking for their official vehicles.

7. The immediate neighborhood consists of restaurants, carry-outs, bars and vacant structures. Located nearby are the General Accounting Office, Bergmann's Laundry, St. Mary's Church, the three Potomac Buildings which are used as general offices of the District of Columbia Government and the Wah Luck apartment building for the elderly.

8. The applicant has received no complaints about the appearance, maintenance and operation of the subject lot.

9. The parking lot is in conformance with the conditions imposed in the prior order of the Board including the erection of a thirty inch high masonry wall located two feet from the adjoining building to the south, ordered by the Board in the aforementioned BZA Order No. 13147.

10. Other than the construction of the Wah Luck apartment building, there has basically been no change in the immediate area since the issuance of the last order of the Board. The Board finds that the present character and future development of the neighborhood is not affected adversely by the subject use.

11. The Board finds that the other uses in the near vicinity of the subject parking lot do not generate sufficient patronage to the lot to make it a viable operation without the commuter parking.

12. The applicant testified that if commuter parking was not allowed then the parking lot would be forced to close.

13. As to future plans for the development of the lot in accordance with uses permitted as a matter-of-right or through special exception, the applicant testified that it was his intention to acquire other parcels to create a land assembly large enough to encourage SP-2 development. He has been unable to purchase the aforementioned Lot 13 which is located immediately south of the subject lots and immediately north of Lots 11 and 12 which he owns. According to the applicant, the owner of Lot 13 is asking an unrealistic price, \$600 per square foot, for the site. The applicant has no opportunity to purchase Ruby's Restaurant lot since the restaurant proposes to develop that site for its restaurant when its present lease for the restaurant located across the street from the parking lot expires. The applicant does not preclude the consideration of a joint

venture to develop an assembly large enough for SP uses consisting of office uses and hotel. As more fully elaborated in BZA No. 14104, which testimony as incorporated herein, the applicant is of the opinion that the present neighborhood is a depressed area and is not conducive to school, museum and residential uses. Another controlling factor is that the ground price is too expensive for the aforementioned non-commercial uses. The overall difficulty is that the existing market conditions are unfavorable for development.

14. Advisory Neighborhood Commission 2C filed no recommendation on the application.

15. There was no opposition to the application.

16. The application was referred to the Office of Planning. No report was filed.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant is seeking a special exception and a use variance. As to the special exception the Board concludes that the applicant has substantially complied with the requirements of Paragraph 4101.41 of the Zoning Regulations and that the 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 affect adversely the use of neighboring property.

As to the use variance, the variance to permit all-day commuter parking, this requires a showing of a hardship upon the owner of the property that arises from the property itself which precludes the owner from reasonably putting the property to a use for which the site is zoned. The Board notes the inability of the applicant to obtain a large enough site of contiguous lots to develop. The Board also is not unaware of the current marketing conditions.

The Board further notes that a sizeable portion of the subject parking lot is used for commuter parking, that the other uses in the near vicinity of the subject parking lot do not generate short term parking needs and that part of the subject lot in addition to two other adjacent parking lots, operated basically as one unit, are leased to the D.C. Government for official vehicles. The Board is of the opinion that since one part of the subject property is leased for commuter parking and that the physical location of the parking lot precludes its use by short term parkers, this condition also creates a hardship inherent on the property. The Board concludes that with the time limitation conditioning the grant herein, the use variance can be granted without substantial detriment to the public good and

without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, for all of the above reasons, it is ORDERED that the special exception and variance are GRANTED SUBJECT to the following CONDITIONS:

- A. Approval shall be for a period terminating on December 1, 1985.
- 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: 3-0 (Douglas J. Patton, Maybelle T. Bennett and Carrie L. Thornhill to grant, William F. McIntosh and 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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