

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14151 of the Heritage Foundation, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.43 to continue to operate a parking lot in an R-4 District at premises rear 416 - 4th Street, N.E., (Square 780, Lot 62).

HEARING DATE: January 30, 1985

DECISION DATE: January 30, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is an alley lot located at the rear of 416 - 4th Street, N.E., between D and E Streets. It is zoned R-4.

2. The site is bounded by a fifteen foot public alley on the north, a twenty-five foot public alley on the south, a ten foot public alley on the east and a thirty foot public alley on the west.

3. The subject lot is presently used as a parking lot, accommodating seventeen vehicles. The applicant desires to continue this use for a period of two years from the date of expiration of the previous order, namely until April 7, 1986.

4. The subject site was first approved by the Board for use as a parking lot pursuant to BZA Order No. 12061, dated April 7, 1976. The parking lot was most recently approved by the Board by Order No. 13811, dated January 18, 1983, for a period to expire on April 7, 1984.

5. On April 25, 1984, the subject application was filed to permit continuation of the parking lot use. At that time, a contract purchaser for the subject property was in the process of obtaining BZA approval for a mixed use development which would include the subject property as well as the adjacent lots 43 and 810, also in Square 780. In light of the pending application by the contract purchaser, a public hearing on the subject application was deferred until the Board had decided the earlier cases.

6. By order dated August 27, 1984, in Application Nos. 14033, 14034 and 14107, the Board approved the mixed use development concept proposed for the subject property as well as the adjacent lots.

7. The contract purchaser of the subject property is experiencing difficulty in obtaining financing for the project and therefore has not been able to go forward with his contract to purchase the subject property. In order to protect its rights to a continuation of the parking lot use, the Heritage Foundation has chosen to go forward with the subject application.

8. The subject site was purchased by the applicant in February 1983, to provide additional parking for its building located at 214 Massachusetts Avenue, N.E. The employees of the Heritage Foundation, as well as tenants of other offices within the applicant's building, use the lot on a daily and monthly basis for parking. The lessees are office employees and there is little in and out movement of the vehicles during the day.

9. The lot is open evenings and on weekends to provide parking for the residents of the neighborhood.

10. The lessees of the parking space arrive between 7:00 A.M. and 9:00 A.M. They depart between 4:00 P.M. and 6:00 P.M.

11. The operator of the lot, an employee of the applicant, inspects the property several times a day. It is cleaned when needed, but is thoroughly cleaned at least every three months. This includes a washing down of the lot. Cars illegally parked are towed away through the D.C. Police Department.

12. The applicant has received no complaints about the operation or maintenance of the lot.

13. There is a forty-two inch high chain link fence along the ten foot alley on the eastern property line.

14. Wheel stops are provided. No bumper stops are provided, as set forth in the previous BZA Order because there are no adjoining buildings to protect. The lot is surrounded on all sides by alleys.

15. If the applicant is successful in selling the lot for development as approved in BZA case Nos. 14033, 14034 and 14107, the applicant's employees would park on a commercial parking lot on 2nd Street near Union Station, a site where many of those employees now park.

16. It was the applicant's opinion that there is now no other reasonable use of the lot. The applicant requested the Board to continue the use of the lot until April 7, 1986.

17. The Department of Public Works (DPW), by memorandum dated May 27, 1984, reported that its investigation had revealed that the parking lot was in good condition and served the commercial and residential parking needs of the surrounding community. Although the parking lot is well maintained and striped, it was observed that several concrete wheel stops were out of place. The DPW recommended that the wheel stops be aligned in place and be secured to the ground. The Board concurs.

18. The Stanton Park Neighborhood Association, by letter dated January 28, 1985, reported that the Association was in principle opposed to the operation of a parking lot in an R-4 District. It did not oppose this application at this time, however, due to the status of this property in relation to BZA Application No. 14107.

19. The Capitol Hill Restoration Society, by letter dated January 15, 1985, reported that at its regular meeting on January 10, 1985, the Zoning Committee of the Society, acting for and on behalf of the Society, voted to support the subject application. A sample of opinion of neighbors of the premises revealed considerable concern about the amount of trash and debris in the vicinity of the premises, but also noted that the owner had maintained the subject premises in clean and good order. Accordingly, the Zoning Committee of the Capitol Hill Restoration Society requested that, as part of its order, the Board of Zoning Adjustment encourage the owner to continue its efforts to keep the premises free of trash and debris.

20. Advisory Neighborhood Commission 6A, by letter dated January 22, 1985, reported that the public meeting of the ANC to consider the application took place on January 3, 1985. Proper notice was given. There were eleven members of the Commission in attendance. Five members constitutes a quorum. The issues and concerns of the Commission about the application were that the proposed continuation of the parking lot would neither improve nor substantially change the character of the neighborhood. The Commission voted to take no position by a vote of nine in favor, one opposed, and one abstaining.

21. The Board is required by statute to give great weight to the issues and concerns of the ANC when they are reduced to writing in the form of a recommendation. The Board agrees with the reasoning of the ANC and finds that there is sufficient evidence in the record to warrant approval of the application.

22. There was one letter of record in opposition to the application from a neighboring property owner. The grounds for the opposition were that the applicant exceeded the number of parked cars on its lot that the BZA had

authorized. The lot is not properly maintained. The excess number of cars parked blocked the alley which is used by residents and created extra traffic which was a danger to children who were playing at the time when the cars began to depart from the lot. Also, since the lot is in violation as to the number of cars parked it encourages other indifferent motorists to park in the immediate area of the lot including alleys, in private driveways and behind the garages of the residents. The opposition noted that if these problems were corrected, she would no longer be in opposition.

23. The Board finds that a review of the photographs in the record evidence there concerns of the opposition. The Board finds that there are cars parked in the public alley. While such cars are not lessees of the applicant, the applicant should be more attentive to such misuse and have such cars towed away. The Board also finds that while the applicant may be diligent in policing its own property, the Board would encourage the applicant to take some extra measures in the vicinity of its premises, as it has done in the past. The Board will again grant the application and again limit the number of cars to be parked. The applicant testified that it would accept the conditions of the Board's Order.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. In order to be granted such an exception, the applicant must demonstrate that it has satisfied the requirements of Paragraph 3104.43 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so demonstrated. The Board concludes in particular, that the lot is both necessary and convenient to other uses in the vicinity. No significant adverse effect will result from the continuation of this lot because of noise, traffic, number of employees or hours of operation on the present character or future development of the neighborhood, in consideration of the limited time period for which approval will be granted. The Board further concludes that the grant of this special exception will be in harmony with the general purpose and intent of 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 of TWO YEARS from the date of expiration of the prior Order, namely from April 7, 1984.
- b. The number of parking spaces shall not exceed seventeen.
- c. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.

- d. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- 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: 4-0 (Patricia N. Mathews, William F. McIntosh, Charles R. Norris, and Carrie L. Thornhill to grant, Douglas J. Patton 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: _____

9 APR 1985

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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