

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14202 of the Central Pension Fund of the International Union of Operating Engineers and Participating Employees, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7205.3 to use the subject lots as accessory parking spaces for the building at 4115 Chesapeake Street, N.W., in an R-2 District at premises 4120 Chesapeake Street, N.W., (Square 1731, Lots 37, 38, and 39).

HEARING DATE: October 24, 1984  
DECISION DATE: December 5, 1984

FINDINGS OF FACT:

1. The subject site is located on the southeast corner of the intersection of Chesapeake and 42nd Streets, N.W. The site is in an R-2 District and is known as premises 4120 Chesapeake Street, N.W.

2. The subject site is rectangular in shape and is formed by three adjoining lots. The dimensions of the site are 105 feet on the east and west sides and 68.56 feet on the north and south sides. The area of the site is 7,198.8 square feet.

3. The site is vacant and is unimproved except for a chain-link fence that surrounds the site on the north, west and south. Weeds on the site are kept trimmed to a three-foot height. The site is owned by the Central Pension Fund of the International Union of Operating Engineers and Participating Employees. The Central Pension Fund has its headquarters located on the northeast corner of the subject intersection, in an office building that it owns that is known as 4115 Chesapeake Street, N.W.

4. There is access to the site from 42nd Street on the west through a gate in the chain-link fence. There is no access from Chesapeake Street on the north or from the public alley on the south.

5. The subject site is surrounded on the west, south and east by R-2 residential development. Across Chesapeake Street on the north there is a C-2-A District that extends east to Wisconsin Avenue. The Central Pension Fund Headquarters is located in this C-2-A District. The eastern

half of the subject square is located in a C-3-A District that extends along Wisconsin Avenue toward the south.

6. There are four row dwellings located immediately east of the site. The east side of the site faces a brick wall with no windows which is the east side of a two-story rowhouse. The south side of the site abuts a fifteen foot wide public alley. South of the alley and west of 42nd street there are single-family dwellings. Mature trees are located in sidewalk treeboxes on the north and west of the site.

7. The site was used as a stone yard for slate, stone and lumber until 1974, at which time it was purchased by the applicant. It has remained vacant and unused since 1974. During that ten year period, on-street parking in the area surrounding the central Pension Fund offices has become less plentiful. New parking restrictions in the area have made parking spaces scarcer still. The applicant proposes to use the subject site as accessory parking spaces for the Central Pension Fund offices.

8. The proposed accessory parking spaces will be used solely by employees of the Central Pension Fund from its headquarters located across the street from the subject site. A small parking lot presently exists on the main office site, but provides an inadequate number of spaces.

9. According to a recent survey taken by the applicant, approximately twenty employees who work at the headquarters of the Central Pension Fund drive to work and park in the neighborhood. The proposed nineteen off-street accessory spaces on the subject site will not only satisfy the needs of the employees but also help to alleviate the congested parking situation in the neighborhood.

10. The implementation of the applicant's proposal requires a special exception pursuant to Sub-sections 7205.3 and 8207.2 of the Zoning Regulations.

11. Sub-section 8207.2 provides that the Board is authorized to grant special exceptions where in the judgment 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, subject in each case to the special conditions specified in the pertinent articles of the Zoning Regulations.

12. Sub-section 7205.3 provides that if approved by the Board, open parking spaces accessory to any structure may be located elsewhere than on the lot upon which the structure is located, provided that:

- A. It is not practicable to locate such spaces in accordance with Sub-section 7205.1 because of:
  - 1. Unusual topography, grades, shape, size or dimensions of the lot;
  - 2. The lack of an alley or the lack of appropriate ingress or egress facilities through existing or proposed alleys or streets; or
  - 3. Traffic hazards caused by unusual street grades.
- B. When the accessory parking spaces are to be located elsewhere than on the lot upon which the structure they are intended to serve is located, such parking on adjacent lots or lots separated only by an alley from the lot upon which the structure is located shall be preferred.
- C. Such spaces are so located as to furnish reasonable and convenient parking facilities for the occupants or guests of the structure for which they are designed to serve, but in no case shall they be farther than 800 feet from any lot line of the lot upon which the structure is located; and
- D. The Board may impose conditions as to screening, coping, setbacks, fences, the location of entrances and exits or any other requirement it shall deem necessary to protect adjacent or nearby property. It may also impose such other conditions as it shall deem necessary to assure the continued provision and maintenance of such spaces.

13. The Board finds that it is not practicable to locate the proposed nineteen accessory parking spaces on the lot on which the Central Pension Fund headquarters is located. The shape and dimensions of the lot involved and the existence of a structure with required parking effectively precludes locating the proposed accessory spaces on the office building property. The building was constructed in 1961 and there is no land available on the lot that could be used for additional parking.

14. The accessory parking is only ninety feet from the structure and is accessible by crossing Chesapeake Street, N.W. at 42nd Street, N.W. This street intersection has very low traffic volume, a crosswalk and a stop sign assuring pedestrian safety.

15. The accessory parking is reasonably convenient for employees of the Central Pension Fund as it is less than a

one minute walk away from the office use and approximately ninety feet from the line of the office building.

16. The revised landscaping and site plan submitted by the applicant provides a fence and screening, setbacks and planting which will protect adjacent and nearby properties. There is only one means of ingress and egress to the proposed accessory parking lot and the lot will meet all requirements of Article 74. Two of the nineteen spaces will be marked and reserved for the handicapped. Further, the lot will be maintained on a daily basis by the applicant and secured at night when not in use. The Board finds that nearby or adjacent property will not be adversely impacted in any way by the proposed accessory parking lot.

17. Advisory Neighborhood Commission 3E, by letter dated October 22, 1984, reported that the Commission had voted four to one not to oppose the application. The letter further reported that this vote was predicated on the Commission's understanding that the parking lot in question will be firmly secured against night time parking by trespassers. The neighborhood has experienced considerable difficulties arising from unruly bar patrons trespassing in other parking lots in the neighborhood. The ANC did not wish to exacerbate the situation by permitting yet another attractive nuisance to these night time trespassers. The ANC also noted that the applicant testified that the reason for seeking this special exception was that the Department of Public Works Parking Division had refused to delete plans for putting in parking meters on Chesapeake Street, N.W., where employees had previously parked. There are currently no residential buildings on this section of Chesapeake Street. The ANC further noted that it had received one or two other preliminary inquiries from other small businesses in the area faced with similar difficulties and who have discussed plans for acquiring residential property and converting it into parking lots. The ANC was concerned that this lack of flexibility on the part of DPW may cause additional residential property to be used for other than intended purposes and wished to call this to the Board's attention.

18. The Board is required by statute to give great weight to the issues and concerns of the ANC when those issues and concerns are reduced to writing in the form of a report. The Board concurs with the reasoning and the recommendations of the ANC insofar as they concern this application. The Board notes the observations of the ANC with regard to the changing neighborhood parking conditions which further justify the need for the proposed accessory parking spaces. The Board will decide each application on the specific record before it in each case.

19. Two letters of support were submitted to the record by neighbors who own dwellings near the site. One letter of qualified support was submitted by a neighbor who owns a dwelling which adjoins the site. The support was based on the opinion that the proposed use would reduce on-street parking congestion and would beautify the corner of 42nd and Chesapeake Streets, N.W.

20. The conditions requested by the qualified supporter were as follows:

- a. The special exception should detail what the proposed screening around the parking lot will be and ensure that the screening will be in keeping with the character of the neighborhood.
- b. Any grant of the application should be contingent on a better system of traffic control being instituted by DPW to improve traffic safety at the subject intersection.
- c. The lot should have adequate nighttime lighting and either manned or video surveillance to insure against possible evening criminal activities on the lot.
- d. A structural study should be made of the impact of the proposed use on the adjoining structure to the east, which has its side wall on the lot line. This dwelling is owned by the conditional supporter, who would like to ascertain whether or not his wall needs to be reinforced as a part of the construction.
- e. The order should include a written statement from the Board specifying the period of time for which the exception is granted.
- f. The order should include a written statement from the Board regarding the remedies available to the community in the Board are not complied with by the applicant.

21. The Board finds that the proposed accessory parking spaces will reduce on-street parking demand on neighborhood streets and thus alleviate a potential parking problem that has been developing in the area. The landscaping plan provided by the applicant will buffer any unsightly aspects of the parking lot and will intensify the green border around the site. The Board concurs with the reasoning and the recommendations of the neighbors in support.

22. As to the conditions recommended by the neighbor whose support was conditional, the Board finds that the

screening of the site will be required by this order as shown on a site plan approved by the Board. Traffic safety in the area is under the jurisdiction of DPW and the Board is without authority to direct the DPW as to the Department's functions. The neighbors who testified at the public hearing were of the opinion that nighttime lighting on the subject site would disturb their rest. There will be no construction adjacent to the adjoining lot to the east of the subject site. The Zoning Administrator should be contacted by any neighbors with complaints if the applicant fails to abide by the conditions of this order. The Board will grant this special exception for a period of four years.

23. Three neighbors testified in opposition to the application. All three have found the applicant to be an excellent neighbor but were opposed to the existence of a parking lot in their neighborhood. The Board finds that the concerns of the opposition are general and are not based on any substantive evidence. The applicant has shown adequate willingness to buffer any adverse affects on the neighborhood from the proposed accessory parking spaces. The Board notes that each BZA application is decide on its own merits and that a grant of this application will not set a precedent for the neighborhood.

24. The Board requested the applicant to submit a revised site plan in order to address the concerns of the ANC and the neighbors. The Board finds that this revised site plan adequately addresses these concerns. Namely, a fence and an entrance gate will be provide to prevent trespassers from using the lot. Further, the landscaping has been designed to soften the visual impact of the lot on adjacent landowners.

#### 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 use the subject lots located in an R-2 District as accessory parking spaces for an office building located across the street 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 Sub-section 8207.2 and 7205.3 of the D.C. Zoning Regulations.

The Board concludes that the applicant has met the burden of proof. The application has demonstrated that it is not practicable to locate the parking spaces on the same lot with the Central Pension Fund offices. The shape and dimensions of the lot and the existence of an office structure with required parking which occupy the lot preclude the location of accessory parking on the same lot

with the applicant's offices. The site of the proposed accessory parking spaces is separated from the office structure they are intended to serve by a low-volume local traffic street. The proposed accessory parking spaces are located less than 800 feet from any lot line of the lot upon which the office structure is located. The Board has imposed conditions which it deems necessary to protect adjacent or nearby property.

The Board further concludes that granting the proposed special exception 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 Board concludes that it was accorded to the ANC they "great weight" to which it is entitled.

Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FOUR YEARS from the date of this order.
2. Operation of the lot shall be limited to accessory parking for the applicant.
3. The layout and landscaping of the lot shall be as shown on the site plan marked as Exhibit No. 27A of the record except that such plan shall be modified so that all wheel stops are stops are located three feet from the edge of the parking space nearest to the property line and the applicant shall provide bumper guards on the southeast property line to protect adjacent buildings.
4. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
5. No. vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public spaces.
6. 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.
7. 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.

8. Any lighting used to illuminate the parking lot shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 4-0 (Charles R. Norris, Douglas J. Patton and William F. McIntosh to grant; Maybelle T. Bennett to grant by proxy; Carrie L. Thornhill not voting, not having heard the case)

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

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

FINAL DATE OF ORDER: 20 FEB 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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