

W. CARDON JIMESON
3638 Lochearn Drive
Baltimore, Maryland
JANIS B. BARNES
3704 Patterson Avenue
Baltimore, Maryland
KARL B. VOLKMAR
6510 Liberty Road
Baltimore, Maryland
GUSTAV WALLACE
Liberty Terrace and Sylvan Drive
Baltimore, Maryland
ALICE WALLACE
Liberty Terrace and Sylvan Drive
Baltimore, Maryland
H. KENNETH BAILY, President
Liberty-Patterson Improvement
Association of Baltimore County, Inc.
Baltimore, Maryland
and
LIBERTY-PATTERSON IMPROVEMENT
ASSOCIATION OF BALTIMORE
COUNTY, INC.
Baltimore, Maryland
Plaintiffs
VS.
H. GUY CAMPBELL,
DAVID V. HUBBARD and
CARL N. VOLKMAR, Being
Constituting the Board of
Zoning Appeals of Baltimore County
Defendants

ORDER DESIGNATING TIME FOR FILING RECORD ON APPEAL

It is this 4th day of June, 1952, hereby ORDERED by the Circuit Court for Baltimore County that the time within which a return to the Petition for Writ of Certiorari in the above captioned matter must be made and served upon the realtor's attorney is extended to July 1st, 1952.

J. J. Howard Jr. Judge

MICROFILMED

RE: PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO AN "B" COMMERCIAL ZONE - S. W. Side Liberty Rights Ave., 542.2 ft. from Old Mill Road, Second District - Mary G. Thursty and Clara A. Stewart, Trustees under a Deed of Trust from Bernard Frey, Deceased and Guarnished Realty Corporation, Petitioners

The appeal in the above entitled matter coming on for hearing on the 10th day of January, 1952, before the Board of Zoning Appeals of Baltimore County from an order of the Zoning Commissioner of Baltimore County dated November 30, 1951, granting a petition for reclassification of the property therein described from an "A" Residence Zone to an "B" Commercial Zone; 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; and further, that there is a need for said reclassification; therefore,

It is this 7th day of April, 1952, Ordered by the Board of Zoning Appeals of Baltimore County that the petition for reclassification as aforesaid be granted and approved, and that the order of the Zoning Commissioner of Baltimore County be ratified and affirmed; subject to the following conditions and restrictions:

1. That any buildings to be constructed upon these properties have a setback of at least 110 feet from the present right of way of Liberty Road.
2. That a 17 foot widening strip be dedicated for the future widening of said Liberty Road.
3. That a 60 foot right of way be provided for the extension westerly of proposed Patterson Avenue.
4. That any buildings to be constructed on the properties have a setback of at least 25 feet from the right of way lines of the proposed Patterson Avenue so as to provide proper sight distances for persons using the parking lot.
5. That a planting of evergreen trees and shrubs be

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supplied along Liberty Road to properly screen the shopping center from said Liberty Road.

6. That any lighting, including sign lighting, used in connection with the operation of the shopping center and parking lot be directed away from the adjoining residential properties and be so controlled as not to be obnoxious to said properties.

7. That the entrances to the parking lots leading from proposed Patterson Avenue, at the rear as well as the front of the buildings, be channelized so that access to said Patterson Avenue will be at controlled points.

8. That a site plan and planting plan, for the development of this shopping center property, approved by the Baltimore County Planning Commission be filed with this Department. The granting of this reclassification is conditional upon the filing of such a plan.

H. Guy Campbell
Chairman

Carl F. Volkmann

David V. Hubbard
Board of Zoning Appeals of Baltimore County

OPINION OF THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

This is an appeal by W. Cardon Jimeson, 3638 Lochearn Drive; Jarvis B. Barnes, 3704 Patterson Avenue; Karl B. Volkmar, 6510 Liberty Road; Gustav Wallace, Liberty Terrace and Sylvan Drive; Alice Wallace, Liberty Terrace and Sylvan Drive; and the Liberty-Patterson Improvement Association of Baltimore County, and individual members of said association, jointly and severally, from the decision and order of the Zoning Commissioner of Baltimore County dated November 30, 1951, granting the petition for reclassification from an "A" Residence Zone to an "B" Commercial Zone in regard to the property described in the said petition.

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

The property which is the subject of this petition is located on the southwest side of Liberty Road opposite Patterson Avenue, having a frontage of 883 feet on Liberty Road and extending to the rear 234 feet, on the west boundary 234.5 feet, and 463 feet on the easterly boundary, with 804 feet across the rear.

It is proposed that Patterson Avenue be extended across Liberty Road through approximately the center of the proposed site so as to eventually connect with Gwynn Oak Avenue. Liberty Road is a main artery for the flow of traffic in an easterly-westerly direction, making this section of the county easily accessible to Baltimore City, as well as points west. It is noted that there has been a sharp increase in the number of persons moving into this area, as well as an increase in residential developments. There is a definite need for adequate and well planned shopping center in the foreseeable future in this area. Approximately one-third of the area is below Liberty Road grade and is unsuitable for residential development; however, it will be suitable for commercial and especially to provide parking area after providing

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proper fill. The history of such in the past has been that the commercial area was often small, inadequate, and placed in sections that may have been convenient for the operator of the business, but without due respect or regard for the residents' safety, health, and general welfare. Portions of the area now under consideration have been before the Zoning Department and the Courts heretofore, but for reasons stated in other parts of the record were rejected for reclassification.

The picture under the petitions before the Board (said petitions being considered and heard concurrently) a considerable improvement over the conditions and request in former applications. The location of the stores sets back well from the Liberty Road with adequate parking area both in front and rear of the buildings and one side of the westerly portion of the tract of land. The proposed plans, although not in detail, are far superior to those previously submitted and appear to be well designed and practical.

There was testimony to the effect that such a shopping center would create a traffic hazard, especially in view of the fact that a great number of cars would be entering and leaving the parking area by way of Patterson Avenue; but the Board is of the opinion that it is considerably better to have such traffic handled as proposed here so that automobiles going to and from the stores will be entering or leaving Liberty Road by one street rather than having a number of stores fronting directly on Liberty Road and having the customers of said stores drawing into the buildings or leaving them and entering the highway at scattered spots. Such a condition as the latter is almost impossible to control either by traffic lights, the police force, or traffic rules and regulations, and subjects through traffic to the continual danger of automobiles quickly emerging in front of them

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traffic at Patterson Avenue by a proper stop light would reduce them to the minimum. At the time the Board inspected the property covered by these petitions, it noted that the top of the hill on Liberty Road to the southeast of Patterson Avenue was approximately 1000 feet from the intersection and, therefore, the driver of an automobile would have adequate vision for a sufficient distance to respond to a light signal. It is the practice of the State Roads Commission to erect light signals at intersections where excess traffic makes it necessary.

The Board is of the opinion that this is a proper location for the shopping center and to let it remain as residential is not the wisest and best use for the land. There are natural or adequate boundaries on three sides, namely, the property owned by a cemetery on the southwest, Gwynn's Falls Valley on the northwest, and an alley in the rear of the residences on the southeast.

There are no places within the immediate neighborhood where the residents can shop, the closest place being approximately one mile away at Gwynn Oak Junction. Some testified that they were willing to drive this distance for their shopping needs. Names of persons on signed petitions, both for and against the reclassification, were noted; but these cannot be taken as a guide as to whether or not under the Zoning Regulations of Baltimore County this property should or should not be reclassified.

The Board is of the opinion that the granting of this reclassification would not be detrimental to the health, safety, morals, and general welfare of the community; and further, that there is a need for this commercial area; and, therefore, it will sign an order granting the said reclassification, subject to the following conditions and restrictions:

1. That any buildings to be constructed upon these properties have a setback of at least 110 feet from the present right of way of Liberty Road.

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2. That a 17 foot widening strip be dedicated for the future widening of said Liberty Road.

3. That a 60 foot right of way be provided for the extension westerly of proposed Patterson Avenue.

4. That any buildings to be constructed on the properties have a setback of at least 25 feet from the right of way lines of the proposed Patterson Avenue so as to provide proper sight distances for persons using the parking lot.

5. That a planting of evergreen trees and shrubs be supplied along Liberty Road to properly screen the shopping center from said Liberty Road.

6. That any lighting, including sign lighting, used in connection with the operation of the shopping center and parking lot be directed away from the adjoining residential properties and be so controlled as not to be obnoxious to said properties.

7. That the entrances to the parking lots leading from proposed Patterson Avenue, at the rear as well as the front of the buildings, be channelized so that access to said Patterson Avenue will be at controlled points.

8. That a site plan and planting plan, for the development of this shopping center property, approved by the Baltimore County Planning Commission be filed with this Department. The granting of this reclassification is conditional upon the filing of such a plan.

H. Guy Campbell
Chairman

Carl F. Volkmann

David V. Hubbard
Board of Zoning Appeals of Baltimore County

FILED DEC 8 - 1951

APPEAL FROM THE DECISION AND ORDER OF THE ZONING COMMISSIONER OF BALTIMORE COUNTY

Re: Petition for Reclassification from an "A" Residence Zone to an "B" Commercial Zone - S.W. Side Liberty Rights Avenue, 542.2 ft. from Old Mill Road, Second District - Mary G. Thursty and Clara A. Stewart, Trustees under a Deed of Trust from Bernard Frey, Deceased and Guarnished Realty Corporation, Petitioners

Mr. Commissioner:

Please note an Appeal on behalf of the following residents and taxpayers of Baltimore County:

W. Cardon Jimeson
3638 Lochearn Drive
Jarvis B. Barnes
3704 Patterson Avenue
Karl B. Volkmar
6510 Liberty Road
Gustav Wallace
Liberty Terrace and Sylvan Drive
Alice Wallace
Liberty Terrace and Sylvan Drive

and on behalf of the Liberty-Patterson Improvement Association of Baltimore County and individual members of said association, jointly and severally, being residents and taxpayers of Baltimore County, to the Board of Zoning Appeals of Baltimore County from the Decision and Order of November 30, 1951, of the Zoning Commissioner of Baltimore County in the above captioned matter.

You are respectfully requested to forward and present to the Board of Zoning Appeals all pertinent papers in connection with this Appeal.

David V. Hubbard
Chairman

David V. Hubbard
President, Liberty-Patterson Improvement Association

MICROFILMED

BE PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO AN "E" COMMERCIAL ZONE
S. W. 4th Liberty Heights Ave., 542.2 ft. from Old Mill Road, Second District
Mary G. Thurney and Clara A. Stewart,
Trustees under a Deed of Trust from
Bernard Fry, Dec'd - Petitioners

The property which is the subject of this petition is located on the southwest side of Liberty Road, opposite Patterson Avenue, Second District. It is adjacent to the property of the Guaranteed Realty Corporation, which is also the subject of a petition for reclassification and which is being heard concurrently with the petition in question. The two petitions should be considered as one as the owner in Petition No. 2079 is also the owner in this petition. If the petition for reclassification is granted, the two parcels of land will be developed as one as set forth in the plan filed with this Department.

The property of Mary G. Thurney and Clara A. Stewart, (Petition No. 2079) was the subject of a petition for reclassification in February 1950. This petition was denied by the Zoning Commissioner of Baltimore County and an appeal was not taken.

This property was the subject of a petition for reclassification again in March 1951. The reclassification in this case was granted by the Zoning Commissioner and upon appeal was affirmed by the Board of Zoning Appeals. In September 1951, the Order of the Board of Zoning Appeals was reversed by the Circuit Court for Baltimore County.

This property was again the subject of a petition in December 1951. The petition for reclassification was granted by the Zoning Commissioner and affirmed by the Board of Zoning Appeals. This Order of the Board was reversed by Judge John B. Gorman in the Circuit Court for Baltimore County on July 6, 1952.

The property of the Guaranteed Realty Company lying immediately to the southeast of the property of Mary G. Thurney and Clara A. Stewart and fronting 390 feet on Liberty Road has not been the subject of a petition for reclassification, according to the records of this Department.

The petitioner in this case offered testimony to the effect that this was an ideal and logical place for a shopping center. The property is centrally located in the midst of a community of 6700 people. The area is now served with public utilities including water and sewer and will continue to grow. Increasing the need for such services in that area. It was testified that at the present time there is no close place for the residents of that area to shop, the closest available shopping center being one mile away at Owyon Oak Junction.

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County—
I, the undersigned, contract purchaser and
I, or we, Mary G. Thurney and Clara A. Stewart, legal owners of the property situate
Trustees under a Deed of Trust from Bernard Fry, dec'd

beginning for the same at a point on the southwest side of Liberty Heights Avenue North 56 degrees 42 minutes West 542.2 feet from the point of intersection of the southwest side of Liberty Heights Avenue and the northernmost side of Old Mill Road thence running along Liberty Heights Avenue North 56 degrees 42 minutes West 493.3 feet, South 37 degrees 41 minutes West 234.5 feet South 42 degrees East 501.6 feet, thence running North 37 degrees 56 minutes East 369.5 feet. Being 3.4 acres of land, more or less.

hereby petition that the zoning status of the above described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an A Residence zone to an E Commercial zone.

Reasons for Re-Classification:
.....
..... approved commercial use

Size and height of building: front feet, depth feet, height feet.
Front and side set backs of building from street line: front feet, side feet.
Property to be posted as expressed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Mary G. Thurney
Clara A. Stewart
Trustees under a Deed of Trust from
Bernard Fry, dec'd
Address: 1100
1100

Send all notices to Dr. William Kelly, 1100 Franklin St.
ORDERED By The Zoning Commissioner of Baltimore County, this 11th day of August, 1952, that the subject matter of this petition be advertised, as required by the "Zoning Law of Baltimore County," in a newspaper of general circulation throughout Baltimore County, that property be posted, and that the public hearing herein be held in the office of the Zoning Commissioner of Baltimore County, in the Record Bldg., in Towson, Baltimore County, on the 11th day of September, 1952, at 11:00 a.m.

Zoning Commissioner of Baltimore County
(over)

The petitioner further testified that he has consulted with the Baltimore County Planning Commission and it is planned to extend Patterson Avenue westerly through the property, which is a part of the Planning Commission's plan for extending Patterson Avenue westerly and southerly to Owyon Oak Avenue. The petitioner also offered considerable testimony by a zoning expert that this was a logical use of the property, that it was especially suited for residential development and that the granting of this reclassification would not be detrimental to the health, safety and general welfare of the community but rather aid a service which was needed in the community.

Expert testimony was also offered by a traffic engineer of the J. H. Grimes Company that the use of this property for a shopping center would not create a traffic hazard on Liberty Road at this location; that with ingress and egress from the shopping center by one side entrance only, namely the extension of Patterson Avenue where traffic could be controlled if necessary by a traffic signal, no hazard would be set up. It was testified also that the grade of Liberty Road at Patterson Avenue was 5% and that the slight distance from the top of the hill to the south to Patterson Avenue was about 1250 feet which was more than sufficient to give the required sight distance.

The protestants in this case testified that the use of this property for a shopping center would be detrimental to the proper enjoyment of their properties for residential use. Several persons testified that there is no need for a shopping center in this area, that they are willing to drive the distance of one mile to Owyon Oak Avenue or to some other shopping center. In addition they stated that most of the merchants who supplied the area offered delivery service and that their needs are sufficiently taken care of.

A voluminous written protest was filed with this Department, many of the persons residing in Lochearn protesting this reclassification. A subsequent petition was filed wherein some of the residents of Lochearn who had signed against the reclassification recorded themselves as being for the reclassification. This petition also included many other persons in the area approving the reclassification.

From a physical inspection of the area it appears that few of the residents of Lochearn could be adversely affected by the use of this property for a shopping center. Outside of the properties which front on Liberty Road it does not appear that the use of this property for this purpose could possibly be detrimental to the safety and general welfare of the community. There are at the present time along Liberty Road, between Oak Avenue and Sylvan Drive, four residences. However, only two residences actually front on Liberty Road, the other two fronting the side streets, namely, Oak Avenue and Patterson Avenue. The residences to the north of Sylvan Drive do not face directly into the property in question and are, therefore, not directly affected by this petition.

PETITION FOR ZONING RECLASSIFICATION

Location - intersection of the S.W. of Liberty Rd. & Essex Rd., 2nd Dist.
Owner - National Realty Corp.
Present Zoning - "A" Residence
Proposed Zoning - "E" Commercial
Date Received - June 1, 1950
Date of Reply - June 15, 1950

The area involved in this petition for commercial rezoning consists of a tract 390 feet deep with 660 feet of frontage on Liberty Road at the southeast corner of its intersection with Essex Road.

In connection with the planning of this subdivision, we recommended to the developer that this tract be set aside as a neighborhood shopping center. We did this because of the evident need of a future local shopping center in this approximate vicinity, because Essex Road appears in our tentative thoroughfare plan to have an important future as a new highway and because the site itself appears inherently suitable for a local shopping center being comparatively level and adjoining a dip in the grade of Liberty Road which provides adequate sight distance in both directions along the main highway thus assuring a safe intersection.

We believe that for this type of planned neighborhood shopping center, it is preferable to have the facility with adequate proportions for offstreet parking and lying at one corner of an intersection rather than straddling it, for this reason the west side of Essex Road was laid out for residential development and is being so developed.

We feel from the standpoint of good planning that this is a logical and satisfactory tract for rezoning to commercial use.

Nicolaus H. Hill, Director
Baltimore County Planning Commission

cc: Charles H. Posing
W. S. MacVicker
Charles Mohr

File
showroom
center

In Judge Connel's opinion in the case of Jarvis B. Barnes vs Board of Zoning Appeals, he stated as follows:

"The Court feels that persons who build on a thoroughfare such as Liberty Road must expect sooner or later a certain amount of commercialization in their communities."

With the residential growth that has taken place in this section it is natural to expect that the commercial growth should keep pace with it. As a matter of sound zoning it is better that modern shopping centers be located at strategic points along heavily travelled thoroughfares rather than having "false streets" or linear shopping centers provide adequate off-street parking and facilities have been planned for 300 cars. In this case parking center from Liberty Road will be had by one entrance only, namely, to the effect that such controlled access would not create a traffic hazard.

In view of the foregoing it is the opinion of the Zoning Commissioner of Baltimore County that the use of the two parcels of land described in petitions Nos. 2078 and 2079, for the commercial use for the operation of a shopping center, will not be detrimental to the health, safety and general welfare of the community and the reclassification should be had.

It is ORDERED by the Zoning Commissioner of Baltimore County, this 24th day of November, 1952, that the above described property or area should be and is hereby reclassified from and after the date of this Order, from an "A" Residence Zone to an "E" Commercial Zone, subject to the following provisions and restrictions:

1. That any buildings to be constructed upon these properties have a setback of at least 110 feet from the present right-of-way of Liberty Road.
2. That a 17 foot widening strip be dedicated for the future widening of said Liberty Road.
3. That a 60 foot right-of-way be provided for the extension westerly of proposed Patterson Avenue.
4. That any buildings to be constructed on the properties have a setback of at least 25 feet from the right-of-way lines of the proposed Patterson Avenue so as to provide proper sight distances for persons using the parking lot.
5. That a planting of evergreen trees and shrubs be supplied along Liberty Road to properly screen the shopping center from said Liberty Road.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District - 2nd
Date of Posting - 8-24-51
Petitioner - Mary G. Thurney
Location of Sign - South-west side of Liberty Road, 660 ft. and 390 ft. from intersection of Old Mill Rd.
Remarks - George R. Hummel
Date of return - 8-24-51

June 30, 1952

RECEIVED of George W. White, attorney for petitioner, the sum of \$20.00 being costs of certified copies of petitions and other papers filed in the matter of reclassification of property on Liberty Road, Stewart Thurney and Guaranteed Realty Corporation.

PAID
JUL 8 - 1952
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY

August 24, 1951

\$23.00

RECEIVED of Russell Kelly, the sum of Twenty Three (\$23.00) Dollars, being cost of petition for reclassification, (Mary G. Thursty and Clara A. Stewart, petitioners) advertising and posting property, southwest side of Liberty Heights Avenue, 2nd District of Baltimore County.

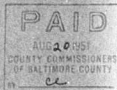
Zoning Commissioner

Hearing:

Wednesday, Sept. 5, 1951

at 1:00 p. m.

303 Washington Avenue

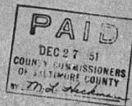


December 27, 1951

\$22.00

RECEIVED of George W. White, Esq., Attorney for the Protestants, the sum of Twenty Two (\$22.00) Dollars, being cost of appeal to the Board of Zoning Appeals from the decision of the Zoning Commissioner granting reclassification of property on Liberty Road, opposite Patterson Avenue, Clara A. Stewart and Mary G. Thursty and the Guaranteed Realty Corporation, petitioners.

Zoning Commissioner



Shopping Center

Patterson - no place for people to shop

area of 2 miles radius.

over 1 mile to Gwynn Oak Shopping Center

6700 people to Center to.

Indian - 2600 persons

- all access from Patterson Ave.

1500 Cars will use this place daily. In + out -

5% grade to Liberty x Patterson.

Traffic count Hwy 141 - 1412 - 8292 vehicles / day, av / day.

Proddale 4000 cars

parking area - 300

location - from top hill to east - 1050' to Patterson Ave.

Min. site distance 175'

Lib. Rd 22'-wide w 8' shoulders in 66' R/W

Patterson Ave 20' wide

