

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 16047 of Druid and Emily Clodfelter pursuant to 11 DCMR 3108.1, for a special exception under Section 726 and 1906.1 to allow modernization of a gasoline service station in a C-2-A/C-2-B/ARTS District at premises 1448 U Street, N.W. (Square 205, Lot 66).

HEARING DATE: May 17, 1995  
DECISION DATE: May 17, 1995 (Bench Decision)

ORDER

SUMMARY OF EVIDENCE:

1. The property that is the subject of this application is located on the southeast corner of the intersection of 15th and U Streets, N.W. The site consists of Lot 66 in Square 205. The subject property is zoned C-2-A and C-2-B/ARTS.

2. The C-2-A District permits matter-of-right low-density commercial development. The C-2-B District permits matter of right medium density commercial development. The Arts Overlay District encourages retail, entertainment and residential uses with an emphasis on arts, cultural and arts-related support uses.

3. The area surrounding the site is characterized by a mix of residential, commercial and light industrial uses. Immediately east of the site, along U Street, N.W., are located Mecca Temple No. 10 and the M.A. Winter Building, followed by a self-storage facility and several rowhouses which have been converted to commercial use. Immediately to the south of the site, along 15th Street N.W., there is a dentist's office located in a converted rowhouse, followed by residential rowhouses. A high-rise apartment building and garden-type apartments are located across U Street, N.W. The Reeves Municipal Center is located at the northwestern corner of the intersection of 14th and U Street N.W.

4. The site is currently used as a Mobil gasoline service station. It has been used as a gasoline service station since prior to 1920. The station was last renovated in 1976 pursuant to BZA Order No. 12085 the order with the following conditions:

- a. no above-ground construction on the portion of the site close to residentially-zoned land.
- b. construction of a 10-ft. planting strip or buffer along the southern edge of the property.

c. no vapor recovery vent located in the buffer strip.

As of the May 17, 1995 hearing, condition B had not been complied with.

5. The station currently has two fueling islands which support two, double-sided fuel pumps each. An attendant's kiosk which sells cigarettes and snack foods is centered in-between the two fueling islands. Two additional fuel pumps are located on the same pad as the kiosk.

6. Mobil and its franchisee are seeking to upgrade and modernize the existing station which has not been substantially renovated since 1976. The primary purpose of the renovations is to improve the appearance of the station.

7. The proposed gasoline service station would be a self-service facility with three fueling islands and twelve gasoline pumps. A glass enclosed convenience store (Mobil Mart) consisting of approximately 1,205 square feet of gross floor area would be provided. In addition to selling grocery and toiletry items, the Mobil Mart would include rest rooms for customers' convenience, storage and a trash receptacle would be located at the southeast corner of the site. The proposed gasoline service station would replace the existing facility. The existing underground storage tanks would remain. No on-site auto repair or mechanic work would be performed.

Six parking spaces, including one handicapped space, would be located on the property. The existing gasoline service station has four curb cuts; two on 15th Street and two on U Street. No curb cut changes are proposed.

A buffer consisting of landscaping and fencing is proposed along the site's southern boundary.

8. A gasoline Service Station is allowed as a special exception in the C-2-A/C-2-B/ARTS District. The proposed renovation must comply with the provisions of Section 726 and subsection 1906.1 of 11 DCMR.

9. The gasoline station operator offered testimony to the effect that the proposed improvements would not adversely affect neighboring properties, nor would they be detrimental to the neighborhood, and in fact they would provide a benefit to the neighborhood.

The applicant's engineer also agreed to comply with the previous BZA order to erect a buffer zone along the site's southern property line.

10. The applicant's transportation consultant provided evidence that the proposed renovation would not create dangerous or other objectionable traffic conditions, and may in fact, speed up service and facilitate circulation in and around the site.

11. The D.C. Office of Planning (OP) offered evidence to support its recommendation that the special exception be granted with certain conditions, as it found that the proposed improvements would neither adversely affect neighboring properties, nor be detrimental to the neighborhood.

12. The D.C. Department of Public Works, the Metropolitan Police Department, and the Department of Fire and Emergency Medical Services did not oppose the application.

13. ANC 1B voted to oppose the application and indicated that the proposed modifications would adversely affect the neighborhood in the following ways:

- a. increased traffic
- b. decreased property value of neighboring homes

The lack of response from the applicant, and violation of BZA Order No. 12085 lead the ANC to conclude that even a special exception granted with conditions would not be complied with.

14. The board also received several opposition letters, and heard independent testimony from residents in the vicinity of the subject site (including the Residential Action Coalition). The letters identified a number of problems related to the existing gasoline station operations including traffic, litter, loitering, noise, and crime, all of which would only be exacerbated by the proposed addition.

15. The station manager offered suggestions and provided assurances regarding how the concerns expressed by the neighborhood residents would be alleviated.

#### FINDINGS OF FACT

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

1. The existing gasoline service station is not in compliance with Section 726, and Chapter 23, Subsection 2302.2 as it is located within 25 feet of a residential district. However, the Board further finds that the station is exempt from this requirement, as the station was in existence before the enactment of the 1958 Zoning Regulations.

2. One of the two 15th street entrances is located within 25 feet of a residential district.

3. One of the U Street driveways is located within 40 feet of the 15th and U Street intersection. This is not in compliance with Section 725, Chapter 23, Subsection 2302.4. However, the Board finds that the driveway is an existing condition which appears not to have a negative impact on street traffic in the area.

4. No grease pits or hoists would be located at the site.

5. The proposed modernization would not advance all of the stated purpose of the ARTS Overlay District. However, the board finds that, subject to certain conditions, the proposed improvements would not adversely affect neighboring properties, nor would they be detrimental to the neighborhood.

6. The application does not meet several ARTS Overlay requirements, including: (1) encouraging uses that are pedestrian oriented; (2) increasing the presence of arts and arts-related activities; and (3) strengthening the physical design standards of the area. However, the Board finds that the site has been used to house a gasoline station since the 1920s and as such is not readily adaptable to the requirements of the ARTS district.

The existing station can continue to operate indefinitely without the need for additional Board approval.

7. The proposal would be in harmony with the general purpose and intent of the Zoning Regulations and Map and would not adversely affect the use of neighboring properties for the following reasons:

a. **PARKING:** The number of on-site parking spaces that would be provided exceeds the requirement of the regulations by two spaces.

b. **NOISE:** The noise level would not substantially increase if this application is approved, as there would only be a 20 percent increase in the number of gasoline pumps, and the Mobile Mart would replace an existing retail "facility". The elimination of the pay telephone would further reduce noise level during early morning hours.

c. **BUFFER:** While the applicants were required to provide a buffer in BZA ORDER 12085, they have yet to comply with this portion of the order. The applicants currently propose to provide the buffer which would consist of a 10 and 1/2-foot wide landscaped area and a six-foot high wrought iron fence.

d. **SECURITY:** The location of the mini-mart would increase employee visibility of the site to 95 percent from the previous 33 percent. Also, increased space within the store would allow the station operator to employ more people who

would be able to "police" the station. The proposed new fence in the buffer zone would prevent those who commit crimes from running away from the site. And finally, new security cameras would be installed both to deter crime and to aid in the prosecution of those who choose to break the law.

e. **TRASH COLLECTION:** A new trash structure is proposed which would prevent trash from flowing into the streets, and which would also aid in pest control. Further, trash would be picked up weekly by a private contractor.

f. **TELEPHONE:** The pay phone would be eliminated from the site.

g. **TRAFFIC:** The new pumps and credit card capabilities would allow traffic to move more quickly through the station.

8. The improved gasoline station would encourage the continued active retail use of the site.

9. The new, improved landscaping would improve the appearance of the area.

10. ANC 1B's concerns, reflected in its unanimous opposition to the proposed modifications, and the concerns of residents living in the vicinity of the site (including those of the Residential Action Coalition) would be addressed by the Board through conditions which would be attached to the special exception if granted.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the foregoing findings of fact and evidence of record, the board concludes that the applicants, Druid and Emily Clodfelter, pursuant to 11 DCMR 3108.1, are seeking a special exception under Section 726 and Subsection 1906.1 to allow modernization of a gasoline service station in a C-2-A/C-2-B/ARTS District at premises 1448 U Street, N.W. (Square 205, Lot 66).

The granting of such 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 the application will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The applicant must also meet the requirements of Section 726, Subsections 1906.1 and 3108.1 of the Zoning Regulations.

The Board concludes that the applicant has met the burden of proof.

The Board concludes that the applicant will provide adequate, and appropriately located parking.

The Board concludes that subject to compliance with conditions listed below, the facility will not have an adverse impact on the neighborhood because of traffic, or noise.

The Board concludes that the application has been referred to and approved of by the Office of Planning and other relevant District of Columbia departments and agencies.

The Board concludes that granting the application is in harmony with the general purpose and intent of the Zoning Regulations and Map, and that it will not tend to adversely affect the use of neighboring property.

The Board concludes that it has accorded the views of the ANC 1B the "great weight" to which they are entitled.

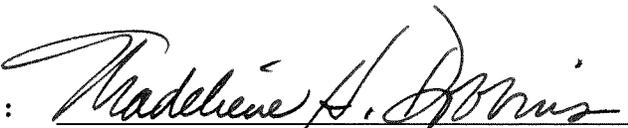
Based on the foregoing, the Board **ORDERS** that the application is hereby **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of FIVE YEARS from the final date of the order.
2. The hours of operation of the Mobil Mart shall be Sunday through Thursday 5:00 a.m. to 10:00 p.m., Friday and Saturday 5:00 a.m. to 12:00 a.m.
3. Prior to applying for the certificate of occupancy for the Mobile Mart, the applicant shall provide a landscaped buffer ten and one-half feet wide and a wrought iron fence along the southern portion of the site.
4. The applicant shall landscape the site in accordance with plans marked as Exhibit No. 9, Sheet 2 of 3 in the record.  
  
The site shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
5. Trash shall be picked up twice per week.
6. The applicant shall seek to remove the public telephone located at the southwest corner of the site in order to discourage loitering.
7. The applicant shall install closed circuit monitors and improved nighttime lighting to increase security.

8. The applicant shall establish a liaison committee with Advisory Neighborhood Commission (ANC) 1B. The committee shall meet quarterly and reports of the meeting shall be maintained. The reports shall be filed with the Board when the owner of the property applies again for relief from the Board. The Residential Action Coalition shall be given prior notice of the meetings of the liaison committee so that a representative may participate if desired.

VOTE: 4-0 (Susan Morgan Hinton, Craig Ellis, Laura M. Richards and William Ensign to grant; Angel F. Clarens not present, not voting, not having heard the case).

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

ATTESTED BY:   
MADELIENE H. DOBBINS  
Director

FINAL DATE OF ORDER: OCT 11 1996

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, 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. 16047

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 11 1996 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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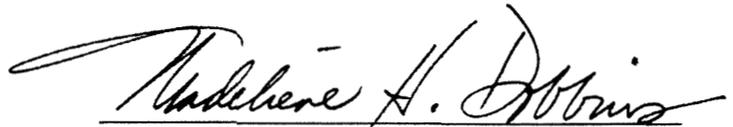
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MADELIENE H. DOBBINS  
Director

DATE: OCT 11 1996