

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14427 of Electrical Workers Benefit Association, 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 the subject premises as 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 premises 1303-1311 N Street, N.W. and 1310 - 13th Street, N.W., (Square 243, Lots 826 and 822).

HEARING DATE: June 11, 1986

DECISION DATE: June 11, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The properties are located on the northwest corner of the intersection of 13th and N Streets, N.W. and are known as premises 1303-1311 N Street and 1310 - 13th Street, N.W. The subject properties are zoned SP-2.

2. Both of the properties are basically rectangular in shape with no topographic irregularities. Lot 826 is 14,362 square feet in area. Lot 822 is 2,270 square feet in area.

3. Both of the above-referenced lots were first approved for parking lot use pursuant to BZA Order Nos. 6571-75 dated December 18, 1961. Apparently due to administrative oversight, Lot 822 was never included on the Certificate of Occupancy for operation of the parking lot at the corner of 13th and N Streets. The Certificate of Occupancy included only Lot 826, the larger of the two lots. The Board approved the continuation of parking use on both lots in BZA Order Nos. 7049-50 dated December 17, 1962. BZA Order Nos. 7558, 9888, 11615, 12227, 13192 and 14075 subsequently approved the continuation of parking lot use for Lot 826. Continued commercial parking lot use for commuter purposes was approved for Lot 822 together with Lot 826 in BZA Order Nos. 13921-11. The approval was renewed for a two-year period in BZA Order Nos. 14074-75, dated March 21, 1984.

4. The newly adopted amendment to the SP regulations set forth in Paragraph 4101.41 of the Zoning Regulations permits the subject parking lot to continue for an additional four-year period with the approval of the Board.

Accordingly, the applicant requests continuation of the parking lot use on both of the subject lots for an additional four-year period. The current Certificate of Occupancy for the lots expired on March 21, 1986.

5. The property was formerly owned by the D.C. Government but was sold at public auction to the applicant. At public auction, the D.C. Government advertised the property for sale as a parking lot and represented that the lot, comprised of both Lots 822 and 826, was available for use as commuter parking. The applicant relied in good faith upon the representations made by the District of Columbia Government in purchasing the property.

6. Uses surrounding the subject properties include an apartment house, an Amoco Service station, and a liquor store to the east across 13th Street. The nearby Hy-Song funeral parlor is now used for office purposes. The Logan Park Building, a condominium apartment house with some ground floor office space, lies to the southeast across 13th Street and row dwellings are located to the north of the site.

7. Lot 826 has a capacity of sixty-five attendant parked cars and an attendant's shelter. Lot 822 has a capacity for ten attendant-parked cars when operated in conjunction with Lot 826. Lot 822 alone could not provide ten parking spaces because the lot is too small to provide an access aisle. Both lots are paved and in compliance with the provisions of Article 74 of the Zoning Regulations and the conditions imposed by the Board's previous orders.

8. The applicant intends to operate both lots jointly as one parking facility with a combined capacity of seventy-five parking spaces. There are five additional spaces which are used for maneuvering purposes. The applicant's insurance policy prohibits more than the use of seventy-five spaces for parking.

9. The present hours of operation are from 7:00 A.M. to 7:00 P.M. weekdays with limited weekend use. There is an attendant present at all times that the lot is in operation. Maintenance is on a daily basis, and the lot is policed periodically during the day by the attendant. It is secured during the hours that it is not in operation. The availability of secure parking spaces to area residents is beneficial to the neighborhood.

10. The lot is operated on an in-and-out commercial basis with some monthly lease contracts for use of both commuters and area residents. The lot is available for use of area residents.

11. The lot is used predominantly by office workers from nearby office buildings. The applicant testified that there is a continuing and substantial need for commuter parking in the area.

12. The applicant has received no complaints about the operation and maintenance of the lot.

13. Thirteenth Street is a major arterial carrying commuters. The noise generated by seventy-five cars using the subject site is negligible compared to that generated by the existing traffic flow.

14. The applicant requested continuance of the lots for four additional years. The applicant intends to develop the site with SP-2 uses as soon as it is economically practicable.

15. The applicant proposes to develop the lots jointly in the future. The development now of Lot 822 for a building and use permitted in the SP District, only to demolish that building to allow for the joint development of both lots in the future, would be costly and unreasonable for the applicant. The alternative would be to allow the lot to remain vacant and unproductive during the interim period.

16. The subject location is not suitable at the present time for development. The most recent study (1985) pertaining to development of all office, all residential, and mixed use concluded that none of these presented an economically viable project.

17. Of all the permitted uses in the SP District, some sort of commercial use is the most feasible. The size of the site is too small for other large developments and too large for small uses. Although the applicant intends to develop the properties, the state of the market in the subject area has been such as to render development financially infeasible.

18. Advisory Neighborhood Commission 2C by report dated June 4, 1986 recommended approval of the application on the grounds that the lots do not have an adverse affect on the community. The Board concurs with the reasoning and recommendation of the ANC.

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 variance. 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. Specifically, the facility, which was in existence on October 5, 1978, is so located and designed, as conditioned herein, that it is not likely to become objectionable to adjoining and nearby property owners because of noise, traffic or other objectionable conditions, nor will the present character and future development of the neighborhood be adversely affected by the use. Additionally, the Board concludes that at present the lot in part serves residential uses and provides short-term parking for uses in the vicinity.

As to the variance to permit all-day commuter parking on both lots, the Board concludes that the applicant is seeking a use variance which requires a showing of undue hardship upon the owner that arises from the property itself. Under Paragraph 8207.11, the use variance 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 concludes that Lot 822 is subject to extraordinary and exceptional conditions in light of its small size, the economy and use history of the area surrounding

the subject property which have contributed to the lack of development potential in the area, reliance on the action of the District of Columbia Government, and the fact the lot is contiguous to Lot 826, under common ownership, and intended to be developed jointly. The Board also concludes that the strict application of the Zoning Regulations would result in undue hardship upon the owner in that the property could be put to no reasonable, economically viable use. The need for a variance from sub-paragraph 4101.413 in order to operate a commuter parking facility in this area has been demonstrated because of the lack of adequate demand for short-term parking facilities in the area and the present inability of the owner to develop the site.

The Board concludes that the requested variance can be granted, as hereinafter conditioned, without substantially impairing the intent, purpose or integrity of the zone plan as embodied in the Zoning Regulations and map. It is therefore ORDERED that the application is GRANTED subject to the following CONDITIONS:

- A. Approval shall be until March 21, 1990.
- 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: 5-0 (William F. McIntosh, Patricia N. Mathews,
Charles R. Norris, Paula L. Jewell, and
Carrie L. Thornhill to grant).

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

ATTESTED BY:



EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER:

AUG 25 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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