

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15587 of Margaret L. Weaver, et al., pursuant to 11 DCMR 3108.1, for a special exception under Section 215 to continue to operate an accessory parking lot in an R-2 District at premises 3831 McKinley Street, N.W., (Square 1860, Lots 5-7, 17 and 18).

HEARING DATE: DECEMBER 18, 1991
DECISION DATE: DECEMBER 18, 1991 (BENCH DECISION)

SUMMARY ORDER

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3G and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3G. ANC 3G, which is automatically a party to the application, by letter dated December 9, 1991 supported the granting of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 215. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FIVE (5) YEARS.
2. Within thirty (30) days of the effective date of this order, the applicant shall:
 - (a) redirect its garbage and trash trucks so that they no longer back into the entrance to the premises and block traffic on McKinley Street;

- (b) repaint the pedestrian walkway at the parking lot entrance on McKinley Street;
 - (c) repair the existing ruts and place small boulders or planters on both sides of the parking lot entrance and exit and the alley entrance to the premises in order to prevent unsightly ruts in the ground near the entrances and exit; and
 - (d) plant additional shrubbery near the wall on the McKinley Street side of the premises to improve its appearance and to prevent people from sitting and drinking on the wall.
3. A parking attendant from Magruder's shall be present on the lot during all hours of operation and shall assist in keeping the alley clear of vehicles.
 4. During the business hours, the parking attendant shall monitor the entry of cars from McKinley Street into the lot. The parking attendant shall be instructed to facilitate the safe entry of vehicles from McKinley Street into the parking lot with special attention to pedestrian safety and to facilitate the smooth flow of traffic within the parking lot, with particular emphasis on achieving the conditions stated immediately above. The parking attendant will be stationed near the entrance to the lot whenever possible.
 5. Parking on the subject lot shall be exclusively for patrons of Magruder's supermarket, except that on Sundays only five spaces shall be reserved for employees of Magruder's. A sign indicating such restriction shall be posted on the lot.
 6. The parking lot, the retaining wall, and the adjacent landscaping shall be maintained, policed, and kept in prime condition. Policing of the lot shall include retrieval of Magruder's shopping carts from neighborhood streets and the removal of debris from the alleys and areas immediately adjacent to the lot. Such policing shall occur at least three (3) times a day.
 7. Damage done by delivery vehicles to sidewalks and neighboring property shall be repaired promptly by the applicant or the tenant.

8. No discharges from store operations shall be flushed into the alley or the street.
9. The lot shall be secured with a gate, chain or cable during all hours that it is not in operation. The hours of operation shall be between 7:00 a.m. and 9:00 p.m. Monday through Saturday, and between 9:00 a.m. and 6:00 p.m. on Sunday.
10. Such deliveries to the supermarket which occur from the lot shall be limited to the hours between 7:00 a.m. and 9:00 p.m., Monday through Saturday, and between 10:00 a.m. and 9:00 p.m. on Sunday. All vendors shall be instructed that horn blowing is not allowed at any time. Store personnel should be signalled through alternative means provided by Magruder's.
11. There shall be proper gardening, mulching, and trimming of trees surrounding the entire lot by store employees or a professional landscaping company at least four (4) times per year. Existing gaps in shrubs or landscaping shall be in-filled or repaired promptly and as needed. Flower beds shall be mulched twice a year. Grass areas shall be seeded and mowed. Specifically, grass shall be mowed once a week in the Spring growing season and once every two (2) weeks thereafter. Leaves shall be raked as needed. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. The plantings along 39th and McKinley Streets shall be as dense as possible. Landscaping plans shall be approved by the D.C. Department of Public Works.
12. Additional natural screening, such as cypress bushes or other hedges, will be provided for the McKinley Street and 39th Street sides of the parking lot where natural screening is not now provided.
13. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
14. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
15. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.

16. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such other structure is otherwise permitted in the zoning district in which the parking lot is located.
17. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.
18. Applicant should install and maintain professionally lettered traffic signage indicating the entrances and exits to the lot and take all necessary actions in working with appropriate city agencies to ensure that all public space signs prohibiting a left turn from McKinley Street are maintained. The lessee shall install appropriate signs that will advise vehicle operators not to block the sidewalk.
19. With the consent of appropriate D.C. agencies, the applicant shall place a decorative boulder, or some equally sturdy deterrent, in the ruts adjacent to the McKinley Street entrance to the lot, or improve this area with a permanent surface so that ruts do not develop when vehicles traverse the area.
20. All suppliers and vendors shall be directed to deliver to the store between the hours of 8:00 p.m. and 6:00 a.m. daily and Sunday to load or unload, and to deliver only through the Connecticut Avenue entrance and not from the lot or the adjacent alley.
21. Improvements shall be made, as necessary, for the outflow of traffic from the lot onto 39th Street so that trucks exiting do not cross the west curb of 39th Street. Magruder's shall widen the concrete apron at its expense, after securing the necessary D.C. government permits, if other methods of traffic control on 39th Street are not sufficient to eliminate the passage of trucks over the west curb.
22. Snow and ice shall be removed promptly after accumulation from all sidewalks around the parking lot as well as from the front of the store.

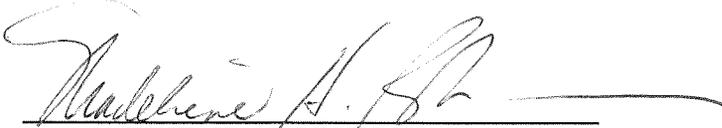
23. The applicant shall designate at least one community liaison representative who shall meet with representatives of the neighborhood and the ANC representative for Single Member District 3G06 at least four times a year in order to mitigate the impact of the operation of the parking lot on the neighborhood. The time and place of the quarterly meetings shall be set by the ANC representative in cooperation with all affected parties.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 4-0 (Paula L. Jewell, Sheri M. Pruitt, Tersh Boasberg and Charles R. Norris to grant; Carrie L. Thornhill not present, not voting).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: _____

JAN 30 1992

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."

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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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GOVERNMENT OF THE DISTRICT OF COLUMBIA
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APPLICATION/APPEAL NO. 15587

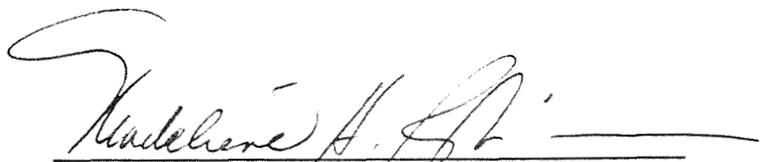
As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated Jan 30 1992 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Leonard L. McCants, Esquire
8701 Georgia Avenue, Suite 801
Silver Spring, MD 20910

Steven Seidel
9806 Hillridge Drive
Kensington, MD 20895

Steven Fanaroff
11718 Split Tree Circle
Potomac, MD 20854

Mr. Allen Beach, Chairperson
Advisory Neighborhood Commission 3-G
P.O. Box 6252
Washington, D.C. 20015


MADELIENE H. ROBINSON
Acting Director

DATE OF APPROVAL: _____

JAN 30 1992