

Re: Petition #2565-S for a Special Permit for an Open Air Drive-In (Assessment Park) Fourth Election District, West side Hanover Road near Fowlersburg, Robert B. Walker and wife, petitioners.

The property which is the subject of the foregoing petition has a frontage on the Easternmost side of Hanover Road of 470 feet, 200 feet back from the road, the lot width out 700 feet in each direction and from there the lot has a depth of about 800 feet and contains 18 acres of land more or less.

The property is under option or Contract of Sale to Gordon Enterprises Inc., which intends to use the property if the necessary permit can be had, for an Outdoor Movie Picture Theatre.

They have agreed to and I do hereby require that they install the traffic light at the exit of the Open Air Drive-In, which exit shall not be north of the center of the road frontage as shown on their plat filed with the petition and the movie screen shall have a set back from the Hanover Road of at least 210 feet and the ticket office shall have a set back of at least 50 feet from said Road.

The foregoing provisions are intended to eliminate a traffic hazard that would be created by cars leaving the lot and to prevent the head-lights of cars from illuminating the dwelling to the north of the site.

It is this 12th day of August, 1953, Ordered by the Zoning Commissioner of Baltimore County, that the aforesaid petition for a Special Permit be and the same is hereby granted, provided however, that the area of land to be used and the set backs for any buildings or structures be subject to the

approval of the Zoning Department.

*Blair Doring*  
Zoning Commissioner

PETITION FOR SPECIAL PERMIT

IN THE MATTER OF  
Petition of  
Robert B. Walker and  
Bernadine B. Walker  
:  
: REFERRED TO  
: ZONING COMMISSIONER  
: OF BALTIMORE COUNTY

2565-S  
MAY 14 4 40 PM '53  
9/2/53

For a Special Permit

To the Zoning Commissioner of Baltimore

Robert B. Walker and Bernadine B. Walker Legal Owners

Contract Purchaser  
I 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 or to be erected thereon) hereinafter described for

Assessment Park (Open Air Movie) *Open Air Drive-In*

All that parcel of land in the Fourth District of Baltimore County, beginning 520 feet south of Henry Road, thence westerly and with the road South 02 degrees 25 minutes East 200 feet, thence by another line of division and running parallel with Hanover Road and 200 feet distant therefrom, North 07 degrees 55 minutes East 200 feet, thence by another line of division and running at right angles with the last line herein, South 52 degrees 05 minutes East 200 feet, thence by another line parallel with Hanover Road, South 07 degrees 55 minutes East 200 feet, thence by another line of division and running parallel with the fourth line herein, North 32 degrees 02 minutes West 800 feet, thence by a line at right angles with the last line and parallel with the second line herein, North 32 degrees 02 minutes West 800 feet to beginning. Containing 18.00 acres of land, more or less. Being property of Robert B. Walker and Bernadine B. Walker shown on plat plan filed with the Zoning Department.

RE: PETITION FOR RECLASSIFICATION FROM AN "A-1" RESIDENCE ZONE TO AN "A-2" COMMERCIAL ZONE - S. E. Side Mt Air Road, 90 Feet W. of J. Jones Road, 11th District, Mrs. J. Behler & Clyde S. Evans Petitioners

The property which is the subject of this petition is located on the East side of Mt Air Road opposite Joppe Road, Eleventh District. The petitioners own thirty acres of land in the rear of the property in question which they intend to develop for residential use. It is the contention of the petitioners that in connection with the residential development a commercial area should be established to provide the necessary services.

Due to the fact that the land on the west side of Mt Air Road opposite this property is zoned commercially it does not appear that the granting of this reclassification will be detrimental to the general welfare of the community.

It is the opinion of the Planning Commission of Baltimore County that Joppe Road should be continued easterly through the property of the petitioners and that a commercial center should be set up in accordance with a specific plan, taking this proposed roadway into account.

In view of the foregoing it is the opinion of the Zoning Commission of Baltimore County that the property should be reclassified in part in accordance with this plan.

It is ORDERED by the Zoning Commissioner of Baltimore County this 2nd day of August, 1953, that that part of the property described in the within petition heretofore described, be and the same is hereby reclassified, from and after the date of this Order from an "A-1" Residence Zone to an "A-2" Commercial Zone. The property so reclassified being more particularly described as follows:

Beginning for the same at a point formed by the intersection of the southeast right-of-way line of Mt Air Road, as shown on the State Roads Commission of Maryland Plat #228, with the second or South 02 degree East 100 feet line of land which by deed dated March 2, 1886 and recorded among the land records of Baltimore County in Liber D.W.M. 150, folio 389, was conveyed by Mary E. Broderick and husband to Gerrit Kamps, said point of beginning being 100 feet, more or less southeast of the existing center of Joppe Road running thence and binding on part of said second line, as now corrected, 120 - 58' - 10" East 52-00 feet; thence for a line of division South South 06 - 41' - 00" East 330.44 feet; thence for a line of division South 53' East 120.00 foot line of land which by deed dated March 2, 1939 and recorded among the land records of Baltimore County in Liber D.W.M. 87, folio 297, folio 46, was conveyed by G. Lloyd Rodgers and wife to William H. Vinters, thence binding on the first line of the abovementioned conveyance reversely as now corrected, North 33° - 51' - 30" East 333.99 feet to intersect the southeast right-of-way line of the Mt Air Road, as shown on the State Roads Commission of Maryland Plat #228; running thence and binding on the southeast part of said right-of-way, as now corrected, North 12° - 45' - 00" East 122.00 feet running thence and still binding on said right-of-way line by a curve to the left with a radius of 57039.00 feet for a distance of 302.28 feet, the chord of said arc being North 12° - 34' - 49" East 349.23 feet to the place of beginning.

Containing 3.601 acres of land, more or less.

Being part of land which by deed dated April 23, 1911 and recorded among the land records of Baltimore County in Liber E. Mt. Air 877, folio 69, was conveyed by Walter D. Rodgers and wife to Gratford L. Rodgers,

March 31, 1954

\$5.00

RECEIVED of Smith & Smith, Attorneys for Robert B. Walker and wife, petitioners, the sum of \$5.00 being cost of certified copy of petition and other papers filed in the matter of a special permit for Open Air Drive-In Movie, Hanover Road, 14th District.

Zoning Commissioner

Zoning Commissioner

Hearing:  
Monday, May 14, 1953  
at 2:30 p.m.

PAID  
APR 23 1953  
COUNTY COMMISSIONERS  
OF BALTIMORE COUNTY  
BY *H. H. ...*

PAID  
MAR 31 1954  
COUNTY COMMISSIONERS  
OF BALTIMORE COUNTY  
BY *H. H. ...*

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: *H. 4th* Date of Posting: *4-22-53*  
#2565-S  
Posted for: *Special Permit (Open Air Drive-In Movie)*  
Petitioner: *Robert B. Walker*  
Location of property: *East side of Hanover Road, by 520 ft. south of Emory Road, etc. See plat*  
Location of Signs: *Signs 520 ft. and 500 ft. south of Emory Rd. on the E.S. of Hanover Rd.*  
Remarks:  
Posted by: *George R. Hummel* Date of return: *4-22-53*

PETITION FOR ZONING RECLASSIFICATION  
#2565-S

TO: CHARLES H. DOING From: Malcolm H. Bill

Location - E. S. Hanover Rd., 5280' S. of Emory Road, 14th Dist.

Owner - Robert B. & Bernadine B. Walker

Special Permit - Assessment Park (Open Air Drive-In Movie)

The following comments on this proposal have been submitted by our Land Use Section:  
Petitioners' property is located according to sketch on attached sheet, one mile S. of Fowlersburg on E. S. of Hanover Rd. The nearest commercial zoning is approximately 7/10 of a mile to the south (a restaurant enterprise); thence the next nearest commercial zoning is 1-3/10 miles further south. There is no other commercial zoning to the north of the petitioners' property out to the County line. The frontage on Hanover Road in the vicinity is almost exclusively residential or farm house use.

The proposed drive-in is in an isolated location on a relatively high-speed highway, which is the reverse of recommendations by the American Association of State Highway officials. There is no serviceable east-west cross road in the vicinity for draining traffic from areas to the east and west of the highway.

The Baltimore Association of Commerce has indicated potential industrial land use along the railroad alignment to the east of the property (see sketch). More thought should be given to the locational correlation of two industrial use potential and the proposed drive-in theatre.

The request is suggested as premature.

I have discussed this proposal over the telephone with Mr. Enoch Chaney, District Engineer of the State Roads Commission. He agrees with the comments expressed and feels that it is important enough to justify being checked by the Traffic Department of the State Roads Commission. I have asked him to do this and will transmit his reply as soon as received.

cc: V. W. MacLear  
Enoch Chaney

ROBERT N. WALKER and  
BERNARDINE E. WALKER, his wife

IN THE CIRCUIT COURT

vs. FOR BALTIMORE COUNTY

CHARLES H. DUBBS,  
DANIEL M. HUBBS and  
CARL F. WALKER, being and  
constituting the BOARD OF  
ZONING APPEALS OF BALTIMORE  
COUNTY

PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE THE JUDGE OF SAID COURT:-

The petition of Robert N. Walker and Bernardine E. Walker, his wife, by Michael Paul Smith, their attorney, respectfully represents unto your Honor:

1. That your Petitioners are property owners and taxpayers of Baltimore County, State of Maryland.
2. That on the 13th day of April, 1953, your Petitioners filed a petition with the Zoning Commissioner of Baltimore County for a Special Permit for an Open Air Movie (Amusement Park) for property on the west side of the Hanover Road near Fowlesburg, in the Fourth Election District of Baltimore County, the property mentioned being more specifically described in the petition above referred to. That subsequent to the filing of said petition and after a public hearing held on May 4, 1953, the Zoning Commissioner of Baltimore County passed an Order granting the Special Permit as mentioned aforesaid, under date of August 13, 1953.
3. That certain protestants feeling aggrieved at the passage of said Order of the Zoning Commissioner of Baltimore County, entered an appeal therefrom, hearing on same having been had before the Board of Zoning Appeals of Baltimore County; and that upon said appeal, the said Board of Zoning Appeals of Baltimore County on the 25th day of February, 1954 passed an Order denying the Order of the Zoning Commissioner for Baltimore County granting the petition for Special Permit as prayed in the petition aforesaid.
4. That the aforesaid decision and order of the Board of Zoning Appeals of Baltimore County on the 25th day of February, 1954 whereby your Petitioners are aggrieved and injured, is void, without legal force and effect, and should be reversed, set aside and annulled by this Honorable Court for

OPINION OF THE BOARD OF ZONING APPEALS  
OF  
BALTIMORE COUNTY

This is an appeal by Jesse Lee McCrea, Eleanor C. McCrea, Charles M. Watson, Anna L. Watson, E. Ralph Raver, Ethel G. Raver, Wilbert C. Chilcoat, and Helen Mae Chilcoat from an Order of the Zoning Commissioner of Baltimore County dated August 13, 1953, granting a special permit for an Open-Air Movie (Amusement Park) in regard to the property described in the petition.

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

The property which is the subject of this petition is a tract of land containing approximately 16 acres, situate and lying on the easterly side of the Hanover Road having a frontage of 100 feet with a depth of 200 feet, and then the width broadens out to a total of 800 feet and continues easterly for 600 feet. The Hanover Road has an 80-foot right-of-way with a 24-foot pavement and two 8-foot stabilized shoulders. There is an up grade along the road, both to the north and south of the subject property, and in one place there is a decided dip in the road so that a car traveling in a northerly direction, when it arrives at the bottom of the dip can scarcely be seen by a person driving in a southerly direction at certain locations.

It was further noted that there is a sharp bend in the road south of the subject property and on a hill which would make traveling along this high-speed highway in a northerly direction extremely dangerous since said traffic would be required to either slow down or stop at certain periods of time during the operation of a drive-in movie. The Board does not think that the erection of automatic lights at the subject

the following reasons:

- (a) That said order of the Board of Zoning Appeals constitutes an arbitrary and capricious act and a gross abuse of administrative discretion.
  - (b) That there was no substantial evidence before the aforesaid Board of Zoning Appeals for Baltimore County in these proceedings conducted before it to justify it and support its Order of February 25, 1954.
  - (c) That the Order of the Board of Zoning Appeals constitutes an attempted unlawful and unconstitutional exercise of authority.
  - (d) That your Petitioners are entitled to the Special Permit applied for.
  - (e) And for such other and further reasons as may be shown at the hearing hereof.
- TO THE END, THEREFORE:
- (a) That a writ of certiorari be granted by this Honorable Court directed against said Defendants, constituting the Board of Zoning Appeals of Baltimore County, to review the decision and Order of said Board of February 25, 1954 in the within proceeding and prescribing therein the time within which a return thereto shall be made and served upon the attorney for the Defendants.
  - (b) That said Board of Zoning Appeals of Baltimore County may be required to return to this Honorable Court the original papers acted upon by it, or certified copies thereof, together with a copy of all records in said proceeding and a transcript of all testimony taken before said Board in connection with said proceedings, as well as a copy of the Order entered by said Board and a copy of any and all rules and regulations pursuant to which said order was entered and said Board purport to act.
  - (c) That this Honorable Court may permit your Petitioners to take such other and further testimony as may be necessary for the proper disposition of the matter.
  - (d) That this Honorable Court may reverse, set aside, annul and declare void and of no effect the decision and Order of the Board of Zoning Appeals for Baltimore County of February 25, 1954 denying the Petition for Special Permit of the property described in said original petition.

(a) That this Honorable Court may direct the Zoning Commissioner for Baltimore County to issue the Special Permit as originally prayed for by your Petitioners.

(f) For such other and further relief as the nature of their case may require.

And as in duty bound, etc.

Michael Paul Smith,  
Attorney for Petitioners

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:-

I hereby certify that on this 6th day of March, 1954, before me, the undersigned, a Notary Public of the State of Maryland, County of Baltimore, personally appeared Michael Paul Smith, Attorney for Petitioners, and he made oath in due form of Law that the matters and facts contained in the aforesaid Petition are true to the best of his knowledge, information and belief.

Notary Public

True Copy Test

George C. Cypko

J. Howard Murray  
Judge

FILED AUG 19 1953

IN RE: PETITION #2564-S FOR A SPECIAL PERMIT FOR AN OPEN AIR MOVIE (AMUSEMENT PARK) FOURTH ELECTION DISTRICT, WEST SIDE HANOVER ROAD NEAR FOWLESBURG, ROBERT N. WALKER AND WIFE, PETITIONERS. : BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY : APPEAL TO THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY.

ORDER OF APPEAL

MR. COMMISSIONER:

Please enter an appeal to the Board of Zoning Appeals of Baltimore County from your order rendered August 13, 1953, granting a special permit in the above entitled matter, on behalf of Jesse Lee McCrea and Eleanor C. McCrea, his wife, Charles M. Watson and Anna L. Watson, his wife, E. Ralph Raver and Ethel G. Raver, his wife, and Wilbert C. Chilcoat and Helen Mae Chilcoat, his wife, taxpayers and protestants.

John W. Alexander  
Counsel for Protestants and  
Appellants  
73: Maryland Trust Bldg.  
Baltimore 2, Md.

property would adequately reduce this danger. Traffic proceeding in a southerly direction would also be subject to sudden stopping, resulting in the piling up of traffic behind those cars which would be required to stop at the light and also for those that would be required to make a left turn into the park. There is no intersecting street whereby persons patronizing the movie could turn off the highway and enter the property at a less congested point. There was testimony that there are other drive-in movies in other areas which are placed on high speed roads, but some of these are on dual highways or located where the contours, elevations, and traffic conditions are entirely different.

The petitioners' property is located in an open and sparsely settled agricultural country, and the Board is of the opinion that this property was correctly zoned at the time of the original zoning in 1945; and, further, that there have been no material changes to justify the granting of the special permit; but rather that to do so would definitely be bad zoning, would constitute a serious and unjustified traffic hazard, and would be detrimental to the safety and general welfare of the community; and, therefore, the action of the Zoning Commissioner granting the special permit is reversed and the special permit for an Open-Air Movie (Amusement Park) is denied.

Carl F. Walden  
Chairman  
Jesse Lee McCrea  
Board of Zoning Appeals of  
Baltimore County

RE: PETITION #2564-S FOR A SPECIAL PERMIT FOR AN OPEN AIR MOVIE (AMUSEMENT PARK) - Fourth District & E. Hanover Road near Fowlesburg, Robert N. Walker and wife, Petitioners.

The appeal in the above entitled matter coming on for hearing on the 14th day of February, 1954, before the Board of Zoning Appeals of Baltimore County from an Order of the Zoning Commissioner of Baltimore County dated August 13, 1953, granting a special permit for an Open-Air Movie (Amusement Park) in regard to the property described therein; and it appearing from the facts and evidence adduced at the appeal that the granting of the said special permit would be detrimental to the safety and general welfare of the community and for reasons set forth in the opinion; therefore,

It is this 25th day of February, 1954, Ordered by the Board of Zoning Appeals of Baltimore County that this special permit for an Open-Air Movie (Amusement Park) be denied.

Carl F. Walden  
Chairman  
Jesse Lee McCrea  
Board of Zoning Appeals of  
Baltimore County

