

Re: PETITION OF THE BALTIMORE TRANSIT COMPANY, A PUBLIC UTILITY CORPORATION, FOR SPECIAL PERMIT UNDER ZONING REGULATIONS OF BALTIMORE COUNTY, TO USE LAND AT THE SOUTHWEST CORNER OF FREDERICK ROAD AND PARADISE AVENUE, AT OR NEAR CROSSING, FOR 'LOOPING' OF TROLLEY CARS AND OTHER PURPOSES.

BALTIMORE TRANSIT COMPANY  
 3150  
 (Incorporated in Maryland)  
 3150

entire paved portion of the road.

The single tracks of the 'Loop' will leave the west bound tracks of the main line, cross over the east bound traffic lane at a point 125 ft. easterly from the extended line of the east side of Paradise Avenue, traverse the 'Loop' area and re-cross said east traffic lane at a point 50 ft. easterly of said extended side of Paradise Avenue. Frederick Road along the above location and for a considerable distance both easterly and westerly therefrom, is practically straight of comparatively even grade, permitting long and unobstructed views from either direction. The only paved portion of Frederick Road affected or endangered by the use of this 'Loop' would, of course, be the east bound traffic lane, the west bound traffic in no wise would be affected or endangered.

By actual test it is found that any visible object having a height of at least 5 feet and located in the middle of the east (or city) bound traffic lane of Frederick Road and at said points 125 ft. and 50 ft. respectively south of Paradise Avenue can be seen, by approaching traffic from the west for an unobstructed distance of at least 1500 ft.

Evidence and assurances were given at the hearing that all of the above described lot of ground will not be used for the purpose of the 'Loop' and that the remaining land would be properly sloped, evergreens and shrubbery planted, proper screening be had and the area in general made attractive so that its use as aforesaid shall not affect or impair the desirability of adjacent property.

The aforementioned Zoning Law and Regulations require that a Special Permit be had in certain zoned areas for certain specified uses, one of which specified uses is that for public utility use and said Law and Regulations specify that "before any such Special Permit shall be granted, it must appear that the use for which a Special Permit is requested, will not:

- (a) Be detrimental to the safety, health, morals and general welfare of the community involved.
- (b) Tend to create congestion in roads, streets ... etc. in the area involved, etc.

From the above summary and from the evidence adduced at the hearing, as well as the Law and authorities applicable thereto, I am compelled to reach the conclusion that the use of the property aforesaid, will not be detrimental to the safety, health, morals and general welfare of the community, nor will it create any congestion in the roads, streets, etc. The affected approaching traffic have an unobstructed view <sup>of</sup> more than an ample distance to enable them not only to see any object, crossing the traffic lane, (as well as the average trolley car (which has an average height of 11 ft.) but more than ample time and distance to avoid any accident by ordinary care and diligence and would not in my imagination be a traffic hazard, nor can it be reasonably contended that the public health or morals can be endangered when the only purpose of the use aforesaid is to enable a more economical and efficient service to the general travelling public, merely the use of said land for re-routng cars and for a suitable waiting station --- no public buildings for amusement, trade or for some other possibly objectionable purpose which might affect the health, morals and general welfare.

Most of the protesting evidence before me was to the effect of the evaluation of adjacent property, this, of itself, is not sufficient, under the law, to justify any considerable consideration in this matter.

In 202 N. W. Reporter 350, *Mabee, et al, vs Chicago B. & Q. R. R.* (Supreme Court of Wisconsin, June 4, 1940) -- this case was whether or the zoning ordinance could permit the erection of a passenger depot, by a public utility corporation, in a residential district, etc., --- it was held:

"where a municipality acts in the lawful exercise of its police power in enacting zoning ordinances, the courts have no redress because value of property not taken is diminished."

"that the erection of the proposed depot by the defendant if constructed and operated in accordance with the conditions and restrictions in said ordinance contained --- will not constitute a nuisance, either public or private."

"the depot is used by public utility corporation and fulfills a public utility purpose, etc. and that the depot was reasonably necessary for the public convenience and welfare."

There also arose in the above case the question of whether or not the allowance of this depot in a residential area was "spot zoning" --- the Court in commenting on this allegation said that "doubtless an attempt to erect a manufacturing plant in a district zoned for and occupied by first class single residences, may be properly held to be 'spot zoning' and unreasonable and arbitrary, but this can hardly be held to be so as to buildings or public utilities devoted to the service and promotion of the public general welfare" --- where the interest of the individual conflicts with the interest of society, such individual interest is subordinated to the general welfare.

For the reasons and facts as above stated and from the law applicable thereto and being satisfied that the use of the above property for a 'loop', etc. is necessary for the public convenience of the public utility service, I am compelled to grant the petition for special Permit and will, therefore, pass my Order accordingly.

By *W. J. [Signature]*  
 Zoning Commissioner of Baltimore County.

Dated:  
 July 22, 1944.

The Baltimore Transit Company filed, with the Zoning Commissioner of Baltimore County, its petition for special Permit, to use such necessary part of its land, located as hereinbefore stated, an area fronting 200 ft. easterly on Frederick Road with a rectangular depth southerly and binding on Paradise Avenue of 150 ft. for the 'Looping' or re-routng of its trolley cars and for a waiting Station. This use, and at said location, the Transit Company contends is a necessary adjunct to the proper and efficient operation of its trolley line to Catonsville in order to turn some of its cars at the above location and re-route them east bound towards the City, avoiding continuing all of its cars westerly to another 'Loop' some distance west of Catonsville, it appearing that most of its cars, on this route, are of the one extreme type which cannot be re-routed by the use of a switch or cross-over tracks.

The location in question, I am advised, is about the end of the City fare and easterly therefrom is a very near and somewhat recently built up residential section and is the logical end of the fare zone. Directly opposite the above location and continuing some distance westerly on the north side of Frederick Road, is an established commercial zone, a more logical, perhaps, location for the installation of the above 'Loop', but the evidence is that land in that particular commercial area could not be purchased.

The double tracks of this trolley line are on level with the grade of Frederick Road and in the center thereof, the poles, suspending the trolley wire, being on either side and off the travelled portion of Frederick Road, thus making possible for traffic use the

IN THE MATTER OF THE APPLICATION OF THE BALTIMORE TRANSIT COMPANY FOR A SPECIAL PERMIT

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The Baltimore Transit Company, a Maryland Corporation, legal owner of the property hereinafter described, hereby petitions for a Special Permit under the Zoning Regulations passed by the County Commissioners of Baltimore County agreeable to Chapter 877 of the Acts of the General Assembly of Maryland of 1943, for a certain permit and use as provided under said Regulations and Acts, as follows:

A Special Permit to use the land hereinafter described for street railway purposes.

All that parcel of land situate on the south side of Frederick Road at Catonsville in the First Election District of Baltimore County and described as follows:

Beginning for the same at the southeast corner of Frederick Road and Paradise Avenue running easterly on Frederick to the Frederick Road 200 ft., thence southerly 150 ft., thence westerly parallel to the Frederick Road 200 ft., to Paradise Avenue, thence northerly 150 ft. to the place of beginning.

THE BALTIMORE TRANSIT COMPANY  
 BY *John L. Swope*  
 John L. Swope, Vice-President.

ORDERED by the Zoning Commissioner of Baltimore County, this 6th day of March, 1943 that the subject matter of this Petition be advertised as required by the Zoning Acts and Regulations so passed and adopted pursuant thereto, in a newspaper of general circulation that the property be posted, and that a public hearing thereon be had in the office of the Zoning Commissioner of Baltimore County, in the Record Building, in Towson, Baltimore County, on the 27th day of March, 1943, at 10:00 o'clock a.m.

*John L. Swope*  
 Zoning Commissioner of Baltimore County.

ORDERED by the Zoning Commissioner of Baltimore County, this 17th day of July, 1944, that the petition of The Baltimore Transit Company, for SPECIAL PERMIT to use the property mentioned and described in the foregoing petition, for railway purposes, to wit: Installation of 'Loop' and the erection of Waiting Station, for the reasons as stated in an opinion filed, is hereby granted.

*John L. Swope*  
 Zoning Commissioner of Baltimore County.

ZONING DEPARTMENT - BALTIMORE COUNTY, MD.  
 Certificate of Posting of Re-Classification Notice

District: \_\_\_\_\_ Date of Posting Property: 3/12/43 Date of Return: 3/16 1943.

Location of Sign on Property: \_\_\_\_\_ feet from Street or Road.

Location of property: Southeast corner of Paradise Ave. & Frederick Rd. 150 feet East of Paradise Ave.

Re-Classification Petitioned for: Street Railway purposes of 1st class trolley cars & Waiting Station

Petitioner: Baltimore Transit Co.

Remarks: Issued March 27/43 at 10:00 a.m.

Inspector making return: J. L. Swope

REC'D MAR 18 1944

CERTIFICATE OF PUBLICATION

TOWSON, MD. *John L. Swope*

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., \_\_\_\_\_ before the \_\_\_\_\_ day of \_\_\_\_\_, 1944, the first publication appearing on the \_\_\_\_\_ day of \_\_\_\_\_, 1944.

AT THE JEFFERSONIAN,  
 \_\_\_\_\_  
 Manager.

Cont of Advertisement, \$ \_\_\_\_\_

March 6, 1944.

\$10.00  
 RECEIVED OF The Baltimore Transit Co. (Inc.)  
 the sum of Ten (\$10.00) Dollars, being cost of a Advertisement and posting of property, Southeast corner of Frederick Road and Paradise Ave., 1st District of Baltimore County, pursuant to petition being filed for special Permit to use property for railway purposes.

Hearing:  
 March 27, 1944  
 at 10:00 a.m.

Zoning Commissioner: \_\_\_\_\_

*Received OK*  
*W. J. [Signature]*  
 2/7/44

**NO PLAT  
IN  
THIS FOLDER**