

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14273 of Sierra Partnership, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 5103.41 to use the subject site as a self-service gas station in a C-3-A District at premises 3830 Minnesota Avenue, N.E., (Square E-5045, Lot 803).

HEARING DATE: April 10, 1985

DECISION DATE: May 1, 1985

FINDINGS OF FACT:

1. As a preliminary matter at the public hearing of April 10, 1985, an issue was raised whether the moratorium on self service stations precluded the subject application from going forward on the merits. It was resolved that the moratorium was on the conversion of existing gas stations. The subject application does not concern itself with an existing gas station.

2. The subject site is located at the northeast corner of the intersection of Minnesota Avenue and Clay Place and is known as premises 3830 Minnesota Avenue N.E. It is in a C-3-A District.

3. The subject site is a corner lot with approximately 18,506 square feet of land area. The site is presently improved with a vacant, boarded-up former gas station which was closed in 1983. There are two curb cuts located on Minnesota Avenue, N.E. and a third curb cut located on Clay Place.

4. Amoco Oil Company (Amoco) is the contract purchaser of the subject site. Amoco proposes to demolish all existing improvements on the site and to construct a self-service gasoline station and convenience food store. The Board finds that the sale of convenience food items is permitted as a matter of right in the C-3-A District and therefore does not need approval as part of this application.

5. The C-3-A District extends along both sides of Minnesota Avenue from Benning Road south to Blaine Street. The C-2-A District extends south from the point along the west side of Minnesota Avenue to East Capitol Street. To the north and west of the subject site, across Clay Place and 36th Street, is an R-5-A District.

6. The portion of Minnesota Avenue in which the subject site is located is a major commercial corridor in the District of Columbia, with uses including supermarket, other gasoline stations, restaurants and a variety of other businesses. Minnesota Avenue is characterized by the Department of Public Works as a minor arterial with an average daily traffic volume of 16,300 vehicles.

7. Amoco will construct four new pump islands with two dual self-service dispensers on each island. A thirty-two foot by ninety-four foot canopy will be constructed over the pump islands. Amoco will also construct a sixteen foot by thirty-eight foot building which will contain the cashier's booth and from which convenience food items will be sold. There will be four 10,000 gallon underground storage tanks. Existing curb cuts will be utilized. The property will be landscaped. The gas station will operate twenty-four hours per day.

8. The proposed gasoline station use, and the vehicular entrances to the gasoline station, will be located more than twenty-five feet from the nearest Residence District, and separated therefrom by Clay Place, N.E. The existing driveway entrances are located greater than twenty-five feet from the intersection of Clay Place and Minnesota Avenue, N.E. There will be no grease pits or hoists.

9. The operation of the use will not create dangerous or other objectionable traffic conditions. Patrons of the station will be drawn from the stream of traffic along Minnesota Avenue, and there is easy access via any one of the existing three curb cuts into the site. The site is designed to promote efficient circulation, with ample on-site maneuvering space for this purpose.

10. The plans submitted indicate that a chain link fence with vinyl slats will be constructed along the western boundary to a height of six feet, and that a row of white pines will be planted five feet on center along this boundary to screen the adjacent residential use, which is located on commercially zoned property. There is also an existing chain link fence between the subject site and the adjacent Gulf gasoline station which runs along the southern boundary of the subject site, as well as a steel guard rail in this location. Spreading yews will be planted in groups along the Minnesota Avenue and Clay Place frontages, except at the corner of Minnesota and Clay so as not to obstruct visibility.

11. A trash enclosure will be constructed on the southwest corner of the property, which will be constructed of six foot high chain link fence with grey wood slats.

12. There will be no lighted signs on the canopy facing the residential use to the west of the subject site.

13. The Office of Planning (OP), in its report dated April 1, 1985, recommended conditional approval of the application. The OP was of the opinion that the application met all the requirements for special exception relief. The OP recommended that the Board impose conditions on the approval as follows:

- A. The canopy soffit should not be lighted on the west side facing residential property;
- B. All lighting of the site except for the back lit canopy soffit and freestanding sign should be directed to the ground;
- C. No loud speaker system;
- D. Continue the planting of spreading yews westward along the site's Clay Place frontage.

The Board concurs with the conditions requested by the OP except that the Board finds that limitations on the use of the loud speaker system can be imposed in a manner which will protect adjoining and nearby residential properties.

14. The memorandum of the Department of Public Works (DPW) was filed late. The Board waived its Rules and admitted the DPW report into the record. The DPW reported that the site is bounded on the east by Minnesota Avenue, on the west by 36th Street, on the south by Blaine Avenue and on the north by Clay Place, N.E. Minnesota Avenue is a forty-foot wide minor arterial with an average daily traffic volume of 16,300 vehicles. Parking is prohibited in the east curb lane between 7:00 A.M. and 9:30 A.M. and from 4:00 P.M. to 6:30 P.M. There are no posted restrictions in the west curb lane. The remaining streets bounding the property are all thirty-foot-wide streets with unrestricted parking allowed.

15. The DPW further reported that the proposed use is to be situated on a minor arterial along an established commercial corridor. The primary traffic will be attracted from vehicles already in route on the street system. No adverse traffic conditions will be created by the design or location of the facility. The DPW noted that the applicant is providing landscaping and screening along the western perimeter of the site. The DPW recommended that similar landscaping be provided along the northern boundary of the property on Clay Place in order to provide additional screening from nearby residential property. The Board concurs with the reasoning and recommendation of the DPW.

16. There was no report filed by Advisory Neighborhood Commission 7D in which the subject site is located. A report was filed by Advisory Neighborhood Commission 7E, which is the neighboring ANC. ANC 7E voted to oppose the application based on the number of self-service stations in the area, which in the ANC's opinion rendered a disservice to elderly people. In response to this report, the Board finds that the number of other self-service stations in the area is not a factor for the Board to consider in its determination of whether the applicant meets the requirements for a special exception as set forth in Paragraph 5101.41 of the Zoning Regulations.

17. The operator of the adjacent Gulf gasoline station to the south of the subject site appeared in opposition to the application. He testified that there are a number of gas stations operating in the area, that there are several vacant gas stations in the area, that there is a need in the community for full service gasoline stations, and that there is a lack of sufficient demand in the area for full service gasoline stations, which has caused a number of gasoline stations in the area to close down. The Board finds that these issues are not relevant to a determination of whether the applicant is entitled to special exception relief for a gas station use at the subject site. The Board finds that the applicant's business venture is a risk that the applicant assumes.

CONCLUSIONS OF LAW AND OPINION:

Based upon the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. The granting of such a special exception requires a showing through substantial evidence that the proposed use complies with the requirements of Paragraphs 5101.41 and 5103.41 and Subsection 8207.2 of the Zoning Regulations. The Board concludes that the applicant has met the burden of proof.

The proposed use will satisfy the applicable requirements of Paragraph 5101.41, including the provisions of Article 74. The proposed use will be located more than twenty-five feet from, and be separated by Clay Place from, the nearest Residence District. There will be no vehicular entrance or exit from the proposed use closer than twenty-five feet from a Residence District. There will be no grease pits or hoists provided. All driveways are located more than twenty-five feet from the nearest intersection as measured from the intersection of the curb lines extended. The operation of the gas station will not create dangerous or other objectionable traffic conditions. The proposed use, with the conditions listed below, will be designed so as to minimize adverse impacts on adjoining properties through location, screening, and design.

The Board further concludes that the granting of the subject application will be in harmony with the general purpose and intent of the Zoning Regulations and map and will not tend to affect adversely the use of neighborhood property.

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

1. The canopy soffit shall not be lighted on the west side facing residential property.
2. All lighting of the site except for the back lit canopy soffit and freestanding sign shall be directed to the ground.
3. The loud speaker system shall be used only from 8:00 A.M. to 8:00 P.M., Monday through Saturday.
4. Spreading yews shall be planted in groups from the rear property line along Clay Place to the driveway entrance on Clay Place, in addition to the plantings as shown on the site plan marked as Exhibit No. 20B of the record.
5. Gasoline deliveries and trash pickups shall be limited to the hours of 6:00 a.m. to 7:00 P.M.
6. The enclosed trash area on the site plan shall be reoriented so that the doors open toward Minnesota Avenue, rather than toward Clay Place.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Lindsley Williams 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: _____

29 JUL 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."

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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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