F3539-RX

Serial No.
Appl. No.
Type of Hdg.
District 8TH
Date 8/1/56

COMPLAINT REPORT

Name Frank L. Invernizzi and John Thomas McCaffrey

Address Joppa Road, Brooklandville, Md.

Complainant's Name See letter of August 1, 1956 for names
Cross and Shriver, Attorneys for complaints (attached)
Address

Rec'd By WM Shanahan
Letter
In Person
Telephone

Details of Complaint (Be SPECIFIC)

IMPROPER LIGHTING SYSTEM. LIGHTS SHINE
OVER ALLEY LOOKING FROM John H. MONTGOMERY
& TALLYHO Rd. OFF JOPPA Rd. 8/1/56

Inspector's Report:

1. How long has present occupant been at this address? (No.) 1 YR.
(Year) 1955.
2. Do you own the property? (Yes)_____ (No)_____.
3. If not, who does own the property? Name_____
Address_____
4. When did present use begin? (No.)_____ (Year)_____.
5. Has any other use been made of this property other than for residential?
(Yes)_____ (No)_____. If so, what other use, and, for
how long?_____
6. Other Information:

Date 8/1/56 WM Shanahan
Signature of Inspector

(Over)

(FOR BETTER LOCATION AND DESCRIPTION OF PROPERTY USE REVERSE SIDE)

#3539

JOHN R. MONTGOMERY and MARY CARROLL MONTGOMERY, his wife, et al
vs
FRANK L. INVERNIZZI
and
ZONING COMMISSIONER OF BALTIMORE COUNTY

BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY

Upon inspection of the property under night operating conditions this Board finds a violation in regard to lighting with flood and spots directed at adjoining properties. This violation is subject to correction which this Board directs be accomplished within a period of eleven (11) days by Monday, July 29, 1957, 9:00 p.m.

In making such corrections the special exception holder is instructed to focus all lights so that they be directed away from any adjoining property. This Board will inspect this property after corrections have been made and if this Order has not been complied with will Order that all night operations cease at this location.

Date: July 18 1957

COUNTY BOARD OF APPEALS

JOHN R. MONTGOMERY and MARY CARROLL MONTGOMERY, his wife, et al
vs.
FRANK L. INVERNIZZI
AND
ZONING COMMISSIONER OF BALTIMORE COUNTY

BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY

NOTICE OF APPEAL

John R. Montgomery and Mary Carroll Montgomery, his wife, et al, respectfully note an appeal from the decision of Wilsie H. Adams, Zoning Commissioner, dated May 16, 1957 in the above entitled case.

Charles E. Reeves, Jr.

J. Nicholas Shriver, Jr.,
610 Mercantile Trust Building
Baltimore 2, Maryland
Lexington 9-0505
Attorneys for Complainants

I hereby certify that a copy hereof has been mailed to W. Lee Harrison, Esq., 212 Washington Avenue, Towson 4, Maryland, Attorney for Frank L. Invernizzi in the above captioned matter, this 22 day of May, 1957.

J. Nicholas Shriver, Jr.

May 16, 1957

J. Nicholas Shriver, Jr., Esq.,
Mercantile Trust Building
Baltimore 2, Maryland

Dear Mr. Shriver:

In reply to your letter of May 2, 1957 you omit certain important facts regarding the lighting on Mr. Invernizzi's Golf Driving Range. It is true that Mr. Fitzpatrick did determine that the lighting should be rearranged and stated that the correction should be made by October 13, 1956. However, a letter from Mr. Invernizzi's attorney dated October 12, 1956 advised that the lighting would be discontinued but requested that an inspection be made the following spring before Mr. Invernizzi opened for the season. This office felt that the request was a reasonable one since Mr. Invernizzi had already closed down for the winter season. You did not reply to the letter or voice any objection and, I, therefore, assumed that you were agreeable to such an arrangement.

Accordingly, I inspected the lighting prior to the opening of the Range for the night operations a short time ago. The objectionable spot lights had been disconnected and new lights installed which directed the beam on the Range itself and away from adjoining properties. It was obvious to me during my inspection that Mr. Invernizzi had satisfactorily complied with the Order of the Board of Zoning Appeals dated December 15, 1955, which Order was affirmed by the Circuit Court for Baltimore County on April 11, 1956. Moreover, it is equally apparent that Mr. Invernizzi had complied with the instructions of Mr. Fitzpatrick and made corrections in accordance with his instructions. The lighting arrangement is entirely satisfactory and I can see no legitimate reason for anyone to complain.

Very truly yours,

Zoning Commissioner

LAW OFFICES
CROSS AND SHRIVER
MERCANTILE TRUST BUILDING
BALTIMORE-2
LEXINGTON 9-0505

EBEN J. D. CROSS (1888-1956)
J. NICHOLAS SHRIVER, JR.
J. PAUL BRIGHT, JR.
CHARLES E. REEVES, JR.
THOMAS D. WASHBURNE

May 2, 1957 File 2073

Honorable Wilsie H. Adams
Zoning Commissioner of Balto. County
County Office Building
Towson 4, Maryland

Dear Mr. Adams:

On October 3, 1956 your deputy, Charles L. Fitzpatrick, passed an Order in which he made a determination that Mr. Frank L. Invernizzi, who operates a golf driving range on the Joppa Road in Brooklandville in the Eighth Election District of Baltimore County, near the Falls Road, was guilty of non-compliance with the zoning Order granting the special exception which permits him to operate the golf driving range.

Mr. Fitzpatrick further ordered him to "make all necessary corrections" as stated in a prior paragraph of his Order, as follows:

"It is the opinion of the Deputy Zoning Commissioner that this lighting should be rearranged in some manner so as to comply with said zoning Order and to eliminate the extreme glare. It is also the opinion of the Deputy Zoning Commissioner that this correction should be made by October 13, 1956. If the necessary adjustments have not been made by the above date it is the recommendation of the Zoning Department that all night operations of Mr. Invernizzi's golf driving range shall be discontinued or further legal action will be forthcoming.

By letter dated October 12, 1956 Mr. Fitzpatrick was advised by W. Lee Harrison, Esq., attorney for Mr. Invernizzi, in part as follows:

"I am advised by Mr. Invernizzi that he has removed the objectionable spotlights, but will be unable to install new poles and new lights until later. In any event, as he is

-2-

no longer open at night he will have the new light poles installed before he begins operations at night some time next Spring. I will appreciate your advice as to whether or not this will be satisfactory to you."

Mr. Invernizzi in recent weeks has turned on his lights and beginning this week he has reinstituted his night business. So far as observation from the homes of my clients is concerned, the intensity of the light has slightly decreased, but the same situation exists which caused the Order to be passed in the first place. So far as can be seen, there has been no attempt to install new light poles. What apparently has been done has been to replace the spotlights with similar lights but of perhaps less candle power or intensity. This of course does not at all cure the objectionable features that Mr. Fitzpatrick found in his Order and that the zoning Order granting the special exception prohibited. Your records will show that the special exception was granted subject to the condition that "any lights used on the property shall be of a reflector type directed away from adjoining properties". The lights are still "directed" onto, instead of away from, "adjoining properties".

In addition, an intolerable nuisance has been created, to much greater intensity than was present last year, by the tremendous amount of dust which is being created by automobiles driving to and from the driving range. This condition affects particularly the properties of our clients Mr. and Mrs. Gould D. Cleveland and the Misses Barbara and Lena Stouffer.

In view of the language of the Order of October 3, 1956, and of the failure of Mr. Invernizzi to comply with it, and also in view of the additional dust nuisance referred to, it is respectfully requested on behalf of all of our clients, the names of whom you already have in your records in this case, that the "further legal action" referred to in the Order of October 3, 1956 immediately be taken by you.

Respectfully submitted,

J. Nicholas Shriver, Jr.,
Attorney for Owners of
Adjoining Properties

CC: W. Lee Harrison, Esq.
Mr. Frank L. Invernizzi

May 27, 1957

$30.00

RECEIVED of J. Nicholas Shriver, Jr., attorney for protestants, the sum of Thirty ($30.00) Dollars, being cost of appeal to the Board of Appeals from the decision of the Zoning Commissioner concerning the property of Invernizzi, et al, on Joppa Road.

Zoning Commissioner

01.622

RECEIVED
MAY 27 1957
COUNTY OFFICE

LAW OFFICES
SMITH AND HARRISON
212 WASHINGTON AVENUE
TOWSON 4, MARYLAND
TELEPHONE, VALLEY 5-8200

A. TEMPLE SMITH
W. LEE HARRISON
DOUGLAS R. BOTTOM
RICHARD C. MURRAY

REISTERSTOWN OFFICE
14 MAIN STREET
TELEPHONE REIS. 122

October 12, 1956

Mr. Charles L. Fitzpatrick
Deputy Zoning Commissioner
County Office Building
Towson 4, Maryland

In re Frank Invernizzi
Golf Driving Range

Dear Mr. Fitzpatrick:

I am advised by Mr. Invernizzi that he has removed the objectionable spot lights, but will be unable to install new poles and new lights until later. In any event, as he is no longer open at night, he will have the new light poles installed before he begins operations at night some time next Spring. I would appreciate your advice as to whether or not this will be satisfactory to you.

Mr. Invernizzi will be glad to meet with you before he opens next Spring for your personal inspection of the new lighting system.

Very truly yours,

Lee Harrison

W. Lee Harrison

wlh/d

cc: J. Nicholas Shriver, Esq.
Mr. Frank Invernizzi

Re: PROPERTY OF FRANK L. INVERNIZZI AND
JOHN THOMAS McCAFFREY, Joppa Road,
Brooklandville, 9th District -

Upon receiving a complaint in regard to Mr. Invernizzi and his alleged violation of the zoning Order granting him permission to operate a Golf Driving Range under a Special Exception of the Zoning Regulations of Baltimore County, there is some justification in this complaint and that the lights should be corrected.

I do not believe that Mr. Invernizzi has purposely allowed the lights to be so directed as to result or cause any undue hardship from the glare on the adjoining properties. This extreme glare is the result of an effort to light the rear portion of Mr. Invernizzi's Golf Driving Range.

It is the opinion of the Deputy Zoning Commissioner that this lighting should be rearranged in some manner so as to comply with said zoning Order and to eliminate the extreme glare. It is also the opinion of the Deputy Zoning Commissioner that this correction should be made by October 13, 1956. If the necessary adjustments have not been made by the above date it is the recommendation of the Zoning Department that all night operations of Mr. Invernizzi's Golf Driving Range shall be discontinued or further legal action will be forthcoming.

It is, therefore, this 3rd day of October, 1956, determined that Mr. Frank L. Invernizzi is guilty of non-compliance with the zoning Order granting the special exception and he shallmake all necessary corrections as stated in the preceding paragraph.

Charles L. Palmatary
Deputy Zoning Commissioner
of Baltimore County

LAW OFFICES
SMITH AND HARRISON
312 WASHINGTON AVENUE
TOWSON 4, MARYLAND
TELEPHONE, VALLEY 3-2300

A. TEMPLE SMITH
W. LEE HARRISON
DOUGLAS B. BUTTON
RICHARD C. MURRAY

REISTERSTOWN OFFICE
14 MAIN STREET
TELEPHONE REIS. 122

August 7, 1956

Wilkie H. Adams, Esq.
Zoning Commissioner
County Office Building
Towson 4, Maryland

Re: Invernizzi golf driving range

Dear Mr. Adams:

A copy of Mr. Shriver's letter of August 3, 1956 was received at my office while I was on a brief vacation. I note that Mr. Shriver advised you that "equitable relief has been tentatively refused by that Court, as set forth in an opinion handed down by Judge Kintner" and sent you a copy of the same. It is my interpretation that equitable relief was finally and conclusively denied by Judge Kintner and the meaning of his decision was that the determination of the facts upon which it could be decided whether or not my client was violating the Zoning Department's Order was one for the Zoning Authorities. In other words, the question as to whether or not a violation actually exists is one which should be determined by the Zoning Department after investigation and a hearing. On behalf of my client I wish to advise that he will be most happy to have you or your assistant inspect the premises at any time, either with or without notice to us.

We also wish to call to your attention the fact that on any demurrer in an equity Court or a Court of law, the Court assumes the truth of all allegations contained in the Complaint demurred to. In other words, the decision of the Court on a Demurrer is whether or not the facts alleged in the Complaint, if true, would give the complainants any right of action. It does not mean, and in fact to the contrary, that the Court has decided any of the alleged complaints to be true or untrue.

Very truly yours,
W. Lee Harrison
W. Lee Harrison

wlh/d

LAW OFFICES
CROSS AND SHRIVER
MERCANTILE TRUST BUILDING
BALTIMORE-2

EBEN J. D. CROSS (1892-1946)
J. NICHOLAS SHRIVER, JR.
J. PAUL BRIGHT, JR.
CHARLES E. REEVES, JR.
THOMAS D. WARBOURNE

LEXINGTON 9-0515

August 3, 1956 File 2073

Wilsie H. Adams, Zoning Commissioner
County Office Building
Towson 4, Maryland

Dear Mr. Adams:

We are attorneys for the following taxpayers of Baltimore County, namely Mr. and Mrs. John R. Montgomery, Dr. and Mrs. Allan H. Lankford, Mr. and Mrs. Gould D. Cleveland, Mr. and Mrs. Gaines McMillan, Mr. and Mrs. J. Fife Symington, Jr., Mr. and Mrs. J. Cooper Graham, Jr., Mr. and Mrs. Robert B. Hobbs, Mr. and Mrs. Charles W. Hoff, Mr. and Mrs. Amber H. Moss, Mr. Albert Graham, Miss Barbara Stouffer and Miss Lena E. Stouffer. Our clients reside in the area adjacent to the intersection of Falls Road and Joppa Road, near which a golf driving range has recently been opened by Frank L. Invernizzi on land of record in the name of John Thomas McCaffrey.

By order of the Board of Zoning Appeals of Baltimore County passed December 15, 1955 the property upon which the golf driving range is now being operated was reclassified from an R-6 zone to a R-20 zone and a special exception was granted to use the property for a golf driving range, subject to the condition that any lights used on the property were to be of "a reflector type directed away from adjoining properties".

The golf driving range commenced operation on or about June 16, 1956, and since that time every night at least until 10:30 p.m. and sometimes until after midnight, our clients have been subjected to the annoyance and nuisance of glaring floodlights which are directed toward their properties.

Complaint has been made on several occasions directly to Mr. Invernizzi, asking him to correct the situation; when the situation continued without change, on behalf of our clients we filed suit in the Circuit Court of Baltimore County, in equity, asking injunctive

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-2-

relief. Equitable relief has been tentatively refused by that Court, as set forth in an opinion handed down by Judge Kintner, a copy of which is enclosed herewith.

On behalf of our clients, we request that you at once take action to enforce fully the letter and spirit of the aforegoing Order of the Board of Zoning Appeals concerning the lighting of the range, pursuing all the remedies, including the penal provisions, of the Zoning Regulations for Baltimore County.

Very truly yours,

JNSJr/mag
Enclosure

CC: W. Lee Harrison, Esq.,
Attorney for Defendants
Frank L. Invernizzi and
John Thomas McCaffrey

JOHN R. MONTGOMERY, ET AL., Complainants
VS.
FRANK L. INVERNIZZI, ET AL. Defendants

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
IN EQUITY NO. 37634
DOCKET 61 - FOLIO 89

OPINION

This case is before me on a demurrer to the bill of complaint. Owners of twelve residential properties in the Green Spring Valley in Baltimore County seek to enjoin the defendants from the use of flood-lights illuminating a commercial golf driving range. The defendant McCaffery is the owner and the defendant Invernizzi is a contract purchaser of a tract of nine acres having a frontage of 150 feet on the northeast side of Joppa Road, running northeasterly therefrom of that width about 279 feet into a large triangular lot in the rear. A right of way of an electric tower line runs along the west side of the property.

This property was originally zoned for one and two-family residences. On application of the defendants it was rezoned to "R-20", one-family residence with a special exception for use for a golf driving range. Some of the plaintiffs filed a protest and were heard by the Zoning Commissioner who granted the application. On appeal to the Board of Zoning Appeals the action of the Zoning Commissioner was affirmed but with this condition "Subject to the condition that any lights used on the property shall be of a reflector type directed away from adjoining properties." An appeal from this order was taken by the plaintiff Montgomery "on his own behalf and on behalf of other interested parties" to the Circuit Court for Baltimore County, which on April

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- 2 -

11, 1956 sustained the Board. (Montgomery v. Doing &c, Law 1559, Docket 5 Folio 220). No appeal has been taken to the Court of Appeals from that order and the time for appeal has expired. The bill in the instant case was filed July 13, 1956.

Under the applicable zoning regulations of Baltimore County, Section 270, certain uses may be permitted by "Special Exception" after notice and hearing by the Zoning Commissioner. Included in the list of such special uses is "Golf driving range, including miniature golf, etc." which is allowed on property zoned R-40 and R-20 (residence, one-family).

Section 500.6 of the zoning regulations provides as follows: "In addition to his aforesaid powers, the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or non-compliance with any zoning regulations, or the proper interpretation thereof, and to pass his Order thereon, subject to the right of appeal to the Board of Zoning Appeals as hereinafter provided."

By the Act of 1945 Ch. 502 Sect. 7EB. paragraph f, it is provided that an appeal to the Circuit Court shall not operate as a stay of the order appealed from unless so ordered by the Court.

By Section 503 of the Zoning Regulations any violation of a regulation or restriction of the Ordinance is made a crime, punishable by fine or imprisonment or both; and each day of violation is a separate offense.

Section 502.1 of the Zoning Regulations provides that before any Special Exception shall be granted, it must appear that the use for which it is requested will not be detrimental to the health, safety or general welfare of the locality involved.

The bill does not allege that the plaintiffs filed any protest or complaint of the alleged violation with the Zoning

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- 3 -

Commissioner; nor have they instituted any criminal charge. The only allegation in the bill is that they "protested to the defendants and requested that the glare from said floodlights be corrected and controlled, but that, although defendants, through their attorney, promised that the conditions would be corrected, complainants believe --- the same intolerable nuisances and conditions prevail up to the time of filing this bill of complaint."

It is not contended that the original rezoning of the property to R-20 with a special exception for use for a golf driving range was wrong. Indeed the decision of the Circuit Court for Baltimore County on April 11, 1956 in the Law Case No. 1559 would preclude such a contention. While some of the parties in the instant case were not parties in the law case, it appears from the record in the law case that the statutory requirements of posting of notice on the property and of publication of notice in a newspaper were complied with. This makes the matter in the nature of a proceeding in rem. It is binding on all persons whether parties or not and is res adjudicata.

The question in the case is whether the complainants must pursue the statutory remedy provided by the Zoning Ordinance, or whether equity has concurrent jurisdiction. Their complaint is that the defendants have failed to observe the condition appended to the special exception "that any lights used on the property shall be of a reflector type directed away from adjoining properties." Under Section 500.6 above, the Zoning Commissioner has authority to determine this complaint. If he finds a violation, his order for a correction becomes immediately operative and is not stayed by an appeal. If his decision is adverse to the complainants, they have a right of appeal to the Zoning Board, the Circuit Court and the Court of Appeals.

- 4 -

"Where an administrative agency is given power to determine questions, such questions must, in the first instance, be submitted to it, and if a statutory method of appeal is provided, that must be, in general, followed. The courts do not favor the by-passing of administrative bodies, unless there is a clear necessity for a prior judicial decision." Kahl v. Cons. Gas Co. 192 Md. 249 at 258.

Aside from that proposition of law thus laid down, I have no doubt that the bill states a case for equitable relief. Glaring lights constituted the basis of the relief granted in the Green v. Garrett cases, 192 Md. 52 and 193 Md. 260. But no zoning regulation was involved in those cases because the Court held that the ball park was a non-conforming use. So also in Five Oaks Corp. v. Oathmann, 190 Md. 348, glaring lights were enjoined by equity decree, but no zoning regulation was involved.

Ourisler v. Bd. of Zoning Appeals, 201 Md. 397 is a case dealing with the same "special exception" provision of the Baltimore County Zoning Ordinance as the instant case. Procedure was by appeal, so the question here raised was not involved. But casting some light on the present question is this statement of Judge Delaplaine in the course of his opinion at page 405: "The function of a zoning board is to exercise the discretion of experts, and the court on appeal will not disturb the board's finding where it has complied with the legal requirements of notice and hearing, and the record shows substantial evidence to sustain the finding." It has often been said that the court will not reverse the action of a zoning board where the matter is fairly debatable.

Here involved is a matter of legislative policy. The legislature has acted to prescribe restrictive uses of land. It has set up the machinery to carry out that policy. It has provided safe-guards for judicial review. To allow the complainants to by-pass these provisions by coming initially into equity is to defeat

the policy of the legislature.

At the argument, the solicitor for the complainants suggested to the Court that if the demurrer were sustained, leave to amend the bill be granted. It was suggested that additional facts such as noises and other complaints might be added. However a substantial and and fundamental ground for sustaining the demurrer exists in this case, which, in my opinion can not be cured by amendment. Under such circumstances leave to amend is not justified. Webb vs. Balt. Com. Bank, 181 Md. 572, 577. The case differs from Hart v. Wagner, 184 Md. 40, where insufficient facts were stated, but could be supplied by amendment.

For these reasons the demurrer will be sustained without leave to amend, but without prejudice to the complainants to take such other and further action as may be proper.

Floyd J. Kertner
Judge

For the reasons set forth in the aforegoing opinion, it is by the Circuit Court for Baltimore County, In Equity this 31st day of July, 1956, Adjudged, Ordered and Decreed that the demurrer to the bill of complaint be sustained without leave to amend, and the bill dismissed but without prejudice to the complainants to take such other or further action in the premises as their case may require.

Floyd J. Kertner
Judge

True Copy Test
GEORGE L. BYERLY, Clerk
By
Deputy Clerk

3539-RX

IN THE MATTER OF A PETITION FOR GOLF DRIVING RANGE - N.E. SIDE JOPPA ROAD, 44.17 FEET S.E. TRANS. LINE, 8th DISTRICT, THOS. McCAFFREY, ET AL, PETITIONERS, FRANK INVERNIZZI, CONT. PURCH. : BEFORE THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

OPINION AND ORDER

This case comes before us on an Appeal by Protestants from an Order of the Zoning Commissioner granting a reclassification of a parcel of land from an R-6 Zone to an R-20 Zone and for a Special Exception to use the property for a golf driving range.

The property consists of 9.2 Acres with a frontage of approximately 150 feet on Joppa Road adjoining the power transmission line of the Baltimore Gas and Electric Company. To the east of the property there is a dwelling with attached greenhouses which we are advised is being used for commercial purposes. At the intersection of Joppa and Falls Roads, there is a commercial building for the sale of ice cream and dairy products, which also offers pony rides during the summer months. There is a gasoline filling station at the southeast corner of the intersection.

This commercial development and the erection of the power transmission line has taken place since the original zoning plan was adopted and constitutes a substantial change in the neighborhood. There is no concentrated residential development in the immediate neighborhood at this time.

We have concluded that the operation of a golf driving range at this location under a "Special Exception" will not be detrimental to the health, morals, safety and general welfare of the community.

Since the request for a reclassification is to a higher classification (R-6 to R-20), there can be no objection to the reclassification.

For these reasons, we will sign an Order granting the reclassification from an R-6 Zone to an R-20 Zone and granting the Special Exception to use the property for a golf driving range, subject to the condition that any lights used on the property shall be of a reflector type directed away from adjoining properties.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 15th day of December, 1955, by the Board of Zoning Appeals of Baltimore County,

ORDERED that the subject property be reclassified from an R-6 Zone to an R-20 Zone; and

ORDERED FURTHER that the Special Exception to use the property for a golf driving range be granted, subject to the condition that any lights used on the property shall be of a reflector type directed away from adjoining properties.

BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

Edward A. Deering

Carl L. Baldwin

James D. Nolan Williams

Approved:

County Commissioners of Baltimore County

By Robert B. Hamill

Date: MAY 17 1956

MAP #8-A R-20 5/31/55

PETITION FOR (1) ZONING RECLASSIFICATION (2) SPECIAL EXCEPTION

To the Zoning Commissioner of Baltimore County:

I, or we, John Thomas McCaffrey Legal Owner

hereby petition (1) that the zoning status of the above described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an R. 6 Zone to an R. 20 Zone; and (2) for a Special Exception, under said Zoning Law and Zoning Regulations of Baltimore County, to use the above described property, for a Golf Driving Range.

Property to be posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above reclassification and Special Exception, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the Zoning Regulations and Restrictions of Baltimore County, adopted pursuant to the Zoning Law for Baltimore County.

All that parcel of land in the Eighth District of Baltimore County, on the northeast side of Joppa Road, beginning 44.17 feet southeast of Consolidated Gas Electric Light and Power Company, Transmission Line; thence northwesterly and binding on the northeast side of Joppa Road 150 feet; thence the following courses and distances north 28 degrees 30 minutes east 279.01 feet, north 9 degrees 46 minutes east 325.34 feet, north 74 degrees 20 minutes east 258.57 feet, south 83 degrees 41 minutes east 581.05 feet, south 12 degrees 33 minutes west 45.41 feet, south 33 degrees 32 minutes west 671.86 feet, north 48 degrees 06 minutes west 400.47 feet, south 33 degrees 47 minutes west 400 feet to place of beginning.

PETITION FOR (1) ZONING RECLASSIFICATION (2) SPECIAL EXCEPTION

To the Zoning Commissioner of Baltimore County:

I, or we, John Thomas McCaffrey Legal Owner

hereby petition (1) that the zoning status of the above described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an R. 6 Zone to an R. 20 Zone; and (2) for a Special Exception, under said Zoning Law and Zoning Regu-

John Thomas McCaffrey

Legal Owner

Lutherville, Maryland

Address

MICROFILMED

MAY 1 9 1955

IN THE MATTER OF A PETITION FOR GOLF DRIVING RANGE - N. E. SIDE JOPPA ROAD, 44.17 FEET S. E. TRANS. LINE, 8TH DISTRICT, THOS. McCAFFREY, AND OTHERS, PETITIONERS, FRANK INVERNIZZI, CONT. PURCH. : BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

APPEAL

Mr. Commissioner:

Please enter an Appeal to the Board of Zoning Appeals of Baltimore County from the decision of the Zoning Commissioner dated July 13, 1955, in the above entitled matter, on behalf of the Protestants, and transmit all papers to the Board of Zoning Appeals of Baltimore County.

TURNBULL AND BREWSTER

By: Daniel B. Brewster

RE: PETITION FOR RECLASSIFICATION FROM AN "R-6" ZONE TO AN "R-20" ZONE AND A SPECIAL EXCEPTION FOR GOLF DRIVING RANGE - N. E. Side Joppa Road, Dist. 44.17 feet S. E. Transmission Line - 8th Dists., John Thomas McCaffrey, Petitioner

Upon hearing on petition (1) for reclassification of the land described therein from an "R-6" (residence) Zone to an "R-20" (residence) Zone and a special exception to use said property for a Golf Driving Range, upon viewing the property it appears that the changes which have since taken place/the adoption of the comprehensive zoning plan at this location show considerable increase in business. This plus the fact that the Gas & Electric Company has erected electric power lines, it is apparent that, that part of this property should be of a commercial or business character.

It is the opinion of the Zoning Commissioner that the use of the subject property for a Golf Driving Range would not be detrimental to the health, safety, morals and the general welfare of the community, therefore, the petition should be granted.

It is this 13th day of July, 1955, ORDERED by the Zoning Commissioner of Baltimore County that the petition be and the same is hereby granted, the first for reclassification as aforesaid and, second, to use the property for a Golf Driving Range, provided, however, that the lighting to be used shall be of a reflector type directed away from the adjoining properties on Joppa Road.

Wilbur H. Adams

Zoning Commissioner of Baltimore County

REPORT OF JOINT ZONING COMMITTEE ON PETITION FOR ZONING RECLASSIFICATION

3539 - RX

Location - Northeast side of Joppa Road, 656-feet southeast of Falls Road, 8th District.

Owner - John McCaffrey

Present Zoning - R6 Proposed Zoning - R 20 and a Special Exception for Golf Driving Range use.

Date Received - May 19, 1955 Date of Reply - June 9, 1955

The property described in this petition consists of 9.2 acres. It is located on the northeast side of Joppa Road, 656-feet southeast of Falls Road. This tract has a 150-foot frontage on Joppa Road, part of which is right-of-way for a Power Transmission Line. The property opposite this tract is now vacant. At the intersection of Joppa Road and Falls Road there is a small commercial building and a gasoline filling station. An existing dwelling with attached green houses adjoins this tract on the southeast side. Beyond this house there is extensive residential development of high character, extending all the way to Ridgewood. Approximately 600-feet southeast of this tract is the residential development of "Weatherfield", now under construction, with acre lots. Lots of this size or larger are characteristic of this residential strip.

This area has been recommended in the Tentative Land Use Plan as an R 40 Zone, which calls for approximately acre lots.

A golf driving range tends to be an interim use of property which is felt to be past the agricultural stage but not yet quite ripe for commercial or residential development. It is our belief that Joppa Road is not and will not be the kind of road that is similar to major arteries like Washington Boulevard, Edmondson Boulevard, or Pulaski Highway adjoining which a golf driving range can be a logical interim use of the land. We do not believe that the present state of development in this area is such as to indicate the need for a retail type of center, or to point clearly to a specific future location therefor. The unusually high grade character of the development to the east should weigh heavily against further extension of the roadside type of commercial uses such as already exist to some extent at the intersection of Joppa Road with Falls Road. We think that a golf driving range would tend to have a depreciating effect in this particular location on the existing residential properties referred to. Financial success of the golf driving range naturally will depend on extensive patronage. Such patronage would mean considerable numbers of cars, involving milling around and movement to and from the property. It is customary for successful driving ranges to be illuminated for night use. Such conditions are not conducive to preservation of fine residential character.

In conclusion, we feel that this proposed use would have a depreciating and disturbing effect on the existing residential properties and would tend to lower the quality of further new residential development in the vicinity.

James J. Dembeck, Executive Secretary
Joint Zoning Committee

cc: Mr. Wilbie H. Adams
Mr. John B. Funk

JOINT ZONING COMMITTEE

REPORT ON PETITION # 3539 -RX

Location and District:
Northeast side of Joppa Road, 656 feet southeast of Falls Road, 8th District.

Present Zoning: R6

Proposed Zoning: R20 and a special exception for golf driving range use.

Date of Report: September 20, 1955

Present Status of Property:
Vacant

Area:
Approximately 9.2 acres.

Vicinity:
This tract has a 150-foot frontage on Joppa Road, part of which is a right-of-way for a Power Tranmission Line. The property opposite this tract is now vacant. At the intersection of Joppa Road and Falls Road there is a small commercial building and a gasoline filling station. An existing dwelling with attached green houses adjoins this tract on the southeast side. Beyond this house there is extensive residential development of high character, extending all the way to Ridgewood. Approximately 600 feet southeast of this tract is the residential development of "Weatherfield," now under construction, with acre lots. Lots of this size or larger are characteristic of this residential strip.

Access and Road Widening:
Joppa Road is to be widened to a 60 foot right-of-way. Plot plan as submitted does not indicate location and character of proposed uses, off-street parking scheme, location of entrances and exits, and all other pertinent data.

Traffic Implications:

School Factors:

3539

August 16, 1955

$20.00

RECEIVED of Daniel B. Brewster, attorney for Protestants, the sum of Twenty ($20.00) Dollars, being balance due on appeal from the decision of the Zoning Commissioner granting reclassification and a special exception for Golf Driving Range, northeast side of Joppa Road 44.17 feet southeast of Transmission Line, 9th District, John Thomas McCaffrey, Petitioner.

Zoning Commissioner

PAID
AUG 17 1955
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY

3539

February 10, 1956

$9.00

RECEIVED of Turnbull & Brewster, Attorneys, the sum of Nine ($9.00) Dollars, being cost of certified copies of papers filed in the matter of a petition for a special exception for Golf Driving Range, northeast side of Joppa Road, 44.17 feet southeast of Power Line, 9th District, John T. McCaffrey, petitioner, Frank Invernizzi, Contract Purchaser.

Zoning Commissioner

RECEIVED
FEB 10 1956
COMPTROLLER'S OFFICE
940

May 26, 1955

$30.00

RECEIVED of Bernard J. Medairy, Jr, Attorney for John McCaffrey, petitioner, the sum of Thirty ($30.00) Dollars, being cost of petition for Reclassification, Special Exception, advertising and posting property, northeast side of Joppa Road, 44.17 feet southeast of Consolidated Gas Electrick Light and Power Company, 8th District, Baltimore County, Maryland.

Zoning Commissioner

HEARING:
Monday, June 13, 1955
at 3:00 p.m.
Reckord Building
Towson, Maryland.

PAID
JUN 3 -
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY

#3539

John R. Montgomery, in his own behalf and on behalf of other interested parties : In the Circuit Court for

vs : Baltimore County

Board of Zoning Appeals : Misc No. 5, folio 220

John Thomas McCaffrey
Frank L. Invernezi : No. 1559

April 11, 1956 - Judge John B. Gontrum- Action of Board sustained
(No opinion filed)

BALTIMORE MD. APR 12 PM 1956

THIS SIDE OF CARD IS FOR ADDRESS

UNITED STATES POSTAL CARD

Board of Zoning Appeals
Baltimore County Office Bldg.
Towson 4, Md.

Attention: Mrs. Harris

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

#3539

District 8th Date of Posting 6-1-55

Posted for: Am. R-6 Zone to Am. R-20 Zone & Golf Driving Range

Petitioner: John McCaffrey

Location of property: N.E.S. of Joppa Rd. 44.17 ft. S.E. of Consolidated Gas Electric Light and Power Company, Inc. Co.

Location of Signs: one sign on S.E. Southeast of Consolidated Gas Electric Light and Power Co. Inc. Co. on N.E.S. of Joppa Road.

Remarks:

Posted by George A. Hammond Date of return: 6-2-55

3539

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Montgomery, etal VS. Board of Zoning Appeals

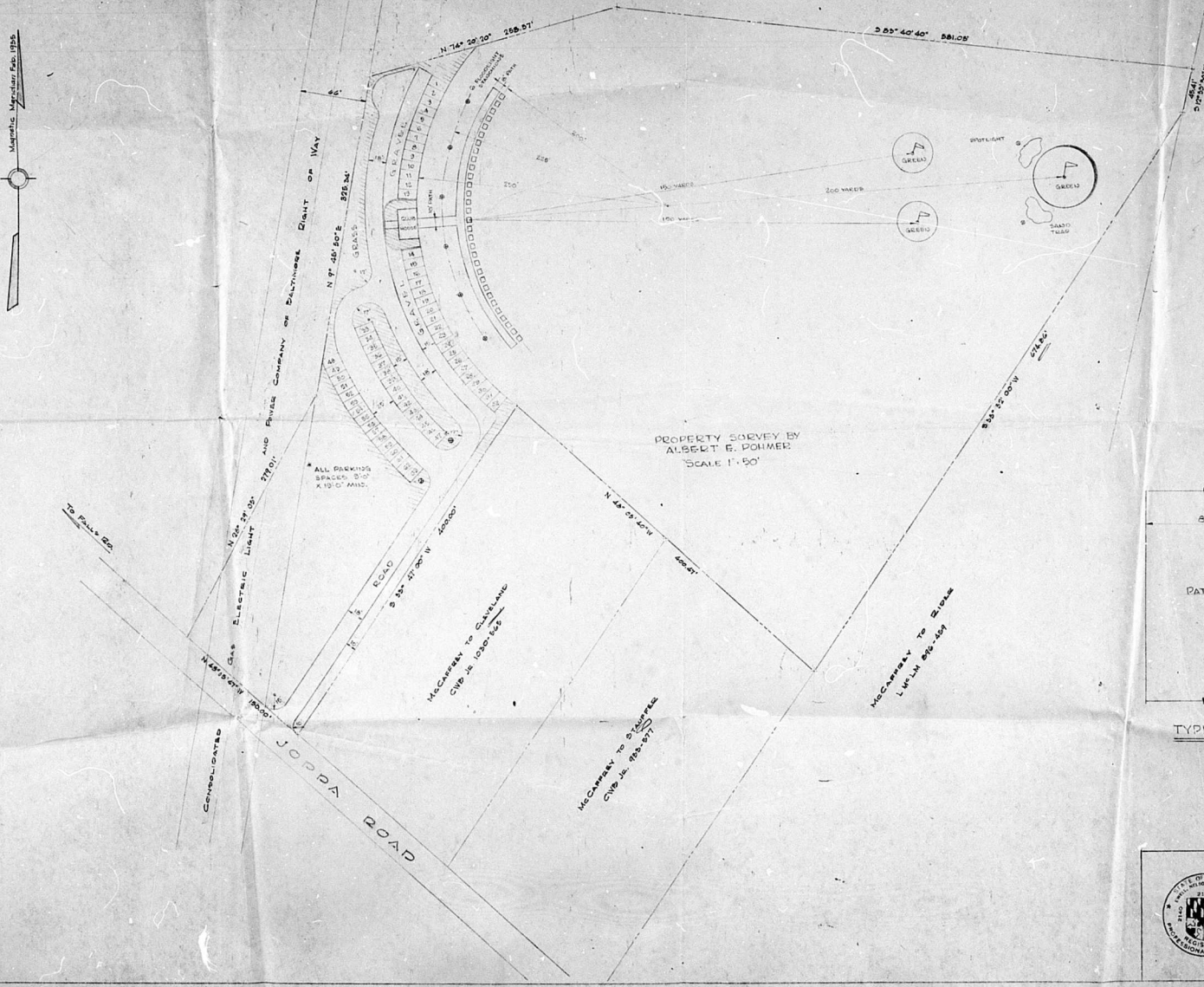
Case No. 1559

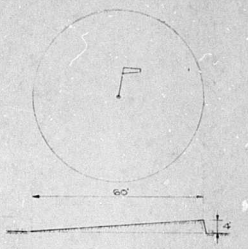
4/11/56-Judge Gontrum- Action of Board sustained
Trial Date ..... 10 A. M.

Please be prepared for trial on that day.

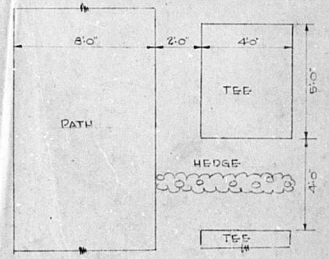
GEORGE L. BYERLY, Clerk.

COCKEY TO McCAFFERTY
WPC 587-424





TYPICAL GREEN



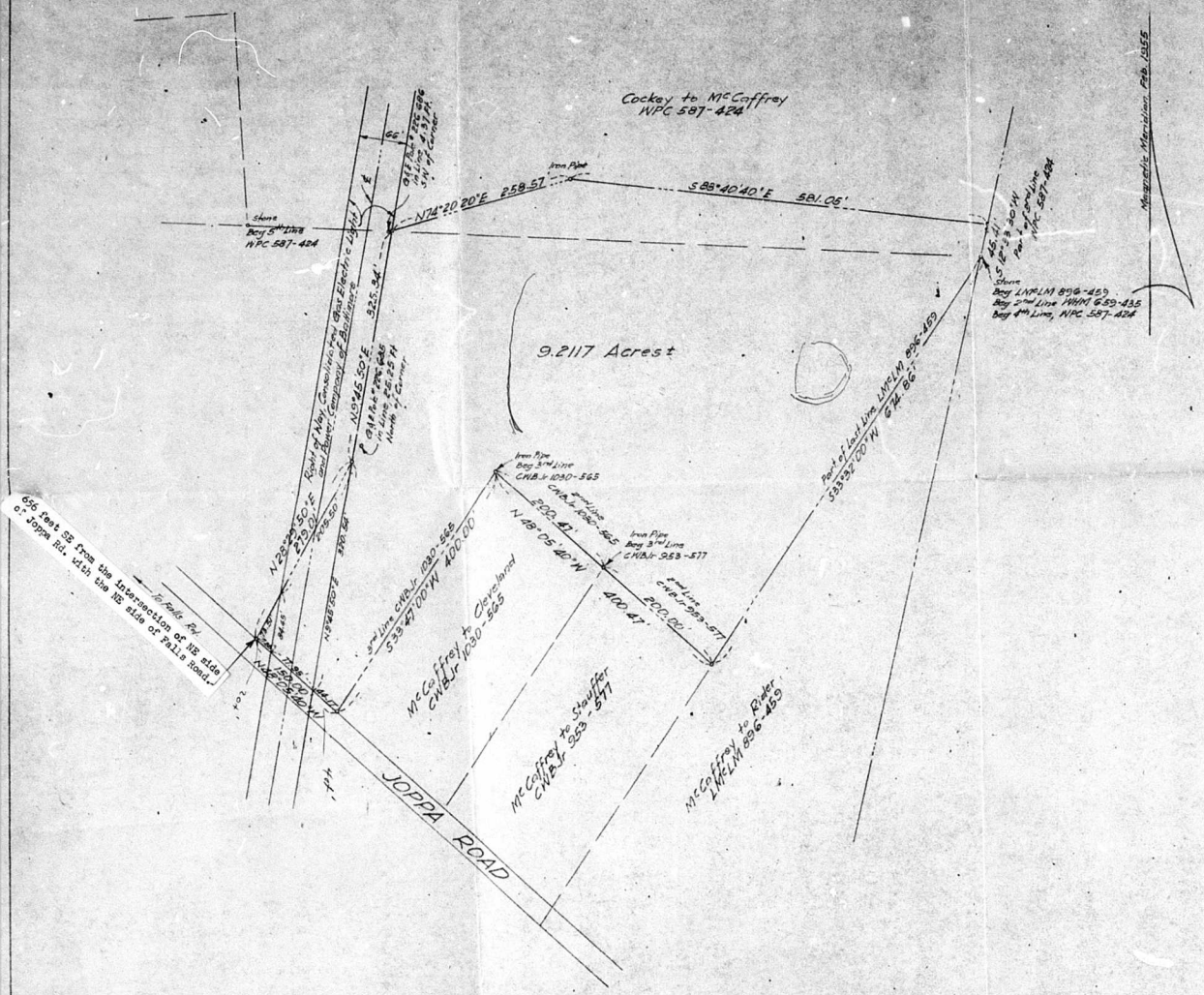
TYPICAL TEE & BARRIER

STATE OF MARYLAND NELSON A. BOMHARDT 2181 REGISTERED PROFESSIONAL ENGINEER

JOB 187

PROPOSED GOLF DRIVING RANGE
ON
McCAFFERTY PROPERTY
8TH DISTRICT, BALTIMORE CO.

EWELL, NELSON & BOMHARDT
Consulting Engineers
1800 NORTH CHARLES STREET
BALTIMORE 1, MARYLAND



TITLE REFERENCES

1. Charles Thomas Cockey, to Thomas McCaffrey, Feb. 9, 1926, WPC 587-424.
2. Sterling I. Cockey, to John Thomas McCaffrey and Wife, Sept. 24, 1929, WHM 659-435
3. John Thomas McCaffrey and Wife, to John H. Rider, July 27, 1932, LWKLM 896-459
4. John T. McCaffrey and Wife to Barbara E. Stauffer and Others, June 24, 1935, CWB Jr 953-577
5. John Thomas McCaffrey and Wife to Gr. Dewey Cleveland and Wife, June 24, 1938, CWB Jr 1030-565

3539

1" = 100'

OUTLINE SURVEY
PART OF
McCAFFREY PROPERTY

8TH DISTRICT
BALTIMORE COUNTY
MARYLAND

ALBERT E. POHMER
PROFESSIONAL ENGINEER & LAND SURVEYOR
172
STATE OF MARYLAND

Drawn by	HGW
Checked by	AEP
Date	Feb. 14, 1955

ALBERT E. POHMER
REGISTERED ENGINEER & LAND SURVEYOR
OFFICE 833 PARK AVE. BALTO., MD.
SCALE 1" = 100' ISSUED Feb. 14, 1955