

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15682 of Ruth and Hibbard Paine and the Golden Eagle Construction Company, Inc., as amended, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Subsections 701.1 and 201) to allow material storage and the parking of trucks and vehicles for a construction company in a C-1 District and an R-1-B District at premises 3219 12th Street, N.E. and 1212 Jackson Street, N.E. (Square 3931, Lots 28 and 806).

HEARING DATE: July 8, 1992
DECISION DATES: September 16 and 23, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. There are two properties involved in the subject application. The first property is located at 3219 12th Street, N.E., Square 3931, Lot 806. This lot is zoned C-1. The second property is located at 1212 Jackson Street, N.E., Square 3931, Lot 28. This lot is zoned R-1-B.

2. Lot 806 is rectangularly shaped with a 42.5-foot frontage on 12th Street. It is comprised of 4,250 feet of land area and is improved with a large one-story cinderblock building. Lot 28 is irregularly shaped with 25 feet of frontage on Jackson Street and measures 50 feet in width at the rear property line.

It is comprised of 5,000 square feet of land area and is improved with a 14-foot wide asphalt driveway and a parking lot. Lot 28 extends approximately 150 feet in depth parallel to 12th Street. Lot 806 abuts Lot 28 at the rear for a distance of 42.5 feet.

3. The area surrounding the site is characterized by a mixture of light commercial uses along 12th Street in the C-1 District and single-family residential uses in the R-1-B District. The site is located in the Brookland neighborhood within the Northeast sector of the city.

4. The C-1 District permits matter-of-right low density development to a maximum height of 40 feet/three stories, a maximum floor area ratio (FAR) of 1.0, and a maximum lot occupancy of 60 percent. A storage establishment is not a permitted use in a C-1 District.

The R-1-B District permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet.

5. The Golden Eagle Construction Company entered into a contract to purchase the property and has been operating from the premises since January 1991. The contract-purchaser, owner of the construction company, is the authorized representative in this application.

6. The contract-purchaser proposes to use the building on Lot 806 as an office and to store materials at the rear of this property.

7. Section 701 of the Zoning Regulations sets forth the permitted uses in a C-1 District. The use of property for office space is a permitted use in a C-1 District pursuant to 701.6. However, the storage of materials is not allowed in a C-1 District as a matter of right. Therefore, the contract-purchaser is seeking a variance from the use provisions to allow the storage of materials on the lot.

8. The contract-purchaser also plans to use Lot 28 as a means of access to the rear of Lot 806 and to park trucks and other vehicles on the lot.

9. Section 201 of the Zoning Regulations sets forth the uses which are permitted as a matter of right in an R-1 District. The parking of trucks is not a permitted use in an R-1-B District. Therefore, the applicant is seeking a use variance to allow truck parking on Lot 28.

10. The contract-purchaser testified that he entered into a contract to purchase the subject property from the owners, Ruth and Hibbard Paine, in November 1990. He applied for and was issued a certificate of occupancy dated December 24, 1990 for a general office building on Lot 806. He began operating the Golden Eagle Construction Company which is in the business of performing District of Columbia, Federal, commercial and residential projects within the city. The company is a general contractor, home improvement contractor and electrical contractor.

11. In September 1991, the property was inspected and the contract-purchaser was cited for operating illegally. The contract-purchaser was instructed to apply for relief from the Board of Zoning Adjustment. This variance application was filed with the Board on March 5, 1992.

12. At the hearing, the contract-purchaser stated that by BZA Order No. 13543, dated January 10, 1982, the Board approved variances to allow a driveway on Lot 28. The driveway was to provide access to the rear of Lot 806.

The contract-purchaser stated that without relief from the Board, the property cannot be put to any other use as it currently exists. The applicant pointed out that when the citation was issued on the property, he and the owner had already settled on the purchase. He had spent a lot of money on the deposit and on moving the business to the subject property. He testified that it would be very difficult to move the business to another location if Board approval is not granted.

13. An owner of the property, Mr. Hibbard Paine, stated that Lot 28 is essential to the use of Lot 806. If the application is not approved, there will be more parking on Jackson Street. The property will be abandoned and the city will suffer a tax loss.

The owner of the property stated that the business is an asset to the neighborhood and the District of Columbia. He believes that the owners of the construction company have shown enterprise and foresight by locating in the area when there are better, less expensive locations available in Maryland. He pointed out how positive it is that the construction company employs 20 District of Columbia residents.

Mr. Paine stated that no complaints were ever made to him by any of the residents about his commercial activities on the lot while he operated the American Tool Company for eight years. He stated that the three people who complained at the Advisory Neighborhood Commission meeting about Golden Eagle's operations are newcomers to the neighborhood. They knew of the storage and parking activities on the lot when they moved to the area.

14. The Office of Planning (OP), by report dated July 1, 1992 and through testimony at the hearing, recommended denial of the application. OP noted the location and dimensions of the property. OP stated that the operation of the Golden Eagle Construction Company largely involves interior renovations of large government and business buildings. The company stores oversized construction materials in an open storage area on Lot 806. These materials are too large to be accommodated in the storage space inside the existing building. The company also owns several large trucks which are used for transportation of materials to and from the work sites. There are four on-site parking spaces located at the rear of the property (Lot 28). However, some of the trucks are sometimes parked on the street in front of the company.

OP stated that the parking and storage portion of the subject property is screened from the neighboring properties by a six-foot high fence. The fence is covered by a thick cloth-like material so that construction materials stored in the open storage area of the property cannot be seen from the outside.

OP stated that it finds no uniqueness inherent in the property nor any undue hardship for the applicant related to the subject property. OP noted that the existing office use in the C-1 zoned portion of the property is permitted as a matter of right in the C-1 District. However, the existing open storage use is not allowed in the C-1 District. An open storage use is first allowed as a matter of right in the commercial light manufacturing (CM) district. Due to its industrial nature, OP believes that the subject open storage would be excessive for the C-1 District and would have an adverse impact on the immediate neighborhood. Furthermore, the parking of trucks on the R-1-B portion of the property is related to the open storage use and is also excessive for the R-1-B District.

OP stated that it is of the opinion that the owner and their representative have not met the burden of proof for use variance relief. There is no uniqueness inherent in the subject property and no undue hardship for the owners if this application is not granted. Furthermore, the contract-purchaser's proposal in this case would not be in harmony with the general purpose and intent of the Zoning Regulations and Map.

15. Advisory Neighborhood Commission (ANC) 5A, by report dated July 1, 1992 and through testimony at the hearing, recommended conditional approval of the application. The ANC supports the application for a number of reasons.

Undue hardship. The ANC stated that in BZA Order No. 13543, the Board determined that the subject lot (Lot 28) is substandard and not suitable for a single-family dwelling. The Board concluded that the hardship was inherent in the property. The ANC is of the view that since the Board has already made this determination, hardship is no longer an issue in the subject application.

The need for the operation. The ANC stated that Golden Eagle's business is needed in the community. The ANC pointed out that Golden Eagle employs approximately 20 to 25 workers, including five or six summer youth workers. The company's workers include master carpenters, an engineer, an electrician, and individuals who cumulatively have 50 to 60 years of experience in the home improvement and contracting business. These are the types of examples needed in the community. Golden Eagle provides opportunities for young people who might otherwise be found standing on the corner. The ANC stated that in view of this critical need for employment and economic development in the

community, it is important to make every effort to determine whether the construction company's operations can be maintained without harm to the community. The ANC is of the view that the need for the business should be an important factor in considering the application.

Lack of community complaints. The ANC testified that Golden Eagle has been operating at the site for about 18 months and during that time, no one from the community has filed a complaint with the ANC about the operations. Based on this, the ANC concluded that apparently there were no problems with the business operating there.

The ANC stated that it held two meetings to address the application. At the first meeting, only four residents were in attendance. More residents attended the second meeting. Before this matter was brought before the Board, many persons in the community did not know that Golden Eagle Construction Company existed. Many people only knew of the company through photographs and representations made by opponents to the case who have refused to meet with the contract-purchaser. At least one neighbor has withdrawn her opposition after meeting with the company at the location in dispute, seeing first hand what is being stored there and what types of vehicles are being operated.

Adverse impact. The ANC stated that at the Committee of the Whole meeting, residents presented a petition expressing opposition to the variance for the following reasons:

- A) increased fire hazard
- B) danger to children
- C) devaluation of property
- D) the nuisance (disturbance of peace and quiet)
- E) present and future use

The ANC testified that it is proposing conditions which it believes will adequately address the concerns raised by the residents. These conditions are as follows:

- A. The construction company will maintain the opaque chain link fence or other appropriate screening on all sides of the property;
- B. The company will not use a loudspeaker or any other amplified sound system on the lot;
- C. The company will not use the lot to park vehicles which are in excess of the maximum weight requirement set forth in 19 DCMR Chapter 25;

- D. Use of the lot will be limited to four vehicles;
- E. There will be no parking in the driveway;
- F. The company's trucks will enter the lot from 12th Street, N.E., not from 13th Street, N.E.;
- G. To deter loading and unloading activities, there shall be no outdoor storage of building materials such as steel or lumber;
- H. The company shall not store flammable materials unless they are in proper containers;
- I. The hours of operation of the lot shall be between 6:30 a.m. and 5:00 p.m. When the lot is not in use, the lot will be locked; and
- J. This application will be reviewed periodically to ensure compliance and impact on the community.

16. Responding to the conditions suggested by the ANC, the contract-purchaser stated that the prohibition on the storage of building materials will create problems for the business. He stated that often potential clients must see the materials on the premises before they will agree to enter into a contract with the company. The contract-purchaser would like to build a covered shed out from the office building on Lot 806 to be used for storage.

17. A neighbor in support of the application, residing at 3125 12th Street, N.E. testified that the operation is an asset to the neighborhood because it promotes business and employs people who need jobs.

18. A representative of 35 neighbors in opposition to the application testified at the hearing. She stated that Golden Eagle conducts construction operations on this property and openly stores construction materials and heavy trucks in direct contradiction to the zoning laws for C-1 and R-1-B Districts. The opponents believe that Golden Eagle clearly misrepresented its intended use of the property on its application for a Certificate of Occupancy. That application stated only "office" as the proposed use of the property. No mention was made of open storage of construction vehicles and materials or construction activity occurring on the lot. Accordingly, the Department of Consumer and Regulatory Affairs issued a Certificate of Occupancy authorizing Golden Eagle to use the property as a general office building. The witness testified that at the civil infraction hearing on December 4, 1991, the case was dismissed, in part because "the DCRA had made a

mistake in giving Respondent a Certificate of Occupancy." The opponents argue that the mistake was a result of the misrepresentation from the outset by Golden Eagle.

The witness stated that the residents of Jackson Street, Kearney Street and Brookland as a whole should not be forced to bear the burden of a company's misrepresentation or even a District of Columbia Government mistake which resulted from that misrepresentation. The residents deserve the benefit of the D.C. zoning laws that are designed to protect them. They believe that this variance application is an attempt to make legal a use which never should have come into their neighborhood.

In addressing the legal criteria by which the Board is governed, the witness stated that none of the three requirements for a variance have been met, as they are set forth in 11 DCMR 3107.2.

First, she stated that there is no undue hardship unique to the specific property and inherent in the property itself which would result, if this application were not granted. She stated that the Zoning Regulations require the applicant to prove undue hardship by demonstrating an exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or an exceptional topographical condition or other extraordinary or exceptional situations.

The witness testified that none of these conditions exist at 3219 12th Street, N.E. This property is zoned C-1. Its building faces 12th Street. The owners must show why a C-1 use cannot go there in accordance with the neighborhood shopping district regulations. She stated that there is no reason why a barber shop, a cobbler shop, a television-radio repair shop, a locksmith, or any of the C-1 uses would not be able to operate on this property. Also, if Golden Eagle wishes to maintain an administrative office there it may do so as a matter of right. These neighbors would have no objection to such a use. But they do have a problem with the open storage, noise and construction activities.

19. The witness addressed the ANC's recommendation and stated why the opposing neighbors do not feel that it adequately expresses their concerns. First, she stated the ANC recommendation cites no undue hardship that would preclude a C-1 use of the property at 3219 12th Street. Instead, the ANC letter addresses the issue of economic hardship if Golden Eagle has to move, as opposed to the legal requirement of hardship which must be found inherent in the property itself.

She stated that the letter of Mr. Flowers, dated July 1, 1992, also relies on a previous determination of undue hardship for Lot 28 in

support of the entire variance application which includes Lot 806. However, there has never been a determination of undue hardship for Lot 806. Therefore, the argument is inapplicable to the property at 3219 12th Street.

Secondly, the witness stated that there is substantial adverse impact on the neighborhood and impairment of the zone plan. The ANC's recommendation of a variance with conditions does not adequately address all of the concerns of surrounding neighbors, which reflect the true impact of a construction company on the surrounding neighborhood. She stated that the ANC addressed the economic development of the neighborhood, but this is irrelevant to the legal standards in the Zoning Regulations. She further stated that the ANC letter ignores the fact that a variance runs with the property, and it will put a future burden upon the residents of policing an activity that belongs in a C-M neighborhood, not in a residential neighborhood.

20. The witness testified that the areas of concern to opposing residents are as follows: the industrial-type use, noise, fumes, storage of flammable and other materials, improper use of the residential streets, the danger to children and adults and the effect on property values.

21. Several area residents who oppose the application appeared at the hearing to testify on the issues that concern them. Their testimony can be summarized as follows:

A. The proposed use. Opponents testified that Golden Eagle's operations are much more intensive than those of the previous business - The American Tool Company. The previous owner only parked one or two small pick-up trucks on Lot 28. There was very little activity on the site. On the other hand, Golden Eagle stores various types of construction equipment and materials, and parks about five or six vehicles on the site. Many of the residents testified that the subject site is visible from their properties and it is an eyesore. It is especially visible in the winter when there are no leaves on the trees.

B. Noise. Opponents stated that they are disturbed early in the morning by the noise created when the trucks are started and left idling. They are also disturbed by the noisy trucks going into and away from the site. One witness, knowledgeable about regulations governing sites such as the applicant's, stated that the applicant's operation exceeds the noise levels established by the Noise Control Act. He stated that at 6:30 a.m. (the proposed starting time) the noise level, as measured at the property line, may not exceed 55 dBA. This is the level of a normal conversation. At 7:00 a.m. the permissible noise level changes to 60 dBA. Based on his experience in monitoring noise levels he stated that the construction company's trucks could not meet these standards.

C. Fumes. Opposing neighbors expressed concern about the diesel fumes that come from the site when the trucks are idling. One witness testified that the Air Pollution Code requires that no vehicle be allowed to idle for more than three minutes. He stated that the company's trucks idle for more than three minutes. The trucks are started and the drivers take turns leaving the site. All of the trucks are diesels. They give off a lot of hydrocarbon fumes and particulate matter that are injurious to people's health.

D. Storage. Opponents are concerned about the outdoor storage of flammable substances on the site. One witness testified that when he visited the site, there were four propane tanks on the site. He assumed that two of the tanks were empty because they were piled up in the corner. But the other two contained propane gas. He stated that propane is more than flammable, it is explosive. He pointed out that the two tanks containing propane were situated very close to a cement wall. If a truck backed up and knocked them over, they could explode because of the escape of high-pressure propane gas. It is a very hazardous situation.

This witness further testified that also located on the site was a 200-gallon diesel storage tank with a defective feed nozzle. The nozzle could be easily removed and anyone could insert something into the tank and get to the fuel. Also, it was mounted on a slant. If it were to leak, the fuel would run onto the driveway and into the neighborhood. The witness stated that the tank had evidently been overfilled several times. The witness also saw two wooden stakes soaked in oil which he described as "a bomb waiting to go off."

Opposing neighbors are concerned that with the storage of these substances on the property, the risk of fire is increased, placing their own properties in jeopardy.

Opponents are also concerned that the uncovered trash cans, debris and construction materials stored on the property will attract rodents.

E. Property values. Opposing neighbors expressed a concern that their property values will decrease because the large trucks that pass through the area cause their houses to vibrate. They believe this will have a damaging effect on their houses and cause their homeowners insurance to go up. The increased risk of fire will also increase their insurance costs.

Opponents also believe that the location of such an industrial-like business so close to their residential property will cause the devaluation of their properties.

F. Hazards to area residents. Opponents testified that there are about 18 children who live in their neighborhood. These children often play and ride their bikes in and around the driveway used by the construction company (Lot 28). Opponents also testified that many of the area residents are elderly persons who may not hear as well or move as swiftly as they used to. The concern is that the company's trucks travelling in the area present a danger to the area residents, especially the children and the elderly.

One witness testified that she has worked as a carpenter and project manager in the construction industry for the past 16 years, and she is familiar with the F-30 trucks that Golden Eagle wishes to store on the lot behind her house. She stated that while you can see directly through the rear window of these vehicles, this is only true when the truck is empty. If the truck is fully loaded, the rear window is obstructed, and backing up is very difficult. Since these vehicles have no back-up beeper to serve as a warning, they are potentially as dangerous as or more dangerous than a dumptruck with a warning device. A driver of the truck cannot see through the rear window, nor can a person or child standing or playing behind the truck hear a warning signal.

The witnesses testified that the large trucks and construction vehicles have to back into or out of the driveway because there is not enough space on the lot for them to turn around. There are usually cars parked in the driveway and near the driveway on the street. Because of this the trucks have to maneuver into the driveway, blocking traffic and creating a dangerous situation for passers-by.

G. Improper use of residential streets. Some of the opponents testified that they have seen the company load and unload their trucks on Jackson Street. They also testified that the commercial trucks travel residential streets to get to the driveway. Sometimes the trucks are parked on the residential street. Opponents maintain that these practices are illegal.

22. The contract-purchaser responded to some of the concerns raised by opponents. The contract-purchaser stated that he is not familiar with the noise regulations but that there are many buses and trucks that use 12th Street and create noise and fumes. His operation is not necessarily responsible for all of the noise and fumes complained about. Further, to reduce any impact, he agrees to park his largest truck in front of the property on 12th Street.

The contract-purchaser stated that his vehicles meet the size limitations for travelling on residential streets. He understands the limitation to be 37,000 pounds. One dump-truck is 26,000 pounds. He testified that the trucks will use 12th Street for access to the driveway.

The contract-purchaser agreed to place the propane tanks and oil tanks in the concrete warehouse building to eliminate the concern that they are stored outside. The contract-purchaser also offered to build a 15-foot fence, or to cover the entire property to screen from view the construction equipment stored on the property.

The contract-purchaser stated that he wishes to erect a fence and gate at the driveway to keep unauthorized vehicles from parking there and to keep children from playing there.

The contract-purchaser pointed out that the construction company cannot afford to move to another location. Nor can it separate its office function from its equipment and trucks by carrying the equipment and trucks to Maryland while operating the office in the District of Columbia. Finally, he expressed a willingness to work with the community to resolve the issues of concern to them.

23. At the end of the public hearing, the Board directed the Office of Planning (OP) to convene a meeting between the applicants and area residents to try and resolve some of the issues raised at the hearing. The Board requested that OP submit a supplemental report addressing the meeting. Parties were also permitted to submit their comments.

24. By supplemental report dated September 15, 1992, OP stated that the meeting between the parties was held on July 20, 1992. OP delineated the Golden Eagle Construction Company's position to be as follows:

- A. The large dump truck owned by Golden Eagle Construction Company would not be parked at the rear of the subject property, but rather in the property's front driveway.
- B. The construction company should not be restricted as to the time they are permitted to start trucks during the morning hours.
- C. All trucks owned by Golden Eagle operate at acceptable noise levels in accordance with D.C. regulations.
- D. On the average, only one weekly delivery of construction materials would be made to the subject premises.
- E. If the requested zoning relief in this application is not granted, the subject property could become vacant and potentially fall into disrepair, thus affecting surrounding residential property values in a negative way.

- F. All storage of construction-related materials and combustibles (i.e. gasoline, propane, etc.) would comply with existing regulations.
- G. The company would be willing to build an addition to the existing building which would completely enclose the parking and storage area at the rear of the property to help reduce any negative impacts of its operation on the community.

OP then set out the community's position which simply reiterated the issues of concern to residents at the time of the hearing. However, opponents did respond to the applicant's proposal to completely enclose the parking and storage area. The community feels that complete enclosure of the rear portion of the property would be unacceptable because of negative aesthetics and environmental impacts such as reduced open space, light and air.

OP stated that at the close of the meeting it was determined that additional information regarding several of the issues raised would be needed from three District government agencies as follows:

- A. Fire and Emergency Medical Services Department - The effect of existing regulations relative to the storage of construction-related materials and combustibles on the company's proposal.
- B. Department of Public Works - The effect of the existing regulations governing acceptable truck noise levels and truck routing plans, according to truck size and type, on the company's proposal.
- C. Department of Finance and Revenue - The effect the proposed zoning relief would have on both the property values of residential properties that surround the subject property and the cost of the residential insurance on those surrounding properties.

OP transmitted a memorandum and pertinent materials to each of the agencies listed above requesting the information needed. At the time this report was prepared, OP had not received a response from any of the agencies. OP's report therefore did not express a resolution of any of the issues raised at the hearing.

25. Opponents submitted letters into the record dated July 19, and September 11, 1992 from John Gerrety, a real estate agent specializing in residential properties in the Brookland area. In the letters to the Board, the agent made, and supported with evidence, four main points:

- A. There were five residential properties for sale in the area since Golden Eagle located there. The two houses on Kearney Street sold for less than they were worth, and the two houses on Jackson Street and the one on 12th Street never sold and were rented out.
- B. Prior to Golden Eagle's arrival the properties in that area had no trouble selling.
- C. Golden Eagle can find CM zoned property within the District of Columbia; and
- D. If Golden Eagle moved, the subject property is not likely to remain vacant. No other commercial properties in that area have remained vacant.

26. The Board also received a letter dated September 4, 1992 from Sarah Woodhead, an architect commissioned by the opponents. In her letter, she addressed the inappropriateness of building an enclosure for storing the materials.

27. The Board also received a letter dated September 8, 1992 from the Huntington T. Block Insurance Agency, which covers property belonging to one of the opponents, a resident of 1215 Kearney Street, N.E. The insurance company stated that the resident could be refused a renewal of her homeowner's coverage if the company does an inspection and finds hazardous materials stored on property in the area.

28. Two letters were submitted into the record in support of the ANC position. A petition was also received expressing support for the company as an asset to the community.

29. There were several letters opposing the application. These letters addressed the same issues raised at the public hearing.

FINDINGS OF FACT:

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

- 1. Lot 806 is not unusual in terms of size, shape or topography.
- 2. Lot 806 is capable of being used for C-1 purposes.
- 3. The storage of materials on the site is not aesthetically pleasing to area residents who can see the site from their properties.

4. An enclosed storage structure would be aesthetically unpleasing to nearby residences.
5. The storage of flammable substances on the property increases the risk of fire, endangering surrounding properties and affecting the insurability and values of surrounding properties.
6. Lot 28 is too small for residential use.
7. The noise created by starting the trucks and allowing them to idle awakens nearby residents in the early morning hours. The noise from the warning signals disturbs residents through the day.
8. The fumes created by idling trucks negatively affect neighboring residents.
9. The use of trucks at and around the site creates dangerous conditions for children and others in the area.
10. The maneuvering of trucks into and out of the driveway obstructs traffic on the street.
11. The proposed use would adversely affect the value of residential properties in the area.

Due to the lack of sufficient evidence, the Board makes no finding with regard to:

- (1) whether the noise level of the trucks exceeds the legal limit;
- (2) whether the use of the trucks on the residential street is legal; and
- (3) whether the vibrations from the trucks cause damage to nearby properties.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record the Board concludes that the applicant is seeking variances from the use provisions to store materials on Lot 806 located in a C-1 District and to park trucks and other vehicles on Lot 28 located in an R-1-B District. The granting of such variances requires a showing through substantial evidence on the record of an undue hardship on the owner arising out of some unique or exceptional situation or condition of the property such as exceptional

narrowness, shallowness, shape or topographical condition. The applicant must also demonstrate that the property cannot be used for any purpose for which it is zoned.

The Board concludes that the applicant has not met this burden of proof. The Board concludes that for Lot 806 there exist no unique or exceptional conditions of the property that create a hardship for the owner in using the property as it is zoned. The Board concludes that the proposed storage use would cause substantial detriment to the public good.

The Board concludes that Lot 28 is very narrow and therefore too small for residential use. However, the proposal to park trucks on the lot would be substantially detrimental to the public good.

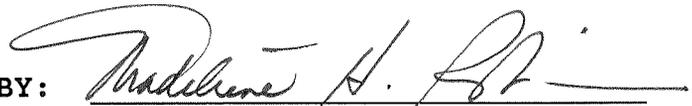
The Board concludes that it has accorded ANC 5A the "great weight" to which it is entitled.

In light of the foregoing, it is hereby ORDERED that the application is DENIED.

VOTE: 5-0 (Tersh Boasberg, Paula L. Jewell, Carrie L. Thornhill and Angel F. Clarens to deny; Sheri M. Pruitt to deny by proxy).

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

ATTESTED BY:



MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER:

MAR 30 1993

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."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15682

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

Kenneth Witcher
Golden Eagle Construction Co., Inc.
3219 12th Street, N.E.
Washington, D.C. 20017

Hibbard A. Paine
10905 Rock Run Drive
Potomac, Maryland 20854

Brian K. Flowers, Chairperson
Advisory Neighborhood Commission 5A
Slowe School Demountable
14th & Irving Streets, N.E.
Washington, D.C. 20017

Arthur Watson
3125 12th Street, N.E.
Washington, D.C. 20017

Judy Drake
1215 Kearney Street, N.E.
Washington, D.C. 20017

Ann Gilbride
1233 Kearney Street, N.E.
Washington, D.C. 20017

Robert E. Artisst, President
Brookland Neigh. Civic Assn.
1353 Otis Street, N.E.
Washington, D.C. 20017

David Holzman
1200 Jackson Street, N.E.
Washington, D.C. 20017

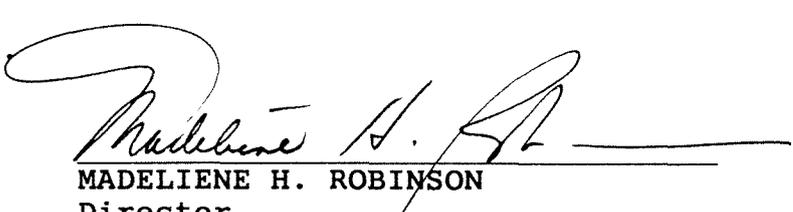
Sheila Galagan
1211 Kearney Street, N.E.
Washington, D.C. 20017

Cora Tyler
1231 Jackson Street, N.E.
Washington, D.C. 20017

Marie Washington
1214 Jackson Street, N.E.
Washington, D.C. 20017

Raquel D. Bess
1214 Kearney Street, N.E.
Washington, D.C. 20017

Herbert T. Wood
1217 Lawrence Street, N.E.
Washington, D.C. 20017


MADELIENE H. ROBINSON
Director

DATE: MAR 30 1993