

JAMES KEELY, JR. vs. AL
In the Circuit Court
for Baltimore County
LAW

This is an appeal from the action of the Board of Zoning Appeals for Baltimore County denying the petition for a special permit for a gasoline service station on the property described in the proceedings.
The Court of Appeals in Remer vs. Tribbett, 190 Md. 64, 68, page 19 said:

"A filling station need not be a universal blessing or a public necessity. It is a local private business, not the exercise of a franchise. It is sufficient if it will not adversely affect the general welfare, safety, health, morals or comfort."

Whether or not there is a need for a service station at this point, I consider none of the Court's proper function to determine.

The Court has considered the testimony and is of the opinion that the granting of the permit will not affect the public welfare, safety, health or morals and that the action of the board in denying the same was arbitrary and unreasonable.

For the reasons given, the actions of the Board will be reversed and the permit ordered issued.

April 21, 1953

John H. DeStrum, Judge

IN RE: PETITION FOR A SPECIAL PERMIT FOR A GASOLINE SERVICE STATION - W. S. York Road, 108 feet S. Rodgers Forge Road, 9th District - James Keely, Jr. and Joe S. Keely, Petitioners - The American Oil Company, Lessee

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

NOTICE OF APPEAL

MR. COMMISSIONER:

Your Petitioners desire to appeal from your order dated the 19th day of January, 1953, denying the special permit for a gasoline service station to be located on the West side of York Road, 108 feet South of Rodgers Forge Road, in the Ninth District of Baltimore County. Kindly note your records accordingly and present to the Board of Zoning Appeals all pertinent papers in connection with the said application.

January 20, 1953
Date

Address:
4200 Edmondson Avenue
Baltimore 29, Maryland

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4200 Edmondson Avenue
Baltimore 29, Maryland

RE: PETITION FOR A SPECIAL PERMIT FOR A GASOLINE SERVICE STATION - W. S. York Road, 108 feet S. Rodgers Forge Road, 9th District - James Keely, Jr. and Joe S. Keely, Petitioners - American Oil Company, Contract Purchaser.

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 February, 1953, denying a special permit for gasoline service station in regard to the property described therein; and it appearing from the facts and evidence adduced at the appeal that said application for special permit would be detrimental to the safety and general welfare of the community, and it being further determined that there is no need for the same; therefore,

It is this 26th day of March, 1953, Ordered by the Board of Zoning Appeals of Baltimore County that the application for a special permit for gasoline service station be denied and that the Order of the Zoning Commissioner of Baltimore County be ratified and affirmed.

Chairman

Chairman

RE: PETITION FOR A SPECIAL PERMIT FOR A GASOLINE SERVICE STATION - W. S. York Road, 108 feet S. Rodgers Forge Road, 9th District - James Keely, Jr. and Joe S. Keely, Petitioners - American Oil Company, Contract Purchaser

The property which is the subject of this petition is located on the west side of York Road, 108 feet south of Rodgers Forge Road, Ninth District. The property is zoned "M" Commercial as are the properties at the northeast and southeast corners of York and Rodgers Forge Roads and at the northeast and southeast corners of York Road and Stevenson Lane.

The commercial uses in the area consist of a gasoline service station at the southeast corner of York and Rodgers Forge Roads; a Plant Shop immediately to the south of the property in question; a chemical laboratory at the northeast corner of York and Rodgers Forge Roads; professional and real estate offices at the northeast corner and a gasoline service station at the southeast corner.

It can be seen from the foregoing that there now exists in the immediate area two gasoline service stations. Representative of the American Oil Company, the contract purchaser, testified that the use of this property for a gasoline service station, would in no way be detrimental to the general welfare of the community and that no traffic hazard would be set up by the operation of the station at this location. It was contended that due to the fact that the property at the north was used for a gasoline service station and the property at the southeast corner of York Road and Stevenson Lane is likewise being used for a gasoline service station, that the logical use of the property in question was for the operation of a gasoline service station.

Protestants to the granting of the special permit contend the operation of an additional gasoline service station will create a serious traffic hazard. It was testified that the traffic at this location, especially in the morning and evening, is very heavy and that it is almost impossible to enter York Road from either Stevenson Lane or Rodgers Forge Road. It was stated that residents of the area have tried, without success, to secure a traffic light at this intersection.

It was testified that the intersection is especially dangerous to school children who must cross the road from the west in the morning to board the street car going to Duesen. The same dangerous condition exists in the afternoon for children who live on the east side having to cross the traffic after alighting from the street car on the west side of York Road. The protestants maintain further that there is no need for another service station in the area, that the requirements of the neighborhood are well supplied by the two existing service stations.

It is the opinion of the Zoning Commissioner that no need exists for an additional service station in this small commercial center where two service stations exist. The location of another service station adjacent to the existing one, at the southwest corner of York and Rodgers Forge Roads, will add to the existing traffic problems in the area and the turning movements do and out will be a further impediment to traffic.

OPINION OF THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

This is an appeal by James Keely, Jr., and Joseph Keely from an Order of the Zoning Commissioner of Baltimore County dated January 19, 1953, denying a special permit for gasoline service station.

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

The property which is the subject of this petition is located on the west side of York Road 108 feet South of Rodgers Forge Road, 9th Election District.

There are two gasoline service stations in the immediate neighborhood, one at the adjoining property at the Southwest corner of York and Rodgers Forge Roads, and the other at the Southeast corner of York Road and Stevenson Lane. The subject property has already been zoned "M" Commercial, as well as the plant shop adjacent to the South. The contract purchaser of the property in question testified that this would be an ideal location for another gasoline service station and that the operation of the business would not create a hazardous traffic condition. It was also testified that a gasoline service station would be the proper use for this tract of land. The protestants denied all this.

The Board is of the opinion that there has been no need shown for the granting of the special permit or any evidence that the existing service stations do not adequately provide the needs in the neighborhood. The Board is also of the opinion that an additional service station in this area would greatly increase the dangers growing out of the present traffic hazards in this area. The Board will, therefore, pass its Order

In addition, the operation of a gasoline service station, especially in the evenings, will be detrimental to the proper enjoyment of the properties on the east side of York Road for residential use. This section of York Road, from Waterleigh Road to Stoneleigh Road, is improved with substantial cottages and should be protected insofar as the Regulations and Restrictions provide protection.

In view of the foregoing it is the opinion of the Zoning Commissioner of Baltimore County that the special permit petitioned should be denied.

It is this 19th day of January, 1953, ORDERED by the Zoning Commissioner of Baltimore County that the aforesaid special permit be and the same is hereby denied.

Chairman

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

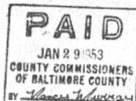
District: 9th Date of Posting: 1-2-53
Posted for: Special Permit Gasoline Service Station
Petitioner: James Keely, Jr. and Joseph Keely
Location of property: 108 feet S. of Rodgers Forge Road, 9th District, Baltimore County, Maryland
Location of Sign: W. S. York Road, 108 feet S. of Rodgers Forge Road, 9th District, Baltimore County, Maryland
Remarks: By: [Signature] Date of return: 1-2-53

January 29, 1953

\$22.00

RECEIVED of American Oil Company the sum of Twenty Two (\$22.00) Dollars, being cost of appeal to the Board of Zoning Appeals of Baltimore County from the Order of the Zoning Commissioner denying the special permit for a gasoline service station, west side of York Road, 103 feet S. Rodgers Forge Road, 9th District.

Zoning Commissioner

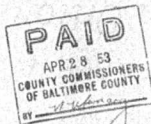


April 27, 1953

\$8.20

RECEIVED of Smith & Smith, Attorneys, for James Kealty, et al, petitioners, the sum of \$8.20 being cost of certified copies of petition and other papers filed in the matter of petition for a special permit for gasoline service station, west side of York Road, south of Rodgers Forge Road, 9th Dist.

Zoning Commissioner



December 17, 1952

\$20.00

RECEIVED of American Oil Company the sum of Twenty (\$20.00) Dollars, being cost of petition of James K. Kealty, Jr., et al, petitioners, for special permit, covering and posting property, west side of York Road, south of Rodgers Forge Road, 9th District of Baltimore County.

Zoning Commissioner
of Baltimore County

