

IN THE MATTER OF
BERNARD V. MOONEY and
EVA C. MOONEY, his wife
REPORT THE ZONING COMMISSIONER
OF BALTIMORE COUNTY

PETITION FOR SPECIAL HEARING UNDER SEC. 800.6 AND 800.7
OF THE ZONING REGULATIONS
For a Special Hearing on Variance to the Zoning
Regulations

To the Zoning Commissioner of Baltimore County:
Bernard V. Mooney and Eva C. Mooney, his wife, legal owners of the property hereinafter described, hereby petition for a special hearing as to the alleged violation or non-compliance with or the proper interpretation of the Zoning Regulations of Baltimore County.

This Petition is brought under Sec. 800.6 and 800.7 of the Zoning Regulations, giving the Zoning Commissioner the power, upon notice, to conduct hearings involving any alleged violation or non-compliance with, or the proper interpretation of the Zoning Regulations, with particular reference to the following Section:

Sec. 400 - accessory buildings in residence zones.
Sec. 400.1 - accessory buildings in residence zones other than farm buildings shall be located only in the rear yard and shall not occupy more than 40% thereof.

The Reason for the exception:

To determine if a private garage can be erected on property 6731 Roberts Avenue, approximately 150 feet from Roberts Avenue and approximately 85 or 90 feet from Railway Avenue.
Sec. 400.1 would require that a private garage or accessory building be erected in the rear yard of the property no less than 8 feet from the rear lot line. Building a garage in accordance with this interpretation of the Zoning Law would require that it be built in front of or parallel to the residences facing on Railway Avenue, which your Petitioners do not desire to do, believing it would be better for their neighbors that the garage be erected more in line with the garages in the rear of the properties fronting on Railway Avenue, and to this end request that the Zoning Regulations be interpreted so as to permit them to erect a garage approximately 85 or 90 feet from Railway Avenue so as not to damage or injure the property of their friends

and neighbors.

Attached herewith is a plat showing the Petitioners' home, the homes of their neighbors and the proposed location of your Petitioners' garage.

The property of your Petitioners is in the 18th District of Baltimore County, and is described as beginning on the Southeast side of Roberts Avenue, at the Northwest corner of lot 595 on the Plat of Graceland Park, Sec. 1, running thence Southwesterly on Roberts Avenue 50 feet; thence Southwesterly 125 feet; thence Northwesterly 23.02 feet; thence Southwesterly 135 feet to Railway Avenue; thence Northwesterly on the Northwest side of Railway Avenue 25 feet; thence Northwesterly 135 feet; thence Northwesterly 1.08 feet; thence Northwesterly 125 feet to the place of beginning. Being known as No. 6731 Roberts Avenue.

The said property being improved by a 1 1/2 story brick Cape Cod cottage, facing on Roberts Avenue, all encircled by a chain link fence.

For the purpose of enabling the Commissioner to appraise and inspect the rear portion of the property on which the building is to be erected, and to enable his officers to post the proper sign, your Petitioners state that the rear end of the property is located on the North side of Railway Avenue, beginning opposite of the East side of Volcan Avenue; and running thence Easterly on Railway Avenue 25 feet. See Plat attached showing location of lots and buildings thereon.

Bernard V. Mooney
Eva C. Mooney

Charles H. Dorn
1601 Court Square Bldg.
Baltimore - 2, Maryland
Solicitor for Owners

MICROFILMED

BERNARD V. MOONEY and
EVA C. MOONEY, his wife
VS
CHARLES H. DORN,
DAVID W. HARRIS and
GAIL F. VOIGT, constituting
the Board of Zoning Appeals of
Baltimore County

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY
No. 154
Docket 5, Folio 21h

This is an appeal from an Order of the Board of Zoning Appeals of Baltimore County dated October 20, 1955 denying the petition of Mr. and Mrs. Mooney for an interpretation (under the authority of Section 800.6 of the Zoning Regulations of Baltimore County) of Section 400.1 and contending that a proper interpretation thereof would permit the Petitioners to locate their private automobile garage on a lot of ground 25 feet in width which they purchased and added to their originally purchased lots fronting on Roberts Avenue, the said 25 foot lot giving them access from Railway Avenue.

The significant portion of the opinion of the Board is as follows:

"This Board is little impressed by the argument the Railway Avenue 25 foot lot has by virtue of the recent purchase thereof by petitioners become the 'rear yard' for 6731 Roberts Avenue. The rear yard for this house was established when it was built on lots 593 and 594 in Section 1, Graceland Park, a recorded subdivision plat."

If the 25 foot lot referred to has actually, by the Petitioners, been made their rear yard, it is clear that under Section 400.1 the garage can be located thereon provided it is located no less than five feet from the rear or five feet from either of the side lot lines.

The record shows that, prior to purchasing the twenty-five foot lot in the rear fronting on Railway Avenue, Mr. Mooney consulted the office of the Baltimore County Zoning Department and was advised that if the said twenty-five foot lot were purchased by him and thereby added to his Roberts Avenue property, that the two would be considered one lot. The intention of the Petitioners to enlarge their rear yard seems clear. They now own one parcel of land consisting of 2 lots fronting fifty feet on Roberts Avenue, and the one lot last purchased running back to Railway Avenue, with a frontage of twenty-five feet on the

latter Avenue. The Petitioners offered at the hearing before the Board to enter into an agreement or to accept a restriction from the Board that there would be no improvements placed on the twenty-five foot lot other than the private garage which they offered to erect in line, or approximately in line, with the garages of Smith and Novak on the rear portions of the adjoining lots on Railway Avenue.

The Court does not agree with the Board that the Petitioners did not have the right to increase the size of their rear yard by purchasing the available twenty-five foot lot. It is clear from the record that they now own (as a result of the purchase of two lots fronting on Roberts Avenue and one lot fronting on Railway Avenue) one parcel of ground improved by their residence known as 6731 Roberts Avenue and a rear yard which runs to Railway Avenue.

I disagree with the Board in its opinion that the rear yard of the original Roberts Avenue two lots cannot be increased in depth by the purchase of additional property in the rear. I believe the Board should have granted the petition and authorized the Petitioners to locate their garage in the position suggested, viz in line with or approximately in line with the garages on the adjoining properties of Smith and Novak, provided, of course, it was erected no closer than five feet to the side line of either lot and with the further restriction that no other building be erected between the front of the garage and Railway Avenue.

There is no substantial evidence to support the action of the Board, and the Order and decision appealed from is reversed, and the case remanded for the purpose of an Order which will approve the issuance of a building permit with the restrictions indicated to adequately protect the other property owners on Railway Avenue.

Dated: September 20, 1956

Judge

cc: McGuire & Brennan, Esq.
Damen Building
Townson 4, Maryland
Board of Zoning Appeals
Baltimore County Office Building
Townson 4, Maryland

Law Offices
CHARLES H. DORN
1601 COURT SQUARE BUILDING
BALTIMORE, MD. 2
MILWAUKEE 6, WIS.

April 26, 1955

Zoning Department of Baltimore County
Townson - 4, Maryland
Gentlemen:

Enclosed herewith is a petition for special hearing under Secs. 800.6 and 800.7 with regard to the property of the Petitioners, Bernard V. Mooney and wife, which please file. Attached to the petition is a copy of a rough plat, together with three additional copies for your use.

There is also enclosed herewith my check to the County Commissioners of Baltimore County for \$20.00 covering the cost.

Please post the necessary sign and let me know the date and time of the hearing.

Yours very truly,

Charles H. Dorn

CHD:jcs
Enc.

6/1/56
20A m

NOTICE OF ZONING HEARING

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

On Wednesday, June 1, 1955

at 10:00 a.m.

the purpose of this hearing being to determine whether or not an application for a building permit to erect a garage on the Twelfth District of Baltimore County, beginning on the southeast side of Roberts Avenue, at the northeast corner of lot 595 in the Plat of Graceland Park, Section 1, running thence Southwesterly on Roberts Avenue 50 feet; thence Southwesterly 125 feet; thence Northwesterly 23.02 feet; thence Southwesterly 135 feet to Railway Avenue; thence Northwesterly 135 feet; thence Northwesterly 1.08 feet; thence Northwesterly 125 feet to the place of beginning. Being known as lot 6731 Roberts Avenue, should be approved as to zoning. Bernard V. and Eva C. Mooney, owners.

The prayer of the petition is for permission to erect a garage on a Twenty five (25') foot vacant lot.

By Order of Zoning Commissioner of Baltimore County,
Clifford R. Adams

December 15, 1955

\$9.00

RECEIVED of Charles H. Dorn, Attorney for Edward V. Mooney, the sum of Nine (\$9.00) Dollars, being cost of certified copies of papers filed in the matter of petition for variance to the Zoning Regulations - property southeast side of Roberts Avenue, 12th District.

Zoning Commissioner



May 10, 1955

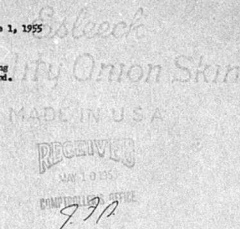
\$20.00

RECEIVED of Charles H. Dorn, the sum of Twenty (\$20.00) Dollars, being cost of petition for Special Hearing, advertising and posting property, southeast side of Roberts Avenue, 12th District, Baltimore County, Maryland.

Zoning Commissioner.

HEARING:

Wednesday, June 1, 1955
at 10:00 a.m.
Richard Building
Towson, Maryland.



John J. Freeman, Esq.,
Dusen Building
Towson 4, Maryland

to

Nov. 23, 1955

County Commissioners
of Baltimore County
c/o Zoning Department,
Room 113, County Office
Building, Towson 4, Md.

Cost of certified copies of petition and other papers filed in the matter of property on the southeast side of Roberts Avenue, 12th District - Edward V. and Eva C. Mooney, Petitioners

\$9.00

June 17, 1955

\$30.00

RECEIVED of Charles H. Dorn, attorney for Edward V. Mooney and Eva C. Mooney, the sum of \$30.00 being cost of appeal to the Board of Zoning Appeals of Baltimore County from the decision of the Zoning Commissioner concerning property on the southeast side of Roberts Avenue, 12th District.

Zoning Commissioner



June 6, 1955

Lee D. Karwacki, Esq.,
6709 Danville Avenue,
Baltimore 22, Maryland

Re: Petition for Special Hearing or Variance to the Zoning Regulations and Restrictions - Property at 6728 Railway Ave., 12th District - Edward V. Mooney and Eva C. Mooney, Petitioners

Dear Mr. Karwacki:

I have today passed my Order denying the petition for a Variance in the above matter. Attached is copy of Order.

Very truly yours,

Zoning Commissioner

June 6, 1955

Charles H. Dorn, Esq.,
1601 4 Court Square Building
Baltimore 2, Maryland

Re: Petition for Special Hearing or Variance to Zoning Regulations and Restrictions - Property 6728 Railway Ave., 12th District - Edward V. Mooney and Eva C. Mooney, Petitioners

Dear Mr. Dorn:

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

Very truly yours,

Zoning Commissioner

JUN 15 1955

CHARLES H. DORN
1601 4 COURT SQUARE BUILDING
BALTIMORE, MD. 2

June 14, 1955

Board of Zoning Appeals
303 Washington Avenue
Towson - 4, Maryland

Gentlemen:

Please enter an appeal from the order of the Zoning Commissioner dated June 8th with regard to properties Nos. 6721 Roberts Avenue and 6728 Railway Avenue.

Enclosed herewith is my check to the order of the County Commissioners of Baltimore County for \$30.00 covering the cost of this appeal.

Please let me know the date set for the hearing.

Yours very truly,

Charles H. Dorn

CHD:jss

June 17, 1955

Charles H. Dorn, Esq.,
1601 4 Court Square Building
Baltimore 2, Maryland

Re: Property S.E. Side Roberts Ave., 12th District - Edward V. Mooney and Eva C. Mooney, Petitioners

Dear Mr. Dorn:

We are in receipt of an appeal filed by you on behalf of the petitioners, in the above matter, from the decision of the Zoning Commissioner concerning a variance to the Zoning Regulations.

The hearing on this appeal has been scheduled by the Board of Zoning Appeals of Baltimore County for Thursday, June 30, 1955 at 1:00 p. m. in the basement of the Richard Building, Towson, Maryland.

Very truly yours,

Zoning Commissioner

June 16, 1955

BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

Assignments for Thursday, June 30, 1955:

10:00 a.m. Hearing to determine nonconforming use of Mrs. Edna Vondulski,
325 Butler Road, Wyhamer Fire House Studio

1:00 p.m. Petition for a Special Hearing or Exception to Zoning
Regulations - 6731 Roberts Avenue, 85 feet from Railway
Avenue - Bernard V. Mooney and wife, petitioners

June 16, 1955

Notified of appeal hearing scheduled for Thursday
June 30, 1955 at 1:00 p.m.

Board of Zoning Appeals

Counsel to the Board

Lee D. Karwacki, counsel for protestants
Charles H. Dorn " " petitioners

October 20, 1955

Mr. Charles H. Dorn
160111 Court Square Building
Baltimore 2, Maryland

Dear Mr. Dorn:

Re: Petition For Special Hearing
Case: #3529

The Board has this day signed its Order
decreasing the Petition for Special Hearing in
the within cause is denied and a copy thereof is
enclosed.

Very truly yours,

EW, Jr./ep

Charles H. Doing
Chairman

October 20, 1955

Mr. Lee D. Karwacki, Esq.
6709 Danville Avenue
Baltimore 22, Maryland

Dear Mr. Karwacki:

Re: Petition For Special Hearing
Case: #3529

The Board has this day signed its
Order decreasing the Petition for Special Hearing
in the within cause is denied and a copy thereof is
enclosed.

Very truly yours,

EW, Jr./ep

Charles H. Doing
Chairman

BERNARD V. MOONEY, and
EVA C. MOONEY, his wife,
vs
FOR
BALTIMORE COUNTY
Misc. 3529
Charles H. Doing,
Daniel W. Hubers, and
Carl F. Vohden,
constituting the Board
of Zoning Appeals of
Baltimore County

ANSWER TO WRIT OF HABEAS CORPUS AND ORIGINAL
AND CERTIFIED COPIES OF PROCEEDINGS BEFORE
THE ZONING COMMISSIONERS AND BOARD OF ZONING
APPEALS OF BALTIMORE COUNTY

Mr. Clerk:
Please file, etc.

Counsel to
Board of Zoning Appeals
of Baltimore County

BERNARD V. MOONEY and
EVA C. MOONEY, his wife,
vs
FOR
BALTIMORE COUNTY
Misc. 3529
Charles H. Doing,
Daniel W. Hubers, and
Carl F. Vohden,
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
F. Vohden, 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:

No. 3529 ZONING BY-LINES FROM DOCKET OF ZONING
COMMISSIONERS OF BALTIMORE COUNTY
Special Hearing
April 27, 1955 Petition of Bernard V. Mooney and Eva C.
Mooney, his wife, for special hearing to
determine if a private garage may be
erected on property 6731 Roberts Ave., 150
feet from Roberts Avenue and 85 or 90 feet
from Railway, filed.
" " Order of Zoning Commissioner directing adver-
tisement and posting of property - date of
hearing set for June 1, 1955 at 10:00 a.m.
May 18, " Certificate of posting of property on May 18,
1955, filed.
" 23, " Certificate of publication in newspaper, filed.

June 1, 1955 At 10:00 a.m. hearing held by Zoning Commissioner.
" 6, " Order of Zoning Commissioner, denying the variance
petitioned.
" 15, " Order of appeal to Board of Zoning Appeals of
Baltimore County from decision of Zoning Com-
missioner, filed.
" 30, " Hearing on appeal before the Board of Zoning
Appeals.
Oct. 20, " Order of Board of Zoning Appeals affirming order
of Zoning Commissioner, filed.
Record of proceedings filed in Circuit Court for
Baltimore County.
Record of proceedings pursuant to which said Order
was entered and said Board acted are permanent records of the Zoning
Department of Baltimore County as are also the use 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
Board of Zoning Appeals
of Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 12th Date of Posting 5-18-55
Filed for Special Hearing for permission to erect a garage on a 21st
Petitioner Bernard V. and Eva C. Mooney
Location of property S.E. of Roberts Ave. at the off. line of Roberts
on the dist. of Towson Baltimore Co. 6731
Location of Sign Sign posted between 6731 & 6740, Baltimore Ave.
Remarks None
Posted by Doyle A. Hammond Date of return 5-18-55

IN THE MATTER OF
BERNARD V. MOONEY and
EVA G. MOONEY, his wife

BEFORE
ZONING COMMISSIONER OF
BALTIMORE COUNTY

PETITION FOR SPECIAL HEARING UNDER
SECS. 500.6 AND 500.7 OF THE ZONING
REGULATIONS

FOR A SPECIAL HEARING ON VARIANCE TO
THE ZONING REGULATIONS

To the Zoning Commissioner of Baltimore County:

Bernard V. Mooney and Eva G. Mooney, his wife, legal owners of the property hereinafter described, hereby petition for a special hearing as to the alleged violation or nonconforming with or the proper interpretation of the Zoning Regulations of Baltimore County.

This petition is brought under Secs. 500.6 and 500.7 of the Zoning Regulations, giving the Zoning Commissioner the power, upon notice, to conduct hearings involving any alleged violation or non-compliance with, or the proper interpretation of the Zoning Regulations, with particular reference to the following Sections:

Sec. 400 - accessory buildings in residence zones.

Sec. 400.1 - Accessory buildings in residence zones other than farm buildings shall be located only in the rear yard and shall not occupy more than 10% thereof.

The reason for exceptions:

To determine if a private garage can be erected on property 6731 Roberts Avenue, approximately 150 feet from Roberts Avenue and approximately 85 or 90 feet from Railway Avenue.

Sec. 400.1 would require that a private garage or accessory building be erected in the rear yard of the property no less than 5 feet from the rear lot line. Building a garage in accordance with this interpretation of the Zoning Regulations would require that it be built in the rear yard of the property facing on Railway Avenue, which is the rear yard of the property. It would be better for your Petitioners to not desire to do, believing it would be better for your Petitioners that the garage be erected more in line with the garage in the rear of the property facing on Railway Avenue, and to this end request that the Zoning Regulations be interpreted as to permit

them to erect a garage approximately 85 or 90 feet from Railway Avenue so as not to damage or injure the property of their friends and neighbors.

Attached herewith is a plat showing the Petitioners' home, the home of their neighbors and the proposed location of your Petitioners' garage.

The property of your Petitioners is in the 12th District of Baltimore County, and is described as beginning on the southeast side of Roberts Avenue, at the northeast corner of Lot 590 on 2nd of Graceland Park, Sec. 1, running thence southeasterly on Roberts Avenue 50 feet; thence southeasterly 125 feet; thence northeasterly 23.92 feet; thence southeasterly 135 feet to Railway Avenue; thence northeasterly on the northeast side of Railway Avenue 25 feet; thence northeasterly 135 feet; thence northeasterly 140 feet; thence northeasterly 125 feet to the place of beginning. Being known as No. 6731 Roberts Avenue.

The said property being improved by a 1-1/2 story brick Cape Cod cottage, facing on Roberts Avenue, all encircled by a chain link fence.

For the purpose of enabling the Commissioner to appraise and inspect the rear portion of the property on which the building is to be erected, and to enable his officers to pass the proper sign, your Petitioners state that the rear end of the property is located on the north side of Railway Avenue, beginning opposite of the east side of Tolson Avenue; and running thence easterly on Railway Avenue 25 feet. See Plat attached showing location of lots and buildings thereon.

Bernard V. Mooney,
Eva G. Mooney
Charles H. Born
Charles H. Born
1601 Court Square Bldg.,
Baltimore - 2, Md.
Solicitor for Owners

True copy sent:

Zoning Commissioner
of Baltimore County

IN THE MATTER OF
PETITION FOR SPECIAL HEARING

BEFORE THE BOARD OF ZONING APPEALS

OF
BALTIMORE COUNTY

BERNARD V. MOONEY
AND
EVA G. MOONEY - PETITIONERS

CASE: #3529 - SPECIAL HEARING

OPINION

The original Petition was filed in these proceedings under the authority of Section 500.7 of the Zoning Regulations seeking a Special Hearing before the Zoning Commissioner to determine the rights of the Petitioners. The Petitioners established ownership in No. 6731 Roberts Avenue, it being a parcel of ground fronting 50 feet on Roberts Avenue with an even depth of 125 feet. In addition, the Petitioners established ownership in Lot 13, Block F, Plat of Fairlawn, being a 25 foot lot extending 135 feet from the rear of the Southeast one-half of 6731 Roberts Avenue to Railway Avenue and having a 25 foot frontage thereon. The purpose of the Petition is to determine whether a private garage can be erected in the Northwest portion of the lot fronting on Railway Avenue.

After appropriate proceedings, the Zoning Commissioner passed his Order on June 6, 1955 denying the right of Petitioners. An appeal was filed and testimony presented before this Board on June 30, 1955.

This Board is little impressed by the argument the Railway Avenue 25 foot lot has by virtue of the recent purchase thereof by Petitioners become the "rear yard" for 6731 Roberts Avenue. The rear yard for this house was established when it was built on Lots 593 and 594 in Section 1, Graceland Park, a recorded subdivision Plat.

Section 101 of the Zoning Regulations defines a rear yard, a residential garage as an accessory building; and an accessory building as "subordinate and customarily incidental to and on the same lot with a main building".

Section 400.1 establishes an accessory building shall be located only in the rear yard.

Therefore, this Board concludes the garage can not be built at the location petitioned for. An accessory building is a use under Sections 200.1

and 200.9. Section 307 pertaining to Variances applies only to area and height regulations and has no application to this case.

ORDER

It is this 20th day of October 1955, by the Board of Zoning Appeals of Baltimore County ORDERED that the relief sought by the Petition for Special Hearing filed in the within cause is denied.

BOARD OF ZONING APPEALS
OF
BALTIMORE COUNTY

By *Charles H. Born*
Charles H. Born, Chairman

Daniel W. Haters, Member

Carl F. Tolson
Carl F. Tolson, Member

IN THE MATTER OF
PETITION FOR SPECIAL HEARING

BEFORE
BOARD OF ZONING APPEALS
OF
BALTIMORE COUNTY

BERNARD V. MOONEY
AND
EVA G. MOONEY,
Petitioners

CASE: No. 3529 - Special Hearing

OPINION

The original petition was filed in these proceedings under the authority of Section 500.7 of the Zoning Regulations seeking a Special Hearing before the Zoning Commissioner to determine the rights of the Petitioners. The Petitioners established ownership in No. 6731 Roberts Avenue, it being a parcel of ground fronting 50 feet on Roberts Avenue with an even depth of 125 feet. In addition, the Petitioners established ownership in Lot 13, Block F, plat of Fairlawn, being a 25 foot lot extending 135 feet from the rear of the southeast one-half of 6731 Roberts Avenue to Railway Avenue and having a 25 foot frontage thereon. The purpose of the petition is to determine whether a private garage can be erected in the northwest portion of the lot fronting on Railway Avenue.

After appropriate proceedings, the Zoning Commissioner passed his Order on June 6, 1955 denying the right of Petitioners. An appeal was filed and testimony presented before this Board on June 30, 1955.

This Board is little impressed by the argument the Railway Avenue 25 foot lot has by virtue of the recent purchase thereof by petitioners become the "rear yard" for 6731 Roberts Avenue. The rear yard for this house was established when it was built on Lots 593 and 594 in Section 1, Graceland Park, a recorded subdivision plat.

Section 101 of the Zoning Regulations defines a rear yard, a residential garage as an accessory building; and an accessory building as "subordinate and customarily incidental to and on the same lot with a main building".

Section 400.1 established an accessory building shall be located only in the rear yard.

Therefore, this Board concludes the garage cannot be built at the location petitioned for. An accessory building is a use under Section 200.1 and 200.9. Section 307 pertaining to Variances applies only to area and height regulations and has no application to this case.

ORDER

It is this 20th day of October, 1955, by the Board of Zoning Appeals of Baltimore County that the relief sought by the petition for Special Hearing filed in the within cause is denied.

BOARD OF ZONING APPEALS
OF
BALTIMORE COUNTY

By *Charles H. Born*
Charles H. Born, Chairman

Daniel W. Haters, Member

Carl F. Tolson
Carl F. Tolson, Member

True copy sent:

Zoning Commissioner
of Baltimore County

RE: PETITION FOR SPECIAL HEARING ON VARIANCE
TO THE ZONING REGULATIONS AND RESTRICTIONS -
Property at 6730 Railway Ave., 17th Dist.
Bernard V. Mooney and Eva G. Mooney,
Petitioners

Upon hearing on petition for a Special Hearing or Variance to the Zoning Regulations and Restrictions for Baltimore County to permit the erection of a private garage at the above location, from the testimony produced at the hearing it was disclosed that the petitioner resides at 6731 Roberts Avenue, in the Twelfth District of Baltimore County; that he recently purchased a 25 foot lot, known as 6730 Railway Avenue and claimed that is his rear yard upon which he wishes to construct a garage with a driveway leading to Railway Avenue.

Under the original Zoning Regulations and Restrictions, and also under the present Regulations and Restrictions, an Accessory Building is not permitted on a lot without a dwelling. The Regulation governing variances is as follows:

SECTION 307 - Variances

"The Zoning Commissioner of Baltimore County and the Board of Zoning Appeals, upon appeal, shall have and they are hereby given the power to grant variances from area and height regulations in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. However, any such variance shall be granted only if in strict harmony with the spirit and intent of said regulations, and to the public health, safety, and general welfare. Before granting any such variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance, subject, however, to the right of appeal to the Board of Zoning Appeals as provided by the Zoning Regulations."

It is the opinion of the Zoning Commissioner that there could hardly be a hardship imposed on the petitioner as he has sufficient space for a garage in the rear yard at 6731 Roberts Avenue, therefore, the variance is disallowed.

It is this 20th day of June, 1955, ORDERED by the Zoning Commissioner of Baltimore County that the aforesaid petition for a special hearing or variance to the Regulations and Restrictions is hereby denied.

Charles H. Born
Charles H. Born,
Zoning Commissioner
of Baltimore County

BERNARD V. MOONEY and
EVA G. MOONEY, his wife

CHARLES B. DIZIO,
DANIEL M. HUBERS and
CARL F. VOHSEN,
constituting the Board
of Zoning Appeals of
Baltimore County.

FOR BALTIMORE COUNTY

MISO. 3589

WARRANT FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Bernard V. Mooney and Eva G. Mooney, his wife, by Maguire and Brennan, their solicitors, respectfully represents unto your Honor:

(a) That each of your Petitioners is a resident, property owner and taxpayer of Baltimore County, State of Maryland; that they have an interest in the property which is the subject matter of the purported zoning reclassification Order referred to herein.

(b) That this Honorable Court has jurisdiction to receive this petition and to allow a writ of certiorari directed to the Board of Zoning Appeals of Baltimore County.

(c) That prior hereto your petitioners filed a petition for special hearing under Sections 500.6 and 500.7 of the Zoning Regulations to determine if a private garage can be erected on the property of the petitioners known as 6731 Roberts Avenue in the 12th Election District of Baltimore County.

(d) That the Zoning Commissioner of Baltimore County denied your petitioners' request and your petitioners, feeling aggrieved, filed an Appeal to the Board of Zoning Appeals of Baltimore County, who likewise by their Order dated October 20, 1955, denied your petitioners' request, from which this Appeal is being taken.

(e) That the aforementioned decision and Order of the Board of Zoning Appeals by which your petitioners are aggrieved and injured and void without legal force and effect, and should be reversed, set aside and annulled by this Honorable Court for the following reasons:

(1) That the Order of the Board of Zoning Appeals of Baltimore County dated October 20, 1955, constitute an arbitrary and capricious act and gross abuse of administrative discretion.

(2) That there was no substantial evidence before the Board of Zoning Appeals of Baltimore County in these proceedings to justify and support its Order of October 20, 1955.

(3) That the said Order of the Board of Zoning Appeals of Baltimore County dated October 20, 1955, constitutes an attempted, unlawful and unconstitutional exercise of authority.

(4) And for such other and further reasons as will be shown at the hearing hereof.

TO THE END THEREFORE

(a) That this Honorable Court issue a writ of certiorari directed to the defendants constituting the Board of Zoning Appeals of Baltimore County to review the decision and Order of said Board of October 20, 1955, in the within proceedings and prescribing therein the time within a return thereto shall be made and served upon the defendants.

(b) That the said Board of Zoning Appeals of Baltimore County may be required to return to this Honorable Court the original papers acted upon by it, or certified or sworn copies thereof, together with copies of all records in said proceeding and the transcript of all testimony taken before said Board in connection with said proceedings, as well as copy of the Order entered by said Board and copy of all and any rules and regulations pursuant to which said Order was entered and said Board purported to act.

(c) That this Honorable Court may permit your Petitioners to take such other and further testimony as may be necessary for the proper disposition of the matter.

(d) That this Honorable Court may reserve, set aside, annul and declare void and of no effect the decision and Order of the Board of Zoning Appeals dated October 20, 1955.

(e) That the Honorable Court may decree that the petitioners are entitled to the relief as prayed by the Petitioners.

(f) And for such other and further relief as the nature of your petitioners' case may require.

Maguire & Brennan
Maguire and Brennan
Attorneys for Petitioners

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 17th day of November, 1955, before me, the undersigned, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared JOHN B. MAGUIRE and JOHN J. BRENNAN, Attorneys for the Petitioners herein, and they made oath in due form of law that the matters and facts set forth are true to the best of their knowledge and belief.

IN WITNESS my hand and Notarial Seal.

Andrew Dean Lee
Notary Public.

Copy delivered to the Board of Zoning Appeals of Baltimore County, this 19th day of November, 1955.

Upon the foregoing petition, it is this ____ day of November, 1955, by the Circuit Court for Baltimore County ORDERED that a writ of certiorari be issued to Charles B. Dizio, Daniel M. Hubers and Carl F. Vohsen, constituting the Board of Zoning Appeals of Baltimore County to review the decision and Order of said Board of Zoning Appeals of Baltimore County dated October 20, 1955, and requiring said Board to return to this Court all papers, records and proceedings, in said matters, a transcript of all testimony presented before the said 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 said Board and that a return to this petition be made and served upon the defendants, or their 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 or certified 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 and exhibits taken and received at the hearing before the said Board.

MAGUIRE & BRENNAN
ATTORNEYS AT LAW
EAGER & TOWNSEND, INC.

MAGUIRE & BRENNAN
ATTORNEYS AT LAW
EAGER & TOWNSEND, INC.

MAGUIRE & BRENNAN
ATTORNEYS AT LAW
EAGER & TOWNSEND, INC.

MAGUIRE & BRENNAN
ATTORNEYS AT LAW
EAGER & TOWNSEND, INC.

Sheet D-10m
Sec. 50' x 125' + 25' x 135'

1. Variance

2. Interpretation
500.6 mooney property is in fact
on lot.

B.T. Mooney

Adm'd J. N. H. H.

June 16, 1955

Lee P. Karwacki, Esq.,
6709 Lombville Avenue,
Baltimore 28, Md.

Re: Property on S. E. Side Roberts
Ave., 12th District of Balto. Co.,
Bernard V. Mooney and Eva G.
Mooney, owners

Dear Mr. Karwacki:

The petitioners, in the above matter, have taken an appeal from the decision of the Zoning Commissioner to the Board of Zoning Appeals of Baltimore County concerning property of Mrs. and Mrs. Mooney.

The date for the appeal hearing has been scheduled by the Board of Zoning Appeals for Thursday, June 30, 1955 at 1:00 p.m. in the basement of the Second Building.

Very truly yours,

Zoning Commissioner

RE: PETITION FOR SPECIAL HEARING OR VARIANCE
TO THE EXISTING HEIGHTS, TOWER AND STRUCTURES -
Property at 6731 Roberts Avenue, 12th Dist.
Bernard V. Mooney and Eva G. Mooney,
Petitioners

Upon hearing on petition for a Special Hearing or Variance to the Zoning Regulations and Restrictions for Baltimore County to permit the erection of a private garage at the above location, from the testimony produced at the hearing it was disclosed that the petitioner resides at 6731 Roberts Avenue, in the 12th District of Baltimore County; that he recently purchased a 25 foot lot, known as 6730 Railway Avenue and claimed that is his rear yard upon which he wishes to construct a garage with a driveway leading to Railway Avenue.

Under the original Zoning Regulations and Restrictions, and also under the present Regulations and Restrictions, an accessory building is not permitted on a lot without a dwelling. The Regulations governing variances are as follows:

SECTION 307 - Variances

"The Zoning Commissioner of Baltimore County and the Board of Zoning Appeals, upon appeals, shall have and they are hereby given the power to grant variances from areas and height regulations in cases where strict compliance with the Zoning Regulations for hardships. However, any such variance shall be granted only if in strict harmony with the spirit and intent of said regulations; and only in such manner as to prevent undue substantial injury to the public health, safety, and general welfare. Before granting any such variance the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance, subject, however, to the right of appeal to the Board of Zoning Appeals as provided by the Zoning Regulations."

It is the opinion of the Zoning Commissioner that there could hardly be a hardship imposed on the petitioner as he has sufficient space for a garage in the rear yard at 6731 Roberts Avenue, therefore, the variance is disallowed.

It is this ____ day of June, 1955, ORDERED by the Zoning Commissioner of Baltimore County that the aforesaid petition for a special hearing or variance to the Regulations and Restrictions is hereby denied.

Zoning Commissioner
of Baltimore County

Special Hearing #3529

June 1, 1955

W.H. Adams -

Mr. Jern (att) Mooney

Adams - Mooney - Jern - Adams - Jern
Lee Karwacki (att) for Protestants (named Novak)

Karwacki - Jern - Mooney - Jern etc.

Adams - ~~Jern~~ Mooney - Jern

Adams Jern - Mooney

Adams - Karwacki - Mooney

Karwacki - Mooney - Jern

Adams

Jern - Adams - Jern Adams

request denied at hearing.

8' 3"
3 2'
8' 3"

Sept. 1953 bought home - no handling. (500.6 + .7)
ending May 1954

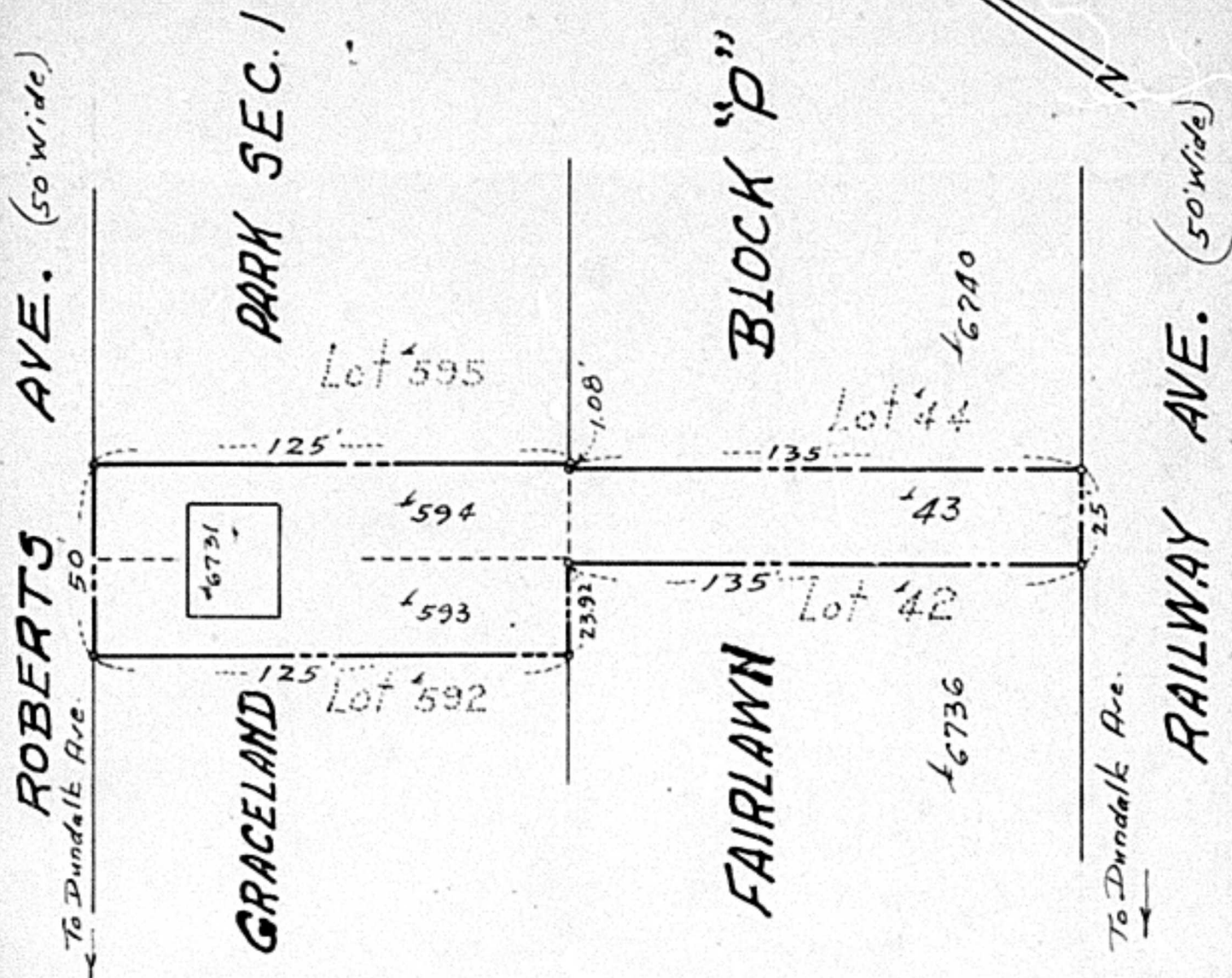
KELLER & KELLER*State Registered Land Surveyors*

3914 WOODLEA AVENUE

BALTIMORE 6, MARYLAND

City, Farm and
Topographical Surveys
Land Subdivisions
Earthwork Computations

Municipal Engineering
Construction Supervision
Road Location, Reports
Plans and Specifications



This is to Certify that we have this day made a Field

Survey of Lot 43 Block "P" Plat of Fairlawn Plat Book W.P.C. 6 folio 100
and that property lines are as shown on this Plat.

Scale: 1" = 40'Date: Aug. 10, 1954

Keller & Keller