

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14238, of Parklands, Inc., pursuant to Paragraph 8207.11 and Sub-section 8207.2 of the Zoning Regulations, for a variance from the number of required parking spaces (Sub-section 7202.1) and a special exception under Paragraph 3101.49 to permit accessory parking on the R-2 portion of the lot for which the main use is located on the C-1 portion of the lot to construct an apartment house of sixty-nine units for senior citizens and handicapped individuals in R-2 and C-1 Districts at premises 2201 Savannah Street, S.E., (Square 5897, Lots 43 and 44).

HEARING DATE: December 19, 1984
DECISION DATE: December 19, 1984 (Bench Decision)

FINDINGS OF FACT:

1. This application is virtually identical to BZA Application No. 14062, in which the Board in its Order dated April 5, 1984, granted identical relief in order to construct an eighty-four unit apartment building. The number of units proposed was based upon the requirements of the Department of Housing and Urban Development (HUD) for 1983 applications for Section 202 financing of construction of housing for the elderly and handicapped.

2. The applicant's project was not selected for Section 202 financing in 1983. Subsequently, the applicant applied for 1984 Section 202 financing for sixty-nine units. This unit number was again based upon HUD requirements. The applicant intended to seek a modification of plans in BZA Application No. 14062 for the sixty-nine unit building if the HUD financing was granted for that proposal.

3. The sixty-nine unit proposal was accepted for HUD financing, and the applicant was notified of the award on October 16, 1984. However, BZA Order No. 14062 expired on October 15, 1984, and the applicant was therefore unable to modify the plans in that case. The applicant was then required to file the subject application for the identical relief for the sixty-nine unit proposal. A request for an expedited hearing was granted by the Board for good cause shown.

4. The Board finds that the sixty-nine unit proposal is identical in all material respects with the prior eighty-four unit proposal, except that the north-south wing of the

L-shaped building has been shortened by approximately twenty feet.

5. The Board incorporates by reference all of the Findings of Fact and Conclusions of Law contained in Order No. 14062, except as modified herein. A copy of Order No. 14062 is attached.

6. In the subject application, the applicant proposes to provide sixty-nine units. The number of parking spaces, fifty-two, will remain the same.

7. The new co-sponsors of the project are the Greater Southeast Community Hospital Foundation and New Image Community Baptist Church. The project, to be called "Walker House," will be owned by the Robert L. Walker House Corporation, and will be managed by Management Partnership, Inc. The apartment house will provide independent living arrangements for low income elderly and handicapped tenants, and is designed as a barrier free structure.

8. The Department of Public Works (DPW) in a memorandum dated December 12, 1984, reported that the amended parking and loading requirements proposed by the DPW scheduled to go into effect on March 1, 1985, will reduce the number of spaces required to serve housing for the elderly to one space for every six dwelling units. This reduction is based on research by DPW and by the D.C. Department of Housing and Community and Development, which indicated that parking demand generated by housing for the elderly is substantially lower than that generated by other residential uses. Under the proposed amendments, the applicant would be required to provide only twelve parking spaces to service this project. Accordingly, in the DPW's estimation, the fifty-two spaces proposed to be provided by the applicant will be adequate to accommodate site-generated parking demand. The Board concurs in the DPW report.

9. There was no report from Advisory Neighborhood Commission 8B filed in this application.

10. There was no opposition to the application, either in writing or at the public hearing.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the Findings of Fact and the Conclusions of Law set forth in Order No. 14062 dated April 5, 1984, are still valid, except as modified herein, and are applicable to the subject application. Accordingly, it is ORDERED that the subject application is GRANTED, and that the approval granted in Application No. 14062 is reinstated, SUBJECT to the following CONDITIONS:

1. The number of dwelling units shall be reduced from eighty-four to sixty-nine.
2. The parking layout and landscaping shall be in accordance with the plans marked as Sheet A-2, Exhibit No. 10.
3. Condition Nos. 1 and 2 of BZA Order No. 14062 shall remain in effect.

VOTE: 4-0 (William F. McIntosh, Charles R. Norris, George M. White 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:

14 JAN 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.

14238order/LJPB

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14062, of Parklands, Inc., pursuant to Paragraph 8207.11 and Sub-section 8207.2 of the Zoning Regulations, for a variance from the number of required parking spaces (Sub-section 7202.1) and a special exception under Paragraph 3101.49 to permit accessory parking on the R-2 portion of the lot for which the main use is located on the C-1 portion of the lot to construct an apartment house for senior citizens and handicapped individuals in R-2 and C-1 Districts at premises 2201 Savannah Street, S.E., (Square 5897, Lots 43 and 44).

HEARING DATE: November 9, 1983

DECISION DATE: December 7, 1983

FINDINGS OF FACT:

1. The subject site is located at the southeast corner of the intersection of 22nd and Savannah Streets, S.E. and is known as premises 2201 Savannah Street, S.E. The site is split zoned R-2 and C-1. Most of the site to a depth of 200 feet south of Savannah Street is zoned C-1. Four percent of the land area is zoned R-2.

2. The applicant proposes to construct on the site an eighty-four unit rental apartment house for senior citizens and the handicapped, under Section 202 of the Housing Act of 1959, which is administered by the Department of Housing and Urban Development.

3. This project is being sponsored by the efforts of the New Image Community Baptist Church, in order to bring much needed housing for the elderly and handicapped to the area. The New Image Community Baptist Church will own and operate the apartment house, and the applicant will manage it when completed. The apartment house will provide independent living arrangements for low income elderly and handicapped tenants, and is designed as a barrier-free structure.

4. The area surrounding the subject site is improved predominantly with garden apartments, semi-detached houses and rowhouses. The garden apartment-style buildings to the south of the subject site, also owned by the applicant, are currently vacant and are being restored for occupancy as Section 8 housing. Abutting the lot to the southeast is a PEPCO substation. On the lot to the east of the subject

site is located a small neighborhood shopping center, with a food market, a laundromat, a restaurant, a real estate office, a liquor store, and a dry cleaning establishment.

5. A small portion of the subject site is zoned R-2. The applicant wishes to locate all or part of four of the proposed parking spaces in the R-2 portion of the site. In addition, the applicant seeks a reduction in the number of required parking spaces to serve the proposed use from eighty-four to fifty-two.

6. The size and shape of the site precludes the location of eighty-four parking spaces on the site in connection with the apartment house. The project as designed is within the permitted zoning envelope. The Zoning Regulations would permit sixty percent lot occupancy, but the building as designed occupies only thirty percent of the site. The proposed parking arrangement is the most suitable layout for the site, given the size and shape of the property, the design and size of the proposed facility and its location on the lot, and the requirement that an area equal to twenty percent of the gross floor area of the building be provided for residential recreation space. Because of these factors, the applicant is not physically able to provide the eighty-four parking spaces that are required by the Zoning Regulations. The property to the south of the subject site, also owned by the applicant, cannot be used to increase the size of the subject lot because it is already devoted to meeting the zoning requirements of the property to the south.

7. The requirement of one parking space per unit on the site would mean that a subsurface parking garage would be required to be constructed for this project. This is impracticable, due to the nature of the project, and the cost limitations inherent in the Section 202 financing for the project. Under Section 202, loans may not be made for projects that are of an elaborate design, or subject to cost containment provisions. The small size of the building and the large amount of area needed for entrance and exit ramps would necessitate a two level underground garage for thirty-two cars, at a cost of approximately \$300,000.

8. The only alternative to an underground garage, to satisfy the requirements for one parking space per unit, would be a reduction in the number of senior citizen apartment units until a one-to-one ratio could be achieved. This would result in a project of only fifty-two units, which would be a substantial underutilization of the site. The proposed project is already less than 1.0 F.A.R., and is at a thirty percent lot occupancy. The proposed number of eighty-four units was derived from the Department of Housing and Urban Development in its Request for Proposals. This number is marginal from an operational standpoint, in that

it is at or very near the minimum "critical mass" necessary to generate sufficient income to provide operational and support services for the apartment house. Any number lower than eighty-four would threaten the feasibility of the project as a whole.

9. The number of parking spaces proposed for this project is more than adequate to meet the anticipated demands of the occupants and their guests. The applicant's traffic consultant determined that the city wide automobile ownership rate is eighty-three cars per 100 dwelling units, and that the ownership rate in the subject neighborhood is about fifteen percent lower. This data, together with auto ownership patterns of elderly and handicapped individuals in general, and in other elderly and handicapped apartment buildings in the District and the surrounding jurisdictions, Federal Highway Administration studies on auto ownership, zoning requirements for similar uses in other jurisdictions, and visitor patterns to elderly apartment residents, translates to an expected ownership rate of forty to forty-five percent for this facility. This would result in a maximum of approximately thirty-eight cars that would be anticipated to be owned by the future residents. A supply of fifty-two spaces would be more than adequate to meet the need of the project and allow for at least fourteen extra spaces available for use by visitors.

10. The site is well served by Metrobus public transportation which provides an alternate means of access to and from the site. Bus service is provided during rush hours, plus day, evening and weekend service, with wheelchair lift buses. The bus stop is located on the southeast corner of 22nd and Savannah Streets.

11. Given the income guidelines for resident eligibility, many of the prospective tenants will not be financially able to afford automobiles. The financing requirements for the project would effectively preclude the possibility of conversion of the project to a non-federally subsidized use.

12. The subject parking lot will be a surface parking lot, and therefore will not extend above the level of the adjacent finished grade. The parking lot is located on the same lots as the proposed apartment house. The parking spaces will be entirely within 200 feet of the proposed building, and will be contiguous to the principal use.

13. The parking lot will comply with all applicable provisions of Article 74. All areas devoted to driveways, access lanes, and parking areas will be paved with materials which form an all-weather impervious surface. The parking lot is designed so that no vehicle or part thereof will project over any lot line or building line. No other use will be conducted from or upon the R-2 portion of the

premises. The vehicular entrances and exits will be greater than twenty-five feet from the intersections, as measured from the intersection of the curb lines extended. All lighting used to illuminate the parking lot will be so arranged that all direct rays of such lighting will be confined to the surface of the parking lot. The parking lot will be screened from all contiguous residential uses by perimeter fencing. The lot will be policed on a regular basis, and will be kept free from refuse and debris. Landscaping will be maintained in a healthy growing conditions and in a neat and orderly appearance.

14. Surface parking for all of the proposed fifty-two parking spaces within the C-1 District is impracticable because the zoning line does not follow the property boundaries, and because all available space for parking on the lot is to be utilized for that purpose, in order to maximize the number of parking spaces. The zoning depth of the site limits the area for surface parking in the commercial district. It is economically impracticable to construct subsurface parking spaces underneath the proposed building, due to the nature of the project, the cost limitations inherent in the Section 202 financing of the project, the size of the building and the large amount of area required for entrance and exit ramps.

15. The proposed parking lot will not be objectionable to the adjoining property. The lot immediately to the southeast of the subject parking lot is a PEPCO Substation. The property directly to the south of the subject parking lot is owned by the applicant, and is improved with garden apartment-style buildings which at the present time are undergoing renovation as a Section 8 apartment complex. These apartment buildings are surrounded by their own parking areas. A passageway on the property to the south will separate the subject parking lot from the closest building in the apartment complex to the south of the parking lot. The adjacent property to the east of the subject site is a small commercial shopping center with its own parking lot.

16. The Office of Planning recommended conditional approval of the application. The Office of Planning concluded that, based upon the evidence of record, the application complies with the requirements for special exception and variance relief. The Office of Planning recommended that a brick perimeter fence at least four feet high be constructed along the entire southern boundary of the lot, in accordance with Section 7404.2 of the Regulations. The Board is empowered by Section 3101.492 to waive the provisions of Sub-section 7404.2 if compliance would serve no useful purpose. The applicant has proposed to erect and maintain perimeter fencing of either a six foot chain link fence with vinyl slats, or a six foot wooden plank stockade type fence.

The property directly to the south of the proposed parking lot is a Section 8 apartment complex that will operate in virtually an identical manner to the subject apartment house. The property to the southeast of the subject parking lot is a PEPCO substation. The Board finds that the wall proposed by the Office of Planning would be much more costly to construct and maintain and would provide less screening than would the applicant's alternative proposals. The Board also finds that none of the other apartment buildings in this area have brick walls separating their parking areas from adjacent apartment buildings. The Board concurs with the reasoning and recommendation of the Office of Planning, except as to the material of the screening. The Board finds that a six foot chain link fence, with vinyl diagonal slats, will provide greater visual screening than a four foot brick wall.

17. A written report, dated September 30, 1983, was offered into evidence as the report of Advisory Neighborhood Commission 8B by its Chairwoman. The applicant objected to the introduction of the written report because it did not comply with the Board's Supplemental Rules of Practice and Procedure. Specifically, the report did not contain an indication of proper public notice of the meeting by the ANC, the number of members of the ANC that constitutes a quorum and the number of members present at the meeting, the vote of the ANC on the applicant's proposal, the vote on the motion to adopt the report to the Board, and the name of the person who was authorized by the ANC to present the report to the Board. Upon eliciting further testimony from the ANC, the Chair overruled the applicant's motion.

18. Advisory Neighborhood Commission 8B, in its written report, opposed the granting of the application. The ANC reported that the subject area is a densely populated area already ill served by parking facilities. In an effort to find parking, the community now uses the proposed construction site. While the Commission greatly desires the planned senior citizens apartment house, ANC 8B advised that the proposed facility without adequate parking will create an impossible situation. The Board does not concur with the ANC recommendation.

19. Two individuals testified in opposition to the application on the grounds that the proposed project is providing inadequate parking which will result in overcrowded parking on the streets in the immediate area.

20. The Board is required by statute to give great weight to the issues and concerns of the ANC that are reduced to a written resolution. In addressing these issues and concerns, as well as those of others in opposition, the Board finds that the ANC and other opposition presented no persuasive evidence to rebut the applicant's traffic

studies. The applicant is not seeking permission to locate its required spaces anywhere else than on its own property. Parking is unrestricted on 22nd and Savannah Streets in the subject area. The Board further finds that the applicant has demonstrated that it will not require eighty-four parking spaces for its proposed use.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking an area variance and a special exception. The Board to grant the variance relief must find the existence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape, topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The granting of the special exception requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 3101.49 and that the relief requested under Sub-section 8207.2 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 variance relief, based on Findings No. 6, 7, 8 and 9, the Board concludes that the applicant has met its burden of proof in establishing the practical difficulty. The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

As to the special exception, based on Findings No. 12, 13, 14 and 15, the Board concludes that the applicant has complied with the requirements of Paragraph 3101.49. The Board further concludes that the special exception relief can be granted to affect adversely the use of neighboring property.

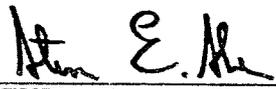
The Board concludes that it has afforded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The parking lot shall be screened from adjacent residential properties to the south by a six foot high chain link fence with diagonal vinyl slats so as to make the fence generally opaque.

2. Bumper stops shall be installed adjacent to the fence required in Condition No. 1 so as to prevent cars from damaging the fence.
3. The parking layout and landscaping shall be in accordance with the plans marked as Sheet A-2, Exhibit No. 9.

VOTE: 4-0 (Carrie L. Thornhill, Walter B. Lewis, William F. McIntosh and Douglas J. Patton to grant; Charles R. Norris 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: APR - 5 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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