

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15698 of the Exxon Company, U.S.A. (division of Exxon Corporation), pursuant to 11 DCMR 3108.1, for a special exception under Subsection 726.1 to establish a new gasoline station and convenience store in the C-2-A and C-M-3 Districts at premises No. 1 Florida Avenue, N.E. (Square 668, Lot 91).

HEARING DATE: September 16, 1992

DECISION DATE: October 7, 1992

SUMMARY OF EVIDENCE OF RECORD:

1. The property is located at the southeast corner of the intersection of North Capitol Street and Florida Avenue and is known as No. 1 Florida Avenue, N.E. It is split-zoned C-2-A and C-M-3.

2. The site is irregular in shape with a frontage of 157.5 feet along North Capitol Street and 235 feet along Florida Avenue. The site contains approximately 22,377.5 square feet of land area. The total area of the C-2-A zoned portion of the site is approximately 5,442 square feet. The total area of the C-M-3 zoned portion of the site is approximately 16,936 square feet.

3. The site is currently improved with a three-bay garage structure, three multi-product dispensers, and a sales kiosk for convenience items. The multi-product dispensers and the sales kiosk are covered by a canopy. The subject site has been authorized for use as a gasoline station pursuant to BZA Order No. 5517 since 1959. The Board approved the addition of two service bays pursuant to its Order No. 7479, dated October 23, 1963. The Board further approved the modernization and enlargement of the gasoline station pursuant to its orders numbered 13127, dated May 19, 1980 and March 12, 1981.

4. Access to and egress from the site are currently provided by two curb cuts along North Capitol Street and two curb cuts along Florida Avenue.

5. The applicant proposes to raze the existing improvements and replace the facility with a modern self-service gas station and convenience store. The proposed convenience store is permitted as a matter of right in both the C-2-A and C-M-3 Districts. The proposed gasoline service station is permitted as a matter of right in the C-M-3 District. However, because a portion of the proposed gasoline service station is located in the C-2-A District, the applicant is required to seek special exception relief pursuant to

Section 726 of the Zoning Regulations. Section 726 requires that a gasoline service station located in an C-2-A District must meet the criteria set forth in Sections 706, 2302 and 3108 of the Zoning Regulations.

6. The applicant proposes to locate six multi-product dispensers, covered by a canopy, on the western portion of the site adjacent to the intersection of North Capitol Street and Florida Avenue. The applicant proposes to construct a new building containing approximately 600 square feet of floor area for the sale of convenience items and automobile accessories, cashier's booth, storage area and restrooms to replace the existing kiosk on the eastern portion of the site. In addition, the applicant proposes to provide additional features such as new curb cuts, lighting, paving, landscaping, and parking areas.

7. The area surrounding the subject site is characterized by various retail, commercial and light industrial uses in the C-2-A and C-M-3 Districts, as well as some multi-family residential uses. The nearest residentially-zoned property to the subject site is located approximately 150 feet to the north across Florida Avenue and approximately 230 feet to the west across North Capitol Street.

8. A gasoline service station has been operated on the subject site since 1959 with Board approval. As noted in the Board's orders regarding the subject site, the operation of the gasoline station has not resulted in dangerous or other objectionable traffic conditions. The applicant's expert traffic witness indicated that the proposed modernization of the existing gasoline station will not result in a perceptible increase in traffic or in pedestrian-vehicular conflicts and will not create any dangerous or other objectionable traffic conditions.

9. The applicant testified that the proposed gasoline station has been designed to protect adjacent and nearby property to the greatest extent possible. The perimeter of the property will be fenced from adjacent properties. All lighting on the site will be directed downward onto the surface of the site, eliminating any undesirable lighting of adjacent properties. The landscaping proposed for the site and adjacent public space is designed in order to enhance the appearance of the site while at the same time providing for maximum visibility.

10. The Zoning Administrator has determined that five parking spaces are required. All on-site parking spaces have been designed so that they are accessible at all times. Further, the parking spaces are designed to provide sufficient access and maneuvering space to permit the parking and removal of any vehicle on the site without moving any other vehicle onto public space.

11. The subject premises is located in excess of 25 feet from the nearest residentially-zoned property and is separated from such residentially-zoned areas by North Capitol Street and Florida Avenue.

12. No driveway entrance or exit to the site will be closer than 40 feet to the nearest street intersection as measured from the intersection of the curb lines extended. The curb cut on Florida Avenue closest to the intersection is 64 feet from the curb lines extended. The curb cut on North Capitol Street closest to the intersection is located 45 feet from the intersection of the curb lines extended.

13. No grease pits or hoists are proposed to be established or constructed as part of the subject project.

14. The Office of Planning (OP), by memorandum dated September 8, 1992, recommended approval of the application. The OP was of the opinion that the project would not create any adverse impacts on the adjacent properties nor would it adversely affect the surrounding neighborhood. The OP was further of the opinion that the project would not result in any dangerous or other objectionable traffic conditions and that the use and operation of the subject facility would not impair the intent, purpose and integrity of the Zoning Regulations and Map with respect to both the C-2-A and C-M-3 Districts.

15. By memorandum dated September 11, 1992, the Department of Public Works (DPW) offered no objection to the project. The DPW was of the opinion that the project would have little or no impact on the existing circulation pattern and would have no adverse traffic impacts on the local street system.

16. By letter dated July 6, 1992, the Metropolitan Police Department (MPD) offered no objection to the subject application. The MPD was of the opinion that the project would not affect the public safety in the immediate area nor generate an increase in the level of police services now being provided.

17. The Board waived its seven-day filing requirement to accept the report of Advisory Neighborhood Commission (ANC) 5C, dated September 8, 1992. ANC 5C recommended that the Board deny the application at the current time. The ANC noted that the applicant failed to contact the ANC in advance of the hearing date to seek its support or to address any issues and concerns expressed by its members. The ANC expressed concern with respect to the following:

- a. Area residents are progressively losing automobile inspection, maintenance and repair services at gasoline stations throughout the community.

b. The enlargement of the existing gasoline station and the addition of a convenience store at the subject site will contribute to the existing dangerous vehicular and pedestrian traffic conditions in the area.

c. The location of another "24-hour convenience store" in the immediate area will add to those currently existing which tend to attract "panhandlers" and "drug dealers", loitering and criminal activities. The ANC suggested that the applicant provide sufficient lighting on the premises to adequately address the issue of public safety and security.

18. The President of the North Capitol Area Business Association (NCABA) testified in support of the application. The basis for the support is generally summarized as follows:

a. The renovation of the facility will have a positive impact on the North Capitol Street corridor because of the improved appearance of the facility.

b. The applicant has worked with the NCABA with respect to providing appropriate lighting, security, landscaping, safety and operational details, and other issues.

FINDINGS OF FACT:

1. The Board finds that the applicant has met the requisite burden of proof to justify the granting of special exception relief pursuant to Section 726 of the Zoning Regulations.

2. The Board is persuaded by the testimony of the applicant's expert traffic witness, the Office of Planning and the Department of Public Works that the proposed facility will not have a perceptible impact on existing traffic and will not create any dangerous or other objectionable traffic conditions.

3. The potential loss of inspection, maintenance and repair services because of conversions of existing gasoline service stations to self-service gasoline stations is beyond the Board's jurisdiction under the special exception process. The ANC should more properly address its concerns relative to these issues to the Gasoline Station Advisory Board or other appropriate agency with the authority to review such matters.

4. The applicant has designed the landscaping and lighting of the site in an attempt to address the concerns relative to security and safety expressed by the ANC. In addition, the applicant has agreed to other measures designed to decrease or eliminate loitering or illicit activity on the site, such as the relocation of the public telephone, lighting, and the elimination of outdoor food dispensers.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking special exception relief, the granting of which requires a showing of compliance with the criteria set forth in Section 726 and 3108.1 of the Zoning Regulations.

The Board concludes that the applicant has met the requisite burden of proof. The project is located in its entirety in excess of 25 feet from the nearest residence district and is separated therefrom by public streets. All driveway entrances and exits are in excess of 25 feet from the closest street intersection as measured from the curb lines extended. No hoists or grease pits will be provided. The continued operation of a gasoline service station at the subject site will not result in any dangerous or other objectionable traffic conditions. The design, appearance and other features of the project will not adversely affect the use of adjacent and nearby properties. The required number of parking spaces are provided on site and are designed to be accessible at all times and do not require the maneuvering of vehicles onto public space for access and egress from the parking spaces.

The Board further concludes that the project, as hereinafter conditioned, is in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property. The Board concludes that it has afforded the ANC the "great weight" to which it is entitled. Accordingly, it is **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS**:

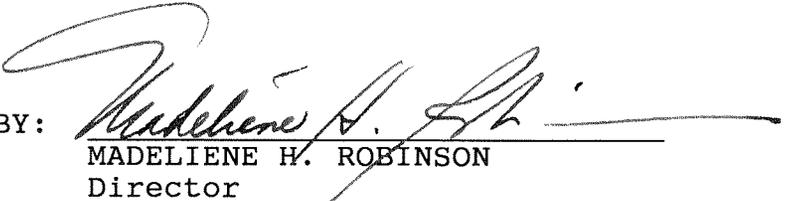
1. Construction of the new Exxon facility shall be as set forth in the plans marked as Exhibit No. 8 of the record, except as modified by these conditions.
2. There shall be no outdoor food dispensing machines located on the site. All sales of food shall be conducted from within the sales building.
3. The applicant shall have the flexibility to relocate the public telephone, in consultation with the North Capitol Area Business Association, to promote the maximum visibility and to discourage illicit activity. The public telephone shall not be capable of receiving incoming calls.
4. The applicant shall provide a trash receptacle at each of the three pump islands. The applicant may provide additional trash receptacles at appropriate locations around the site, as necessary, to control litter.

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VOTE: 4-0 (Angel F. Clarens, Sheri M. Pruitt, Paula L. Jewell
and Carrie L. Thornhill to grant).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: FEB 19 1993

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."

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.

ord15698/LJP

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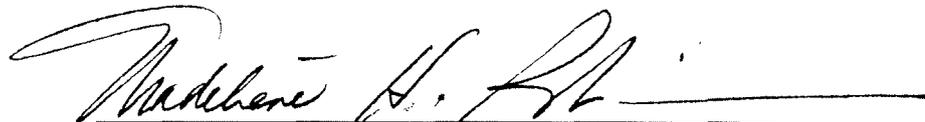
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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on FEB 19 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Christopher H. Collins, Esquire
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W., Suite 1100
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James D. Berry, Jr., Chairperson
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1723 - 3rd Street, N.E.
Washington, D.C. 20002

Charles H. Lewis
135 Bates Street, N.W.
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MADELIENE H. ROBINSON
Director

DATE: FEB 19 1993