

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14271, as amended, of CM General Partners, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.49 to use the subject premises as an accessory parking lot for the residents of 637 - 3rd Street, N.E., a condominium, in an R-4 District at premises rear 637 - 3rd Street, N.E., (Square 778, Lots 120 and 41).

HEARING DATE: April 10, 1985
DECISION DATE: May 1, 1985

FINDINGS OF FACT:

1. At the time of the filing of the application the owners of the subject site were Pagonis and Long. The owners are now known as CM General Partners. The application was amended to reflect the change in ownership.
2. The subject property is located on the interior of Square 778. This square is bounded by G, F, 3rd and 4th Streets, N.E. The property is in an R-4 District and is located to the rear of Lot 119, the premises known as 637 3rd Street, N.E. The building on Lot 119 is also known as the Capitol Mansion Condominium.
3. The site is presently used by residents of the Capitol Mansion Condominium for parking, although there is no certificate of occupancy for that use and that use is not permitted as a matter-of-right under the Zoning Regulations.
4. The applicant seeks its relief through a special exception under Paragraph 3101.49 of the Zoning Regulations.
5. Paragraph 3101.49 provides in pertinent part that accessory passenger automobile parking spaces located other than on the same lot on which the main use is located are permitted as a special exception, provided that:
 - A. The parking spaces will be in an open area or in an underground garage no portion of which, except for access, extends above the level of the adjacent finished grade, provided in either case they are located in their entirety within 200 feet of the area to which they are accessory, and provided further that they are contiguous to or

separated only by an alley from the use to which they are accessory;

- B. All provisions of Article 74 regulating parking lots are complied with, except that the Board may in an appropriate case under Sub-section 7404.3 modify or waive the conditions specified in Sub-section 7404.2 where compliance therewith would serve no useful purpose;
- C. It is economically impracticable or unsafe to locate such parking spaces within the principal building or on the same lot on which the building or use is permitted because of, among others, restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on such lot;
- D. The parking spaces are so located and facilities in relation thereto are so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic or other objectionable conditions; and
- E. Before taking final action on an application for such use, the Board shall have submitted the application to the Department of Public Works for review and report.

6. Access to the subject lots is through a fifteen foot wide public alley from 3rd and 4th Streets. The site is surrounded on all sides by public alleys, two of which are thirty feet in width.

7. The subject lots are separated from Lot 119 by a fifteen foot alley. The condominium building occupies virtually all of Lot 119 and does not allow for any parking spaces for any of the owners of its thirty units.

8. The applicant proposes to mark off nineteen parking spaces on the subject lots. The subject lots will then be used as an accessory parking lot to the condominium located at 637 3rd Street, N.E.

9. The applicant plans to either convert the parking spaces into condominium units and sell them to unit owners of the condominium or to transfer the subject lots to the condominium association and assign parking spaces to unit owners as limited common elements.

10. Under the applicable Zoning Regulations, the applicant is not required to provide any parking for the condominium site.

11. The proposed parking spaces are in an open area and are located in their entirety within 200 feet of the premises at 637 3rd Street, N.E., to which they are accessory.

12. The subject lots are presently paved with bituminous paving materials, five inches thick, which forms an all-weather, impervious surface.

13. The parking spaces are designed so that no vehicle or any part thereof projects over any lot line or building line.

14. No other use is to be conducted on the lots and no structure exists on them.

15. No vehicular entrance or exit is located within forty feet of a street intersection.

16. All lighting used to illuminate the parking lots is so arranged that all direct rays of lighting are confined to the parking lot. The lots are lit by a public street lamp on the eastern side of Lot 120 and by a private lamp attached to the rear of the building at 637 3rd Street, N.E. and directed into the parking lots.

17. Prior to the purchase of the lots by the applicant, abandoned cars were left on the lots and they were filled with refuse and debris. The applicant has cleaned the lots and paved them. The applicant proposes to maintain the lots free of refuse and debris as part of the regular maintenance of the condominium.

18. In view of the lots' position, neither landscaping nor any form of perimeter fencing would be feasible or desirable. Each would be difficult to maintain. Each would reduce the number of possible parking spaces contrary to the goal of providing the maximum number of off-street parking spaces. Each could increase the danger to persons using the lots by providing a place for criminals to hide.

19. The lots are not suitable for any use other than parking.

20. Advisory Neighborhood Commission 6A, the Capitol Hill Restoration Society, the Stanton Park Neighborhood Association, and the 615 3rd Street Tenants' Association filed reports supporting the application. The grounds of support were that parking spaces in the immediate neighborhood were at a premium and the subject relief would tend to alleviate the situation. The subject lots were used to repair autos and for storage of abandoned cars and the spaces would be used by residents of the condominium. The

Board concurs with the ANC recommendation and that of the other associations.

21. The application was referred to the Department of Public Works (DPW). No report was received from the DPW.

22. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception the granting of which requires that the proposal meet the requirements of Paragraph 3101.49 and that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations and the relief will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met its burden of proof. The proposed parking lot is necessary to serve the accessory parking needs of the condominium located on the same square at 637 3rd Street, N.E. The proposed parking lot meets all the requirements of Article 74 except for the requirements of Paragraphs 7404.16 requiring landscaping and Paragraph 7404.2 requiring the lots be surrounded by brick or stone walls or evergreen hedges. As to those requirements, the Board finds that they are unnecessary and undesirable under the circumstances of these lots and pursuant to the authority granted to the Board in Paragraphs 3101.492 and 7404.3 hereby waives those requirements. The proposed use of the subject lots is in harmony with the general purpose and intent of the Zoning Regulations and Map, and will not tend to affect adversely the use of neighboring property in accordance with the Regulations and Map. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The use of the subject premises shall be limited to accessory parking for the residents of 637 3rd Street, N.E.
2. The parking layout shall be in accordance with the plan marked as Exhibit No. 10 of the record.
3. The use of the lot shall be limited to storage of vehicles only. No trash containers or non-vehicular items shall be stored on the lot.
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 space.
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 the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
8. 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 (Lindsley Williams, 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: _____

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."

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 LICENSES, INVESTIGATIONS AND INSPECTIONS.

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