

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14937, of the Sun Oil Company, pursuant to 11 DCMR 3108.1 for a special exception under Section 726 to allow an addition to a gasoline station in a C-2-A District at premises 1248 Pennsylvania Avenue, S.E., (Square 1019, Lot 53).

HEARING DATE: February 15, 1989  
DECISION DATE: March 1, 1989

FINDINGS OF FACT:

1. The site of the application is located on the northwest corner of the intersection of Pennsylvania Avenue and 13th Street, S.E. It is known as premises 1248 Pennsylvania Avenue, S.E., and the site is located in a C-2-A Zoning District.
2. Boundaries of the site are 13th Street to the east, 12th Street to the west, E Street to the north and Pennsylvania Avenue to the south. The site is located within the Capitol Hill Historic District.
3. The subject property is approximately 8,862 square feet. The lot is improved with a Sunoco gasoline station which consists of a repair garage, an office and two islands with six gas pumps. The structure which was built in 1928 is a two-bay building.
4. The site is adjacent to a Washington Metropolitan Area Transit Authority (WMATA) Chiller Plant and two story row houses to the northeast. Row dwellings are also located directly across the street facing the site to the east. Commercial buildings, many of which are boarded-up, are located west of the site with street frontages on Pennsylvania Avenue.
5. The site is zoned C-2-A, Community Business Center - medium density. The square is split zoned with C-2-A to the south and R-4 to the north.
6. There are a range of land uses in the neighborhood. The area is predominantly moderate to medium density residential. Commercial uses abut Pennsylvania Avenue, a light industrial area is located east of the site, and institutional uses are in close proximity to the site. Public schools in the vicinity include Chamberlain Career

Development Center, and Payne, Buchannon and Watkins Elementary Schools. A 352-unit public housing project, Potomac Gardens Apartments, is located south of the site. There are no alleys in the subject square.

7. Presently, the property is used as a full service gasoline station and repair shop. The current improvements (other than the structure) were constructed in 1966. Additionally, the underground storage tanks, which are located above the Metro system, are 22 years old. Metro requires that double wall tanks be installed. Because of their age and proximity to Metro, the present tanks represent an environmental risk.

8. The applicant proposes to modify the existing service station. The modifications will include the conversion of the building into a convenience food market and the installation of electronic pumps, new pump islands, a canopy over the islands, and new underground storage tanks. The property will also be brought up to standards in terms of lighting, resurfacing, sidewalks, etc. A new dumpster will be installed and completely surrounded by an opaque fence. Trash collection will be handled by dumpster pick-up.

9. The conversion to a food market and the retail sale of foods is permitted at this location as a matter of right.

10. In addition to selling food, the applicant's franchisee will also sell gasoline using the self-service method. The building will contain an all glass cashier's cage, two large windows and glass doors. Purchases will be handled by the cashier from a double-barrel drawer. The applicant testified that security will be enhanced by this glass encasement and drawer.

11. The applicant testified that without the food market aspect of this franchise, the franchisee will be without the economic resources needed to make improvements for continuation of the operation.

12. The Office of Planning (OP), by memorandum dated February 8, 1989 and through testimony at the hearing, recommended approval of the application subject to the condition that the business will not operate 24 hours a day, but will have day and reasonable evening hours. In the report OP indicated that the Floor Area Ratio (FAR) of 13,293 square feet is allowed. With the proposed addition on the lot, the total FAR will be 3,017 square feet, substantially lower than what is allowed in the C-2-A Zoning District.

13. The Office of Planning indicated that there are four curb cuts on the site making it accessible from both 13th Street and Pennsylvania Avenue. A median strip is located on Pennsylvania Avenue dividing east and west bound traffic. The site is accessible to traffic travelling westbound on Pennsylvania. The OP is of the opinion that traffic circulation in the area as well as on the site appears to be good.

14. The Office of Planning was of the opinion that the facility will not create any dangerous or other objectionable traffic conditions. The proposed facility will not be located within 25-feet of a residential district and should not adversely impact upon neighboring property. It is the opinion of the Office of Planning that the single family dwellings located northeast of the site and those directly across the street would be most directly affected by the proposed action. Although the hours operation have not yet been determined, the OP believes that restricting the hours to daytime and reasonable nighttime hours should negate any potential impacts on these structures. The Office of Planning therefore recommends approval of the application with the condition that the hours be restricted. The Board agrees with the Office of Planning's recommendation of approval but finds no need to restrict the hours of operation.

15. The District of Columbia Historic Preservation Division approved the project with the modifications made by the applicant at the Division's suggestion.

16. The District of Columbia Fire Department by memorandum dated January 3, 1989 to the Office of Planning indicated that it has no objection to the application.

17. Advisory Neighborhood Commission (ANC) 6B by letter dated January 2, 1989, stated that it was in opposition to this application for an addition to a proposed self-service gasoline station. The ANC expressed a preference for a full service station. The letter manifests an understanding by the ANC that the food mart is the addition which requires a special exception. Opposition to the food mart is based on a concern for the effect that it will have on traffic, the generation of crime, drugs and trash in the area, and the likelihood that people will congregate around the site. The conversion of the building into a food mart is, however, not the subject of this application. The retail sale of food is permitted as of right on the site. The applicant is requesting a special exception to erect a canopy over the gasoline pump islands. The ANC expressed no opinion regarding what effect such a canopy or any aspect of the service station will have on the community.

18. A representative from the Barney Circle Neighborhood Association testified at the hearing. He expressed a concern that if there is 24-hour operation of the facility it will be robbed and vandalized due to the lack of controls in the area. He noted that the double barrel drawer will not be an adequate deterrent. He cited an incident at the 24 hour gas station at 12th and Pennsylvania Avenue, where such a drawer was entirely removed and the station was robbed. The soda machines located outdoors had to be brought inside due to vandalism. It was the opinion of the Association that similar incidents would occur at the subject location. It was doubted that private security guards or even the Metropolitan Police could eliminate the problem.

19. The Association was of the opinion that the food mart is not needed because there are numerous other stores in vicinity. The representative also expressed a desire to have a full service gasoline station, rather than self-service, because of the need for shops that will service cars in the area.

20. The Capitol Hill Restoration Society, by letter dated February 13, 1989, opposed the application. The Society expressed the view that the use sought would be inconsistent with a C-2-A District because the neighborhood does not need a "gas-and-go" station. Also operation would attract loitering in the already crime-ridden area. The Board does not agree with the position of the Society and other opposition.

#### 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 to allow a canopy addition to a gasoline station in a C-2-A District. The granting of such a special exception requires a showing through substantial evidence that the proposed use is 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 properties. The applicant must also meet the requirements of Sections 726 and 706 regulating gasoline service stations.

The Board concludes that the applicant has met the standard for granting the special exception requested. The Board concludes that the subject property is not located within 25 feet of a Residence District. It is the opinion of the Board that the operation of the gasoline station shall not create dangerous or other objectionable traffic conditions after the addition of the canopy. The Board does not deem it necessary to impose requirements, in addition to those proposed by the applicant, for the protection of nearby property. The Board concludes that parking spaces on site are designed and operated so that there is sufficient access and maneuvering spaces available.

The Board concludes that gasoline stations are permitted in a C-2-A Zone upon Board's approval. The Board concludes that the subject gasoline station has been in operation for 42 years. It is the opinion of the Board that the proposed canopy addition is not inconsistent with the existing use of the property. The Board therefore concludes that granting the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map. Further, the addition will not tend to adversely affect the use of neighboring property.

The Board concludes that the retail sale of food is permitted as a matter-of-right in a C-2-A Zone. Therefore, the proposed conversion to a food mart and the issues related thereto, are not within the purview of the Board in this case.

The Board concludes that it has given the ANC the "great weight" to which it is entitled. Accordingly, it is ordered that the application is hereby GRANTED.

VOTE: 3-1 (Charles R. Norris, William F. McIntosh and Paula L. Jewell to grant; Elliott Carroll opposed to the motion by proxy; Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER: AUG 10 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS 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.

14937order/BHS7

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14937

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 Aug 10 1970, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Richard Von Luehrte  
1031 Squires Drive  
West Chester, PA 19382

Wilbert R. Wilson  
11820 Decesars Blvd.  
Mitchellville, MD 20716

Evelyn Washington, Chairperson  
Advisory Neighborhood Commission 6-B  
921 Pennsylvania Avenue, S.E., #108  
Washington, D. C. 20003

Harry W. Carroll  
820 Kentucky Ave., S.E.  
D.C. 20003

Ernest Peele  
2105 Waterlcaf Way  
Mitchellville, MD 20716

A handwritten signature in black ink, appearing to read "E. L. Curry", written over a horizontal line.

EDWARD L. CURRY  
Executive Director

DATE: Aug 10 1970