m. Alem m. Mylor 18 y.cs. PETITION FOR (1) ZONING RECLASSIFICATION Han G. while Low Children son steelin Lear to got Hotere Let. All that parcel of land in the First District of Baltimore County, on the northeast owns of Shkondon Apenie and Marton Lace; theme of Shkondon Apenie and Marton Lace; theme of Shkondon Apenie and Shkondon A Mrs. author Deeve Roger Dearing Jame Bells. 26; 6 yrs. 100 July 200 July 200 July 20 Support our me me manty perpendents. All that parcel of land in the First district of Salimore County, on the northeast corner of Edmondson Avenue and Harlam-Mans; thence running easterly and thing on the north side of Edmondson Avenue 150 feet with a rectangular depth northerly of 160 feet and binding on the east side of Nirfam-Lane. Sollen and Love bell 24 - 2/10. I. or we, agree to pay expenses of the above reclassi-Exception fication and Special Assets, advertising, posting, stc., upon filing of this petition, and further agree to and are to be bound brywal gargen court, boom book but by the Zoning Regulations and Restrictions of Baltimore County, adopted here - no deaps some 1945 and facts that pursuant to the Zoning Law for Baltimore County Clothad & Shughette - Sealer Se 20/5. Lene artit Peri 001 -> 55 PM -3 signs for recommend purposer. Freedon of Belleving marks it problem to sell 5212 Reduce be Ballo bit H. a. Barde A Houten Boon - Orthum Sh4.00 RECEIVED of W. A. Garde Co., Inc., the sum of Forty Four (Shi.00) Bollars, being cost of petition for Reclass ification, Special Exception, advertising and posting

Chub swam 230,15

hereby petition (1) that the soming status of the above described preparty be replacefiled, parsment to the Zening Lier of Baltimore TORRESTOR MENTERSHIP LONG: and Exception

(2) for a Special Market, under said Ioning Law and Ioning Regalations of Baltimore County, to use the above described property. Property to be posted as prescribed by Jonine Regulations I. or we, agree to pay expenses of the above reclassi-Figstion and Special/Investy, advertising, posting, stc., upon filing of this petition, and further agree to and are to be bound by the Zoning Regulations and Rostrictions of Baltimore County, adopted pursuant to the Zoning Law for Bailingre County. Ma Parte Co Inc Mulaise 5302 Edwardson cire - UU -> 55 PM ---10/31/5-5

property, northeast corner of Edmondson Avenue and Harlan Lane, 1st District, Baltimore County.

Zoning Commissioner of Baltimore County

at 10:00 a.R. County Office Building 111 W. Chesapeake Avenu

Ma Parde Co Inc

pulsaise, Pour

10/31/5-5

1 1)

(3647-RX)

(8.L. X

MCCEIVED of W. A. Garde Company, Inc., the sum of Pirty (\$50,00) Pollars, being coat of appeal to the Board of Zoning Appeals of Ritimore County from the decision of the Zoning Commissioner denying the reclassification and special axceptibn for a Gamoline Service Station, northeast corner of Schoondson Avenue and Harles Lame, 1st District of Balvimore

Zoning Commissioner

\$15.00

RECEIVED of John Grason Turnbull, Attorney for N. A. Garde Ca., pet tioner, the cum of Fifteen (815,00) Dollars, being cost of er tified Copy of potition and other papers filed in the matter of special exception for gaseline Harles Lane, 1st Bistriot.

The state of the s

01.623 Zoning Service Charge

Tay. 28/57.

ORDERED BY the Zoning Commissioner of Baltimore

County this 3rd day of October , 19 55, that the subject retter of this petition be oderwised in a newspaper of general circulation throughout fel timore County and that the property be posted, as required by the

Commissioner of Baltimore County, Maryland, on the __ 31st ___ 19 55_ at _10100 of aleak

_A. H.

Upon hearing on patition (1) for reclassification from a "No.6" come to a "No.6" zone of the property described in the within patition of the property described in the within patition greatly seems of the property of the patients exceed the patients of t

It is this 22-wide of November, 1955, CREEND by the Zoning Consistence of Baltimore County, that the aforesaid potition be and the same in burnby denied and the property described in the potition is continued as a "R-6" (residence) Zone.

#3647 Map 1-4

BL-X

RE: PETITION FOR MS-HEARING IN THE MATTER OF REGLASSIFICATION AND A SPECIAL EXCEPTION FOR GARCHIES SERVICE STATION - N.S. Cor. Edmondson Ave. and Harlen Lamp, 1st District -W. A. Garde, Inc., Potitioner

BOARD OF ZONTHO APPEALS OF BALTIMORE COUNTY

.............. DISSENTING OPINION

After certiorari this case has been referred to this Board on request of the petitioner for the taking of additional testimony with respect to changes occurring in the character of the merghborhood since the Board's decision dated May 3, 1956 denying the reclassification.

On December 20, 1956 the petitioner took additional testimony before the Board for the purpose of showing changes that have occurred since the Board's decision and Order dated May 3, 1956.

The testimony failed to show any soming changes since said Order, it morely shows physical changes which have taken place by reason of the construction of the Heltway, which was anticipated by the Board, see record of additional testimony on Page 13, therefore, for the above reason, the unlersigned, member of the Board of Zoming Appeals votes to affirm the Board's Order denying the reclassification.

Charles H. Deing, Member of the Board of Zoning Appeals of Baltimore County

aromed a. Hingary

IN THE CLASSIT COURT

3647

COLUMN S. DODES, CARL S. TOWNS, and THINKS, WINDERS being and consistential figures County of Salvinos County

BALTIMBER GIVIET

E I I I I

on weather 3, 20,7 Main, Cards Co. Executed the publican with the Contra Commissioner of Haltimore County requesting a resemble of the trent of land in unsetten from Not classification to but classification and for a special enoughing for the operation of a gesoline filling station thereon. After hearing before the County Countesians of Baltimore County, the cold public was conted by the Kening Countesianor on Sovember 22, 1955.

That the risk patitioner thereupon opposized the decision of the Konting Commissions to the Beard of Konting Appeals of Mattheware County, one decignated as the Souri of Appeals, and after hearing thereon the patition was illustice decided by order of the Souri of Konting Appeals, dated May 3, 1896.

That on June 1, 1956 the putitioner appealed and a writ of certificary was issued by bids Gozet for a judicial review of the action of the Board of Boning Appeals of pultimers Gundy. Thereafter, on July 17, 1956, by order of this court, dishard 5, Hoghlett, protestant, was parellised to interview in these proceedings as a party defeatent.

That on ortober 26, 1956 W.A. Sards Do. Inc. filed a polition in this court elleging that since the valing of the Board of Zoning Appeals there

is faltinore County and are still so used. As Nourt V. Noturty, a real satisfactor broker testifying for the Patiticans, stated, thus a commercial enterprises in the immudiate metaphormood of the ambject property give this enterprises in the immudiate metaphormood of the ambject property give this area quasi-commercial characteristics. On the north side of Edvandson Areas and directly across from the subject property is an universiped lost referred to as fiden formso. While Eden Termos is a fully developed community, and has been so for a masher of years, yet told lot is still unispressed and Nr. Nothing testified that it is not commencially feasible to develop it as readential due to, among other reasons, the cost of changing the stress and the mesonary fill and questionable sub-soil. These factors are quoted by the Court in its consideration as to whether there was an error in the original

As to change in the character of the malghborhood, the Petition of Introduced sond, the Petition with show that the Zoning Constantoner of Raltimore County revlacatified the Cities Service Filling Station property, a mon-spairweing was horselfore referred to, from an "is residential some to "P" commercial come and granted a special possit to use mail company for a quantities service station. The order was passed on Harde 22, 15% and the only reason given for the change is absentionable was "sed it appearing that by reason of location the granting or the special possit will not be described."

soning of the immediate area in which the subject property is located.

had been embedsed as energies to the contribution of the entitlement of the entitlement for the entitlement of the entitlement of the entities proviously taken by the fourth.

That upon this position and affidavit this fourt, as of Cepture 26, 1954, ordered that the proceedings be remained to the Nouril of Zoning Aspeals of Baltimor County for the halden of additional tentioney on changes operating in the character of the neighborhood class the center of the midd havely provided that no cause to the contrary to chosen by the Searct or by Comment for the preferation, its, Suphletts on an inform a certain date, as out Install in orld order. So cause harden loom about by oftlow of the interval of preferation that County by the order dated November the 1956 remained the precedings to the Source of Toming Aspeals for Baltimore County for the taking of satisforms and County and County and County on the question preceded by the putitionary, as herefore

that on January 28, 1979, after the taking of additional testimony, the Board of Louing Appeals passed a new order revoking and annulling its order dated May 3, 1976 and passed its order granting the reclassification of the subject property from Red to 1 Bel classification together with a special exception for the operation of a geodism filling station.

That on February 15, 1957 Michard E. Hughlett, protectesh, filed a putation in this Court alleging that the Hourd of Joning Appeals of Baltimore County had no jurisdiction in the proceedings other than to take additional testimony as set forth in the order of this court dated Scholer 26, 1955

It might, therefore, he assumed from the action of the Cort. Conclusioner in this instance that, upon application of the owners of the other non-conforming uses heretofore untilosed for reclassification, some should also be granted as each are in no lass favo-sable position than the Cities Service Site.

If this would be true then there would be ample changes in the general character of the immediate asignborhood of the subject property to grant the application of this Putitioner.

In referring to the testimony taken by the Board on Recesber 20, 1956 as to changes in the weighborhood occurring after the order of the Beard of Toming Appeals of May 3, 1956, the Petitioner towich 'I that since that last hearing buildinesis for the new bejinsy have been set Asiated which rise approximately 25 to 30 feet in the air and cross over Edvandson Avenue. He careful stated that the houses that adjoin the balancy on the west thereof are being described for an eccess road to the bethesy and that the beliesy is loosted approximately 600 feet westerly from the inherecetion of Earless and Edvandson Avenue. He further testified that Edvandson Avenue has been widered to the extent of 60 feet and that it new practically state the house on the property was taken over by the Sounty for the use of relocating and the relocation of storm drains. He had providently testified at the first bearing on the proposed taking by the County of the Earles Avenue frontage witch he stated descrept the loss.

and that the order of the Sound of January 28, 1997, granting the reclassification and a secondal exception for a rilling station, was void, illegal and sithout legal force and effect. Upon this petition and affidevit the Court, on Pebruary 18, 1957, ordered that the Board of Soming Appeals strike out and annul its order of Jamuary 28, 1957, and to return a transcript of the testimony taken before the Board on December 20, 1956 to this Corre, unless cause to the contrary be shown by the Spard of Zoning Appeals or by W.A. Sarde Co. Inc. and its Attorney of record before a certain date as set forth in said order. Both the board of Zoring Appeals and W.A. Garde Co. Inc. S. clod to answer the aforesaid petition and the show-cause order of this fourt, and no cause having been movem by wither of the interested parties as to my the relief prayed should not be granted, upon petition of Richard S. Saghlets, the Court by its order dated April 11, 1957 ordered the Board of Zoning Appeals to revoke, strike out and annul its order dated January 28, 1957, and further ordered the said Board to return a transcript or the testimony taken before the said Board on December 20, 1956 to this Court for further hearing in this cause. No motion to reconsider, exception or appeal was riled as to this final order.

It therefore seems clear to the Court that there is no monosity for it to consider the legal propriety of its order of November 24, 1986 remanding the proceedings to the Beard for the taking of additional testimony before a hearing of the case on appeal, or of its order of April 11, 1987 ordering the Board to strike out the order dated January 29, 1957 and to

in such a manner that it would be impossible to build houses as he had planned.

It was also developed that a puckage good's licence was issued on May 26, 1956 to
one of the non-conforming use properties in the small commercial enterprise.

As has been heretofore stated, the Board of foning Appeals, after hearing the additional testimony, on Bococher 20, 1956, as to changes that had occurred airce their order of May J, 1956, (the order appealed from) reversed its order of May Jrd and granded the petition for reclassification and the special exception, which order was stricten out by the Court for the reasons heretofore given, while it is true that the testimony of the Petitioner in the first hearing before the Board aminipated those changes to be made, yet they were not entirely certain as to location and the effect it might have on his property. He testimony at the second hearing, together with his combite, clear"; brought to attention the actual physical changes which had been accomplished and descentreded their effect on the irendiate maighborhood. It seems christone from the testimony and from the photographs that the believely, has to its elevation, practically severe the subject property plan the bekery and one house to the west thereof from the riest of the community lying to the west of the believe.

The Court realises that the law has been well established that in order for realestification of a ming to be valid, it must appear that either there has a mistake in the original conseq or that the character of the meighborhood has changed to such an extent as to justify such resents; It is also thoroughly well writehildshed that it is not the function, may or right of the Court to

patrice a transported of the testimony taken before the Board on December 20,

The question, therefore, before hide court in the openal of the religious from the option of the beard of dening appeals deted by 3, 1976 by watch the publisher for reclamatification and for a special according to desirch.

The property in question is located on the northeast corner of Lincation Avenue and Marles Late. It is uncontradicted from the testimory that at the time soning became effective in Baltimore County the subject property was more or less surrounded by non-conforming conserved uses. Mirothly across Sarles Lane and located on the northwest corner of Edmondoon Avenue at Sarles lane was and is a drive-in bakery and delicateneous store. On the south side of Education Avenue and approximately 100 fact or so to the east of the subject property was not now to located the 7-Up Sottling Plant, a plant for the making and bottling of a soft drink known as 7-7p, and statch also irolodes a reasonably large parking area for tracks and automobiles. In addition there is a small commercial enterprise including a rectaument and cleaning and dreing establishment located on the north side of Edmondson Avanue and the west of the subject property, mear Ingleside Avenue. Immediately close by on the west of the last mentioned property is an impoor Filling Station. To the east of the subject property, estimated at a distance of approximately 500 feet is a Cities Service Filling Station. All of these locations were non-confirming business uses at the effective date of soming

some or re-come, or to substitute its judgment or discretion for that of the Bard, but merely to pass upon whather the Bard has acted emittarily, correleously and illegally.

After a full consideration of all the testimony midth was samen by the Board on December 20, 15%, which is subject to this appeal, the Court has consided that the settim of the Board by its order of May 2, 15% was artitrary and that the patition for reclassification of the subject property from No classification in the subject property from No classification in the above account of the operation for the operation of a goodine filling station should have been granted.

The cold order of the Sound dated May 3, 1986, is therefore reversed.

New 13, 1957



#3647 RX MAP #1- A BL-X

IN THE MATTER OF PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION FOR GASOLINE SERVICE STATION N. E. Cor. Edmondson Ave. and Herlem Lane, 1st Dist. W. A. Garde Company, Inc. Petitioner

BEFORE THE BOARD OF ZONING APPEALS

OF BALTIMORE COUNTY

This is an appeal from an Order of the Zoning Commissioner refusing a petition for reclassification from "R-o" (residence) Zone to "B. L." (Business local) Zone and for a Special Exception for a Gasoline Service Station,

The property is located at the southeast corner of Edmondson Avenue and Harlem Lene in the First Election District.

Although there are several non-conforming commercial uses in the area it is predominately residential in character and there has been no substantial change in conditions since the original zoning plan was adopted in 1945.

The petitioner has failed to prove that the original zoning was erroneous or a genuine change in conditions. This being so we are required to refuse the reclassification.

ORDER

For the reasons set forth in the aforegoing Opinion it is this Sal day of May, 1956, ORDERED by the Board of Zoning Appeals of Baltimore County that the petition for reclassification and for a special exception be denied.

SCARD OF ZONING APPEALS OF

Real of Valido

3647X

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W. A. GARDE CO., INC. BUILDERS OF BETTER BUILT HOMES



SHPLETE HEAL ESTATE SERVI

S302 EOMONOSON AVENUE SALTIMORE 29, MD.

November 29, 1955.

To the Honorable Chairman Baltimore County Zoning Commission Towson h Maryland

Dear Mr. Chairman:

Please enter an appeal from your decision for re-classification of soning on the property located on the corner of Ednondson Avenue and Earlen lare, known as 6126 Edmondson Avenue.

Very truly yours,

Mygude

William Garde, President.

W. A. GARDE COMPANY, INC.

January 12, 1959

Re: Special Exception for Gasoline Service Station - N.E. Cor. Education Avs. & Herles Lane, let Firt, Potition No. 3647-HE

Dear Mr. Sklart

In reply to your latter of January 2, 1959 requesting an extension of the special exception granted in the above native, please be advised that I have today framed the activation for one year beginning January 21, 1958 and caring January 21, 1959.

Very t ruly yours,

Zoning Commissions r

October 24, 1955

RECEIVED of W. A. Carde Co., Inc., the sum of Five (\$5.00) Dollars, being additional cost of advertising on the petition for reclassification o property, northeast corner of Edmondson Avenue and Harles Lane, ist District,

Zoning Count ssioner of Baltimore County

Monday, October 31, 1955

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

#3647

1st Date of Posting 10-19-55 Poster to ling fel to B- 1 3 me, before for seasolul Samet Station visioner 10 . A Gardle 60 me

Lugain at voyan M. G. Let. Classondine litt. I Haday Lane, food, enning & + Stending from 18 54 Chronologue and 281 of M. Let Mat. Location at visus I soften Morthwest Corner of Edmondron, and I Harbon Lave. Constitut 25 5 ft Earl of Hadan Sant on Ma N. of Edmondron avenue.

Date of return: 10-20-53

HEART NO.

