

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15364, as amended, of Sherman, Minni and Mudd, Limited, pursuant to 11 DCMR 3108.1, for a special exception under Section 726 to allow an auto repair garage in a C-2-A District at premises 2317 Pennsylvania Avenue, S.E., (Square 5560, Lot 19).

HEARING DATE: March 20, 1991
DECISION DATE: March 20, 1991 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the south side of Pennsylvania Avenue, S.E. between Prout Street and L'Enfant Square S.E. It is known as premises 2317 Pennsylvania Avenue, S.E. and it is located in a C-2-A District.

2. The subject lot contains 4,500 square feet of land area. It is 30 feet wide and 150 feet deep. The site is improved with a one-story masonry structure which has a footprint of 1,320 square feet or 29.33 percent of lot occupancy. The structure is a flat-top garage with a concrete floor. It has a half bath and heating, electric and drainage systems.

3. The area surrounding the subject site is characterized by small commercial establishments along the Pennsylvania Avenue frontage with single-family detached and semi-detached dwellings to the north and south of the commercial strip. The Anacostia Freeway and the Sousa Bridge are situated approximately two blocks to the northwest of the site along Pennsylvania Avenue. L'Enfant Square and Minnesota Avenue, S.E. are located one block to the southeast of the site. The subject site abuts a 20-foot wide public alley to the rear.

4. The structure located on the subject site was built in 1921 as an automobile repair garage. It has been used continuously for this purpose over the years. The applicant bought the property in February of 1979. On August 1, 1979, without the applicant's knowledge or consent, Certificate of Occupancy No. B1144209 was issued on the property authorizing its use for Carpet and Tile Sales and Installations. To the applicant's knowledge the property has never been used as a carpet store. In or around 1982, the applicant leased the property to a tenant who used it to park vehicles used in his driving school. No commercial activity has been conducted upon the lot.

5. The applicant proposes to use the property as an auto repair garage.

6. The C-2-A District in which the property is located permits matter-of-right low density development, including office, retail and all kinds of residential uses, to a maximum floor area ratio (FAR) of 2.5, with non-residential uses limited to 1.5 FAR, a maximum height of 50 feet, and a maximum lot occupancy of 60 percent for residential uses. The C-2-A District does not allow automotive repair garages as a matter-of-right. Pursuant to Section 726 of the Zoning Regulations, a repair garage not including body and fender work, shall be permitted in a C-2-A District if approved by the Board as a special exception, and if the application meets the conditions specified in Chapter 23 and the provisions of Section 706.

7. Section 2302 provides as follows:

2302 PUBLIC STORAGE GARAGES, REPAIR GARAGES, MECHANICAL PARKING GARAGES, AND GASOLINE SERVICE STATIONS*

2302.1 A public storage garage, repair garage, mechanical parking garage, or gasoline service station established or enlarged in any district except in the C-M or M districts shall be subject to the special provisions set forth in this section.

2302.2 No portion of the structure or premises to be used for any of the uses listed in Section 2302.1 shall be located within twenty-five feet (25') of a Residence district unless separated from the Residence district by a street or alley.

2302.3 No use listed in Section 2302.1 shall have a vehicular entrance or exit connected with a street at a point closer than twenty-five feet (25') to any Residence district existing at the time the use is established, unless separated from the Residence district by a street or alley.

2302.4 No driveway of any entrance or exit to any use listed in Section 2302.1 shall be closer than forty feet (40') to a street intersection as measured from the intersection of the curb lines extended.

2302.5 Except in a C-M or M dsitriect, all grease pits or hoists constructed or established as part of a use listed in Section 2302.1 shall be within a building.

8. Section 706 regulating gasoline service stations is inapplicable.

9. Sub-section 2101.1 requires the applicant to provide at

least 11 parking spaces on site.

10. The applicant maintains that all requirements are met. The repairs to be conducted upon the premises consist of engine, wheel and brake repairs as well as other similar work. No fender or body work will be conducted. There will be a maximum of two persons working at the garage, including the tenant and a hired mechanic. The commercial garage will operate Monday through Saturday 8:00 A.M. to 6:00 P.M. The majority of the repairs will be made by appointment.

A parking lot for 12 vehicles will be located at the rear of the property. The parking area will be used for visitors to the garage and to store autos awaiting repairs. Access to the main entrance of the auto repair garage and to the parking area is from Pennsylvania Avenue through the 20-foot alley to the rear of the site.

The applicant stated that the lot is fenced in with a seven-foot chain link fence which is secured at night.

11. By memorandum dated October 3, 1989, the Office of Planning (OP) recommended approval of the application. OP stated that the subject property is separated from the nearest residential area by a 20-foot wide public alley and thus complies with Sub-section 2302.2 and 2302.3 of 11 DCMR. Neither the front nor rear entrance/exit point is located within close proximity to any street intersection. Adequate vehicular access is provided by the entrance/exit points. (Sub-section 2302.4). OP also pointed out that all repair activities would be conducted within the existing garage and these repairs would not include body or fender work.

To enhance the overall appearance of the subject property and the immediate neighborhood, OP stated that the rear parking area should be better screened from adjacent properties across the public alley. OP recommended fencing that would lessen the visibility of the activities and automobiles on the lot when viewed from other properties and from the alley.

Because an automotive repair garage is permitted in a C-1 District with Board of Zoning Adjustment approval in accordance with specified conditions, OP is of the opinion that the location of the subject facility in a C-2 District does not appear to impair the intent, purpose and integrity of the regulations governing the C-2-A Districts. Therefore, the Office of Planning recommends approval of the application.

12. In accord with the view of the Office of Planning, the Board finds that more visual screening would be appropriate at the subject site.

13. The application was referred to the Fire Department, the Metropolitan Police Department and the Department of Public Works. Responses were received from all three agencies, none of which expressed opposition to the application.

14. Advisory Neighborhood Commission (ANC) 6C, by memorandum dated October 2, 1991, expressed opposition to the proposal. ANC 6C stated that it voted against the request for the following reasons:

- a. The area is already congested with junked cars from other repair shops in the area.
- b. It is difficult to drive through nearby streets because of heavy traffic and parked cars.
- c. The community is trying to clean up the area. The addition of another auto repair business will only add to the problem.
- d. This business would detract from, rather than add to the environment. The community would receive no benefit from this business.

The ANC further stated that the community wants nothing to add to the "junk yard" appearance of the area.

15. The applicant responded to the concerns of ANC 6C. The applicant distinguished the proposed business from the other repair shops in the area which she characterized as unregulated mechanics who operate out of their own private garages. The applicant stated that minimal traffic will be created from operations at the subject site. Because cars will be parked on the lot, they will not add to the traffic problems in the area.

16. The applicant is aware of the community's efforts to clean up the area. However, the applicant maintains that the proposal does not involve adding another auto repair shop that will contribute to the problem. Some type of auto garage has operated at the subject site for approximately 17 years. At no time has it detracted from the environment because of the manner in which the automobiles are handled by the proprietor. The cars are taken from the parking lot, through the alley, to the front entrance of the building on Pennsylvania Avenue. As they are repaired, they are released. These cars are not stored there longer than a two day period. It is the applicant's position that the proposed operations will not adversely impact the area.

17. One neighbor expressed support for the application indicating that this business would be a very good garage. In his view the main problem is clearing up the congestion caused by

others in the area. However, the subject garage will not cause substantial detriment to the public good.

18. No other person or entity testified in support of, or in opposition to the application.

19. A petition containing 34 signatures was submitted in support of the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and evidence of record, the Board concludes that the applicant is seeking a special exception to establish an automotive repair garage 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 property. The provisions of Chapter 23 must also be met.

The Board concludes that the applicant has met the burden of proof. The Board concludes that a repair garage is permitted as a special exception in the less restrictive C-1 District. It is the opinion of the Board that to conditionally approve such a use in a C-2 District would be in harmony with the general purpose and intent of the Zoning Regulations and Maps.

The Board concludes that the establishment will operate so as not to adversely affect the use of neighboring property.

The Board concludes further that the provisions of Chapter 23 of the Zoning Regulations have been met.

Finally, the Board has afforded ANC 6C the "great weight" to which it is entitled.

In accord with the above, it is hereby **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. The repair garage shall perform only minor automobile repairs. No auto body or fender work shall be conducted on the premises.
2. A minimum of eleven (11) parking spaces shall be provided on the site.
3. There shall be no more than two persons employed at the auto repair garage.
4. The hours of operation shall not exceed from 8:00 A.M.

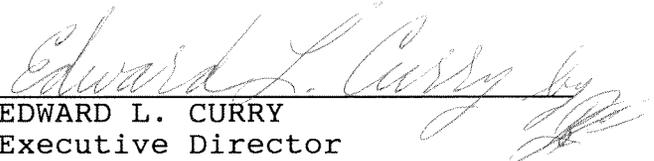
until 6:00 P.M., Monday through Saturday.

5. The applicant shall weave slats into the existing rear fence to screen the premises from adjacent and nearby properties.

VOTE: 4-0 (Sheri M. Pruitt, Paula L. Jewell, Charles R. Norris and Carrie L. Thornhill to grant).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

AUG 1 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15364

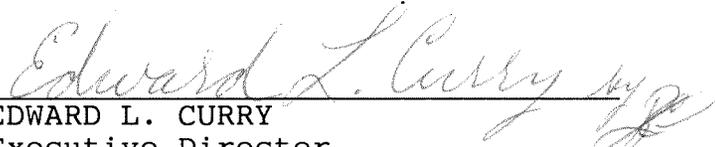
As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 1 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Lynda S. Knight
1815 Anacostia Road, S.E., #1
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Richard J. Mudd
2319 Pennsylvania Avenue, S.E.
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Ernest Darling
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Jacqueline Shillings, Chairperson
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2041 Martin Luther King Jr. Avenue, S.E.
Washington, D.C. 20020


EDWARD L. CURRY
Executive Director

DATE: AUG 1 1991

15364Att/bhs