

1991-
COLIN A. THOMPSON, et al
VS
Board of Zoning Appeals
OF BALTIMORE COUNTY

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
IN LAW

This is an appeal from an order of the Board of Zoning Appeals affirming an order of the Zoning Commissioner granting a special permit to Charles A. Sponaler and Virginia L. Sponaler, his wife, for a restaurant on the south side of Powers Lane, 289 feet west of Rolling Road in the First Election District of Baltimore County. The testimony discloses that Mr. Sponaler has been in the theatrical business at Timonium Fair for six years and has been a boxing promoter. He also had food concessions at Timonium Fair and in 1937 and 1938 he conducted a restaurant business on the Annapolis Boulevard in Anne Arundel County. He states that he has a lot of friends in the theatrical business on Charles Street and expects to cater to Baltimore City business.

There is no evidence whatsoever in the record that a restaurant is either needed or desired at this location. On the contrary, there is very strong evidence to the effect that the residents of this residential community are strongly opposed to the reopening of Mr. and Mrs. Sponaler's property for the purpose of establishing a restaurant.

It is true that the Baltimore County local law and zoning regulations and restrictions are not identical with Baltimore City but the same principles would seem to be applicable in many instances to cases arising under the Baltimore County law as to those arising under the Baltimore City zoning regulations. In the case of Gleason vs Kewick Improvement Association, Atl. 2nd 78, page 164, Judge Gleason speaking for the Court said:

"It may be noted that a special exception will never be granted to gratify a convenience, and not only must the necessity be urgent, but the facts in a given case be so extraordinary as to persuade us to withhold the case from the application of the accepted rule. We have also held that the burden of proof is upon the applicant, and it must be shown that the hardship affects particular

premises and not common to other property in the neighborhood, the fact that variance would make property more profitable is not a sufficient ground to justify granting of variance. Baizer v. Mayor and City Council, Md. 73 And 471; Heath v. Mayor and City Council of Baltimore, 100 Md. 418, 53 And 196, 596; Cassel v. Mayor and City Council, Md. 73 And 186. See Mayor and City Council v. Byrd, Md. 62 And 588."

In the case at bar the only reason advanced for the special exception desired for the Sponaler property is the desire of Mr. and Mrs. Sponaler to establish a restaurant at this location. It is merely a convenience which they are seeking to obtain; there is no urgent necessity, and the facts in this case are not so exceptional as to persuade the Court that the case should be withdrawn from the application of the accepted rule. The mere fact that the variance requested would make the Sponaler property more profitable is not sufficient ground to justify granting the exception.

For the same reasons given the action of the Board of Zoning Appeals will be reversed.

February 7, 1952.

John B. Gontrow, Judge

NR: PETITION FOR A SPECIAL PERMIT FOR A RESTAURANT - E. S. Powers Lane, Beg. 289 feet W. Rolling Road, 1st District of Baltimore County, Charles L. & Virginia L. Sponaler, Petitioners

The appeal in the above entitled matter coming on for hearing before the Board of Zoning Appeals of Baltimore County on the 26th day of July, 1951, from an Order of the Zoning Commissioner of Baltimore County dated June 6, 1951, granting Petition for special permit for a restaurant on the property described therein; and it appearing from the facts and evidence adduced at the appeal that the granting of the Petition would not be detrimental to the health, safety, morals, and general welfare of the community, therefore,

It is this 17th day of September, 1951, Ordered by the Board of Zoning Appeals of Baltimore County that the Petition for a special permit for a restaurant be approved and the Order of the Zoning Commissioner of Baltimore County granting the same be ratified and affirmed; subject, however, to the following stipulations and provisions:

1. That a suitable sign advertising this business and showing ingress to the property be placed at the intersection of Rolling Road and the Lane leading to the property located on the south side of said property.
2. That signs advertising the business be prohibited at the intersection of Rolling Road and Powers Lane.
3. That the parking lot to be located between the proposed restaurant building and Powers Lane be screened on the Powers Lane side so that said parking lot will not be discernible from Powers Lane.
4. That any lighting for the proposed parking lot be directed away from Powers Lane so as not to be obnoxious to the property owners on the north side of Powers Lane.
5. That in consideration of the granting of this permit, the petitioner agreed to convey to the County a widening strip on the south side of Powers Lane for the full length of his property to allow for the widening of Powers Lane to a width of 30 feet from the present center line.

Carl F. Holden
Chairman
Samuel W. Holden

Board of Zoning Appeals of
Baltimore County

OPINION OF THE BOARD OF ZONING APPEALS
OF
BALTIMORE COUNTY

This is an appeal by William E. Steiglmann, President of the North Rolling Road Improvement Association, from an Order of the Zoning Commissioner of Baltimore County dated June 6, 1951, granting a Petition for a special permit for a restaurant on the South side of Powers Lane 289 feet West of Rolling Road in the 1st District of Baltimore County, in which Charles L. Sponaler and Virginia L. Sponaler, his wife, were Petitioners.

The case came on for hearing before the Board, testimony was taken for and against said Petition, and counsel for both sides heard.

The evidence showed that the Petitioners own a tract of land comprising 4.84 acres and bounded on the East by Rolling Road and the North by Powers Lane at the Northwest corner of the Baltimore National Pike, also known as Edmondson Avenue Extended. There is a large, 2 1/2-story frame residence located well back from Rolling Road and Powers Lane. The Petitioners state that it is their intention to use the first floor of the dwelling for the restaurant business and the second floor for living quarters. There is a driveway leading through the commercial zone along the said Pike, which said zone embraces approximately 200 feet of the property of the Petitioners and that ingress to the restaurant will be by way of this driveway, but that egress will be by way of Powers Lane. There is ample room for parking of cars to the North of the dwelling, which would relieve any apprehension of congestion due to parking of automobiles about a business establishment.

school bus which uses this avenue would find it more difficult to operate along Powers Lane and also at its intersection with Rolling Road. The Protestants also testified that in their opinion there would be a serious traffic hazard on Rolling Road; but the Board found that while there would be some increase in traffic caused by 100 cars entering and leaving the restaurant over a period of four hours, that this would not appreciably increase the traffic hazard; and, furthermore, that the hours in which the restaurant would be handling its peak trade would not coincide with the hours which the children go to and from school by way of bus. There was conflict of testimony as to the effect of granting of a special permit for a restaurant pertaining to its resulting effect upon real estate values in the community, and the Board feels that the type business to be conducted is not such as to adversely affect said values.

It is the opinion of the Board that the granting of this special permit would not be detrimental to the health, safety, and general welfare of the community; and, therefore, the Board will sign an Order granting said permit and affirming and ratifying the action of the Zoning Commissioner of Baltimore County; subject, however, to the following stipulations and provisions:

1. That a suitable sign advertising this business and showing ingress to the property be placed at the intersection of Rolling Road and the Lane leading to the property located on the south side of said property.
2. That signs advertising the business be prohibited at the intersection of Rolling Road and Powers Lane.
3. That the parking lot to be located between the proposed restaurant building and Powers Lane be screened on the Powers Lane side so that said parking lot will not be discernible from Powers Lane.

4. That any lighting for the proposed parking lot be directed away from Powers Lane so as not to be obnoxious to the property owners on the north side of Powers Lane.
5. That in consideration of the granting of this permit, the petitioner agreed to convey to the County a widening strip on the south side of Powers Lane for the full length of his property to allow for the widening of Powers Lane to a width of 30 feet from the present center line.

Carl F. Holden
Chairman
Samuel W. Holden

Board of Zoning Appeals of
Baltimore County

Re: Petition for a Special Permit
for Restaurant - E. S. Powers Lane, 289
feet West of Rolling Road, 1st District,
Charles L. & Virginia L. Sponaler,
Petitioners

June 11, 1951

Mr. Augustine J. Miller,
Zoning Commissioner of
Baltimore County,
Towson - 14, Maryland

Mr. Commissioner:

Please enter an appeal to the Board of Zoning Appeals of Baltimore County from your decision passed in the above entitled matter granting the special permit and transmit all papers to the Board.

William E. Steiglmann
President
North Rolling Road Improvement Ass'n.,
1330 North Rolling Road,
Catonville 28, Md.
Avalanche

FILED JUN 14 1951

44941-5

MEMORANDUM FOR A SPECIAL PERMIT FOR A RESTAURANT -
J. S. Powers Lane, 200 feet N. Rolling Road,
1st District of Baltimore County,
Charles L. & Virginia L. Sponaler, Petitioners

The property which is the subject of this petition is located on the south side of Powers Lane, 200 feet west of Rolling Road, Catonsville. The petitioner also owns the land between the property in question and Rolling Road.

The property at the northeast corner of Baltimore National Pike (Baltimore Avenue, ext'd.) and Rolling Road is zoned for commercial use, this commercial zoning allowing 200 feet of the property of the petitioner.

The property for which a special permit for a restaurant is sought is improved by a large two and a half story residence of irregular dimensions of 62 feet by 42 feet. The petitioner states that it is his intention to use the first floor of the dwelling for the conduct of a restaurant and to use the second floor for his living quarters. Also it is the intention to require ingress to this business by way of the lane leading through the commercial zone located on the south side of the property and that ingress will be had by way of Powers Lane. He stated also that it is his intention to provide a parking lot for 100 cars to the north of the dwelling between said dwelling and Powers Lane. It was further stated by the petitioner that he intends to conduct a business such as is carried on by the Candle Light Lodge on Frederick Road and that no exterior alterations will be made to the existing dwelling.

Testimony in protest to the granting of this permit was to the effect that the traffic generated by such a business as this would cause a serious traffic hazard on Rolling Road at the point where it intersects with Powers Lane. The testimony of ingress and egress at the point of ingress and egress was also pointed out that Powers Lane is a very narrow street being paved to a width of 11 feet only; that the school bus turning around in the driveway to the Sponaler property and that the use of this property as a restaurant would constitute a hazard to the children returning from school. The protestants on the north side of Powers Lane also stated that the use of this property for this purpose would be detrimental to the development of their property for residential use.

It is apparent that the increased traffic on Rolling Road caused by 100 cars patronizing this establishment over approximately a four hour period would not appreciably increase the traffic hazard at this point. It is also apparent that the hours in which persons would patronize this establishment would not coincide with the hours in which the children go to and from school, so that there can be no hazard in this regard.

As to the testimony that the operation of a restaurant of this type would adversely affect the properties on the north side of Powers Lane, this is not borne out in the case of Candle Light Lodge.

Testimony presented by the residents of the community at the hearing on the petition of Herbert L. Cohen and Jordan P. Vallotton, (Jesse L. Williams, Contract Purchaser), for reclassification of property at the northeast corner of Frederick Road and Devere Lane, was that the operation of the Candle Light Lodge was in no way objectionable to them and did not adversely affect residential property.

It is the opinion of the Zoning Commission of Baltimore County that due to the location of this property, being in the pocket formed by Rolling Road on the east, Baltimore National Pike on the south and Powers Lane on the north and being adjacent to the commercial zone already established at the northeast corner of Baltimore National Pike and Rolling Road and near west corner of Baltimore National Pike and the north side of the Baltimore National Pike, and it appearing that the granting of this special permit would not be detrimental to the health, safety and the general welfare of the community, the special permit for the conduct of a restaurant should be granted, subject to the following stipulations and provisions:

1. That a suitable sign advertising this business and showing ingress to the property be placed at the intersection of Rolling Road and the Lane leading to the property located on the south side of said property.
2. That signs advertising the business be prohibited at the intersection of Rolling Road and Powers Lane.
3. That the parking lot to be located between the proposed restaurant building and Powers Lane be screened on the Powers Lane side so that said parking lot will not be discernible from Powers Lane.
4. That any lighting for the proposed parking lot be directed away from Powers Lane so as not to be objectionable to the property owners on the north side of Powers Lane.
5. That in consideration of the granting of this permit, the petitioner agreed to convey to the County a strip of land on the south side of Powers Lane for widening strip on the south side of Powers Lane for the full length of his property to allow for the widening of Powers Lane to a width of 30 feet from the present center line.

It is this 10th day of June, 1951, ORDERED by the Zoning Commission of Baltimore County that a special permit is hereby granted for the use of the property described in the petition for a restaurant.

Michael Paul Smith, Esq.,
Attorney for Petitioners
of Baltimore County

FILED MAY 4 1951
PETITION FOR SPECIAL PERMIT

1951
#1991-5

IN THE MATTER OF THE
PETITION OF CHARLES L.
SPONALER FOR A SPECIAL
PERMIT TO OPERATE A
RESTAURANT IN A CLASS "A"
RESIDENCE ZONE.

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

For A Special Permit
To The Zoning Commissioner of Baltimore

CHARLES L. SPONALER, Legal Owner

Contract Purchaser

hereby petition for a Special Permit, under the Zoning Regulations and Restrictions 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 Act, as follows:

A Special Permit to use the land (and improvements now erected thereon) hereinafter described for a restaurant.

South side of Powers Lane, 1st District, beginning 280 feet west of Rolling Road, thence westerly, on the south side of Powers Lane, 418 feet; thence S 27° 24' west 241 feet; S 58° 37' east 380 feet; S 16° 11' east 54 feet and thence N 27° 24' east 304 feet to beginning.

Charles L. Sponaler
Virginia L. Sponaler
Address

Contract Purchaser

Address

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

1991-5

District: 1
Date of Posting: May 12/51
Posted for: Restaurant
Petitioner: Charles L. Sponaler
Location of property: S. side of Powers Lane 200 feet west of Rolling Road
Location of sign: S. side of Powers Lane 300-400 feet west of Rolling Road
Remarks: Harry C. Sponaler
Date of return: May 12/51

July 10, 1951

RECEIVED of North Rolling Road Improvement Association 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 granting a special permit for a Restaurant on south side of Powers Lane, 200 feet west of Rolling Road, Charles L. and Virginia L. Sponaler, petitioners.

Zoning Commissioner

PAID
JUL 1 1951
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY

May 9, 1951

RECEIVED of Walter B. Nawinski, Attorney for Charles L. Sponaler, et al, the sum of Twenty Three (\$23.00) Dollars, being cost of petition for a special permit, advertising and posting of property, south side of Powers Lane, 1st District of Baltimore County.

Zoning Commissioner

Hearings:
Monday, May 20, 1951
at 1:00 P.M.

PAID
MAY 8 - 1951
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY

Michael Paul Smith, Esq.,
212 Washington Avenue,
Towson 4, Maryland

May 2, 1951

County Commissioners of
Baltimore County
Zoning Department,
303 Washington Ave.,
Towson 4, Maryland

Certified copy of petition and other papers filed in the matter of petition for a special permit for Restaurant on south side of Powers Lane, Charles L. & Virginia Sponaler, petitioners

\$11.50

September 4, 1951

RECEIVED of Michael Paul Smith, Attorney, the sum of \$11.50 being cost of certified copies of petition and other papers filed in the matter of a special permit for a restaurant on Powers Lane, 1st District of Baltimore County.

Zoning Commissioner

PAID
DEC 5 1951
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY

POWERS LANE

S64°40'E 707.5'

411

N27°24'-30"E 291.2'

+ Cont. Mon

N58°37'W 380.37'

Garage

2 1/2 Story
Frame
Residence

Area = 4.84 Acres

Cont. Mon

Cont. Mon

S41°16'W 540.5'

N63°42'W 330.0'

P. 4'E

S20°19'30"W 306.5'

ROAD

ROLLING

S23°15'30"W 218.8'

SURVEY OF CHARLES L. SPONSLER PROPERTY,
BALTIMORE CO., MD.

Norman B. Sponser SURVEYOR

SCALE 1" = 40 FT.

Baltimore Md. Jan 17, 1938.

Edmondson Ave
Extension

