GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Andrew Altman

DATE: November 22, 2000

SUBJECT: BZA Application 16627 – Paul and Elaine Anderson

APPLICATION

The applicant, Paul & Elaine Anderson, filed an application with the Board of Zoning Adjustment (BZA), pursuant to DCMR 11 3103.2 for a variance under § 701.1 from the use provisions to allow an auto repair shop to include the sales of auto parts, display of tires and other auto accessories, and for towing of vehicles. Such activity will be located on the first floor and lot at 3426 18th Street, N.E. The site is in Square 4146, Lot 27. The property is zoned C-1, where low-density commercial is the predominant use.

BACKGROUND

The subject site is located on the southwestern corner of 18th & Monroe Streets, N.E. There is a strip commercial node on the eastside of 18th Street directly across from the subject site. Burroughs Elementary School is located at the northeast intersection of 18th & Monroe Streets. Single-family detached and semi-detached residential structures are the predominant land use, which characterizes most of the area around the subject property.

Paul & Elaine Anderson are listed as the owner/operator of K J Auto Care Station at 3426 18th Street, N.E., the subject property. According to the most recent Certificate of Occupancy, (dated October 14,1995) the property was used as a gasoline service station, with retail sales of auto parts, display tires & accessories and towing services, no storage. Previous Certificate of Occupancy (1966, 1973, and 1984) indicates that the property has historically been used as a gasoline service station. It should be noted that the owner, who had the property prior to it being purchased by the Andersons, Kassa Tesfaye, on two

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different occasions, (1984 & 1995) respectively, attempted to insert the phrases "auto repair" and "minor repairs", in the Information on Occupancy section of the Certificate of Occupancy applications. On both occasions the Zoning Administrator struck the references to auto repair from the applications. This information is visible on the two referenced applications, and was confirmed by staff at the Zoning Administrator's office.

It should be further noted that during an OP field inspection on October 26, 2000, that no gasoline pumps are located on the property. An interview with the owner revealed that the business has not functioned as a gasoline station for a number of years. There is additional corroboration as to the actual function of the business in question, contained in a letter to The Board, from Elaine Anderson, the co-owner of the property, dated August 14, 2000, states in part, " **Our sole purpose for obtaining this property is to continue the same type of business that was previously in place."** Ms Anderson explains that the Andersons acquired the property through auction, from Kassi Tesfaye, on June 9, 2000. Ms Anderson further states "the previous owner, Kassi Tesfaye, **"operated a full line auto care services specializing in foreign cars for over fifteen years."** OP research failed to determine if, and when gasoline pumps were located on the site, prior to the 15 year period mentioned by the current owner. Apparently, The Andersons are attempting to legitimize a repair shop at the subject site, a use which is not permitted in C-1 Districts.

COMPREHESIVE PLAN/ZONING REGULATIONS

The Comprehensive Plan Generalized Land Use Map depicts the area around the subject site (Brookland Neighborhood) as being in the Low Density Residential Land Use Category. This category includes single family detached and semi detached housing as the predominant uses.

1102.1 Among the objectives for residential neighborhoods are the following:

(e) To protect residential neighborhoods from disruptive uses; and
(f) To prevent concentrations of nonresidential uses in residential neighborhoods.

1104.1 Among the policies established in support of the residential neighborhoods objectives are as follows:

(a) Promote the conservation, enhancement, and revitalization of the residential neighborhood of the District for housing and neighborhood-relater uses;

(i) Protect residential neighborhoods from incompatible uses and activities that generate excessive traffic, noise, and other damaging environmental impacts, by consulting with neighborhood organizations to promote buffering and techniques that provide for appropriate separation of uses and mitigation of cut-through problems, which may require modification of the Zoning Regulations limitations

on access to certain streets, or strict enforcement of traffic, anti-littering, noise, and pollution regulations; and

(j) Protect low and moderate density residential neighborhoods that are also designated for commercial uses that are incompatible with residential neighborhoods, and from activities, particularly those of a commercial nature, that generate excessive traffic, late night activities, noise litter, and other damaging environmental impacts.

Chapter 16 – Ward 5 Plan, Vision For Ward 5

1601.3 Neighborhoods like Brookland (the location of the subject property) have a strong sense of community and visual identity. Few major changes are envisioned. These neighborhoods will be protected from excessive traffic, commuter parking, noise and litter and be buffered from the negative impacts of new commercial, industrial and other non-residential development.

1601.1 (g) Discourage the extension of strip commercial areas by providing appropriate sites and height and design limits on commercial clusters.

1629.1 The Objectives for land use/zoning are as follows:
(a) Protect and enhance the stability of residential neighborhoods; and

(f) Ensure that industrial and commercial development does not adversely impact and nearby neighborhoods, particularly with inappropriate design, traffic, parking, noise litter, and other hazardous by-products of industry and commerce.

ISSUE ANALYSIS

Gasoline Service Stations are permitted in C-1 Districts as a matter of right. However, there are no references to an "Auto Service Station" in Chapter 7, Commercial Districts of DCMR Title 11. The lowest commercial zone that permits a repair garage is C-2. According to §726.1, gasoline service stations, or a **repair garage** not including body and fender work, shall be permitted in a C-2 District, if approved by the BZA in accordance with the conditions specified in §3108 of Chapter 31, subject to the special provisions of § 706 of Chapter 7.

USE VARIANCE

There are three tests that the application must meet before a use variance can be granted. They are:

1. An undue hardship, unique to this specific property and inherent in the property itself, would result were this application not granted;
2. The requested variance can be granted without substantial adverse impact; and
3. The requested variance can be granted without impairing the intent, purpose, and integrity of the Zoning Regulations.

Undue Hardship

Undue hardship is the most difficult of the three tests to prove. There is no proof provided by the applicant, (other than the long history of the site being used as a gasoline service station and the potential economic loss) that supports the granting of a variance, because a failure would result in peculiar and exceptional partial difficulties to, or exceptional and undue hardship upon, the owner of the property. The property consists of 12,150 square feet of land, in a rectangular configuration, without negative grade or other topographical conditions, which would create a particular problem with respect to its ability for normal matter-of-right development.

The subject property does not appear to be either exceptionally narrow, (112.50 feet across) shallow, (a depth of 108.0 feet) or uniquely shaped, nor does there appear to be any topographical conditions that would support the applicant's request for a variance. The question could be raised, what other uses could happen on the subject site if the variance to operate an auto repair shop is not granted. The short answer is, any use permitted in a C-1 District. The most obvious permitted use would be a gasoline station. According to the history of Certificates of Occupancy (s) for the site, it has operated as a gasoline service station for the past thirty-four years. Additionally, the site is in the Brookland Neighborhood, a neighborhood, which is strongly characterized with residential structures. With the exception of the major commercial corridors that traverse Ward 5, (New York, Rhode Island and South Dakota Avenues) the ward is vertically comprised of single-family detached and semi-detached houses.

The Comprehensive Plan Policies make several references to stabilizing and strengthen the Brookland Neighborhood. The Plan also reference concern about commercial and industrial encroachment, on the neighborhood.

Area Impacts

There are no automotive-related uses in the immediate vicinity of the referenced property. It should be also mentioned that the Rhode Island corridor, which is approximately six blocks southeast of the subject site, is zoned C-2-A, Community Business Districts, and contain a number of auto related uses. An auto repair shop would be compatible along the Rhode Island Commercial Corridor, but would be incompatible at 18th & Monroe Streets.

Intent, Purpose, and Integrity of the Zoning Plan

The Comprehensive Plan and the accompanying Generalize Land Use Map, depicts the Brookland area as a low density residential. Several references in both the Comprehensive and Ward 5 Plans mention the stabilization of the Brookland neighborhood and the threat of commercial or industrial encroachment to the neighborhood.

The guidance from the Comprehensive and Ward 5 Plans places importance on retaining the residential integrity of the Brookland neighborhood. If an auto repairs shop is permitted at the referenced site, the requested variance cannot be granted without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and map.

The fact that an auto service center is not permitted in a C-1 District, indicates that the use is likely to conflict with the Zoning Regulations. Low-density commercial Districts are designed to provide convenient retail and personal service establishments for the day-to-day needs of small areas. To permit an auto repair use in a low-density commercial District, with the associated noise, traffic, hazardous bi-products, would violate the underlined principal regarding good zoning

COMMUNITY CONCERNS

After several unsuccessful telephone calls to ANC 5A09 single member District representative, OP contacted the Chair of ANC 5A, Norma M. Broadnax. Ms Broadnax informed OP that the package from the Board was received and provided to the representative for 5A09, who has failed to respond. Ms. Broadnax further stated that the representative had not been active for some time. The Chair indicated that she would attempt to place this item on the agenda for the November ANC meeting. She further indicated that she would request that the BZA reschedule the case. (Letter from Ms Broadnax, requesting re-scheduling, dated November 14, 2000).

The Board also received a letter from Eugene & Roberta Johnson, residents that live across from the business. The Johnson's expressed concern that the applicant would consider an auto repair shop in the middle of their neighborhood. They suggested that the Andersons should locate their auto repair shop on the Rhode Island Corridor.

AGENCY REVIEW

OP received comments from the Metropolitan Police Department, Fifth District Headquarter. It was the position of the Fifth District that for the current calendar year, only one crime, a theft from an auto occurred at the specified address. The Fifth District, therefore, have no objections to the variance request.

The D.C. Fire Department objected to the granting of the requested variance, citing that the area is not zoned for auto care, storage, etc. Further, The Fire Department stated " Occupancies of this nature pose fire exposure problems for the community and fire services."

RECOMMENDATION

The Office of Planning cannot find a compelling argument as to the uniqueness of the applicant's property. There is no evidence to support that the applicant would face practical difficulty in developing the subject property if it was not permitted to operate an auto repair shop on the subject property. Moreover, granting the requested variance would unnecessarily conflict with the intent of the Comprehensive Plan and the Ward 5 Plan, and likely impact the predominate residential area. It is therefore the recommendation of OP that the requested variance be denied.