GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14132, of Mary M. Muzzy, pursuant to Subsection 8207.2 of the Zoning Regulations, for a special exception under Paragraph 5102.41 to operate a repair garage for reconditioning autos and incidental auto repairs in a C-2-A District at the premises rear 1205 Ingraham Street, N.W., (Square 2931, Lot 49).

HEARING DATES: May 16 and June 6, 1984
DECISION DATE: July 11, 1984

FINDINGS OF FACT:

1. The subject application was originally scheduled to be heard at the BZA public hearing of May 16, 1984. The case was not heard since the property had not been properly posted according to Section 302.3 of the Supplemental Rules of Practice and Procedure before the BZA. The property had been posted for only five or six days and not for the required fifteen days. Further, the signs had been posted at a nearby corner and not on the site. The case was continued until the public hearing of June 6, 1984.

2. The subject site is located on the north side of Ingraham Street, N.W. between Georgia Avenue on the east and 13th Street on the west. The site is in a C-2-A District and is known as premises rear 1205 Ingraham Street, N.W.

3. The subject lot is rectangular in shape. Its dimensions are 18.5 feet on the north and south sides and 139.35 feet on the east and west sides. The lot area is 2,577.975 square feet.

4. The site is improved with a single family row dwelling at the south or front of the lot. A garage structure is located at the north or rear of the lot. The use of the garage structure is the subject of this application.

5. There is access to and from the subject site through a public alley on the north and through Ingraham Street on the south. The public alley is twenty feet wide and provides the only direct access to the subject garage structure.

6. The subject square and the surrounding neighborhood are developed primarily with row dwellings. The northern, southern and western sides of the subject square are entirely

developed with row dwellings. The eastern edge of the subject square is located in a C-2-A commercial strip that extends along Georgia Avenue to the north and south of the subject square. The western three-quarters of the subject square is zoned R-3. The surrounding residential neighborhood is zoned R-3, R-1 and R-4.

7. The C-2-A strip extends westward from Georgia Avenue for a depth of five lots on the south or Ingraham Street side of the square. The C-2-A zoning extends westward for a depth of four lots on the north or Jefferson Street frontage. The width of all lots in the subject square is approximately 18.5 feet, the same as the width of the subject lot.

8. The subject site is owned by the applicants who rent the residence at the front of the lot to a residential tenant. The garage at the rear of the lot is leased to a commercial tenant who uses it as a repair garage to recondition automobiles.

9. The subject garage is a one story brick structure that can accommodate one car. It appears to be of a residential garage design. The garage has one large door at the rear that is approximately nine feet wide and rolls up to permit a car to enter the garage. There is a three-foot wide door located just north of the main garage door that permits persons to enter and exit on foot.

10. Immediately west of the subject repair garage, and also facing the alley, is the Acme Garage which does heavy repair work. Further west, on the north side of the alley, there are two smaller repair garages which are now vacant. North and east of the subject garage is Gino's carryout, which is located at the corner of Georgia Avenue and the outlet of the public alley. Immediately east of the subject garage is B. and S. auto sales, a used car lot that fronts on Georgia Avenue, south of the alley.

11. The subject repair garage is operated by Mr. Kenrick Joseph, whose business includes cleaning the exteriors and interiors of automobiles, refinishing automobiles with a compressor, putting on pinstripes and repairing damaged upholstery or broken tire racks. A small amount of painting is done for a few of the automobiles. The garage operator testified that light body work is done for cars with slight damage.

12. The garage operator further testified that when painting is done the fumes are blown across the used car lot and up into the air with a fan that he keeps for that purpose. When light body work is necessary, it is scheduled during the middle of the day when most residents will not be disturbed. The noise of the body work is kept to a minimum

as much as possible. The operator does not accept jobs too large to be finished in one day because the site accommodates only two cars. One car can be accommodated in the garage for work while a second car is parked in front of the garage.

13. Mr. Joseph's hours of operation are from 8:30 A.M. to 5:30 P.M. on Monday through Friday. Service in the morning, in the evening or on Saturday can be specially arranged to accommodate customers. One part-time helper comes in as needed. Mr. Joseph is the only full time person working in the garage. Mr. Joseph testified that the customers for his business come from the surrounding neighborhood. He also testified that he knows most of the neighbors and has done household repairs for them as well as automobile repairs.

14. Mr. Joseph chose the subject site as the location for his business because it is within walking distance of his home and because he saw similar work being done at the premises adjacent to the site on the east and west and across the alley to the north. Prior to opening his own business, Mr. Joseph had been employed in Maryland. He has been doing automobile repair work since 1967, when he came to the District of Columbia.

15. Prior to its use as an automobile repair garage, the subject site had been used as a lawn mower repair shop. Since the commercial use of the site was established, Mr. Joseph did not realize that any licensing was necessary to establish his operation. He began operating a repair garage at the site without a certificate of occupancy and did not realize that he needed one.

16. The garage operator first became aware that he needed a certificate of occupancy when an inspector came to the subject premises and asked him for his certificate of occupancy. The applicant testified that he had been reported to the inspector by another garage operator who had in turn been reported by another garage operator. All three shops were reported for operating without a license. The other two garages have been closed.

17. The visit from the inspector initiated a series of meetings between Mr. Joseph and various government agencies concerned with the licensing of his business. The series of agency consultations and forms that Mr. Joseph filled out led to his being scheduled for a BZA public hearing concerning the subject application.

18. There was a time lag in Mr. Joseph's pursuit of his certificate of occupancy. On June 27, 1983, Mr. Joseph was sent a letter by Mr. Joseph F. Bottner, Deputy Zoning Administrator, advising him that his application for a

certificate of occupancy for the repair garage was denied. The letter further advised Mr. Joseph that the operation of a repair garage at the subject C-2-A location would require a special exception under Paragraph 5102.41 and Sub-section 8207.2 of the Zoning Regulations. On March 27, 1984, approximately nine months later, Mr. Joseph filed this application No. 14132 with the BZA.

19. Mr. Joseph testified that he had never received Mr. Bottner's letter and that he had come to the BZA through his discussions with the licensing authorities. The Board finds that the June 27, 1983, letter from Mr. Bottner is part of the record in application No. 14132. It would have been necessary for the applicant to present this letter when filing the application.

20. The Board of Zoning Adjustment has the authority to grant a special exception to operate a repair garage in a C-2-A District under Sub-section 8207.2 and Paragraph 5102.41 of the D.C. Zoning Regulations. Sub-section 8207.2 provides that the Board is authorized to grant special exceptions where in the judgement of the Board such 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 neighboring property.

21. Paragraph 5102.41 provides that a repair garage that does not include body and fender work may be established in a C-2-A District with BZA approval, provided that it meets all applicable provisions of Article 74 of the Zoning Regulations.

22. Article 74 provides that a repair garage in a C-2-A District shall meet the following requirements:

A. No portion of the structure or premises to be so used shall be located within twenty-five feet of a residence district unless separated therefrom by a street or alley;

B. No such use shall have a vehicular entrance or exit connected with a street at a point closer than twenty-five feet to any residence district existing at the time such use is established, unless separated by a street or alley;

C. No driveway of any entrance or exit to such use shall be closer than twenty-five feet to a street intersection as measured from the intersection of the curb lines extended; and,

D. All grease pits or hoists hereafter constructed or established as part of such use shall be within a building.

23. The subject site is located more than twenty-five feet from the nearest residence district to the west and is separated from all residences to the north by a public alley. No vehicular entrance to the site is within twenty-five feet to a street intersection. There are no grease pits or hoists on the premises. Some body work is done on the premises.

24. The operator argued that his business is a small operation located between two larger business and that adverse impacts from his business are negligable. Concerning the complaints in the record from neighbors, trash and loitering in the alley are caused by the larger businesses that adjoin his premises on the east, west and north.

25. The operator gave varying dates as to the time when he began operation. He explained these discrepancies by testifying that he had spent some months repairing the garage before commencing operations. He further testified that he had delayed the commencement of operations after doing some repairs on the garage because there was a delay in delivery of the compressor that he needed to work with. The applicant maintained that he had been in operation just over a year and not for the three years alleged by neighbors.

26. Mr. Joseph testified that he has a three year lease on the subject premises. He could not remember the exact date that the lease became effective. The Board requested that Mr. Joseph provide a copy of the lease for the record by June 13, 1984. The applicant agreed to provide a copy of the lease by that date. No copy of a lease for the subject premises has ever been received by the BZA.

27. Advisory Neighborhood Commission 4C, by report dated May 3, 1984, recommended that the application be denied. Resulting from the testimony heard by the ANC and from investigations conducted by individual Commissioners, the ANC had three concerns:

A. Use of the premises as an auto repair shop has been and would continue to be objectionable to the residents whose property abuts the alley because of the noise, parking in the alley, obstruction of the entrance to their garages and parking pads, and the introduction of strangers who have been abusive and threatening.

B. The use of the premises creates objectionable traffic conditions with parked cars often blocking the entrance to the alley and hindering the collection of trash and clearing of the alley, the delivery of goods and service to the rear of the residences and the access of fire vehicles and

equipment to the rear of the residences in an emergency.

C. The interior of the repair shop is not of sufficient size for the storage of vehicles under repair or waiting to be repaired.

The Board concurs in the reasoning and recommendation of the ANC.

28. Three neighbors testified at the public hearing in opposition to the application. Their grounds were identical to those expressed in the ANC report. The opponents were unable to determine whether most of the illegally parked cars were connected with the subject business or with adjoining businesses. However, each opponent had witnessed incidents in which car owners or loiterers had come from the site. The opponents testified to several incidents in which profanity and threats had been hurled at them by loiterers at the site. The opponents also testified to several incidents of noise from machinery and music at night. These sounds came from the direction of the subject site.

29. The Board finds that although not all of the illegally parked cars, noise and loitering problems may originate at the subject site, the subject garage operation contributes to the volume of such problems in the public alley and that the applicant does little to alleviate them.

30. Six neighbors submitted letters to the record, opposing the application. Their opposition was based also on illegally parked cars blocking the alley, trash, noise and loitering generated by the operation. The opponents were of the opinion that the situation was bad enough and that if the subject application were granted it could become worse. A petition in opposition was also submitted to the record based on the same concerns previously recited.

31. One neighbor submitted a letter to the record supporting the application. The support was based on the opinion that the garage operator seems to be clean-cut and honest. The supporter saw no reason why the garage operator should be denied a permit to do his work.

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 operate a repair garage for reconditioning autos and incidental auto repairs in a C-2-A District. The granting of such a special exception requires a showing through substantial evidence that the proposed use satisfies the requirements of Paragraph 5102.41 and Sub-section 8207.2 of the D.C. Zoning Regulations.

The Board concludes that the applicant has not met the burden of proof. The operation of the subject repair garage already, even though it is an illegal use not approved by the Board, has an adverse effect on the use of neighboring property. The adverse effect is caused by illegally parked cars waiting for service at the subject garage as well as trash, noise and loitering generated by the subject operation. Although these problems are not exclusively caused by the subject repair garage, the Board concluded that the subject garage operation is a contributor to the problem.

The Board also finds that some body work is done at the subject repair garage. Body work is not permitted at any garage in a C-2-A District. No variance was requested. The Board notes that the repair garage has operated without a certificate of occupancy for an unknown period of time, possibly as long as three years.

The Board also notes that there was a time lag of nine months between the issuing of the Zoning Administrator's letter to the applicant concerning the necessity of a BZA hearing and the applicant's filing the subject application on March 27, 1984. The Board further notes that the garage operator did not file a copy of the lease for the subject premises as agreed with the Board.

The Board further concludes that the requested relief if granted will not be in harmony with the general purpose and intent of the Zoning Regulations and maps and will tend to affect adversely the use of neighboring property.

The Board concludes that it has given "great weight" to the issues and concerns of the ANC as is required by statute.

Accordingly, it is hereby ORDERED that the application is DENIED.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh, Maybelle T. Bennett and Carrie L. Thornhill to deny; Douglas J. Patton to deny by proxy).

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

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

FINAL DATE OF ORDER: 5 OCT 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."

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