GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16232 of St. Luke's Protestant Episcopal Church, pursuant to 11 DCMR 3108.1, for a special exception under Section 214 to continue to operate accessory parking lots in an R-5-B District at premises 1514-20 Church Street and 1503 P Street, N.W. [Square 194, Lots 84-87 (820) and Lots 66-69 and 92-94 (819)].

HEARING DATE: **May 21, 1997**
DECISION DATE: **October 1, 1997**

ORDER

SUMMARY OF EVIDENCE:

The properties, which are the subject of this application, have been considered by the Board as two separate cases. The first property is located on the south side of Church Street between 15th and 16th Streets and is known as premises 1514-20 Church Street, N.W. Access to this parking lot is from Church Street which is a one-way Street west bound. The second property is located at the northwest corner of the intersection of 15th and P Streets at premises 1503 P Street, N.W. Together these lots hold an estimated 160 cars each day. The properties are zoned R-5-B.

The properties were considered together by the Board in its last order dated February 19, 1992. The current application requests that both lots be granted special exceptions under Section 214 to continue to operate accessory parking lots in an R-5-B District.

Issues and Arguments:

The 1503 P Street Lot

Section 214 – Accessory Parking

Section 214 of the Zoning Regulations permits the location and operation of an accessory parking lot in a residential zone district if approved by the Board, subject to the provisions as indicated below.

Subsection 214.1 states that accessory passenger automobile parking spaces elsewhere than on the same lot or part of a lot on which the main use is permitted, except for a one-family dwelling, shall be permitted in an R-1 District, if approved by the Board of Zoning Adjustment in accordance with the conditions specified in Subsection 3108 of chapter 31 of this title, subject to the provisions of this section.

The main use for the accessory parking lot is the Saint Luke's Episcopal Church, which is separated from the P Street parking lot by a 10-foot brick and asphalt alley.

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EXHIBIT NO.28

Subsection 214.2 provides that accessory parking spaces shall be in an open area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade.

The applicant stated that the accessory parking lot spaces are in an open area and are at the level of the adjacent finished grade.

Subsection 214.3 provides that accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory.

The applicant stated that the 76 accessory parking spaces are located in their entirety within two hundred feet (200 ft.) of St. Luke's Episcopal Church, the building to which they are accessory.

Subsection 214.4 states that accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.

The applicant stated that the lots in question are only separated by an alley.

Subsection 214.5 provides that all provisions of Chapter 23 of this title regulating parking lots shall be complied with, except that the Board may in an appropriate case under **Subsection 2303.3** modify or waive the conditions specified in **Subsection 2303.2** where compliance would serve no useful purpose. The relevant provisions of Chapter 23 will be addressed at the end of this section, on page four.

Subsection 214.6 states that it shall be economically impracticable or unsafe to locate accessory parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:

(a) Strip zoning or shallow zoning depth;

(b) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;

(c) Unusual topography grades, shape, size, or dimensions of the lot;

(d) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or

(e) Traffic hazards caused by unusual street grades or other conditions.

The applicant testified that the accessory parking spaces on the P Street lot are needed by the church because the Church Street lot which is adjacent to the church is a smaller lot and the additional spaces are needed to accommodate church members parking.

The neighbors testified that the original number of spaces which totaled 14 on both lots has now increased to 100 on the P Street lot alone, thus generating an adverse and objectionable impact

on the neighborhood. They also referred to the Department of Public Works report, which remarked on the crammed-in nature of the cars, making access to the lot impossible.

Subsection 214.7 states that accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

The applicant testified that the accessory parking lot is separated from residential homes by a street and an alley. All areas devoted to driveways, access lanes and parking areas have been maintained with a paving of material forming an all-weather impervious surface. The parking lots are free of refuse and debris and there is no noise, traffic or other objectionable condition.

ANC-2B and several neighbors testified that the presence of this parking lot, while not presenting major noise and traffic problems, does generate other objectionable conditions which resulted in a petition by neighbors stating that most of them consider the lot to be objectionable and to pose a severe adverse impact on their neighborhood. They testified that the applicant stated that the parking lot would provide an additional benefit to the neighborhood by accommodating the spillover parking generated by the commercial activity in the vicinity. The opponents testified that this is false because the neighborhood is zoned residential with a two-hour parking limit which is strictly enforced by the D.C. parking patrols. This has resulted in no spillover parking in this neighborhood.

The opponents further testified that while the parking lot is generally well maintained, the areas around the site are poorly maintained at times, and the screening around the site is inadequate.

Subsection 214.8 states that before taking final action on an application for use as an accessory parking space, the Board shall submit the application to the D.C. Department of Public Works for review and report.

The D.C. Department of Public Works reviewed the application and submitted a report dated June 11, 1997, with the following comments which address both the Church Street and P Street lots:

> An on-site inspection reveals that the parking lots are kept clean, and are well maintained. They operate from 8:00 A.M. to 6:00 P.M. Monday through Friday. However, cars are parking bumper to bumper making access within the parking lots impossible. Access to the lot on 1503 P Street is through P Street, while entrance to the lot on 1514-20 Church Street is through Church Street, which is a one way street west bound, or through a public alley, between P Street and Church Street.
>
> We note that there are many offices and commercial establishments within the vicinity of the parking lots without off-street parking facilities. Accordingly, we have no objection to the continued use of these parking lots provided that these lots continue to be well maintained.

ANC-2B and several neighbors and property owners commented that the parking lot was not kept clean and well maintained on a regular basis. There is debris and refuse on the site and heavy growth of weeds on the sidewalks. They also reported that St. Luke's had spruced up the area in preparation for its latest application for an extension of use.

Section 2303 – Parking Lots

Subsections 2303.1 and 2303.2 address the requirements that the applicant must meet.

Subsection 2303.1 states that a parking lot in any district shall conform to the following special provisions:

(a) All areas devoted to driveways, access lanes, and parking areas shall be paved and maintained with bituminous concrete or brick materials, or a combination of these materials or other material approved by the District of Columbia Department of Public Works as structurally equivalent or better, which form an all-weather impervious surface, and which is a minimum of four inches (4 in.) in thickness;

The applicant testified that durable materials would be used which are all-weather impervious to maintain the striping.

(b) The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line;

The applicant testified that the necessary wheel stops would be provided along the respective property lines so that no vehicle or any part thereof shall project over any lot or building line.

(c) 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 the use or structure is otherwise permitted in the district in which the parking lot is located.

The applicant testified that the only structure on the lots is the attendant's booth.

(d) No vehicular entrance or exit shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended; and

(e) Any lighting used to illuminate a parking lot or its accessory buildings shall be arranged so that all direct rays of the lighting are confined to the surface of the parking lot.

The applicant testified that both of these requirements have been met.
The neighbors testified that the current proposal before the Board does not address any lighting whatsoever for these parking lots. Furthermore, they testified that neither the Church Street lot nor the P Street lot currently has any lights.

(f) The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot, or an area as determined by the Board of Zoning Adjustment for a parking lot otherwise requiring Board approval.

The applicant testified that all these requirements would be implemented as shown in the submitted plan.

The ANC, neighbors and property owners testified that the lots and surrounding areas are not kept clean or maintained properly on a regular basis. They only seem to be maintained when the church has an application pending before the Board.

Subsection 2303.2 states that a parking lot located in a residential district, and a parking lot located in any other district where such parking lot is contiguous to a residential district shall be screened from all contiguous residential property located in the residential district by a solid brick or stone wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high or by evergreen hedges and/or evergreen growing trees which are thickly planted and maintained and are at least forty-two (42 in.) in height when planted.

(a) The parking lot shall be screened from all contiguous residential property located in an R-1, R-2, or R-3 district by a solid masonry wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high.

The applicant submitted plans which indicate that the church would plant trees and shrubs along the existing brick wall on Church Street which is contiguous to a residential district. The applicant further testified that all the loose and missing bricks from the wall have been replaced, and the trees and shrubs in addition to the existing 42-inch high brick wall would provide a screen for all contiguous residential property located on Church Street.

(b) All parts of the lot not devoted to parking areas, driveways, access lanes, attendant's shelter, or required screening walls 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 applicant testified that all these requirements would be implemented as shown in the submitted plans. The applicant testified that the parking lot is kept free of litter and debris and would be landscaped with trees and shrubs as indicated in the site plan. In accordance with Chapter 23 of the Zoning Regulations, the existing brick wall, trees and shrubs would act as a buffer between the accessory parking lots and the residences.
The applicant's statement regarding this requirement is further set forth under **Subsection 2303.1(f).**

Neighbors opposing the application testified that the trees proposed for planting in the area would be located behind a 42-inch high brick wall. They noted that the trees grow to a height of 48 inches, only six inches higher than the wall. In their view this additional six inches would not provide adequate screening.

ANC-2B, several neighbors and property owners, testified that the P Street parking lot was a commercial lot and was therefore in a questionable location, given that there are a larger number of residential properties than commercial in the area. They further testified that between 1962 and the present, use of both lots has grown from 14 cars to 160 cars. Also the landscaping and maintenance need improvement. This situation has put a much greater strain on the neighborhood, thus resulting in the objections by the local civic groups.

Section 3108 - Special Exceptions:

Subsection 3108.1 provides in pertinent part that the Board is authorized to grant special exceptions where those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps.

The 1514-20 Church Street Lot

Section 214 - Accessory Parking:

Subsection 214.1 states that accessory passenger automobile parking spaces elsewhere than on the same lot or part of a lot on which the main use is permitted, except for a one-family dwelling, shall be permitted in an R-1 district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in Subsection 3108 of chapter 31 of this title, subject to the provisions of this section.

The main use for the accessory parking lot is for Saint Luke's Episcopal Church which is adjacent to the lot.

Subsection 214.2 states that accessory parking spaces shall be in an open area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade.

The applicant testified that the accessory parking lot spaces are in an open space and are above the level of the adjacent finished grade.

The applicant's testimony was not contested by the ANC or any of the interested parties.

Subsection 214.3 states that accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory.
The applicant testified that all the accessory parking spaces on the Church Street parking lot are located in their entirety within 200 feet of St. Luke's Episcopal Church, the area to which it is accessory.

There were no comments from the ANC or other interested parties on this issue.

Subsection 214.4 provides that accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.

The applicant testified that the subject lot is only separated by an alley from the use to which it is accessory.

Subsection 214.5 states that all provisions of Chapter 23 of this title regulating parking lots shall be complied with, except that the Board may in an appropriate case under Subsection 2303.3 modify or waive the conditions specified in Subsection 2303.2 where compliance would serve no useful purpose.

With regard to the requirements of Section 2303, the applicant testified that the parking lot is kept free of litter and debris and would be landscaped with trees and shrubs as indicated in the site plan. Furthermore, the existing brick wall, trees and shrubs would act as a buffer between the accessory parking lots and the residences.

ANC-2B and several neighbors testified that maintenance was poor and the landscaping was not maintained in a healthy growing condition and in a neat and orderly appearance. They further testified that the parking lot was not adequately screened from all of the contiguous residential property, and they would prefer a taller screening on the north side of the lot. The ANC testified that the issue of lighting was ignored on the site plan. They further testified that contrary to the applicant's comments, the lot is maintained in a dreadful condition and it was inaccurately stated that the lot is free and clear of debris and that no parts of any cars have projected over onto public space. They stated that the current cleanliness of the lot is not the normal condition and the lot was not maintained well until the hearing was initiated.

Subsection 214.6 states that it shall be economically impracticable or unsafe to locate accessory parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:

(a) Strip zoning or shallow zoning depth;

(b) Restricted size of lot caused by the adverse adjoining ownership or substantial improvements adjoining or on the lot:

(c) Unusual topography grades, shape, size, or dimensions of the lot;

(d) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or

(e) Traffic hazards caused by unusual street grades or other conditions.

The applicant did not respond to this requirement.

ANC-2B expressed its desire to maintain a balance between residential and commercial interests in the Dupont Circle area. Therefore, the ANC is of the view that a commercial enterprise is not appropriate on Church Street which has no other type of commercial use.

The neighbors commented that while the parking lot has been in existence for several years, the sharp increase in the number of cars using the lot has caused an adverse impact on the surrounding property owners. They testified that the lot is crammed above capacity resulting in vehicles projecting over the lot line onto public space.

Subsection 214.7 states that accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

ANC-2B testified that they were concerned about the large number of cars using the lot which is not striped as directed by the BZA. Lack of striping allows a larger number of cars on the lot and impedes the ability to count these cars. Also the proposed wall design is not seen as an aesthetic improvement for the Church Street neighborhood.

Neighboring property owners stated that the lot has no lights and the Church has not carried out its several promises to repair and maintain the parking lot. The Church has generated an objectionable condition in the neighborhood by continuing to park cars on public space, failing to maintain the parking lot and surrounding areas properly, and by operating a commercial/commuter parking lot illegally in an R-5-B District.

Subsection 214.8 requires that before taking final action on an application for use as an accessory parking space, the Board shall submit the application to the D.C. Department of Public Works for review and report.

The DPW report was addressed on page three of this order.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

The 1503 P Street Lot:

1. The lot is minimally maintained and kept free of refuse and debris.

2. Landscaping and tree boxes receive minimal maintenance.

3. The lot is being used for commuter and commercial parking and not solely for the Church's parking needs.
4. The lot is not striped.

5. There is no lighting for the subject site.

The 1514-20 Church Street Lot:

1. The lot is being used commercially for commuter and other parking.

2. The tree boxes and retaining wall on Church Street are poorly maintained.

3. Proper maintenance of the property has been an on-going problem.

4. The five percent landscaping requirement has never been met on this property.

5. There is no lighting for the subject site.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking a special exception to continue to operate accessory parking lots in an R-5-B District. The granting of such a special exception requires a showing through substantial evidence that the proposal will be in harmony with the general purpose and intent of the Zoning Regulations and Map and that it will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The applicant must also meet the requirements of 11 DCMR Section 214 regulating accessory parking spaces. The Board concludes that the applicant has met this burden of proof for the P Street lot but has failed to do so for the Church Street lot.

With regard to the P Street lot, the Board is of the opinion that with certain conditions, the lot can be operated in harmony with the general purpose and intent of the Zoning Regulations and Map and it will not adversely affect the use of neighboring property.

However, with regard to the Church Street lot, the Board concludes that to allow the proposed use would not be in harmony with the general purpose and intent of the Zoning Regulations and Map and would adversely affect the use of neighboring property.

The Board concludes that it has accorded ANC 2B the "great weight" to which it is entitled.

In light of the foregoing, the Board hereby **ORDERS** that the application for the accessory parking lot at premises 1514-20 Church Street, N.W. be **DENIED**, and the application for the accessory parking lot at premises 1503 P Street, N.W. be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval of the P Street lot shall be for a period of **TWO YEARS**.

2. No commuter or commercial parking shall occur at the site. The lot shall be used only for the Church use.

3. The lot shall be striped as shown in Exhibit No. 51 of the record.

4. All areas devoted to driveways, access lanes, and parking areas shall be paved and maintained with bituminous concrete or brick materials, or a combination of these materials or other material approved by the District of Columbia Department of Public Works as structurally equivalent or better, which form an all-weather impervious surface, and which is a minimum of four inches (4 in.) in thickness.

5. The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line;

6. 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 the use or structure is otherwise permitted in the district in which the parking lot is located.

7. No vehicle entrance or exit shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended.

8. Any lighting used to illuminate a parking lot or its accessory buildings shall be arranged so that all direct rays of the lighting are confined to the surface of the parking lot.

9. The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot.

VOTE: 4-0 (Laura M. Richards, Susan Morgan Hinton, Sheila Cross Reid and Maybelle Taylor Bennett to deny in part and grant in part).

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

ATTESTED BY: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: MAR 6 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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATION OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16232/POH/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16232

As Director of the Board of Zoning Adjustment, I hereby certify and attest that on MAR 6 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:

St. Luke's Church
c/o Theodore Haverchack & John Epps, Jr.
1514 15th Street, N.W.
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Roger Tilton
1501 Church Street, N.W.
Washington, D.C. 20005

Kyle Pitsor
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P.O. Box 33224
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Madeliene H. Dobbins

MADELIENE H. DOBBINS
Director

DATE: MAR 6 1998