PETITION FOR (1) ZONING HECL/SSIFICATION
(2) SPECIAL EXC. PTION

To the Zoning Commissioner of Baltimore County:

EAMSEND B. PIERPONY and
I, or we, MANNA L. PTERPONY, his wife

Legal Owners

4100

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4105 PX

MAP V

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BL-X

breby potition (1) that the soning status of the above described property be reclassified, pursuant to the Zoning Law of Balthore County, from an $\underline{n} = \underline{n}$ Zone; to $\underline{n} = \underline{1}, \underline{n} = \underline{1}$ Zone; and (2) for a Sp cial Exception, under each Zoning Low and Zoning Regulations of Baltimore County, to use the above described property, for a nodem of Verselm smaller of Lilling and sorreion station

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 potition, and further agree to and are to be bound by the Zoning Regulations and Restrictions of Ratinore County, adopted pursuant to the Zoning Law for Raltimore County.

> Hammond B. Pierson Jagal and Hammond B. Pierson A Lagal and Vanda A. Person A land at Hampont Legal amor

> > Address

MAY-1 '57 AM

> Zoning Commissioner of Baltimore County

4105-A

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WIOS

LAN OFFICES

BUCKMASTER, WHITE, MINDEL & CLARKE

BALTIMORE 2, MD.
April 30, 1957

Wilsie H. Adams, Zoning Commissioner Buildings and Zoning Department of Baltimore County 303 Washington Avenue Towson 4, Maryland

> Re: Petition for Reclassification and Special Exception for Gasoline Service Station - S.S. Liberty Road 307 feet W. Abbey Place, 2nd Dist., Hammond B. Pierpont, and wife, Petitioners

Dear Mr. Adams:

GEORGE W. WHITE. CHARLES MINDEL GLORGE L. CLARKE

Please note an appeal from your decision and Order of April 23, 1997 in the above captioned matter to the County Board of Appeal 2007; in the above aptioned matter to the County Board of Appeal 2007. The appeal is being filled the Section of Appeal 2007. The Appeal and; Rithard Kent, Emery and Liberty Roads, Baltimore 7, Maryland, lands; Michael Sent, Board and Liberty Roads, Baltimore 7, Maryland, Julius Saxton, 342 Hippelm Artimor, Baltimore 7, Maryland and F. L. Saxton, 342 Liberty Roads, Baltimore 7, Maryland, Julius Saxton, 342 Liberty Roads, Baltimore 7, Maryland; Julius Saxton, 342 Liberty Roads, Baltimore 7, Maryland; Julius Saxton, 342 Liberty Roads, Baltimore 7, Maryland; Julius Saxton, 342 Liberty Roads, Saxton, 342 Liberty Roads

I would like the appeal to show that the appellants question: the legality and validity of your right to hear the case in question and to pass an Order in connection therewith, for reasons set forth in my letter of April 16, 1957, which is a part of your file.

your file.

Very coult yours,

George W. White, Jr.

GWW, Jr/km

RE: PETITION FOR RECLASSIFICATION : FROM AN *R-6* ZOME TO A *B-L* ZOME - S. S. Liber ty Road 307 fost W. Abbey Flace, 2nd Dist, Hausond B. Plerpont and Wards L. : Flerpont, Potitioners

TOTAL THE CONTROL OF BEFORE THE CONTROL OF BALTIPORE COUNTY

1 No. 1205-RE

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The above potition having been previously filled and at the time of the hearing by the Zoning Countsionr, it was disclosed that the description furnished by the petitioner was in error and that the advertisement and posted motion did not give proper notice as to the proper location of the property, the Commissioner denied the petition as being "spot scaling".

From the above decision an appeal was filed with the Board of Zoning Appeals and the Board upheld the Order of the Zoning Commissioner. This Order was passed on Jamary 28, 1957.

On Narch 1, 1957 the Board heard additional testimony and accepted a letter from the attermer, representing the putitionar, requesting reconsideration of the Board's Order. On the above date the Board passed an Order vesting and annulling its previous Order without projects of the putitions an apprehently to refile with the correct legal description. This having been done a second hearing was hold by the Boards Commissioner on April 17, 1957.

After laving heard the testimeny and the facts in the case, it is found by reason of location, being adjacent to a business local zone and across the street from a business local zone, and the changes which have taken place since the original soning, adjoining the subject property and across the street, are certainly reasons enough to grant the reclassification. RS: PETITION FOR RECLASSIFICATION : FROM AN "R-6" ZUME TO A "B-L" ZUME - S. S. Liberty Read 307 : feet W. Abbey Place, 2nd Dist., Hasmond B. Plerpent and Wanda L.: Plerpent, Petitioner's

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BEFORE COUNTY BOARD OF APPEALS

No. 4105-RX

OPINION

This is a petition for the reclassification from an "R-6" Zone to a "R-L" Zone and a special exception for a gasoline service station on property defined above.

Liberty Read west from Milford Mill Read to the Melling Read, on both the north and south sides, is a commercial area. However, the area on Liberty Read, both on the north and south sides, east from Milford Mill Read is predominantly a restimutal neighborhood.

The Rappold Antique Shop and the ilberty Nurseries on the south side of ilberty Read, east of Nifred Mill Read, have been reclassified to conserved uses in recent paras and while the reclassifications may have been proper at that time Surther reclassifications of this area in our opinion would be detrimental to the widther of Nitree Country.

A piece of ground shoot directly opposite the ground in question is the only other zond comercial area in the mighborhood. Area are four nonconforming uses in existence at the present time. During recent years there has been a substantial change in the area toward residential; ignm Acres on the south side of Liberty Run \$\mathref{q}\$, east of Milrord Mill Road, the development east of Milrord Mill Road and south of Liberty Road, extending north on Washington Arems to Milrord High School, is supple proof of the residential change in this

As to the special exception for a garoline service station, over though there are immerous gradine service stations on Lyberty Road, the nearest Gulf Cil Station being four and a half miles away, it is the opinion of the Zoning Commissioner that the location of a gasoline service station would not affect the bealth, safety, normals and the general welfars of the community, therefore, the special exception should be granted.

It is this 23-or. day of April, 1957, by the Zoning Commissioner of Baltinere County, CRECEDE that the aforesaid pointies should be and the same in bareby granted; the first, for reclassification from an "B-O" Zone to a "B-L" Zone and, second, for a special exception to use said property for a gazeline service station, subject, havever, to approval of plans for the development of said property by the Office of Planning and the Bureau of Land Revelopment of Baltimere County.

Zoning Commissioner of Baltimore County

neighborhood

The Board is quite cognizant of the needs of the community at the present time as well as the needs which will be necessitated by the tremendous development of residential homes in this area and feels wavy struckly that inherty Read now amply coupliss both the needs for the present as well as the future. Consequently, the request for realessification from an "8-6" Zems to a "8-1" Zems and a special exception for execution of a gaseline service station is

ORDER

For the reasons set forth in the aforegoing opinion, it is this \(\frac{1}{2} \int \) day of Jump, 1957, by the County Board of Appeals COUNTED that the potition for reclassification and a special exception, be and the same is hereby conted.

COUNTY POLICE OF APPEALS

Sun Janes

Spen Janes Janes

Ottom Nachus fr.

4125

May 1, 1957

eco m

minimal of George W. Matte, Jr., Attermay for appallants, the sum of Firty (SO.09) Tolliers, being cost of appeal to the Commy Search of Appeals from the domination of the Joning Contesteers granting realisational and special acception for san line service station, such able of Liberty Soc., 207 Sect west of Mober Place, San Exercise of Milliance County.

Zoning Commissioner

01622 - 500

CENTRAL STATE

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland #4105

Date of Posting 4-3-57 note the Control of Jane to Control of Jane + Bargaint Station theore Harman & Bregaint Station theorem of Administration of Station of Station

to Sullab. Location of Signs: South rule of Liberty

Place. Posted by Glough R. Hummed Date of return: 4-4-57

> Department Of Dublic Morks BUREAU OF LAND DEVELOPMENT

Inter-Office Correspondence

George R. Lewis To Milsie R. Adams.April 12, 1957

Zoning Petition #h105-HT Reclassification and Special Exception
Casoline Station - S/S Liberty Rd 307' W of Abbey Place

This office cannot comment on this site due to incomplete plan, but it appears that channelization can be achieved

Owner should be reminded that a 20' rear yard is required.

> George R Leur GEORGE R. LEWIS

GRL:ls

CC: Mr. Stirling (Planning)

April 18, 1957

RECEIVED of Corald E. Topper, attorney for petitioner, Reword B. Pierpont, the sum of Two (\$2.00) dollars to cover cost of advartising the property on the South side of Liberty Road, beginning 307 feet West of Abser Place, Second District

01.623. 42.00

APR 1 8 1957 COUPTROLLER'S DEFICE August 14, 1957

4105

\$8.00

RECEIVED of Gerald E. Topper the sum of Hight (\$8.00) Dollars, being cost of papers filed in the matter of reclassification of property on south side of Liberty Road. 307 feet west of Abbey Place, 2nd District -Hammond B. Pierpont, et all petitioners.

Coning Commissioner

01.621

COMPTROLLER'S OFFICE

March 26, 1957

\$38,00

RECEIVED of Gerald Topper, attorney for petitioner, Barrond B. Pierpont, the sum of Thirty-eight (\$38.00) dollars, being cost of petition for Reclassification and Special Exception advertising and posting property on the South side of Liberty Road, beginning 307 feet West & Abbay Place, Secont District of Baltimore County.

HEAR DIO

Wednesday, April 17, 1957 at 11:00 A. M.

Room 108 County Office Building 111 % Chesrpeake Avenu Touson, Maryland

01.600-4350

OFFICE OF PLANNING

MEMORANDUM

From __Office_of Clarating_ April 16, 1957

To Wilsie H. Adams, Zoning Commissioner Subject Zoning Patition #1105. R-6 to B-L

and Special Exception for Casoline Service Station. South side of Liberty Road, beginning 6307 feet West of Abbey Place. Approx. 2 acre. 2nd District. Hearing: April 17, 1957 (11:00 a. m.)

This Office reprise the site in question as an underlable location of a danoline Service Station, for the same reasons as those for the control of the station of the stati

We are of the opinion that there is no greater justification for the Gasoline Service Station proposed in the present case than there was for the one proposed in Petition \$3967.

OFFICE OF PLANNING

MEMORANDIM

Inter-Office Correspondence

From ... Office of Planning November 14, 1956

To Mr. Milsie H. Adams, Zoning Commissioner

Subject Petition #3967 - from Harmond B. Pierpont,

for reclassification from R-6 to B. L., for property on south side of Liberty Road, 5000 west of Abbie Place.

The Zoning Advisory Committee, at its meeting of November 9, 1956, recommended that this office send a memorandum to the Zoning Commissioner, stating the planning considerations involved.

The property in question and other properties facing Liberty Road between Cryston Road to the east -(Liberty Creet Shopping Center and Bu Statish), and Milrord Mill Road to the west - (Proposed Shopping Center and Bu Statish), and Milrord Mill Road to the west - (Proposed Shopping Center and Cent

If the existing ownercial uses are supported by additional ownercial noming in this area, it will undoubtedly cause adjacent land owners b feel justified in petitioning for connercial noming. The may seem tally result residential development.

* Combined pharmacy and residence; dilapidated service garage; greenhouse.

BWigh

SOARD OF ZONING APPEALS

IN THE CIRCUIT COURT FOR BALTIMORS COUNTY

· · OPINION

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This is an appeal by the applicants from a decision of the Board of Coming appeals denying a request for re-classification from an *R-6* to a *BL* zone, and denying a special exception for a gasoline filling station.

The property involved is located on the south side of Liberty Road three hundred seven (307') feet westerly from Abbey Place, with a frontage on Liberty Road of one hundred sixty (160') feet and an even depth of one hundred twenty five (125') feet. The property is adjoined on the east by property that was made the subject of commercial re-zoning in the year 1955. Adjoining the property on the west is a non-conforming commercial use. Immediately across Liberty Road from the subject property are properties also zoned for commercial purposes.

The contention is made that the action of the Board was capricious and illegal for the reasons: (a) that the location of the subject property as hereinbefore mentioned renders the existing classification of the subject property clearly erroseous beyond reasonable debate, and (b) that the nature of the property is such as to forbid its utility for any purpose unless the re-classification is granted.

The power of the Court with respect to a review of decisions of zoning authorities has been clearly and explicitly defined by the Court of Appeals. As thus defined, this power is extremely limited and can be exercised to reverse the zoning authorities only when the action appealed from was arbitrary, caprictous, discriminatory or illegal. It is equally clear from the decisions that the Court on appeal may not substitute its judgment for that of the zoning authorities as to the wisdom of their actions, if the evidence establishes that the action taken by such authorities is reasonably debatable. Montgomery County Council v. Scrimgeour, 127 % 26 528.

FILED MAR 28 1958

In passing upon the validity of the action taken by the Zoning Board, an examination of the evidence presented to that Board is required. This evidence included testimony establishing that the property adjoining to the west, although presently enjoying commercial use, was nonetheless of a non-conforming type. It has been said that non-conforming uses are usually continued with the expectation that they will eventually disappear.

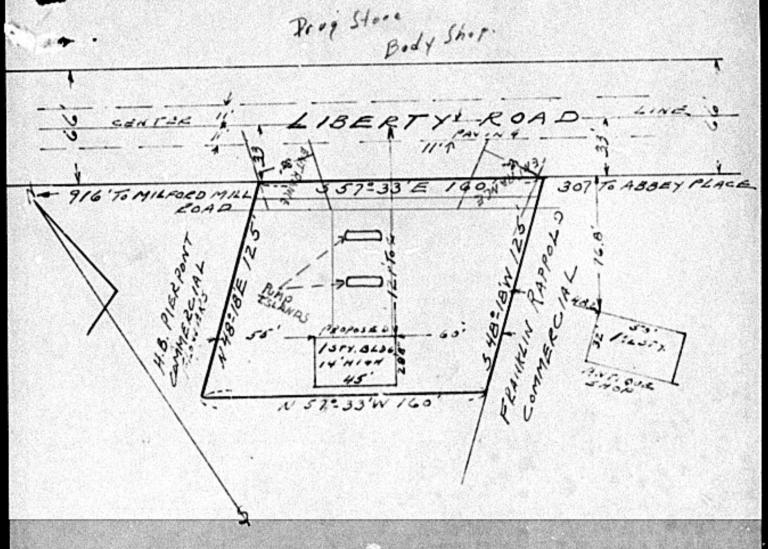
Schiff v. Board of Zoning Appeals, 114 A 2d 6hh.

There was also abundant evidence before the Board that it would be unwise from the standpoint of planning to extend commercial use of land in the area of the subject property. R Page 59 et seq.

There is no showing in the Record that the refusal to re-classify operated to prevent the use of the subject property for any reasonable purpose. There is evidence indicating that its utility for residential purposes would be lessened, and its distribution for commercial purposes would result in increased economic value, but it is believed by the Court that this does not bring the case within the rule announced in Baltimere v. Cohm, 201 MJ. 523.

Since it appears to the Court that the issue whether re-classification should or should not be granted was reasonably debatable, the action of the Board will be affirmed.

W allet hunden



Plat of a Lot comed by Marmond B. Pierpont, Rockdale, Second District, Balto. Co., Pd.

Sea 6 1 in. to 50 ft. lar.17,1957 honert C.Ferris, ap. Surveyor Old Court Road, Easter 7,1d.

APEA. 0.44 acres

U present coming F-5

Existing use, .osidential

V Proposed sening. B-L

Projosed use, Hodern gasoline filling and service station

4105