

C. ROGER L. HYERLY, Clerk

3036-5

Dec 1600 -

J. LISTON WHEATFIELD 92th St.
W. 200 York Rd., beginning
S. of LaFolx Avenue #3035

RE: PETITION FOR A SPECIAL PERMIT FOR A
SPECIAL PERMIT FOR FUNERAL HOME -
W. S. York Road, 225 feet South of
LaPaix Avenue, Ninth District -
J. Iaston Wiedefeld and Eve R.
Wiedefeld, his wife, Petitioners

The petition in this case is for a Special Permit to operate a Funeral Home in a residential area. The property is on the westernmost side of York Road 225 feet south of LaFaire Avenue with a frontage on York Road of 210 feet and an irregular depth of 1040.25 feet. The petitioners filed with the Board a proposed plan for the use of the property to a depth of approximately 400 feet. They show no plan for the use of the remainder of the property, consequently this Board concludes that the depth of 400 feet is adequate for their proposed use.

The Board has concluded to grant the petition for the Special Permit for said property to a depth of 400 feet only, the remainder of the depth of the property is to remain an "A" residential zone unaffected by this Special Permit.

The Zoning Commissioner and a previous Board of Zoning Appeals for Baltimore County, have on at least one previous occasion refused a Special Permit for a Memorial Home to be operated on said property, but the situation in reference to the petition has changed a great deal since then, because there has been further commercial encroachment upon the area and because some of the former protestants have withdrawn their protest and now become proponents of the said use. They have come to the realization that the most appropriate use for the property is that for which the Special Permit is sought.

The dwelling or main building on the property, which is used by the petitioners as their home, is huge, having some twenty four rooms or more and is much too large for a private dwelling of

Just as the people are without authority to interfere with the exercise of legislative prerogative within constitutional limits or with the courts of justice in the exercise of their authority, so the people are without authority to invest the courts with authority to interfere with the actions of administrative boards in order to determine whether they unlawfully impair personal liberty. The courts are not authorized by U.S.A. § 43.73. A statutory provision for a public hearing implies both the privilege of introducing evidence and the right to be heard in connection with the evidence, and it is arbitrary and unlawful to deny either of these rights without supporting evidence. This aspect of the hearing process where equality and uniformity of operation is required is not subject to the discretion of the basic in the statute. Invidious distinctions and discriminations are not permissible. The very essence of the term "public hearing" is to refer to the character of the land and the building, and the public authority for particular uses and the uniformity of operation. The case of *Ann Arundel County vs Ward*, 106 Md. 339, 68 A. 227, 100 A. 227, 101 A. 227, 102 A. 227, 103 A. 227, 104 A. 227, 105 A. 227, 106 A. 227, 107 A. 227, 108 A. 227, 109 A. 227, 110 A. 227, 111 A. 227, 112 A. 227, 113 A. 227, 114 A. 227, 115 A. 227, 116 A. 227, 117 A. 227, 118 A. 227, 119 A. 227, 120 A. 227, 121 A. 227, 122 A. 227, 123 A. 227, 124 A. 227, 125 A. 227, 126 A. 227, 127 A. 227, 128 A. 227, 129 A. 227, 130 A. 227, 131 A. 227, 132 A. 227, 133 A. 227, 134 A. 227, 135 A. 227, 136 A. 227, 137 A. 227, 138 A. 227, 139 A. 227, 140 A. 227, 141 A. 227, 142 A. 227, 143 A. 227, 144 A. 227, 145 A. 227, 146 A. 227, 147 A. 227, 148 A. 227, 149 A. 227, 150 A. 227, 151 A. 227, 152 A. 227, 153 A. 227, 154 A. 227, 155 A. 227, 156 A. 227, 157 A. 227, 158 A. 227, 159 A. 227, 160 A. 227, 161 A. 227, 162 A. 227, 163 A. 227, 164 A. 227, 165 A. 227, 166 A. 227, 167 A. 227, 168 A. 227, 169 A. 227, 170 A. 227, 171 A. 227, 172 A. 227, 173 A. 227, 174 A. 227, 175 A. 227, 176 A. 227, 177 A. 227, 178 A. 227, 179 A. 227, 180 A. 227, 181 A. 227, 182 A. 227, 183 A. 227, 184 A. 227, 185 A. 227, 186 A. 227, 187 A. 227, 188 A. 227, 189 A. 227, 190 A. 227, 191 A. 227, 192 A. 227, 193 A. 227, 194 A. 227, 195 A. 227, 196 A. 227, 197 A. 227, 198 A. 227, 199 A. 227, 200 A. 227, 201 A. 227, 202 A. 227, 203 A. 227, 204 A. 227, 205 A. 227, 206 A. 227, 207 A. 227, 208 A. 227, 209 A. 227, 210 A. 227, 211 A. 227, 212 A. 227, 213 A. 227, 214 A. 227, 215 A. 227, 216 A. 227, 217 A. 227, 218 A. 227, 219 A. 227, 220 A. 227, 221 A. 227, 222 A. 227, 223 A. 227, 224 A. 227, 225 A. 227, 226 A. 227, 227 A. 227, 228 A. 227, 229 A. 227, 230 A. 227, 231 A. 227, 232 A. 227, 233 A. 227, 234 A. 227, 235 A. 227, 236 A. 227, 237 A. 227, 238 A. 227, 239 A. 227, 240 A. 227, 241 A. 227, 242 A. 227, 243 A. 227, 244 A. 227, 245 A. 227, 246 A. 227, 247 A. 227, 248 A. 227, 249 A. 227, 250 A. 227, 251 A. 227, 252 A. 227, 253 A. 227, 254 A. 227, 255 A. 227, 256 A. 227, 257 A. 227, 258 A. 227, 259 A. 227, 260 A. 227, 261 A. 227, 262 A. 227, 263 A. 227, 264 A. 227, 265 A. 227, 266 A. 227, 267 A. 227, 268 A. 227, 269 A. 227, 270 A. 227, 271 A. 227, 272 A. 227, 273 A. 227, 274 A. 227, 275 A. 227, 276 A. 227, 277 A. 227, 278 A. 227, 279 A. 227, 280 A. 227, 281 A. 227, 282 A. 227, 283 A. 227, 284 A. 227, 285 A. 227, 286 A. 227, 287 A. 227, 288 A. 227, 289 A. 227, 290 A. 227, 291 A. 227, 292 A. 227, 293 A. 227, 294 A. 227, 295 A. 227, 296 A. 227, 297 A. 227, 298 A. 227, 299 A. 227, 300 A. 227, 301 A. 227, 302 A. 227, 303 A. 227, 304 A. 227, 305 A. 227, 306 A. 227, 307 A. 227, 308 A. 227, 309 A. 227, 310 A. 227, 311 A. 227, 312 A. 227, 313 A. 227, 314 A. 227, 315 A. 227, 316 A. 227, 317 A. 227, 318 A. 227, 319 A. 227, 320 A. 227, 321 A. 227, 322 A. 227, 323 A. 227, 324 A. 227, 325 A. 227, 326 A. 227, 327 A. 227, 328 A. 227, 329 A. 227, 330 A. 227, 331 A. 227, 332 A. 227, 333 A. 227, 334 A. 227, 335 A. 227, 336 A. 227, 337 A. 227, 338 A. 227, 339 A. 227, 340 A. 227, 341 A. 227, 342 A. 227, 343 A. 227, 344 A. 227, 345 A. 227, 346 A. 227, 347 A. 227, 348 A. 227, 349 A. 227, 350 A. 227, 351 A. 227, 352 A. 227, 353 A. 227, 354 A. 227, 355 A. 227, 356 A. 227, 357 A. 227, 358 A. 227, 359 A. 227, 360 A. 227, 361 A. 227, 362 A. 227, 363 A. 227, 364 A. 227, 365 A. 227, 366 A. 227, 367 A. 227, 368 A. 227, 369 A. 227, 370 A. 227, 371 A. 227, 372 A. 227, 373 A. 227, 374 A. 227, 375 A. 227, 376 A. 227, 377 A. 227, 378 A. 227, 379 A. 227, 380 A. 227, 381 A. 227, 382 A. 227, 383 A. 227, 384 A. 227, 385 A. 227, 386 A. 227, 387 A. 227, 388 A. 227, 389 A. 227, 390 A. 227, 391 A. 227, 392 A. 227, 393 A. 227, 394 A. 227, 395 A. 227, 396 A. 227, 397 A. 227, 398 A. 227, 399 A. 227, 400 A. 227, 401 A. 227, 402 A. 227, 403 A. 227, 404 A. 227, 405 A. 227, 406 A. 227, 407 A. 227, 408 A. 227, 409 A. 227, 410 A. 227, 411 A. 227, 412 A. 227, 413 A. 227, 414 A. 227, 415 A. 227, 416 A. 227, 417 A. 227, 418 A. 227, 419 A. 227, 420 A. 227, 421 A. 227, 422 A. 227, 423 A. 227, 424 A. 227, 425 A. 227, 426 A. 227, 427 A. 227, 428 A. 227, 429 A. 227, 430 A. 227, 431 A. 227, 432 A. 227, 433 A. 227, 434 A. 227, 435 A. 227, 436 A. 227, 437 A. 227, 438 A. 227, 439 A. 227, 440 A. 227, 441 A. 227, 442 A. 227, 443 A. 227, 444 A. 227, 445 A. 227, 446 A. 227, 447 A. 227, 448 A. 227, 449 A. 227, 450 A.

In this case, a review of the testimony in the Judgment of the Court does not show any justification for the reversal of the action of the Zoning Commission. The two witnesses for the petitioner were Mr. Wiedefeld, who desires to establish the funeral home on Mrs. Leonard's property, and Mr. Charles B. Delosier, who is secretary of the Maryland State Funeral Association and a member of the State Board of Funeral Directors. These gentlemen offered no testimony that would have justified the granting of the permit in the light of all the facts.

A number of property owners who reside on the West side of York Road in the vicinity of the property in question testified that they were strongly opposed to the establishment of the proposed funeral home. There was considerable evidence that the proposed funeral home would have an adverse effect on real estate values in the vicinity and a depressing influence upon the residents of the community.

It was brought out also that at a meeting of the association of property owners of the community, at which there were thirty-five members present out of a total membership of sixty, every one of those present voiced opposition to the establishment of the funeral home.

Mr. Wright, in his argument, took particular exception to Mr. Davis

the type which is permitted in an "A" Residential zone. In fact, the evidence showed that this building was not constructed as a dwelling and previous to the petitioners acquiring it, it was used as an experimental laboratory and not as a residence at all. It is best suited for some type of commercial or institutional use.

The minister of the church adjoining the subject property on the south, speaking for himself and his congregation, said that in his judgment the most appropriate use for the property and the least offensive use of the property so far as he and the church congregation are concerned is that of a funeral home. Two of the neighbors living directly across the Tenth Road from this property said the same thing.

By eliminating the depth of the property under the Special Permit to 400 feet, we do not believe that there are any residences near enough to be detrimentally affected by the use of the property for a funeral home.

This Board has become convinced from the testimony of expert witnesses and others that there is a great need for a funeral home in this area and that the subject property is the most suitable one for this purpose and is an effort to protect adjoining and nearby residents from being able to view funerals being conducted from the premises, this Board requires as a precedent to the granting of this petition, that the presently existing hedge-row along the northern boundary of said property be maintained and be made even more dense by the planting of evergreens, shrubbery and trees to the end that an effective screen be maintained along the said northernmost border and that the property be developed and maintained as to other planting and screening, parking area, driveways and so forth in strict accordance with the requirements of the zoning ordinance.

reference to Judge Offutt's language in the Jack Lewis case reported in 14 Md. at pages 155 and 156 in which the Judge, speaking for the Court, set forth some objections to the establishment of a funeral home in a residential neighborhood. Judge Offutt writes:

[illegible]

Mr. Wright emphasized that he regarded as Judge Offutt's morbid attitude toward death and deplored his references to the "gloomy trappings of funeral woe" as being unjustified.

It is true that the attitude of human beings toward death varies. This is evident in the study of the customs of primitive races. Some primitive peoples regard death with the greatest horror and even go so far as to destroy houses in which someone has died. On the other hand, there are primitive peoples and some that are highly civilized which have no fear of death and regard the passing of a human being as something that is natural and right and not too unpleasant to contemplate.

The Chinese look upon death in a resigned and cheerful fashion, make elaborate preparations for their own interment and their funeral processions are said to be rather festive affairs.

It seems that even in our own country, attitudes towards death differ in various sections. In the West one is impressed by the fact that although death does bring the same grief as elsewhere funeral homes and burials are regarded much more matter-of-factly there than in the East. Every effort is made to make the services for the dead and interment as cheerful and attractive as possible.

made a part of this Order

For the reasons stated above the Special Permit is hereby granted for the aforesaid area, fronting 210 feet on York Road with an even depth westerly of 100 feet only. The petition as to the remainder of the property described in the petition is hereby denied.

Chairman
Carl F. Volpe
James W. Schum
Board of Zoning Appeals
of Baltimore County.

Date: May 10, 1961

This casual and more modern attitude seems to be developing throughout the land. The public viewpoint is affected by the changing religious, moral and ethical principles of this disturbed and confused generation. There are doubtless many persons of good faith everywhere as pleasant people. They can ask "Oh, Death where is thy sting?" in all sincerity and believe with Bacon "It is no natural to die as it is to be born." But it is also true, as Bacon added, "Woeless Death at children fear to outlast." The

However, there are a large number of people in this section of the country at least who share Judge Offutt's, and our appellate courts' attitude toward the common tragedy of dissolution and burial. The science of religion and the consolations of philosophy are not sufficient to change the fundamentally pessimistic attitude of most persons toward death and the grave. Probably the feeling of the majority toward death has best been described by Shakespeare. "It is too horrible!", he exclaimed, and estimated

"The weariest and most loathed worldly life that
age, ache, penury and imprisonment can lay on
nature is a paradise to what we fear of death."

It would appear that there is nothing unnatural or morbid in the opinion of the Court of Appeals in the Lewis case holding that such a factor as the disturbing effect of death upon the average person is entitled to consideration in dealing with a matter of this kind.

Pursuant to the policy of relieving the tragic harshness of death those engaged in the funeral business have resorted to a number of euphemisms, including the term "funeral home", which is not a home at all but a business establishment. Counsel for the applicant seems to believe that the "funeral home" should be regarded as any other residence when, as a matter of fact, such a place is not considered a home any more than a so-called "city of the dead" is located near as a real city.

In fairness to the funeral directors, it must be said that their efficiency and good taste have done much to soften the stark bleakness of the funerals of an earlier generation, and have contributed materially to the comfort and peace of mind of the bereaved. Owing to the improvements in, which have been made in the undertaking business the fact remains that most persons become depressed by viewing the essentially grim routine of the common fate of mankind.

J. L. WHITTLE, et al : IN THE CIRCUIT COURT
VS : FOR BALTIMORE COUNTY
BOARD OF ZONING APPEALS : IN LAW

This case comes up on a motion for reargument. After a hearing on appeal the matter was decided by the Court on December 11, 1950. The Court adopted the opinion of the then Acting Commissioner, Mr. Charles M. Reine, and reversed the action of the Board of Zoning Appeals granting the petition of Mrs. Lauretta G. Leonard for a special permit under the zoning regulations to use the property involved in the proceedings for a funeral home. The case was argued at length by Mr. J. Pardon Wright, counsel for the petitioner, but substantially the same arguments were presented by Mr. Wright as were made by Mr. Michael Paul Smith at the first hearing.

The Court is not unmindful of the principles laid down by our appellate Court for the guidance and direction of courts passing upon appeals from the action of administrative tribunals such as the Board of Zoning Appeals. However, it frequently has held that although the Court should not substitute its discretion for that of the Board, nevertheless the action of the administrative body cannot be illegal or arbitrary, that the record must show substantial evidence to sustain the finding of the Board and that its action must be reasonable in the light of pertinent facts.

In the case of *Health vs Mayor and City Council of Baltimore*, 187 Md.
n. 104, the Court said:

"It is well established that the Court will not substitute its discretion for that of the board. The function of the board is to exercise the discretion of experts, and the Court, although it may not arrive at the same conclusion, will not disturb a decision on review where the board has complied with all legal requirements of notice and hearing, and the record shows substantial evidence to sustain the finding. However, the decisions of the board are reviewable only when there has been an erroneous interpretation of the Law, but also when they impair personal or property rights by reason of an arbitrary or unlawful exercise of discretion."

however attractive "funeral homes" may be and however efficiently conducted are the services for the dead.

The Court finds no reason to disturb its former finding.

May 22, 1951

John D. Gontrom, Judge

2036-4

J. L. WHITE, et al
vs
BOARD OF ZONING APPEALS
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
IN LAW

This case comes up on a motion for rearrangement. After a hearing on appeal the matter was decided by the Court on December 14, 1950. The Court adopted the opinion of the then-pending Commissioner, Mr. Charles H. Deing, and reversed the action of the Board of Zoning Appeals granting the petition of Mrs. Lucetta G. Leonard for a special permit under the zoning regulations to use the property involved in the proceedings for a funeral home. The case was rearranged at length by Mr. J. Purdon Wright, counsel for the petitioner, but substantially the same arguments were presented by Mr. Wright as were made by Mr. Michael Paul Smith at the first hearing.

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In the case of Health vs Mayor and City Council of Baltimore, 187 Md. p. 304 the Court said:

"It is well established that the Court will not substitute its discretion for that of the board. The function of the board is to exercise the discretion of experts, and the Court, although it may not arrive at the same conclusion, will not disturb a decision on review where the board has complied with all legal requirements of notice and hearing, and the record shows substantial evidence to sustain the finding. However, the decisions of the board are reviewable, not only when there has been an erroneous interpretation of the law, but also when they impair personal or property rights by reason of an arbitrary or unlawful exercise of discretion."

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However, there are a large number of people in this section of the country at least who share Judge Offutt's, and our appellate court's attitude toward the somber tragedy of dissolution and burial. The solace of religion and the consolations of philosophy are not sufficient to change the fundamentally pessimistic attitude of most persons toward death and the grave. Probably the feeling of the majority toward death has best been described by Shakespeare. "Tis too horrible!", he exclaimed, and continuing:

"The weakest and most loathed worldly life that ages ache, penny and imprisonment can lay on nature is a paradise to what we fear of death."

It would appear that there is nothing unnatural or morbid in the opinion of the Court of Appeals in the Lewis case holding that such a factor as the disturbing effect of death upon the average person is entitled to consideration in dealing with a matter of this kind.

Pursuant to the policy of relieving the tragic somberness of death those engaged in the funeral business have resorted to a number of euphemisms, including the term "funeral home", which is not a home at all but a business establishment. Counsel for the applicant seems to believe that the "funeral home" should be regarded as any other residence when, as a matter of fact, such a place is not considered a home any more than a so-called "city of the dead" is looked upon as a real city.

In fairness to the funeral directors, it must be said that their efficiency and good taste have done much to offset the stark blackness of the funerals of an earlier generation, and have contributed materially to the comfort and peace of mind of the bereaved. Great as the improvements are which have been made in the undertaking business the fact remains that most persons become depressed by viewing the essentially grisly reminders of the common fate of mankind

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Just as the courts are without authority to interfere with the exercise of legislative prerogative within constitutional limits or with the lawful exercise of administrative activity so the legislature is without authority to direct the courts of their inherent power to review the actions of administrative boards in order to determine whether they unlawfully impair personal or property rights. *Reape vs Cobb, 185 Md. 374, 45 A. 2d 71.* A statutory provision for a public hearing implies both the privilege of introducing evidence, and the duty of deciding in accordance with the evidence, and it is arbitrary and unlawful to make an essential finding without supporting evidence. This is especially true in zoning cases where equality and uniformity of operation within a particular zone as to each type of building are basic in the statute. Invidious distinctions and discriminations are not permissible. The very essence of zoning is territorial division according to the character of the land and the buildings, their peculiar suitability for particular uses and uniformity of use within the zone. *County Comm'r. of Anne Arundel County vs Ward, 185 Md. 330, 45 A. 2d 684.*

In this case, a review of the testimony in the judgment of the Court does not show any justification for the reversal of the action of the Zoning Commissioner. The two witnesses for the petitioner were Mr. Wiesefeld, who desires to establish the funeral home on Mrs. Leonard's property, and Mr. Charles B. Delmar, who is secretary of the Maryland State Funeral Association and a member of the State Board of Funeral Directors. These gentlemen offered no testimony that would have justified the granting of the permit in the light of all the facts.

A number of property owners who reside on the West side of York Road in the vicinity of the property in question testified that they were strongly opposed to the establishment of the proposed funeral home. There was considerable evidence that the proposed funeral home would have an adverse effect on real estate values in the vicinity and a depressing influence upon the residents of the community.

It was brought out also that at a meeting of the association of property owners of the community, at which there were thirty-five members present out of a total membership of sixty, every one of those present voiced opposition to the establishment of the funeral home.

Mr. Wright, in his argument, took particular exception to Mr. Deing's

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however attractive "funeral homes" may be and however efficiently conducted are the services for the dead.

The Court finds no reason to disturb its former finding.

May 22, 1951

John D. Gontrom, Judge

reference to Judge Offutt's language in the Jack Lewis case reported in 164 Md. at pages 155 and 156 in which the Judge, speaking for the Court, set forth some objections to the establishment of a funeral home in a residential neighborhood. Judge Offutt wrote:

"...to one of normal sensibilities, the presence of dead bodies, the gloomy trappings of funeral woe, the pall, the hearse, the shroud, and the casket, and the knowledge that within a few feet of his bodies are being prepared for burials, the unending coming and going of funeral processions, must have a depressing and disturbing effect wholly inconsistent with the healing repose and respite from work and worry, which - whatever its character - is usually associated with the atmosphere of the home. And in dealing with the question in issue here, such factors are quite as much entitled to consideration as those which have a more direct, tangible, and physical effect, for it cannot now be doubted that physical deterioration may and probably will result from conditions which constantly depress and disturb the mind, body, and soul. *In re Co. 57 Md. 304 et seq., 39 A. 1084, is it essential that the conditions caused by such condition be based upon demonstrable facts.*"

Mr. Wright emphasized that he regarded as Judge Offutt's morbid attitude toward death and deplored his references to the "gloomy trappings of funeral woe" as being unjustified.

It is true that the attitude of human beings toward death varies. This is evident in the study of the customs of primitive races. Some primitive peoples regard death with the greatest horror and even go so far as to destroy homes in which someone has died. On the other hand, there are primitive peoples and some that are highly civilized which have no fear of death and regard the passing of a human being as something. It is natural and right and not too unpleasant to contemplate.

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AN ANALYSIS OF
THE OPERATION OF A FUNERAL
HOME AND ITS EFFECT UPON
RESIDENTIAL VALUES.

FOR

MR. GEORGE W. McMANUS, JR.

BY

CAMPBELL V. HELFRICH

REALTOR AND APPRAISER

ONE LIGHT STREET

BALTIMORE - 2 - MARYLAND

THE FARLEY FUNERAL HOME

The Farley Funeral Home located on the south side of Frederick Road between Enjay Avenue and Shady Hook Avenue, about midway between the City Line and the Catonsville business district, and west of the Paradise shopping area.

It consists of a lot approximately one block in length, by one-half block in depth, improved with a very attractive detached stone residence and funeral home.

It was originally constructed in 1937 for the combination purpose, and enlarged about 1951, when Mr. Farley disposed of his Baltimore City funeral home.

The Farleys take great pride in the appearance of the property, and the grounds are beautifully landscaped and kept.

Mr. Geo. W. McManus Jr.,
10 Light Street
Baltimore 2, Maryland

Ref: The Wiedefeld property,
7400 York Road,
Towson 4, Maryland

Dear Mr. McManus:

It is my opinion that the use of the Wiedefeld property at 7400 York Road, Towson 4, Maryland for the purpose of a funeral home will not cause an adverse effect on nearby property values.

This statement is made after considering many facts pertaining to the history of real estate sales made since the establishment of funeral homes in comparable areas.

Pertinent facts are attached hereto which in my opinion justify and sustain this conclusion.

Very truly yours,

C.V. HELFRICH COMPANY

Campbell V. Helfrich
Campbell V. Helfrich

CVH:fa

Enclosures



CAMPBELL V. HELFRICH
OFFICE PHONE
EASTMONT 9000
C.V. HELFRICH CO.
REALTORS AND APPRAISERS
ONE LIGHT STREET
BALTIMORE 2, MARYLAND

September 27, 1954

STARLA P. HELFRICH
RESIDENTIAL PHONE
CATONS 7260

Ref: The Wiedefeld property
7400 York Road,
Towson 4, Maryland

A review of the numerous arteries from Baltimore City into the metropolitan area of Baltimore County reveals a striking similarity between the York Road on the North and the Frederick Road on the West. Slightly over one mile from the City Line on the York Road is the business district of Towson. At approximately the same distance from the City Line on the Frederick Road is the Catonsville business district. The intervening areas off both roads, between the City Line and the respective business districts, are developed with residential and commercial areas, the residential portions being composed of both cottages and group type dwellings. The York Road is more predominantly commercial and institutional than the Frederick Road. The West side of York Road is almost entirely commercial or institutional. In general, however, the two areas are so nearly alike that known facts applicable to one seem to me to be applicable to the other.

A survey of the Frederick Road area between the City Line and the business district of Catonsville discloses three operating funeral homes.

No. 1: A very attractive stone combination residence and funeral home, built for the purpose by Mr. George A. Farley. Located on the south side of Frederick Road, bounded on the east by Enjay Avenue, and on the west by Shady Hook Court.

No. 2: An attractive funeral home owned by Mr. Edward S. MacMab, Jr., which has been converted from a residence to a funeral home and subsequently enlarged for this use. Located on the south/west corner of Frederick Road and Wade Avenue, known as #301 Frederick Avenue.

No. 3: An Eason Brothers funeral home, located on the North side of Frederick Road, being known as #628 Frederick Road. (The Eason Brothers funeral home is not being considered in this analysis as this location is almost 100% commercial in usage).

A description of the two funeral homes listed as the Farley Home and the MacMab Home together with pertinent facts pertaining to sales of nearby residences, follows:

2. ENJAY AVENUE

This property is an end of group two-story brick dwelling, located on the east side of Enjay Avenue, facing the side and rear of the Farley Funeral Home.

It was constructed just prior to World War Two and was sold new October 23, 1942, documentary stamps indicating a price of \$5,100.00 subject to a \$90.00 ground rent. (Liber 1248, folio 582).

It was recently re-sold (August 5, 1954), documentary stamps indicating a sales price of \$13,000.00 in fee. (Liber 2340, folio 468).



88 ENJAY AVENUE

A two-story stone and stucco inside group dwelling, located on the west side of Enjay Avenue, in the rear of the Farley Funeral Home.

It was constructed shortly after World War Two and was sold June 28, 1946, documentary stamps indicating a sales price of \$6,900.00 subject to a \$90.00 Ground Rent. (Liber 1471, folio 199).

It was subsequently re-sold January 13, 1951, documentary stamps indicating a sales price of \$10,000.00, subject to a \$90.00 Ground Rent. (Liber 2247, folio 560).



NORTH/EAST CORNER OF FREDERICK ROAD AND DUNMORE ROAD.

This property consisted of a vacant lot which was purchased November 15, 1947, documentary stamps indicating a sales price of \$2,500.00. (Liber 1627, folio 162).

This lot was subsequently improved by the erection of a very attractive detached two-story stucco dwelling, which I would conservatively estimate to be in the \$25,000.00 bracket.

This property is located directly opposite the Farley Funeral Home across Frederick Road.



211 S. Prospect Avenue

A two-story brick end of group dwelling, located on the east side of S. Prospect Avenue, just south of Frederick Road, facing the rear of the church property, adjacent to the Farley Funeral Home.

This property was built just prior to World War Two and has been sold and re-sold five times, documentary stamps indicating the sales as listed:

3/21/42 (new)	\$4,500.00	G.R. \$90.	Liber 1245, folio 50.
1/14/46	8,300.00	G.R. \$90.	Liber 1424, folio 581.
12/5/47	9,100.00	G.R. \$90.	Liber 1627, folio 455.
4/18/49	10,500.00	FEE	Liber 1748, folio 167.
12/22/50	11,000.00	G.R. \$90.	Liber 1912, folio 524.



SOUTH/WEST CORNER FREDERICK ROAD AND SHADY HOOK AVENUE.

A large property containing thirteen acres, located on the South/West corner of Frederick Road and Shady Hook Avenue, opposite the Farley Funeral Home and improved with a very large old house, was sold in 1935 for approximately \$20,000.00. The old house was subsequently used as a Nursing Home but was demolished this past summer.

A rear section containing 4.136 acres more or less, all vacant, was sold December 18, 1953, documentary stamps indicating a sales price of \$42,000.00. (Liber 2221, folio 58).

The front area from which the old house has been demolished, containing 0.87 acres more or less, was sold May 27, 1954, documentary stamps indicating a sales price of \$12,500.00. (Liber 2488, folio 275). This front section is now being developed with two-story brick group dwellings. End of dwellings selling for \$12,950.00, G.R. \$108.00; inside dwellings selling for \$11,650.00, G.R. \$96.00.



CHURCH PROPERTY

The Emmanuel Evangelical United Brethren Congregation purchased the lot immediately opposite the Farley Funeral Home, located on the south side of Frederick Road, between the west side of S. Prospect Avenue and the east side of Enjay Avenue, on July 6, 1949, the lot comprising approximately two-thirds of an acre, documentary stamps indicating a sales price of \$13,500.00 for the vacant lot. (Liber 1765, folio 124).

They subsequently improved the lot by the erection of a very attractive brick church.

A Deed of Trust covering the improved property was executed May 24, 1951 in the amount of \$51,500.00. (Liber 1954, folio 26).



#203 Frederick Avenue.

This property is located midway between the Farley Funeral Home and the MacNabb Funeral Home, and is approximately one block from each.

It is improved with a large, very old, rambling two-story stucco dwelling with wide spacious lawns.

It was sold January 13, 1928 for a reported price of \$14,000.00 (at that time the present system of documentary stamps was not in effect). Liber 653, folio 249. It is therefore impossible for me to verify this figure exactly.

The property was subsequently sold September 20, 1951, documentary stamps indicating a sales price of \$23,000.00 in fee. Liber 2019, folio 75.

In this instance, the dates and transactions are so far separated that changes in economic conditions would be a hard factor to evaluate.



#2 DUNGAREE ROAD

A very attractive two-story brick cottage, one of about seventy-five built on the north side of Frederick Road and side streets opposite the Farley Funeral Home, just before World War Two.

The dwelling was sold new May 21, 1942, documentary sales stamps indicating a price of \$7,000.00 with a ground rent of \$120.00. Liber 1250, folio 143.

It was subsequently re-sold January 16, 1950, documentary stamps indicating a sales price of \$14,000.00 in Fee. Liber 1311, folio 224.



11

#22 DUNGAREE & D

Another dwelling in the development of Dunsore, opposite the Farley Funeral Home, being a two-story detached brick cottage, documentary stamps on the Deeds indicating sales prices as listed:

12/23/41 (new)	\$5,500.00 G.R. \$96.00	Liber 1198, folio 380.
5/3/48	15,000.00 G.R. \$96.00	Liber 659, folio 31.
10/15/53	17,000.00 G.R. \$120.00	Liber 2337, folio 69.

(After the original sale and prior to the second sale, a one-car garage which was originally at first floor level was built into a room, making an added room on the first floor).



12

THE MACNABB FUNERAL HOME

Located on the South/West corner of Frederick Road and Wade Avenue, known as #301 Frederick Road.

It was purchased by Edward S. MacNabb Sr., February 11, 1940, documentary stamps indicating a price of \$7,000.00 in Fee. (Liber 1093, folio 245). At that time it was a private dwelling.

It was subsequently converted by Mr. MacNabb for the dual purpose of a residence and a funeral home, for which purpose it is still being used. Extensive enlargements were made about 1950.



13

#301 FREDERICK ROAD

Immediately adjacent and to the West of the MacNabb Funeral Home.

Consists of a very attractive two-story detached frame cottage, documentary stamps on the various deeds indicating sales prices as listed:

September 24/1940	\$7,000.00 in Fee	Liber 1128, folio 142
November 14/1944	11,500.00 in Fee	Liber 1370, folio 583
March 15, 1945	14,000.00 in Fee	Liber 1377, folio 395
November 20, 1950	18,000.00 in Fee	Liber 1916, folio 19.



14

CONCLUSIONS

As stated in the preamble of this survey, the general attributes of the York Road area between the City Line and Towson are so comparable to the Frederick Road area between the City Line and the Catonsville business district, it is my opinion that what has happened in previous real estate transactions in the Frederick Road area since the establishment of the Farley and the MacNabb funeral homes, can be taken as an anticipation of what will happen to real estate values if the property at 7400 York Road is used as a funeral home.

The sales as outlined in this report, cover both group homes and cottages, and are taken from the Land Records of Baltimore County.

Certainly, one could hardly feel that the sales value of #301 Frederick Road has been damaged by the adjacent MacNabb Funeral Home. In four transactions between 1940 and 1950 the property advanced in price progressively from \$7,000.00 to \$18,000.00.

Campbell V. Helfrich
Campbell V. Helfrich, Appraiser

September 27, 1954

15

QUALIFICATIONS OF CAMPBELL V. HELFRICH AS A REAL ESTATE APPRAISER:

General real estate experience for approximately twenty-two years.

Member of the Real Estate Board of Baltimore.

Former Chief Appraisal Analyst State of Maryland for the Home Owners Loan Corporation.

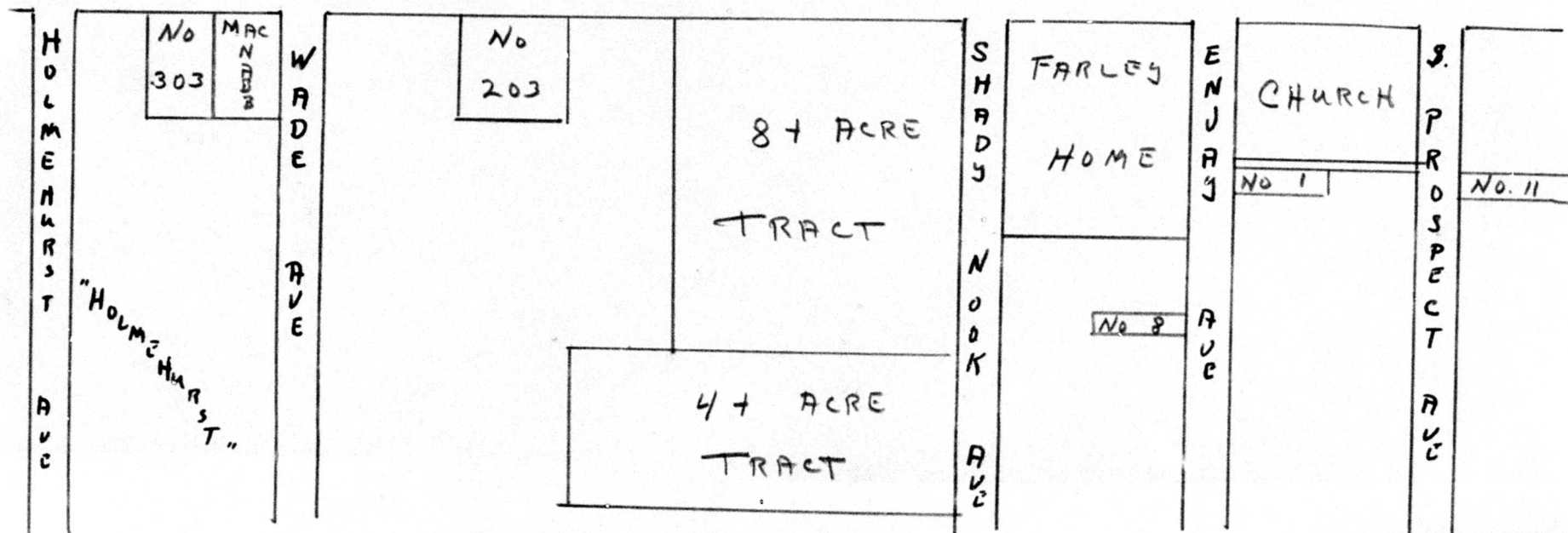
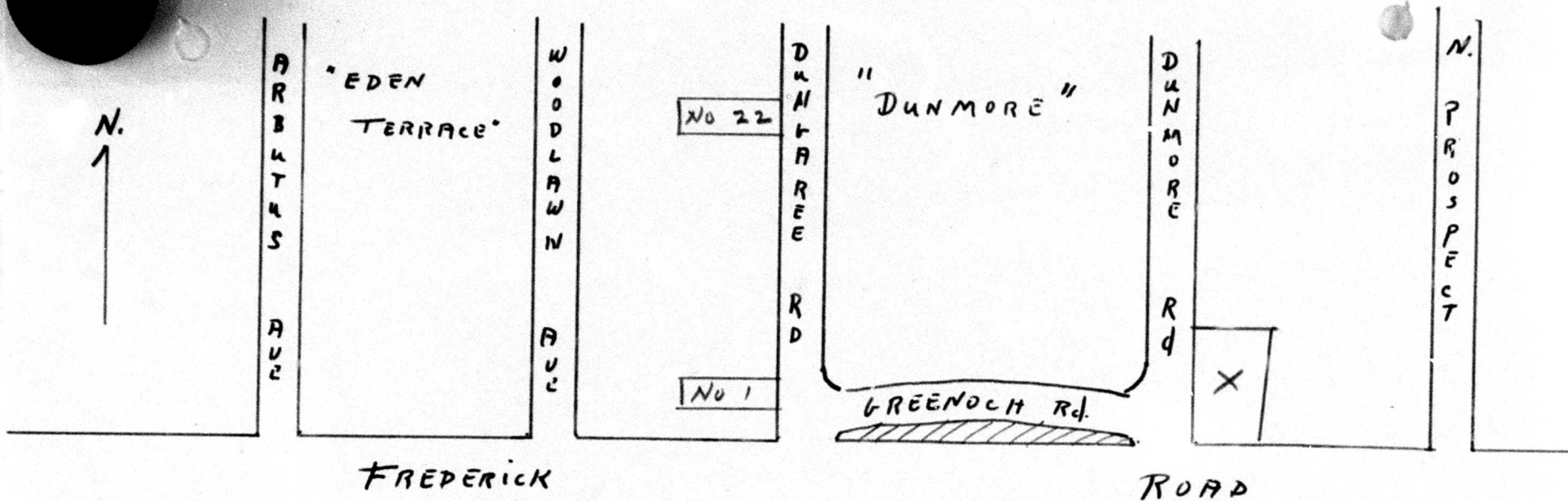
Approved appraiser and compliance inspector for the Veterans' Administration since 1945.

Appraiser for the Board of Education of Baltimore County.

Special Appraiser for the Board of County Commissioners for the appraisal of commercial and apartment properties - 1950-1952.

Appraiser for various banks, savings and loan associations and insurance companies.

16



NOT TO SCALE

REPORT AND SURVEY

RE:- LOT AND IMPROVEMENTS

Known As
7400 YORK ROAD
Baltimore County, Maryland
and
Contiguous Properties
Thereeto

As To The Affect On
Real Estate Values
By Permit Of Zoning
For Occupancy As A
"FUNERAL HOME"

BY:-

REYBURN B. BRADSHAW
Appraiser - S.R.A.
16 E. Lexington Street
Baltimore 2, Maryland

Approved Appraiser
Federal Home Loan Bank
Veterans Administration
Senior Member, S.R.A.
The Expert Witness Before
U.S. State and City
Courts - Realtor

REYBURN B. BRADSHAW
APPRAISER

"PREAMBLE"

This Appraisal and Survey is made for the purpose of determining to what extent the values of the adjoining and contiguous properties may be affected by the granting of a separate Zoning Permit by the Zoning Board of Baltimore County to allow the occupancy of the Lot and Improvements located At

7400 YORK ROAD

Baltimore County, Maryland
As a "Funeral Home".

To arrive at a comprehensive explanation of the various factors and details taken into account, the basic reasons as hereinafter set forth, will substantiate and justify the final conclusion of this report.

1. Main Issue in this matter is to adjudicate the request of the owner of the subject property, hereinafter more particularly described, to alter the present zoning covering this location to permit its occupancy as a Funeral Home, predicated upon present neighborhood conditions, and other facts applicable to all parties concerned.

As an Appraiser of Real Estate, the issue involves several subjects, the Main One of which is Value. Other factors are given consideration in the manner of application affecting present or future use and occupancy. Therefore, this report is a summary of the various sub-topics upon which the final statement of opinion is based, viz:-

REYBURN B. BRADSHAW
APPRAISER

- FIRST:- Will the granting of a permit to operate a Funeral Home at this location by the proper authorities of Baltimore County, adversely affect real estate values of properties adjoining or in the immediate neighborhood?
- SECOND:- Is there within close proximity of the subject property, other lots and improvements now zoned for commercial occupancy?
- THIRD:- Have any of the adjoining or nearby owners of residential properties voiced their approval of the permit being granted for the use of a Funeral Home at the location 7400 York Road?
- FOURTH:- Will the applicant make any exterior structural changes in the building or alter the front lawn or access to emphasize the occupancy as a Funeral Home?
- FIFTH:- Will the applicant conduct the location with the dignity required of such an establishment, eliminating the process of embalming, which may be construed as an objectionable feature? Embalming to be performed at the applicant's other establishment on Greensmount Avenue, Baltimore City.

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APPRAISER

GENERAL DESCRIPTION OF THE PROPERTY

7400 YORK ROAD

A careful inspection of the subject property disclosed it to be a large lot, fronting 210 feet on the west side of the 7400 block of York Road, a depth of 100 1/2 feet on the Southern Boundary Line, 93 1/2 feet on the Northern Line, and a width of 211 feet at the rear containing about 4.50 acres of land, and improved by a main dwelling of a diagonal double wing design of architecture, constructed of stone. Basement and main floor of frame shingle siding. Containing about 14 Rooms, 3 Baths, Powder Room, etc. There is a frame garage at the rear of the lot.

The dwelling has a set back from the building line of York Road of over 100 feet, providing an extensive and wide well sodded front lawn, with attending shrubbery, of which many of the large evergreen variety obscure portions of the dwelling from view of the York Road Frontage. The northern division line is outlined by a hedge row of tall closely planted shrubbery and evergreens, screening from view the dwelling and major portion of the grounds from the adjoining properties to the north.

Elevation of the rear portion of the lot rises above the improved lot to the south and west and vision of the main building from Rodgers Forge Road and Locktown Drive is obstructed.

The access driveway enters the premises near the Southern Boundary Line, and curving to the front entrance, then continues to the rear at location of garage.

Only the rear of the lots fronting on La Paix Avenue abut on the Northern Boundary line of the subject property. As it now exists, it enjoys a somewhat secluded location.

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As a preface, it may be well to examine the present status of the York Road for its entire length from the City Line to Burke Avenue. The west side of the York Road frontage is mainly institutional and commercial, and only about two or three dwellings are known to front on the York Road.

The York Road is one of the main traffic arteries serving Baltimore City from the Metropolitan Area of Baltimore County, and commercial occupancy will follow this transition. Likewise, other major thoroughfares conform to this trend, viz:-

The Frederick Road
The Liberty Road
The Reisterstown Road
The Harford Road
The Belair Road

The increase of property values fronting on these highways is a matter of public record from recorded sales and the considerations are supported by documentary stamps on deeds, etc.

Covering the subject matter as to categories before noted, each item will be considered as to its merits.

FIRST:- Will Real Estate Values Be Affected?

Of the first item, it was necessary to check the Land Records for transactions to obtain comparable sales of real estate in equal or equivalent locations to determine what adverse affects, if any, the existence of a Funeral Home had upon the adjoining and nearby properties.

In the cases so checked, values were not adversely affected, but to the contrary, in many cases values increased.

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Examples:- Harry H. and Lois E. Witzke purchased the property 4100 Edmondson Avenue January 8, 1929. Ref:- SOL Liber 4963, Folio 47, and established a Funeral Home at the location, which is still in operation. Directly opposite on Edmondson Avenue are several groups of 21 story brick dwellings.

The property 4104 Edmondson Avenue was sold October 15, 1934 (20 years ago) for \$5500.00, subject to an annual Ground Rent of \$96.00, Ref:- SOL Liber 5489, Folio 434, which was the prevailing price of inside units at that time. The last sale recorded in the block was made May 25, 1950. The property 4122 Edmondson Avenue sold for \$12,000.00, subject to an annual Ground Rent of \$96.00, Ref:- MLP Liber 8103, Folio 352. No sale in the groups has been recorded since, accounting for satisfaction of owner occupants at this location. Therefore, no adverse effect on real estate values, due to this neighborhood condition, is evident.

The same reasoning may be applied to several cases on the Liberty Road on the southwest side of the 4700 block, opposite the Funeral Home of E. Willis Lamoreaux and Ellsworth Amacost.

E. Willis Lamoreaux purchased and operates a Funeral Home at 4710 Liberty Heights Avenue, which has been in constant operation since 1941. It is located on the northeast corner of Liberty Heights Avenue and Hillside Avenue.

Ellsworth Amacost also conducts a Funeral Home on the northwest corner of Liberty Heights Avenue and Hillside Avenue. Directly opposite the Funeral Home of E. Willis Lamoreaux are dwellings occupied by owners as follows:-

REYBURN B. BRADSHAW
APPRAISER

4705 Liberty Heights Avenue By:- Dr. J. M. Miller
4707 Liberty Heights Avenue By:- Mr. M. Dale Townsend

Both of these properties sold subsequent to the date of Mr. Lamoreaux's occupancy at prices far in advance of original purchase price.

Complete details as to the cases above mentioned follow with dates, recording reference and photos of the premises.

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SECOND:- The subject property is within one-half block of Stevens Lane on the east, intersection of York Road and Rodgers Forge Road on the west intersection. Both corners are now occupied by gasoline service stations, viz:- M. W. Roberts Gaso Service Center and Crown Service Station. W. A. Taylor & Company located at 7300 York Road, manufacturer of surgical and medical instruments. All under Commercial Zoning.

The Central Presbyterian Church adjoins the subject property to the south and Rev. J. Murray Shott, the pastor, will request the granting of the permit to assure the continued use of the property as a dignified Funeral Home in its entirety.

THIRD:- The owners of residential properties directly across on the east side of York Road, have not registered any objections, and with the adjoining property of the Church, it appears that the owners of the properties vitally interested, are not objecting to the occupancy of the subject property as a Funeral Home.

The remaining adjoining properties north of the Southern Boundary line front on La Paix Avenue and only the rear of the La Paix Avenue lots bind on the subject property and vision is obstructed by dense hedge.

FOURTH:- I have been informed by the owner of the property 7400 York Road, no structural changes will be made to the exterior of the building. The front lawn will remain the same, and the access road will be extended in the rear to accommodate parking space.

Additional shrubbery will be planted on the northern division line to further obstruct any view from that direction.

Diverted lighting will be installed at curb level for lighting driveway in the rear.

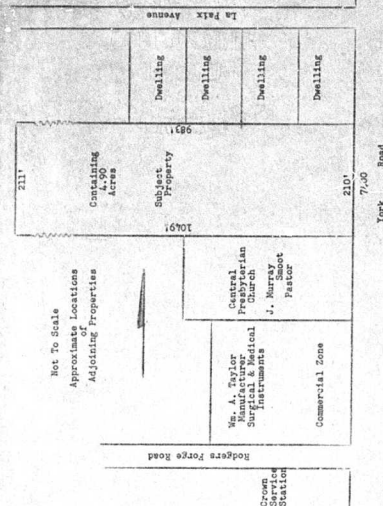
FIFTH:- The present physical improvements of the property lends itself to an establishment of excellent character and as a funeral home will continue to preserve the present wide expanse of frontage in keeping with the general neighborhood.

REYBURN B. BRADSHAW
APPRAISER

In conclusion, after careful consideration of all the factors pertaining to the request for a change of zoning to permit the special use of a funeral home only, and not for any other commercial use, it is my opinion that by the future operation of the subject property as a funeral home at the location, predicated upon the statement of the owner as to the fulfillment of ultimate use as improved, will not adversely affect the values of real estate of the adjoining or nearby properties, and should not be a detrimental influence in the neighborhood.

Reyburn B. Bradshaw
Reyburn B. Bradshaw,
Appraiser-S.R.A.

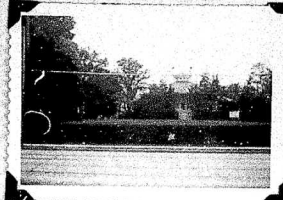
REYBURN B. BRADSHAW
APPRAISER



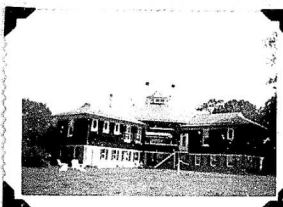
Not To Scale
Approximate Locations
Adjoining Properties

Green
Street
Station

Photos of Subject Properties



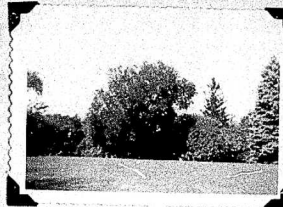
7400 York Road
Front View



Rear View of Building
7400 York Road

REYBURN B. BRADSHAW
APPRAISER

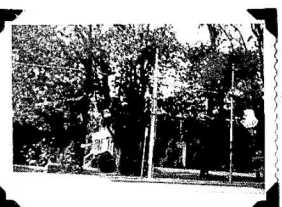
7400 York Road
View of Northern Boundary
Line Between the Subject
Lot and the Corner Property
At La Paix Avenue and The
York Road



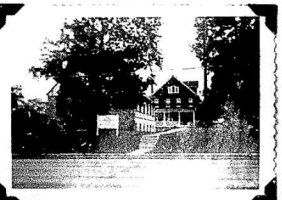
Showing Obstruction of View

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Photos of Adjoining Commercial Locations, Etc.



William A. Taylor and Company
Manufacturers of Surgical & Medical
Instruments - 7300 York Road



The Central Presbyterian Church
Adjoins Subject Property to South

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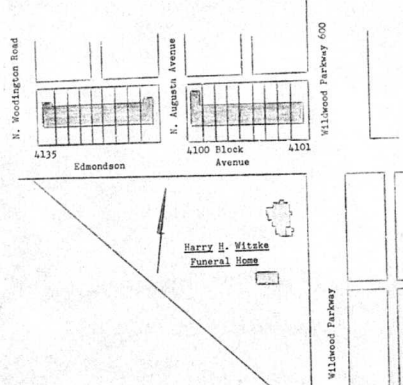


Crown Service Gasoline Station
S.W. Corner York Road & Rodgers
Forge Road.



M.W. Roberts "Esso" Service Station
S.E. Corner Stevenson Lane & York Road.

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APPRAISER



Harry H. Witzke
Funeral Home

Funeral Home of Harry H. Witzke
4100 Edmondson Avenue
Baltimore City, Maryland



Record of Purchase

George A. & Margaret Fisher
and
Trustees Catholic Church
To
Harry H. and Lois E. Witzke
S.W. Corner Edmondson Ave.
and Wildwood Parkway
Deed dated January 8, 1929
Recorded SCL Liber 6563,
Page 47
Lot 146' x 200' in Fee-Simple

REYBURN B. BRADSHAW
APPRAISER

4100-4102-4104 Edmondson Avenue
Baltimore City, Maryland



Record of Purchase

Clara L. Wheeler } 4104 Edmondson Avenue
To } Deed dated October 15, 1934
Alexander L. Emerson } Recorded MFL Liber 548,
Folio 414.
Purchase Price \$5500.00-
Subject to an Annual Ground Rent
of \$96.00.

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APPRAISER

4122 Edmondson Avenue
Baltimore City, Md.

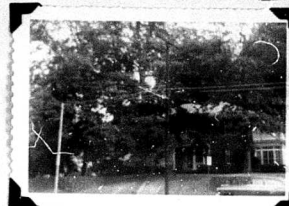


Record of Sale

Title Company Inc. } 4122 Edmondson Avenue
To } Deed dated May 10, 1950
Elanche Poca Mertz } Recorded MFL Liber 8103,
Folio 352
Purchase Price \$12,000-
Subject to an Annual Ground
Rent of \$96.00.

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APPRAISER

Funeral Home of E. Willis Lamoreau
4510 Liberty Heights Avenue
Baltimore City, Maryland



Record of Purchase

Carrie V. S. Bullen } 4510 Liberty Heights Avenue
To } Cor. Hillsdale Avenue
E. Willis Lamoreau } Deed dated December 31, 1940
Recorded MFL Liber 6115, folio 260
Lot 190'x220' - In Fee-Simple

REYBURN B. BRADSHAW
APPRAISER

Residence of M. Dale Townsend
4707 Liberty Heights Avenue
Baltimore City, Maryland



Record of Purchase

Margaret S. Pike (formerly Myhr) } 4707 Liberty Heights Avenue
C. Alden Pike, Husband } Deed dated July 1, 1948
To } Recorded MFL Liber 7500, folio 394
M. Dale Townsend and } Lot 80'x172' - In Fee-Simple
Eleanor A. Townsend } Purchase Price \$23,500
Same Property
E. Grace Gilbert } Deed dated January 2, 1940
To } Recorded MFL Liber 6562, folio 200
Lewis C. Myers } Purchase Price \$8,000 - In Fee

REYBURN B. BRADSHAW
APPRAISER

Residence of Dr. J. N. Miller, M.D.
4705 Liberty Heights Avenue
Baltimore City, Maryland



Record of Purchase

Elizabeth A. Moran and } 4705 Liberty Heights Avenue
Norman F. Moran, Husband } Deed dated April 24, 1947
To } Recorded MFL Liber 7126, folio 173
Jacob M. Miller and } In Fee-Simple
Mitsi Miller, Wife } Purchase Price \$23,000.00

REYBURN B. BRADSHAW
APPRAISER

#3036-S

BEFORE THE
ZONING COMMISSION
OF BALTIMORE COUNTY

Spectroscopic
Vibrational analysis

ORDERED by the Zoning Commissioner of Baltimore County this 27th day of April, 1951, 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, hereinaid, on the 28th day of May, 1951, at 11:00 o'clock A.M.

W. H. Adams
Zoning Commissioner
of Baltimore County

James H. H. H. H.
J. B. H. H. H.

YATTE & SONS, INC.

2400 York Road

STRENGTH

Zoning Commissioner
of Baltimore County

Pursuant to petition filed with the Zoning Commissioner of Baltimore County, for SPECIAL PERMIT to use the property herein-after described for a FUNERAL HOME, the Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in the Board Room in the basement of the Beckford Building, Towson, Maryland,

On November 27, 1952.

1999

to determine whether or not the SPECIAL PERMIT petitioned for as aforesaid, should be granted, the property in said petition being particularly described as follows, to wit:

All that parcel of land in the Ninth District of Baltimore County, on the west side of York Road, beginning 225 feet south of Fairfax Avenue, thence southerly on the west side of York Road south 18 degrees 24 minutes west 710 feet, thence south 72 degrees 48 minutes west 1049.25 feet, thence south 35 degrees 48 minutes east 221.54 feet and thence south 72 degrees 48 minutes east 236.5 feet to place of beginning. Being property of J. Laton Wiedefeld and Mrs. A. Wiedefeld as shown on the plat map filed with the Zoning Department.

By Order of
Zoning Commissioner
of Baltimore County.

IN THE MATTER OF	:	
Petition of	:	REFOX THE
J. Linton Wiesefeld	:	ZONING COMMISSIONER
and	:	OF BALTIMORE COUNTY
Eve R. Wiesefeld, his wife	:	
For a Special Permit	:	
To The Zoning Commissioner of Baltimore County		
J. Linton Wiesefeld & Eve R. Wiesefeld	:	Local

hereto 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 be erected thereon) hereinafter described for _____

Funeral Home

West side of York Road, 9th District, beginning 225 feet south of LaPaix Avenue, thence southerly on the west side of York Road south 18 degrees 24 minutes west 210 feet, thence north 72 degrees 48 minutes west 1019.25 feet, thence north 35 degrees 47 minutes east 221.54 feet and thence south 72 degrees 48 minutes east 938.5 feet to place of beginning.

Contract Purchases

Large Cotton

100

Address

Pursuant to the advertisement, posting of the property and public hearing in the above matter held on December 16, 1949, it is hereby determined and ordered by the Zoning Commission of Baltimore County this 19th day of January, 1950, that the said petition be and the same is hereby denied, for the following reasons:

The power and authority vested in the Zoning Commissioner to allow funeral homes in residential areas are limited under Section XIII, sub-section 3-A of the Zoning Regulations for Baltimore County, as follows:

"Before any such Special Permit shall be granted, it must appear that the use for which Special Permit is requested will not:

(a) Be detrimental to the safety, health, morals and general welfare of the community involved.

(b) Tend to create congestion in road streets and alleys in the area involved.

The property in question is in an exclusive residential area, adjoining two blocks to the south and many blocks to the north, east and west. To the north, along with the property in question are about the finest homes to be found in this area. However, the property adjoining to the south is used as a store although it is a two-story dwelling, and notwithstanding its use as a church, the criterion of permanence as a dwelling has not been changed or altered. The use of this property, or any property in any zone in Baltimore County, as a church is permitted under the zoning regulations and restrictions. Therefore, this use can hardly be considered commercial.

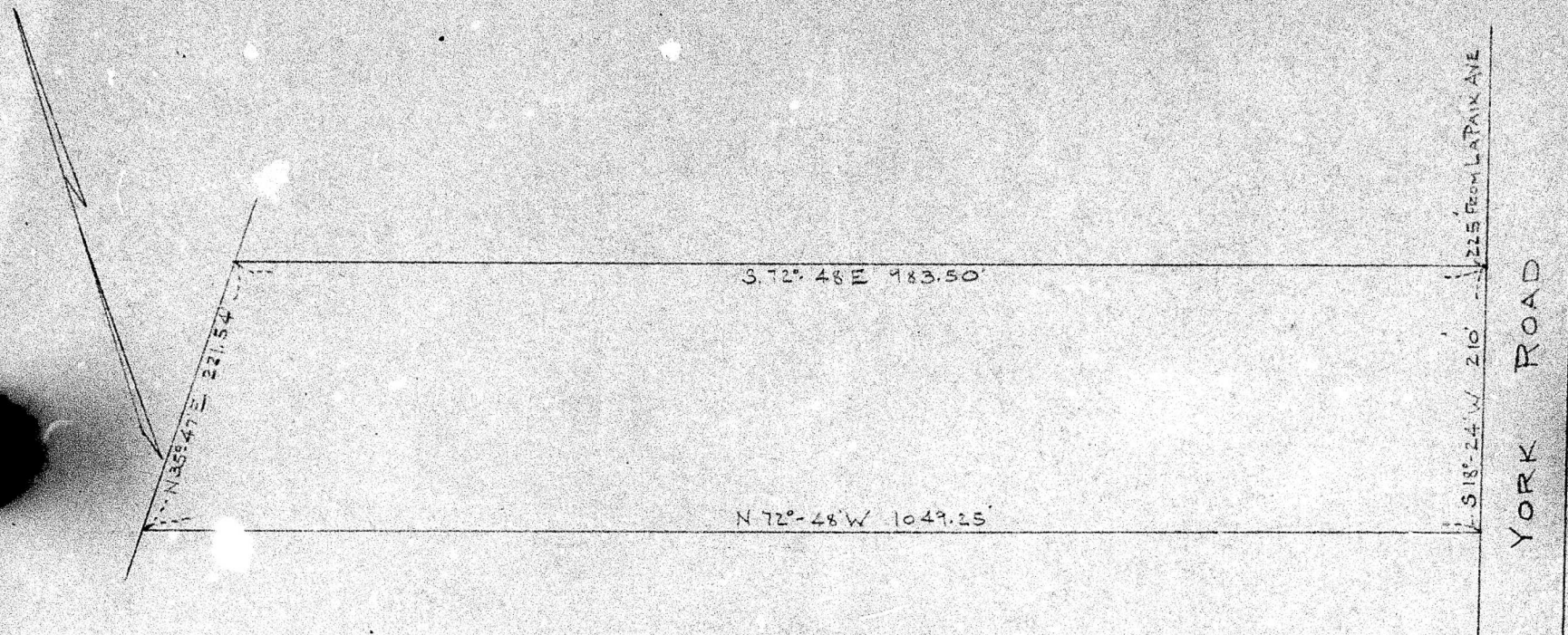
Next all the people living adjoining and within sight of the property proposed to be used for a Funeral Home certifying that the use of the property for this purpose would depreciate their property and would adversely affect them in the comfortable enjoyment of their homes and would be detrimental to their health and general welfare.

The language of the Court of Appeals of Maryland in *De Jock Lewis* case reported in 1984 Maryland Report to my mind is conclusive on this point and leaves nothing to my discretion as to the harmful effect of this type of use in a residential area. This language in part is as follows:

were to one of actual morbidity, the presence of dead bodies, the gloomy trappings of funeral woe, the pall, the hearse, the shroud, and the casket, and the knowledge that within a few feet of his bodies are being prepared for entombment, the winding away and going of funeral processions, must have a depressing

and disturbing effect is wholly inconsistent with the heading repose and results from work as heavy, wide, whatever its character, is usually associated with the atmosphere of the time. And in dealing with the question in the above factors are quite as much entitled to consideration as those which have to do with fatigue, tension, and physical effort, for it cannot now be doubted that physical deformation may and probably will result from conditions which certainly depress and disturb the mind, now, as was pointed out in the RUC of Baltimore in the case of the above case, see, 39 A. 2d, 1081, in the case of the above case, the conditions around by such condition be based on the above case.

Zoning Commission
of Baltimore County



PROPERTY LOCATED
IN
9TH DISTRICT BALTO CO MD

NOTE PLATTED FROM DEED

SCALE $+1"=100'$ APRIL 27, 1953
DOLLENBERG BROTHERS
SURVEYORS & CIVIL ENGINEERS
709 WASHINGTON AVE TOMSON MD

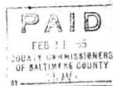


February 15, 1955

\$8.20

RECEIVED of John Owen Turnbull, attorney for Protestants, the sum of \$8.20 being cost of certified copies of papers filed in the matter of a special permit for Funeral Home, west side of York Road, south of LaPais Lane, Minton A. Wiesfeld, petitioner.

Zoning Commissioner



May 6, 1954

\$50.00

RECEIVED of J. Minton Wiesfeld, petitioner, the sum of Twenty (\$50.00) Dollars, being cost of petition for Special Permit, advertising and posting property, west side of York Road, beginning 225 feet south of LaPais Avenue, 9th District, Baltimore County, Maryland.

Zoning Commissioner

Hearings

Monday, May 24, 1954

at 11:00 a.m.

Reckord Building
Towson, Md.

cc. George W. McManus, Jr.



John Owen Turnbull, Secy,
24 West Pennsylvania Avenue,
Towson 4, Maryland

Dec. 8, 1954

County Commissioners
of Baltimore County
Court House
Towson 4, Md.

Cost of certified copies of petition and other papers filed in the matter of a special permit for Funeral Home, Minton A. Wiesfeld, petitioner, 220 York Road, 9th District

\$8.20

Od

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

436

District... Date of Posting... 5-12-54

Permit for Special Permit for Funeral Home

Petitioner J. Minton Wiesfeld

Location of property 225 ft. S. of York Road, 9th District, Minton A. Wiesfeld

Location of Signs 225 ft. S. of York Road, 9th District, Minton A. Wiesfeld

Remarks

Posted by George W. McManus, Jr. Date of return 5-12-54

May 24, 1954

Hon. John Owen Turnbull,
24 West Pennsylvania Avenue,
Towson 4, Maryland

Re: Petition for a Special Permit for
a Funeral Home - W. S. York Road,
225 feet S. LaPais Lane, 9th Dist.,
J. Minton Wiesfeld and
Dre A. Wiesfeld, Petitioners

Dear Senator Turnbull:

I have today passed my Order denying the special permit in the above matter.

I am enclosing a copy of said Order.

Very truly yours,

Zoning Commissioner

May 24, 1954

George W. McManus, Jr., Secy,
10 Light Street,
Baltimore 2, Maryland

Re: Petition for a Special Permit for
a Funeral Home - W. S. York Road,
225 ft. S. LaPais Lane, 9th Dist.,
J. Minton Wiesfeld and Dre A.
Wiesfeld, Petitioners

Dear Mr. McManus:

I have today passed my Order denying the special permit, in the above matter, for the reasons stated in the attached copy of said Order.

Very truly yours,

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Dear Mr. McManus:

I have today passed my Order denying the special permit, in the above matter, for the reasons stated in the attached copy of said Order.

Very truly yours,

Zoning Commissioner

RE: PETITION FOR A SPECIAL PERMIT FOR A
SPECIAL PERMIT FOR FUNERAL HOME -
W. S. Park Road, 225 feet south of
Lafayette Avenue, 9th District -
J. Linton Wiedefeld and Mrs. R.
Wiedefeld, his wife, petitioners.

The petition in this case is for a Special Permit to operate a Funeral Home in a residential area. The property is on the westernmost side of York Road 205 feet south of Lafayette Avenue with a frontage on York Road 210 feet and irregular depth of 108.95 feet. The petitioners filed with the Board a proposed plat for the use of the property to a depth of approximately 400 feet. They show no plan for the use of the remainder of the property, consequently this Board concludes that the depth of 400 feet is adequate for their proposed use.

The Board has concluded to grant the petition for the Special Permit for said property to a depth of 400 feet only, the remainder of the depth of the property is to remain an "A" residential zone unaffected by this Special Permit.

The Zoning Commissioner and a previous Board of Zoning Appeals for Baltimore County, have on at least one previous occasion refused a Special Permit for a Funeral Home to be operated on said property, but the situation in reference to the petition has changed a great deal since then, because there has been further commercial encroachment upon the area and because some of the former protestants have withdrawn their protest and now become proponents of the said use. They have come to the realization that the most appropriate use for the property is that for which the Special Permit is sought.

The dwelling or main building on the property, which is used by the petitioners as their home, is huge, having some twenty four rooms or more and is much too large for a private dwelling of the type which is permitted in an "A" residential zone. In fact, the evidence showed that this building was not constructed as a dwelling and previous to the petitioner acquiring it, it was used as an experimental laboratory and not as a residence at all.

It is best suited for some type of commercial or institutional use.

The minister of the church adjoining the subject property on the south, speaking for himself and his congregation, said that in his judgment the most appropriate use for the property and the least offensive use of the property so far as he and the church congregation are concerned is that of a funeral home. Two of the neighbors living directly across the York Road from this property said the same thing.

By elimination the depth of the property under the Special Permit 400 feet, we do not believe that there are any residences near enough to be detrimentally affected by the use of the property for a funeral home.

This Board has become convinced from the testimony of expert witnesses and others that there is a great need for a funeral home in this area and that the subject property is the most suitable one for this purpose and in an effort to protect adjoining and nearby residents from being able to view funerals being conducted from the premises, this Board requires as a precedent to the granting of this petition, that the presently existing hedge-row along the northern boundary of said property be maintained and be made even more dense by the planting of evergreens, shrubbery and trees to the end that an effective screen be maintained along the said northernmost border and that the property be developed and maintained as to other planting and screening, parking area, driveways and so forth in strict accordance with the proposed plat or plan filed with this Board and hereby made a part of this Order.

For the reasons stated above the Special Permit is hereby granted for the aforesaid area, fronting 210 feet on York Road with an even depth westerly of 400 feet only. The petition as to the remainder of the property described in the petition is hereby denied.

Chas. H. Toing
Chairman

Carl F. Vaden

Daniel W. Huberg
Board of Zoning Appeals
of Baltimore County

Date: Nov. 10, 1954

RE: PETITION FOR SPECIAL PERMIT FOR A
FUNERAL HOME, west side of York Road
225 feet south of Lafayette Avenue, 9th
District, J. Linton Wiedefeld and
Mrs. R. Wiedefeld, petitioners.

Pursuant to advertisement, posting of property and public hearing in the above matter, and it appearing that by reason of location being in a residential zone, extending to the north, south, east and west the special permit should be denied.

On November 23, 1949 a petition for a special permit was filed with the Zoning Commissioner of Baltimore County for a Funeral Home on the property described in said petition. The petition was denied by the Zoning Commissioner, the Order of the Zoning Commissioner was reversed by the Board of Zoning Appeals of Baltimore County, and the Order of the Board of Zoning Appeals was reversed by the Circuit Court for Baltimore County.

In view of the Court's decision in the above case it is incumbent upon the Zoning Commissioner to deny the special permit sought in this case.

It is this 10th day of May, 1954, ORDERED by the Zoning Commissioner of Baltimore County that the above petition for a special permit, be and the same is hereby denied.

William J. Coleman
Zoning Commissioner of Baltimore County

RE: PETITION FOR SPECIAL PERMIT FOR A
FUNERAL HOME, west side of York Road
225 feet south of Lafayette Avenue, 9th
District, J. Linton Wiedefeld and
Mrs. R. Wiedefeld, petitioners.

Pursuant to advertisement, posting of property and public hearing in the above matter, and it appearing that by reason of location being in a residential zone, extending to the north, south, east and west the special permit should be denied.

On November 23, 1949 a petition for a special permit was filed with the Zoning Commissioner of Baltimore County for a Funeral Home on the property described in said petition. The petition was denied by the Zoning Commissioner, the Order of the Zoning Commissioner was reversed by the Board of Zoning Appeals of Baltimore County, and the Order of the Board of Zoning Appeals was reversed by the Circuit Court for Baltimore County.

In view of the Court's decision in the above case it is incumbent upon the Zoning Commissioner to deny the special permit sought in this case.

It is this 10th day of May, 1954, ORDERED by the Zoning Commissioner of Baltimore County that the above petition for a special permit, be and the same is hereby denied.

Zoning Commissioner of Baltimore County

RE: PETITION FOR SPECIAL PERMIT FOR A
FUNERAL HOME, west side of York Road
225 feet south of Lafayette Avenue, 9th
District, J. Linton Wiedefeld and
Mrs. R. Wiedefeld, petitioners.

Pursuant to advertisement, posting of property and public hearing in the above matter, and it appearing that by reason of location being in a residential zone, extending to the north, south, east and west the special permit should be denied.

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In view of the Court's decision in the above case it is incumbent upon the Zoning Commissioner to deny the special permit sought in this case.

It is this 10th day of May, 1954, ORDERED by the Zoning Commissioner of Baltimore County that the above petition for a special permit, be and the same is hereby denied.

Zoning Commissioner of Baltimore County

PETITION FOR A
SPECIAL PERMIT FOR
A FUNERAL HOME OF
J. LISTON WIEDELFELD AND
EVE R. WIEDELFELD
* * * * *
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BEFORE THE
BOARD OF ZONING APPEALS OF
BALTIMORE COUNTY
* * * * *
* * * * *

THE RECORD OF THE HEARING CONDUCTED BY THIS HONORABLE BOARD
IN THIS CASE CONTAINS OVERWHELMING EVIDENCE IN FAVOR OF GRANTING THE
PERMIT FOR THE ESTABLISHMENT OF A FUNERAL HOME BY J. LISTON WIEDELFELD
AT 7400 YORK ROAD. THAT EVIDENCE PROVES THAT THE PROPOSED FUNERAL HOME
WOULD NOT TEND TO CREATE TRAFFIC CONGESTION AND IT WOULD NOT CAUSE ANY
DEPRECIATION OF RESIDENTIAL REAL ESTATE VALUES IN THE NEIGHBORHOOD.
THE TESTIMONY OF 16 WITNESSES, OF VARIOUS BACKGROUNDS, WHO APPEARED AT
THE HEARING ON BEHALF OF MR. WIEDELFELD SHOWS CONCLUSIVELY THAT THE
FUNERAL HOME WOULD IN NO WAY BE DETRIMENTAL TO THE GENERAL WELFARE OF
THE COMMUNITY.

IT IS WELL ESTABLISHED THAT A FUNERAL HOME HAS NO DETRIMENTAL
EFFECT ON THE HEALTH OF THE COMMUNITY AND THIS BOARD IS REFERRED
TO THE BALTIMORE COUNTY HEALTH DEPARTMENT FOR A RULING ON THAT POINT.

THE RECORD IS CLEAR THAT THE HOUSE IN QUESTION HAS BEEN LONG
OUTMODE, AS A FAMILY DWELLING BECAUSE OF ITS SIZE; AND THAT AS A MATTER
OF FACT, IT WAS USED AS A CHEMICAL LABORATORY FOR MANY YEARS PRIOR
TO MR. WIEDELFELD PURCHASING IT AND IT WAS NOT USED AT ALL DURING THOSE
YEARS FOR RESIDENTIAL PURPOSES.

DR. ETHEL GARDNER TESTIFIED THAT HER LATE HUSBAND WAS DIRECTOR
OF THE RESEARCH LABORATORY AT 7400 YORK ROAD FROM 1943 TO 1948. SHE
WAS ASKED THE QUESTION: "WAS THE ENTIRE PREMISES DURING THAT PERIOD
OF TIME ACCORDING TO YOUR KNOWLEDGE OPERATED AS A LABORATORY?"; AND
SHE ANSWERED: "THAT IS RIGHT, EVERY ROOM IN THE HOUSE." SHE WAS THEN
ASKED: "WAS IT USED FOR RESIDENTIAL PURPOSES AT ALL?"; AND SHE RE-
PLIED: "NOT AT ALL."

MR. WILLIAM TYSON TESTIFIED THAT HE HAD BEEN THE CARETAKER
AND GARDENER AT 7400 YORK ROAD FOR 18 YEARS; THAT HE WAS EMPLOYED BY THE
FORMER OWNER, DR. LEONARD; AND THAT HE HIMSELF REARED AND TOOK CARE OF

THE ANIMALS FOR THE LABORATORY, INCLUDING SWINE, GUINEA PIGS AND
RABBITS.

BEFORE EXAMINING THE DETAILS OF THE OVERWHELMING EVIDENCE IN
FAVOR OF GRANTING THIS PERMIT, LET US LOOK AT THE RECORD OF THE PRO-
TESTANTS. IT PRESENTS VIRTUALLY NO OPPOSITION. THE PREMISES IN
QUESTION, 7400 YORK ROAD, ARE SITUATED IN THE MIDDLE OF THE NEIGHBOR-
HOODS KNOWN AS: WILTONDALE, STONELEIGH, ANNESLIE, RODGERS FORGE
AND YORKTOWN DRIVE. NOT A SINGLE ONE OF THE IMPROVEMENT ASSOCIATIONS
REPRESENTING THESE NEIGHBORHOODS OPPOSED THE GRANTING OF THIS PERMIT;
YET, THE VERY PURPOSE OF THESE IMPROVEMENT ASSOCIATIONS IS TO OPPOSE
ANYTHING THAT WOULD BE DETRIMENTAL TO THEIR RESPECTIVE COMMUNITIES.

MR. J. W. TURNER, WITNESS FOR THE PROTESTANTS, WAS ASKED
THE QUESTION: "DO YOU HAVE A CLEAR VIEW OF MR. WIEDELFELD'S HOME
FROM YOUR HOME?"; AND HIS ANSWER WAS: "NO, EXCEPT IN THE WINTER."
HE TESTIFIED THAT HE COULD NOT SEE A FUNERAL PROCESSION IF ONE WERE
CONDUCTED AT MR. WIEDELFELD'S HOME. THERE NEXT WITNESS, MR. CHARLES
DEJULIO, WAS IMPEACHED. HE TESTIFIED THAT HIS OCCUPATION IS A BUILDER
AND THAT HE DEVELOPS UNDEVELOPED TRACTS OF LAND BY BUILDING HOMES
THEREON. THE QUESTION WAS PUT TO HIM: "DID YOU AT THE TIME, ON
ONE OF THESE OCCASIONS, STATE THAT YOU WOULD LIKE TO BUILD COTTAGES
ON THAT LAND?"; AND HE REPLIED: "NO, SIR. I WAS NOT INTERESTED IN
BUILDING AROUND THERE."; AND THE QUESTION WAS ASKED FURTHER: "ARE
YOU SURE OF THAT?"; AND HE REPLIED: "I AM QUITE SURE OF THAT." AT
THAT TIME, COUNSEL FOR MR. WIEDELFELD STATED THAT HE WOULD LIKE TO
PRESENT A WITNESS FOR THE PURPOSE OF IMPEACHMENT AND THE CHAIRMAN SAID
THAT COUNSEL WOULD BE GIVEN THAT PERMISSION AT THE CLOSE OF THE PRO-
TESTANTS' CASE. SUBSEQUENTLY, MR. TYSON, A REBUTEL WITNESS FOR THE
PETITIONER, WAS ASKED IF HE EVER HAD OCCASION TO TALK WITH MR. DEJULIO
WITH RESPECT TO THE PREMISES LOCATED AT 7400 YORK ROAD, WHICH PROPERTY
IS 2 1/2 FEET WIDE AND 1,049 FEET DEEP. MR. TYSON REPLIED THAT HE HAD

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IT WOULD HAVE NO ADVERSE EFFECT." HE THEN IDENTIFIED THE PICTURE
ABOVE REFERRED TO LOOKING TOWARD THE NORTH AT THE SHRUBBERY ON THE
LINE BETWEEN THE WIEDELFELD PREMISES AND THE WIEDELFELD PREMISES.

CAMPBELL V. HELFRICH TESTIFIED: "I HAVE HAD GENERAL REAL
ESTATE EXPERIENCE FOR 20 YEARS. I AM A MEMBER OF THE REAL ESTATE
BOARD OF BALTIMORE. I WAS FORMERLY THE CHIEF ANALYST FOR THE STATE
OF MARYLAND FOR THE HOME OWNERS LOAN CORPORATION. I AM AN APPROVED
APPRAISER FOR THE VETERANS ADMINISTRATION AND APPRAISER FOR THE BOARD
OF EDUCATION OF BALTIMORE COUNTY. SPECIAL APPRAISER FOR THE BOARD
OF COUNTY COMMISSIONERS FOR THE APPRAISAL OF COMMERCIAL AND APARTMENT
PROPERTY FROM 1950 TO 1952. I LIKEWISE AN APPRAISER FOR MANY BANKS
AND INSURANCE COMPANIES."

MR. HELFRICH, REFERRING TO THE PREMISES IN QUESTION, NAMELY
7400 YORK ROAD, THEN STATED: "IN MY OPINION, THE USE OF THE PROPERTY
FOR A FUNERAL HOME SHOULD NOT HAVE ANY ADVERSE EFFECT UPON SURROUNDING
RESIDENTIAL REAL ESTATE VALUES. I MADE A REVIEW OF THE NUMEROUS
ARTICLES FROM BALTIMORE CITY INTO THE METROPOLITAN AREA OF BALTIMORE
COUNTY, TRYING TO LOCATE OTHER COMPARABLE USES AND AREAS. THIS SURVEY
REVEALED A STRIKING SIMILARITY BETWEEN THE YORK ROAD ON THE NORTH AND
THE FREDERICK ROAD ON THE WEST. SLIGHTLY OVER ONE MILE FROM THE CITY
LINE ON THE YORK ROAD IS THE BUSINESS DISTRICT OF TOWSON. AT APPROXIMATELY
THE SAME DISTANCE FROM THE CITY LINE ON THE FREDERICK ROAD IS THE
CATONSVILLE BUSINESS DISTRICT. THE INTERVENING AREA OFF BOTH
ROADS, BETWEEN THE CITY LINE AND THE RESPECTIVE BUSINESS DISTRICTS, ARE
DEVELOPED WITH RESIDENTIAL AND COMMERCIAL AREAS, THE RESIDENTIAL PORTIONS
BEING COMPOSED OF BOTH COTTAGE AND GROUP DWELLINGS. THE YORK ROAD IS
MORE PREDOMINANTLY COMMERCIAL AND INSTITUTIONAL THAN THE FREDERICK
ROAD. THE WEST SIDE OF YORK ROAD IS ALMOST ENTIRELY COMMERCIAL OR
INSTITUTIONAL. IN GENERAL, HOWEVER, THE TWO AREAS ARE SO NEARLY ALIKE
THAT KNOWN FACTS APPLICABLE TO ONE SEEM TO ME TO BE APPLICABLE TO THE
OTHER. A SURVEY OF THE FREDERICK ROAD BETWEEN THE CITY LINE AND THE
BUSINESS DISTRICT OF CATONSVILLE DISCLOSES THREE OPERATING FUNERAL
HOMES."

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MR. HELFRICH WENT ON TO DESCRIBE THE FARLEY, KOLLEB AND
EASON FUNERAL HOMES. HIS APPRAISAL, WHICH IS AN EXHIBIT IN THE
RECORD BEFORE THIS HONORABLE BOARD ON BEHALF OF THE PETITIONER, CITE
SPECIFIC LIBER AND FOLIO REFERENCES FROM THE LAND RECORDS OF BALTI-
MORE COUNTY PROVING CONCLUSIVELY THAT PRIVATE HOMES SURROUNDING THESE
FUNERAL HOMES HAVE NOT ONLY MAINTAINED THEIR VALUES BUT HAVE EVEN SO
MUCH AS TRIPLED THEIR VALUES. FOR EXAMPLE, 303 FREDERICK ROAD, WHICH
IS IMMEDIATELY ADJACENT TO THE KOLLEB FUNERAL HOME, HAS GONE UP IN
VALUE FROM A SALE IN 1940 OF \$7,000.00 IN FEE TO ITS SALE IN 1950 FOR
\$19,000.00 IN FEE. 22 DUNGAREE ROAD, WHICH IS OPPOSITE THE FARLEY
FUNERAL HOME, HAS GONE UP IN VALUE FROM A SALE FOR \$5,500.00 SUBJECT
TO A \$96.00 GROUND RENT IN 1941 TO \$17,000.00 SUBJECT TO A \$120.00
GROUND RENT IN 1953.

THIS HONORABLE BOARD IS RESPECTFULLY REFERRED TO MR.
HELFRICH'S APPRAISAL WHICH CONTAINS MANY OTHER NUMEROUS SPECIFIC
LIBER AND FOLIO REFERENCES TO SALES TO SHOW THAT INDIVIDUAL PRIVATE
HOMES LOCATED IMMEDIATELY NEAR FUNERAL HOMES HAVE CONSIDERABLY IN-
CREASED IN VALUES OVER THE PAST FEW YEARS.

CERTAINLY, NO REASONABLE MAN WITH AN OPEN MIND CAN SAY
THAT IT IS EVIDENCE IS NOT RELEVANT ON THE QUESTION OF WHETHER OR
NOT A FUNERAL HOME WOULD HAVE AN ADVERSE EFFECT ON REAL ESTATE VALUES.
SURELY, THERE IS ONLY ONE WAY TO FIND OUT, NAMELY TO REFER TO THE SALES
OF RESIDENTIAL HOMES IN AREAS IN WHICH FUNERAL HOMES ARE LOCATED.

MR. JOHN B. KENNY, WHO LIVES DIRECTLY OPPOSITE MR. WIEDELFELD'S
HOME, TESTIFIED THAT HE WAS IN FAVOR OF GRANTING THE PERMIT AND WAS
OF THE OPINION THAT IT WOULD EVEN BE HELPFUL TO HIS HOME BECAUSE IT
WOULD RESULT IN THE SUBJECT PREMISES BEING MAINTAINED CONTINUOUSLY IN
THEIR PRESENT BEAUTY. HE FURTHER STATED THAT HE DID NOT BELIEVE THAT
IT WOULD CREATE ANY TRAFFIC CONGESTION AND THAT IT IS HIS OPINION
THAT THERE IS A NEED FOR A FUNERAL HOME IN THE NEIGHBORHOOD. ON
CROSS-EXAMINATION BY THE ATTORNEY FOR THE PROTESTANTS, HE SUPPORTED

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SUCH A CONVERSATION WITH MR. DEJULIO; MR. TYSON SAID: "MR. DEJULIO SAID HE
WOULD LIKE TO BUY THE PLACE, PUT COTTAGES ON THE PLACE, BUT MR.
LEONARD WANTED TOO MUCH MONEY." MR. DEJULIO NEVER CAME BACK ON THE
STAND TO DENY THAT.

MR. JAMES L. WHITTLE, WHO RESIDES NEXT DOOR TO MR. DEJULIO
ON LEFAX LANE, TESTIFIED FOR THE PROTESTANTS AS FOLLOWS: HE WAS
ASKED THE QUESTION: "HAVE YOU AT LEAST ON ONE OCCASION INDICATED AN
INTENTION, IN WHOLE OR IN PART, TO PURCHASE MR. WIEDELFELD'S PROPERTY?";
AND HE REPLIED: "NO, SIR." THAT WAS MR. WHITTLE'S TESTIMONY THE
FIRST TIME HE WAS ON THE STAND, BUT WHEN HE WAS PLACED BACK ON THE
STAND AS A REBUTEL WITNESS HE SAID: "I PERSONALLY APPROACHED MR.
DEJULIO AND ASKED HIM IF THERE WAS A POSSIBILITY OF DEVELOPING IT
SO IT WOULD NOT AFFECT THE PROPERTY. IT WAS AT THAT TIME THAT HE
ASKED THE QUESTION RELATIVE TO THE PROPERTY. THAT IS THE POSITIVE
TRUTH."

IT IS NOT CLEAR THAT MR. DEJULIO AND MR. WHITTLE, THE
MAIN PROTESTANTS, ARE NOT REALLY OPPOSING THE GRANTING OF THIS PER-
MIT FOR ANY REASON OTHER THAN A DESIRE TO GET THE PREMISES IN QUESTION
FOR DEVELOPMENTAL PURPOSES? THEIR HOMES ARE BEYOND THE NORTHERN
BOUNDARY LINE OF THE WIEDELFELD PROPERTY AND THAT BOUNDARY IS LINED
WITH HIGH AND THICK SHRUBBERY, SO HIGH AND THICK THAT NEITHER MR.
DEJULIO NOR MR. WHITTLE WAS ABLE TO IDENTIFY A PICTURE THAT WAS TAKEN
FROM MR. WIEDELFELD'S PROPERTY LOOKING NORTH TOWARD THE SHRUBBERY
ON THE NORTHERN BOUNDARY LINE. THAT PICTURE IS IN THE RECORD AND WAS
CLEARLY IDENTIFIED WHEN PRESENTED AS AN EXHIBIT ON BEHALF OF THE
PETITIONER.

IT IS NOTWORTHY THAT WHEN MR. WHITTLE WAS ON THE STAND AS
A REBUTEL WITNESS, HE WAS ASKED THE QUESTION, ON CROSS-EXAMINATION: "YOU
HAVE HEARD MR. TYSON ON THE STAND UNDER OATH, I ASK YOU IF WHAT
MR. TYSON SAID IS THE TRUTH?"; AND MR. WHITTLE REPLIED: "YES."

THE ONLY OTHER WITNESSES WHICH APPEARED ON BEHALF OF THE
PROTESTANTS WERE MRS. HUSSELL, MRS. TURNBULL AND MISS HEMMESTROM;

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HIS OPINION THAT THERE IS A NEED FOR A FUNERAL HOME IN THE NEIGHBOR-
HOOD BY STATING THAT HE PERSONALLY SATISFIED HIMSELF BY EXAMINING THE
DISTANCES BETWEEN FUNERAL HOMES IN THE AREA.

REVEREND JOHN M. SMOOT, PASTOR OF THE CENTRAL PRESBYTERIAN
CHURCH, WHICH IS RIGHT NEXT DOOR TO THE PREMISES IN QUESTION, STATED
THAT HE HAD THE AUTHORITY OF THE ELDER AND BOARD OF TRUSTEES OF HIS
CHURCH, REPRESENTING 200 MEMBERS, TO SAY THAT THERE IS NO OBJECTION
IN ANY DEGREE TO THE GRANTING OF THIS PERMIT. WITH RESPECT TO THE
QUESTION OF WHETHER OR NOT THERE IS A NEED FOR A FUNERAL HOME IN THE
AREA, REVEREND SMOOT SAID: "FROM MY OWN OBSERVATION, THERE DOES NOT
SEEM TO BE NEARLY ENOUGH TO TAKE CARE OF FUNERALS." THIS TESTIMONY
IS DESERVING OF CONSIDERABLE WEIGHT, ESPECIALLY IN VIEW OF THE FACT
THAT THE ELDER AND THE BOARD OF TRUSTEES OF THE CHURCH HAVE A VERY
HIGH FIDUCIARY DUTY TO OBJECT TO ANY PLAN OR PROPOSAL THAT WOULD BE
HARMFUL TO THEIR CHURCH FROM THE LONG RANGE POINT OF VIEW.

MR. RAYMOND A. WHITING, WHO LIVES ABOUT A SQUARE FROM THE
SUBJECT PREMISES, AND MR. JAMES D. MURPHY, WHO LIVES ACROSS THE STREET
FROM THE SUBJECT PREMISES, BOTH TESTIFIED THAT THEY APPROVE OF THE
GRANTING OF THIS PERMIT FOR A FUNERAL HOME AND THAT, IN THEIR OPINION,
THERE IS DEFINITELY A NEED FOR A FUNERAL HOME IN THIS AREA.

CERTAINLY, THIS HONORABLE BOARD SHOULD CONSIDER THE CHARACTER
OF THE PREMISES IN QUESTION. THE HOUSE, AS THE RECORD SHOWS, HAS 14
VERY LARGE, HIGH CEILING ROOMS AND 4 1/2 BATHROOMS; IN ADDITION THERETO,
A LARGE BASEMENT CONSISTING OF 9 SECTIONS OR ROOMS, INCLUDING A LARGE
CLUB CELLAR. MR. WIEDELFELD NOW OCCUPIES THE FIRST FLOOR OF THE HOUSE
ALONG WITH HIS WIFE AND HIS FOUR CHILDREN. THE TOP FLOOR IS VACANT.
THE LOT ON WHICH THE HOUSE IS SITUATED IS OVER 2 1/2 FEET WIDE AND 1,049
FEET DEEP. THE HOUSE SITE BACK OFF OF YORK ROAD BY MORE THAN 100 FEET.
THE SHRUBBERY IN FRONT OF THE HOUSE EVEN OBSCURES THE VIEW OF IT TO A
CONSIDERABLE EXTENT FROM THE MAIN THOROUGHFARE OF YORK ROAD.

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THE FIRST TWO MENTIONED LIVE TOO FAR AWAY FROM THE PREMISES TO BE
AFFECTED; THEY LIVE 1,000 FEET TO THE REAR OF THE WIEDELFELD HOUSE,
OR PROBABLY EVEN A GREATER DISTANCE, AND THERE ARE PLENTY OF TREES
BETWEEN THEIR HOMES AND MR. WIEDELFELD'S HOME. MISS HAMMSTRON, WHO
TESTIFIED THAT SHE IS A REAL ESTATE BROKER, WAS ASKED THE QUESTION: "CAN
YOU CITE A SPECIFIC REFERENCE OF WHERE THE PROPERTY WENT DOWN IN
VALUE BECAUSE OF ITS PROXIMITY TO A FUNERAL HOME?"; AND SHE REPLIED: "THERE
HAVE BEEN NONE THAT I CAN RECALL..."; AND SHE ALSO SAID: "THERE
HAVE BEEN NO TIMES I HAVE BEEN ASKED THAT DETRIMENT IT MIGHT BE."

IN CONTRAST, LET US LOOK AT THE RECORD OF THE EVIDENCE
PRESENTED IN BEHALF OF THE PETITIONER FOR THE GRANTING OF THIS PER-
MIT.

MR. JOSEPH D. THOMPSON, A CONSULTING ENGINEER, TESTIFIED
THAT: "IT IS MY OPINION THAT THE LOCATION OF THE FUNERAL HOME AT
THIS ADDRESS WILL HAVE NO ADVERSE EFFECT UPON TRAFFIC. IT IS DUE TO
THE WIDTH OF THE PAVEMENT ON YORK ROAD, THE SPEED LIMIT OF 30 MILES
PER HOUR, UNOBSTRUCTED VISION IN BOTH DIRECTIONS FOR INGRESS AND
EGRESS, TRAFFIC LIGHT WITHIN A SHORT DISTANCE AND AMPLE OFF-STREET
PARKING."

MR. HAYBURN B. BRADSHAW, WHO TESTIFIED THAT HE IS AN AP-
PRaiser OF REAL ESTATE, AN APPRAISER FOR THE FEDERAL HOME LOAN BANK
AND THE VETERANS ADMINISTRATION, WAS ASKED WHETHER THE GRANTING OF
THE PERMIT WOULD HAVE ANY ADVERSE EFFECT ON THE REAL ESTATE IN THE
COMMUNITY, AND HE REPLIED: "I FIND IT WOULD HAVE NO ADVERSE EFFECT
AS FAR AS VALUES ARE CONCERNED. I MADE A STUDY OF THE LAND RECORDS
TO FIND COMPARABLE CASES AS A RESULT OF FUNERAL HOMES IN BALTIMORE."
MR. BRADSHAW WAS ASKED SPECIFICALLY AS TO WHETHER THE GRANTING OF
THIS PERMIT WOULD HAVE ANY ADVERSE EFFECT ON THE PROPERTIES ON THE
OTHER SIDE OF THE SHRUBBERY ON THE NORTH BOUNDARY LINE OF THE WIEDELFELD
PROPERTY, REFERRING, OF COURSE, TO THE HOMES OF MR. WHITTLE AND MR.
DEJULIO. MR. BRADSHAW REPLIED: "NO. AFTER THE SURVEY AND CON-
CLUSION I REACHED, AFTER GETTING ALL OF THE DATA FROM MR. WIEDELFELD,

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ADJOINING THE CENTRAL PRESBYTERIAN CHURCH, ABOVE REFERRED
TO, ON ITS SOUTH SIDE, IS THE W. A. TAYLOR AND CO. WHICH IS ON A
COMMERCIALLY ZONED TRACT OF LAND, AND THAT COMPANY IS A MANUFACTURER
OF SAFETY EQUIPMENT AND INSTRUMENTS OF TECHNOLOGICAL NATURE. ON THE
SOUTH SIDE OF W. A. TAYLOR CO. IS RODGERS FORGE ROAD; ON THAT
CORNER, THERE ARE THREE GASOLINE STATIONS--AMOCO, ESSO AND CROWN.
GOING ON SOUTHWEST TOWARD THE BUSINESS DISTRICT OF RODGERS FORGE
IS VACANT LAND FOR SEVERAL BLOCKS, MUCH OF WHICH IS COMMERCIALLY
ZONED.

THE NORTHERN BOUNDARY LINE OF THE PREMISES IN QUESTION, AS
REFERRED TO HEREINAFORE, CONSISTS OF HIGH AND THICK SHRUBBERY.

ON THE WEST SIDE OF YORK ROAD, FROM THE NORTHERN BOUNDARY
LINE OF THE PREMISES IN QUESTION, ON NORTHEAST TOWARD BURKE AVENUE,
THERE IS ONLY ONE OTHER DWELLING FACING DIRECTLY ON YORK ROAD. NORTH
OF BURKE AVENUE IS THE BUSINESS DISTRICT OF YOWSON. THE VERY NATURE
OF THE LOCATION OF THE PREMISES IN QUESTION BEFITS THE ESTABLISHMENT
OF THIS FUNERAL HOME.

THE RECORD SHOWS THAT THE FIRM OF WIEDELFELD & SON HAS CON-
DUCTED A FUNERAL HOME SINCE 1898 IN A VERY DISTINGUISHED AND CONSERVATIVE
MANNER. REV. G. W. BRODERICK OF ST. ANNE'S CHURCH, LOCATED ACROSS
THE STREET FROM MR. WIEDELFELD'S PRESENT FUNERAL HOME, TESTIFIED THAT
IT WAS HIS OPINION THAT MR. WIEDELFELD'S FUNERAL HOME HAS CONTRIBUTED
TO THE NEIGHBORHOOD IN WHICH IT IS LOCATED THROUGH THE YEARS. MR.
WIEDELFELD IS A PAST PRESIDENT AND CHAIRMAN OF THE BOARD OF THE FUNERAL
DIRECTORS ASSOCIATION IN THE STATE OF MARYLAND.

THE PETITIONER HAS PRESENTED HIS PLANS AS AN EXHIBIT IN THE
RECORD WHICH SHOW THAT HE DOES NOT INTEND TO MAKE A SINGLE STRUCTURAL
CHANGE IN HIS HOUSE. THE PETITIONER HAS STATED THAT HE IS WILLING TO
RECEIVE THE PERMIT FOR THE ESTABLISHMENT OF THE FUNERAL HOME SUBJECT
TO CONDITIONS THAT MAY BE SET FORTH IN THE GRANTING OF THE PERMIT BY
THIS HONORABLE BOARD, SUCH AS ADHERING TO HIS PLANS AS PRESENTED.

IN THE CASE OF HESSINGER, ET AL. VS. ZONING BOARD OF REVIEW
OF TOWN OF EAST PROVIDENCE (99 A 24 885) (M. F. NO. 1030), SUPREME

-8-

June 30, 1954.

LAW OFFICES OF
O'CONNOR & MCMANUS
10 LIGHT STREET
BALTIMORE 2
JUNE 29, 1954

HERBERT A. O'CONNOR
BALTIMORE 2, MARYLAND

Board of Zoning Appeals
Susquehanna & Washington Avenues
Baltimore 4, Maryland

Re: Petition of J. Liston
Wiedefeld, et al for a
Special Permit-Appeal
to Board of Zoning Appeals

Gentlemen:

This is to advise you that Senator John G.
Turnbull has been kind enough to consent to hearing
the subject appeal on July 6th at 10:00 A. M.

Very sincerely yours,

George W. McManus, Jr.
George W. McManus, Jr.

GNM:dd

George W. McManus, Jr., Esq.,
10 Light Street,
Baltimore 2, Maryland

Dear Mr. McManus:

Upon checking our docket we find that September
30, 1954, at 10:00 A.M. will be the earliest date for the hearing
on the appeal, filed by you & behalf of J. Liston Wiedefeld,
and others, for a special permit for the establishment of a funeral
home on the west side of York Road, south of Larkin Lane.

We regret that we are unable to set the case down
for an earlier hearing, but we try to take the appeals in the order
in which they are filed, also taking into consideration the
convenience of counsel in the case.

Very truly yours,

Chairman

November 10, 1954

George W. McManus, Jr., Esq.,
10 Light Street,
Baltimore 2, Maryland

Dear Mr. McManus:

The Board of Zoning Appeals of Baltimore County
passed its Order on November 10, 1954, reversing the Order of the
County Commission in accordance with the attached copy of
said Order and in compliance with the provisions stated in the
Order.

Very truly yours,

Zoning Commissioner

November 10, 1954

Hon. John Duncan Turnbull,
21 West Regencyland Avenue,
Baltimore 4, Maryland

Has petition for a Special Permit for a
Funeral Home No. 1, York Road, 225
East 3, 197th Ave., (North Carolina)
J. Liston Wiedefeld and son J. Wiedefeld,
Baltimore 2, Maryland

Dear Senator Turnbull:

The Board of Zoning Appeals of Baltimore
County passed its Order on November 10, 1954, in the above matter.
You will find a copy of said Order enclosed.

Very truly yours,

Zoning Commissioner

cc: As Gertrude Reine, Esq.,
Rosen Building
Baltimore 4, Maryland

J. L. Whittle, et al

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
BOARD OF ZONING APPEALS

1954

This case comes up on a motion for reargument. After a hearing on
appeal the matter was decided by the Court on December 14, 1950. The Court
advised the opinion of the then Zoning Commissioner, Mr. Charles B. Dineen, and
reversed the action of the Board of Zoning Appeals granting the petition of
Mrs. Gertrude G. Leonard for a special permit under the zoning regulations
to use the property involved in the proceedings for a funeral home. The
case was argued at length by Mr. J. Purdon Wright, counsel for the peti-
tioner, but substantially the same arguments were presented by Mr. Wright as
were made by Mr. Mich. Paul Smith at the first hearing.

The Court is not unmindful of the principles laid down by our
appellate Court for the guidance and direction of courts passing upon appeals
from the actions of administrative tribunals such as the Board of Zoning
Appeals. However, it frequently has held that although the Court should not
substitute its discretion for that of the Board, nevertheless the action of
the administrative body cannot be illegal or arbitrary, that the record must
show substantial evidence to sustain the findings of the board and that its
action must be reasonable in the light of pertinent facts.

In the case of *Smith vs. Mayor and City Council of Baltimore*, 187 Md.
p. 304, the Court said:

"It is well established that the Court will not substitute
its discretion for that of the Board. The function of the
board is to exercise the discretion of experts, and the
Court, although it may not arrive at the same conclusion,
will not disturb a decision on review where the board has
complied with all legal requirements of notice and hearing,
and the record shows substantial evidence to sustain the
findings. However, the decisions of the Board are reviewable,
not only when there has been an erroneous interpretation of
the law, but also when they impair personal or property
rights by reason of an arbitrary or unlawful exercise of
discretion. Just as the courts are without authority to
interfere with the exercise of legislative prerogative within
constitutional limits or with the lawful exercise of admin-
istrative authority, so the legislature is without authority
to direct the courts in their exercise of power to review the
actions of administrative boards in order to determine whether
they unlawfully impair personal or property rights. *Howe vs.
Cobb*, 188 Md. 374, 40 A. 2d 72. A statutory provision for
a public hearing implies both the privilege of introducing
evidence, and the duty of deciding in accordance with the
evidence, and it is arbitrary and unlawful to make an essen-
tial finding without supporting evidence. This is especially

in zoning cases, where equality and uniformity of operation
within a particular zone as to each type of building are basic
in the statute. Invidious distinctions and discriminations are
not permissible. The very essence of zoning is territorial
division according to the character of the land and the buildings,
their peculiar suitability for particular uses, and uniformity
of use within the zone. *County Center, et al vs. Anne Arundel County
vs. Ward*, 186 Md. 330, 46A 2d 684."

In this case, a review of the testimony in the judgment of the Court
does not show any justification for the reversal of the action of the Zoning
Commissioner. The two witnesses for the petitioner were Mr. Wiedefeld, who
desires to establish the funeral home on Mrs. Leonard's property, and Mr.
Charles D. Delisier, who is secretary of the Maryland State Funeral Association
and a member of the State Board of Funeral Directors. These gentlemen offered
no testimony that would have justified the granting of the permit in the
light of all the facts.

A number of property owners who reside on the west side of York Road
in the vicinity of the property in question testified that they were strongly
opposed to the establishment of the proposed funeral home. There was con-
siderable evidence that the proposed funeral home would have an adverse effect
on real estate values in the vicinity and a depressing influence upon the
residents of the community.

It was brought out also that at a meeting of the association of
property owners of the community, at which there were thirty-five members
present out of a total membership of sixty, every one of these present voiced
opposition to the establishment of the funeral home.

Mr. Wright, in his argument, took particular exception to Mr. Dineen's
reference to Judge Offutt's language in the *Jack Lewis* case reported in 164 Md.
at pages 105 and 156 in which the Judge, speaking for the Court, set forth
some objections to the establishment of a funeral home in a residential neighbor-
hood. Judge Offutt wrote:

"...the one of normal sensibilities, the presence of dead bodies,
the gloomy trappings of funeral rites, the wail, the hearse, the
thrill, and the sunset, and the knowledge that within a few feet
of his house are being prepared for entombment, the unending
coming and going of funeral processions, such have a degrading
and disturbing effect wholly inconsistent with the feeling of repose
and restfulness which is the atmosphere of the home. And in
dealing with the question in issue here, such factors are quite
as much entitled to consideration as those which have a more
direct, tangible, and physical effect, for it cannot now be doubted
that physical deterioration may and probably will result from

conditions which constantly depress and disturb the mind, nor, as
was pointed out in *City of Baltimore vs. Fairfield Imp. Co.* 67 Md.
364 at 369, 19 A. 1001, 1004, is it essential that the sensations
aroused by such condition be based upon demonstrable facts."

Mr. Wright emphasized what he regarded as Judge Offutt's morbid
attitude toward death and deplored his references to the "gloomy trappings
of funeral rites" as being unjustified.

It is true that the attitude of human beings toward death varies.
This is evident in the study of the customs of primitive races. Some
primitive peoples regard death with the greatest horror and even go so far
as to destroy homes in which someone has died. On the other hand, there are
primitive peoples and some that are highly civilized which have no fear of
death and regard the passing of a human being as something that is natural
and right and not for unpleasant to contemplate.

The Chinese look upon death in a resigned and cheerful fashion,
make elaborate preparations for their own internment and their funeral pro-
cessions are said to be rather festive affairs.

It seems that even in our own country attitudes toward death differ
in various sections. In the West one is impressed by the fact that although
death does bring the same grief as elsewhere funeral homes and burials are
regarded somewhat more matter-of-factly there than in the East. Every effort is
made to make the services for the dead and interment as cheerful and attractive
as possible.

This casual and more modern attitude seems to be developing through-
out the land. The public viewpoint is affected by the changing religious,
moral and ethical principles of this disordered and confused generation. There
are doubtless many persons to whom death appears as a pleasant relief. They
can say "Oh, death where is thy sting?" in all sincerity and believe with
Bacon "it is as natural to die as it is to be born." But it is also true,
as Bacon added, "then fear Death as children fear to go into the dark"

However, there are a large number of people in this section of the
country at least who share Judge Offutt's, and our appellate court's, attitude
toward the coarse tragedy of dissolution and burial. The science of religion
and the conceptions of philosophy are not sufficient to change the fundamen-
tally pessimistic attitude of most persons toward death and the grave. Probably
the feeling of the majority toward death has best been described by Shakespeare,

"It is too heavy a load", he exclaimed, and concluding:

"The weakest and most lonely words: life
That age, when, weary and impatient
Can lay on nature is a paradise
To what we fear of death."

It would appear that there is nothing unnatural or morbid in the
opinion of the Court of Appeals in the *Lewis* case holding that such a factor
as the disturbing effect of death upon the average person is entitled to
consideration in dealing with a matter of this kind.

Pursuant to the policy of relieving the tragic consciousness of death
those engaged in the funeral business have resorted to a number of euphemisms,
including the term "funeral home", which is not a home at all but a business
establishment. Counsel for the applicant seem to believe that the "funeral
home" should be regarded as any other residence when, as a matter of fact,
such a place is not considered a home any more than a so-called "city of the
dead" is looked upon as a real city.

In fairness to the funeral directors, it must be said that their
efficiency and good taste have done much to soften the stark blackness of
the funeral of an earlier generation, and have contributed materially to
the comfort and peace of mind of the bereaved. Great as the improvements
are which have been made in the undertaking business the fact remains that
most persons become depressed by viewing the essentially grim reminders of
the common fate of mankind however attractive "funeral homes" may be and
however efficiently conducted and the service for the dead.

The Court finds no reason to disturb its former finding.

John B. Goutman, Judge

May 22, 1951

THIRTY SEVEN
John B. Goutman,
Judge.

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Court of Rhode Island, November 3, 1953, the Board granted the petition for a funeral home subject to the condition that shrubbery be placed on abutting lines of the property on the northerly, easterly, and westerly sides thereof. That case is very similar to the one at hand. It is so unusually similar that it is noteworthy that at the hearing in that case in Rhode Island, the applicant testified that his home contained 14 rooms; a summary of that case is attached hereto and is hereby made a part of this Brief. It was even expressly stated in that case that the house in question was outmoded as a single family dwelling because of its size. That house contained the exact number of rooms that Mr. Wiedefeld's home contains, except that Mr. Wiedefeld's home is probably larger because of his extremely, unusually large basement.

There will be no signs on the lawn; no neon signs at all, but merely a bronze plaque in the brick pillar constituting the entrance to the driveway of Mr. Wiedefeld's home. The only substantial change will be the extension of the driveway around the house. Off-street parking will be provided for on the south side of the house between Mr. Wiedefeld's home and the church.

The plans presented, the condition upon which Mr. Wiedefeld is willing to take this permit, therefore call for the preservation of the existing beauty of 7400 York Road in its entirety. It is for that very reason that there is little objection to the granting of this permit.

There is a need for a funeral home in this area. Baltimore County's population is estimated to be well over 300,000 and it is rapidly increasing. There are at present only 20 funeral homes in Baltimore County, 10 of which are in residential areas, meaning only one funeral home for every 15,000 people.

In contrast, in Baltimore City, which now has an estimated population of 1,000,000 people, there is one funeral home for every 6,000 people. Consequently, a funeral home in Baltimore County has

a ratio to Baltimore County's population of nearly double that which a funeral home in Baltimore City has to Baltimore City's population. In Baltimore City, there are 120 funeral homes, of which 63 are in residential areas.

Referring to the remaining requirements of the zoning regulations for Baltimore County so far as they are applicable to the granting of this permit and to the extent that they have not otherwise been specifically referred to, it is self-evident that the granting of this permit would not create a fire hazard, nor tend to over-crowd the land, nor interfere improperly with adequate provisions for schools, etc.; nor would it interfere with adequate light and air.

In conclusion, it is respectfully requested that This Honorable Board grant the permit to the petitioner for the establishment of a funeral home at 7400 York Road. From the transcript of the record, it is clear that the house in question is too large to satisfy a demand for a residence. It has not been used for a residence for many, many years. In fast-growing Baltimore County, there is a need for a conveniently located off-street parking funeral home in the area. The establishment of this funeral home will have no harmful effect on the community. There is no substantial evidence in the record to support a contrary view. As a matter of fact, the preservation of the existing beauty of the premises in question through the establishment and maintenance of the proposed funeral home will be beneficial to all that surrounds it. The uncontradicted facts set forth in the record show that the establishment of this funeral home would not tend to create traffic congestion. Actual selling prices of private residences located adjacent to funeral homes have been cited by qualified real estate appraisers from the Land Records of Baltimore County, proving beyond any doubt that funeral homes do not depreciate residential real estate values.

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WHEREFORE your petitioner prays that This Honorable Board grant the permit for the establishment of this funeral home.
Respectfully submitted,

George W. McManus, Jr.
George W. McManus, Jr.
Attorney for the petitioner,
J. Liston Wiedefeld

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MESSINGER, ET AL
VS
ZONING BOARD OF REVIEW OF
TOWN OF EAST PROVIDENCE
(99 A 24 263)
(N. P. No. 1033)
Supreme Court of Rhode Island
November 3, 1953

The Supreme Court, O'Connell, J., held that where the house was outmoded as a single family dwelling because of its size, section of street where house was located between the areas of business and commercial properties, though zoned as residential, area where house was located had changed and was becoming a business section, providing applicant who would not make any alteration in exterior appearance of house, and since he planned to use the side lot for off-street parking, applicant should be permitted to operate funeral home in his house.

In this case, Francis J. King applied for an exception or variance for the purpose of securing permission to operate a funeral home, with parking privileges, from his residence at 242 Waterman Avenue in East Providence, Rhode Island.

At the hearing thereon, the applicant testified that his home contained 14 rooms; that there was a vacant lot to the left with room to park about 25 cars thereon; that he intended to fill in said lot for parking purposes; that he did not intend to park any cars in the front but only on the side, and that precautionary measures would be taken to prevent traffic from going into Williams Avenue; that he intended to maintain his residence on the 2nd and 3rd floors; and that the embalming would be done in the basement.

Several of the petitioners herein objected to the granting of the application mainly on the grounds that the applicant's house was in a residential zone; that traffic hazards would be increased; that bringing a funeral home into the neighborhood would have a depressing effect on persons living in the vicinity; that the merely

property would be depreciated in value; and that the area thereby would be open to further business development.

"The Board granted the Petition subject to the condition that shrubbery be placed on abutting lines of the property on the northerly, easterly and westerly sides thereof. The reasons assigned for granting the petition were that the house in question is outmoded as a single family dwelling because of its size; that traffic conditions would be taken care of by provisions for off-street parking; that in its opinion the adjoining property would not be depreciated; that no traffic situation would be created on Williams Avenue because of the applicant's agreement to fill in the parking area and place shrubbery along the sides of his vacant lot as ordered by the Board;..." The Board also gave as a further reason for its decision the fact that a certain specified portion of Waterman Avenue is a business C area, and that another is a commercial B area.

MAY 29 1954

LAW OFFICES OF
O'CONNOR & McMANUS
16 LIGHT STREET
BALTIMORE 2
MAY 28, 1954

HERBERT A. O'CONNOR, JR.
GEORGE W. McMANUS, JR.

HERBERT A. O'CONNOR, JR.
GEORGE W. McMANUS, JR.

Board of Zoning Appeals
Baltimore 4, Maryland

Re: Petition of J. Liston Wiedefeld and his wife for a Special Permit for a Funeral Home

Gentlemen:

An Appeal is herewith made to the Board of Zoning Appeals of Baltimore County from the denial of the subject petition by the Zoning Commissioner on May 24th.

Enclosed is Mr. Wiedefeld's check in the amount of thirty dollars (\$30.00).

Would you kindly advise me of the date on which this appeal will be held.

At this time I would like to request that the Board of Zoning Appeals allow one day for this hearing so that there will be no overcrowding of the Board's schedule.

Very sincerely yours,

George W. McManus, Jr.
George W. McManus, Jr.

OWHidd
Enclosure

LAW OFFICES OF
O'CONOR & McMANUS
10 LIGHT STREET
BALTIMORE 2

HERBERT H. O'CONOR, JR.
GEORGE W. McMANUS, JR.

October 22, 1954

Board of Zoning Appeals
of Baltimore County
303 Washington Avenue
Towson 4, Maryland

Gentlemen:

Enclosed are 2 copies of my Brief in behalf of J. Liston Wiedefeld in connection with his permit for a funeral home to be located at 7400 York Road.

I would appreciate being advised of the decision of the Board of Zoning Appeals as soon as practicable.

Very sincerely yours,

George W. McManus, Jr.
George W. McManus, Jr.

OWH:dbb
Enclosures

LAW OFFICES OF
O'CONOR & McMANUS
10 LIGHT STREET
BALTIMORE 2

HERBERT H. O'CONOR, JR.
GEORGE W. McMANUS, JR.

October 22, 1954

Charles H. Doing, Esq.
207 S. Holling Road
Baltimore 28, Maryland

Dear Judge Doing:

For your information, I am enclosing a copy of my Brief in behalf of J. Liston Wiedefeld for the funeral home located at 7400 York Road. I would appreciate being advised of the decision of the Board of Zoning Appeals as soon as practicable.

Very respectfully yours,

George W. McManus, Jr.
George W. McManus, Jr.

OWH:dbb
Enclosure

PETITION FOR A
SPECIAL PERMIT FOR
A FUNERAL HOME OF
J. LISTON WIEDELFELD AND
SUE H. WIEDELFELD

BEFORE THE

BOARD OF ZONING APPEALS OF
BALTIMORE COUNTY

BRIEF IN BEHALF OF
J. LISTON WIEDELFELD, PETITIONER

The record of the hearing conducted by This Honorable Board in this case contains overwhelming evidence in favor of granting the permit for the establishment of a funeral home by J. Liston Wiedefeld at 7400 York Road. That evidence proves that the proposed funeral home would not tend to create traffic congestion and it would not cause any depreciation of residential real estate values in the neighborhood. The testimony of 12 witnesses, of varied backgrounds, who appeared at the hearing on behalf of Mr. Wiedefeld shows conclusively that the funeral home would in no way be detrimental to the general welfare of the community.

It is well established that a funeral home has no detrimental effect on the health of the community and this Board is referred to the Baltimore County Health Department for a ruling on that point.

The record is clear that the house in question has been long outmoded as a family dwelling because of its size; and that as a matter of fact, it was used as a chemical laboratory for many years prior to Mr. Wiedefeld purchasing it and it was not used at all during those years for residential purposes.

Dr. Ethel Gardner testified that her late husband was Director of the Research Laboratory at 7400 York Road from 1943 to 1948. She was asked the question: "Was the entire premises during that period of time according to your knowledge operated as a laboratory?" and she answered: "That is right, every room in the house." She was then asked: "Was it used for residential purposes at all?" and she replied: "Not at all."

Mr. William Tyson testified that he had been the caretaker and gardener at 7400 York Road for 18 years; that he was employed by the former owner, Dr. Leonard; and that he himself raised and took care of

it would have no adverse effect." He then identified the picture above referred to looking toward the north at the shrubbery on the northern boundary ^{line} and from the Wiedefeld premises.

Campbell V. Helfrich testified: "I have had general real estate experience for 20 years. I am a member of the Real Estate Board of Baltimore. I was formerly the chief analyst for the State of Maryland for the Home Owners Loan Corporation. I am an approved appraiser for the Veterans Administration and appraiser for the Board of Education of Baltimore County. Special Appraiser for the Board of County Commissioners for the appraisal of commercial and apartment property from 1950 to 1952. I likewise am appraiser for many banks and insurance companies."

Mr. Helfrich, referring to the premises in question, namely 7400 York Road, then stated: "In my opinion, the use of the property for a funeral home should not have any adverse effect upon surrounding residential real estate values. I made a review of the numerous arteries from Baltimore City into the Metropolitan area of Baltimore County, trying to locate other comparable uses and areas. This survey revealed a striking similarity between the York Road on the north and the Frederick Road on the west. Slightly over one mile from the City Line on the York Road is the business district of Towson. At approximately the same distance from the City Line on the Frederick Road is the Catonsville business district. The intervening area off both roads, between the City Line and the respective business districts, are developed with residential and commercial area, the residential portion being composed of both cottage and group dwellings. The York Road is more predominantly commercial and institutional than the Frederick Road. The west side of York Road is almost entirely commercial or institutional. In general, however, the two areas are so nearly alike that known facts applicable to one seem to me to be applicable to the other. A survey of the Frederick Road between the City Line and the business district of Catonsville discloses three operating funeral homes."

the animals for the laboratory, including mice, guinea pigs and rabbits.

Before examining the details of the overwhelming evidence in favor of granting this permit, let us look at the record of the protestants. It presents virtually no opposition. The premises in question, 7400 York Road, are situated in the midst of the neighborhoods known as: Wiltondale, Stoneleigh, Anneslie, Rodgers Forge and Yorktown Drive. Not a single one of the improvement associations representing these neighborhoods opposed the granting of this permit; yet, the very purpose of these improvement associations is to oppose anything that would be detrimental to their respective communities.

Mr. J. W. Turner, witness for the protestants, was asked the question: "Do you have a clear view of Mr. Wiedefeld's home from your home?" and his answer was: "No, except in the winter." He testified that he could not see a funeral procession if one were conducted at Mr. Wiedefeld's home. There next witness, Mr. Charles DeJulio, was impeached. He testified that his occupation is a builder and that he develops undeveloped tracts of land by building homes thereon. The question was put to him: "Did you at the time, on one of these occasions, state that you would like to build cottages on that land?" and he replied: "No, sir. I was not interested in building around there;" and the question was asked further: "Are you sure of that?" and he replied: "I am quite sure of that." At that time, Counsel for Mr. Wiedefeld stated that he would like to present a witness for the purpose of impeachment and the Chairman said that Counsel would be given that permission at the close of the protestants' case. Subsequently, Mr. Tyson, a rebuttal witness for the petitioner, was asked if he ever had occasion to talk with Mr. DeJulio with respect to the premises located at 7400 York Road, which property is 2 1/2 feet wide and 1,049 feet deep. Mr. Tyson replied that he had

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such a conversation with Mr. DeJulio; Mr. Tyson said: "Mr. DeJulio said he would like to buy the place, put cottages on the place, but Mrs. Leonard wanted too much money." Mr. DeJulio never came back on the stand to deny that.

Mr. James L. Whittle, who resides next door to Mr. DeJulio on LeFelix Lane, testified for the protestants as follows: He was asked the question: "Have you at least on one occasion indicated an intention, in whole or in part, to purchase Mr. Wiedefeld's property?" and he replied: "No sir." That was Mr. Whittle's testimony the first time he was on the stand, but when he was placed back on the stand as a rebuttal witness he said: "I personally approached Mr. DeJulio and asked him if there was possibility of developing it so it would not affect the property. It was at that time that he asked the question relative to the property. That is the positive truth."

Is it not clear that Mr. DeJulio and Mr. Whittle, the main ~~xxxx~~ protestants, are not really opposing the granting of this permit for any reason other than a desire to get the premises in question for developmental purposes? Their homes are beyond the northern boundary line of the Wiedefeld property and that boundary is lined with high and thick shrubbery, so high and thick that neither Mr. DeJulio nor Mr. Whittle was able to identify a picture that was taken from on Mr. Wiedefeld's property looking north toward the shrubbery on the northern boundary line. That picture is in the record and was clearly identified when presented as an exhibit on behalf of the petitioner.

It is noteworthy that when Mr. Whittle was on the stand as a rebuttal witness, he was asked the question, on cross-examination: "You have heard Mr. Tyson on the stand under oath, I ask you if what Mr. Tyson said is the truth?" and Mr. Whittle replied: "Yes."

The only other witnesses which appeared on behalf of the protestants were Mrs. Russell, Mrs. Turnbull and Miss Hammarstrom;

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the first two mentioned live too far away from the premises to be affected; they live 1,000 feet to the rear of the Wiedefeld house, or probably even a greater distance, and there are plenty of trees between their homes and Mr. Wiedefeld's home. Miss Hammarstrom, who testified that she is a real estate broker, was asked the question: "Can you cite a specific reference of where the property went down in value because of its proximity to a funeral home?" and she replied: "There have been some that I can recall..." and she also said: "There have been no times I have been asked what detriment it might be."

In contrast, let us look at the record of the evidence presented in behalf of the petitioner for the granting of this permit.

Mr. Joseph D. Thompson, a consulting engineering, testified that: "It is my opinion that the location of the funeral home at this address will have no adverse effect upon traffic. It is due to the width of the pavement on York Road, the speed limit of 30 miles per hour, unobstructed vision in both directions for ingress and egress, traffic light within a short distance and ample off-street parking."

Mr. Rayburn B. Bradshaw, who testified that he is an appraiser of real estate, an appraiser for the Federal Home Loan Bank and the Veterans Administration, was asked whether the granting of the permit would have any adverse effect on the real estate in the community, and he replied: "I find it would have no adverse effect as far as values are concerned. I made a study of the Land Records to find comparable cases as a result of funeral homes in Baltimore." Mr. Bradshaw was asked specifically as to whether the granting of this permit would have any adverse effect on the properties on the other side of the shrubbery on the north boundary, line of the Wiedefeld property, referring, of course, to the homes of Mr. Whittle and Mr. DeJulio. Mr. Bradshaw replied: "No. After the survey and conclusion I reached, after getting all of the data from Mr. Wiedefeld,

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Mr. Helfrich went on to describe the Parley, McHabb and Eason funeral homes. His appraisal, which is an exhibit in the record before This Honorable Board on behalf of the petitioner, cites specific liber and folio references from the Land Records of Baltimore County proving conclusively that private homes surrounding these funeral homes have not only maintained their values but have even so much as tripled their values. For example, 303 Frederick Road, which is immediately adjacent to the McHabb Funeral Home, has gone up in value from a sale in 1940 of \$7,000.00 in fee to its sale in 1950 for \$18,000.00 in fee. 22 Dungeare Road, which is opposite the Parley Funeral Home, has gone up in value from a sale for \$5,500.00 subject to a \$56.70 ground rent in 1941 to \$17,000.00 subject to a \$120.00 ground rent in 1953.

This Honorable Board is respectfully referred to Mr. Helfrich's appraisal which contains many other numerous specific liber and folio references to sales to show that individual private homes located immediately near funeral homes have considerably increased in values over the past few years.

Certainly, no reasonable man with an open mind can say that this evidence is not relevant on the question of whether or not a funeral home would have an adverse effect on real estate values. Surely, there is only one way to find out, namely to refer to the sales of residential homes in areas in which funeral homes are located.

Mr. John B. Kenny, who lives directly opposite Mr. Wiedefeld's home, testified that he was in favor of granting the permit and was of the opinion that it would even be helpful to his home because it would result in the subject premises being maintained continuously in their present beauty. He further stated that he did not believe that it would create any traffic congestion and that it is his opinion that there is a need for a funeral home in the neighborhood. On cross-examination by the attorney for the protestants, he supported

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his opinion that there is a need for a funeral home in the neighborhood by stating that he personally satisfied himself by examining the distances between funeral homes in the area.

Reverend John M. Smoot, Pastor of the Central Presbyterian Church, which is right next door to the premises in question, stated that he had the authority of the Elders and Board of Trustees of his church, representing 800 members, to say that there is no objection in any degree to the granting of this permit. With respect to the question of whether or not there is a need for a funeral home in the area, Reverend Smoot said: "From my own observation, there does not seem to be nearly enough to take care of funerals." This testimony is deserving of considerable weight, especially in view of the fact that the Elders and the Board of Trustees of the Church have a very high fiduciary duty to object to any plan or proposal that would be harmful to their church from the long range point of view.

Mr. Raymond A. Whiting, who lives about a square from the subject premises, and Mr. James D. Murphy, who lives across the street from the subject premises, both testified that they approve of the granting of this permit for a funeral home and that, in their opinion, there is definitely a need for a funeral home in this area.

Certainly, This Honorable Board should consider the character of the premises in question. The house, as the record shows, has 14 very large, high ceiling rooms and 4 bathrooms; in addition thereto, a large basement consisting of 9 sections or rooms, including a large club cellar. Mr. Wiedefeld now occupies the first floor of the house along with his wife and his four children. The top floor is vacant. The lot on which the house is situated is over 211 feet wide and 1,049 feet deep. The house sits back off of York Road by more than 100 feet. The shrubbery in front of the house even obscures the view of it to a considerable extent from the main thoroughfare of York Road.

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Adjoining the Central Presbyterian Church, above referred to, on its south side, is the W. A. Taylor and Co. which is on a commercially zoned tract of land, and that company is a manufacturer of safety equipment and instruments of technological nature. On the south side of W. A. Taylor Co. is Rodgers Forge Road; on that corner, there are three gasoline stations--Amoco, Esso and Crown. Going on southward toward the business district of Rodgers Forge is vacant land for several blocks, much of which is commercially zoned.

The northern boundary line of the premises in question, as referred to hereinabove, consists of high and thick shrubbery.

On the west side of York Road, from the northern boundary line of the premises in question, on northward toward Burke Avenue, there is only one other dwelling facing directly on York Road. North of Burke Avenue is the business district of Towson. The very nature of the location of the premises in question befits the establishment of this funeral home.

The record shows that the firm of Wiedefeld & Son has conducted a funeral home since 1898 in a very dignified and conservative manner. Rev. G. W. Broderick of St. Anne's Church, located across the street from Mr. Wiedefeld's present funeral home, testified that it was his opinion that Mr. Wiedefeld's funeral home has contributed to the neighborhood in which it is located through the years. Mr. Wiedefeld is a past President and Chairman of the Board of the Funeral Directors Association in the State of Maryland.

The petitioner has presented his plans as an exhibit in the record which show that he does not intend to make a single structural change in his house. The petitioner has stated that he is willing to receive the permit for the establishment of the funeral home subject to conditions that may be set forth in the granting of the permit by This Honorable Board, such as adhering to his plans as presented.

In the case of Messinger, et al vs. Zoning Board of Review of Town of East Providence (99 A 24 665) (N. P. No. 10350), Supreme

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MESSINGER, ET AL
VS
ZONING BOARD OF REVIEW OF
TOWN OF EAST PROVIDENCE
(99 A 24 665)
(N. P. No. 10350)
Supreme Court of Rhode Island
November 3, 1953

The Supreme Court, O'Connell, J., held that where the house was outmoded as a single family dwelling because of its size, section of street where house was located between the areas of business and commercial properties, though zoned as residential, area where house was located had changed and was becoming a business section, providing applicant who would not make any alteration in exterior appearance of house, and since he planned to use the side lot for off-street parking, applicant should be permitted to operate funeral home in his house.

In this case, Francis J. King applied for an exception or variance for the purpose of securing permission to operate a funeral home, with parking privileges, from his residence at 242 Waterman Avenue in East Providence, Rhode Island.

At the hearing thereon, the applicant testified that his home contained 14 rooms; that there was a vacant lot to the left with room to park about 25 cars thereon; that he intended to fill in said lot for parking purposes; that he did not intend to park any cars in the front but only on the side, and that precautionary measures would be taken to prevent traffic from going into Williams Avenue; that he intended to maintain his residence on the 2nd and 3rd floors; and that the embalming would be done in the basement.

Several of the petitioners herein objected to the granting of the application mainly on the grounds that the applicant's house was in a residential zone; that traffic hazards would be increased; that bringing a funeral home into the neighborhood would have a depressing effect on persons living in the vicinity; that the nearby

Court of Rhode Island, November 3, 1953, the Board granted the petition for a funeral home subject to the condition that shrubbery be placed on abutting lines of the property on the northerly, easterly, and westerly sides thereof. That case is very similar to the one at hand. It is so unusually similar that it is noteworthy that at the hearing in that case in Rhode Island, the applicant testified that his home contained 14 rooms; a summary of that case is attached hereto and is hereby made a part of this Brief. It was even expressly stated in that case that the house in question was outmoded as a single family dwelling because of its size. That house contained the exact number of rooms that Mr. Wiedefeld's home contains, except that Mr. Wiedefeld's home is probably larger because of his extremely, unusually large basement.

There will be no signs on the lawn; no neon signs at all, but merely a bronze plaque in the brick pillar constituting the entrance to the driveway of Mr. Wiedefeld's home. The only substantial change will be the extension of the driveway around the house. Off-street parking will be provided for on the south side of the house between Mr. Wiedefeld's home and the church.

The plans presented, the condition upon which Mr. Wiedefeld is willing to take this permit, therefore call for the preservation of the existing beauty of 7400 York Road in its entirety. It is for that very reason that there is little objection to the granting of this permit.

There is a need for a funeral home in this area. Baltimore County's population is estimated to be well over 300,000 and it is rapidly increasing. There are at present only 20 funeral homes in Baltimore County, 10 of which are in residential areas, meaning only one funeral home for every 15,000 people.

In contrast, in Baltimore City, which now has an estimated population of 1,000,000 people, there is one funeral home for every 8,000 people. Consequently, a funeral home in Baltimore County has

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property would be depreciated in value; and that the area thereby would be open to further business development.

"The Board granted the Petition subject to the condition that shrubbery be placed on abutting lines of the property on the northerly, easterly and westerly sides thereof. The reasons assigned for granting the petition were that the house in question is outmoded as a single family dwelling because of its size; that traffic conditions would be taken care of by provisions for off-street parking; that in its opinion the adjoining property would not be depreciated; that no traffic situation would be created on Williams Avenue because of the applicant's agreement to fill in the parking area and place shrubbery along the sides of his vacant lot as ordered by the Board;..." The Board also gave as a further reason for its decision the fact that a certain specified portion of Waterman Avenue is a business C area, and that another is a commercial D area.

a ratio to Baltimore County's population of nearly double that which a funeral home in Baltimore City has to Baltimore City's population. In Baltimore City, there are 180 funeral homes, of which 63 are in residential areas.

Referring to the remaining requirements of the zoning regulations for Baltimore County so far as they are applicable to the granting of this permit and to the extent that they have not otherwise been specifically referred to, it is self-evident that the granting of this permit would not create a fire hazard, nor tend to overcrowd the land, nor interfere improperly with adequate provisions for schools, etc.; nor would it interfere with adequate light and air.

In conclusion, it is respectfully requested that This Honorable Board grant the permit to the petitioner for the establishment of a funeral home at 7400 York Road. From the transcript of the record, it is clear that the house in question is too large to satisfy a demand for a residence. It has not been used for a residence for many, many years. In fast-growing Baltimore County, there is a need for a conveniently located off-street parking funeral home in the area. The establishment of this funeral home will have no harmful effect on the community. There is no substantial evidence in the record to support a contrary view. As a matter of fact, the preservation of the existing beauty of the premises in question through the establishment and maintenance of the proposed funeral home will be beneficial to all that surrounds it. The uncontradicted facts set forth in the record show that the establishment of this funeral home would not tend to create traffic congestion. Actual selling prices of private residences located adjacent to funeral homes have been cited by qualified real estate appraisers from the Land Records of Baltimore County, proving beyond any doubt that funeral homes do not depreciate residential real estate values.

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WHEREFORE your petitioner prays that This Honorable Board grant the permit for the establishment of this funeral home.

Respectfully submitted,

George W. McManus, Jr.
George W. McManus, Jr.
Attorney for the petitioner,
J. Liston Wiedefeld

JAMES L. WHITTLE,
CHARLES DEJULIO
JAMES RUSSELL, in their
own behalf and in behalf
of other interested parties

IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY

vs
CHARLES H. DOING,
CARL P. VOHLEN
and DANIEL W. HUBERS,
being and constituting
the Board of Zoning Appeals
of Baltimore County

ADDED TO WRIT OF CERTIORARI AND ORIGINAL AND CERTIFIED
COPIES OF PROCEEDINGS BEFORE THE BOARD OF ZONING APPEALS
AND THE ZONING COMMISSIONERS OF BALTIMORE COUNTY

Re: Clerk's

Please file, etc.

Forwarded to
Board of Zoning Appeals
of Baltimore County

JAMES L. WHITTLE,
CHARLES DEJULIO
JAMES RUSSELL, in their
own behalf and in behalf
of other interested parties

IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY

vs
CHARLES H. DOING,
CARL P. VOHLEN and
DANIEL W. HUBERS, being
and constituting the
Board of Zoning Appeals
of Baltimore County

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Charles H. Doing, Daniel W. Hubers and Carl
P. Vohlen, constituting the Board of Zoning Appeals of Baltimore
County, and in answer to the writ of certiorari directed against
them in this case, herewith return the record of proceedings had
in the above entitled matter, consisting of the following certified
copies or original papers on file in the office of the Zoning
Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING
COMMISSIONERS OF BALTIMORE COUNTY

- No. 2016-3 Petition of J. Linton Wiesfeld and Eve R. Wiesfeld,
April 27, 1954 his wife, for a Special Permit for Funeral Home,
West side of York Road, 225 feet south of LaPaiz
Lane, 9th District, filed.
" " Order of Zoning Commissioner directing advertisement
and posting of property - date of hearing set for
May 12, 1954 at 11:00 a.m.
May 12, " Certificate of posting of property on May 12, 1954,
filed.
May 16, " Certificate of publication in newspaper, filed.

May 24, 1954 4:15 P.M. hearing held on petition by Zoning
Commissioners.

" " Order of Zoning Commissioner denying the petition
for special permit.

May 29, " Order of appeal to the Board of Zoning Appeals
of Baltimore County from Order of Zoning Commissioners
filed.

Sept. 30, " Hearing on appeal before the Board of Zoning Appeals.

Nov. 10, " Order of Board of Zoning Appeals of Baltimore County
reversing the Order of the Zoning Commissioner and
granting the special permit to use a portion of
subject property for Funeral Home.

Dec. 8, " Writ of certiorari and appeal to the Circuit Court
for Baltimore County served on the Board of Zoning
Appeals.

" 10 " Transcripts of testimony taken at the appeal hearing
before the Board of Zoning Appeals, filed.

Study, survey and plat filed as Petitioners' Exhibit
No. 1.

Photographs filed as Petitioners' Exhibits Nos. 2, 3,
4, 5, 6 and 7.

Plat showing present layout and proposed layout of
property, Petitioners' Exhibit No. 8.

Petitioners in favor of the granting of Special Permit
filed as Petitioners' Exhibit No. 9.

Plat showing proposed driveway filed as Petitioners'
Exhibit No. 10.

Analysis of the operation of a funeral home and its
effect upon residential values by Raphael V. Wolfstein.

Report and Survey as to effect on real estate values
for occupancy as funeral home by Raymond B. Brothman.

Petition with 131 signatures filed in favor of the
granting of the special permit.

List of funeral homes and other papers filed at hearing
before the Zoning Commissioner and Board of Zoning Appeals.
Petition and letters of protest.

Copy of Order of Court rendered in a previous case.

January 19, 1955 Record of proceedings filed in the Circuit Court
for Baltimore County.

Record of proceedings pursuant to which said Order
was entered and said Board cited six permanent records of the Zoning
Department of Baltimore County as are also the two district maps and
your Respondents respectively suggest that it would be inconvenient
and inappropriate to file the same in this proceeding, but your
Respondents will produce any and all such rules and regulations
together with the zoning use district maps at the hearing on this
petition or whenever directed to do so by this Court.

Respectfully submitted,

Counsel to the
Board of Zoning Appeals
of Baltimore County

State of Maryland, Baltimore County, Et.:

To: Charles H. Doing, Carl P. Vohlen, and Daniel W. Hubers, being
and constituting the Board of Zoning Appeals of Baltimore County

YOU ARE COMMANDED, that the record and proceedings in a certain case of

James L. Whittle, Charles DeJulio, James Russell, in their

own behalf and in behalf of other interested parties

with all things touching the same, as fully and perfectly as they remain before you, by whatever

name or names the parties aforesaid, or either of them, are called in the same, you send and certify to

the CIRCUIT COURT FOR BALTIMORE COUNTY, before the Honorable John H. Connelley

Associate Judge of the Circuit Court for Baltimore County, presiding, together with this writ, immedi-

ately after receipt of the same.

WITNESS, the Honorable J. HOWARD MURRAY, Chief Judge of the Circuit Court for

Baltimore County, this 13th day of September, 1954

Issued this 7th day of December 1954

GEORGE L. BRYANT

Clerk.

COPY

JAMES L. WHITTLE,
CHARLES DEJULIO
JAMES RUSSELL, in their
own behalf and in behalf
of other interested parties.

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

vs
CHARLES H. DOING,
CARL P. VOHLEN
and DANIEL W. HUBERS,
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 and appeal of James L. Whittle, Charles
DeJulio, James Russell, in their own behalf and in behalf of other interested
parties, Petitioners, respectfully represents unto your Honor, via

1. That your Petitioners and protestants above named
are residents, property owners, and taxpayers in Baltimore County, State
of Maryland, living or owning real estate variously nearby or directly affected
by the tract of land located on the westernmost side of York Road, 225 feet
south of LaPaiz Lane, in the Ninth Election District of Baltimore County,
Maryland, for which as hereinbefore recited a special permit was granted by
the Board of Zoning Appeals of Baltimore County for the operation of a funeral
home and each of your Petitioners is aggrieved by the decision of the Board
of Zoning Appeals of Baltimore County dated November 10th, 1954, by which
said Board granted a special permit for the operation of a funeral home in an
"A" residential zone that property on the westernmost side of York Road,
225 feet south of LaPaiz Lane, with a frontage on York Road of 210 feet and a
depth of 400 feet.

2. That your Petitioners aver that the decision of the
Board of Zoning Appeals of Baltimore County dated November 10th, 1954,
is void, without legal force and effect insofar as it grants the petition
of J. Linton Wiesfeld and Eve R. Wiesfeld, his wife, applicants for a special
permit for the operation of a funeral home on that property previously described
and should be modified and reversed for the following reasons:

a. That said order of the Board of Zoning appeal of
November 10th, 1954, in the particular hereinbefore set forth constitutes
an erroneous, arbitrary and capricious act and a gross abuse of administrative
discretion.

b. That there was no substantial evidence before the
Board of Zoning Appeals of Baltimore County in these proceedings conducted
before it to establish that there was any error in the original classification of
said property and the immediate area surrounding it as an "A" residential
zone; the lack of such a showing, therefore, would not justify the Board in
granting to the applicants, J. Linton Wiesfeld and Eve R. Wiesfeld, the
special permit for the operation of a funeral home on the property previously
described.

c. That there was no evidence produced before the
Board of Zoning Appeals of Baltimore County at these proceedings conducted
before it that the character of the property and/or the area immediately
surrounding it had changed in any degree since the original classification of
said property as "A" residential and the applicants are not, therefore, entitled
to the said special permit for the operation of a funeral home.

d. That the granting by the Board of the special permit
for the operation of a funeral home was in direct contradiction of the decision
of the honorable Court rendered May 22nd, 1951, which decision ruled that a
special permit for the operation of a funeral home on the same property in
question herein should not be granted. The decision of the Court at that time
reversed a previous ruling by the then Board of Zoning Appeals which granted
a special permit for the operation of a funeral home for the property in question.

That in the present proceedings, without justification,
the Board disregarded the decision of this Honorable Court in granting the
said special permit.

e. That following the decision of this Honorable Court
in refusing to grant a special permit, no evidence was produced before the

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Board of Zoning Appeals of Baltimore County to show any change in the need
for the establishment of a funeral home in the area surrounding the property
under consideration since the Court rendered its decision May 22nd, 1951, which
refused to grant the special permit for the operation of a funeral home; that,
therefore, the said order of the Board of Zoning Appeals of Baltimore County
which granted the special permit should be annulled, set aside and vacated.

f. And for such other and sufficient reasons as will
be shown at the hearing hereon.

TO THE END THEREFORE:

(a) That a writ of certiorari be granted by this Honorable
Court directed to the said defendants constituting the Board of Zoning Appeals
of Baltimore County to review the decision and order of said Board of November
10th, 1954, in the within proceeding and prescribing therein the time in which a
return shall be made and served upon counsel for the parties to this proceeding.

(b) That the said Board of Zoning Appeals may be required
to return to this Honorable Court the original papers acted upon by it, or certified
copies thereof, together with copies of all records in said proceeding and trans-
cripts of all testimony taken before said Board in connection with said proceedings,
as well as a copy of the order entered by said Board, copies of any and all rules
and regulations pursuant to which said order was entered and said Board purposed
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 this matter.

(d) That this Honorable Court may as in the above petition
set forth, correct, modify, and thereby reverse the decision and order of the
Board of Zoning Appeals of Baltimore County, November 10th, 1954, by which it granted said special
permit for the operation of a funeral home.

COPY

(e) That this Honorable Court may grant such other and further relief as the nature of your Petitioners' cause may require. AND AS IN DUTY BOUND, etc.

John Grason Turnbull
24 W. Penn. Avenue
Towson 4, MD.
Attorney for Petitioner

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY that on this ____ day of December, 1954, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County, personally appeared John Grason Turnbull, Attorney for Petitioners, and he made oath in due form of law that the matters and facts set forth in the foregoing petition are true to the best of his information, knowledge, and belief.

AS WITNESS my hand and notarial seal.

Marian D. Taylor, Notary Public

My commission expires: _____

ORDER

Upon the foregoing petition and affidavit, it is this ____ day of December, 1954, by the Circuit Court for Baltimore County, ORDERED that a Writ of Certiorari be issued to Charles H. Deing, Carl F. Vahlen, and Daniel W. Hubers, constituting the Board of Zoning Appeals of Baltimore County, to review the decision and order of said Board of Zoning Appeals of November 10th, 1954, and requiring said Board to return to this Court, all papers, records and proceedings. In said matter and a transcript of all testimony presented before the Board in connection with said proceedings and a copy of any and all rules and regulations pursuant to which said Order was entered and said Board acted, to enable this Court to review said Order and decision of the Board and that a return to this Petition shall be made and served upon the Defendants' attorney within ten days from the date of this Order; and

It is further ORDERED that the said Board of Zoning Appeals of Baltimore County shall return to this Court all the original papers, uncertified or sworn copies thereof and the return shall concisely set forth such other facts as may be pertinent to show the grounds of the decision and Order appealed from, together with a transcript of all testimony taken at the hearing and copies of the exhibits filed therewith.

John P. Martin
JUDGE

John P. Martin
JUDGE

June 1, 1954

(\$0.00

RECEIVED of George W. Hottel, Jr., Attorney for J. Milton Wiesfeld, and wife, petitioners, the sum of Thirty (\$30.00) Dollars, being cost of appeal to the Board of Zoning Appeals of Baltimore County from the decision of the Zoning Commissioner denying the special permit for a funeral home, west side of York Road, 9th District.

Zoning Commissioner
of Baltimore County



LAW OFFICE
TURNBULL AND BREWSTER
24 WEST PENNSYLVANIA AVENUE
TOWSON 4, MARYLAND

May 18, 1954

Honorable Wilkie H. Adams
Zoning Commissioner
Health Department Building
Towson 4, Maryland

RE: Application of Wiesfeld for special permit for funeral home on York Road at the 7400 block

Dear Mr. Adams:

Enclosed herewith you will find petition of protest in the above matter, together with copy of opinion of Honorable John B. Gontum covering this identical property and which was filed on May 22nd, 1953, after litigation over a former application for the same property by the same people.

I will appreciate it if you will put these papers in your file so that they may be available to you and other interested parties at the time of the hearing.

Very respectfully yours,

John Grason Turnbull

JGT/t

- ✓ Tall, Carl B.
President - Federation of Associations
(188 Harrison Lane - Home)
- ✓ Kiliar, Anthony J. 504 Wilton Rd. about 250' East
Representing Wiesfeld Imp. Soc.
- ✓ Mrs. & Mrs. Demarcio Casarache
7315 Yorktowne Lane adjoining
- ✓ Mrs. Alberta Bouleau
7315 Yorktowne Lane adjoining
- ✓ Mrs. Barbara Carbo
adjoining
- ✓ Richard White
300 ft.
- ✓ M. Bouhage
210 ft north
- ✓ Mrs. M. R. Ryler
240 ft
- ✓ Mrs. Charles Mulhany
240 ft.
- ✓ J. L. Whith
adjoining
- ✓ 106 La Pine Ln

PROTESTANT'S PRESENT

- ✓ Rev. John Murray Stewart
7308 York Rd.
Church established - 1948
- ✓ Mr. Thompson - of Thompson, Shaw & Mayers
- ✓ Traffic Light - York & Stevenson
- ✓ Rev. Edwin F. O'Donnell
7501 York Rd.
- ✓ Mr. John Kenney
7405 York Rd.
- ✓ Mr. John Shick Jr.
4411 Shick Ave.
- ✓ Mr. Rayburn B. Bradshaw - Real Estate

- Protestants:
Rev. John L. Turnbull
- Mr. J. L. Whith
La Pine Lane
- Mr. Githrie McVane
504 W. Han Rd.
- W. Hendale Imp. Asso.
- Mr. B. Turnbull
La Pine Lane since 1838

- Those in favor, please sign name and address:-
- John T. Young 7405 York Road
- Raymond A. Whiting 602 Sussex Road
- ✓ Murray Stewart - 7308 York Rd.
- Mrs. J. Murray Stewart 7315 York Rd.
- Miss Blaine Butler 7411 Annapolis Road
- William Thorsen Townsend
- Charles D. Smith 207 York Rd.
- John White 401 Wilkins Ave
- Anna White 4111 Wilkins Ave