

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14290, of M. Frank Ruppert Management, Co., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7205.4 to use the subject premises for accessory parking serving commercial use in the area in an R-5-D District at premises 645 New York Avenue, N.W. (Square 450, Lot 6).

HEARING DATE: May 12, 1985
DECISION DATE: June 6, 1985

FINDINGS OF FACTS:

1. The subject site known as premises 645 New York Avenue, N.W., is located on the north side of New York Avenue between 6th and 7th Streets. The site is in the R-5-D District.
2. The subject site is rectangular in shape with a frontage of 58.08 feet along New York Avenue and a depth of 115 feet. The site is fully paved and has a six feet high chain link fence with a gate on New York Avenue. The site is otherwise unimproved.
3. The R-5-D District extends in all directions from the subject site.
4. There are no residential uses in Square 450. There are two restaurants, a night club, an electrical supply company, a real estate office, a furniture store and a muffler shop in the square.
5. The applicant owns three lots in Square 450 in addition to the subject site. These lots are adjacent to the subject site.
6. The applicant's family first purchased the subject site in the 1950's. From that time until 1972, the zoning for Square 450 was commercial.
7. During the 1950's, the subject site was occupied by a warehouse. A fire gutted the building and it was later demolished. The remaining vacant lot was used as an accessory parking lot. This use has continued to the present.
8. A Certificate of Occupancy has never been issued allowing a parking lot to be operated at the subject site.

9. The applicant seeks a special exception pursuant to Sub-sections 7205.4 and 8207.2 of the Zoning Regulations to allow an accessory parking lot serving neighborhood businesses.

10. 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.

11. Sub-section 7205.4 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 practical to locate such spaces in accordance with Sub-section 7205.2 because of:
 - 1. Unusual topography, grades, shape, size, or dimensions of the lot;
 - 2. The lack of any alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or,
 - 3. Traffic hazards caused by unusual street grades; or
 - 4. The location of required parking spaces elsewhere on the same lot or on another lot would result in more efficient use of land, better designed or landscaping, safer ingress or egress, and less adverse impact on neighboring properties;
- B. When the accessory parking spaces are to be located elsewhere than on the lot upon which the building or 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 building or structure is located, shall be preferred;
- C. The parking spaces are so located as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structure which they are designed to serve; and
- D. The Board may impose conditions on any accessory or non-accessory parking spaces as to screening, coping, set backs, 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.

12. The Board finds that it is not practicable to locate the proposed parking spaces on the lots on which the neighborhood businesses are located. The shape and dimensions of the lots involved and the existence of structures effectively precludes locating the proposed accessory spaces on the business properties.

13. There is a shortage of accessory parking for businesses in the immediate vicinity of the subject site.

14. Parking on 7th Street has been totally eliminated by the ongoing construction of the Metro subway. This condition will exist for at least two more years. On-street parking on New York Avenue between 6th Street and 7th Street is limited to loading zones and about four legal parking spaces. These parking spaces are eliminated during both rush hours. The only commercial parking lot which exists in the immediate area is located on 7th and L Streets. Said parking lot is for monthly customers and is filled by 9:00 A.M. This parking lot is the property of the University of the District of Columbia and will be developed in the near future.

15. The businesses in Square 450 cater to a retail walk-in trade. The public generally drives to the stores, parks, purchases and then leaves. These businesses are affected adversely by the limited number of parking spaces in the area.

16. The subject parking lot is used by the real estate business, the muffler store and the restaurant. Other businesses in Square 450 requesting use of the lot will be accommodated as space allows.

17. Businesses utilizing the subject parking lot would lease a set number of parking spaces on a monthly basis. These businesses would have the discretion to allot the spaces to their employees or customers.

18. The parking lot's hours of operation would be from 8:00 A.M. until 12:00 midnight, Monday through Saturday and 5:30 P.M. until 12:00 midnight on Sunday. There will be no attendant as it will not be a commercially operated parking lot.

19. The subject lot provides twenty-four parking spaces with concrete curb stops and an access aisle which is twenty-one feet wide.

20. The surface is an asphalt faced pavement and it is an all weather impervious surface.

21. The striping is of a material which is all weather impervious.

22. Lighting for the subject site is provided by the high intensity street lamps directly in front of the site.

23. The management of the lot is the responsibility of the M. Frank Ruppert Management Company.

24. Sub-section 7206.91 of the Zoning Regulations provides in pertinent part that:

Landscaping with trees and shrubs shall be provided for all open parking spaces provided on a lot where there are more than ten open parking spaces provided collectively as accessory to any building or structure. Such landscaping shall cover a minimum of five percent of the total area devoted to parking, including aisles and driveways.

Twenty yew bushes, each three feet high, will be planted and maintained directly in front of the fence, ten on each side of the gates.

25. The landscaping is subject to approval by the Department of Public Works since the plantings will be on the public space directly in front of the parking lot.

26. There was no opposition of record or testimony in opposition to this application.

27. Advisory Neighborhood Commission 2C filed no recommendation on the application.

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-5-D District as accessory parking spaces for businesses located in the same square. 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 7205.4 of the D.C. Zoning Regulations.

The Board concludes that the applicant has met the burden of proof. The applicant has demonstrated that it is not practicable to locate the parking spaces on the same lots as the neighboring businesses that will use the subject, site for parking. The shape and dimensions of the businesses lots and the existence of structures which occupy

the lots preclude the location of accessory parking on the same lots with the neighboring businesses. The proposed accessory parking spaces are in the same square as the businesses. 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 will not tend to affect adversely the use of neighboring property. Accordingly, it is hereby ORDERED that the application is GRANTED, subject to the following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS.
2. The parking layout shall be as shown on Exhibit No. 2 of the record. No stacked parking shall be permitted.
3. Parking shall be limited to customers and employees of the businesses located in the subject Square 450.
4. Landscaping shall be provided in the public space in front of the fence along the New York Avenue frontage subject to review and approval by the Department of Public Works.
5. The number of parking spaces shall not exceed twenty-four.
6. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
7. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
8. 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.
9. 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.

VOTE: 3-0 (William F. McIntosh and Carrie L. Thornhill to grant; Lindsley Williams to grant by proxy; Charles R. Norris not voting, not having heard the case; Douglas J. Patton not present, not voting).

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

ATTESTED BY:



CECIL B. TUCKER
Acting Executive Director

FINAL DATE OF ORDER: 04 SEP 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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