

RE: PETITION FOR SPECIAL EXCEPTION
OF PROPERTY OF PHILIP E. LAMB
1/4 CORNER OF YORK ROAD AND
STEVENS LANE FOR GASOLINE
SERVICE STATION

OPINION

This is a Petition for a Special Exception for Gasoline Service Station, on the Northeast corner of York Road and Stevenson Lane, in the Ninth District of Baltimore County. The property has a frontage on York Road of 122 feet, along Stevenson Lane some 140 feet with a rear property line of 77 1/2 feet. The subject property is Zone "B-1".

The four corners of York Road and Stevenson Lane are all zoned "B-1"; north of the subject property on the East side of York Road is "B-2" property, until it reaches the corner property of York and Sussex Road and this property is zoned "B-2". On the West side of York Road north of Stevenson Lane the corner is "B-1", the next property "B-2" and then goes to "B-10". All of the property zoned "B-2" on the west side of York Road is being used for business and professional offices. The subject property is presently being used for office uses.

On the West side of York Road north of Stevenson the corner property zoned "B-2" is presently being used for a research laboratory, under a non-conforming use and the adjacent property to the North is occupied by a Church. South of Stevenson Lane on the East side of York Road beginning at the corner of Stevenson Lane, we find a Gasoline Service Station occupied by Esso and adjacent land adjoining the property on the South is a large office building, The Arco Building. These two properties occupy the area between Stevenson Lane and Hatherleigh Road a distance of some 600 feet. On the West side of York Road south of Stevenson Lane we find, beginning at the corner a Green Service Station, then an American Oil Service Station and then an Arco Joy Doughnut Shop. These three uses occupy a distance of some 600 feet.

#5115-XA

RECEIVED
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
MAP
#9
SEC 3-C
"X"

Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not violate Section 502.1 of the Baltimore County Zoning Regulations. This section contains six (6) paragraphs a-f and we shall discuss each individually.

(a) "Be detrimental to the health, safety, or general welfare of the locality involved". Certainly, a gasoline service station does not create any health nuisance to the surrounding neighborhood. Safety other than traffic which will be discussed under paragraph b does not seem to pose a problem. The only safety question to be raised in the case of gasoline service stations is that of traffic. With regard to general welfare, the only point not covered in the other five paragraphs is that of land values and certainly the pattern of land values in this area has long since been established by the existing uses. We cannot find any reason to believe that this Special Exception would have an adverse effect on land values in the vicinity.

(b) "Tend to create congestion in roads, streets or alleys there-in". It is difficult to see how the erection of a Service Station on the subject property could tend to increase traffic or create more of a traffic hazard than already exists, if in fact one does exist. The presence of three gasoline stations and a doughnut drive-in shop within 600 feet of the subject property certainly indicates that this is a commercial area and one where drive-in type activities are to be expected. Another gasoline service station is not going to increase traffic on York Road but it seems reasonable to assume that their business will be gained from traffic already using the York Road. This fact was born out in the testimony of Morris M. Roberts, proprietor of the Esso station at the Southeast corner of York Road and Stevenson Lane. He stated that his objection was purely one of need and the fear of decreasing business from additional competition. The fact was uncontroverted that York Road from the City Line to Towson is of a commercial nature and that any future development of frontage on York Road in this area will be of necessity, be that of commercial character, as the nature of this petition suggests. Actually, the only expert testimony with regards to traffic that was presented by either side, was that of Dr. Walter W. Reilly, who testified on behalf of the petitioners. He stated that the

#5115-XA

capacity of York Road was determined by the traffic controls at York and Stevenson, which are set to operate 2/3 for York Road and 1/3 for Stevenson Lane. This would allow for a capacity of 960 cars per hour in either direction. Traffic counts presented showed peak traffic to be 6:6 North and 6:13 South. From these facts it would be fair to assume that York Road is not operating at full capacity even at peak hours.

It is the majority opinion that the granting of a Special Exception for a Gasoline Service Station on the subject property would not violate paragraph b of Section 502.1.

- (c) "Create a potential hazard from fire, panic or other dangers". Certainly a Gasoline Service Station would not violate these provisions.
- (d) "Tend to overcrowd land and cause undue concentration of population". The petition in no way violates these provisions.
- (e) "Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements". The petition in no way violates these provisions.
- (f) "Interfere with adequate light and air". These provisions would not be violated.

We should further like to comment on the testimony of Mr. George E. Gervais, Deputy Director of the Office of Planning. He stated that there was a break in commercial zoning and uses it would have to occur North of the northeast and northwest corner properties at York and Stevenson, which are already zoned "B-1", which would allow for commercial developments of many kinds.

In conclusion the majority members of the Board of Appeals feel that beyond any reasonable doubt that the granting of this Special Exception would not violate Section 502.1 of the Zoning Regulations.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 31st day of August, 1961, by the County Board of Appeals, ORDERED that the special exception petitioned for, be and the same is hereby granted, subject to the following provisions:

#5115-XA

- 4 -

All plans for the Service Station must be approved by the Office of Planning and Zoning, the Department of Public Works and the Traffic Engineer of Baltimore County.

Any appeal from this decision must be in accordance with Rule 1101 of the Rules of Practice and Procedure of the Court of Appeals of Maryland

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert M. [Signature]
W. Mitchell [Signature]

#5115-XA

RE: PETITION FOR SPECIAL EXCEPTION
OF PROPERTY OF PHILIP E. LAMB
1/4 CORNER OF YORK ROAD AND
STEVENS LANE FOR GASOLINE
SERVICE STATION

DISSENTING OPINION

This is a Petition for a Special Exception for a Gasoline Service Station on the Northeast corner of York Road and Stevenson Lane. The subject tract is irregular in shape with a frontage of 122 feet on York Road, 140 feet along Stevenson Lane, and 77 1/2 feet along the rear boundary where it abuts the residential property on Stevenson Lane. The land covered in the Petition is zoned "B-1". The other end of this block, at York Road and Sussex Road is zoned "B-2" with "B-1" zoning in between the two ends of the block. The land directly across the street on the West side of York Road is zoned "B-2" and "B-10".

Mr. George E. Gervais, Deputy Director of Planning for Baltimore County, testified that the Department of Planning Staff had reviewed the subject petition and came to the conclusion that it could not recommend the granting of this special exception. He stated that an analysis of existing uses indicated a definite break in commercial uses north of Stevenson Lane. He also testified the narrow width of Stevenson Lane east of York Road would create a traffic problem. This traffic problem was further emphasized by other protestants who pointed out the lack of a sidewalk on the south side of Stevenson Lane at this corner and the sharp angle at which Stevenson Lane entered York Road at this point. The operator of the Esso Service Station at the Southeast corner of York Road and Stevenson Lane testified that it was difficult for his customers to get out into York Road from his station during the rush hours. Because of several schools in the area, there is considerable pedestrian traffic at this intersection.

#5115-XA

RECEIVED
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 5115-X

It was testified that there was a 4 foot grade difference between the York Road frontage and alley in the rear. The use of this property as a service station could possibly present a grading problem which would not be present in many other "B-1" uses.

The Zoning Regulations of Baltimore County state that "certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another". The Law has placed gasoline service stations in this category. It would be fair to assume from this fact that gasoline service stations possess certain characteristics which render them more objectionable than ordinary "B-1" uses. For that reason, this member of the Board does not accept the proposition that gasoline service stations should automatically be permitted in "B-1" zones. This would properly be a legislative function and not an administrative function of this Board. The mere circumstance that a property owner possesses a tract of land zoned "B-1" and submits plans conforming to physical requirements will not entitle him ipso facto to a special exception. It will still be for the Board to decide, in the exercise of a reasonable discretion, that the grant of such a special exception is in conformity with the neighborhood, is not against the general welfare of the community and is not in conflict with any of the provisions of Section 502.1 of the Zoning Regulations of Baltimore County.

This member of the Board is of the opinion that the granting of this special exception would be detrimental to the general welfare of this neighborhood North of Stevenson Lane. He feels that a gasoline service station would not be an appropriate commercial use of this land. Furthermore, the granting of this special exception would constitute a change in the neighborhood so as to warrant petitions for further zoning changes.

For the reasons set forth above, it is the opinion of this member of the Board of Appeals, that the special exception petitioned for should be denied.

DATE: August 6, 1961

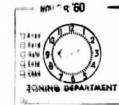
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

Walter W. Reilly

#5115-XA

MICHAEL PAUL SMITH
W. LEE HARRISON
RICHARD E. HARRISON
BENJAMIN J. JONES
FRANK E. JONES
JOHN E. JONES

SMITH AND HARRISON



November 26, 1960

John G. Rose, Esq.
Deputy Zoning Commissioner
County Office Building
Towson 4, Maryland

Re: Petition for Special Exception for Gasoline Service Station - n.e. cor. York Road & Stevenson Lane, 9th District, Philip E. Lamb, et al Petitioners

Dear Mr. Rose:

Please enter an appeal to the Board of Appeals for Baltimore County, in behalf of the Petitioners, from your Order of November 16th, 1960 in the above entitled case. I enclose herewith our check for \$70.00 to cover the cost of said appeal.

Very truly yours,

W. Lee Harrison
W. Lee Harrison,
Attorney for Petitioners

IN THE MATTER OF
Philip E. Lamb, Inc.
For a Special Exception
To The Zoning Commissioner of Baltimore County

Philip E. Lamb, Inc. Legal Owner
Contract Purchaser

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 Acts of the General Assembly of Maryland of 1953, 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 there-in) hereinafter described for

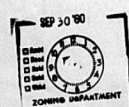
GASOLINE SERVICE
All that parcel of land in the Ninth District of Baltimore County on the Northeast corner of York Road and Stevenson Lane; thence running Northerly and blinding on the East side of York Road 122.10 feet thence South 66 degrees 35 minutes East 140 feet thence South 23 degrees 33 minutes West 77 1/2 feet to the North side of Stevenson Lane; thence running Westerly and blinding on the North side of Stevenson Lane 141 1/2 feet to the place of beginning.

Walter W. Reilly
Walter W. Reilly
Walter W. Reilly, Inc.
Legal Owner President
7301 York Rd.
Baltimore, Md.

Contact Purchaser

10/31/60 10:44 AM

10/16/60
37m 14 & Harrison
(C. F. CIGONE)



#5115-X

MAP
#9
SEC 3-C
"X"
10/11/60

ORDERED by the Zoning Commissioner of Baltimore County this 30th day of September, 1960, that the subject matter of this petition be advertised in two newspapers 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 31st day of October, 1960, at 10:00 o'clock A.M.

Zoning Commissioner
of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition for a special exception to use the property described therein for a gasoline service station, and it appearing that by reason of location, the granting of the special exception would be detrimental to the health, safety and the general welfare of the locality involved and tend to create congestion in the roads, streets or alleys, the special exception should be denied, therefore:

It is this 10th day of November, 1960, by the Deputy Zoning Commissioner of Baltimore County, ORDERED that the aforesaid special exception should be and the same is hereby denied.

Deputy Zoning Commissioner
of Baltimore County

CERTIFICATE OF PUBLICATION

TOWSON, MD, October 13, 1960

THIS IS TO CERTIFY, That the annexed advertisement was published in The COUNTY Paper, Inc., a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of 1 successive weeks before the 31st day of October, 1960, the first publication appearing on the 13th day of October, 1960.

The COUNTY Paper, Inc.
Fenwick Keyser
Manager.

For Helen G. Sheldon

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 9th Date of Posting: 10-12-60
Posted for: Gasoline Service Station
Petitioner: Shirk & Lamb
Location of property: 116 E. Conover, York Road, Towson, Md.
See Map
Location of Signs: Northward Corner of York Road & Stevenson Lane
Remarks: George K. Hammond
Posted by: George K. Hammond Signature Date of return: 10-12-60

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 4661
DATE 5/12/61
5/15

To: Messrs. Smith & Harrison
212 Washington Avenue,
Towson 4, Md.

BILLED BY: Zoning Department,
113 County Office Bldg.,
Towson 4, Maryland

DEPOSIT TO ACCOUNT NO. 01622	QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT	COST
		Cost of posting property for appeal hearing N.E. Cor. York Road and Stevenson Lane, TOWSON 4, Md.		35.00
				5.00
				5.00

3

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 4662
DATE 5/30/60

To: Smith & Harrison
212 Washington Ave.
Towson 4, Md.

BILLED BY: Zoning

DEPOSIT TO ACCOUNT NO. 01622	QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT	COST
		Petition for Special Exception - Baker & Lamb		50.00
				50.00
				50.00

3

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 4084
DATE 11/26/60

To: Messrs. Smith & Harrison
212 Washington Avenue,
Towson 4, Maryland

BILLED BY: Zoning Department of
Baltimore County
113 County Office Bldg.,
Towson 4, Md.

DEPOSIT TO ACCOUNT NO. 01622	QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT	COST
		Cost of appeal to Board of Appeals		70.00
				70.00
				70.00

3

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 4663
DATE 5/28/60

To: Smith & Harrison
212 Washington Ave.
Towson 4, Md.

BILLED BY: Zoning

DEPOSIT TO ACCOUNT NO. 01622	QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT	COST
		Advertising & cost of posting for Lamb & Baker property		22.00
				22.00
				22.00

3

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

