RE: PETITION FOR SPECIAL EXCEPTION
FOR THATLER PARK = S. End of
Green Spring Drive, S. of
Timonium Road, 5th District,
Green Spring Drive, S. of

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

NO. 1565-X

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4565

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The Corporate Petitioner herein applies for a Special Exception to operate a Trailer Park on approximately 13 acres of land located generally west of the south end of the more recently completed portion of Green Spring Drive in the Lutherville-Timonium area. This property is presently sened for light manufacturing and the use sought is permissible by special exception in such classification.

During the extensive hearings, the Protestants raised several preliminary issues, mainly jurisdictional, which were renewed by motion to dismiss at the close of the case. The Board will consider the motion before moving to the merits of the matter.

The Protestants first contend that the instant application was made in behalf of a corporation which was not in existence at the time the said application was filed with the Zoning Commissioner. This, they argue, violates Section 500.2 of the Regulations, which provides that "such petition shall be filed by the legal owner of such property ... ". The records of the Zoning Commissioner indicate that the Petition was filed December 15, 1958, although the questionaire submitted with the Petition was dated December 11, 1958. This is not necessarily inconsistent as these questionaires are often completed by the applicant prior to filing. Articles of Incorporation

basis of school facilities being inadequate. On the other hand, we have testimony by Mr. Webster, the Principal of Lutherville Elementary School, that he is opposed to the special exception because it will cause additional over-crowling in his school which is all ready however capacity. In addition, Mr. Wingard, an assistant in transportation with the Board of Education, opposes the Petition on the basis that it would complicate the school transportation problem by lengthening the runs because of the need to avoid crossing the railroad. He admitted under cross-examination, however, that some of the children cross the railroad at the present time.

The Board believes that, had the Board of Education been seriously concerned over the granting of this special exception, it would have followed its usual pattern of recording its objection of with the Office/Flanning (which would then have reflected those objections in its summary of the situation rather than taking the position that there was no objection as to school facilities), and would have in addition, sent one of its supervisors to testify as it has done on numerous other occasions. We are convinced that Mr. Webster and Mr. Wincard appeared as local residents and testified with the bisheet motives, but we cannot ascrabe the same weight to their testimony as to that of Fr. Cavrelis. We, therefore, eliminate the school factor as a principal reason to demy this application.

Continuing to examine Section 502-1 there armore little lucalihood that the special exception would tend to over-crowd land and cause undue concentration of population. Nor would it, if operated in rdance with regulations, in our opinion, create a potential hazard from fire, panic or other daysers.

of Crowther Trailer Park, Inc., were filed with the State Tax Commission on December 12, 1958, and these Articles were amended to change the name of said corporation to Crowther, Inc., on December 23, 1958. It seems clear that a definitive corporate identity was established on December 12, 1958; therefore, the change in name is not in our opinion a change of sufficient importance to disqualify the Petitioner. Moreover, the Court of Armeals, in the case of Norwood Heights Improvement Association vs. Baltimore, 195 Md. 1, at page 7, ruling on a similar jurisdictional question raised by Protestants, rejected the argument that a certificate of incomposition had not been issued to the Potitioner at the time a building permit application was filed. The Court apparently found controlling the fact that the corporation was validly in existence at the time of the hearing.

Next, the Protestants contend that meither the applicant corporation, nor its President and sole stockholder, has title to the property involved, nor has any substantial financial interest therein. The evidence shows that the Petitioner obtained legal title by dead dated December 12, 1958 and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 3h76, folio 307, from "dustrial Estates, Inc. The extend of financial interest or its lack is of no moment to this Board so long as the legal title requirement is satisfied.

The Protestants state further that no substantial evidence has been presented by the applicant mon which the Board could, as a natter of law, grant the special exception. The Board disagrees in that it finds testimony in the case which, given weight and credence, could support a finding for the Petitioner.

Further, the Protestants maintain that a part of the land which the special exception is requested is sound "B-6" and the such

land, under the Zowing Regulations, cannot be the subject of a Trailer Park Special Exception. It is noted that the portions to which the Protestants allude are requested for playground use. Such use may or may not be permissible under existing zoning. However, the "R-6" land is not properly a part of this application and the Board will concorn itself only with the land which is presently somed for light manufactur-

Finally, the Protestants claim that serious ariations exist between the plans and lay-outs presented at the hearing before the Zoning "commissioner and those presented at the hearing before this Board: and that the new and revised plans do not comply with the order of the Zoning Commissioner from which this appeal is taken. The Zoning Commissioner's Order of January 28, 1959, grants the special exception without imposing conditions or restrictions. It is, therefore, difficult to envisage how the revision of plans fails to comply with such Order. Had the Zoning Commissioner placed conditions upon his granting of the special exception, and had the revised plans conflicted with these conditions in any manner, the Protestants' complaint would be justified. We find no conflict.

Having ruled on all points of the motion of the Protestants. we demy the motion in its entirety and now proceed to a consideration of the case on the merits.

In the several days of hearing, interspaced between share nges among the many counsel involved, the Board has heard over thirty expert and lay witnesses. To say that evidence relating to the case has been fully exhausted borders on an understatement; moreover, we at times found difficulty in confining the hearing to the matters at issue and preventing it from deteriorating into a political Donnybrook. Fortunately, abundant relevant evidence was adduced, upon which this aminion is based

The Petitioner has produced real estate, soming and planning. health, and safety experts (some of whom are County officials and some independent consultants) in an effort to prove that the granting of the special exception sought will not:

- Be detrimental to the health, safety, or general welface of the locality involved;
- b. Tend to create congestion in roads, streets or alleys
- c. Create a potential hazard from fire, panic or other
- d. Tend to overcrowd land and cause undue concentration of population:
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public require-ments, conveniences or improvements;
- f. Interfere with adoquate light and air

The Protestants have countered with their own experts, as well as both industrial and residential neighbors .

In deciding this case, ie are concerned only with the intent and meaning of Section 502.1 of the Zoning Regulations. Considering those requirements in their inverse order, we begin by finding nothing in the evidence before us which would indicate that the requested use would interfere with adequate light and air.

With respect to possible interference with adequate provisions for schools, parks, water, sewerage, transportation, or other public requirements, conveniences, or improvements, a review of the evidence allows us to summarily eliminate all factors except possible interference with schools. As to schools, we have on the one hand. the testimony of Mr. George E. Covrelis. Deputy Director of the Baltimore County Office of Planning and Zoning, that the Office of Flanning and Zoning has no objection to the special exception on the

With regard to possible creation of congestion in roads, atreets, or alleys, Mr. Walter Addison, the County Traffic Engineer, testified that the internal traffic would be no problem and that the external traffic would be no greater problem than that which would result if the property were to be used industrially. We further testified that a light industrial use would cause about the same number of tring , or a 2h hour period. While it is true that industrial traffic would be less likely to compound with the traffic from the nearby drive-in theater, we rely on Mr. Addison's statement that the existing roads are more than adequate to handle the projected traffic load which would result from the trailer park. Me, therefore, feel the Petitioner has not the burden of compliance with respect to Section 502.1 (b).

This leaves for sole consideration Section 502.1 (a) which imposes upon us the duty of assuring ourselves that the use requested will not be detrimental to the health, safety or general welfare of the locality involved. There is nothing in the testimony from which we could decide that the public safety would be endangered by the granting of the Petition, thus leaving for disposition only the question of health and general welfare

We have allowed the Protestants to show, through photographs and testimony, the present conditions at the existing Crowther Trailer Park. Mr. Crowther has testified that he would operate the new park. should this Petition be granted, and the Board feels that the recent case of Dorsey vs Sphak, 147 A2nd 853, allows it to consider his present operation. After viewing the photographs and reviewing the testimony of Mr. Margerum and Mr. Nichols, it appears that Mr. Crowtherle operation could easily constitute a hexard to the health of the locality.

Finally, and most important, the Board has strong convictions that the granting of this special exception would be detrimental to the general welfare of the community. In considering general welfare, we must first assure ourselves that the proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and that it can be conducted without detriment to the neighborhood (Erdman vs Board of Zoning Appeals, 212 Md. 288 at pg. 295). There is a wealth of testimony which proves beyond any doubt that to allow this special exception would represent an inexcusable departure from the comprehensive plan for the area, resulting in an irreparable rupture in the integrity of the industrial neighborhood. Tim Court of Appeals has indicated in several cases that reclassifications or special exceptions representing a departure from the comprehensive plan should not be made on a piecemeal basis, but as the result of a general survey. (Zinn vs. Board of Zoning A peals, 207 Md. 355, and American Oil Company vs. Miller, 20, Md. 32).

Although there is no inherent objection to the creation of small districts within an existing zone for the accommodation and convenience of its residents, (See Terminx = Board of Zoning Appeals, 205 Md. 489 at pg. 495), there is no evidence in this case to remotely indicate that the trailer park is related to the convenience of the industrial residents of the area. To the contrary, various representatives of industries in the locality have expressed a unified conviction that a use other than industrial will adversely affect carrier service, utilities, and will depreciate their properties.

A number of residents in the neighborhood including a realtor testified that the use of the subject property as/trailer camp would adversely affect the value of their homes.

For the reasons set forth above, the application for a special exception to operate a trailer park on the subject property is denied.

Any appeal from this decision must be in accordance with Rule No. 1101 (b) of the Rules of Practice and Procedure of the Court of Appeals of Maryland.

COUNTY BOARD OF APPEALS

Dates 7/17/59

-7-

IN THE MATTER OF THE PETITION OF CROWTHER, INC. FOR A SPECIAL EXCEPTION FOR A TRAILER PARK

BEFORE THE ZONING BOARD OF APPRAIS OF BALTIMORE COUNTY

..... OPINION

and by the provisions of Section 502 of the soning regulations of Baltimore for land County (1955) /located in the 8th Election District of Baltimore County. The land in question, from the testimony, contains about 12.7 acres and is some manufacturing, light (M-L).

This petition for a trailer park is one of certain types of user which are required to secure a permit to allow them to be placed in one or more zones in which an uncontrolled occurrence might cause unsatisfactory results of or kind or another. Although a trailer park is a proper use of land somed manufacturing light, by law, there are certain aspects which call for special consideration of this petition.

The hearing on this petition before this Board was considerably lengthy and therefore a recital of facts is in my opinion unnecessary because the testimony has been transcribed. In reaching this decision, as hereinafter set out, I am mindful of the fact that the burden of proof to show proper and sufficient facts to justify the granting of any special exception is upon the netitioner. These facts must conform and support the legal requirements of Section 502.1 of the moning regulations. Section 502.1 (a) provides as follows

> "Before any special exception (a) Be detrimental to the health safety, or general welfare o the locality involved;"

William Martien, a witness produced by the petitioner who testified as an expert in industrial properties admitted on cross-examination that if a trailer park were allowed at this location "it would be detrimental to a decree" The same witness also admitted when referring to the trailer park in question that "it would be more detrimental than some namufacturing purposes." He also conjectured that if the trailer park were here before the houses were built

sales would have been adversely affected". Although, not considering aesthetics, there is little doubt in my mind from all of the evidence produced in this case that the granting of a special exception for a trailer park at this location would be detrimental to the health, safety or general welfare of the locality involved. Since there would be a threatened, if not actual, reduction of the property values, both residential and industrial, this factor must certainly be considered as falling within the general welfare clause. This hearing was attended by possibly ore of the largest groups of protestants who have appeare before the Board of Zoning Appeals in recent years. These residents of the area were particularly sincere in their protest and their reasons for protest were numerous. The very size of the protest in itself, has no direct relation ship to this decision except to the extent to which it has produced before this Board the various objections of the residents of this locale.

...

There would also seem to be a problem of density or over crowding or the land in question. Section 502.1 (d) provides that a special exception shall not be granted if it would "tend to over crowd land and cause undue concentration of population". Mr. Archibald C. Rogers, a witness produced by th petitioner admitted that in the proposed trailer park as laid out on the plats it would accommodate seven and one half families per acre, which is very closely compared to a population density in a R-6 mone of about six families per acre. The more normal commarison is between a manufacturing light zone being used for manufacturing and a manufacturing light zone being weed for a trailer park. Although I am not reaching my decision in this matter on this point alone, it is fair to state that I am cognizant of the same

Section 502.1 (e) provides that a special exception must not "interfere with adequate provisions for schools, parks, water, sewage, transportation or other public requirements, conveniences or improvements". In regard to this Section the evidence before the Board would seem to be uncontradicted that if the special exception were granted and the trailer park were allowed that the same would interfere with the adequate provisions for schools, as presently planned including interference with adequate school transportation. It is my ominion that the netitioner presented syldence insufficient to legally support the necessary provisions of twis Section, particularly in light of the evidence produced by the protestants which is in the record on

SMITH AND HARRISON

F-hausey 5, 1959

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

WILLIAM R. BU

VALLEY 5-9050

Re: Petition for Special Exception for Trailer Fark - S. Ind of Green Spring Drive - S. Timonium Road, Oth District -Crowther, Inc., Petitioner File # 1505-X

February 2, 1959

Please enter an appeal to the Board of Zoning Appeals in the above captioned case, your Order dated January 28, 1959.

William P. Bulana Very truly yours, William R. Buchanan One of the Attorneys for Lutherville Community Assn

cc: W. Lee Harrison, Esq. 212 Washington Avenue - 4 G. Edward Mackie, Esq. Title Bldg. - 2 Saunders M. Almond, Jr., Esq. Jenifer Bldg. - 4



Honorable Wilsie H. Adams

Zoning Commissioner County Office Building Towson 4, Maryland

Re: Petition for Special Exception for Trailer Park - S. end of Greenspring Drive, S. Timonium Road, Eighth District -Crowther, Inc., Petitioner

Please enter an Appeal to the County Board of Appeals from the Order of the Zoning Commissioner date!

January 28, 1959, in the above Petition for Special Exception
and forward the transcript of record to the County Board of Appeals.

W. Lee Harrison, Attorney for one of the Protestants

RCM: WLH/m

FEB 5 1959

As to adequate sewerage the evidence produced by the petitioner at the hearing disclosed in part, that although the sewerage facilities for the subject property are at present inadequate the petitioner feels that they will be made adequate in the future and apparently on this basis asks that the special exception be granted subject to the adequacy of the sewerage in the future. I am of the considered opinion that this is not the intention nor a proper interpretation of this Section.

Although the protestants have been considerably concerned with the notives of the petitioner I am not concerned with this except as the evidence has produced a showing that the petitioner does not neet the requirements of Section 502.1. There is also considerable testimony before the Board as to the existing conditions of the present trailer park being operated by the netitioner in a non-conforming use area in Timonium. It is my opinion that the character of the proposed trailer park has some direct relationship to the general welfare of the community. In reaching this decision one must consider the nature and character of the existing trailer park which is being run by the petitioner. The petitioner apparently plans to move the presently operated trailer park to this proposed location. This relationship then existing I believe it is proper to consider the manner in which the petitioner has run his existing trailer park. Of course, the "general welfare provision" does not apply to a non-conforming use because from the testimony, there is little question that the petitioner has not seen fit to produce sufficient evidence that he will run the proposed trailer park in such a manner so as not to be detrimental to the health, safety or general welfare of the locality involved. The evidence which the petitioner did see fit to produce was such that his witnesses took the position that any health menance in a trailer park depends

The Denuty Director of Planning, Mr. Gayrelis, a witness called in behalf of the petitioner, was apparently of the opinion that the use of this area for a trailer park "was not a proper way to use industrial land". He also maintailed that the access to the subject property was "peculiar" and for these reasons and to this extent the Planning Department was objecting to the granting of the special exception for this rurnose-

There were several motions on technical grounds proposed by the protestants which I feel, at this time, it is unnecessary to use although I

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an not in any way passing on the validity or the merits of these motions.

In conclusion, upon all the evidence presented in this case by the parties thereto it is my opinion that the granting of this petition for special exception for a trailer park at this location would seriously injure the use of the surrounding property and without doubt would be detrimental to the health. safety and general welfare of the locality involved; and would also interfere with the adequate provisions for schools and school transportation; and would also tend to over crowd the land in question; and would also interfere with adequate provisions for severage,

For all of the above reasons it is my opinion that this petition

Date: July 16, 1959

Members of the Board of Zoning Appeals

NOTE: I do not feel that the majority opinion adequately covers all the grounds under which this petition should be denied and that I, therefore, submit a separate opinion concurring in the result by ascribing additional reasons for my conclusion.

That it is the opinion of the Office of Planning that the provision of trailer parks as a permitted use in the injustial somes as a Special Exception was not intended as a permanent use, but as a transitory use until such time as an industrial use was ready for development. This, of course, is contrary to the Zoning Regulations as recommended by the former Planning Commission and as adopted by the County Comissioners.

Mr. Gavrelis also testified at length on the provisions of 502.1-a, that this would be detrimental to the health, safety or welfare of the community involved; 501.1-d, would tend to overcrowd land and cause undus concentration of population; and, 502.1-e would interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements.

The facts are that there now exists within 1500 feet of this location the Crowther Trailer Park, which is a nunconforming use and does not meet the requirements of the present Zoning Regulations. However, the present owner of this property is Cooperative Mills, Inc., who has assured the County that they intend to build very shortly and have no intentions of maintaining a trailer park when this one moves. This existing trailer park being in the same area, using the same utilities, sewer, water, schools, itc. could not cause any added burden on these utilities by simply moving 1500 feet.

It is the opinion of the Zoning Commissioner that the petitioner does meet all the requirements of Section 502 of the Zoning Regulations and the isolated location of the proposed use would certainly in no way be detrimental to the health, safety or welfare of the community involved. However, there shall be a fence of at least 6 feet in height

RS: PETITION FOR SPECIAL EXCEPTION : FOR A TRAILER PARK - S. End of Green Spring Drive - S. of Timonium Rond, 8th District -Drouther. Incompanied ZOUTHO COMISSIONER OF BATTIMOSE COUNTY NO. 1565-X

This potition is for a Special Exception, under Section 502 of the Zoming Regulations of Baltimore County. Nine lawyers and about 300 persons appeared before the Zeming Commissioner to protest this proposed use. There were arguments both pro and con as to whether the petitioner could meet the requirements under Section 502.1 waich reads as follows:

" 502.1 - Enfore any Special Exception shall be granted it must appear that the use for which the Special Exception is requested will not:

- Be detrimental to the health, safety. or general welfare of the locality involved;
- b. Tend to create congestion in roads, streets or
- c. Create a potential hazard from fire, panic or
- d. Tend to overcrowd land and cause undus concentration of population;
- Interfere with adequate provisions for scho parks, water, sewerage, transportation or o public requirements, conveniences, or impro-public requirements.
- f. Interfere with adequate light and air.

Mr. George Gavrelis, Deputy Director of the Office of

Planning testified that the Office of Planning objected to this Special Exception and gave as its reasons:

similar to the Anchor Link fence erected on the south and southeastern boundaries of the property. Complete plans for this trailer park must next the requirements of Section blh of the Zoning Regulations and shall be submitted for approval by the Office of Planning.

It is this 28 th day of January, 1959, by the Zoning Commissioner of Baltimore County, ONDENED that the aforesaid petition for a special exception for Trailer Park shall be and the same is

> Olilai N. Colum Zoning Commissioner of Baltimore County

February 2, 1959

11.621

RECEIVED of William R. Buchanan, attorney for protestants, the sum of Thirty (\$30.00) dollars, being cost of appeal to the County Board of Appeals from the decision of the Zoning Commissioner granting the special exception for Trailer Park - South end of Oreen Spring Dr. - S. Timonium Rd. - 8th District - Crowther, Inc.,

Zoning Commissioner

PAID - Bultimore County, Md. - Office of Finance

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PETITION FOR SPECIAL EXCEPTION

IN THE HATTER OF BEFORE THE ZOMING COMMISSION OF BALTIMORE COUN CROWTERR. THE.

For a Special Exception

To The Zoning Commissioner of Baltimore County

CROWTHER, INC.,- ---- Logal Omer_

14565 X

MAP

hereby petition for a Special Exception, under the Zoning Regulations and Restrictions passed by the County Commissioners of Baltimore County, agreeable to Chapter 877 of the Acus of the General Assembly of Maryland of 1943, for a certain permit and use, as provided under said Regulations and Act, as follows:

A Special Exception to use the land (and improvements now or be erected thercon) hereinafter described for a trailer park.

Stuate in the 6th Election District of Baltimora County,
Maryland, and desoribed as follows, to wit: Beginning for the
same at a point South 9 degrees 21 minut. 04 seconds East 322.11
feet from the center of the Southermost end of Green Spring Drive,
feet from the center of the Southermost end of Green Spring Drive,
and running themse in a Southerly direction by a curve on the right
with a realize of 729-kib feet for a distance of 198.78 feet, thence
South 6 degrees 12 minutes by seconds west 502.83 feet, South 75
degrees 14 minutes in 5 seconds West 71/1.16 feet, North 22 degrees 1
minute is seconds west 71/1.15 feet, North 22 degrees 1 minutes 100 minutes

Containing 12.714 acres of land, more or less.

CROWTHER, INC.

Contract Purchaser

28. Courte Legal Comor Crowther, President

9. A.M

Febr cry 6, 1959

\$30,00

RECEIVED of Smith & Harrison, attorneys for protestants the sum of Thirty (\$30.00) dollars, being cost of appeal to the County Board of Appeals from the decision of the Coming Commissioner granting the special exception for Trailer Park - South end of Oreen Spring Dr. - S. Timonium R.d - 8th District - Crowther, Inc. petitioner.

> Zoning Commissioner of Baltimore County PAID - Bullimore County, Md. - Office of Finan

Z--659 6217 · · · IXL-Z--659 6217 · · · IXL-

4565-X

ORDERED by the Zoning Commissioner of Baltimore County day of December that the subject matter of this petition be advertised in a newspaper of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly aforesaid, and that a public hearing thereon be had in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 21st _, 1959 , at _ 9 o'clock

Zoning Commissioner of Ealtimore County

BUREAU OF LAND DEVELOPMENT Inter-Office Corres

Department Of Public Morks

From ... George R. Lewis January 20, 1959 To Milsie H. Adens

Subject ... Zoning Patition #5555-X Sweetal Exception for Trailer Park Or. mappring Drive Matrict 8

Mr. Jerome Wolff from the Bureau of Engineering will be available to make comment during the hearing on the referenced petition. No written comment will be submitted by this office.

GRL:1s

cc: Planning (Mr. Stirling)

CERTIFICATE OF POSTING

	Towson, Maryland	
de		#4565
District 8	estina for a Trailer Bull	Date of Posting 1-7-59
Posted for: Special Exc	entire for a France Saile	
Petitioner: Caputtes, 91	ric.	
Sand d Temanism	somet exter gum for Sof the Su flat outher worth of Trues	my showly 1.97.7.26
Location of Signs: Portefs	outherwort ent of Trues	Sping stuce
Posted by Harge R.	Hattrand Date of return:	1-8-59

CERTIFICATE OF PUBLICATION

TOWSON, MD. Japuary 16 19 59

THIS IS TO CERTIFY, That the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., ares in the county cets 2 times ABNOSCHYCANOSEK before the 21st day of ______Jenuery______, 19.59, the first publication appearing on the ... 9th ... day of January ...

Cost of Adverti rue copy-test:

Zoning Commissioner of Baltimore County

01.621

01.682

\$21.00

Road, 8th District.

August 27. 1959

Zoning Commissioner

8-2759 5018 · · IXL-

8-27-59 5018 . . . 111-

PAID - Baltimare Comby Md. - Office of Finance

RECEIVED of Saunders M. Almond, Jr., attorney for

Crowther, Inc. Petitioner, the sum of Twenty One (\$21.00)

Bollars, being cost of certified copies of documents filed

in the matter of a special exception for Trailer Park, at

the south end of Green Spring Drive, south of Timonium

2100

