

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 16399** of Merit Oil of the District of Columbia Inc., pursuant to 3107.2, for a variance from the rear yard setback requirement for a structure in the C-2-A District (Subsection 774.1) and a special exception under Subsection 726.1 to allow an enlargement to an existing gasoline service station in a C-2-A District, for the proposed addition of a canopy and office storage kiosk at premises 1739 New Jersey Avenue, N.W. (Square 507, Lot 91).

**HEARING DATE:** November 4, 1998  
**DECISION DATE:** November 4, 1998 (Bench Decision)

**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) 5C and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 5C. ANC 5C, which is automatically a party to this application, did not submit a written statement or presented oral testimony to the Board.

As directed by 11 DCMR 3324.2, the Board required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 774.1 and a special exception pursuant to 726.1. No person or entity appearing as a party to this case testified in opposition to the application. 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 3107.2, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board further concludes that the applicant has met the burden of proof pursuant to 11 DCMR 3108.1 and 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 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 this application be **GRANTED, SUBJECT** to the following **CONDITION**:

The applicant shall have the flexibility to amend the submitted plans in order to accommodate signage on the site.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 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: 3-0** (Betty King, Sheila Cross Reid and Jerry H. Gilreath to grant.)

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

ATTESTED BY:   
SHERI M. PRUITT-WILLIAMS  
Interim Director

FINAL DATE OF ORDER: NOV 13 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."

**BZA APPLICATION NO. 16399**  
**PAGE NO. 3**

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.

**BAB/11.9.98**

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**BZA APPLICATION NO. 16399**

As Interim Director of the Office of Zoning, I hereby certify and attest that on NOV 13 1998 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 this matter, and who is listed below:

Allison Prince  
Wilkes, Artis, Hedrick & Lane  
1666 K Street, NW  
Washington, DC 20006

Clayton L. McCane  
Merit Oil Corporation  
551 West Lancaster Avenue  
Haverford, PA 19041-1419

ATTESTED BY: *Sheri M. Pruitt-Williams*  
**SHERI M. PRUITT-WILLIAMS**  
Interim Director

DATE: NOV 13 1998