

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14938 of the Shell Oil Co., pursuant to 11 DCMR 3108.1, for a special exception under Section 726 to allow the proposed addition and expansion of an existing gasoline station in a C-2-A District at premises 1550 Pennsylvania Avenue, S.E., (Square 1077, Lot 815).

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

DISPOSITION: The Board GRANTED the application by a vote of 4-1 (Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant; Elliott Carroll opposed to the motion by proxy).

FINDAL DATE OF ORDER: August 21, 1989

ORDER

The Board granted the application by its Order dated August 21, 1989. By letter received on August 31, 1989, Sharee Freeman, a party in opposition to the application, filed a motion to stay the effect of the Board's Order and for reconsideration of the Board's decision approving the application. The bases for the motion are generally summarized as follows:

- a. The Board failed to consider a full report from the Department of Public Works addressing any adverse impact of the project as recommended by the Office of Planning.
- b. The Board's Order does not refer to the size, height and dimensions of the canopy and pump islands. The public alley which separates the subject site from the adjacent residential district is less than ten feet in width in many places and at present does not facilitate the passage of vans, trucks or large cars through the alley near premises 833 Kentucky Avenue. Based on these facts, the Board could not determine the distance between the canopy and the nearest residence.

- c. The applicant's traffic expert failed to address the number of traffic accidents at Barney Circle, proposed re-routing of traffic that uses the west bound lanes of the Sousa bridge, staging of Metro buses on Pennsylvania Avenue adjacent to the subject site, and the size and location of parking spaces and queing lines on the site.
- d. The plans for fencing, landscaping and on-site vehicular circulation patterns can not be accomplished on the subject site after construction of the proposed improvements.

By letter dated September 20, 1989, Advisory Neighborhood Commission (ANC) 6B filed a motion to reopen the record and reconsider the Board's decision in the subject application. The Board notes that the motion filed by the ANC was not received within ten days of the Board's written decision on the application. The Board further notes that the ANC's submission would also be untimely if it were considered as a response to the motion filed by the opposition in that such responses must be submitted within seven days of the filing of such a motion. The ANC did not request a waiver of the filing requirements. The Board, therefore, is unable to consider the submission filed by ANC 6B.

By letter dated September 6, 1989, counsel for the applicant opposed the granting of the motion. Counsel for the applicant argues that the issues raised in the motion were raised at the public hearing and addressed by the Board's Order.

Upon consideration of the motion, responses thereto, the evidence of record and its final Order, the Board concludes that the motion provides no evidence of a substantive nature that the Board has not previously considered. The Board is not precluded from proceeding to decide an application based on the evidence of record in the absence of the filing of a report by a government agency in a timely manner as set forth in 11 DCMR 3318.6. The dimensions of the canopy and pump islands are depicted on the site plans and elevations in the record. The provision of landscaping and fencing in relation to the proposed buildings were presented at the public hearing on a plat marked as Exhibit No. 18H of the record. The station is separated from the nearest residential district by a public alley and a street as provided by 11 DCMR 706.3. The evidence presented by the applicant's traffic expert indicates a minimal impact on existing traffic patterns in the area. The Board concludes that it has committed no error in deciding the subject application. The issues raised by the opposition were thoroughly presented at the public hearing and were addressed in the Board's final

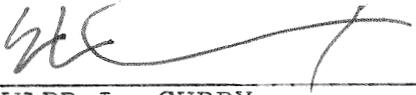
order. The fact that the Board and the opposition arrived at different conclusions does not make the decision of the Board arbitrary, capricious or unlawful. Accordingly it is ORDERED that the motion for reconsideration is DENIED. The motion to stay is therefore moot.

DECISION DATE: October 4, 1989

VOTE: 4-0 (William F. McIntosh, Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to deny; Elliott Carroll not present, not voting).

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

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER:

OCT 27 1989

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."

14938order/BHS13

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14938

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated OCT 27 1989, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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

Lawrence A. Monaco, Jr., Chairman  
Zoning Committee  
Capitol Hill Restoration Society, Inc.  
123 C Street, S.E.  
Washington, D.C. 20003

Sharee Freeman  
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Virginia Harris  
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EDWARD L. CURRY  
Executive Director

DATE: OCT 27 1989