

ABRAHAM HERSHORN
and
HARRY LEVINE
VS
BOARD OF ZONING APPEALS

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

1374

MAP
15-B

This is an appeal from a decision of the Board of Zoning Appeals denying a special permit for erection of a gasoline service station, upon the petition of Messrs. Hershorn and Levine, on a parcel of land, commercially zoned, located on the northeast corner of Compass Road and Beacon Road, in the shopping center known as Victory Villa, 15th Election District, Baltimore County, Maryland.

The Victory Villa Shopping Center was built in 1943, by the United States Government as part of the Victory Villa Housing Project, housing for approximately 10,000 people. The purpose of the shopping center was to provide facilities for the residents of the development.

The Court has read the testimony, examined the exhibits, and viewed the premises, and the neighborhood. It is one of the government projects apparently composed of pre-fabricated dwellings and other buildings of a very substantial nature. The testimony discloses that the nearest service station is several blocks of a mile from the site in question.

The protesters lay stress upon the fact that the service station structure would be in violation of the setbacks established by Mr. John J. Timmons, head of the original zoning board in 1945. Victory Villa Shopping Center was built in 1943 more than two years before the adoption of the zoning act in Baltimore County. It is apparent that the setbacks provided by Mr. Timmons were established after the construction of the shopping center.

An inspection of the property reveals that the erection of a service station there would not create any additional traffic hazard.

Insofar as the way driveway across the street is concerned there is a

-1-

Board of Zoning Appeals,
Baltimore County,
Towson, Maryland.

Gentlemen:

By decision of 21 September 1953 the Zoning Commission of Baltimore County denied a Special Use Permit for a Gasoline Service Station on premises at Beacon & Compass Roads, Victory Villa, Middle River, Maryland.

This letter is our formal appeal from this decision.

We would appreciate an open hearing in this matter as soon as it can be scheduled.

Very truly yours,

Shall Oil Company
Contract Purchasers
Abraham Hershorn and Harry Levine
Legal Owners

By

R. C. Woodward
Authorized Representative as to Both

separate entrance provided for the nursery and I cannot see where there would be any possible additional traffic hazard created for the children attending that school.

It seems to me both from the testimony and inspection of the property that the objections concerning the service station are unfounded and devoid of any merit. The Board of Zoning Appeals held that the special permit would be detrimental to the general welfare of the community. The Court cannot conceive how this service station would injure this community. In fact, a new station in front of the present structure would be an improvement.

Great stress was laid upon the objection of the residents of the community to the establishment of a service station and a planktonist of neighbors has no power to deprive an individual of his property rights. It is also urged that a service station is not needed at this location. Neither the zoning board nor the Court is capable of passing upon the necessity of a service station. A large oil company with its trained sales personnel and having every reason to spend its money with caution and with an eye to profit is in a better position to judge a need of this kind than persons who have little or no knowledge or experience in the distribution of all products.

In *Reese v. Al and Tridit et al* 190 Md. 6, 37, 38, 39, 40 the question of the establishment of a service station was discussed by the Court of Appeals. The Court held:

"A filling station need not be a universal blessing or a public necessity. It is a useful 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."

For the reasons given the Court is of the opinion that the establishment of the service station at this site would not adversely affect the general welfare, safety or morals of the community and that the action of the board in refusing the special permit is arbitrary, capricious and an unreasonable exercise of administrative authority.

January 28, 1954

John H. Gentry, Judge

Re: Petition #2675-3 in the matter of Abraham Hershorn and Harry Levine for a Special Permit for a Gasoline Service Station, property located at the northeast corner of Compass and Beacon Roads, Victory Villa, 15th District.

The foregoing petition is for a Special Permit to erect a Gasoline Service Station on a plot of ground having a frontage on the southern most side of Compass Road of 163 feet with an average depth of 75 feet.

Victory Villa is a war time housing development built by the United States Government during World War II to house employees of the Martin Air Craft Plant nearby. In order to facilitate matters for the United States Government, Mr. John J. Timmons in setting up a comprehensive zoning plan for Baltimore County zoned an area along the east side of the Martin Boulevard for a shopping center with this development. Commercial buildings have been erected thereon with reasonable, suitable and proper setbacks from both Compass and Beacon Roads.

The applicants now propose to use this set back or yard area, for a Gasoline Service Station. This setback or yard area, I must assume, was required by the then Zoning Commissioner as a condition precedent to the approval of the Building Permit in order to prevent congestion in the streets and roads, in accordance with the authority in aid vested under the Zoning Regulations and Restrictions for Baltimore County, and to now allow the erection of a structure in this area would defeat his purpose and would create congestion in the streets and roads and would create a traffic hazard.

Re: PETITION #2675-3 IN THE MATTER OF ABRAHAM HERSHORN AND HARRY LEVINE for a special permit for a gasoline service station, property located at the northeast corner of Compass and Beacon Roads, Victory Villa, 15th District.

The appeal in the above entitled matter coming on for hearing on the 18th day of February, 1954, before the Board of Zoning Appeals of Baltimore County from an Order of the Zoning Commissioner of Baltimore County dated September 21, 1953, denying a special permit for a gasoline service station in regard to the property described therein; and it appearing from the facts and evidence adduced at the appeal that the granting of said special permit would be detrimental to the general welfare of the community, and for reasons set forth in the opinion; therefore,

It is this 15th day of April, 1954, Ordered by the Board of Zoning Appeals of Baltimore County that the special permit for a gasoline service station in regard to said property be denied.

Chairman
Board of Zoning Appeals of
Baltimore County

- 2 -

The several buildings which constitute the Shopping Center for this development are large and house a number of retail stores and are the very type of buildings which require considerable setbacks in order to set them off properly.

To use the setback areas for additional structures, would simply be messing up a creditable Shopping Center.

Many if not most of the residents of this development do not want a Gasoline Service Station at this location and contend that there is no need for one since there are now existing within approximately one-half mile, five Gasoline Service Stations which are more than ample to meet the needs of the community.

For the above reasons, I am constrained to refuse to grant the Special Permit applied for.

Date: Sept. 21, 1953

Chairman
Zoning Commissioner

OPINION OF THE BOARD OF ZONING APPEALS
OF
BALTIMORE COUNTY

This is an appeal from an Order of the Zoning Commissioner of Baltimore County dated September 21, 1953, denying a special permit for a gasoline service station 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 opinion of the Zoning Commissioner very adequately sets forth the factual situation in this case, and this Board concurs in said opinion and adopts the same.

The petition for a special permit for a gasoline service station would be detrimental to the general welfare, would constitute a congestion; and, therefore, the same is hereby denied.

Chairman
Board of Zoning Appeals of
Baltimore County

PETITION FOR SPECIAL PERMIT

FILED JUL 17 1953

IN THE MATTER OF

Abraham Hershorn and

Harry Levine

(Shall Oil)

For a Special Permit

To the Zoning Commissioner of Baltimore County

Legal Owners

Contract

Purchasers

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 1963, 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 Gasoline Service Station

"Starting at a point in the westerly line of Compass Road, which point is 83.5 feet, more or less, north along said westerly line of Compass Road from the intersection of the westerly line of Compass Road with the northerly line of Martin Boulevard, and running thence 102°57'00" along the said westerly line of Compass Road 163 feet, more or less; thence 102°57'00" 83.70 feet thence 132°59'00" 121.13 feet, more or less; thence curving southeasterly 21.8 feet on the arc of a circle whose radius is 12 feet thence 132°59'00" 4 feet; thence curving southeasterly 13.8 feet on the arc of a circle whose radius is 12 feet thence westerly 13.8 feet on the northerly line of Beacon Road, along the arc of a circle whose radius is 557.6 feet, more or less, 66.4 feet, more or less, to point of beginning.

"Being intended to describe a portion of certain lands conveyed to Abraham Hershorn and Harry Levine by the United States of America (Public Housing Administration) under deed dated 12 June 1953 and recorded among the land records of Baltimore County in Book 2773, page 254.

Shall Oil Company

Abraham Hershorn and Harry Levine

By R. C. Woodward
Contract Purchaser

By Harry Levine
Legal Owner

5831 York Road, Balto. 12, Md.
Address

261 Fifth Ave., New York, N. Y.
Address

#2675-2

ORDERED by the Zoning Commissioner of Baltimore County this 27th day of July, 1953, 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, Maryland, on the 2nd day of September, 1953, at 2:00 o'clock P.M.

Zoning Commissioner
of Baltimore County

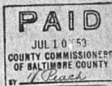
#2675-2

July 10, 1953

\$22.00

RECEIVED OF Shell Oil Company the sum of Twenty Two (\$22.00) Dollars, being cost of petition for a special permit, advertising and posting property, Martin Boulevard and Compass Road, 15th District of Baltimore County.

Zoning Commissioner

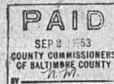


September 22, 1953

\$30.00

RECEIVED of E. C. Woodward, Agent for Shell Oil Company Contract Purchaser, Abraham Hershon and Harry Levine, petitioners, the sum of Thirty (\$30.00) Dollars being cost of appeal to the Board of Zoning Appeals from the decision of the Zoning Commissioner denying the special permit for gasoline service station at Reason and Compass Roads, Victory Villa, 15th District of Baltimore County.

Zoning Commissioner

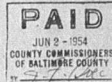


\$8.20

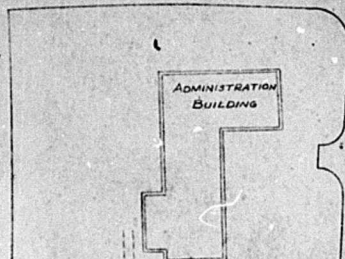
June 1, 1954

RECEIVED of Tupper & White, Attorneys for Hershon and Levine, Petitioners, the sum of \$8.20 being cost of certified copies of petition and other papers filed in the matter of a special permit for a gasoline service station, Northeast corner of Reason and Compass Roads, 15th District.

Zoning Commissioner



COMPASS RD.



ADMINISTRATION
BUILDING

PARKING
AREA

MAINTENANCE
BUILDING

MAINTENANCE
COMPOUND



AREA
129442.5 SQ. FT.

DEPT.
STORE

FOOD
STORE

STORES

BEACON RD.

4.947 ACRES

R=5634.6

L=793.82

MARTIN

BLVD.

SHOPPING CENTER
VICTORY VILLA

BALTIMORE CO., MARYLAND

SCALE 1"=50' NOV. 17, 1952

W.H. PRIMROSE & ASSOCIATES
17 W. PENNSYLVANIA AVE.
TOWSON 4, MD.

W.H. Primrose

66.40
63.70
2) 130.10
75.

