

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 2nd
Date of Posting: 4-3-57
Posted for: *Carl B. Zorn to Carl B. Zorn & Caroline Davis Station*
Petitioner: *Harmond B. Pierpont*
Location of property: *S/S of Liberty Road, by 32 ft. west of Abbey Place, etc. See Map*
Location of Sign: *South side of Liberty Road 32 ft. west of Abbey Place*
Remarks: *Harmond B. Pierpont*
Posted by: *Harmond B. Pierpont* Date of return: 4-4-57

August 14, 1957

\$2.00

RECEIVED of Gerald E. Topper the sum of Eight (\$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 - Harmond B. Pierpont, at all petitioners.

Zoning Commissioner

March 26, 1957

\$38.00

RECEIVED of Gerald Topper, attorney for petitioners, Harmond 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 of Abbey Place, Second District of Baltimore County.

Thank you.

Zoning Commissioner
of Baltimore County

HEARINGS:

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

Room 108
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland

Department of Public Works
BUREAU OF LAND DEVELOPMENT
Inter-Office Correspondence

From: George B. Lewis
To: Melvin B. Adams
Subject: Zoning Petition #1105-XX
Reclassification and Special Exception
Gasoline 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 properly.

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

George B. Lewis
GEORGE B. LEWIS
Chief - Permit Section

CC: Mr. Stirling (Planning)

OFFICE OF PLANNING

Inter-Office Correspondence

MEMORANDUM
From: Office of Planning
To: Melvin B. Adams, Zoning Commissioner
Subject: Zoning Petition #1105-XX - Re to B-1
and Special Exception for Gasoline Service Station. South side of Liberty Road, beginning 307 feet West of Abbey Place. Approx. 1/2 acre. 2nd District.
Hearings: April 17, 1957 (11:00 a. m.)

This Office regards the site in question as an undesirable location for a Gasoline Service Station, for the same reasons as those given in our comment on Petition #2967-X. (See attached copy of 11/21/56 memo.) The subject tract is only 33 feet from the tract concerned in the previous Petition (#2967). Petition #2967 was denied by order of the Zoning Commissioner on November 16, 1956.

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 #2967.

OFFICE OF PLANNING

Inter-Office Correspondence

MEMORANDUM
From: Office of Planning
To: Mr. Melvin B. Adams, Zoning Commissioner
Subject: Petition #2967 - from Harmond B. Pierpont,
for reclassification from B-6 to B-1, for property on south side of Liberty Road, 500' west of Abbey 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 Crydon Road to the east (Liberty Crest Shopping Center and Gas Station), and Milford Mill Road to the west (Proposed Shopping Center and Gas Station), are being considered for B-6 Zoning. If the proposed zoning is carried out, it will provide approximately a one mile span of Liberty Road frontage for residential use except for three properties that are now farming uses.

If the existing commercial uses are supported by additional commercial zoning in this area, it will undoubtedly cause adjacent land owners to feel justified in petitioning for commercial zoning. This may eventually result in a strip of commercial uses that would otherwise be more logical for residential development.

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

B/gh

April 16, 1957

\$2.00

RECEIVED of Gerald E. Topper, attorney for petitioners, Harmond B. Pierpont, the sum of Two (\$2.00) dollars to cover cost of advertising the property on the South side of Liberty Road, beginning 307 feet West of Abbey Place, Second District of Baltimore County.

Thank you.

Zoning Commissioner
of Baltimore County

RECEIVED
APR 18 1957
COMPTROLLER'S OFFICE

HAMMOND S. PIERPONT, et al

VS

BOARD OF ZONING APPEALS

IN THE

CIRCUIT COURT

FOR BALTIMORE COUNTY

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OPINION

This is an appeal by the applicants from a decision of the Board of Zoning 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 erroneous 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, capricious, 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 A 2d 528.

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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 644.

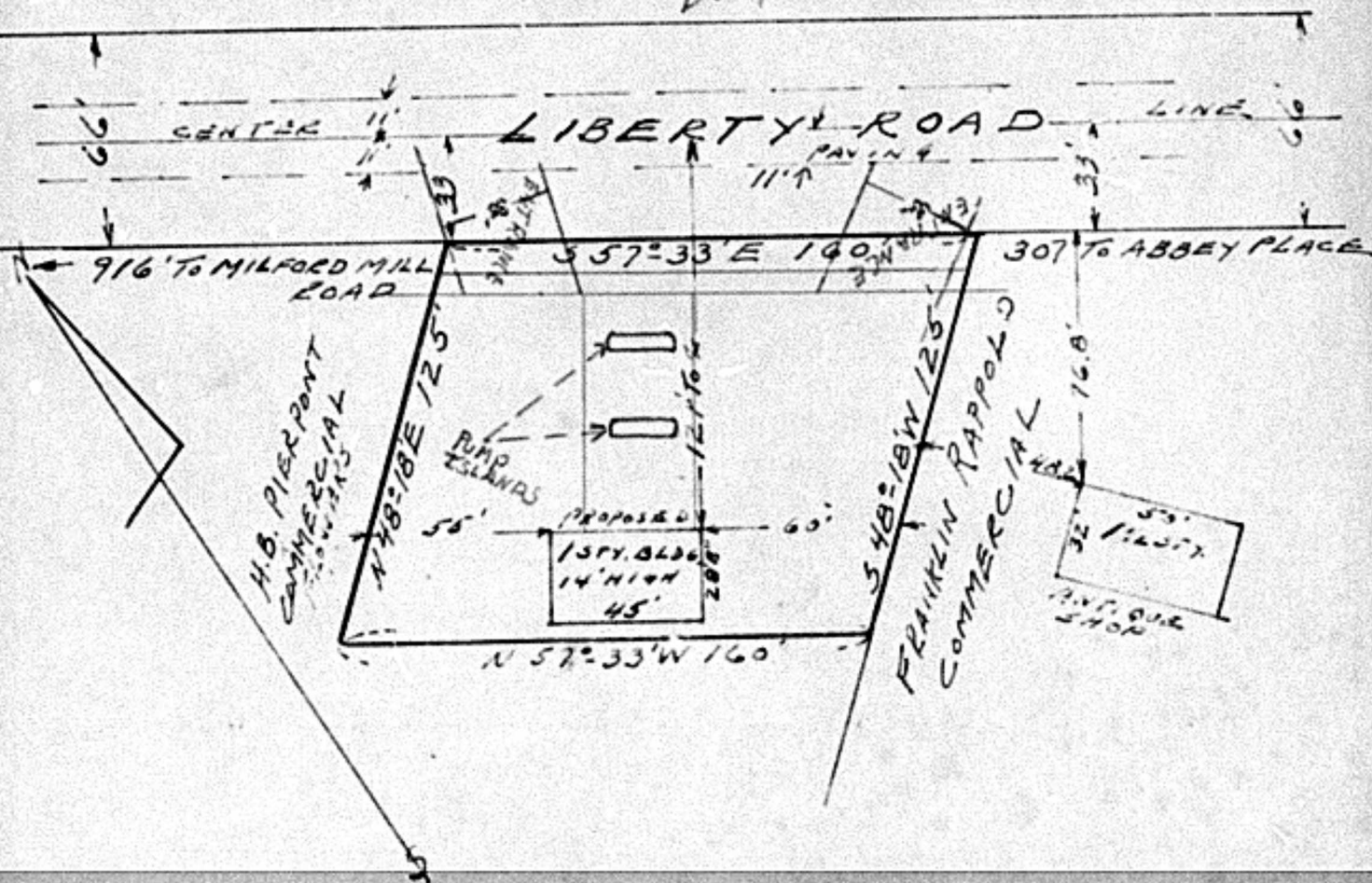
There was also abundant evidence before the Board that it would be unwise from the standpoint of planning to extend commercial use of land in the area of the subject property. R Page 59 et seq.

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 ~~valuation~~ ^{use} 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 Baltimore v. Cohn, 204 Md. 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. Albert Friedman
JUDGE

Drug Store
Body Shop



Plat of a lot owned by Hammond B. Pierpont,
Rockdale, Second District, Balto. Co., Md.

Scale 1 in. to 50 ft. Mar. 12, 1957
Robert C. Morris, Jr., Surveyor
Old Court Road, Balto. 7, Md.

- | | | | | |
|---|---|---|------------------|-----|
| P | AREA. 0.44 acres | U | present zoning | B-3 |
| S | Existing use, residential | V | Proposed zoning, | B-4 |
| T | Proposed use, Modern gasoline filling and service station | | | |

#A105