

GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

PUBLIC MEETING

WEDNESDAY

JUNE 3, 1998

The Board of Zoning Adjustment met in Hearing Room 220 South at 441 4th Street, N.W., Washington, D.C., at 1:00 p.m., Sheila Cross Reid, Chairperson, presiding.

PRESENT:

SHEILA CROSS REID	Chairperson
MAURICE FOUSHEE	Board Member
BETTY KING	Board Member
HERBERT FRANKLIN	Zoning Commissioner

STAFF PRESENT:

SHERI PRUITT-WILLIAMS	Office of Zoning
TRACEY WITTEN ROSE	Office of Zoning
PAUL HART	Office of Zoning

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P-R-O-C-E-E-D-I-N-G-S

1:00 p.m.

CHAIRPERSON REID: We are going to continue the morning meeting before we have our Hearing for this afternoon. We will be just a few minutes and then we'll resume with the Hearing. Thank you.

MS. ROSE: The last action in preparing for the meeting was a motion in the Application 16328. Motion for Reconsideration filed by Rodney Creecy, Opponent in the application of Hugh Kelly, pursuant to 11 DCMR 3108.1, for a special exception under Section 213 to establish an accessory parking lot in the residential portion of a site in a C-1/R-5-A District at premises 3922 12th Street, N.E., Square 3887, Lot 5.

The Hearing date and Decision dates were April 1st, 1998. This was a Bench Decision. The Board granted the application with conditions by a vote of three to zero, with Mr. Franklin, Ms. King and Ms. Reid to grant the application. The final date of the Order was May 6th, 1998. This matter is before you for decision today. And this is actually two motions. One for Reconsideration and one for Re-Hearing.

It's a Motion for Reconsideration, which has different standards than a Motion for Re-Hearing. And the reason I raise that is because the

1 standards are different and you need to address
2 both. Under Section 3332 --

3 MS. KING: Could you be explicit about
4 what those conditions are?

5 MS. ROSE: Standards are, yes.

6 CHAIRPERSON REID: The request is for
7 Reconsideration, is it not, Mrs. Rose? This is not
8 for a Re-Hearing. I'm not clear on why you are
9 saying we should address both when we don't have a
10 Request for a Re-Hearing.

11 MS. ROSE: Paragraph One of the Motion
12 dated May 15th, 1998, says I am requesting a
13 Reconsideration of the record and a Re-Hearing of
14 the facts in this case.

15 MR. FRANKLIN: Madame Chair, I would
16 like to move to deny both motions. I found the
17 material submitted by Mr. Moore to be persuasive on
18 both points and I do not believe that the motion and
19 the materials presented with it satisfy the
20 requirements on both the Re-Hearing or
21 Reconsideration.

22 MS. KING: I second. In addition, I
23 feel that the issue of the public space is not one
24 that we can address. I've just been reviewing the
25 transcript and we said at that time that nothing
26 that we did with regard to that parking area could
27 possibly be construed as giving Mr. Kelly permission
28 to impinge on public space. And that that was a

1 matter for the Department of Public Works to
2 confront.

3 CHAIRPERSON REID: I would concur. The
4 issues that were raised by Mr. Creecy, in my
5 opinion, were not adequate enough to substantiate a
6 Reconsideration. In addition to what Mrs. King and
7 Mr. Franklin have said, one of the other things that
8 he brought up was that there was no report from the
9 Office of Planning. And I don't think that that is
10 a requirement in the first place. So that issue is
11 moot.

12 And then he raised the issue regarding
13 the time of the operation, time of operation for the
14 restaurant, which had been set from 8:00 a.m. to
15 1:00 a.m. on weekdays and 8:00 a.m. to 2:00 a.m. on
16 the weekends. And his concern was not so much with
17 the Applicant, Mr. Kelly, but with whether or not
18 any subsequent owner of the property or the
19 restaurant would adhere to the hours in a
20 considerate manner.

21 And within the Order it specifies a
22 condition that the application has been given six
23 years to run. So any persons or entities that
24 subsequently became the owner or user of that
25 particular land or that property, within that time
26 period, I mean after that time period, it would not
27 be applicable anyway because it's only given a six
28 year term.

1 So I would be in agreement. Mr.
2 Foushee, did you any -- oh, you weren't in this. So
3 are there any other comments in this regard.

4 MS. KING: I don't think so.

5 CHAIRPERSON REID: All right. All in
6 favor, aye?

7 (Chorus of ayes.)

8 CHAIRPERSON REID: All opposed?

9 (No response.)

10 MS. ROSE: Staff would record a vote of
11 three to zero, with Mr. Franklin, Ms. King and Ms.
12 Reid to deny the motions for Reconsideration and Re-
13 Hearing. And that concludes the matters for the
14 meeting, Madame Chair.

15 CHAIRPERSON REID: Okay, thank you.

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