

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, AICP, Case Manager
Joel Lawson, Associate Director Development Review
DATE: July 22, 2014

SUBJECT: BZA Case 18807- Request for a special exception under § 214 to continue the existing parking lots at 415 3rd Street, N.E., 416 4th Street, N.E. and 424 4th Street, N.E., last approved in BZA Case No. 17179 (2004)

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception:

- § 214, Accessory Parking Spaces; and

OP also recommends **approval** of the following variances:

- § 214.1, to allow the accessory parking to be used by nearby one-family residences outside of business hours;
- § 214.3, to allow accessory parking spaces to be more than 200 feet from the area to which they are accessory; and
- § 214.4, to allow the accessory parking spaces to be separated by more than an alley from the use to which they are accessory.

The previous approval included a number of conditions which have either been satisfied or are repetitive of the criteria contained in § 214, and are therefore proposed for deletion. The Office of Planning recommendation is subject to the following conditions, with deletions in ~~strikeout~~ and additions in **bold**.

1. Approval shall be for a period of ten (10) years from the effective date of this Order.
2. The number of parking spaces shall not exceed 55.
3. The lot shall be cleaned daily.
4. All parts of the lots shall be kept free of trash and debris.
5. The Applicant shall maintain a liaison person to ensure that the lots operate with minimal impact on the community. Community residents must be able to reach the contact person to express any concerns about the operation of the lots.
6. The lots shall be available for use between 7 p.m. and 8 a.m. and on weekends and holidays by those community members located within 200 feet.
7. Wheel stops shall be maintained at the top of each parking space.
8. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. The Applicant shall ~~plant a minimum of one additional~~ **maintain all** trees in the landscaped area at the center of each lot. ~~In addition, the Applicant shall consult with a landscape expert to identify a hearty ground-level vegetation suitable for the alley lot location. The Applicant shall then install such vegetation in each of the three primary~~

~~landscaped areas.~~ The Applicant may also install additional landscaping, if feasible.

9. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a material forming an all-weather ~~impervious~~ surface. **The applicant shall consider pervious materials should any repair work requiring the removal of the existing paving become necessary.**
10. No vehicle or any part thereof shall be permitted to project over any lot or building line, or on or over the public space.
11. No other use shall be conducted from or upon the premises and no other 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 zone district in which the parking lot is located.
12. Any lighting used to illuminate the accessory parking spaces shall be arranged so that *id* direct rays are confined to the surface of the parking lot.
13. Signage shall be posted on the property, to include a telephone number, identifying the Heritage Foundation as the point of contact.

The applicant has agreed to abide by the above conditions.

II. LOCATION AND SITE DESCRIPTION

Address	415 3 rd Street, N.E., 416 4 th Street, N.E. and 424 4 th Street, N.E.
Legal Description	Square 780, Lot 43, 62 and 810
Ward	6C
Lot Characteristics	Alley lots surrounded on all sides by public alleys
Zoning	R-4 – flats, row houses and conversions CAP- Capitol Interest Overlay District
Existing Development	Fifty-four space accessory surface parking facility on three lots with landscaping at the center of each lot, permitted in this zone by special exception
Historic District	Capitol Hill
Adjacent Properties	Each of the three lots are surrounded by public alleys on all sides
Surrounding Neighborhood Character	Moderate density residential with some institutional uses and commercial and office uses along Massachusetts Avenue

III. APPLICATION IN BRIEF

Proposal	Continuation of the existing accessory parking spaces to serve the Heritage Foundation during the workday and others during the evening and on weekends.
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IV. BACKGROUND

Accessory parking was established by the Heritage Foundation all three of the subject lots in 1991. Last extended in 2004, the applicant again proposes to continue the approval for another ten years, subject to the conditions noted on pages one and two of this report.

V. OFFICE OF PLANNING ANALYSIS

a. Special Exception Relief pursuant to § 214, Accessory Parking Lots

214.1 *Accessory passenger automobile parking spaces elsewhere than on the same lot or part of a lot on which any principal R-1 use is permitted, except for a one-family dwelling, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.*

The applicant requests relief to permit the residents of the one-family row houses located within two-hundred feet of the accessory parking spaces lots to use the spaces after regular business hours (see subparagraph b below), or between the hours of 7 p.m. and 8 a.m. during the week, and on weekends and holidays.

214.2 *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 existing surface parking spaces are located within an open area in the center of the square. No portions of the parking lots extend above the adjacent finished grade.

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

The Heritage Foundation is located within 200 feet of the accessory parking spaces. However, relief from this provision is requested to allow others, including neighborhood residents, to use the spaces on evenings, weekends and holidays. The applicant requests relief to permit the spaces to be separated by more than alley from use to which they are accessory (see subparagraph b below.)

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

The Heritage Foundation is located across 3rd Street from the subject square, as are other potential users of the spaces in the evenings and on weekends. The applicant requests relief to permit the spaces to be separated by more than alley from use to which they are accessory (see subparagraph b below.)

214.5 *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 § 2303.3 modify or waive the conditions specified in § 2303.2 where compliance would serve no useful purpose.*

The subject application is in conformance with the provisions of § 2303, as described below.

2303.1 A parking lot in any district shall conform to the following provisions:

(a) All areas devoted to driveways, access lanes, and parking areas shall be surfaced and maintained with an all-weather surface. In addition to traditional impervious surfaces, allowable all weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel;

The existing parking area is surfaced with bituminous pavement, in conformance with the above provision. However, since the use was last approved by the Board in 2004 the above provision was modified to allow pervious surfaces. Therefore, should the parking spaces ever require major repairs the applicant should consider the use of pervious materials to minimize storm water runoff.

(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;

None of the three lots abut another lot. Each of the three lots is designed with all parking spaces facing inward, away from any lot lines and each space is improved with a wheel stop.

(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;

No other use or structures are proposed to be conducted from the premises.

(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;

Each lot is located in excess of forty feet from where the alleys providing access to the lots intersect with a street.

(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; and

The lots are not lit.

(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.

A minimum of five percent of each lot is landscaped with trees in the center of each lot, as was approved by the Board under the last application. The applicant proposes to continue the existing landscaping. Wheel stops would continue to be provided for each parking space, protecting the landscaping.

2303.2 In addition to the requirements of § 2303.1, a parking lot located in an R-1, R-2, R-3, R-4 or R-5-A District, and a parking lot located in any other district where such parking lot is contiguous to an R-1, R-2, R-3, R-4, or R-5-A District, shall be screened from all contiguous residential property located in the R-1, R-2, R-3, R-4, or R-5-A 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 or evergreen trees that are thickly planted and maintained and at least forty-two inches (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; and

The subject lots are not contiguous to any other properties, only to public alleys.

(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.

All parts of the lots are either paved or landscaped. The application indicates that the lots are cleaned daily and that the applicant would continue to do so if the subject application is approved by the Board.

2303.3 If approved by the Board of Zoning Adjustment as a special exception under § 3104, the conditions in § 2303.2 may be waived or modified.

The subject application does not request a waiver or modification.

2303.4 Before authorizing a waiver or modification, the Board shall consider:

(a) The adequacy of protective and screening walls located on adjacent residential property;

(b) Topographic and traffic conditions; and

- (c) *Any adverse effect the requested waiver or modification of standards may have on adjacent residential property.*

This section is not applicable because the applicant has not requested a waiver or modification.

- 2303.5 *The Board may require any special treatment of the premises that it deems necessary to protect the value of adjacent property.*

The Office of Planning suggests the applicant consider the use of pervious paving materials for the lot should any major repairs become necessary. Pervious pavement has the potential to reduce storm water runoff from the site.

- 214.6 *It shall be deemed 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 subject application is a request for the continuation of fifty-four accessory parking spaces, located on lots that have been used as accessory parking for the Heritage Foundation since at least 1991. Although the applicant recently obtained approval to increase the number of off-street parking spaces available at its property on the west side of 3rd Street, the amount provided would still be 84 spaces less than required by the Zoning Regulations, necessitating the need for these additional fifty-four spaces .

- 214.7 *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.*

No changes to the existing parking lots are proposed. The spaces serve the applicant during normal work hours and are available for use by the community free of charge in the evenings, weekends and holidays. This parking has been in operation on all three lots for almost a quarter of a century at this location and the Office of Planning is unaware of any complaints resulting from its operation.

214.8 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 Transportation for review and report.

No comments were received from the District Department of Transportation.

The Office of Planning concludes that the subject application is in conformance with the provisions of §§ 214 and 2303, provided the three requested area variances discussed below are approved by the Board.

i. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The proposal would allow for the continuation of an existing accessory parking lot that would continue to serve the needs of the Heritage Foundation during the work day and nearby residents on weekends and in the evenings, as permitted pursuant to Section 214.

ii. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The proposal would allow for the continuance of accessory parking that has been in existence on one of the lots since 1974 and on all of the lots since 1991. Ability of nearby residents to use the lots afterhours and on weekends allows for the availability of off-street parking to nearby residents to park their vehicles, especially those unable to provide off-street parking within on their lots.

b. Variance Relief from:

§ 214.1, to permit accessory parking for one-family dwellings, except for a one-family dwelling;

§ 214.3, Accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory; and

§ 241.4, Accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.

i. Exceptional Situation Resulting in a Practical Difficulty

The three subject lots are located within the center of a square, each with public alley access on all sides. These lots are not visible from any streets, blocked by view by the existing row houses on all four sides of the square. Approved several times by the Board, the lots are able to serve the daytime parking needs of the Heritage Foundation, and the nighttime, evening and holiday parking needs of the surrounding residential row houses, many of which have lots of insufficient size to accommodate off-street parking or no alley access at all.

ii. No Substantial Detriment to the Public Good

Provision of these spaces as they have been provided since 1991 within the middle of the square minimizes the impact of the Heritage Foundation, a large office use, from using on-street spaces that may otherwise be desired by neighborhood residents for the parking of their vehicles, and provides off-street parking for many neighborhood residents, that for one reason or another, cannot park vehicles within their own properties.

iii. No Substantial Harm to the Zoning Regulations

Use of these lots for accessory parking utilizes lots that were otherwise not utilized and provides off-street parking for residential and office use that cannot be provided upon the lots they serve, either during the day or in the evenings and weekends.

The Historic Preservation Office had no comments on the application.

The Architect of the Capitol, in a letter dated June 12, 2014, had no objections to the application provided the conditions of the previous order remain in effect.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

No comments were received from the District Department of Transportation.

VII. COMMUNITY COMMENTS

ANC 6C, at its regularly scheduled meeting of June 11, 2014, voted to support the application.

One letter was submitted to the file in opposition to the position taken by the ANC.

The Capitol Hill Restoration Society Zoning Committee, at its meeting on June 12, 2014, voted to support the application.

Attachment: Location Map

