

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14434 of David Washington, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the on-site parking requirement, (Sub-section 7202.1), and from the use provisions (Sub-section 5101.3) to use a proposed addition to an existing auto repair shop, body and fender work, for the same purpose in a C-1 District at premises 4451 Nannie Helen Burroughs Avenue, N.E., (Square 5129, Lots 102 and 103).

HEARING DATE: June 18, 1986

DECISION DATE: June 18, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The property is located at the southwest corner of the intersection of Nannie Helen Burroughs Avenue and 46th Street, N.E. The premises is known as 4451 Nannie Helen Burroughs Avenue and is in a C-1 District.

2. The site is irregular in shape and consists of approximately 4,050 square feet of lot area. The site is currently improved with a single story, three-bay garage which was constructed in approximately 1952. The site abuts a fifteen foot public alley to the rear of the property.

3. The previous owners of the premises had used the property for a gas station, later converting it into a repair shop. The Board granted the prior owner a use variance to perform body and fender work within the existing auto repair shop (BZA Order No. 10414, dated March 3, 1971). At the time of the present applicant's purchase, the property lay vacant.

4. The applicant purchased the property in February and obtained a certificate of occupancy which allows him to run a garage and a body and fender repair shop. The applicant presently uses the premises exclusively for transmission repair. No body or fender work is done on the premises. In order to maneuver equipment more effectively, the applicant intends to construct an addition. This addition would extend outward from the front of the existing structure towards Nannie Helen Burroughs Avenue, covering approximately 700 square feet.

5. The applicant does not intend to use the addition for increased service of cars, but rather to maneuver more

effectively within the structure. Since the transmission will be removed from the cars, the mechanics require large equipment such as jacks, dollies, and hoists for service. The proposed addition would provide larger interior space for the performance of transmission work and will allow work on vehicles to be carried out inside the structure. There will be no increase in the number of employees. Trash and delivery services will remain as existing.

6. The applicant is seeking a variance from the parking requirements of the Zoning Regulations. Three on-site parking spaces are required. The applicant proposes to close an existing bay entrance and provide three parking spaces on-site. The parking spaces proposed do not meet the minimum size and access requirements of the Zoning Regulations for required parking spaces but are sufficient to permit vehicle storage on-site and prevent the use of neighboring streets and alleys for parking generated by the repair garage.

7. The Advisory Neighborhood Commission (ANC) 7D, by letter dated May 29, 1986, recommended a denial of the application based on a fear of traffic congestion on neighboring streets because of the use of neighboring streets or alleys by the applicant for the parking or standing of cars that the applicant was servicing. The ANC believed the addition to be too large and would take away the needed parking space on the property which it is now providing. The ANC was further concerned that the addition would eliminate the trash collection space now provided.

8. The Board is required by statute to give "great weight" to the issues and concern of the Advisory Neighborhood Commission which are submitted in writing. In addressing the concerns expressed by the ANC, the Board as follows:

- a. The applicant is providing three on-site parking spaces in order to prevent the use of neighboring streets and alleys for parking of vehicles being serviced by the applicant.
- b. The proposed use generates little trash. Trash collection and the location of trash receptacles will remain the same.

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

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence in the record, the Board concludes that the applicant is seeking a use variance to

construct an addition which would provide necessary space to continue the previously granted nonconforming use on the premises. Secondly, the applicant is seeking an area variance from the required amount of parking spaces for an auto repair use. Under Paragraph 5101.3 of the Zoning Regulations, auto repair is not permitted in a C-1 District. The grant of a nonconforming use previously does not carry over to additions constructed for the purpose of more effective service. The Regulations thus require a new use variance for any addition. Under Paragraph 8207.11, the applicant must demonstrate that the property is affected by an exceptional situation or condition inherent in the property, that the strict application of the Zoning Regulations would result in an undue hardship on the owner, and that such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, or integrity of the Zoning Regulations and map.

The Board concludes that the applicant has met the required burden of proof for the granting of the requested use variance. The subject premises was constructed as a garage and has a history of use as a repair garage dating back to 1952. The Board granted a use variance to permit a repair garage with body and fender work for the subject premises by its Order No. 10414, dated March 3, 1971. The existing garage structure does not provide adequate space to accommodate the large equipment required for transmission repair, and allow room for the mechanic to maneuver around vehicles being repaired in the structure. The requested use variance applies only to the proposed small addition. The applicant may continue the operation of the repair garage in the existing building without zoning relief. The owner would suffer undue hardship if the requested relief is not granted because adequate space does not exist in the existing structure to continue the currently permitted use without the proposed addition.

The Board further concludes that the granting of the requested relief would not adversely affect the public good or the integrity of the zone plan. On the contrary, the addition would benefit the neighborhood aesthetically, since all of the repair work would be kept inside the building. Furthermore, the addition would not affect parking in the neighborhood since the applicant does not plan to increase the number of vehicles serviced. The applicant has also designed the addition to allow for three parking spaces on the lot. The Board concludes that these factors are sufficient to substantiate a use variance for the addition to the applicant's property.

Under Paragraph 8207.11, the applicant must demonstrate that the strict application of the Zoning Regulations would result in practical difficulties on the owner in order to

substantiate an area variance. The Board concludes that the applicant has met the burden of proof. The applicant is seeking an area variance from Paragraph 7202.11, which requires the owner to provide three nine-by-nineteen feet parking spaces. Due to the size and shape of the lot and the size and location of the existing structure and proposed addition, the strict application of the Zoning Regulations would preclude the provision of three required off-street parking spaces. The subject site has sufficient area to provide parking for three vehicles. The parking proposed does not meet the size and access requirements of the Zoning Regulations. However, the provision of the proposed sub-standard parking spaces will eliminate the necessity to park vehicles on neighboring streets or alleys. The Board concludes that, as hereinafter conditioned, the requested parking variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the CONDITION that three parking spaces be provided on-site as indicated in plans marked as Exhibit No. 8 of the record.

VOTE: 3-0-1 (John G. Parsons, Paula L. Jewell, Charles R. Norris to grant; William F. McIntosh abstaining; and Carrie L. Thornhill 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: SEP 12 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.