

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15621 of Worsley Enterprises pursuant to 11 DCMR 3108.1, for a special exception under Section 314 to establish accessory parking spaces elsewhere than on the same lot on which the main use is permitted (1814 Hamlin Street, N.E. Square 4208, Lot 29) in an R-5-A District at premises south side of the 1800 block of Irving Street N.E. (Square 4208, Lots 826 and 827).

HEARING DATE: February 12, 1992  
DECISION DATE: April 8, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located in Square 4208. The applicant owns lots 29, 826 and 827. Lot 29 is known as 1814 Hamlin Street, N.E. and it is zoned C-1. Lot 29 is developed with a 24-unit inn. The applicant has a certificate of occupancy for this use. There are nine parking spaces at the rear of the site for use by patrons of the inn.

2. Immediately to the south of Lot 29 is a 15-foot wide public alley which comes to a dead end at Lot 29. This alley widens to 20 feet at the easternmost end which abuts Lot 29.

3. Across the alley to the north of Lot 29 are Lots 826 and 827. These lots are located on the south side of the 1800 block of Irving Street N.E. Lots 826 and 827 are rectangular, unimproved lots. Each lot contains 3,185 square feet of land area and has a 35-foot frontage on Irving Street N.E. The 15-foot wide alley abuts the lots at the rear. These lots are zoned R-5-A.

4. The applicant requests a special exception to locate seven parking spaces on the southernmost portion of Lots 826 and 827 to be used by patrons of the inn in addition to the nine spaces at the rear of Lot 29. The applicant maintains that the requirements of 11 DCMR 214 and 3108.1 have been met.

5. The applicant testified that 12 spaces are required for the inn, however Lot 29 is not large enough to accommodate all 12 spaces because the building occupies approximately one-third of the lot. The applicant testified that while the original plans for the building included 12 spaces on Lot 29, there was apparently an error in the drawings because the size of Lot 29 is inadequate for 12 spaces, and the building.

BZA

CASE No. \_\_\_\_\_

EXHIBIT No. 37

With regard to the original plans, staff indicated to the Board that the 1983 plat and layout were apparently approved before the aisle width requirement was amended. The aisle width requirement for 90 degree parking is currently 20 feet. A 14-foot aisle width is represented on the plat. He stated that these plans would not meet the current regulations.

6. The evidence of record indicates that the subject lots are flat and do not extend above the level of the adjacent finished grade. The subject lots are located within 200 feet of Lot 29 and they are separated from Lot 29 only by the 15-foot alley.

7. The applicant's site plan indicates that the parking lot will be paved with a material forming an all-weather impervious surface. There is no indication as to whether bumper stops will be erected.

8. The applicant proposed to landscape the lot. However, due to concerns expressed by area residents, the applicant was undecided on how landscaping should be handled.

9. The applicant stated that the lot will be kept clean by employees at the inn.

10. At the present time the applicant does not propose to establish any other use on the premises.

11. The architect testified that there is currently one city-owned light located near the site at the end of the alley. There is another light at the southeast corner of Lot 821 (the lot adjacent to Lot 826). The applicant proposes to place a high light at the corner of Lot 822 at the alley. Lot 822 is located adjacent to Lot 29 and across the alley from Lots 826 and 827. The architect testified that the area is well lit.

The applicant testified that he suggested to the applicant that she install a video camera on the premises to allow all 16 parking spaces to be monitored by an attendant working at the inn.

12. The architect testified that the nine existing spaces are not enough for the applicant's use of Lot 29. He stated that it would be better for the applicant's customers to have a place to park on the site rather than on the street.

13. By memorandum dated January 29, 1992, the Office of Planning (OP) recommended conditional approval of the application. OP stated that the applicant's property is located in the Langdon Neighborhood of Ward 5. The boundaries of the subject Square 4208 are Irving Street to the north, Hamlin Street and Rhode Island Avenue to the south, Queens Chapel Road to the west and 20th Street to the east.

OP noted the dimensions of each lot and stated that the lots combined contain 6,370 square feet of land area.

OP noted the public alley located at the rear of the site. OP stated that the alley contains large potholes that create dangerous traffic conditions, especially during inclement weather. OP stated that the public alley should be repaired if additional traffic will be using the right-of-way as a result of this proposal.

OP stated that the subject site is located adjacent to the Rhode Island Avenue shopping district. This neighborhood shopping district is a nine-block long low density commercial area located on Rhode Island Avenue between 13th Street and South Dakota Avenue N.E. To the south of the site, Langdon Elementary School and Langdon Park occupy a significant amount of government-owned land. To the north of the site, the neighborhood contains primarily single-family detached homes.

The site is zoned R-5-A. The R-5-A zone district permits matter of right development of single-family detached and semi-detached dwellings. In addition, with the approval of the Board of Zoning Adjustment, development of general residential uses including rowhouses, flats and apartments are allowed in the R-5-A District. Residential development is allowed in this zone district to maximum floor area ratio (FAR) of 0.9, a maximum lot occupancy of 40 percent and a maximum height limit of three stories/40 feet.

OP stated that the land area of each lot is 3,185 square feet and the applicant is proposing to use 600 square feet of each lot for parking. The applicant plans to pave the portion of the site to be used for parking. The applicant also proposed to plant evergreen trees along the front and sides of the property. The rear of the property abutting the alley would not be landscaped.

OP stated that according to the applicant the site of the proposed parking lot is often used illegally for dumping trash and other debris. The proposed accessory parking spaces would substantially alleviate this illegal activity. The applicant further indicated to OP that while there are currently no plans to build on the property, the remaining portion of the site will be large enough to accommodate a residential use in the future.

In the opinion of OP, the applicant's proposal would not be in disharmony with the general purpose and intent of the Zoning Regulations and Map. The proposal would establish seven parking spaces on land that is zoned for low-density apartment houses. In addition, the accessory parking spaces would increase the number of parking spaces available for use by the 24-unit Rhode Island Inn. OP is of the view that the applicant's proposal to provide seven additional parking spaces on land that is located in close proximity to the inn appears to be a reasonable request.

OP referred the application to the Department of Public Works, the Metropolitan Police Department and the Fire and Emergency Medical Services Department.

14. By memorandum dated February 10, 1992, the Department of Public Works (DPW) commented on the proposed use. DPW stated that the proposed additional parking spaces will be located to the rear of the motel and across from the 15-foot wide public alley. It is from this alley that the parking spaces will be accessed. The applicant has indicated that the parking spaces will be constructed in accordance with DPW standards. Additionally, the applicant is proposing to provide a minimum of three feet of green space on the sides of the parking spaces as well as landscaping to the rear of the accessory parking spaces.

The Department of Public Works does not believe the accessory parking spaces will have an adverse impact, therefore, it does not object to the application's proposal.

15. The Metropolitan Police Department (MPD) submitted a letter dated December 19, 1991. The MPD stated that the property is located in the Fifth District and is patrolled by Scout Car 143. Based on the department's review of this application, it does not appear that the change proposed by this application will affect the public safety in the immediate area or generate an increase in the level of police services now being provided. Accordingly, the department does not oppose this application.

16. Advisory Neighborhood Commission (ANC) 5A submitted a letter dated February 7, 1993, requesting that the Board waive the seven-day filing requirement to allow for the late filing of the ANC report. The chairperson of ANC 5A indicated that the ANC meetings were not held until February 5th and 6th. He testified that the applicant appeared at both meetings. The chairperson stated that the applicant would not be prejudiced by granting the waiver because the applicant is already aware of the neighbors' concerns.

The applicant's architect opposed the granting of the waiver stating that the report is biased, unrepresentative of the facts and that he has not had an opportunity to rebut it.

The Board determined to waive the rules to accept the report and to give the applicant an opportunity to rebut the statement in a post-hearing submission.

By report dated February 7, 1993, and through testimony at the hearing, ANC 5A recommended denial of the application. The ANC opposed the application because the lot would create objectionable conditions and because, in the neighbors' view, the parking spaces are unnecessary. The ANC stated that on several occasions

residents expressed concerns that illegal, disruptive and objectionable activities would be encouraged if parking was to be permitted on this site. Neighbors recited numerous instances of patrons of the Rhode Island Inn (Inn) coming and going at all hours of the night creating noise which disturbs their peace and tranquility. Currently, neighbors patrol the same block directly in front of the subject site (1800 block of Irving Street) with an "orange hat" group. The view has been expressed that persons would be on the lot doing all of the things that the neighbors are now trying to prevent.

The ANC stated that the applicant and the Office of Planning initially proposed screening or landscaping to minimize the impact of the proposed use. Neighbors are fearful that the landscaping would be used by drug dealers to conceal drugs and facilitate drug transactions. In the past, neighbors have had the applicant cut down any trees or bushes that could be used as a hiding place for the sale of drugs. The neighbors feel that to place landscaping on the site would be most detrimental to the area.

The ANC stated that at a single member district meeting on February 5, 1992, the applicant indicated that employing a full-time attendant is not cost effective and would not be done.

The ANC stated that the additional parking is not necessary. The ANC further stated that the applicant was granted permission to construct this building in 1983/84 with the existing parking. Residents strongly objected to the construction of the Inn. Now, the applicant seeks to increase the impact by expanding operations into residentially zoned property. An intrusion of this nature should not be permitted without a compelling reason such as alleviation of a critical parking problem or the need to ensure the viability of a business. No such representation has been made in this application.

The ANC also expressed opposition to the application because the neighbors feel that the lot will confer no benefit on the area. ANC 5A stated that in its submission, the applicant has indicated that the lot would be used for "mainly night-time parking," and that "closer and supervised, legal off-street parking should be available to the Inn's patrons. However, it is in large part the night-time parking that neighbors object to and, more importantly, the lot would not be supervised.

ANC 5A believes that granting the application would not be in the public interest and would not meet the provisions of 11 DCMR 214.7 which provide that accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions. Emphasis added.

To support this position, the ANC submitted into the record a document from the Community Relations Division of the Metropolitan Police Department, 5th District. This document lists the incident reports covering November 24, 1991 through February 11, 1992. The ANC noted that between January 10 and February 9, 1992, there were 21 police responses to the 1800 block of Irving Street N.E.

Finally, ANC 5A stated that area residents strongly believe that in light of all circumstances, including 24-hour noise problems, the availability of parking in the neighborhood, the fact that the building was approved with current parking, and the likelihood that loitering and drug activity would increase, the Board of Zoning Adjustment should deny this application.

17. Two area residents testified in opposition to the application. The concerns raised by these opponents are issues addressed by the ANC.

Criminal and inappropriate activity: The opposing neighbors testified that they are members of the orange hat patrol and that they have witnessed a number of criminal activities in the area. These include prostitution in the alley and drug activity during the day and at night. There is also a great deal of loitering by drug addicts and "winos" because of the liquor store nearby.

The opponents noted that in the past, people have used landscaping to hide drugs, weapons, and themselves. They believe that with more landscaping, this practice would increase.

One opposing neighbor testified that there is really no way of securing the lot without perimeter security.

The other opposing neighbor testified that the lot is often used for repairing cars on weekends.

The need for the lot: The opponents testified that there is no need for the additional lot. There are currently nine spaces on the lot where the inn is located. They believe that there is adequate parking in the neighborhood to accommodate the applicant's customers.

The residentially-zoned property: The opposing neighbors pointed out that the property is in a residential district. They testified that the area was once a nice residential community. They would like to see it return to such a community. They oppose the use of this lot for parking because the parked cars will be visible from Irving Street. They would prefer to have the site developed with a residential use. They also believe that allowing parking on the subject property will decrease the value of the other residential properties nearby.

18. The applicant's architect submitted a post-hearing statement in rebuttal to the report submitted by the ANC. The architect made a number of points, the most relevant of which are as follows:

- a. Contrary to the impression left by the ANC report, some neighbors attending the meeting were in support of the application.
- b. Area residents expressed concerns about illegal activity in general, but would not associate it with the inn.
- c. Because the applicant indicated that she could not afford a 24-hour security guard to watch the premises, the ANC erroneously concluded that the lot would be uncontrolled. A television monitor and bright light were proposed by the applicant to secure the lots.
- d. Some supporting neighbors did not receive notice of the ANC meeting.
- e. The statement: "Approval of this application would impose objectionable conditions upon nearby property owners" was not brought up at the ANC meeting, instead it was emphasized on several occasions that the application would neither affect the neighbors nor impose any conditions whatsoever on the neighbors.
- f. There was general consensus that permitting additional parking of seven cars would neither increase nor decrease present objectionable activities in the neighborhood.
- g. The applicant withdrew the proposal to landscape the lot upon learning of the hazards that landscaping would cause.
- h. The ANC's statement that "the additional parking is not necessary and would confer no positive benefit" is erroneous. The applicant made it clear at the ANC meeting that the only purpose of the application is to bring the inn use into compliance with the Zoning Regulations with regard to required parking.
- i. The applicant has not found that parking in the area is critical, therefore, there was no reason to assert this as a factor in support of the application. The applicant affirms that there is ample on-street parking available.

19. Three neighbors testified in support of the application. One witness testified that she has worked for Worsley Enterprises since the inn was built. She stated that she is constantly in and

out of the inn at all times of the night. She testified that she and the other employees keep the place clean. She further testified that as many times as she has been there, she has never seen any one with orange hats, nor has she seen any activities occurring in the parking place or any place at the rear of the inn.

Another supporting witness, who has resided at 1814 Irving Street for 16 years, testified that when the motel was first built, there were many cars on the lot because there were a lot of trees and other types of landscaping around it. Then the trees were trimmed and conditions have improved since 1990.

He stated that he only sees two or three cars in the lot periodically during the day or at night. Sometimes he sees a car with one occupant in it. This car sits in the lot for a while during the day, then the driver pulls off. The witness testified that he does not know who the occupant of the car is. Generally, the area behind Irving Street is quiet, but the activity occurs on Irving Street.

The last witness to testify in support of the application lives at 4124 12th Street, N.E. She testified that she is very active in the city and the Ward 5 community. She stated that she recalls when the site that is now the Rhode Island Inn was an old, rundown frame house. When the applicant bought it, they tore down the old structure and upgraded the site. She stated that the applicant has helped the community by providing work opportunities for loiterers. She stated that she supports those who propose positive and constructive changes in the city.

FINDING OF FACT:

Based on the evidence of record the Board finds as follows:

1. The proposed accessory parking spaces would be located in an open area.
2. The proposed accessory parking spaces would be located entirely within 200 feet of Lot 29.
3. The applicant proposes to pave the site with a material that forms an all-weather impervious surface.
4. The parking lot is designed so that no vehicle or any part thereof would project over any lot line or building line.
5. The applicant does not plan to use the subject lots for any other purpose.
6. The entrance/exit to the lot is not located within 40 feet of a street intersection.

7. The applicant would illuminate the parking lot, however the record does not indicate whether the rays of the lighting will be confined to the surface of the lot.

8. The applicant would keep the subject lots clean.

9. The applicant would not landscape the lot so as to avoid the use of plantings as areas to hide evidence of criminal activity.

10. The applicant cannot locate the accessory spaces on Lot 29 because of the restrictive size of the lot caused by substantial improvements on the lot.

11. There is substantial criminal activity in close proximity to the site. A number of area residents have witnessed inappropriate or criminal behavior on the site itself. Noise has also been a problem for nearby residents.

12. The application has been referred to the Department of Public Works.

CONCLUSIONS OF LAW:

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 accessory parking lot in an R-5-A District. Granting such a special exception requires a showing through substantial evidence that the application can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that it will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The applicant must also meet the requirements of 11 DCMR 214 regulating accessory parking spaces.

The Board concludes that the application has not met this burden of proof. The Board is of the opinion that locating parking spaces on the otherwise vacant lot will likely become objectionable because of the character of the neighborhood and the unlawful activities that occur in and around the lot.

The Board is of the opinion that while the activities complained of by area residents existed for some time and would not be caused by parking on the lot, use of the lot solely for parking may help perpetuate such activities. It is the Board's view that granting the application would adversely affect the use of neighboring property.

The Board concludes that it has accorded ANC 5A the "great weight" to which it is entitled.

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In light of the foregoing, the Board hereby ORDERS that the application is DENIED.

VOTE: 3-0 (Angel F. Clarens, Sheri M. Pruitt and Paula L. Jewell to deny; Carrie L. Thornhill not present, not voting).

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

ATTESTED BY:   
MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER: DEC 30 2011

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."

15621Order/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15621

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on DEC 30 1993 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:

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MADELIENE H. ROBINSON  
Director

DATE: DEC 30 1993

15621Att/bhs