

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14748 of Square 35 Residential Joint Venture, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Section 213 to continue the use of an accessory parking lot, a variance to allow continuation of the use of accessory parking spaces that are not located within 200 feet of the area to which they are accessory (Sub-section 213.3), and a variance to allow continuation of the use of accessory parking spaces that are not contiguous to or separated only by an alley from the use to which they are accessory (Sub-section 213.4) in an R-5-B District at premises 2301 N Street, N.W., (Square 35, Lot 802).

HEARING DATE: March 9, 1988

DECISION DATE: March 9, 1988 (Bench Decision)

FINDINGS OF FACT:

1. The site, known as premises 2301 N Street, N.W., is located on the north side of N Street between 23rd and 24th Streets. It is in an R-5-B District.

2. The subject site is rectangular in shape. It has a frontage of 274.41 feet along N Street and 78 feet along 23rd Street.

3. The property is bounded by a 16 foot wide public alley to the north and a 20 foot wide public alley to the west. Across the alley to the north are tennis courts and Rock Creek Park. Across the alley to the west is the Francis Junior High School. The area to the south of the property is zoned CR. The lot directly south of the property, premises 2300 N Street, N.W., is a commercial use, with an office building currently under construction.

4. The applicant, Square 35 Residential Joint Venture, is a joint venture between U.S. News and World Report and Boston Properties. The parking lot serves as parking for employees of U.S. News. The U.S. News headquarters building is located diagonally across the street from the parking lot, at 2400 N Street, N.W. U.S. News has more than 400 full-time employees.

5. The property has been used for parking purposes approved by this Board on seven successive occasions beginning in 1961. The lot is currently operating pursuant to BZA

Order No. 14392, dated July 18, 1986, which approved the continuation of the parking facility for two years.

6. The applicant is seeking special exception relief pursuant to Section 213 to continue the operation of an accessory parking lot in a residential district and a variance from the provisions of Section 213.3 which requires that accessory parking spaces be located in their entirety within 200 feet of the use they are proposed to serve.

7. The parking lot is located in an open area approximately three and one-half feet below the adjacent finished grade.

8. In all of the prior orders regarding the lot, the Board granted approval of the parking lot use as a special exception without the need for a variance. Because of recent changes in the Zoning Regulations requiring that accessory parking spaces be located in their entirety within 200 feet of the area to which they are accessory and contiguous to or separated only by an alley from the use to which they are accessory (Sub-section 213.4), the applicant no longer fully satisfies the requirements for granting of the special exception and now must seek an area variance.

9. A major portion of the parking lot is located within 200 feet of the U.S. News Headquarters building. However, because the parking lot itself is approximately 273 feet long, it is not located in its entirety within 200 feet of the U.S. News headquarters building.

10. The lot complies with all provisions of Chapter 21.

11. The spaces which are provided by the parking lot are essential to U.S. News, many of whose employees, because of the irregular work hours which are inherent in the news business, arrive at and leave the office late at night and need to be able to park within close proximity to the U.S. News headquarters building.

12. Three out of the five parking lots previously in use by U.S. News employees have been eliminated. U.S. News has lost nearly 100 spaces that it use to lease from B & W Garage, which has since closed. Ninety employee spaces are provided in the new U.S. News headquarters building at 2400 N Street, N.W. The net effect of these changes is a substantial decrease in available parking.

13. U.S. News has made inquiries regarding leasing additional parking spaces from neighboring facilities. No such spaces are currently available, but the applicant anticipates that such additional spaces will become available by the time construction begins on the site.

14. Plans for development of the site are currently underway. The applicant received approval from the Zoning Commission for mixed use development of the subject site. The applicant subsequently submitted to the Zoning Commission a proposal for a PUD approximately two blocks from the subject site. Since development of the two sites are linked, the applicant does not wish to proceed until it receives approval of the combined PUD from the Zoning Commission. The applicant proposes to continue the operation of the subject lot until development can proceed pursuant to final action by the Zoning Commission.

15. The applicant has recently built the U.S. News headquarters building at 2400 N Street, N.W. Currently under construction are a hotel at 24th and M Streets, N.W. and an office building on the site where the U.S. News headquarters used to be located at 2300 N Streets, N.W.

16. The lot contains 57 marked parking spaces. It is surrounded by a chain link fence which has been painted green pursuant to a request by the ANC. The area outside the fence is landscaped, with trees and shrubs surrounding almost the entire lot. The lot is unattended.

17. The use and operation of the parking lot complies with the conditions of the Board's prior order.

18. The entrance to the subject lot is more than forty feet from a street intersection. The lot has been in existence since 1961 with no adverse traffic impacts on surrounding streets. The applicant has received no complaints with regard to the parking lot.

19. The Office of Planning, by memorandum dated February 26, 1988, recommended approval of the application for a period of one year pending the final action by the Zoning Commission. The Board concurs.

20. Advisory Neighborhood Commission 2B, by memorandum dated February 19, 1988, recommended approval of the application. The ANC noted the large number of cars which would be displaced if the parking lot were discontinued. The Board concurs.

21. A representative of the Dupont Circle Citizens Association appeared at the public hearing and testified that the DCCA took no position on the application.

22. A representative of the Residential Action Coalition appeared at the public hearing in opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception to continue an accessory parking use, the granting of which requires proof that the applicant has met the requirements of Section 213 of the Zoning Regulations and that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations and the relief will not tend to affect adversely the use of neighboring property.

The applicant is also seeking an area variance from portions of Section 213.3, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of 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 its burden of proof. All parking spaces are in an open area no portion of which extends above the level of the adjacent grade. The parking lot is in compliance with the conditions imposed in its prior Order and Chapter 21 of the Zoning Regulations. It is economically impracticable to locate the parking spaces on the same lot on which the U.S. News headquarters building is located because of noise, traffic or other objectionable conditions.

The Board further concludes that the parking lot will be in harmony with the general purpose and intent of the Zoning Regulations and that it will not adversely affect the use of the neighboring property in accordance with said Zoning Regulations.

The Board further concludes that the strict application of Section 213.3 would result in peculiar and exceptional practical difficulties for the applicant. The property has been used as a parking lot since 1961. The distance between the farthest corner of the parking lot and the principal use, the U.S. News headquarters building does not meet the requirement under Section 213.3 that the lot be located in its entirety within 200 feet of and contiguous to or separated only by an alley from the use to which it is accessory since the lot itself is longer than 200 feet. The Board concludes that the applicant has taken major steps towards discontinuing the parking use and developing the property, in accordance with the timetable for development that was proposed at the time of the prior Order. The parking is essential to U.S. News, because of the elimination of many of the parking lots in the area, and because many of its employees, due to the irregular work hours which are inherent in the news business, arrive at and leave the office late at night and need to be able to park within close proximity to the U.S. News

headquarters building. Until planned construction begins on the subject site, the property cannot be used for anything other than parking. A denial of this application would not encourage or hasten development of the property, but would cause the land to lay idle. The Board further concludes that the requested variance can be granted without detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations.

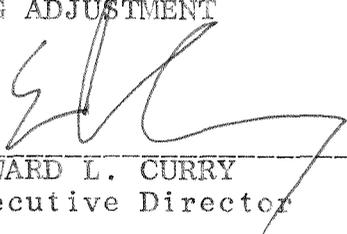
The Board concludes that it has accorded to the ANC the "great weight" to which is it entitled. Accordingly, it is ORDERED that this application be GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of ONE YEAR.
2. The applicant shall comply with all requirements of Chapter 21.

VOTE: 4-0 (Maybelle T. Bennett, William F. McIntosh, Charles R. Norris, and Carrie L. Thornhill to grant; Paula L. Jewell not present, not voting).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

JUN 17 1988

FINAL DATE OF ORDER: _____

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.

14748order/KATE25

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**



APPLICATION No. 14748

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated JUN 17 1988, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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EDWARD L. CURRY
 Executive Director
 JUN 17 1988