

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16328 of Hugh V. Kelly, pursuant to 11 DCMR 3108.1, for a special exception under Section 213 to establish an accessory parking lot in the residential portion of a site in a C-1/ R-5-A District at premises 3922 12th Street, N.E. (Square 3887, Lot 5).

HEARING DATE: April 1, 1998

DECISION DATE: April 1, 1998

DISPOSITION: The Board granted the application by a vote of 3-0 (Herbert M. Franklin, Betty King and Sheila Cross Reid to grant; Maurice Foushee not present, not voting).

Rodney Creecy filed a motion on May 15, 1998 for Reconsideration and Rehearing, which was denied by a vote of 3-0 (Herbert M. Franklin, Betty King and Sheila Cross Reid to deny).

FINAL DATE OF ORDER: May 6, 1998

REQUEST FOR CLARIFICATION

The Board approved the application and issued its Order on May 6, 1998. On May 15, 1998, the abutting property owner, Rodney Creecy, (movant herein) filed a motion for reconsideration and rehearing. The Board denied the movant's request for reconsideration or rehearing at its June 3, 1998 public meeting. The Reconsideration and Rehearing Order is dated August 21, 1998. The movant filed a request (dated August 26, 1998) seeking clarification of the Board's order. The Board considered the applicant's request at its October 7, 1998 public meeting.

The movant sought clarification of the Board's Reconsideration and Rehearing Order as it pertains to Subsections 2303.1 (d), 2303.2 and 2303.2 (b) of the Zoning Regulations. The following summarizes the Subsections:

- **Section 2303.1 (d)** - no vehicle entrance or exit to a parking lot shall be within forty feet (40 feet) of a street intersection, as measured from the intersection of the curb lines extended;
- **Section 2303.2** - a parking lot, which is contiguous to a residential district, shall be screened by a solid brick or stone wall and by evergreen hedges and/or evergreen trees;

- **Section 2303.2 (b)** – all parts of the lot shall be kept free of refuse and debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition, and in a neat and orderly appearance.

The issues raised by the movant concerned set-back and dedication of public space from Michigan Avenue; encroachment of the parking lot on surrounding property and public space; inadequate maintenance of the parking lot's screening; the overgrowth of poisonous weeds on the property; and, the single point of egress to the parking lot appears to be a fire hazard.

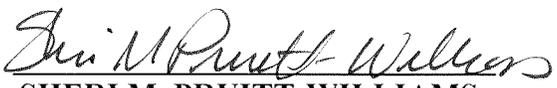
Other parties did not file responses to the Request for Clarification.

The Board determined that all of the issues raised by the movant were discussed or considered at the April 1, 1998 public hearing, and its decision was made based on the facts available at the time of the hearing. In the Board's opinion, the movant was rearguing the case because he was dissatisfied with the Board's decision. The property owner testified that he would comply with all zoning requirements of Section 2303 of the Regulations. The Order was conditioned to incorporate all applicable sections of Chapter 23. The Board relied on the Surveyor's plat to ascertain the boundaries of the property. No information was presented at the public hearing to indicate that any portion of the site is located in public space, or that a public or private easement is located on the subject property. The issues raised by the movant are enforcement concerns that should be addressed by the appropriate District government agencies. Accordingly, the Board hereby **ORDERS** that the **REQUEST FOR CLARIFICATION OF ITS ORDER BE DENIED.**

VOTE: 3 - 0 (Sheila Cross Reid, Betty King and Herbert M. Franklin to deny.)

DECISION DATE: October 7, 1998

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

ATTESTED BY: 
SHERI M. PRUITT-WILLIAMS
Interim Director

FINAL DATE OF ORDER: MAR 29 1999

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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 OF THE DISTRICT OF COLUMBIA."

ORD16328 /3rd/BAB/2-11-99

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16328

As Interim Director of the Board of Zoning Adjustment, I hereby certify and attest that on _____ a copy of the 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 the matter, and who is listed below:

Jerry A. Moore, III (Attorney for the Applicant)
Arter & Hadden
1801 K Street, NW, Suite 400K
Washington, DC 20006

Hugh V. Kelly
111 Virginia Avenue
Edgewater, MD 21037

Joseph L. Bowser, Chairperson
Advisory Neighborhood Commission 5A
Slowe School Demountable
14th & Irving Streets, NE
Washington, DC 20017

Rodney Creecy
Sandra F. Peaches
4501 Venton Place
Lanham, MD 20706

ATTESTED BY:

Handwritten signature of Sheri M. Pruitt-Williams in cursive script.

SHERI M. PRUITT-WILLIAMS
Interim Director

DATE: MAR 29 1999