

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14709 of Tony Cheng, pursuant to 11 DCMR 3107.2, for a variance from the off-street parking requirements (Sub-section 2101.1) to allow on the first floor a restaurant/public hall - seating 299 in an HR/C-2-C District at premises 925 - 5th Street, N.W., (Square 516, Lots 827 and 828).

HEARING DATES: December 9 and 21, 1987
DECISION DATE: January 6, 1988

FINDINGS OF FACT:

1. The subject property is located on the east side of 5th Street between Massachusetts Avenue and K Street and is known as premises 925 5th Street, N.W. It is zoned HR/C-2-C.
2. The site is rectangular in shape with a frontage of approximately 41 feet along 5th Street and a depth of 100 feet. The site is improved with a one-story brick building which was originally constructed as a meat processing establishment prior to the enactment of the 1958 Zoning Regulations.
3. The structure currently has a Certificate of Occupancy for a restaurant. The applicant proposes to operate a restaurant/public hall, seating 299 persons. The proposed use of the site as a public hall requires that the applicant provide thirty on-street parking spaces. The applicant does not propose to provide any on-site parking. A variance of 100 percent is therefore required.
4. The existing structure occupies the entire width of the lot. There is no alley access to the rear of the site. The adjacent properties are developed and occupied. The applicant therefore, cannot provide access to the rear of the site. For these reasons the applicant is unable to provide on the site.
5. The applicant is unable to provide underground parking because excavation would jeopardize the structural integrity of the existing building. In addition, the narrow width of the site does not allow for adequate driveway width and maneuvering space to make underground parking feasible.

6. The lot area of the subject site is approximately 4,100 square feet. Even if the existing building were demolished, the small size of the lot would preclude the provision of thirty standard nine by nineteen foot parking spaces on the site.

7. There is metered parking available along 5th, K and L Streets. There are also several commercial parking lots within a three block radius of the subject site. The lessee testified that while parking is available on nearby lots, to secure a long-term lease for parking at nearby commercial lots were unsuccessful.

8. The applicant has been operating at the site for several months. The lessee testified that there have been no adverse impacts on traffic and parking in the area as a result of the subject operation. In addition, the premises was used for public hall prior to the establishment of the proposed use. The lessee testified further that his hours of operation do not coincide with the hours of peak parking demand of other uses in the area.

9. By memorandum dated December 2, 1987, the Department of Public Works found that site constraints prevent the applicant from providing the required on-site parking spaces. The Department of Public Works noted that a retail/residential Planned Unit Development is proposed at the intersection of 5th and I Streets. The Department of Public Works concluded that upon completion of that project and other potential development in the area, the parking demand in the area may rise significantly. The Department of Public Works recommended, therefore, that the applicant enter into an agreement to provide parking spaces on the nearby parking lots. The Board concurs with DPW's finding that the applicant is unable to provide the required parking on the subject site. The Board notes that the applicant was unable to secure a long-term commitment from lots in the immediate vicinity.

10. By memorandum dated December 3, 1987, the Office of Planning recommended that the application be approved. The Office of Planning was of the opinion that the applicant had met the requisite burden of proof. The Board concurs with the recommendation of the Office of Planning.

11. The Advisory Neighborhood Commission (ANC) 2C made no recommendation on the subject application.

12. There was one person in opposition to the application at the public hearing and of record. The opposition was generally based on problems dealing with noise generated within the premises, by patrons outside the premises and the hours of operation. The opposition's representative testified that there is adequate parking in the area to serve the proposed establishment.

13. In rebuttal, the lessee testified that the premises have been sound proofed in compliance within the directions of officials of the District Government. As to the hours operation, the lessee testified to conflicting hours for the public hall use and the restaurant use. The Board strongly urges the lessee to ensure that the operation of the public hall does not exceed the limits imposed by law, violation of which could lead to prosecution.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires evidence of a practical difficulty upon the owner arising out of some exceptional situation or condition inherent in the property. The Board further must find that the relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

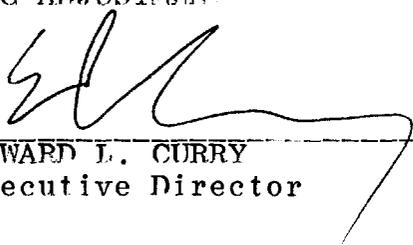
The Board concludes that the applicant has met the necessary burden of proof. The site constraints caused by the small size of the lot, its narrow width, lack of alley access and the existing structure which pre-dates the Zoning Regulation's creates a exceptional condition of the property. The Board concludes that the strict application of the Zoning Regulation's would result in a practical difficulty upon the owner.

The Board further concludes that the requested relief can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulation's and map. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Charles P. Norris, Carrie L. Thornhill and Paula L. Jewell to grant; William F. McIntosh to grant by proxy).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

JAN 10 1988

UNDER 11 DCMR 3103.1, "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.

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