

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Arthur Jackson, Development Review Specialist
Joel Lawson, Associate Director Development Review
DATE: April 22, 2014
SUBJECT: **BZA Case 18741** – request for special exception relief under § 214 to continue the existing accessory parking facility on an alley lot located across from 4422 Connecticut Avenue NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **does not oppose** the special exception relief requested pursuant to § 214 to continue the existing accessory parking use on the subject property generally in accordance with approval conditions associated with current Board of Zoning Adjustment (BZA) Order No. 17876 (suggested additions and deletions are indicated in **BOLD** and ~~stricken~~, respectively):

1. The application shall be approved for a period of **THREE (3) YEARS**.
2. The **existing** dumpsters shall be removed ~~from the accessory parking lot~~ **prior to the issuance of the new certificate of occupancy for this accessory parking lot.**
3. At no time shall delivery, vendor, or trash trucks be permitted to enter the accessory parking lot.
4. Two trash cans shall be maintained **in good condition** on the parking lot and emptied at least once per day or more often if they are overflowing with trash.
5. The parking surface and fence along the western boundary of the site shall be maintained in good condition at all times. **The pavement surface shall be converted to a pervious material that is acceptable to the District Department of Transportation before June 2020.** All parts of the lot shall be kept free of refuse and debris. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance, and the trees located on the property shall be pruned at least once per year.
6. An exterminator shall perform extermination services twice a month to control any rodents. In addition, the portion of the fence owned by the Applicant and located on the property shall be reinforced underground to help prevent any rodents from entering the neighbors' properties.
7. The Applicant shall appoint a neighborhood and ANC liaison. The Applicant shall notify the ANC and all residences within 200 feet of the property of the name, telephone number, and e-mail address of the appointed liaison. When that individual is no longer designated to act as the liaison, the Applicant shall use the same procedure to notify the neighborhood of his or her successor.
8. The Applicant shall provide to the ANC and the residences within 200 feet an annual report summarizing its compliance with the conditions.
9. Existing wheel stops, signage, guardrail, parking space striping, and direction signage painted on the pavement shall be properly maintained.
10. The Applicant shall, as necessary, repaint and maintain the entrance and exit directional arrows on the surface of the parking lot.

Although the conditions of the current order were not adhered to during the previous approval term, the applicant adequately explained how this accessory parking facility would be brought into conformance and how other community concerns would be addressed.

II. LOCATION AND SITE DESCRIPTION

Address:	4420 Connecticut Avenue NW
Legal Description:	Square 1971, Lot 0822
ANC:	3F
Lot Characteristics:	A kite-shaped interior alley lot with an area of 9,100 square feet (0.21 acre) and frontage along the adjacent 20-foot wide north-south alley between Albemarle and Yuma Streets NW.
Zoning:	<i>R-1-B</i> – accessory parking lots are allowed with special exception approval in accordance with § 214 of the Zoning Regulations.
Existing Development:	A paved parking area with 17 vehicle spaces, associated landscaping, and <i>two trash dumpsters</i> with direct access to the adjacent alley. Along the western property boundary are fences over six-feet tall and landscaping that faces the back of accessory buildings on residential properties to the west.
Historic District:	None
Adjacent Properties:	A carwash use and another accessory parking lot are on the two adjacent lots to the north; to the south are a parking lot and garage, all in an R-1-B District; to the east across the alley is the associated principal use, a Burger King drive-through restaurant located at 4422 Connecticut Avenue NW in a C-3-A District; and to the west are two-story, one-family, semi-detached dwellings facing 35 th Street NW which are also in the R-1-B District.
Surrounding Neighborhood Character:	A mixture of low - to medium-density commercial and residential buildings to the east and south across the alley, and moderate-density residential uses to the west.

III. PROJECT DESCRIPTION IN BRIEF

Applicant:	BB & H Joint Venture, the owner of record.
Proposal:	<p>The applicant and Potomac Foods would like to continue operation of the 17-space parking facility as an accessory use to the Burger King restaurant across the alley.</p> <p>Previous OP reports indicated that an accessory parking lot has operated on the subject alley lot at 4420 Connecticut Avenue NW since 1982. The most recent conditional special exception approval by the BZA was on March 3, 2009, to continue the accessory lot for another three years until 2012. Current approval conditions are listed in Exhibit 1.</p> <p>The Pre-Hearing Statement of the Applicant (Statement) dated April 15, 2014, indicated that the applicant is seeking approval to continue the existing use for another 5 years.</p>
Relief Sought:	Special exception relief to continue the existing accessory parking lot in accordance with § 214.

IV. OP ANALYSIS

Consistency with § 214:

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 finish grade.*

The subject property continues to be in an open area improved with a surface parking lot used by customers of the associated fast food restaurant across the alley. All the accessory parking spaces are at grade.

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

All parking spaces in the parking lot are within two hundred feet (200 ft.) of the referenced fast – food establishment.

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

Existing conditions are consistent with this standard.

214.5 *All provisions of chapter 23 of this title regulating parking lots shall be complied with, except 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.*

A review of the Chapter 23 parking lot standards is provided in the following section.

The BZA imposed the 10 facility operating conditions (listed in Exhibit 1) during its previous review. OP made the following observations based on a recent site visit and comments provided with the Form 129 ANC Report that was submitted by Advisory Neighborhood Commission (ANC) 2F on this case (refer to the Community Comments section below):

- Approval condition # 2 required removal of two dumpsters in the parking area (refer to the orange oval on Figure 2). The BZA determined that dumpsters on a parking facility in a residence district violated § 2303.1 (c) under which “... 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.”

Neither dumpster had been removed.

The applicant’s Statement originally stated that “... there is no other feasible location for the dumpster.” OP suggested converting 2 parking spaces in the southwest corner of the Burger King lot (the yellow circle on Figure 2) into a dumpster pad, possibly by constructing a retaining wall, filling-in this space and paving it over.

In response, the applicant agreed to relocate the existing dumpsters across the alley onto the Burger King site.

Figure 1



- Condition #4 required locating two trash cans on the parking lot. After OP observed that one of the two trash cans onsite was in need of replacement, the applicant agreed to install two concrete trash cans.
- Condition #7 and #8 required the applicant to appoint neighborhood and ANC liaisons, and provide the ANC and the residents within 200 feet with an annual report summarizing its compliance with the special exception conditions. According to the letter dated March 18, 2014, attached to the ANC recommendation, neither requirement has been met (refer to the Community Comments section below).

The applicant indicated a liaison person has been appointed since 2009, however, no annual report has been distributed.

- Conditions #9 and #10 required that parking space striping and entrance and exit directional arrows directing the flow of traffic within the lot shall be repainted as necessary. Parking space striping and directional signage are faded and in need of repainting.

In summary, although 5 of the 10 approval conditions imposed by the BZA have not been met, the applicant has now taken action to address them all.

214.6 *It shall be deemed economically impractical 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: ...*

(b) *Restricted size of lot caused by ... substantial improvements ... on the lot; ...*

The Burger King Restaurant building, a 5-space rear parking area, driveway and drive-through aisle across the alley from the subject property consume the majority of land area of 4422 Connecticut Avenue NW.

Based on the public record, the existing building onsite has an approximate floor area of 2,500 square feet. Accordingly, the fast food restaurant use in this building is required to provide a minimum of 10 accessory parking spaces under § 2101.1 of the Zoning Regulations.¹ Five spaces on the restaurant property and 18 spaces in the accessory lot total 23 spaces. As a result, converting 2 spaces in the southwest corner of the restaurant property to a dumpster location would not create a new nonconformity.

214.7 *Accessory parking spaces shall be 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 subject accessory parking lot is located at the bottom of a slope that extends from the rear yards of residential properties to the west that front 35th Street NW. The combination of a steep slope, wooden picket fences, masonry walls of accessory garage or storage buildings in the rear yards of the residences, and mature trees, screen this parking lot and the dumpsters from the residences beyond.

The applicant extermination services on the restaurant site do not extend to the accessory lot. Instead, a 12-inch berm was established along the rear fence and planted 25 holly trees with thick roots to prevent rodent migration to the neighboring residences to the west.

The Board may wish to consider whether this approach provides protection sufficient to allow the elimination of existing condition #6.

¹ One space for each 100 square feet of floor area in excess of 1500 square feet

Consistency with Chapter 23 (parking lot standards):

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

- (a) *All areas devoted to driveway, access lanes, and parking areas shall be paved and maintained with bituminous concrete or black material, or a combination of these materials or other materials approved by the D.C. Department of Transportation as structurally equivalent or better, that from an all-weather impervious surface, and that are a minimum of four inches (4 in.) in thickness.*

Although the subject parking lot was paved with bituminous materials in accordance with District Department of Transportation standards in force at the time, OP would support the introduction of a pervious material in the future. The applicant agreed to convert the lot to pervious surface by 2020.

- (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.*

This condition was not observed during the OP site visit.

- (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 is otherwise permitted in the district in which the parking lot is located.*

The two dumpsters previously identified by the BZA remain onsite.

- (d) *No vehicular entrance or exist shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb line extended.*

The vehicular entrance and exit for the parking lot is not within 40 feet of the alley intersections with Albemarle and Yuma Streets.

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

Lights near the western property boundary shine straight down onto pavement and do not appear to shine or reflect light toward adjacent residences to the west.

- (f) *The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a health growing condition and in a neat and orderly appearance. Landscaping with trees and shrub 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 parking lot generally appears well maintained and landscaping consisting of a grassy area, and evergreen trees and shrubbery, covers more than 5% of the lot. In response to community concerns, the applicant has agreed to provide additional landscaping.

2303.2 *In addition to the requirements of § 2303.1, a parking lot located in an R-1 District ... shall be screened from all contiguous residential property located in the R-1 ... District by a solid brick wall 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 the 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.*

A combination of the brick walls, residential accessory buildings, sections of a wooden- picket fence nearby and mature trees along the western boundary screen the parking lot and dumpsters from the rear yards of the dwellings along 35th Street. Although this is not entirely consistent with the standard, the existing trees and structures at the top of the slope form an effective visual screen.

(b) All parts of the lot not devoted to parking area, driveway, access lane, attendant's shelter, or required screening walls shall be paved or landscaped. Landscaping shall be maintained in a health growing condition, and in a neat and orderly appearance.

The unpaved areas of this lot continue to be landscaped.

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.

Refer to the discussion above.

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

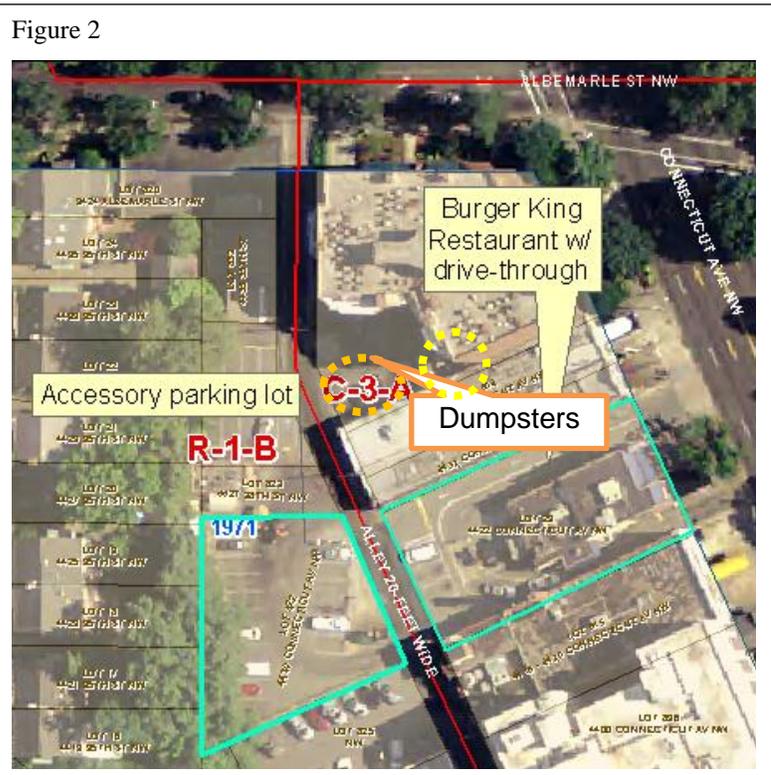
Based on the observed existing conditions, the applicant has not adequately addressed the conditions previously deemed appropriate by the BZA. However, they now indicate a willingness to do so.

V. COMMENTS FROM OTHER DISTRICT AGENCIES

Comments from other District agencies have not been received by OP at the time.

VI. COMMUNITY COMMENTS

During its scheduled meeting on March 18, 2014, Advisory Neighborhood Commission (ANC) 2F unanimously voted for a resolution opposing the requested extension. The ANC further explained the basis for its findings in the above-referenced letter submitted with ANC Report form. Proposed approval conditions were also listed in case the Board decides to approve the requested extension.



Order No. 17875 Approval Conditions

1. The application shall be approved for a period of THREE (3) YEARS.
2. *The dumpsters shall be removed from the accessory parking lot.*
3. At no time shall delivery, vendor, or trash trucks be permitted to enter the accessory parking lot.
4. *Two trash cans shall be maintained on the parking lot and emptied at least once per day, or more often if they are overflowing with trash.*
5. The parking surface and fence along the western boundary of the site shall be maintained in good condition at all times. All parts of the lot shall be kept free of refuse and debris. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance, and the trees located on the property shall be pruned at least once per year.
6. An exterminator shall perform extermination services twice a month to control any rodents. In addition, the portion of the fence owned by the Applicant and located on the property shall be reinforced underground to help prevent any rodents from entering the neighbors' properties.
7. *The Applicant shall appoint a neighborhood and ANC liaison. The Applicant shall notify the ANC and all residences within 200 feet of the property of the name, telephone number, and e-mail address of the appointed liaison. When that individual is no longer designated to act as the liaison, the Applicant shall use the same procedure to notify the neighborhood of his or her successor.*
8. *The Applicant shall provide to the ANC and the residences within 200 feet an annual report summarizing its compliance with the conditions.*
9. *Existing wheel stops, signage, guardrail, parking space striping, and direction signage painted on the pavement shall be properly maintained.*
10. *The Applicant shall, as necessary, repaint and maintain the entrance and exit directional arrows on the surface of the parking lot.*