

Stenographer's Record

IN THE MATTER OF APPEAL TO THE BOARD OF
ZONING AFFAIRS OF BALTIMORE COUNTY FOR
PETITION FOR SPECIAL POWER FOR CEMETERY
AND BURIAL PURPOSES, MOUNTAIN VIEW OF
LIBERTY ROAD, 1100 FEET EAST OF HARBORVIEW
TRAIL, AND, THE DISTRICT OF BALTIMORE
COUNTY, THE TYPENH ISRAEL CEMETERY
CORPORATION, PETITIONER

REPORT FOR BOARD OF ZONING AFFAIRS OF
BALTIMORE COUNTY, consisting of SAMUEL
H. MOORE, Chairman, EARLE L. DINGLE and
WILLIAM A. GAPP

True transcription copy of
notes taken by me, the
undersigned, before the
Board of Zoning Appeals
of Baltimore County

Sept. 2, 1948

EXHIBIT

Direct	Cross	Re-Direct	Re-Cross
Marvin L. Gheate	9		
Wm. C. Wright	11		
Edward A. Gheate	11	14	
Earl W. Wainman	15	16	
Florian G. Schmidt	17	19	

THE TYPENH ISRAEL CEMETERY
CORPORATION, a body corporate of
the State of Maryland, and
CEPHAL ARYAN CHURCH, INC.,
a body corporate of the State
of Maryland,

IN THE CIRCUIT COURT

FOR
BALTIMORE COUNTY

VS

AT LAW

SAMUEL H. MOORE,
SAMUEL H. MOORE and
WILLIAM A. GAPP, Petitioners
vs.
THE BOARD OF ZONING AFFAIRS OF
BALTIMORE COUNTY, consisting of SAMUEL H.
MOORE, Chairman, EARLE L. DINGLE and
WILLIAM A. GAPP

BEFORE THE BOARD OF ZONING AFFAIRS OF
BALTIMORE COUNTY, consisting of SAMUEL H.
MOORE, Chairman, EARLE L. DINGLE and
WILLIAM A. GAPP

Rubin Gerts, Esquire, Representing the Petitioner
Walter L. Wells, " " " Protestants

BY MR. CHAIRMAN:

Will you please present your case?
BY MR. GHEATE:
I did not know that there was an application made for
a special permit. This is an unnecessary procedure
inasmuch as we have a nonconforming use.

BY MR. WELLS:

I am representing the protestants.

BY MR. GHEATE:

The situation is briefly as follows. We purchased
thirty one and a half acres of land on July 28, 1930
from C. Arthur Smith on Liberty Road. The property in
question was sold to us at that time for the Israel
Hebrew Synagogue, a duly authorized church for
the purpose of a cemetery. In 1941 the Synagogue formed
a separate cemetery corporation within its own branch
for its activities. It is an affiliate of the Tifereth
Israel Cemetery Corporation which is a branch of the
church and conveyed this tract of land on September 10,
1941 to the Tifereth for the purposes of a cemetery and
the Cemetery Corporation was duly incorporated under the
Acts of the State of Maryland on September 11, 1941 and
the purpose for which the corporation was formed is to
own, organize, operate, maintain and manage a cemetery.
In an effort to secure the Second Election District of Baltimore
County, to own, hold, lease, sell or otherwise, or otherwise

also acquire of such land, buildings or structures of any
kind or any interest thereon for the carrying on the
afore said purpose.

BY MR. WELLS:

May I see those deeds?

BY MR. GHEATE:

We have here the State Tax Commission's certificate of
incorporation of the Tifereth Israel Corporation dated
the 10th day of September, 1941 and the Tifereth Israel
Cemetery Corporation filed in the Circuit Court of Baltimore County.
I believe it is still in the Record Office. At
or about the same time, to wit, October 6, 1941,
Ed. Kaufman, Esquire, who represented the Cemetery
Corporation filed a petition with the County Commissioners
of Baltimore County asking that this property be set aside
as a cemetery and petitioned for exemption of taxes, which
was approved by E. Street Baldwin, at that time president
of the Board of County Commissioners. The property has
been maintained and has been a cemetery and has been used
as such and is being used and has been intended to be used
for cemetery purposes. The two parties in the
Zoning Ordinance of 1945, to show there was a valid non-
conforming use there are two deed certificates of
persons who were buried there in 1937, which was prior to
the present zoning law of 1945. But last year we have

26, 1947 we conveyed a small portion of our thirty one and
a half acres to another cemetery corporation who purchased
it from us, the Progressive Sick Benefit and Relief Association
with specific restrictions by us that the property
can be used only for cemetery purposes. That is recorded
in U. S. Liber 1070, Folio 172. Had I not been out of
town there would have been no application filed. I would
have submitted this was a purely valid use. Mr. Kaufman
represents a purchaser of a strip of land for cemetery
purposes and was to restrict it to cemetery purposes but
he filed a petition for a special permit. We, of course,
maintain that we have in this property since 1930.

BY MR. CHAIRMAN:

Q. This is a part of the thirty one and a half acres?

A. Yes. May I point out we have sold the City of Baltimore
a right-of-way for the Montgomery Water Tunnel. Mr. Miller
owns this property over here (indicating on the map).
He sold us this tract of land for cemetery purposes.

BY MR. WELLS:

Q. I thought you said he had restricted it?

A. I said we had restricted it.

Q. You are the ones who set the restrictions on the land?

A. When we conveyed this in 1941 to the Tifereth, our
restrictions were limited to.

Q. BY MR. WELLS:

Q. You imposed the restriction?

A. That was in 1941.

Q. When you refer to 1930 as the church proposition but not
as a cemetery in 1941 when you were incorporated. This
is a corporation to?

A. That is right. On the other side of this property the
Gas Company owns the right-of-way, I think in the neighborhood
of sixty or a hundred feet in width, possibly more. This is the
Liberty Road and we run this distance. This is the portion which
was conveyed last year, indicating the Progressive Sick Benefit Association. Mr. Kaufman's
clients are buying a short strip adjacent to this which
is all within the thirty one and a half acres which we
have owned all this time and that is the facts as they
are. This is a non-profit cemetery used by the church
for cemetery purposes, burying its members and certainly
feel that a cemetery is a legal enterprise under our laws,
nothing illegal about it and is a legal enterprise or
venture. We have owned that property since 1930 and we
feel we have a right to use our property for any legal
and just venture. We certainly have from the evidence
presented here and I certainly feel that we have a non-
conforming use prior to 1945 which requires a permit
for cemetery in Baltimore County and certainly the
County Commissioners in 1941 knew the intent and purpose

of our property at that time.

BY MR. CHAIRMAN:

Q. Was the assessment based on the entire thirty one
and a half acres?

A. Yes on the entire acreage, and it was just recently,
some law or other I might say, that we received an
assessment for 1946, 47 and 48 and the matter was taken
up with the Appeal Tax Court and there is the decision
of Judge Sanders.

BY MR. GAPP:

Q. When did you hold your last funeral?

A. In December 1945, we are very fortunate that we have
not buried any of the members since that time, that is
probably one of the reasons we have too much land and
are still in the same other church and burial institution.

BY MR. WELLS:

Q. You bought the property in 1930?

A. Yes.

Q. In 1947 you sold a portion of it off?

A. Yes.

BY MR. WELLS:

Q. How can you claim it as a nonconforming use in 1937, the
first was a church and not a cemetery and then a
part of the property was sold off in 1947 as part of the
property for a cemetery purpose?

4. Is the church property, the cemetery corporation,
5. The church property owned it?
6. Is the cemetery corporation owned it?
7. Where is the deed for the cemetery corporation?
8. Here it is.
9. That is just the ticket I don't know what the deed
says. I am not questioning the deed I am questioning
it as to the restrictions for cemetery purposes whether
you restricted it prior to the zoning law.
10. The certificate of incorporation sets forth the powers
and specifically limits the property to the use of the
cemetery corporation only.
11. Did you convey under this deed thirty one and a half
acres?
12. Yes for cemetery purposes.
13. You restricted the whole tract?
14. That is right.
15. The title to this land you have had since 1941?
16. Here is the original letter from the Commissioners.
17. This refers to the exemption?
18. It couldn't exempt unless it is church cemetery.

BY MR. MARCUM:

A sign was put up about 1941. We built a stone entrance
with a gate and another post fence with a tablet
marked Teterath Israel Cemetery - 1930 and the officers

at the beginning when they purchased it marked it on there
as 1930 with the Teterath Israel Cemetery marked plainly
and inscribed with that name.

BY MR. WELLS:

I think apparently it appears that it is a nonconforming
use, perhaps the folks here are opposing it not so much
as being used for a cemetery but because that neighborhood
is now developing quite rapidly. Mr. Glass has large tracts
of land and there are other developments and they feel
this project should set back from the road quite some
distance so that it will not be right in the middle of
a residential section in the sense that it would be ob-
jectionable, cemeteries are not playgrounds, some of them
are kept nice. The Liberty Road, developing, the Bern-
wood Corporation has a tract of some three hundred acres,
that has been subdivided into lots and the lots are being
sold off. Of course that is a large investment and they
feel a cemetery is not going to enhance it but if these
folks have a right to use it they should be able to con-
form with a setback which would not be objectionable to
that residential section that is going to be there which
is the principal point they are here for to ask you to
impose if they have a nonconforming use, I don't know why
they need a permit.

BY MR. GURTE:

I was out of town at the time and I assure you there was no
need for the permit.

BY MR. WELLS:

You have not buried anyone for four or five years in that
cemetery?

BY MR. GURTE:

Let us hope it remains that way.

BY MR. WELLS:

The balance of the community is developing and I think you
ought to conform in these respects as to what the balance
of the neighborhood is going to be and make it at least as
unobjectionable as possible. If you want to hear some of the
people around there I will be glad to bring them up.

BY MR. GURTE:

I reiterate that my clients are engaged in a legal enter-
prise, have owned the property since 1930, prior to any
zoning law or restrictions. The property owners had
purchased the property subsequent to 1930. Any persons
who had made plans prior to that time have a right to
object, having remained silent all this time you cannot
prevent the existing owners of his rights if such property
is being put to a legal use.

BY MR. WELLS:

If you are going to put five hundred graves in there
that is a different picture, where you have three graves

and want to put five hundred or a thousand more that presents
a different picture.

BY MR. GURTE:

It is the same picture whether you bury two people or
a thousand it is a legal business.

Thereupon Marvin E. Ghosia and Ed Jones
sworn, testified as follows:
DIRECT EXAMINATION:

Q. Where do you folks live with respect to this cemetery?
A. We have a two hundred and thirty five acre farm directly
across Liberty Road which has been in the family for over
a hundred years, has been farmed and is now farmed now.
About three-quarters of it is clear land ready for devel-
opment, hasn't anything started yet. Two I as have been
sold off down below a good way from the cemetery.

BY MR. CHATMAN:

Q. When did you sell these lots?
A. About nine years ago but my friend here said that this
cemetery was sold in 1930 and gates were put up a road
built and a fence put around it, a very small portion
around it. Nobody knew anything about that until this
came up.
BY MR. CHATMAN:
In 1930 there was no zoning and it was permissible at
that time.

BY MR. CHATMAN:

Q. You are objecting to this special permit?
A. Yes.
Q. On what grounds?
A. On valuation of property close by across from it espe-
cially if the graves are six twenty five, forty or fifty
feet near the road. That ground now I go past there
some times fifty and hundred times a day, it is being
farmed by someone and the County gets nothing out of
it I understand, all but the little lot that is fenced
in, I would say that is about an acre and a half.

BY MR. GURTE:

About half of the frontage of the cemetery is fenced in
we run back eighteen hundred feet.

A. That is why I said one side has been farmed.

Q. Who has farmed it?

A. Mr. Nettek.

Q. You mean it has been farmed since he sold it?

A. Yes sir he has raised corn, hay, oats, straw and the
County gets nothing out of.

BY MR. GURTE:

Neither does the church.

Q. You object to the cemetery being too close to your
property?

A. That is right, the development of the property across

the street from it and surrounding it.

Thereupon Mrs. Clarence Wright, after being duly
sworn, testified as follows:

DIRECT EXAMINATION:

Q. Are you objecting to the granting of this special permit?
A. My husband has gone and the costs are high. I would like
the graves put back further from the road because the time
has come and property is almost too valuable. We are con-
sidering selling out property into building lots because
that part of the County, coming in that direction very
fast and it is only suitable for building lots because
the costs are high and it cost too much to farm it.

EXAMINATION CONCLUDED

Thereupon Gerard A. Glass, after being duly sworn,
testified as follows:

Q. Are you connected with the Bernwood Corporation?

A. Yes.

Q. In what capacity?

A. President.

Q. What land does it own right in the vicinity of this
cemetery?

A. I have eleven acres and a fraction adjoining the Gas and
Electric Company's right-of-way which adjoins the cemetery.
I have over three hundred acres approximately a thousand
feet west of it.

Q. What are you doing with your land?

A. I am conforming with every County restriction, putting
roads, donating ten feet on each side of the roads to the
County in order to comply with the County Regulations.
I have a high class development. I have restricted the
development to high price houses in the neighborhood of
fourteen to twenty thousand dollars.

Q. How long have you owned the property?

A. Since 1945, I am not positive, *about the same date*
Q. You say you have eleven and some acres right next to
this cemetery?

A. Yes.

Q. What is your objection to the granting of this special
permit?

BY MR. GURTE:

Between Mr. Wells the Gas and Electric Company adjoins, between
his property and our property, that is a strip of
sixty feet, it is approximately sixty feet. There is
a tower line between the two properties. It is the
adjoining owner between his property and our property.
Q. What is your objection?
A. I conform with every regulation and put in restrictions
wherever possible. I think they can at least comply with
the County regulations and have a screening. I can't
object too strenuously but I do think it should be screened

it is a clean neighborhood and it has never been abused
and ruined in any way and it should be upheld and con-
firmed that way.

Q. What is your idea from the character of the neighborhood?

A. It is all residential.

Q. What is your idea as to what setback should be, what
is your thought on that?

A. I think as far as possible and that the law allows.

I OBJECT:

The man who was not qualified he is testifying as a layman.

BY MR. WELLS:

He was expressing it correctly.

Q. Your idea that the setback should three hundred feet
from Liberty Road and screened. What do you mean by
that?

A. By planting shrubbery and laid out as a cemetery devel-
opment. I have gone down to Hamilton Avenue and Bel
Air road and they have killed the neighborhood from a
development standpoint.

Q. That is your principal objection?

A. Yes.

Q. It appears here there is a nonconforming use but you feel if
a cemetery has to be there it should have a setback?

A. Yes. I think they should keep up the neighborhood as
well as the residents, it appears that they are a guest

they are tax free.

CROSS EXAMINATION:

- Q. What business are you in?
 A. Real estate.
 Q. Do you own an antique shop up the road?
 A. Yes my wife and I run one.
 Q. You got a special permit for that in a residential neighborhood?
 A. Yes.
 Q. You have all sorts of furniture and all other wares on the outside facing the road?
 A. I wouldn't say that.
 Q. They are antiques?
 A. Yes. My business has been an asset to the neighborhood. It is a temporary thing.
 Q. How long have you had the permit?
 A. Since November a year ago.
 Q. You purchased this land this Corporation owns?
 A. Yes.
 Q. What year?
 A. I couldn't say exactly, I think it was in 1945.
 Q. At the time you purchased this property you knew there were three tombstones there, indicating a cemetery there?
 A. Yes I was familiar with the fact there were three tombstones there, but it wasn't a cemetery.
 Q. Did you know there was a cemetery there?

- A. No I knew there were three tombstones there but I wasn't under the impression there were thirty one acres of land.
 Q. There are thirty one acres?
 A. That part was used as a farm.
 Q. At the time you purchased this land you knew there were three tombstones there indicating a cemetery. Is that so?
 A. Yes.
 Q. In spite of that fact you purchased your land?
 A. Yes but if there were five dozen tombstones there I wouldn't have purchased it.

EXAMINATION CONCLUDED

Thereupon Robert W. Whalen, after being duly sworn testified as follows:

- DIRECT EXAMINATION:
 Q. What is your name?
 A. Robert W. Whalen.
 Q. Where do you live?
 A. I live about three hundred yards south of Mr. Mielke.
 Q. Mr. Mielke is the adjoining property owner?
 A. Yes.
 Q. Do you own the property?
 A. Yes. I knew the cemetery was fenced in but if I knew there were thirty one acres I wouldn't have bought. I figure that is a beautiful road and will be a beautiful spot in the future. For people to come out from the standpoint of how the neighborhood would be kept up.

About a month ago where the property is fenced in on Liberty Road I was very much surprised for the simple reason that as long as I can remember it was farmed and as long as a month ago there was a sun club and when I was at the last hearing I was surprised to hear that they had thirty one acres. They had already sold off one piece to my company and were dickering to sell off another instead of one, so it looks to me like they sold a cemetery every time they buried a body. In a period of ten years they have sold off two tracts, they are in the real estate business rather than from the standpoint of burials. At the last hearing the impression was given that the original covering this piece of property was used for cemetery purposes. They have decided it between themselves, from one to the other and put that restriction on it that it is to be a cemetery and gave that impression that is all it could be used for. I think every body will agree with me that cemeteries do not raise the value of property but lower it.

CROSS EXAMINATION:

- Q. You purchased your property in what year?
 A. In 1947.
 Q. You knew at the time that there was a cemetery there?
 A. A small cemetery.
 Q. You knew there was a cemetery there?

A. That is right.

BY MR. CHAIRMAN:

- Q. Do you have anyone to offer anything different?
 BY MR. WELLS:
 We have a few who might add something different.
 Thereupon Florian G. Schmidt, after being duly sworn, testified as follows:
 DIRECT EXAMINATION:
 Q. What have you to say with reference to this petition?
 A. I would approach it from a different angle. Very recently we have formed a club, The Lions Club, I am not speaking for the Lions Club but two years ago we formed a Lions Club in Randall's town primarily made up of all businessmen along the road, you know some of them, primarily to keep up the interest in the community and look to the future of the community as my club would, therefore, we all have our eyes along the road for additions to better it. I live about a half mile from the cemetery, I knew there was a cemetery there, I knew Arthur Mielke for fifteen years, I dealt with him I am in the feed business, he is a farmer so we got together. Mr. Mielke said that under my impression as a cemetery although his paper said he sold it for church purposes.

CROSS EXAMINATION:

- Q. He did sell it for a cemetery purposes?
 A. Yes but I will have to say like the rest I didn't know it was as large as it is. I am primarily interested in keeping my property up and keeping the road beautiful, we do not want a Washington Boulevard, we do not want any sort of cemetery or any fake cemeteries, any of these things we do not want. In my deed from Mr. Choate I have lots of restrictions which he put on, having road side stands is out, selling property to a colored person is out, I am restricted to all these things and he came along with thirty one and a half acres and goes in the real estate business, it is a nonprofit organization and real estate business and no taxes. I really am a good racket. I object to using the law for any kind of business. Is there any way that when they decide that they can juggle this thing back from the cemetery and then decide to some commercial use and not have to pay any taxes.
 Q. Are you objecting to the fact that they are not paying taxes?
 A. Yes.
 Q. It is still for the same purpose?
 A. Yes.

BY MR. CHAIRMAN:

- There are thirty one acres as a nonconforming use for a cemetery and how that is divided is no question for the Board, we can't do anything about it. If they want to turn it over to another organization so long as it is being used for the same purpose that is allowed, we are interested in the use.
 Q. If the law says it may be used for that particular type of enterprise and that they are tax exempt, can they convert it to commercial use?
 A. No they are working under a nonconforming use the law says it must continue for that purpose and must remain as a nonconforming use.
 BY THE WITNESS:
 I don't want to object to a cemetery because I have to go there some time myself. What I would like to is to let them have a little restriction like Mr. Choate has, that is to keep the place up and put in restrictions so that they do not bring the graves out to the road. I understand they have to be twenty five feet from the present road.
 Q. From the property line?
 A. My property line is from the Liberty Road and that road is sixty feet wide. My deed calls for a certain street to the center of the Liberty Road.
 Q. A lot of deeds read to the center of the road but that doesn't mean anything.

Q. Where does your deed read from?

- A. From the center of Liberty Road. We pay taxes on nearly three thousand feet. The ruling as set down previously by Mr. Doing is subject to a setback of twenty five feet for graves from all public highways.

BY MR. WELLS:

We think Mr. Doing didn't go back far enough, what I am interested in is getting them far enough off the road so that you don't have the situation you have on the Annapolis Road, sixty six feet is a narrow road, let us get them back far enough so when the road goes back they will be in conformity with anything else.

CROSS EXAMINATION:

- Q. You have stated that you do not oppose the cemetery?
 A. I don't think any of us are questioning it.
 Q. The purpose of my bringing the certified copies of the death certificates is that Mr. Gloss and Mr. Whalen question whether people are actually buried there, that is my reason for bringing the certified copies with me. You must admit that the only thing, as I see it, you say it should go back and it ought to be ascertained as the neighborhood is being developed and the folks seem to think it should be kept in conformity to what it will be in a few years. Mr. Gloss thinks it should go back three hundred feet and Mr. Whalen thinks so too. This is

a question for the Board to decide.

BY MR. GLOSS:

All the people are opposed to it who have purchased property. I am doing my best to keep the neighborhood up.
 BY MR. CHOATE:
 I believe you have mentioned the fact that it is unsightly. I think you will bear me out that this tract of land is far from being unsightly; we kept it mowed and the grass at all times I think has looked very nice in comparison with adjoining property, it has looked as well as any of the property. I wish to say to the Board that apparently my colleague, counsel for the protestants, has agreed there is a nonconforming use.
 BY MR. WELLS:
 I have not agreed but for the sake of argument there may be some question as to abandonment, there may be a legal question as to whether there has been an actual abandonment of the use. If we have to fight it out that will be another proposition.

BY MR. CHOATE:

That is entirely in your discretion but he does concede to the fact that there is a nonconforming use. We feel that we have definitely proven that not only a nonconforming use to be there but there is a question that people are actually buried there. The protestants have have

pure seed property, with the exception of the land over here, subsequent to the cemetery being purchased and having been familiar with the cemetery being there purchased the land. Certainly because these people have some future thoughts of enhancing the value of their property does not in any way indicate that the property owners should be penalized because these people wish to enhance the value of their property. In fact, prior to the past year or two, it was all farm land, and it may be that people are moving in and the people are offering their farm land trying to develop them into developments, but my clients certainly should not be penalized. There is a question in my mind from the evidence and facts that there is a bona fide nonconforming use and as such there is no reason legally for the permit to be denied and I respectfully submit that the need for the permit was not necessary in the first place. As I pointed out it was filed in my absence, had I been there there would have been no application filed, there was no need for it and the ordinance has only been in effect since 1945. The Progressive Sick Benefit Association never filed for a permit and their lawyer in my absence filed it. We saw no harm in going through with it and I respectfully submit that we have a nonconforming use. We are perfectly willing to abide by

the laws of the County and we will willingly conform with the Zoning Commissioner's decision to set the graves back twenty five feet.

Petition for Special Permit for Cemetery or Burial Purposes.
S. W. Side Liberty Road, 1185' E. Harriettville Road, The Tifereth Israel Cemetery Corporation, Petitioner
To: Zoning Commissioner of Baltimore County

Mr. Commissioners
Please enter an appeal from your decision passed on August 9, 1948, granting the petition, in the above matter, and transmit all records to the Board of Zoning Appeals of Baltimore County.

Gerard A. Olcott, Appellant

August 17, 1948

ORDERED by the Zoning Commissioner of Baltimore County this 17th day of July, 1948, that the subject matter of this petition be advertised in a newspaper of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly aforesaid, and that a public hearing thereon be held in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 2nd day of August, 1948, at 3 o'clock P.M.

Upon hearing on petition for special permit to use the property described in the within petition for Cemetery and Burial Purposes and it appearing by reason of location that said petition should be granted, therefore:

It is this 9th day of August, 1948, ORDERED by the Zoning Commissioner of Baltimore County, that the aforesaid petition for special permit be and the same is hereby granted and the property, or area, described therein be used for Cemetery or Burial Purposes, subject, however, to such requirements as may be prescribed by the Zoning Regulations and Restrictions for Baltimore County, subject to a setback for graves of 25 feet from all public highways.

Zoning Commissioner of Baltimore County

RE: PETITION FOR SPECIAL PERMIT FOR CEMETERY AND BURIAL PURPOSES - S. W. Side Liberty Road, 1185' E. Harriettville Road, The Tifereth Israel Cemetery Corp., Petitioner

OPINION OF THE BOARD OF ZONING APPEALS

This is an appeal from the decision of the Zoning Commissioner of Baltimore County granting a special permit to conduct a Cemetery in an "A" residence zone. The property in question is a tract of land fronting 919.80 feet on the southernmost side of Liberty Road, west of Randallstown. The property has been laid off and is dedicated for cemetery purposes and has been used to some extent for this purpose.

Considering the fact that the property is located in a rural area we have concluded that no substantial injury will be done to neighboring properties, provided, a proper setback from the Liberty Road and suitable screening by the planting of shrubbery is established. For this reason we have required the applicant to protect adjoining properties in this manner and feel that with this protection the neighborhood will in no manner be adversely affected by the operation of a Cemetery at this location.

The Special Permit will be granted subject to the conditions imposed upon the petitioner as to setback and screening.

Appeal, in the above entitled matter, coming on for hearing before the Board of Zoning Appeals of Baltimore County, on September 2, 1948, from the order of the Zoning Commissioner of Baltimore County, dated August 5, 1948, granting the petition for a special permit to use the area described in the petition for Cemetery and Burial Purposes, and it appearing from the evidence and facts submitted at the appeal hearing that the granting of such special permit will not be detrimental to safety, health, morals and the general welfare of the surrounding community provisions the restrictions upon the use thereof for a Cemetery, Graveyard or Burial Ground are complied with, therefore:

It is this 30th day of September, 1948, ORDERED by the Board of Zoning Appeals of Baltimore County as follows:

That a special permit be and the same is hereby granted as prayed for the use of the property described in these proceedings for a Cemetery, Graveyard or Burial Ground, subject to the following restrictions and regulations:

1. No building, structure, grave or place of temporary or permanent interment shall be placed or established within one hundred and fifty (150') feet from the southernmost side of Liberty Road.
2. The Proprietor of said Cemetery shall provide such planting of shrubbery, trees, bushes and plants as may be reasonable and proper to afford adequate screening of said Cemetery, Graveyard or Burial Ground from the adjacent properties on Liberty Road, said shrubbery to be planted within the one hundred and fifty (150') foot setback area as hereinbefore mentioned.

Board of Zoning Appeals of Baltimore County

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 2
Post: Cemetery
Date of Posting: July 21/48
Petitioner: The Tifereth Israel Cemetery Corp.
Location of property: southeast side of Liberty Road
Location of signs: southeast side of Liberty Road
Remarks: Harry C. Gortside
Date of return: July 21/48

PETITION FOR RECLASSIFICATION #1251-S

LOCATION - S.W. side Liberty Road 1185' east of Harriettville Road near Randallstown, 2nd District.
PRESENT ZONING - "A" Residence
PROPOSED ZONING - "M" Commercial
DATE REQUESTED - July 16, 1948
DATE OF REPLY - August 3, 1948

We understand that this existing cemetery was bought, laid out, fenced, and used as a burial ground before zoning was established in Baltimore County. We have been under the impression that a use which requires a special permit does not require another special permit following temporary discontinuance. We would be glad to have this point clarified.

There seems to be no planning factor involved other than the provision if possible against any development that would increase the difficulty and expense of future widening of Liberty Road. As yet no definite right-of-way width has been established for it but a width of not less than 100' would be appropriate.

Melvin D. Dill, Director
Baltimore County Planning Commission

CC: Charles G. Dooling
Nathan J. Smith
Christian R. Earl
William W. Macficker
John E. Ruff
John H. McFall
E. Ridgely Harfield

OPINION OF THE BOARD OF ZONING APPEALS
OF BALTIMORE COUNTY

This appeal was heard by the Board of Zoning Appeals of Baltimore County on September 2, 1948, being an appeal from the Order of the Zoning Commissioner of Baltimore County, dated August 9, 1948, granting the petition for a special permit to use the area described in the petition for cemetery and burial purposes.

On the 30th day of September, 1948, the Board of Zoning Appeals entered its Order granting said petition for a special permit with certain restrictions and regulations. Subsequently an appeal was taken to the Circuit Court which appeal was heard on the 27th day of May 1949. After the hearing the case was remanded to the Board of Zoning Appeals for reconsideration.

It developed at the hearing in the Circuit Court that the petitioner, before filing said petition, had sold a parcel of the land described in the petition to the Progressive Sick Benefit and Relief Association and the latter being the legal owner of the property and not being a party to the petition is obviously not within the jurisdiction of the Board of Zoning Appeals and, therefore, the property owned by the Progressive Sick Benefit and Relief Association cannot be and is not bound by the Order which will be entered by this Board.

After further consideration and pursuant to stipulations by counsel, this Board will enter an order granting the special permit for the use of the property as a cemetery, graveyard or burial ground with certain restrictions and regulations.

It has been stipulated and agreed to by counsel and will be so ordered by this Board that no grave or place of temporary or permanent interment shall be placed or maintained within one hundred feet of the Liberty Road property line of the Petitioner except that the Petitioner, its legal representatives, successors or assigns, shall have the right to erect within the said one hundred feet such chapels, caretaker's residences and quarters, gates, entrances and fences incident to the operation of a cemetery, graveyard or burial ground and for its religious services in connection therewith.

Samuel M. Moore
Earle F. Ringle
Board of Zoning Appeals
of Baltimore County

1251

RE: PETITION FOR SPECIAL PERMIT FOR
CEMETERY AND BURIAL PURPOSES -
J.W. SIEGELMANN ROAD, 1105' E.
Marriottsville Road, Second Dis-
trict of Baltimore County.
The Tifereth Israel Cemetery Corp.,
Petitioner.

This case was heard by the Board of Zoning Appeals of Baltimore County on September 2, 1948, being an appeal from the Order of the Zoning Commissioner of Baltimore County dated August 9, 1948, granting the petition for a special permit to use the area described in the petition for cemetery and burial purposes. On the 30th day of September, 1948, the Board of Zoning Appeals of Baltimore County entered its Order granting the petition for special permit subject to certain restrictions and regulations. Subsequently there was an appeal taken to the Circuit Court and after hearing on May 27, 1949, the case was remanded to the Board of Zoning Appeals for reconsideration.

At the hearing in the Circuit Court it was developed, among other things, that a parcel of this land, as shown on the Plat, had been previously sold to the Progressive Sick Benefit and Relief Association. Therefore as the petitioner in this case was not the owner of the parcel previously sold to the Progressive Sick Benefit and Relief Association, it is apparent that this Board has no jurisdiction insofar as this particular parcel more fully described on the plat submitted in this case is concerned.

After further consideration and pursuant to the stipulations of counsel for both the petitioner and the respondents:
August
It is this 10th day of August, 1948, ORDERED by the Board of Zoning Appeals that a special permit be and the same is hereby granted as prayed for the use of the property described in these proceedings, with the exception of that part of the property more fully described on the plat submitted which was sold to the Progressive Sick Benefit and Relief Association, the latter being the legal owner of said parcel and not a party to these proceedings, for a cemetery, graveyard or burial ground, subject to the following restrictions and regulations:

1. That no grave or place of temporary or permanent interment shall be placed or maintained within 100 feet of the Liberty Road property line of your Petitioner. That the Petitioner, its legal representatives, successors or assigns, shall have the right, however, to erect within said 100 feet such chapels, caretaker's residences or quarters, gates, entrances and fences incident to the operation of a cemetery, graveyard or burial ground and for its religious services in connection therewith.
2. The Petitioner, its legal representatives, successors or assigns, shall provide such plantings or shrubbery, trees, bushes and plants as may be reasonable and proper to afford appropriate screening of said cemetery, grave yard or burial ground. Said screening to be planted within 100 feet of the property line of cemetery facing Liberty Road.

Samuel M. Moore
Earle F. Ringle
Chairman
Board of Zoning Appeals
of Baltimore County

August 26, 1948

RECEIVED OF Gerard A. Glass, the sum of Twenty Two (\$22.00) Dollars, being cost of appeal to the Board of Zoning Appeals of Baltimore County to the decision of the Zoning Commissioner granting the petition for special permit for cemetery on southwest side of Liberty Road, 1105' east of Marriottsville Road.

Board of Zoning Appeals
P. M. Date for special hearing set for Thursday,
Sept. 2, 1948 at 2:00 p.m.

PAID
AUG 24 1948
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY
By *John J. Connelley*

Rubin Gertz, Requirer,
617 Munsey Building,
Baltimore - 2, Maryland

to Nov. 16, 1948

County Commissioners of
Baltimore County,
Zoning Department of
Baltimore County
Rehearsal Bldg.,
Towson - 4, Maryland

To certified copies of papers filed in the matter of appeal to the Board of Zoning Appeals for special permit for cemetery on Liberty Road, east of Marriottsville Road, The Tifereth Israel Cemetery Corporation, Petitioner

\$6.20

Nov. 29, 1948

RECEIVED OF Tifereth Israel Cemetery Corporation, the sum of Six Dollars and Twenty Cents (\$6.20) cost of certified copies of papers filed in matter of appeal for special permit for cemetery on Liberty Road, east of Marriottsville Road, 2nd District of Baltimore County.

Board of Zoning Appeals

PAID
NOV 29 1948
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY
By *John J. Connelley*

July 12, 1948

\$18.00 ✓

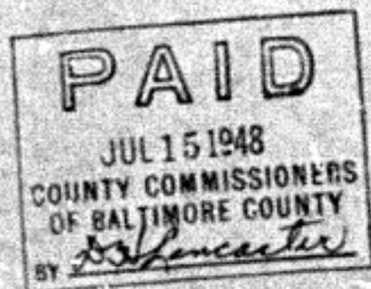
RECEIVED of The Tifereth Israel Cemetery Corp
the sum of Eighteen (\$18.00) Dollars, being cost of
petition for special permit, advertising and posting of
property on the southwest side of Liberty Road, in the
2nd District of Baltimore County.

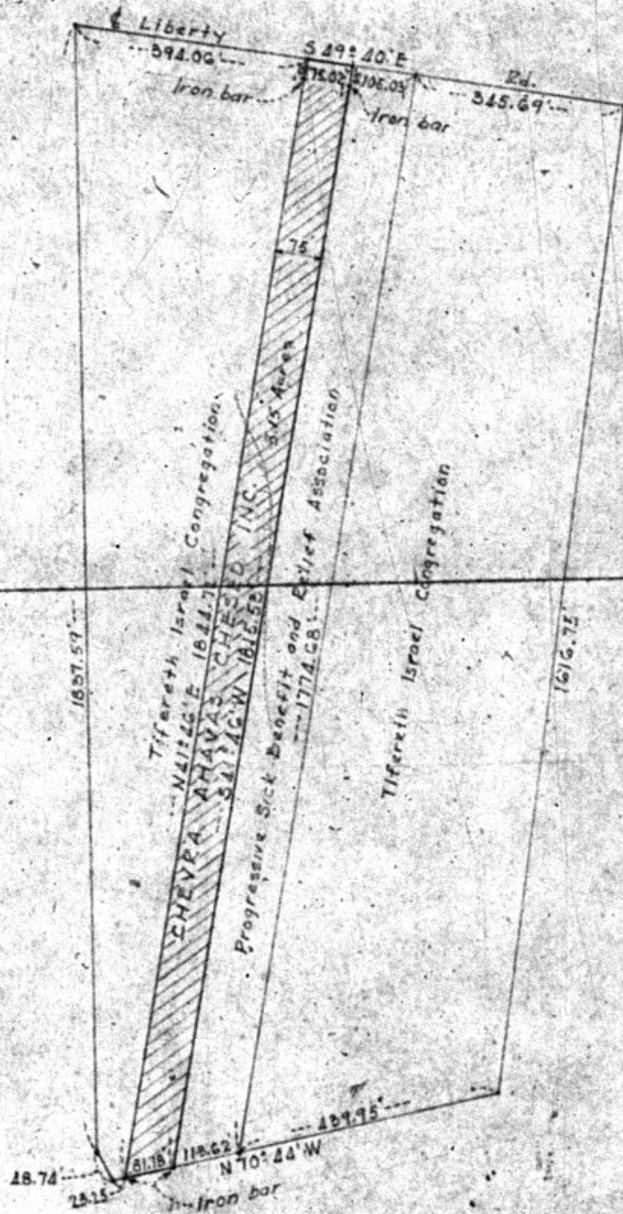
Zoning Commissioner

Hearing:

Monday, August 2, 1948

at 1 P. M.





APPROVED PLAN



Scale: 1"=200'

June 25, 1948

J.M. Kinnear, Eng. C.E. #672