

PETITION FOR A SPECIAL HEARING

IN THE MATTER OF
PETITION OF
BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

For a Special Hearing
To the Zoning Commissioner of Baltimore County

FLORINE LANCASTER
Petitioner

herby petitioning for a Special Hearing, under the Zoning Law and Regulations and Restrictions of Baltimore County, to determine whether or not the petitioner had a lawful nonconforming use on the date of the adoption of the said Regulations and Restrictions to permit the continuance of such use.

Location of property: 2906 Dundalk Avenue, Dundalk, in the 12th District of Baltimore County.

Mrs. Florine Lancaster
Petitioner

Address: 6736 Woodly Road, Dundalk 22, Md.

FLORINE LANCASTER : IN THE CIRCUIT COURT FOR
JULIAS E. LANCASTER
VS : BALTIMORE COUNTY
Misc. No. 5, Folio 206
BOARD OF ZONING APPEALS : Case No. 1528

April 17, 1956, Judge Floyd J. Kintner- Appeal dismissed
(No opinion filed)

ORDERED by the Zoning Commissioner of Baltimore County this 27th day of April, 1956, that the subject matter of this petition be advertised in a newspaper of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly aforesaid, and that a public hearing, thereon be had in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 23rd day of May, 1956, at 11:00 o'clock P.M.

Zoning Commissioner
of Baltimore County

April 19, 1955

George P. Edwards, Esq.,
219 Dundalk Office,
Dundalk 22, Md.

Dear Mr. Edwards:

In your letter of April 7, 1955 you requested a special hearing regarding the use of property at 2906 Dundalk Avenue, Florine Lancaster Beauty Shop. Will you kindly have your client sign the enclosed petition and return to this office, we will then complete the petition, advertise and post the property and notify you of the date and time of hearing.

Very truly yours,

Zoning Commissioner

NOTICE OF ZONING HEARING
12th District

THE PUBLIC is hereby notified that there will be a hearing before the Zoning Commissioner of Baltimore County, in the Board Room, 32 the Richard Building, Towson, Maryland:

On Monday, May 23, 1955

at 12:00 a.m.

The purpose of this hearing being to determine whether or not Florine Lancaster, petitioner, shall be allowed to continue a non-conforming use under the zoning regulations and restrictions at 2906 Dundalk Avenue, Dundalk, in the Twelfth District of Baltimore County.

By Order of
William H. Adams,
Zoning Commissioner
of Baltimore County.

(COPY)

June 1, 1955

George P. Edwards, Esq.,
219 Dundalk Building,
Dundalk 22, Md.

Re: Petition for a Special Hearing -
Property of Florine Lancaster,
2906 Dundalk Ave., 12th District

Dear Mr. Edwards:

I have today passed my Order, in the above matter, denying the right of the petitioner to use said property for the operation of a Beauty Shoppe for reasons stated in the attached copy of said Order.

Very truly yours,

Zoning Commissioner

cc: David H. Merrill, Esq.,
Dundalk Building,
Dundalk 22, Maryland

MADE IN U.S.A.
JUL 10 1955
May 1, 1955

\$20.00

RECEIVED of George P. Edwards, attorney for Florine Lancaster, petitioner, the sum of Twenty (\$20.00) Dollars, being cost of petition for Special Hearing, advertising and posting property, 2906 Dundalk Avenue, Dundalk, 12th District, Baltimore County.

Zoning Commissioner.

HEARING:

Monday, May 23, 1955

at 12:00 a.m.

Richard Building
Towson, Maryland.

PAID
MAY 8 - 5
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY
717K

June 1, 1955

Samuel G. Proctor, Esq.,
101 East Chesapeake Avenue,
Towson 4, Maryland

Re: Petition for a Special Hearing
Property of Florine Lancaster,
2906 Dundalk Ave., 12th Dist.

Dear Mr. Proctor:

I am enclosing a copy of my Order passed in the above matter, denying the petitioner the right to use the subject property for the operation of a Beauty Shoppe.

Very truly yours,

Zoning Commissioner

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
Lancaster vs. Zoning Bd.

Case No. 1528
Apr. 17, 1956 Appeal dismissed.

Final date: May 1, 1955
Please be prepared for trial on this day.

GEORGE L. BYERLY, Clerk.

THIS SIDE OF CARD IS FOR ARCHIVES
MAY 10 1955
MAY 10 1955
MAY 10 1955

Mrs. Jeanette Harris
c/o George Broad
County Office Bldg.
Towson 4, Md.

June 1, 1955

George D. Edwards, Esq.,
219 Dunkirk Building
Dundalk, Md.

Re: Petition for a Special Hearing -
Property of Florine Lancaster,
2905 Dundalk Ave., 12th District

Dear Mr. Edwards:

I have today passed my Order, in the above matter, denying the right of the petitioner to use said property for the operation of a beauty shoppe for reasons stated in the attached copy of said Order.

Very truly yours,

Zoning Commissioner

cc: David P. Merrill, Esq.,
Dunkirk Building
Dundalk 22, Maryland

June 1, 1955

George D. Edwards, Esq.,
219 Dunkirk Building
Dundalk, Md.

Re: Petition for a Special Hearing -
Property of Florine Lancaster,
2905 Dundalk Ave., 12th District

Dear Mr. Edwards:

I have today passed my Order, in the above matter, denying the right of the petitioner to use said property for the operation of a beauty shoppe for reasons stated in the attached copy of said Order.

Very truly yours,

Zoning Commissioner

cc: David P. Merrill, Esq.,
Dunkirk Building
Dundalk 22, Maryland

219 DUNKIRK BUILDING
DUNDALK 22, MD.

GEORGE D. EDWARDS

ATTORNEY AT LAW

June 2, 1955

ATWATER 20600

Willard H. Adams
Zoning Commissioner
303 Washington Avenue
Towson 4, Maryland

Dear Mr. Adams:

Re: Property of Florine Lancaster
2905 Dundalk Avenue
12th Election District,
Baltimore County, Maryland

Your Petitioner, being aggrieved and damaged by the decision of the Zoning Commissioner dated June 1st, 1955, in the above captioned matter, hereby appeals the decision of said Zoning Commissioner to the Board of Zoning Appeals.

My check in the amount of Thirty Dollars (\$30.00) covering costs thereon is enclosed.

Very truly yours,

George D. Edwards
George D. Edwards

ODG/mak
Dex(1)

Appeal filed June 2

November 1, 1955

\$5.20

RECEIVED George D. Edwards, Attorney for Florine Lancaster, petitioner, the sum of \$5.20 being cost of certified copies of papers filed in the matter of appeal to the Circuit Court of Baltimore County concerning property, 2905 Dundalk Avenue, 12th District.

Zoning Commissioner

RECEIVED
NOV 3 1955
CITY CLERK'S OFFICE
770

PAID
JUN 8 - 1955
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY
71 1/2

June 9, 1955

\$30.00

RECEIVED of George D. Edwards, attorney for Florine Lancaster, petitioner, 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 use of property for beauty shoppe, 2905 Dundalk Avenue, 12th District.

Zoning Commissioner

June 9, 1955

Notified of appeal hearing on Thursday, June 23, 1955 at 10:00 a.m.

Board of Zoning Appeals

Council to Board

George D. Edwards counsel for petitioner

David D. Merrill, " " "

Kenneth C. Proctor, " " protestants

August 11, 1955

Kenneth C. Proctor, Esq.,
103 N. Charles Avenue,
Towson 4, Maryland

Re: Petition for a Special Hearing to
determine nonconforming use for
Beauty Shoppe - 2905 Dundalk Ave.,
Florine Lancaster, Petitioner

Dear Mr. Proctor:

The Board of Zoning Appeals of Baltimore County passed its Order on August 10, 1955, affirming the order of the Zoning Commissioner rendered in the above matter.

I am enclosing a copy of said Order for your files.

Very truly yours,

Zoning Commissioner

David D. Merrill, Esq.,
Dunkirk Building
Dundalk 22, Md.

Re: Petition for a Special Hearing to
determine nonconforming use for
Beauty Shoppe - 2905 Dundalk Ave.,
Florine Lancaster, Petitioner

Dear Mr. Merrill:

The Board of Zoning Appeals of Baltimore County passed its Order on August 10, 1955, affirming the decision of the Zoning Commissioner rendered in the above matter for reasons stated in copy of said Order attached hereto.

Very truly yours,

Zoning Commissioner

cc: George D. Edwards, Esq.,
Dunkirk Building
Dundalk 22, Md.

FLORINE LANCASTER
JULIAN H. LANCASTER
2905 DUNDALK AVENUE
DUNDALK 22, MARYLAND

IN THE
CIRCUIT COURT FOR
BALTIMORE COUNTY

FOR
ZONING DEPARTMENT

CHARLES H. DOING
CARL F. VOHLEN
DANIEL W. HUBERS
THE BOARD OF ZONING APPEALS OF
BALTIMORE COUNTY
TOWSON 4, MARYLAND



PETITION FOR WRIT OF HABEAS CORPUS AND APPEAL
TO THE HONORABLE THE JUDGE OF SAID COURT

The Petition of FLORINE LANCASTER and JULIAN H. LANCASTER, by their
Attorneys, CHARLES H. DOING and CARL F. VOHLEN, respectfully represent unto
your Honor

1. That your Petitioners are property owners, taxpayers and residents of
Baltimore County, State of Maryland. That they purchased the property known
as 2905 Dundalk Avenue, 12th Election District, Baltimore County Maryland, on
March 11th, 1955. That the property was purchased for the purposes of a
residence and for conducting therein a home occupation, to wit, a beauty shop.
Said home occupation being a permitted use in a residential zone under the
then existing regulations.

2. That on March 11th, 1955, your Petitioners applied for an alteration
permit to remove the said property in order that it be better adapted for
said home occupation. That the said permit was granted by the Baltimore County
Building Department on March 23rd, 1955.

3. That your Petitioners were put to great expense in making said alterations
and repairs.

4. That on March 20th, 1955, the new Zoning Regulations for Baltimore
County became effective and shortly thereafter your Petitioners were notified
by the Zoning Commissioner of Baltimore County that the said use was a violation
of the new regulations.

5. That on May 23rd, 1955, your Petitioners asked for and were granted a
hearing before the Zoning Commissioner of Baltimore County, to determine
whether a lawful nonconforming use existed on said property at the time of the
adoption of the new Zoning Regulations and Restrictions.

6. That on June 1st, 1955, the Zoning Commissioner Ordered that a lawful

nonconforming use did not exist on the subject property and the said use
was denied.

7. That on June 2nd, 1955, your Petitioners appealed the decision of the
Zoning Commissioner to the Board of Zoning Appeals for Baltimore County.

8. That a hearing was held on said appeal on June 23rd, 1955.

9. That on August 10th, 1955, the Board of Zoning Appeals affirmed
the Order of the Zoning Commissioner.

10. That your Petitioners are aggrieved and damaged by the said decision
and action of Board of Zoning Appeals, and therefore, appeal therefrom and
respectfully ask that said action and decision of the said Board of Zoning
Appeals for Baltimore County should be reversed for the following reasons.

(1) That the action and decision of the Board of Zoning Appeals was
contrary to law, was a misinterpretation of the law and the facts and therefore
was a mistake of both law and fact.

(2) That the action and decision of the said Board was unreasonable and
constitutes an arbitrary and capricious act and a gross abuse of administrative
discretion.

(3) That the said action and decision of said Board was unsupported
by any sufficient and substantial evidence produced before the said Board.

(4) That your Petitioners will, if granted permission by this Honorable
Court to submit testimony before it, satisfactorily and fully show to this
court that the said Board has acted arbitrarily, capriciously and discriminatorily.

(5) And for other good and sufficient reasons as will be shown at the
hearing herein.

WHEREFORE your Petitioners Pray:

(a) That a writ of Certiorari be issued by this Honorable Court, directed to
the Board of Zoning Appeals for Baltimore County, prescribing the time
within which a return thereto must be made and served upon relators Attorney.

(b) That this Honorable Court reverse, set aside and annul the Order
of the Board of Zoning Appeals for Baltimore County, dated August 10th, 1955.

(c) That the Board of Zoning Appeals of Baltimore County be required to
return to the Honorable Court the original papers asked upon by it, or
certified or sworn copies thereof, and that such return shall consist of
such other facts as may be pertinent and material to show the grounds and
decision of the Order appealed from, together with a transcript taken at the
hearing in this matter, before said Board and copies of all exhibits filed

With such Record,
and for such other and further relief as the nature of the same may
require.
AND IN WITNESS WHEREOF,

Florine Lancaster

Julian H. Lancaster

George H. Edwards
Attorney
2905 Dundalk Building
Baltimore 22, Maryland

SEAL OF BALTIMORE }
COURT OF BALTIMORE } To WIT

I HEREBY CERTIFY that on this 11th day of August, 1955, before me,
the undersigned, a Notary Public of the State of Maryland, in and for the
County of Baltimore, personally appeared FLORINE LANCASTER and JULIAN H. LANCASTER
and they made oath in the form of law that the matters and facts set forth
in the foregoing Petition for writ of Certiorari and Appeal are true and
correct to the best of their knowledge and belief.

Notary Public

UPON the foregoing Petition and Affidavit it is this 11th day of August,
1955, by the Circuit Court for Baltimore County, ORDERED that a writ of
Certiorari be issued, directed to the Board of Zoning Appeals for Baltimore
County to reverse the decision of said Board, dated August 10, 1955, and that
a return thereto must be made and served on the relator's attorney within
10 days of the date of this Order, and it is further

Ordered that the Board of Zoning Appeals for Baltimore County be and it is
hereby required to return to this Court the Original papers asked upon by it,
or certified or sworn copies thereof, together with a transcript of the
testimony taken at the hearing before said Board, exhibits filed before it
and concisely setting forth such other facts as may be pertinent and material
to show the ground of the decision and Order appealed from.

True Copy Test

John B. Schmitt
Judge

August 11, 1955

David D. Merrill, Sec.,
Dundalk Building
Dundalk 22, Md.

Dear Mr. Merrill:

The Board of Zoning Appeals of Baltimore County
passed the Order on August 10, 1955, affirming the decision of
the Zoning Commissioner rendered in the above matter for reasons
stated in copy of said Order attached hereto.

Very truly yours,

Zoning Commissioner

cc: George D. Edwards, Sec.,
Dundalk Building
Baltimore 22, Md.

FLORINE LANCASTER
JULIAN H. LANCASTER,
2905 Dundalk Avenue,
Dundalk 22, Maryland

IN THE
CIRCUIT COURT

FOR
BALTIMORE COUNTY

CHARLES H. DOING
CARL F. VOHLEN
DANIEL W. HUBERS
The Board of Zoning Appeals
of Baltimore County,
Towson 4, Maryland

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

Mr. Clerk:
Please file, etc.

Counsel to
Board of Zoning Appeals
of Baltimore County

FLORINE LANCASTER
JULIAN H. LANCASTER,
2905 Dundalk Avenue,
Dundalk 22, Maryland

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

CHARLES H. DOING
CARL F. VOHLEN
DANIEL W. HUBERS
The Board of Zoning
Appeals of Baltimore
County, Towson 4,
Maryland

TO THE HONORABLE THE JUDGE OF SAID COURT:

And now come Charles H. Doing, Carl F. Vohlen and Daniel
W. Hubers, constituting the Board of Zoning Appeals of Baltimore
County, and in answer to the writ of certiorari directed to and
then 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:

- No. 1955-1 ZONING DIVISION FROM LOCKET OF ZONING
COMMISSIONER OF BALTIMORE COUNTY
- April 22, 1955 Petition of Florine Lancaster for a special
hearing to determine nonconforming use of
property at 2905 Dundalk Ave., 12th District,
filed.
- " " Order of Zoning Commissioner directing adver-
tisement and posting of property - date of
hearing set for May 23, 1955 at 10:00 a.m.
- May 10, " Certificate of publication in newspaper, filed.
- " 22, " Certificate of posting filed.

- May 23, 1955 At 10:00 a.m. hearing held on petition by the
Zoning Commissioner, case held sub-judice.
- June 1, " Order of Zoning determining that a lawful
nonconforming use does not exist on subject
property for operation of a beauty shop.
- " 3, " Order of appeal to the Board of Zoning Appeals
of Baltimore County from decision of Zoning Com-
missioner, filed.
- " 23 " Hearing on appeal before the Board of Zoning
Appeals.
- Aug. 10, " Order of Board of Zoning Appeals affirming
decision of Zoning Commissioner.
- " 24, " Writ of certiorari and appeal to the Circuit
Court for Baltimore County moved on the
Board of Zoning Appeals.

Sept. 20, " Transcript of testimony taken at the appeal
hearing before the Board of Zoning Appeals,
filed.

Application for Building Permit and Building
Permit issued by Buildings Department filed
as Petitioners' Exhibit No. 1.

Exhibits filed by counsel for petitioners and
opposed for protestants.

Nov. 2, " Record of proceedings filed in Circuit Court for
Baltimore County.

Record of proceedings pursuant to which said Order
was entered and said Board order are permanent records of the Zoning
Department of Baltimore County as are also the use district maps and
your respondents respectfully 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

RE: PETITION FOR A SPECIAL HEARING TO DETERMINE
A LAWFUL NONCONFORMING USE FOR BEAUTY SHOPS,
2905 Dundalk Avenue, 12th District of Baltimore County - Florine Lancaster, Petitioner.

Upon hearing on the within petition to determine whether or not the petitioner had a lawful non-conforming use existing on the effective date of the adoption of the Zoning Regulations and Restrictions for Baltimore County on March 30, 1955, to operate a Beauty Shoppe in the subject property, this Board is of the opinion from the testimony presented that the property has never been used for any purpose other than a residence and that at the time of the adoption of the Regulations and Restrictions on March 30, 1955, the residence was vacant and remained vacant until the applicant moved in, in the first week in May 1955.

It was contended before this Board that while the subject property has never been used as a Beauty Shoppe it was purchased and alterations begun for this purpose prior to the adoption of the new Zoning Regulations and Restrictions on March 30, 1955 and that, therefore, the applicants have a non-conforming use for a Beauty Shoppe upon the premises.

This Board holds that the Zoning Regulations and Restrictions applicable to home occupations, do not permit the operation of a Beauty Shoppe in a residential area since the operation of a Beauty Shoppe is purely a commercial enterprise and cannot be construed as a professional office or studio such as are permitted in residential zones.

August,
It is this 10th day of ~~August~~ 1955, ORDERED by the Board of Zoning Appeals of Baltimore County, that the Order of the Zoning Commissioner rendered in the above matter is hereby affirmed.

Charles H. Adams
Chairman
Carl F. Vohden
Samuel W. Johnson
Board of Zoning Appeals of
Baltimore County

NOTICE OF ZONING HEARING

The public is hereby notified that there will be a hearing before the Zoning Commissioner of Baltimore County on

the purpose of this hearing being to determine whether or not, under Section 500.7 of the Zoning Regulations and Restrictions of Baltimore County, the Florine Lancaster Beauty Shop, had a lawful nonconforming use on the date of the adoption of said Regulations and Restrictions to permit the continuance of such use and whether or not an application for a building permit.

The business sought to be conducted as a nonconforming use consists of a Beauty Shop located at 2905 Dundalk Avenue, in the 12th District of Baltimore County.

At said time and place all parties having any ~~interest~~ interest in this matter will be heard.

By Order of
Zoning Commissioner
of Baltimore County.

David D. Merrill, Sec.,
219 Dundalk Building
Dundalk 22, Maryland

Sept. 20 1955

County Commissioners
of Baltimore County
c/o Zoning Department
301 Washington Avenue,
Towson 1, Maryland

Cost of certified copy of petition for special hearing, and other papers filed in the matter of a nonconforming use of property at 2905 Dundalk Avenue, 12th District - Florine Lancaster, petitioner

\$5.20

June 16, 1955

BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

Assignment for Thursday, June 23, 1955 - 10:00 a.m.

Petition for Special Hearing to determine nonconforming use for Beauty Shoppe - 2905 Dundalk Avenue

RE: PETITION FOR A SPECIAL HEARING TO DETERMINE
A LAWFUL NONCONFORMING USE FOR BEAUTY SHOPS,
2905 Dundalk Avenue, 12th District of Baltimore County - Florine Lancaster, Petitioner

Upon hearing on the within petition to determine whether or not the petitioner had a lawful nonconforming use existing on the effective date of the adoption of the Zoning Regulations and Restrictions to operate a Beauty Shoppe, from the testimony presented in this case the property has never been used for any purpose other than a residence and that at the time of the adoption of the Regulations and Restrictions on March 30, 1955, the residence was vacant and remained vacant until the Lancaster family moved in, in the first week in May 1955.

From the above facts, it is the opinion of the Zoning Commissioner of Baltimore County that a nonconforming use to operate a Beauty Shoppe did not exist on the subject property on the effective date of the adoption of said Regulations and Restrictions, therefore:

It is this 10th day of June, 1955, ORDERED by the Zoning Commissioner of Baltimore County that a lawful nonconforming use did not exist on March 30, 1955, the date of the adoption of the Regulations and Restrictions, therefore, the right of the petitioner to use said property for the operation of a Beauty Shoppe is hereby denied.

Shirley A. Adams
Zoning Commissioner
of Baltimore County

212 DUNDALK BUILDING
DUNDALK 22, MD.

GEORGE D. EDWARDS
ATTORNEY AT LAW

April 7, 1955

Wilese H. Adams
Zoning Commissioners
303 Washington Ave.
Towson 1, Maryland

Dear Mr. Adams:

Re: Florine Lancaster Beauty Shop
2905 Dundalk Ave.
Dundalk 22, Maryland

I respectfully ask for a Special Hearing in the above captioned matter, as provided for by Article 5 of the Baltimore County Zoning Regulations. I enclose herewith my check in the amount of Twenty Dollars (\$20.00) covering costs thereon.

I would appreciate and hereby request that the hearing be held at the earliest possible date.

Very truly yours,
George D. Edwards
George D. Edwards

GDE/emk

510-1-41

State of Maryland, Baltimore County, Ct.:

To: Charles H. Adams, Carl F. Vohden, David W. Hubert
The Board of Zoning Appeals of Baltimore County

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

Florine Lancaster, Julius R. Lancaster

SEAL

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 B. Gontrom

Associate Judge of the Circuit Court for Baltimore County, presiding, together with this writ, immediately after receipt of the same.

WITNESS, the Honorable JOHN B. GONTROM, Chief Judge of the Circuit Court for

Baltimore County, this 11th day of April, 1955.

Issued this 23rd day of August, 1955.

GEORGE L. EYERLY
Clerk.

True Copy Test

GEORGE L. EYERLY, Clerk

For *G. M. Felt*
Deputy Clerk

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

#9525
Date of Posting: 5-11-55

District: 12th

Posted for: *Mon. Evening's News to continue*

Petitioner: *Florine Lancaster*

Location of property: *known as 2905 Dundalk Avenue, in her*

name

Location of Sign: *Posted on property known as 2905 Dundalk Avenue*

Remarks: *None*

Posted by: *Alvin R. Hummel*

Date of return: 5-12-55

Mr. Adams: This is hearing on the petition of Florine Lancaster to determine under the zoning law and regulations of Baltimore County, whether or not the petitioner has a lawful non-conforming use on the date of the adoption of the new regulations of Baltimore County, which was March 30th, 1955. The petitioner is represented by attorney, George Edwards, the respondents are represented by attorney, Joseph Proctor. Mr. Edwards -

Mr. Edwards: For the record, Mr. Commissioner, Mr. David R. Merrill is also associated as associate counsel.

Mr. Merrill: Also Mr. Commissioner, I think that it is an issue as to whether or not there is presently a violation of the existing zoning regulations as of this date and that is one of our points and I think the best way to present that is to - testimony to show what is being done and what is contemplated to be done there and for that purpose, we'll call Mrs. Lancaster.

Mr. Proctor: Is there anything behind that there?

Mr. Merrill: At the moment since this thing has come up we could have suspended everything, but what her intention is - I think that her testimony would establish that point clearly. I believe - - the Commissioner will find that it is still within the same work of the existing zoning regulations. Mrs. Lancaster -

Mr. Proctor: Before we start, I would like to call the Commissioner's attention to the fact that this property has been misdescribed in the application and consequently in the notice.

Mr. Adams: You mean the address?

Mr. Proctor: Yes. The correct address is 2905 Dundalk Avenue and it is given in the application as 2904.

Mr. Adams: I heard that there was a misprint in the newspaper but it was posted properly so -

Mr. Proctor: The application itself was in error.

Mr. Adams: The application itself was in error but the petitioner is here, the protestors are here and the people are here that would be affected by it so -

Mr. Proctor: There's no doubt about that -

Mr. Edwards: Mr. Commissioner for my colleague's information, I call that to the attention of the zoning board and it was supposed to be corrected on the previous advertisement, I don't know whether it was or not, I didn't get an opportunity to look and see, but I call that to the attention immediately after the first insertion.

Mr. Adams: Which ever attorney is going to do the questioning, I wish you would give your name first, so that it would be in the record.

David R. Merrill: Attorney for the Petitioner

Mr. Merrill: Give your name and address, please.

Florine Lancaster: 2905 Dundalk Avenue

Mr. Merrill: And how long have you had this house at 2905 Dundalk Avenue?

Ms. Lancaster: You mean when we bought it?

Mr. Merrill: Yes.

Ms. Lancaster: In February.

Mr. Merrill: And where did you live before that time?

Ms. Lancaster: 6736 Woody Road.

Mr. Merrill: And where is that with respect to 2905 Dundalk Avenue?

Ms. Lancaster: Well, it's directly across the street-car tracks, about one block.

Mr. Merrill: About a block away?

Ms. Lancaster: Yes.

Mr. Merrill: What was your intention in buying the property at 2905 Dundalk Avenue?

Mr. Proctor: Mr. Commissioner, I object. The petition to determine a non-conforming use and is not what she intended to do but what she is actually -

Mr. Merrill: I believe that the intention for the use of property is a very - - - - - part of - whether or not she has a non-conforming use and her intention is always important. (I could not understand Mr. Merrill at this point) -

Mr. Adams: As far as I'm concerned we'll hear all the testimony on both sides. This whole thing has to be heard -

Ms. Lancaster: Well, I don't intend to have a beauty shop there, I just like to act as a beautician in my own home so that I can be with my family. I have a baby two years old.

Mr. Merrill: How long have you been engaged in beautician work?

Ms. Lancaster: About twenty years.

Mr. Merrill: And where has your place of business been?

Ms. Lancaster: You mean since I have been in Baltimore?

Mr. Merrill: Yes.

Ms. Lancaster: 38 South Dundalk Avenue.

Mr. Merrill: And where is that with respect to 2905 Dundalk Avenue?

Ms. Lancaster: About a block away - across the street-car tracks.

Mr. Merrill: Do you intend to give that up once you are operating in your home?

Mrs. Lancaster: Yes, I think so.

Mr. Merrill: Now, just what was it that you have the intention of doing?

Mrs. Lancaster: Well, to be a beautician in my home so that I could be with my family. I enjoy the work and I intend to keep at it.

Mr. Merrill: Do you intend to employ anyone?

Mrs. Lancaster: Not in my home, no.

Mr. Merrill: Do you intend to have a large operation there?

Mrs. Lancaster: No.

Mr. Merrill: What have you done to carry this forward, now - to carry out your plan?

Mrs. Lancaster: You mean what we did to the house?

Mr. Merrill: Yes.

Mrs. Lancaster: Well we tore down the front parlor and made it larger - - -

Mr. Merrill: And what sort of expense have you incurred?

Mrs. Lancaster: Well, it's been right much, but we hope it will be worth it - - -

Mr. Merrill: Have you established any sort of signs or anything of that sort?

Mrs. Lancaster: Well, we did it first to establish the idea that I went in to work there, but we took it down and I don't have to have a sign except just a very small one.

Mr. Merrill: You took it down on what occasion - why?

Mrs. Lancaster: I could not understand Mrs. Lancaster at this point, sounds like she said one of her neighbors had a fit.

Mr. Merrill: Well, before you started making any alterations was there any complaint from the neighborhood?

Mrs. Lancaster: No, I thought everyone agreed to it - that it would be nice, I mean right in that vicinity right in that block.

Mr. Merrill: Do you know whether or not they knew what your intention was?

Mrs. Lancaster: Well, Mr. Towns knew. He was the one who suggested that I buy the house and fix up the place there to work. I was in the office the last day that he worked and just kidding I asked him to let me buy his house, because I knew he was going to go away and he said "Well, you don't buy the house next door" - he said that could be fixed up like this - just take the superfluous off and make an addition that would be nice."

Mr. Merrill: How far along had worked progressed before there were any objections made to you?

Mrs. Lancaster: Right much. They had the foundation down and the floors and the roof and part of the sides up, I think.

Mr. Merrill: You said that Mr. Towns suggested you buy that house, now, where is his house?

Mrs. Lancaster: Right next door to me.

Mr. Merrill: Next door, on which side?

Mrs. Lancaster: He's 2907, I think.

Mr. Merrill: Will it be necessary for you to have lots of equipment if you are operating at home that way?

Mrs. Lancaster: No.

Mr. Merrill: And will there be any external sign that you'll be operating as a beautician?

Mrs. Lancaster: No.

Mr. Merrill: Other than -

Mrs. Lancaster: Just a small plaque - like a Dr. would have.

Mr. Proctor: Now you are presently operating at 38 South Dundalk Avenue?

Mrs. Lancaster: That's right.

Mr. Adams: And, how long have you conducted a beauty shop there?

Mrs. Lancaster: There? Well, this last time I've been there since September, but I had a beauty shop there once before.

Mr. Proctor: September of '54?

Mrs. Lancaster: That's right.

Mr. Proctor: And you say you did have a shop there once before?

Mrs. Lancaster: Yes I started that thing about twelve years ago.

Mr. Proctor: How long did you operate there when you were there before?

Mrs. Lancaster: Almost two years, I think - two and one half.

Mr. Proctor: And during the intervening period did you operate at 6736 Woody Road?

Mrs. Lancaster: Well, not as a beauty shop, no, but I did do some of my neighbors hair.

Mr. Proctor: In other words you did do beautician work there at Woody Road?

Mrs. Lancaster: Yes.

Mr. Proctor: You have been continually in business for how long now?

Mrs. Lancaster: Well, I haven't been continuously in business now since I had my shop before on 38 S. Dundalk Avenue - I had two children in between.

Mr. Proctor: Alright, now what size shop do you have on 38 S. Dundalk Avenue?

Mrs. Lancaster: Well, it's small, just one room.

Mr. Proctor: What equipment do you have?

Mrs. Lancaster: You mean essentials?

Mr. Proctor: Yes.

Mrs. Lancaster: Well, I have two dressing tables, two chairs to dressing table, four dryers, four chairs and a shampoo chair.

Mr. Proctor: How about equipment for permanent waves?

Mrs. Lancaster: We don't have a permanent wave machine.

Mr. Proctor: How many people operate in this shop?

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Ms. Lancaster: Just the two of us. I have one operator.

Mr. Merrill: Are you living in 2905 Dundalk Avenue?

Ms. Lancaster: Yes.

Mr. Merrill: And you have been living there since February?

Ms. Lancaster: Oh, no. We bought the house in February. We've been there, it will be two weeks Wednesday.

Mr. Merrill: And of course you haven't conducted any beauty operation in that house at all.

Ms. Lancaster: No.

Mr. Merrill: And what was it used for prior to your purchasing the property?

Ms. Lancaster: People lived there, it was a residence.

Mr. Merrill: And it has been a residence for some period of time hasn't it?

Ms. Lancaster: Yes. And it will continue to be.

Mr. Merrill: And what is this conversation you were supposed to have with Dr. Towns?

Ms. Lancaster: You want me to repeat it?

Mr. Merrill: Yes.

Ms. Lancaster: Well the last day Dr. Towns worked, I was in his office to get my teeth cleaned and just jokingly I asked him to sell me his house since his office made it a home occupation and his office would make a nice shop. He said "Well you don't buy the house next door and fix it up for a beauty shop if you want to or whatever you want to do, it's built exactly like my house - so we did. I thought the house had been sold because I have always liked to house but, he told me that it wasn't been.

Mr. Merrill: Did you talk to anyone else there in the neighborhood. Did you talk to Dr. Towns's father?

Ms. Lancaster: No, I did not.

Mr. Merrill: Did you talk to the Tuttle's?

Ms. Lancaster: No, the Tuttle's were way out - - - but I talked to Mrs. Tuttle's friend, Mrs. T and she didn't seem to think that they would mind we evidently they do.

Mr. Merrill: In my event, as soon as you put a sign up there on the property, there was objection raised wasn't it?

Ms. Lancaster: Yes, and I would also like to add that Mrs. Rykers thought it was a wonderful idea and Mrs. T too, they are both my friends in that one block.

Mr. Merrill: Well, answer my question, as soon as you put a sign up people did protest.

Ms. Lancaster: Yes, they did.

Mr. Merrill: How come you put a sign up there Mrs. Lancaster?

Ms. Lancaster: Well, I had first intended to have a beauty shop there and we put the sign up to establish our business, but if I can't have a beauty shop there, I might just be a beautician in my own home. Work by myself.

Mr. Merrill: But, you weren't ready to move in there and operate a beauty shop at that time were you?

Ms. Lancaster: No.

Mr. Merrill: And you were still operating at 38 S. Dundalk Avenue, weren't you?

Ms. Lancaster: Yes.

Mr. Merrill: Well, again, I ask you why was it that you put the sign up?

Ms. Lancaster: Beauty shops had been zoned to home occupation in November I had been told by Mr. Adams and then my attorney found out that the 30th or the 31st of March, I think, that it was no longer going to be the law. So, we did that to establish that - to put the idea across that wanted to work there.

Mr. Merrill: And that was done after the 30th of March, then wasn't it?

Ms. Lancaster: The 30th of March was when it was done. But, we hadn't intended to have that large sign there.

Mr. Merrill: How do you fix that date as the date when you put the sign up?

Ms. Lancaster: Well, I remember very correctly, because our attorney was there in March at that time and they told him that that law was going to go out of effect. I'd like to know how a law can be put in and taken out so quickly too.

Mr. Adams: There's a law since January 29, 1955 the date of the adoption of the first Zoning Regulations of Baltimore County, a beauty shop and a barber shop were considered a home occupation.

Ms. Lancaster: All that time.

Mr. Adams: Yes, yes. Now, in July of 1953 the Zoning Commissioner before myself made a change into Zoning Regulations a recommended change to the County Commissioners, which was adopted and prohibited a beauty shop as a home occupation.

Ms. Lancaster: That was in July?

Mr. Adams: That was in July of 1953. There has been so many prior under the old regulations as home occupations that I at the time thought from my limited experience that the former Zoning Commissioners had erred and I took it up with the County Commissioners and they said that they themselves were not in a position to know whether it was a correct or incorrect having a home occupation a beauty shop is a home occupation, so they left it up to my judgment. I asked the Zoning Regulations back to which they were prior to July 1, 1953 so that a home occupation a beauty shop was permitted as a home occupation. It wasn't long when I saw where Mrs. Adams, who was Zoning Commissioner at the time the other change was made, was right. He had had a lot of experience as Zoning Commissioner and saw just exactly what happened - and this is not what happened. Allowing a beauty shop as a home occupation, even such, and not have anything in the house other than what is ordinarily found in an ordinary house - no hair dryers (you won't find them in an ordinary house) no permanent wave machine and all this other equipment that a beauty operator needs in a shop, so that in drafting the new Zoning Regulations it was through

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my own efforts this change was made which I feel is correct and I'm sure everybody else feels is correct that a beauty shop operator - you allow them to go in as a home occupation they're going to do the work themselves and I don't think it's fair to just for their friends and their neighbors - if that's all it was, it would be fine but, these neighbors like the work they received somebody else, they bring somebody else, their friends bring somebody else and it's just too much work for a woman to do her self so she needs some outside help. The business keeps building and the first thing you know you have a commercial business in the home and it just wrecks the neighborhood. Now, I realize that as the one who made the mistake when I changed this regulations and I am the one that made the correction in these new regulations so that it was just a short period between the time that the amendment was made until these new regulations came out - it seemed like a useless task to go ahead and advertise another change to correct that situation when these new regulations were going to take care of it, so it was done on March 30th.

Ms. Lancaster: Well, you said I talked to Mr. Adams in October and that's when he told me that it was going to be made a law and November the 6th in fact, was what he told me, it was going to be a home occupation.

Mr. Adams: That's right, I'm Mrs. Adams. I'm the man you talked to. You also had your attorney call and I explained to your attorney that a home occupation (beauty shop) as a home oc. - (that) would no longer exist after the adoption of the new regulations by the County Commissioners. I had no way of telling what day that would be. There's another beauty shop operator in Dundalk in the same block. She bought a house down in - off of North Point Road, someplace - she didn't call me once, but she called my beauty time. I was confused - I thought it was the same one. I didn't know it was two of them, because I could only give the same information, that a (if a) beauty shop was not in operation at the time the County Commissioners adopted these new regulations, they would be out of luck because you can't have a non-conforming use if it's does not exist.

Mr. Merrill: Mr. Commissioner, I think what constitutes a non-conforming use is determined by use, there is a long series - determinations of what - that does not mean actual use at the time the regulation was adopted, but rather there are several things that are considered to determine whether or not there is a non-conforming use and it may be at that time the building or whatever it is, is used for nothing at all - it may be vacant. The building is so designed - that it is - only of one use - the Company case and a few other cases here in Maryland and one in New York. The building was designed specifically for a stable, at the time the Zoning Regulations were adopted, the building was not being used for a stable and the use was up and the Court held in that case that even though it was not in actual use at the time the Zoning Regulation was adopted since the intention of the owner said that that was what it was for that there was an actual non-conforming use there. I think that's the way to establish here, that the Lancaster's bought the property with this idea specifically in mind and they were not going to establish here, who was Zoning Commissioner's testimony that her use is to fall within the category of home occupation - I think there it should be concluded that they were not going to use it for anything other than they were not actually in operation at the time that the Zoning Laws were adopted. The purpose of the Zoning Laws is to restrict business and industry and to maintain the - - - - and its felt - I've been able to find that the permit a non-conforming use in places not a real hazard to the Zoning Regulations

-- in my opinion the overall picture anyhow and therefore -- is true a non-conforming use and Mrs. Lancaster, I think did everything that she could then to go ahead and start her operation even to her sign up of a first limited only by the time which it took to construct the building. If she had not been able to do that, if it had been clearly and definitely understood by her that she could not do that to this house she wouldn't have come to all the expense, they paid in probably wouldn't have even bought the house. They paid in the neighborhood of thirteen thousand dollars for the house and they put four thousand dollars in the sun porch and another eight or nine hundred dollars in a heating plant in the house. So you see, there considerable expense all of which tends to support her intention to operate as a home beautician and one reason they felt that they were justified in making these things is that she would have some income from operating in her home. Now she certainly has as you say the business house and grows as more people hear about it and then it will become a commercial operation, now that is not what she has - that she will only be able to take that which she can handle herself and she is clearly aware of the zoning regulations which requires that she has no employees so she'll do just what she can do on her own and let it go at that and if it were a question of business building up she would maintain the other place over at 38 Dundalk Avenue.

Mr. Adams: Let me say this, that from my experience and I have quite a bit now a little better than two years, a use does not exist that is not there - that's my opinion. Now, your argument is that she wants to carry on a home occupation, I have no control over Mrs. Lancaster carrying on a home occupation, provided she does everything that this clause says, now here it is: Home Occupations are conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence other than a permitted sign which is a very, very small sign, to indicate that the building is being utilized for any purpose other than a dwelling and in connection with which no commodity is kept for sale on the premises (can't even sell a powder puff) nor are employed on the premises other than servants or members of the immediate family and no mechanical equipment is use except such as may be used for domestic purposes such as a vacuum cleaner or a sewing machine or the like. Now if she can carry on under these restrictions we're just raising our time. But my decision is that she does not have a non-conforming use as of March 30th to operate as a beauty shop.

Mr. Merrill: Well, before that she - home occupation in order to fall into the Zoning Regulations then, would she not?

Mr. Adams: Correct.

Mr. Merrill: So, it was, the law is as far as she is concerned as far as her operation is concerned is the same as it was before March 30th.

Mr. Adams: No sir. Before March the 30th she could have had her beauty shop equipment in there as a home occupation. Today, she can't have anything other than you have in your house or I have in mine. If she can do beauty work with hair brush and a comb and a curling iron will take care of her neighbor's business, but that's the only way.

Mr. Merrill: For the sake of - - - it would be to her advantage in the event that she wanted to use it as a home occupation as it was before March 30th.

Mr. Adams: That's exactly what she would have to do and that's what I'm deciding right now. My decision, in my opinion, she did not have a non-conforming use as of the time March 30th, the date of the adoption of the new Zoning Regulations so that a non-conforming use did not

exist and she does not have the non-conforming use. Now, of course my decision is subject to appeal.

One more thing I might bring forth is that there is an provision in the present Zoning Regulations that if the person has made an application Section 103 and 104 - that if the Preliminary Plan has been submitted to the Planning Commission and approved - or tentatively approved (including any approval made subject to any condition or conditions) under the then existing official procedure in Baltimore County, prior to the adoption of these Regulations. It may continue.

Mr. Adams: You're jumping the real meaning. That is a sub-division plan and the regulation paragraph 103.1 in these regulations is that it doesn't even come close to this - its the group house builders (this was put in there at their request - there had to be a stopping point of when you could build a fifteen foot house and when they started to build an eighteen foot house so in order for a builder - a group house builder - to build a sixteen foot house he had to have his plans approved prior to the date of the regulations (adoption of these regulations) by the Planning Commission.

Its your interpretation that it does not go beyond that group housing.

Mr. Edwards: Mr. Commissioner I call your attention to the fact that it also specifically says 'or parcel' of land and certainly a parcel is not a sub-division or a development. It could be one specific piece of ground and I also call your attention to the fact that this permit for the erection of the sun parlor is dated March 23rd, 1955 and the work had begun before that date.

Mr. Adams: I have already checked the permit and the permit was for the removal and the reconstruction of a sun parlor on a residence and said nothing whatsoever to do about a business of any kind.

Mr. Merrill: Well, she intended to use the sun parlor as a home occupation.

Mr. Adams: The only thing I can say is, she missed the boat. She should have been in there operating before March the 30th, she would have been in business. There is no sense in continuing to argue any further. That is my decision and like I said before, it is subject to appeal.

Mrs. Lancaster: Well, did you know in October that that law was going to go out of effect right away?

Mr. Adams: For two and a half years the Planning Commission had been working on these new Zoning Regulations. For two years, I've been working with the Planning Commission on the new Zoning Regulations. There has been story after story in the newspapers every paper, local papers as well as Baltimore City, the sun, the news, put everybody on record about these new Zoning. We have had public hearings, I have had public hearings here before me, the County Commissioners before then - four public hearings.

Mrs. Lancaster: Well what ~~throw~~ threw me off - you said that in November the law would be that you could have for home occupation and I had no idea that it would run for just four months.

Mr. Adams: That's what happened.

Mr. Edwards: I can see that the Commissioner has made his mind up. There's no further use in arguing the case here. We will file ~~and~~ an immediate appeal of course.

Mr. Adams: Your appeal can be filed as of the date of my order

Daniel F. Merrill + Edwards.
John L. Lancaster
acquired 7/1/55.
2904 Dundalk Ave.
Recommendation -
Jan 7/54
permit 3/28/55
sign March 30/54.

See 1 H. Co. 4 h know-on
See 3-

Dryer
Manufacturing
4 chairs, (1 special chair)

Toy's Beauty Shop.

Mrs. Lancaster Recaptured 20950.
38 Dundalk Ave. purchased 1954 -

1 dryer - \$1,000 worth of equipment

Kenneth Proctor -
H. H. Jones

HEARING # 3525-X - MAY 23, 1955

Att. K. Proctor - Protestants
Att. Mr. Edwards - Petitioners

00 - Comm. W. H. Adams -
Edwards - Merrill - Proctor - Edwards -
Mrs. Lancaster (and Merrill - Proctor - Adams
Mrs. Lancaster & Merrill
07 - Proctor & Mrs. Lancaster -
14 - Adams - Mrs. Lancaster
19 - Merrill - Adams
20 + Fitzpatrick - Merrill - Proctor - Adams
22 Edwards - Mrs. Adams - Merrill - Adams
Mrs. Lancaster - Adams - Mrs. Lancaster - Edwards
Adams.

names of protestants were listed for record.

2 Sets used -

**NO PLAT
IN
THIS FOLDER**