

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14240 of Ten/L Joint Venture and Irene O. Rosenthal, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue to operate a parking lot and for a variance from the prohibition against all day commuter parking (Sub-paragraph 4101.413) in an SP-2 District at the premises 1109-1123 10th Street, N.W., (Square 369, Lots 817, 818, 819, 22, 50, 845, 53, 851, 852, 847, 815 and 867).

HEARING DATE: February 13, 1985

DECISION DATE: February 13, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the northeast corner of 10th and L Streets, N.W., and is known as premises 1109-23 10th Street N.W. It is zoned SP-2. The property has approximately ninety-five feet of frontage on L Street and 230 feet of frontage on 10th Street.

2. The subject property is currently used as a parking lot pursuant to BZA Order No. 13697, dated July 16, 1982. Prior Board approval for parking on the subject lot was granted pursuant to BZA Order No. 13469, dated August 3, 1981, and BZA Order No. 12035, dated January 5, 1976. The property has been used for parking with Board approval since 1972.

3. Land uses in the subject square include vacant lots, a single family residence, abandoned housing, an eight-story apartment building with parking, a liquor store with parking, an abandoned business, an open parking lot, and Family and Child Services. Surrounding blocks include vacant and inhabited housing, an electrical supply store with parking, a carry-out with parking, a Chinese Community Church, Samuel Gompers Park and a PEPCO sub-station.

4. The ownership of the subject parking lot is divided between Irene O. Rosenthal, who owns 19, 807 square feet, and Ten-L Joint Venture, which owns the remaining 5,858 square feet.

5. The lot operates as an attendant lot Monday through Friday from 8:00 A.M. to 6:00 P.M. The lot contains approximately eighty-nine parking spaces. The all day

parking rate for the subject lot is \$2.50 per day. Even with this minimal charge for all-day parking, the average vacancy rate is fifteen percent.

6. Mr. John Kyle, a real estate broker testified that the applicants have listed the subject premises with his firm for approximately five years. Due to overbuilding in the office market, ground sales in the area of the subject site have been virtually at a standstill. Although plans for development in the area, including Techworld and the Hyatt Hotel, are currently taking place, Mr. Kyle testified that it is unlikely that development of other vacant lots in the area will occur before those planned developments actually occur.

7. The applicants testified that the size of the subject property makes development of the subject premises economically unfeasible. The applicants have been negotiating with Mr. Jerome Golub, the owner of approximately 85,000 square feet in the subject block, for possible development in conjunction with his property. No such development plans have been worked out at this time.

8. The applicants testified that the total income from the subject parking lot is approximately \$18,020 per year. The expenses for the subject property are approximately \$26,600 per year, for a net loss of \$8,580 per year.

9. The applicants testified that the size of the lot and their inability to market the property prevents the development of the lot at this time. The applicants testified further that due to general economic conditions inhibiting development, the lot would remain vacant if the parking lot use were not allowed to continue.

10. The operator of the lot testified that the immediate neighborhood does not generate demand for short-term parking. Both the applicants and the operator testified that the majority of parking on the lot is all day commuter parking. Both testified that there is a fifteen percent vacancy rate on the lot. The majority of uses surrounding the subject site are residential or neighborhood commercial uses which provide their own parking. There are no uses in the area which generate sufficient demand for short-term parking to permit operation of the subject facility without all day commuter parking.

11. The operator of the lot testified that the lot is cleaned on a daily basis. No complaints have been received concerning the maintenance or operation of the parking lot or of any dangerous or objectionable traffic conditions resulting from the lot.

12. The Department of Public Works, by memorandum dated January 7, 1985, indicated that the subject lot is fairly well-maintained and is used for all-day commuter parking. The Department of Public Works had no objection to the continuation of the use pending future site development provided that the applicant complies with all applicable provisions of the parking and loading regulations effective March 1, 1985. The Board notes that the subject application was heard and decided prior to March 1, 1985. Therefore, the new regulations do not apply.

13. Advisory Neighborhood Commission 2C, by letter dated January 23, 1985 indicated its opposition to the application until such time that the applicants can demonstrate that the property will be secured against automobile access at night to prevent drug usage and prostitution on the lot.

14. In response to the concern of the ANC, the applicants testified that subsequent to conversations with the ANC representative, the applicants have agreed to chain the lot at night.

CONCLUSIONS OF LAW AND OPINION

Based on the Findings of Fact and evidence of record, the Board concludes that the applicant is seeking a special exception and a use variance. As to the special exception, the Board concludes that the applicant has substantially complied with the requirements of Paragraph 4101.41 of the Zoning Regulations and that the special exception, as hereinafter conditioned, can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to effect adversely the use of neighboring property. As to the variance to permit all-day commuter parking, the Board concludes that such is a use variance, which requires a showing of a hardship upon the owner of the property that arises from the property itself. The Board notes that the subject parking lot is used for commuter parking primarily and that the other uses in the near vicinity of the subject parking lot do not generate sufficient short-term parking needs to allow the lot to be operated without all-day parking. The Board concludes that since part of the subject property is leased for commuter parking and that the physical location of the parking lot precludes its use by short term parkers, the hardship is inherent on the property. The Board conclude that it has accorded 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:

- A. Approval shall be for a period terminating on January 5, 1987.

- B. The lot shall be secured during all hours that the facility is not in operation.
- C. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- D. Wheel stops shall be erected and maintained.
- 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 structures or 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: 3-0 (John G. Parsons , William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris and Douglas J. Patton not present, not voting).

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

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

FINAL DATE OF ORDER: 29 MAY 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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