

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18686 of Ajaib Toor, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1 to establish an auto-repair garage in the LO/C-M-1 District at premises 1859 Edwin Street, N.E.¹ (Square 4106, Lot 144).

HEARING DATES: January 7, 2014 and April 8, 2014
DECISION DATE: April 8, 2014

DECISION AND ORDER

On October 16, 2013, Ajaib Toor (the “Applicant”) filed an application with the Board of Zoning Adjustment (the “Board”) requesting variance relief from the requirement under § 2101.1 to provide 12 parking spaces in order to allow the establishment of a four-bay auto repair garage where five parking spaces would be provided. After a public hearing, the Board voted to deny the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated October 17, 2013, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”), the Councilmember for Ward 5, Advisory Neighborhood Commission (“ANC”) 5C, the ANC in which the subject property is located; and Single Member District/ANC 5C02. Pursuant to § 3113.13, the Office of Zoning mailed letters on August 22, 2013 providing notice of the hearing to the Applicant, ANC 5C, and the owners of all property within 200 feet of the subject property. Notice of hearing was published in the *D C Register* on November 1, 2013 (60 DCR 15211).

Party Status. The Applicant and ANC 5C were automatically parties to this proceeding. The Board granted the request for party status in opposition of George Rodgers and Mark Uhar, owners of the adjacent property and operators of Rodgers Brothers Service, Inc. and Innovative Recyclers, Inc. (Exhibit 23.)

¹ The Subject Property’s address in the application was listed as 2001 Lawrence Avenue, N E. At the hearing, the Applicant indicated that the address had been changed to 1859 Edwin Street, N E. Although the original address was used in the notice of hearing, the square and lot number were also provided.

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Applicant's Case The Applicant provided testimony regarding the proposed auto repair facility and the impact of parking variance relief on the surrounding neighborhood. The Applicant testified that the auto repair operation would offer same-day service and repairs and therefore would not create additional traffic congestion or issues with overflow parking

OP Report. By memorandum dated December 31, 2013, the Office of Planning indicated its support of the requested relief. OP found that the narrow, triangular nature of the lot was an exceptional condition that precluded the Applicant from provided the required parking spaces. Despite determining that the proposal would not cause a substantial detriment to the public good, OP did express concerns about traffic congestion and parking in the area. Specifically, OP noted that the Applicant "should ensure that vehicular traffic and parking resulting from operations does not obstruct circulation on adjacent streets " (Exhibit 27.)

DDOT Report. By memorandum dated December 31, 2013, the District Department of Transportation indicated that it had concerns with the requested relief after conducting several site visits. First, DDOT noted that the area has existing issues of traffic congestion and on-street parking. DDOT also noted the presence of recently installed "No Parking or Standing Either Side of the Roadway" signage on Lawrence Avenue and Edwin Street and the prevalence of illegal parking, despite these signs. Finally, DDOT indicated that the Applicant must obtain approval from the Public Space Committee for the improvements needed to access the site and for any additional vehicle parking on the unimproved roadway. (Exhibit 28.)

ANC Report The Board did not receive a report from ANC 5C

Party in opposition George Rodgers and Mark Uhar, owners of the adjacent property and operators of Rodgers Brothers Service, Inc. and Innovative Recyclers, Inc., provided evidence showing the existing parking problems in the area caused by insufficient off-street parking at similar auto repair facilities. Further, the party in opposition testified that cars in the area frequently violate the "No Parking" ordinances on both streets and argued that granting the variance would serve to intensify these problems and cause significant safety concerns.

FINDINGS OF FACT

1. The property is a narrow, triangular lot located at the address 1859 Edwin Street, N.E. (Square 4106, Lot 144) (the "Subject Property") The Subject Property is situated where Edwin Street, N E meets Lawrence Avenue, N.E. and where both streets terminate.
2. The Subject Property is an unimproved lot, currently used for car storage by the Applicant
3. The Subject Property is bordered by railroad tracks to the south, Montana Avenue to the west, a garage and parking lot to the north, and an excavation and demolition company to the east.

4. The Subject Property is zoned Commercial Light Manufacturing (C-M-1) and is also mapped within the Langdon Overlay. The area is characterized by industrial uses, including several auto repair facilities.
5. The C-M-1 District is intended to provide a site for low-bulk commercial and light manufacturing activities (*See* 11 DCMR § 800 2.) Heavy truck traffic and loading and unloading operations are expected to be characteristics of the C-M Districts (11 DCMR § 800 3)
6. The Langdon Overlay is intended to encourage retention of existing commercial and light manufacturing uses and allow new businesses under special controls designed to protect the quality of life and neighborhood character of the adjacent residential neighborhood. (11 DCMR § 806.2(b).)
7. The Applicant proposed to construct a four-bay auto repair garage with accessory office space. The facility would operate 10 hours a day for six days a week and would be staffed by two mechanics and one owner. The Applicant estimated that the garage would receive 16 customers per day
8. Subsection 2101.1 requires the proposed facility to provide 12 accessory parking spaces. The Applicant proposed to provide five spaces
9. The services offered at the facility would be limited to same-day auto repair and that vehicles needing overnight storage for longer repairs would be parked in one of the four garage bays. The Applicant would encourage customers not to park on the street and not to queue while waiting for service.
10. The Applicant, along with his business partner Ved Gupta, also owns and operates other auto repair facilities in the vicinity, including one operating on Edwin Street, N.E. and one on Lawrence Avenue, N.E.
11. On Edwin Street, N.E. and Lawrence Avenue, N.E., signage reading “No Parking or Standing Either Side of the Roadway” is installed on both sides of the street. During daytime hours, vehicles often park on both sides of these streets, in violation of these signs. In addition, during daytime hours, designated public space is also unlawfully used as vehicle parking
12. Customers of the auto repair facilities operated by Mr. Toor and Mr. Gupta commonly park their vehicles on the street, in violation of the “No Parking” ordinance, despite efforts of the owners to discourage this activity. Employees of these auto repair garages sometimes service vehicles that are parked on the street due to insufficient off-street parking at these facilities.

13. Traffic circulation on Edwin Street, N E and Lawrence Avenue, N E is impeded by illegally parked vehicles OP testified that, based on parking congestion, Edwin Street, N.E would likely be impassable for an emergency vehicle, such as a fire truck.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under § 8 of the Zoning Act of 1938, D C Official Code § 6-631 07 (g)(3) (2012 Repl) to grant variance relief from the strict application of the Zoning Regulations. As noted by the District of Columbia Court of Appeals.

An applicant must show, first, that the property is unique because of some physical aspect or “other extraordinary or exceptional situation or condition” inherent in the property; second, that strict application of the zoning regulations will cause undue hardship or practical difficulty to the applicant, and third, that granting the variance will do no harm to the public good or to the zone plan. *Capitol Hill Restoration Society v District of Columbia Bd. of Zoning Adjustment*, 534 A 2d 939, 941 (D.C. 1987).

In this case, the Board need not address whether there exists an exceptional condition that creates a practical difficulty, as the Board finds that granting the requested relief would cause a substantial detriment to the public good The Board was persuaded by the concerns raised by OP, DDOT, and the party in opposition regarding existing congestion and illegal street parking in the area During business hours, a high volume of vehicles currently park on Edwin Street, N.E. and Lawrence Avenue, N.E. in violation of the “No Parking or Standing Either Side of the Roadway” ordinance In addition, customers of the auto repair facilities in the neighborhood frequently park in public space These parking issues cause significant concerns for neighboring property owners, as the congestion of Edwin Street, N.E. often makes the street impassable As noted in OP’s testimony during the public hearing, the existing parking conditions in the neighborhood could potentially prevent the passage of emergency vehicles, creating a substantial public safety concern for neighboring businesses, their customers, and property owners in the area The Board finds that the existing problems of congestion and illegal parking in the area would be exacerbated by permitting the Applicant to operate the proposed auto repair facility with insufficient off-street parking.

Further, the Board was persuaded by the evidence provided by the party in opposition, showing that the Applicant, as owner of several other auto repair facilities in the neighborhood, has been unable to mitigate the existing parking problems in the area The Applicant confirmed that he has made efforts to discourage customers at his other auto repair garages from parking illegally and from obstructing traffic Testimony from the party in opposition, corroborated by testimony from DDOT, indicated that serious parking and traffic problems persist in the area, despite the Applicant’s efforts Therefore, the Board finds that it would be dangerous and inappropriate to permit the Applicant to operate the proposed facility without providing the required amount of off-street parking. The Board concludes that granting the requested relief would result in a substantial detriment to the public good. Because the application fails the third requirement of

the standard for variance relief, the Board will not address whether an exceptional condition of the property creates a practical difficulty and, instead, must deny the application.

The Board is required to give "great weight" to the recommendation of the Office of Planning (D C Official Code § 6-623.04 (2012 Repl.)) In this case, OP recommended that the Board grant the relief requested, but also noted that the Applicant "should ensure that vehicular traffic and parking resulting from operations does not obstruct circulation on adjacent streets" As previously discussed, the Board found that, based on the Applicant's pattern of practice operating similar repair facilities, the Applicant could not credibly ensure that the traffic and parking issues resulting from the new facility would be properly mitigated. The Board finds that granting the relief requested would likely intensify the existing problems with obstructed circulation and illegal parking in the area and would cause a substantial detriment to the public good. Therefore, the Board was not persuaded by OP's recommendation to grant the requested variance relief

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC in its written report (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D C. Law 1-21; D C. Official Code § 1-309.10(d) (2012 Repl.)).) The Applicant testified that ANC 5C voted in support of the proposed variance relief; however, the Board did not receive a written report from the ANC. Although the Applicant asserted that the ANC voted to support his application, the Board can only give great weight to ANC 5C's written report.

Based on the findings of fact and conclusions of law, the Board finds that the Applicant has not satisfied the burden of proof with regard to the request for a variance from the off-street parking requirements under § 2101.1 to establish an auto-repair garage in the LO/C-M-1 District at premises 1859 Edwin Street, N E. (Square 4106, Lot 144). Accordingly, it is **ORDERED** that the application is **DENIED**.

VOTE: **4-0-1** (Lloyd J Jordan, Peter G May, Jeffrey L. Hinkle, and Marnique Y Heath; to Deny, S. Kathryn Allen not participating, not voting)

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

The majority of the Board members approved the issuance of this order

ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: August 20, 2014

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6