

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14397, of Angelo A. Puglisi, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the use of a parking lot and for a variance from the prohibition against all day commuter parking, Paragraph 4101.413, in an HR/SP-2 District at premises 721 - 723 6th Street, N.W., (Square 486, Lots 11 and 12).

Application No. 14398, of Angelo A. Puglisi, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the use of a parking lot and for a variance from the prohibition against all day commuter parking, Paragraph 4101.413, in an HR/SP-2 District at premises 727 - 729 6th Street, N.W., (Square 486, Lots 804, 805, 806, 807 and 808).

HEARING DATE: April 16, 1986

DECISION DATE: April 16, 1986 (Bench Decision)

FINDINGS OF FACT:

1. Application No. 14397 and 14398 as directed by the Board were consolidated for the purpose of this Order. Both parking lots are in Square 486. They are contiguous to each other except for one structure separating the two parking lots. They are both in the same ownership.

2. The site of application 14397 is located on the east side of 16th Street, between G and H Streets, N.W. It is known as 721 - 723 6th Street, N.W. and is in an HR/SP-2 District.

3. The parking lot is currently operating pursuant to BZA order No. 14104, dated June 14, 1984.

4. The applicant proposes to continue to operate the lot through a special exception and requests a variance from the provisions of Sub-paragraph 4101.413 to permit all day commuter parking.

5. The property, Lots 11 and 12, are approximately 4250 square feet and have space for about 20 cars.

6. The site of application No. 14398 is located on the east side of 6th Street between G and H Streets, N.W.

It is known as 727 - 729 6th Street, N.W. and is in an HR/SP-2 District.

7. The parking lot is currently operating pursuant to BZA Order No. 14088, dated June 14, 1984.

8. The applicant also proposes to continue to operate this lot, and also requests a variance from the provisions of Sub-paragraph 4101.43 to permit all day commuter parking.

9. The property, Lots 804, 805, 806, 807 and 808, are approximately 6,375 square feet and have space for 26 cars.

10. The property has an attendant's booth. The hours of operation fall between 7:00 A.M. to 6:00 P.M., Monday through Friday.

11. The immediate neighborhood consists of restaurants, carry-outs, bars and vacant structures. Located nearby are the General Accounting Office, Bergman's Laundry, St. Mary's Church, the three Potomac Buildings and the Wah Luck Apartment Building.

12. All lighting for the parking lot is directed on the surface of the lot. The paved areas are completed with material which forms an all-weather impervious surface. The required bumper stops are on the lots and cars are not parked over the edge in any public space.

13. The applicant has received no complaints about the appearance, maintenance, or operation of the lots.

14. The uses in the vicinity of the lots do not generate sufficient short term patronage to the lots to make them viable operations. The applicant has approximately 25-30 monthly contracts and must at the present stage of development of the immediate area rely on commuter parking.

15. The applicant is a developer. His goal is to make better use of the land. At present it is virtually impossible to reasonably develop the area because of the small size of the lots. The applicant has attempted to purchase Lot 13 which would give him ample room to develop the subject lots. However, the owner of Lot 13 and the applicant cannot agree on the price. In the applicant's opinion the proposed sales price is unreasonable. The applicant has determined that at the present time there is no other reasonable use for the property except as a parking lot.

16. In Zoning Commission Order No. 475, the Zoning Commission amended Paragraph 4101.41 of the Zoning Regulations by extending 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.

17. Both parking lots were operating under valid Certificate of Occupancies on October 5, 1978.

18. The Advisory Neighborhood Commission (ANC) filed no recommendation on the applications.

19. There was no opposition to the applications.

CONCLUSIONS OF LAW

Based on the record, the Board concludes that the applicant is seeking special exceptions under Paragraph 4101.41, pursuant to Sub-section 8207.2 of the Zoning Regulations, to continue to use the property as parking lots. Additionally, the applicant is seeking use variances under Sub-paragraph 4101.13, pursuant to Paragraph 8207.11 of the Zoning Regulations, from the prohibition against all day commuter parking.

Under Paragraph 4101.41, a parking lot in existence on October 5, 1978 under approval by the Board of Zoning Adjustment may be permitted by the Board to continue in existence for a period not to exceed six years from the date that the present Certificate of Occupancy expires provided that:

1. The parking lot is so located that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic or other objectionable conditions;
2. The present character and future development of the neighborhood will not be affected adversely by the use; and
3. 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.

The Board finds that the applicant has substantially met the provisions of Paragraph 4101.41. The lots have a long history of operation under BZA approval. Both lots were operating under a valid Certificate of Occupancy on October 5, 1978. The immediate neighborhood consists of commercial uses and vacant structures with little or no changes during the years that the lots have been in operation. The applicant has received no complaints about the appearance, maintenance and operations of the lots. The Board has received no such complaints. The continuing history of the lots reflects that they are not likely to

become objectionable to adjoining and nearby property because of noise, traffic or other objectionable conditions. The Board further concludes that the present character and future development of the neighborhood will not be affected adversely by the use. The applicant is a developer and when possible he plans to develop the parking lot. Until that time use as a parking lot helps to minimize the negative aspects of vacant land such as areas to dump, trash, and crime sites. The time in which to operate the lots is also limited. Upon the expiration dates the Board will be in a position to evaluate the impact of the lots upon the surrounding areas.

The applicant does not meet the third provision of Paragraph 4101.41 prohibiting all day commuter parking, and requests a use variance pursuant to Sub-section 8207.11 of the Zoning Regulations. The BZA is empowered to grant use variances based upon the following criteria set forth in Section 8207.11:

1. Unique physical aspect or "other extraordinary or exceptional situation or condition of a specific piece of property;"
2. Undue hardship, and
3. No harm to the public good or the zone plan.

The Board concludes that the applicant has met the three criteria set forth in Sub-section 8207.11. The lots are small and it has been difficult for the applicant to obtain contiguous lots which would be large enough to develop. Additionally, an undue hardship would be placed upon the applicant if all day commuter parking were prohibited. The other uses in the vicinity do not generate sufficient patronage to the lots to make them viable operations without the commuter parking. Finally, the Board concludes that with the time limitation conditioning the grant herein, the use variance can be granted without substantially harming the public or the intent of the zone plan. The lots are temporary uses of land and will be developed as soon as the developer can obtain more land. Accordingly, the Board ORDERS that the special exception and variance are GRANTED SUBJECT to the following CONDITIONS:

- A. Approval for Application 14397 shall expire February 8, 1990.
- B. Approval for Application 14398 shall expire December 1, 1989.
- 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. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- 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 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 structure is 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: 4-0 (William F. McIntosh, Paula L. Jewell, Charles R. Norris, Maybelle T. Bennett to grant; Carrie L. Thornhill not voting, not having heard the case.)

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

ATTESTED BY:



EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: AUG 7 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 CONSUMER AND REGULATORY AFFAIRS.