

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16212 of the Inez Cushard Family Trust, pursuant to 11 DCMR 3108.1, for a special exception under Section 213 to continue to operate a 27 space parking lot approved under BZA Order No. 15919 dated May 27, 1994 in an R-2 District at the rear of 4926 Wisconsin Avenue, N.W. (Square 1671, Lot 30).

HEARING DATE: March 19, 1997
DECISION DATE: March 19, 1997 (Bench Decision)

AMENDED SUMMARY ORDER *

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

The site of the application is located within the jurisdiction of ANC 3E. ANC 3E, which is automatically a party to this application, submitted a written statement in support 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 213. No person or entity appeared at the public hearing in opposition to this 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 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the 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 YEARS**.
2. The hours of operation shall be from 7:00 a.m. to 7:00 p.m., Monday through Friday, 9:00 a.m. to 7:00 p.m. on Saturday, and 11:00 a.m. to 6:00 p.m. on Sunday.

* The order was amended to reflect the support of ANC-3E.

3. The lot shall be secured during all hours that it is not in operation.
4. The property shall be cleared of all trash and debris on a daily basis.
5. There shall be no trash containers kept on the lot. Trash shall be disposed of by the business the parking lot serves.
6. The masonry wall surrounding the lot as well as the guardrail shall be maintained in good condition at all times.
7. The landscaping provided on the lot shall be maintained in a healthy growing condition and shall have a neat and orderly appearance. Planter boxes shall be maintained in a good state of repair and replaced as necessary.
8. The applicant shall post and maintain a sign giving information on who to contact in the event of complaint or emergency.
9. The two substandard parking spaces located in the northern and western areas of the parking lot shall be posted with signs reserving them for compact cars.
10. Bumper stops shall be erected and maintained for the protection of all adjoining line on or over the public space.
11. No vehicle or any part thereof shall be permitted to project over any lot or building line on or over the public space.
12. All areas devoted to driveways, access lanes, and parking areas shall be maintained with an all-weather impervious surface paving material. All potholes shall be repaired expeditiously.
13. No other use shall be conducted from or upon the premises.
14. 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.
15. The applicant shall maintain, through its designated representative, an ongoing with Advisory Neighborhood Commission 3E and the property owners in the square to resolve any issues that might arise due to the operation of the parking lot.

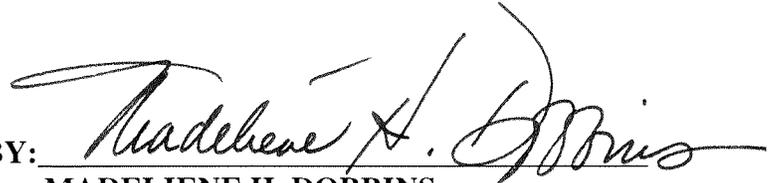
Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0 (Herbert M. Franklin, Sheila Cross Reid, Laura M. Richards and Susan Morgan Hinton to grant; Angel F. Clarens not present, not voting).

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

FINAL DATE OF ORDER:

ATTESTED BY: _____



MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: JAN 21 1998

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 TWO YEARS, 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. 16212

As Director of the Board of Zoning Adjustment, I certify and attest that on JAN 21 1998 a copy of the amended order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Dennis Cate, Esquire
Knopf and Brown
1050 17th Street, N.W., Suite 1200
Washington, D.C. 20036

Catherine Mitchell
6201 Madawaska Road
Bethesda, Maryland 20816

Carol Cushard Patterson
60 River Drive
Annapolis, Maryland 21403

Beth Kravetz, Chairperson
Advisory Neighborhood Commission 3E
P.O. Box 9953
Friendship Station
Washington, D.C. 20016

Attested By:

A handwritten signature in black ink, appearing to read "Madeliene H. Dobbins".

MADELIENE H. DOBBINS
Director

Date: JAN 21 1998

Attest/ljp

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16212 of the Inez Cushard Family Trust, pursuant to 11 DCMR 3108.1, for a special exception under Section 213 to continue to operate a 27 space parking lot approved under BZA Order No. 15919 dated May 27, 1994 in an R-2 District at the rear of 4926 Wisconsin Avenue, N.W. (Square 1671, Lot 30).

HEARING DATE: March 19, 1997
DECISION DATE: March 19, 1997 (Bench Decision)

SUMMARY ORDER

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

The site of the application is located within the jurisdiction of ANC 3E. ANC 3E, which is automatically a party to this application, did not submit a written statement related to 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 213. 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, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the 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 years.
2. The hours of operation shall be from 7:00 a.m. to 7:00 p.m., Monday through Friday, 9:00 a.m. to 7:00 p.m. on Saturday, and 11:00 a.m. to 6:00 p.m. on Sunday.

3. The lot shall be secured during all hours that it is not in operation.
4. The property shall be cleared of all trash and debris on a daily basis.
5. There shall be no trash containers kept on the lot. Trash shall be disposed of by the business the parking lot serves.
6. The masonry wall surrounding the lot as well as the guardrail shall be maintained in good condition at all times.
7. The landscaping provided on the lot shall be maintained in a healthy growing condition and shall have a neat and orderly appearance. Planter boxes shall be maintained in a good state of repair and replaced as necessary.
8. The applicant shall post and maintain a sign giving information on who to contact in the event of complaint or emergency.
9. The two substandard parking spaces located in the northern and western areas of the parking lot shall be posted with signs reserving them for compact cars.
10. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
11. No vehicle or any part thereof shall be permitted to project over any lot or building line on or over the public space.
12. All areas devoted to driveways, access lanes, and parking areas shall be maintained with an all-weather impervious surface paving material. All potholes shall be repaired expeditiously.
13. No other use shall be conducted from or upon the premises.
14. 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.
15. The applicant shall maintain, through its designated representative, an ongoing liaison with Advisory Neighborhood Commission 2E and the

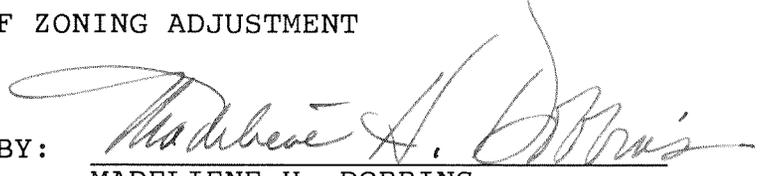
property owners in the square to resolve any issues that might arise due to the operation of the parking lot.

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 appropriate in this case.

VOTE: 4-0 (Herbert M. Franklin, Sheila Cross Reid, Laura M. Richards and Susan Morgan Hinton to grant; Angel F. Clarens not present, not voting).

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

ATTESTED BY:



MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

MAR 28 1997

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 TWO YEARS, 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. 16212

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 28 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed below:

Dennis Cate, Esquire
Knopf and Brown
1050 17th Street, N.W., Suite 1200
Washington, D.C. 20036

Beth Kravetz, Chairperson
Advisory Neighborhood Commission 3E
P.O. Box 9953
Friendship Station
Washington, D.C. 20016

Catherine Mitchell
6201 Madawaska Road
Bethesda, Maryland 20816

Carol Cushard Patterson
60 River Drive
Annapolis, Maryland 21403

A handwritten signature in black ink, appearing to read "Madeliene H. Dobbins", written over a horizontal line.

MADELIENE H. DOBBINS
Director

Date: MAR 28 1997