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September 27, 2000

BY HAND

Ms. Sheila Cross-Reid
Chairperson
Board of Zoning Adjustments
441 4th Street, Suite 210
Washington, D.C. 20001

DISTRICT OF COLUMBIA
OFFICE OF ZONING
00 SEP 27 P5:20

Re: BZA Application No. 16407
Our File No. 092030-0000

Dear Ms. Reid:

We have recently discovered that Advisory Neighborhood Commission 6-A ("ANC 6-A") has filed a Motion for Reconsideration of the BZA's modification of the above-referenced case, a copy of which Motion was provided to us by your staff. Although the Motion indicates that it was served on us, as counsel for the Capitol Hill Group, we have not been served with a copy of the Motion. For the reasons set forth herein, including ANC 6-A's failure to serve the Capitol Hill Group with its Motion, the Capitol Hill Group opposes the Motion for Reconsideration.

On April 19, 2000, the Capitol Hill Group, through counsel, requested a modification of the BZA's order in the above-referenced matter. The modification was requested to: (1) correct the fact that the relief sought in the Application was for Square 895, not Square 865, as the main hospital is located in Square 895; and (2) to reduce the number of off-street parking spaces from 276 to 199, as the special exception for the accessory parking in Square 865 had expired and that site is to be used for a matter-of-right development.[1] On April 19, 2000, the Applicant sent a copy of its request for modification to ANC 6-A at the last address provided for ANC 6-A. The request for modification

[1] Subsequent to the hearing in BZA Application No. 16407, it was discovered that the special exception for the accessory parking in Square 865 had expired on September 12, 1988. See BZA Application No. 14211 Order, a copy of which is attached hereto.

BZA
Board of Zoning Adjustment
District of Columbia
CASE NO.16407
EXHIBIT NO.61
Case No. 16407
Exhibit No. 61

was scheduled for the BZA's September 5, 2000 Public Meeting. However, prior to the September 5, 2000 Public Meeting, the BZA staff informed the undersigned counsel that the BZA had concerned and granted the requested modification on June 7, 2000.

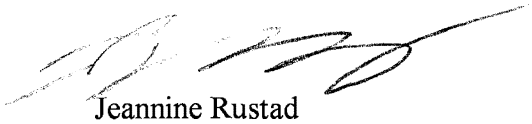
Because ANC 6-A's concerns, as set forth in the attachment to their Motion, do not address the requested modification, the request for reconsideration should be denied. ANC 6-A is concerned about compliance issues related to the use of the Applicant's underground parking garage. For example, at the August 21, 2000 ANC 6A's Zoning and License Committee meeting, there was much discussion about the Applicant's compliance with the BZA order in the instant matter. However, there was almost no discussion about the requested modifications. Moreover, at the conclusion of the meeting, although there was discussion of what action was appropriate, there was no motion or vote by the ANC commissioners on the matter.

Additionally, ANC 6-A is requesting that this matter be reopened so that they can have an opportunity to address the BZA "orally". However, pursuant to 11 DCMR §3129, parties may only submit materials in writing to the BZA and have no right to be heard by the BZA, as requests for modifications are decided at the BZA's public meetings, not at hearings.

The Applicant respectfully requests that the Motion for Reconsideration be denied as: (1) ANC 6-A's concerns regarding parking compliance are not related to and do not affect the requested modification; (2) the request for modification was properly served on ANC 6-A; (3) the ANC failed to serve the Applicant with its Motion; and (4) the ANC is requesting the matter to be reopened so that it can be heard orally, which is not permitted under the Zoning Regulations.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.



Jeannine Rustad

cc: ANC 6-A (by first-class mail, postage prepaid to: Commissioner Gregory J. Ferrell, Designee for ANC 6-A, 624 H Street, N.E., 1st Floor, Washington, D.C. 20002; and by facsimile to 202-547-8742)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14211, of Capitol Hill Hospital, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to continue to operate a parking lot in an R-4 District at premises 656 Massachusetts Avenue and 220-232 7th Street, N.E., (Square 865, Lots 862 and 866).

HEARING DATE: November 28, 1984
DECISION DATE: November 28, 1984 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is in an R-4 District. Lot 862 is located at the northwest corner of the intersection of Massachusetts Avenue and 7th Street, N.E., and is known as 656 Massachusetts Avenue. Lot 866 is located at the southwest corner of the intersection of 7th and C Streets, N.E. and is known as 220-232 7th Street, N.E.

2. By BZA Order No. 11238, dated February 7, 1973, the Board granted for five years permission to the Capitol Hill Hospital to establish an accessory parking lot. The facility was then known as Rogers Memorial Hospital. In BZA Order No. 12680, dated September 12, 1978, the Board granted the continuance of the parking lot for a period of three years. In BZA Order No. 13608, dated May 18, 1982, the Board continued the approval for a period of three years.

3. Capitol Hill Hospital is a community facility. It is the only hospital available to the citizens in this particular section of the city. The medical service rendered by the applicant is of vital importance to the community and without it the community would be hard pressed for any type of medical treatment.

4. The subject lot 862 contains thirty-three parking spaces. Lot 866 contains sixty-six spaces. There are 175 spaces in underground parking and forty spaces located at the corner of 8th Street and Constitution Avenue. This total of 314 spaces serves the employees, doctors, visitors and patients of the Hospital. Of the subject lots, fifty-seven percent of the spaces are used by employees and forty-three percent by visitors and patients.

5. The hospital has approximately 720 employees. They work three shifts. There is less demand for the parking

spaces during the night hours at which time any free spaces may be used by the neighborhood residents. The lot is unattended but is supervised by the Hospital's twenty-four hour security guard system. There is television surveillance on all parking facilities.

6. The lots are now cleaned once a day. The applicant has received no complaints about the operation and maintenance of the lot.

7. The applicant, at the public hearing, reviewed all the conditions of the prior Order of the Board and testified that the hospital was in compliance with all of the conditions. The Board so finds.

8. The Department of Public Works, by memorandum dated October 25, 1984, reported that a site inspection revealed that the two parking lots in question are well-maintained and landscaped. Elimination of these lots would aggravate parking congestion on neighboring residential streets. Accordingly, the DPW had no objection to this application. The Board concurs with the reasoning and recommendation of the DPW.

9. The Stanton Park Neighborhood Association, by letter dated November 26, 1984, reported that the Association voted not to oppose the application provided that the subject property be limited to parking lot usage and that the relief be limited to two years.

10. Advisory Neighborhood Commission 6A filed no report on the application.

11. There was no opposition to the application at the public hearing or in the record.

12. The applicant requested the Board to grant a continuation of the lot for more than the two year period requested by the Stanton Park Neighborhood Association. The applicant argued that the zoning process is time consuming and expensive.

13. The Board finds that the parking lot has been in existence for eleven years. This is the fourth time during that period that the applicant has appeared before the Board. The Board finds that over the past years the applicant has been responsive to the concerns of the neighborhood and that it has basically complied with the conditions set down by the Board in previous Orders. The Board finds that, based on past experience, the applicant has justified a period of approval of more than two years and will so condition the Order herein.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 3104.44 and that the relief requested under Sub-section 8207.~~22~~ can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will ~~not~~ tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met its burden of proof and that the application, as hereinafter conditioned, may be granted. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the FOLLOWING CONDITIONS:

1. Approval shall be for a period of FOUR YEARS from the expiration date of the previous order, namely from September 12, 1984.

2. The parking lot shall serve doctors, staff employees, patients and visitors.

3. The applicant shall comply with all the conditions recited in the Memorandum of Understanding, marked as Exhibit No. 25 of the record in application No. 13608 which is made a part of this Order, between the Stanton Park Neighborhood Association and the Capitol Hill Hospital relating to the issues of landscaping, parking lot maintenance, security, parking lot lighting and snow removal.

4. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.

5. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.

6. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.

7. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

8. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

9. 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.

VOTE: 4-0 (Lindsley Williams, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not voting, not having heard the case).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 20 FEB 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "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 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 LICENSES, INVESTIGATIONS AND INSPECTIONS.

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