

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14491, as amended, of James E. McClelland, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against converting an existing garage located on an alley lot into a single-family dwelling (Sub-section 7606.3) in a R-4 District at premises rear 303 - 12th Street, S. E., (Square 991, Lot 814).

HEARING DATE: October 8, 1986

DECISION DATE: November 5, 1986

DISPOSITION: The Board GRANTED the application by a vote of 3-0 (William F. McIntosh, Carrie L. Thornhill and Paula L. Jewell to grant; Charles R. Norris not voting, not having heard the case).

FINAL DATE OF ORDER: December 19, 1986

ORDER

By letter dated March 31, 1987, the applicant filed a timely request for modification of the plans approved by the Board in its order dated December 19, 1986. The approved project provided for one regulation sized parking space to the south of the structure and one substandard parking space to the north of the structure. The applicant proposed deletion of the approved parking space at the south of the structure in order to respect the easement rights held by an adjoining property owner. There was opposition to the granting of the requested modification.

By memorandum dated April 30, 1987, the Office of the Zoning Administrator advised the Board that the requested modification of plans would require additional variance relief.

Based on the foregoing facts, the Board concludes that the requested relief exceeds the scope of the relief originally approved by the Board and, therefore, can not be approved as a modification of plans. The applicant should more properly proceed to file a new application for the relief set forth in the memorandum from the Zoning Administrator. Accordingly, it is ORDERED that the request for MODIFICATION of PLANS is hereby DENIED.

Vote: 3-0 (William F. McIntosh, Paula Jewell, and Carrie L. Thornhill to deny; Charles R. Norris 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: JUL 13 1987

UNDER 11 DCMR 3103, "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.

DECISION DATE: May 6, 1987

14491order/LEE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14492 of Bakers Local Union No. 118, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.49 to continue accessory parking in an R-1-B District at the premises 2706 Bladensburg Road, N.E., (Square 4345, Lot 7).

HEARING DATE: October 15, 1986

DECISION DATE: November 5, 1986

FINDINGS OF FACT:

1. The site known as lot 7 in square 4345, is located on the north side of Evarts Street between 30th Street and Bladensburg Road, N.E. The subject lot is located to the west of an office building on Lot 8 for which it provides accessory parking. Both lots are known as 2706 Bladensburg Road, N.E. Lot 7 is in an R-1-B District and Lot 8 is in a C-2-A District.

2. In BZA Order No. 10476, dated November 16, 1970, the Board first approved the subject lot as accessory parking for the applicant's office building. In BZA Order No. 11592, dated June 25, 1974, the Board granted the continued use of the subject lot for a period of five years. In the previous BZA Order No. 13005, dated March 17, 1980, the Board denied the continuance of accessory parking on the subject lot. This Order was appealed in Bakers Local Union No. 118 v. District of Columbia Board of Zoning Adjustments, 437 A.2d 176 (1981).

3. Subsequently, after further hearing on remand, in BZA Order No. 13005, dated August 31, 1982, the Board granted the continued use of the subject lot.

4. The site, Lot 7, is approximately 6,000 square feet in area. It is within 35 feet of the office building to which it is accessory. Lot 7 has parking facilities for fifteen automobiles.

5. The frontage of property along Bladensburg Road, N.E. at the subject location is strip zoned. The depth of the C-2-A zone is fifteen feet along Evarts Street, N.E.

6. Both Lots 7 and 8 are of restrictive size and the adjacent property to the north is in adverse ownership and unavailable for off-street parking.

7. The intersection of Evarts Street and Bladensburg Road, N.E. forms an irregular angle at the subject property, which gives an unusual shape to Lot 8 on which the office building is located.

8. The working hours at the office building are from 9:00 A.M. to 5:00 P.M., Monday through Friday. Approximately five employees work in the office building.

9. One executive board meeting is held on the first Saturday of each month between the hours of 10:00 A.M. and 2:00 P.M. Approximately fifteen persons attend this meeting. The applicant also holds membership meetings approximately four times a year. The attendance at these meetings approximates 80 persons.

10. The parking spaces of the subject lot are in an open area and are located in their entirety within 200 feet of the area to which they are accessory.

11. All areas devoted to driveways, access lanes and parking areas are paved with materials which form an all-weather impervious surface.

12. The parking lot is designed so that no vehicle or any part thereof projects over any lot line or building line.

13. No vehicular entrance or exit is located within twenty-five of a street intersection.

14. Any lighting that is used to illuminate the parking lot is so arranged that all direct rays of lighting are confined to the parking lot.

15. In accordance with BZA Order No. 10426, the applicant provided a seven foot buffer with landscaping next to the abutting residential property on Lots 15 and 16 and a cedar fence on the easterly side of the buffer.

16. After the decision of the Board in Application No. 13005, and prior to the decision of the Court of Appeals, the applicant, in response to the requests of surrounding property owners, installed a chain link fence around the lot and a gate at the entrance.

17. Aside from the gate and fence the conditions and circumstances for operation of the subject parking lot have not changed since the Board's initial approval of establishment of the lot in 1970 and the last Order extending the parking lot use in 1982.

18. The parking area, including the landscaping, is kept free of refuse and debris and is maintained in a neat

and orderly fashion. The applicant employs a yard service company to maintain the lot, and several employees and a janitor collect trash daily.

19. It is impractical and unsafe to locate the parking spaces on Lot 8 since the frontage of property along Bladensburg Road, N.E. at the subject location is strip zoned and the C-2-A zoning depth is only fifteen feet along Evarts Street, N.E.

20. The curb cut access to the parking lot and the fourteen foot wide aisle between the rows of parking spaces required by Section 7206.5 of the Zoning Regulations lie entirely on Lot 7 in the R-1-B District, while the required parking spaces for the office building under Section 7202.1 lie entirely on Lot 8 in the C-2-A District. Therefore, relying solely on lot 8 for parking spaces prohibits aisleway access to such parking spaces.

21. Properties to the north and east of the site are buffered by a brick wall and a fence. The residential house to the west of the lot is buffered by a wooden fence, plantings and a six-foot high chain link fence. Due south of the site is a small triangular-shaped traffic median and other commercial uses.

22. No one is allowed to use the lot other than for accessory parking purposes. Neighborhood children had been warned about using the lot as a play area.

23. The "No Trespassing" sign and the gate and fence serve as notice that trespassing is prohibited. The applicant has installed a chain link double gate so that children will not be able to crawl underneath it in accordance with the most recent order of the Board.

24. No written report was filed by Advisory Neighborhood Commission 5A and no representative appeared at the hearing.

25. An adjoining landowner appeared and testified in opposition at the hearing. The basic objections to the continuation of the parking lot use were that people congregated on the lot and caused disturbances and that they contributed to the damage done to her home. The Board finds that these allegations are not substantiated by evidence of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires proof through substantial evidence that the applicant has complied with the requirements of Paragraph 3101.49 of the Zoning Regulations and that the relief 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 neighboring property. Sub-section 3101.49 allows for accessory passenger automobile parking spaces elsewhere than on the same lot or part thereof on which the main use is permitted, except for a one-family dwelling, provided that:

3101.491 Such parking spaces will be in an open area or in an underground garage no portion of which, except for access, extends above the level of the adjacent finished grade, provided, in either case they are located in their entirety within 200 feet of the area to which they are accessory, and, provided further, that they are contiguous to or separated only by an alley from the use to which they are accessory;

3101.492 All provisions of Article 74 regulating parking lots are complied with, except that the Board may in an appropriate case under Sub-section 7404.3 modify or waive the conditions specified in Sub-section 7404.2 where compliance therewith would serve no useful purpose;

3101.493 It is economically impracticable or unsafe to locate such parking spaces within the principal building or on the same lot on which such building or use is permitted because of:

3101.4931 Strip zoning or shallow zoning depth;

3101.4932 Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on such lot;

3101.4933 Unusual topography grades, shape, size or dimension of the lot;

3101.4934 The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or

3101.4935 Traffic hazards caused by unusual street grades or other conditions;

3101.494 Such parking spaces are so located and facilities in relation thereto are so designed that they are not likely to become objectionable to adjoining or nearby property because of noises, traffic or other objectionable conditions.

The Board concludes that the applicant has met its burden of proof. The circumstances have not changed since the Board's prior approval, except that a chain link fence has been constructed around the lot and a gate has been installed in response to a condition in the Board's 1982

order. These changes have made the lot more secure. The lot complies with all of the above mentioned criteria. As evidenced, the use of residential lot 7 for accessory parking is necessary for the applicant to efficiently meet the requirements for adequate parking for its office building located on C-2-A zoned land. The Board concludes that the applicant has fulfilled its responsibilities in maintaining and protecting the subject lot and preventing any adverse impact upon the neighborhood.

The parking spaces are so located and all facilities in relationship thereto are so designed that they are not objectionable to adjoining property owners because of noise, traffic or other objectionable conditions. The Board further concludes that continuing the use of the lot will not adversely affect neighboring properties. The Board further concludes that the application is in harmony with the general purpose and intent of the Zoning Regulations, Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS from the expiration date of the previous approval, namely from June 25, 1984, terminating on June 25, 1989.
2. The existing gate shall be maintained in good repair.
3. The hours of operation shall not exceed from 8:15 A.M. to 5:30 P.M., Monday through Friday, except for special monthly Executive Board meetings and quarterly membership meetings.
4. The gate shall be locked at all times that the parking lot is not in operation.
5. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
6. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
7. 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.
8. 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

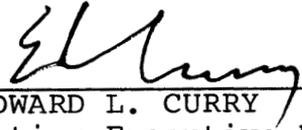
unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

9. 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 (Patricia N. Mathews, Paula L. Jewell, William F. McIntosh, and Carrie L. Thornhill to grant; Charles R. Norris 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: _____

DEC 19 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."

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