

RE: PETITION FOR SPECIAL PERMIT FOR A FUNERAL HOME - West side Carville Ave., 200 ft. N. Francis Avenue, Mrs. John R. Kenny, Petitioner

Appeal in the above entitled petition for Special Permit coming on for hearing on February 2, 1950 from the Order of the Zoning Commissioner of Baltimore County passed on the 7th day of December, 1950, denying the petition for Special Permit, and it appearing from the facts and evidence adduced at the subject hearing that the said petition should be denied, since the granting of same would adversely affect the health, safety, morals and the general welfare of the community, therefore:

It is this 16th day of February, 1950, ORDERED by the Board of Zoning Appeals of Baltimore County, that the Order of the Zoning Commissioner in denying the petition in this matter is hereby affirmed.

Amos H. Brown
Chairman
Carl D. Angle
Board of Zoning Appeals
of Baltimore County

OPINION OF THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

This is an appeal by Mrs. John R. Kenny, owner of the property described in the petition, from the Order and decision of the Zoning Commissioner of Baltimore County, dated December 7, 1949, by which Order the petition for special permit for establishment of a funeral home was denied.

The case came on for hearing before the Board. testimony was taken and considered by the Board and counsel for the petitioner heard. The property which is the subject of the petition is located on the west side of Carville Avenue, beginning 200 feet north of Francis Avenue, thence northerly, on the west side of Carville Avenue, 50 feet with a rectangular depth westerly of 123 feet, the property being known as 5646 Carville Avenue, Haleshorpe, Thirteenth District of Baltimore County.

The petitioner desires to use this property as a funeral home and while the testimony indicated that the bodies would be prepared for burial in Baltimore City the funerals will be conducted at the property mentioned in these proceedings. The lot on which the house is located is a very small lot, 50' x 123' which affords no opportunity for adequate off-street parking which would be particularly needed with this type of use. There appears no occasion for future commercialization of this section of Carville Avenue as this neighborhood is exclusively residential and there is no need or reason, in the judgment of the Board, to grant this petition for this use.

The Board, therefore, finds that the granting of this special permit would be detrimental to the safety, health, morals and the general welfare of this community and would tend to create congestion in the roads, streets and alleys in the immediate neighborhood.

The Board, therefore, affirms the Order of the Zoning Commissioner in denying the petition for special permit and will sign an Order in accordance with this opinion.

Amos H. Brown
Chairman
Carl D. Angle
Board of Zoning Appeals
of Baltimore County

RECD DEC 10 1949

J. PURDON WRIGHT
1134-1142 O'BULLIVAN BUILDING
BALTIMORE 2, MARYLAND

December 14, 1949.

Hon. Charles H. Doing,
Zoning Commissioner,
Records Building,
Towson 4, Maryland.

Re: Petition For Special Permit For A Funeral Home - West Side of Carville Ave., Beginning 200 feet North of Francis Ave., Mrs. JOHN R. KENNY, Petitioner

Dear Mr. Doing:

Kindly enter an appeal to the Board of Zoning Appeals of Baltimore County on behalf of Mrs. John R. Kenny, from the decision of the Zoning Commissioner of Baltimore County dated December 7, 1949, denying her petition for a special permit for a funeral home at 5646 Carville Ave., Haleshorpe, Baltimore County, Maryland.

I am enclosing herewith a check in the amount of \$22.00 made payable to County Commissioner of Baltimore County to cover the cost of the appeal.

Thanking you in advance, I am

Yours very truly,
Wm. Bruce Arnold

WBO/MS
Enc.

RE: PETITION FOR SPECIAL PERMIT FOR A FUNERAL HOME - WEST SIDE OF CARVILLE AVE., Beginning 200 feet north of Francis Avenue, Mrs. JOHN R. KENNY, PETITIONER

Pursuant to the advertisement, posting of the property, and public hearing in the above matter held on December 2, 1949, it is hereby determined and ordered by the Zoning Commissioner of Baltimore County, this 16th day of December, 1949, that the said petition be and the same is hereby denied, for the following reasons:

1. The power and authority vested in the Zoning Commissioner to allow funeral homes in residential areas are limited under Section XIII, subsection 3-A of the Zoning Regulations for Baltimore County, as follows:

"Before any such Special Permit shall be granted, it must appear that the use for which 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 and alleys in the area involved."

The language of the Court of Appeals of Maryland in the Jack Lewis case, reported in 164th Maryland Report, to my mind is conclusive on this point and leaves nothing to my discretion and determination. This language is as follows:

"That such a use may adversely affect persons residing in the immediate neighborhood of the proposed establishment in the comfortable enjoyment of their homes, and lessen the value thereof for residential purposes, is neither an arbitrary nor an unwarranted presumption, but on the contrary it is an inevitable inference from common knowledge of the nature and the minds of men. Because of their mortal nature, the certainty of death and the uncertainty of the time thereof, there is in the human race an instinctive horror of death, and upon the instinctive desire to postpone or avoid it, rests the first great law of nature. Much of the world's wealth is spent in prolonging life, the severest punishment known to the law is to be deprived of it, and few there are who, when the last call comes, 'leave the warm precincts of the cheerful day nor cast one longing 'looming' look behind'. Death to the ordinary man is associated always with sorrow and pain,

with the loss of those nearest and dearest to him, with severed friendships that may not be renewed, and with the dissolution of ties of love and affection which sweetened his life, and cheered and consoled him in misfortune and adversity. Consequently, to one of normal sensibilities, the presence of dead bodies, the pious trappings of funeral rites, the bells, the hearse, the shroud, and the casket, and the knowledge that within a few feet of him bodies are being prepared for sepulture, the unending coming and going of funeral processions, must have a depressing and disturbing effect wholly inconsistent with the healing repose and respite from work and worry, which whatever its character, is usually associated with the atmosphere of the time. And in dealing with the question in issue here, such factors are quite as much entitled to consideration as those which have a more direct, tangible, and physical effect, for it cannot now be doubted that physical deterioration may and probably will result from conditions which constantly depress and disturb the mind. Now, as was pointed out in the City of Baltimore v. Fairfield Inn, Col. 87 Md. 354, at 361. 38 A. 1081, 1084, it is essential that the sensations aroused by such condition be based upon demonstrable facts."

Charles H. Doing
Zoning Commissioner
of Baltimore County

PETITION FOR SPECIAL PERMIT

IN THE MATTER OF :
Petition of :
Mrs. John R. Kenny :
: ZONING COMMISSIONER
: OF BALTIMORE COUNTY

FOR A SPECIAL PERMIT
To the Zoning Commissioner of Baltimore County

Mrs. John R. Kenny
Contract Purchaser

hereby petition for a Special Permit, under the Zoning Regulations and Restrictions passed by the County Commissioners of Baltimore County, pursuant to Chapter 877 of the Acts of the General Assembly of Maryland of 1940, for a certain permit and use, as provided under said Regulations and Act, as follows:

A Special Permit to use the land (and improvements now or to be erected thereon) hereinafter described for a Funeral Home (Spot Zoning)
West side of Carville Ave., in the 13th District of Balto. Co., beginning 200' north of Francis Ave., thence northerly, on the west side of Carville Ave., 50 feet with a rectangular depth westerly of 123 feet. Property known as 5646 Carville Avenue.

Contract Purchaser
Mrs. John R. Kenny
Legal Owner
W. Bruce Arnold
Address
Address

1585

#1875-3

ORDERED by the Zoning Commissioner of Baltimore County this 17th day of October, 1949.

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 had in the office of the Zoning Commissioner of Baltimore County, aforesaid, on the 2nd day of December, 1949, at 1:00 o'clock P.M.

Charles H. Doing
Zoning Commissioner
of Baltimore County

12/2/49
10.M.

RECD NOV 21 1949

1585-S

CERTIFICATE OF PUBLICATION

TOWSON, MD. November 16, 1949.

THIS IS TO CERTIFY, That the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., ~~XXXXXXXXXX~~ ~~X 2 times~~ ~~XXXXXXXXXX~~ before the 2nd day of December, 1949, the first publication appearing on the 11th day of November 1949.

THE JEFFERSONIAN,

R. J. Smith Manager.

Cost of Advertisement, \$.....

FOR THE DEPARTMENT OF BALTIMORE COUNTY, MD. PETITION FOR SPECIAL PERMIT - 15TH DISTRICT.
Pursuant to section 1142 with the Zoning Commissioner of Baltimore County for Special Permit to use the property hereinafter described for a Funeral Home, the Board of Commissioners of Baltimore County, in accordance with the Zoning Act and Regulations of Baltimore County, will hold a public hearing at the zoning office in the Towson Building, Towson, Baltimore County, Maryland.
On Friday, December 2, 1949, at 7:00 P. M. to determine whether or not the Special Permit petitioned for an abatement should be granted, the property in said petition being particularly described as follows to wit:
All that parcel of land on the west side of Carville Avenue, in the 15th District of Baltimore County, beginning 200 ft. north of Francis Avenue, thence northerly, on the west side of Carville Avenue 10 feet with 25 rectangular feet, westerly, on 25 feet, Property of John H. Kenney, known as 5146 Carville Avenue.
By Order of CHAS. H. BOGGS, Zoning Commissioner of Baltimore County.
Nov. 11-18.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

1585-S

District: 13 Date of Posting: Nov. 18/49

Posted for: Funeral Home

Petitioner: John R. Kenny

Location of property: 5146 Carville Ave

Location of Signs: 5146 Carville Ave

Remarks:

Posted by: Harry C. Lurtzide Signature Date of return: Nov. 18/49

November 10, 1949

\$18.00

RECEIVED of Mrs. John R. Kenney, the sum of Eighteen (\$18.00) Dollars, being cost of petition for special permit, advertising and posting of property, west side of Carville Ave., 15th District, 200 feet north of Francis Avenue.

Zoning Commissioner

Hearing: Friday, Dec. 2, 1949 at 1:00 p. m.

PAID NOV 9 1949 COUNTY COMMISSIONERS OF BALTIMORE COUNTY BY *Ed Lyngge*

January 17, 1950

\$22.00

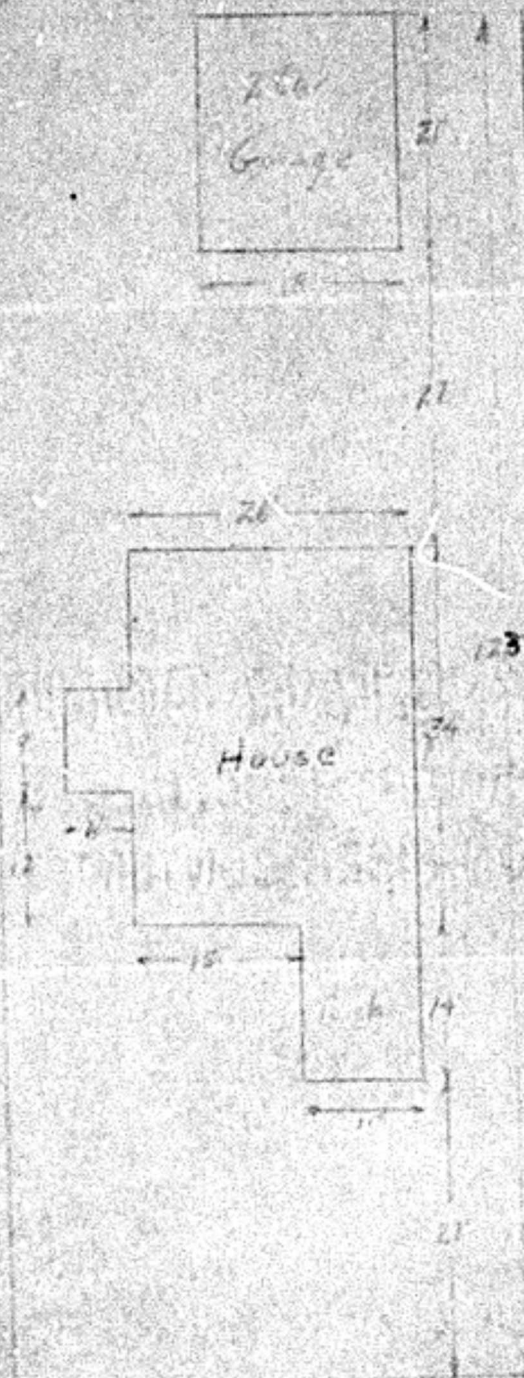
RECEIVED of Mr. Bruce Oswald, Attorney for John R. Kenney, petitioner, the sum of Twenty Two (\$22.00) Dollars, being cost of appeal to the Board of Zoning Appeals of Baltimore County from the decision of the Zoning Commissioner denying the petition for special permit for a Funeral Home, West side of Carville Avenue, 200' north of Francis Ave., 15th District of Baltimore County.

Zoning Commissioner

PAID JAN 17 1950 COUNTY COMMISSIONERS OF BALTIMORE COUNTY BY *Ed Lyngge*

1585

ALLEY



5246 Corville Ave
Mrs J Conroy

200' N of
FRANCIS AVE

CURB

50

