

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14353, of Scripps-Howard Newspaper, 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 HR/SP-2 District at the premises 1213 L Street, N.W., (Square 283, Lots 825) and 1217 L Street, N.W., Square 283, Lots 806, 807 and 824).

HEARING DATE: April 9, 1986
DECISION DATE: April 9, 1986 (Bench Decision)

FINDINGS OF FACT:

1. Lot 825 is located at the northwest corner of the intersection of L and 12th Streets, N.W. and is known as 1213 L Street, N.W. Lots 806, 807 and 824 are located on the north side of L Street between 12th and 13th Streets, N.W. and are known as 1217 L Street, N.W. Both sites are located in an HR/SP-2 District.

2. A row structure known as 1215 L Street separates the two subject sites. The parking lots are surrounded by apartment houses, flats, rooming houses, a school, and an office building.

3. The Board of Zoning Adjustment (BZA) granted permission for the use of 1213 L Street and 1217 L Street, N.W. as parking lots in BZA Order No. 11286, dated June 12, 1973. Both were granted originally for five year periods. Most recently, approval to continue the lots was granted until September 11, 1985, in BZA Order No. 14077, dated June 4, 1984.

4. In Zoning Commission Order No. 475, the Zoning Commission amended Paragraph 4101.41 and extended the length of time for parking lots to continue in a special purpose zone from a period not to exceed ten years from the expiration date of the certificate of occupancy that was in effect on October 5, 1978.

5. On October 5, 1978, when Paragraph 4101.41 was first amended, the properties were operating under Certificates of Occupancy Nos. B-111714 and B-111715, both of which expired on September 11, 1979.

6. The applicant leases both parking lots to Atlantic Garage, Inc., which sub-leases the properties to the United States Catholic Conference, located at 1312 Massachusetts Avenue, N.W. The U.S. Catholic Conference uses the lots exclusively for its employees. The Conference has used the site for over twelve years.

7. The lot at 1213 L Street has a capacity for twenty-seven parking spaces. The lot at 1217 L Street has a capacity for nineteen parking spaces. There is no attendant present at these lots. The entrances to both lots are chained off, and admission is through a key to the lock on the chain fence. The employees of the U.S. Catholic Conference park all day on the lots. The lots are open from 8:30 A.M. to 5:30 P.M., and are chained off when not in use.

8. The sub-lessee is responsible for the maintenance and the cleaning of the site. The lots are cleaned three times a week and any other time as needed. All complaints concerning the lot's operation are directed to the sub-lessee. The sub-lessee has received no complaints about the lot. The noise generated by forty-six automobiles would be negligible as compared to the noise generated by existing traffic on surrounding streets.

9. The applicant and sub-lessee have complied with all of the conditions of the Board's prior order.

10. The property had been listed with a broker yet has failed to generate interest to the point of sale. A letter of intent and a proposal had been submitted by two interested developers, but neither chose to follow them up. The separation of the lots by the row structure has limited the interest in development. In the opinion of the owner, inquiries into the purchase of the row structure property have revealed a prohibitive price, and there are few developers at the moment who would be willing to purchase such property at a high cost.

11. The area surrounding the property contains very few retail uses and does not generate enough need for short term parking to make operation of these lots economically feasible on that basis alone.

12. The site, as an interim use, has no reasonable use other than as a parking lot.

13. There was no opposition to the application.

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

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception to continue operating a parking lot and a use variance from the prohibition against all day commuter parking. Under Paragraph 4101.41, parking lots in a special purpose district, in existence on October 5, 1978, under the approval of the BZA, may be allowed to continue in existence for a period not to exceed ten years from the date that the present certificate of occupancy expires subject to the following conditions:

- 4101.411 Such use is so located and all facilities thereof are so designed that they are not likely to become objectionable to adjoining and nearby property because of noise, traffic, or other objectionable conditions;
- 4101.412 The present character and future development of the neighborhood will not be affected adversely by the use; and
- 4101.413 The parking facility serves either residential uses or provides short term parking for retail, service and public facility uses, but does not provide all-day commuter parking.

Furthermore, applicant must show that the grant of the special exception 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 neighboring property. (Paragraph 8207.2).

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 except for Sub-paragraph 4101.413 which prohibits all-day commuter parking. The Board further concludes 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 affect adversely the use of the neighboring property.

Under Paragraph 8207.11, the use variance to permit all-day commuter parking requires a showing of undue hardship on the owner of the property. This hardship must arise from the property itself, precluding the owner from putting the property to a reasonable use for which it is zoned. The Board is well aware of the existing market conditions and understands the effect of the existing row house structure on the marketability of the applicant's lots. Furthermore, the Board recognizes that there are not enough facilities in the area to generate sufficient demand for short-term parking. Without relief, such factors would force the applicant to let the site lie vacant until a buyer could be found.

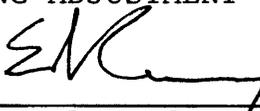
The Board concludes that such factors do constitute undue hardship on the owner of the property. Therefore, the Board is able to grant the use variance subject to the conditions herein without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan. Accordingly, it is ORDERED that the special exception and use variance are GRANTED SUBJECT to the following CONDITIONS:

- A. Approval shall be for a period of four years from the date of the expiration of the previous order, namely September 11, 1985.
- B. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather, impervious surface.
- C. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- D. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- E. 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.
- F. 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.
- G. 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 (William F. McIntosh, Charles R. Norris, Carrie L. Thornhill to grant; Paula L. Jewell, not present, not voting).

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

ATTESTED BY:



EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER:

AUG 1 1986

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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