PETITION FOR ZONING BE CLASSIFICATION AND SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

T. BERNARD TODD & legal owner⁸ of the property situate it County and which is described in the description and plat attached hereto and made a pa County and which is described in the description and plat attached hereto and made hereby position (1) that the soning status of the herein described property be re-class to the Zoning Law of Baltimore County, from an zone: for the following reason

See Attached Demonstration

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for Mobile Homes Park

Property is to be posted and advertised as prescribed by Zoning Regulations I, or we, agree to pay expenses of above re-classification und/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning of Pallimore County adopted pursuant to the Zoning Law for Baltimore

S. G. Energy of Contract purchaser 500 POSOMAC AVA BALTO MA I a Magnire

T. Bernard Todd
T. Bernard Todd
Martha L. Todd
Martha L. Todd
Legal Owner Address \$235 Pulaski Hury "6

825 Eastern Ave. Balto. 21, Md.

tress 825 Eastern ave, ORDERED By The Zoning Comr ioner of Baltimore County, this 11th day August 198 1 that the subject matter of this netition be advertised as

required by the Zoning Law of Baltimore County, in a newspaper of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning oner of Baltimore County in Room 106, County Office Building in Towson, Baltimore __day of__October_______1961_, at 1:00_o'clock County: on the....

he.....2nd... ____ AUG 1 1 161 67 - 5 S DIVIDE OF PERSONS & ZURING

T. BERNARD TODD Mack # 5342-X

This appeal in a zoning case from Baltimore County involves a special exception for a mobile homes park in an Mal zone. The Roard of Anneals aranted the exception. and on appeal the case was remanded for the taking of additional testimony. A second ulted in an affirmance of the Board's action.

We find it unnecessary to review the record in detail, or to discuss the contentio of the appellants that the zoning authorities have no power to grant a special exception for a trailer park in an M-L zone. The key issue, as both sides garee, is whether there was a sufficient showing of ready access to the proposed development. It seems to be conceded that the only practicable means of ingress and egress, except by recourse to a network of narrow, winding and inadequate roads in an old development to the north, is by way of Patapsco Avenue in the vicinity of the main line of the Pennsylvania Railroad. After crossing the railroad at grade, a left turn leads into an existing dirt road known as Philadelphia Avenue, parallel to the tracks, into the proposed nine acre development. The developer testified he proposed to widen and pave Philadelphia Avenue, shown on the plats as a paper street. This street had never been dedicated to a accepted by the County; indeed, the appellants argue that under sec. 28-16 of the County Code (962 Supp.) the County lacks the power to accept a road under 40 feet in width. See Chapman v Rogan, 222 Md. 12 17 . The Board granted the special exception "based on the provision that Philadelphia Avenue be widened (to 30 feet) As to how the road is widened, by whom, or any other problems attending to the widening of the road, the Board does not feel that it is necessary that these facts be known to them." We disagree.

Refore a special exception may be granted in Baltimore County. It is necessary that the Board find that the proposed development, among other things, will not create congestion in the roads, streets or alleys. The burden of proof is upon the petitioner. The record shows that both sides of Philadelphia Avenue, from Patapsco Avanue to the property in question are owned by the Pennsylvania Railroad. Mr. Hipple, local super visor of real estate for that company, testified that the Railroad had no present objection to the mainentance or use by others of Philadelphia Avenue, but he also testified that vevance of title or interest would have to be approved by the Board in Philadelphia He further tastified that the Railroad was "supposed to use that thirty-foot strip (Philadelphia Avenue) for this additional truct, extension of Bayview Yard northward. it is still on the backs. It may come ab out someday. They bought additional property for the relocation of this thisty-fact road."

The most that we can make of this testimony is that the Rail and Company, insofar as it could be bound by the statement of a local supervisor, was willing to grant a revocable license to the petitioner. Clearly, there was no showing that the petitioner had title, or even a claim of title, to the bed of Philadelphia Avenue, and no showing of the grant of an easement to anyone. Philadelphia Avenue was obviously not a public road. Presumably, the title was in the Railroad Company. There was no evidence of public use of what was

RE: PETITION FOR SPECIAL EXCEPTION : FOR MOBILE HORS PARK - 5.E. Stie of Fhiladelphia Pod Moh': H. of Potomac Ave., 1984 Dist., T. Bernard Todd and Martha L. : Todd, Fettioners.

-

BATTIMORE COUNTY No. 5362-3

Pursuant to the advertisement, posting of property and public hearing on the above petition for a Mobile Homes Park (Trailer Park) on the southeast side of Philadelphia Road 10h feet north of Potomac Avenue, in the Fifteenth District of Baltimore County, ad it appearing that by reason of location, the safety, health and the general welfare of the locality involved not being detrimentally affected the special exception should be granted subject to compliance with the provisions stated below.

.

It is this 1674 day of October 1961, by the Zoning Commissioner of Baltimore County, CRDERED that the above special exception should be and the same is hereby granted, from and after the date of this Order, subject, however, to strict compliance with Section hills, of the Zoning Regulations of Baltimore County; that no use of the trailors may be made until after plans have been approved by the Office of Planning & Zoning, and, further, that the Zoning Commissioner shall be notified so that an inspection of the property may be made after plans

The granting of the special exception is also subject to approval of plans by the Division of Land Development.

Zoning Commissioner of Baltimore County

obviously a <u>cul de sac</u>. There was not even a showing of any reasonable expectation, for less a commitment by the petitioners to obtain title or a permanent easement in the future. The undisputed evidence is that the Railroad Company intended ultimately to close Philadelphia Avenue and relocate it at an undisclosed location.

On this state of the record we think the Board was clearly in error in granting the special exception. The Board stated at one point that it agreed with counsel for the protestants that it "could not grant the special exception upon condition that the petitioner pave and widen Philadelphia Avenue, but went on to say that it had a legal right to grant the petition based on the provision that Philadelphia Avenue be widened ****," We think this is a distinction without a difference. There was no showing that anyone other than the petitioner had any intention of widening the raad, and to grant the petition contingent upon the road being widened by some undisclosed person would be even more objectionable than to grant it contingent upon action by the petitioner.

We have held that zoning authorities may not require a developer to defray the cost of public improvements beyond the boundaries of his own property. Balto. Co. v. Security Mtge., 227 Md. 234, 239. This does not mean that the developer may not validly contract to do so. But the duty of the Board, to make certain that adequate access is provided, is not satisfied by a vague showing of permissive use or indefinite future expectation. Furnace Branch Land Co. v. Board of County Commissioners , and Bonhage v. of Anne Arundel County, No. 48 (this Term), Md. , just dedided. Cruse, No. 15 (this Term). Md.

ORDER REVERSED AND CASE REMANDED FOR THE PASSAGE OF AN ORDER REVERSING THE BOARD OF APPEALS AND DENYING THE PETITION FOR SPECIAL EXCEPTION, COSTS TO BE PAID BY THE APPELLES.

IN THE COURT OF APPEALS OF MARYLAND

No. 60

September Term. 1963

11.

T. Bernard Todd et al., etc.

RE: PETITION FOR SPECIAL EXCEPTION FOR Mobile Homes Park
SE/S Philadelphia Avenue 104'
N. Potomos Avenue a 15th Dist

BEECOE COUNTY BOARD OF ARREADS OF BALTIMORE COUNTY

No 5342-Y

This is a petition for special exception on a parcel of land of 9.75 acres esently zoned "M-L", located adjacent to Chesaco Park, 104 feet north of Potomac Avenue in the Fifteenth District of Boltimore County

Under Section 502.1 of the Zoning Regulations of Baltimore County. the Board must be satisfied before amotion any special exception that six provisions be satisfied. There is no question in the Board's mind that all phases of Section 502.1 have been met, the only question that gave the Board doubt whatsoever was paragraph "B". Section 502, 1, "tend to create congestion in roads, streets, or alleys therein." A great deal of time was consumed at the hearing as to the petitioner's rights to widen and improv Philadelphia Avenue, Briefs were filed with the Board on this are tion, and the Board is in agreement with Mr. Harrison, lawyer for the Protestants, Nat the Board could not grant the special exception upon condition that the petitioner paye and widen Philadelph Avenue. However, the Board feels that they are in their legal rights in granting this petition based on the provision that Philadelphia Avenue be widened to a width of 30 feet As to how the road is widened, by whom, or any other problems attending to the widening of the mod, the Board does not feel that it is necessary that these facts be known to them As stated by the petitioner's lawyer, Mr. Maguire, if we cannot cave Philadelphia Avenue, we would not be able to use the subject property for the use that we seek

It is therefore, the unanimous polinion of the Board of Accepts that the special exception be granted, subject to the provision that Philadelphia Avenue he widehed to a width of 30 feet from Patansco Avenue to Potomac Avenue

For the reasons set forth in the aforessing Oninion, it is this day of June. 1962 by the County Board of Appeals. ORDERED that the special exception petitioned for be and the same is hereby granted.

Any appeal from this decision must be in accordance with Chapter 1100 subtitle B of Marylond Rules of Procedure, 1961 edition.

> COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

8. Mitchell Con

enta.

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

ATIAW

Misc. Docket No. 7

180

2610

Folio No.

File No.

PETER C. GERCZAK 8025 Edgewater Avenu Dundalk 22, Maryland

66.11.61

THOMAS SOUAN

5301 Carter Avenue Dundalk 22, Marylan

GEORGE M. HUFNAGEL

8111 Poolar Av dalk 22. Maryland

NATHAN H. KAUFMAN, JR. G. MITCHELL AUSTIN, and CHARLES STEINBOCK, JR. being and constituting the County Board of Appeals of

. ANSWER TO ORDER OF APPEAL TO CIRCUIT COURT FOR BATTIMORE COUNTY AND

THE ZONING COMMISSIONER AND BOARD OF APPEALS OF BALTIMORE COUNTY

CERTIFIED COPIES OF PROCEEDINGS BEFORE

MR. CLERK:

Out Board

OFFICE OF PLANNING AND CONTING Inter-Office Correspondence

Date September 22, 1961

To: Mr. John G. Rose, Zoning Commissioner

From: George E. Gavrelis, Deputy Director

Subject: #5 2-x. Petition for Special Exception for Mobile Homes Park. Southeast side of Phila. Ave., 10h feet mare or less North of Potorac Avenue.

HEARDING: Monday, October 2, 1961 (1:00 P.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for Special Exception for a Mobile Home Park and has the following advisory comment to make;

It has been as that openial Ecoptions are a natter of right unless it can be shown that the specific use being sought centravenues the Gender that the specific use being sought centravenues the Gender and the Saction 502.1 of the Zening Ref lations. We note that forty six (46) should have as are proposed to be located on subject property if the Special Ecoption is grarted, the state of the second state of the subject of the adequacy of the roads leading latif is subjections of from Fulanti Highway for the purposes of providing admirate that the addition of forty six (46) more families would in fact create traffic heard or congestion. The Planning staff would have the subject potition and the Mobile Home use of the property as an interim Research.



5362-X

BALTIMORE COUNTY, MARYLAND

INTER OFFICE CORRESPONDENCE

F2OM Jerome B. Wolff Date October 2, 1961

TO John G. Rose Zoning Commissioner

SUBJECT Petition for Special Exception for

It has been brought to our attention that a public hearing will be held on Monday, October 2, 1961 at 1:00 P. M. for the purpose of resoning property on the southeast side of Philadelphia Avenue, 10% feet more or less north of Potenza

We feel it is our chligation to inform you that public seworage facilities are not available to this property and that it is improbable that the Haryland State Board of Bealth will approve the installation of a private disposal

CC: E. N. Diver G. R. Lewis T. H. Margerum S. A. Bellestri

TELEPHONE VALLEY 3-3000

CERTIFICATE OF PUBLICATION

TOWSON, MD., September 15, 19 61

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., onex have and xassucatoscessus before the 2nd day of _______ Qotober ______, 19.61 _, the SPOR publication appearing on the 15th day of September

> THE IEFFERSONIAN, Lank March

Cost of Advertisement, \$_____

BALL ORE COUNTY, MANDAND

OFFICE OF FINANCE

Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND Breester, Boome, Maguire, Brennan and Cook milion Zoning Department of Attorney-at-Law Seg Sasten Ave.
Balto. 21, Md.

DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND

Advertising and posting of property for T. Bernard Todd (B&G Engr.)

MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

y-2801 5535 * * * TL-

-	PETION PO	R ROST	NO.	9
-	PETION POPER AND A STATE OF THE AREA DESCRIPTION OF PARTY OF THE AREA DESCRIPTION OF THE AREA DESCRIPT	CEPTIO		281
movement.	Bestelon.	ter Mos	cial Zu-	
ception	for Mobil	e Homes	Park.	
delphi	Avenue,	104 Teet	acre or	
DATE A	ND TIME:	MONDA	OCTO-	
PUBLIC	HEARIN	ti. Ro	III W.	
Chesar	office I	renue.	Townen,	
Maryli The Ze	HEARING Office Foreste August County, by Let and Recounty, with the county, with the county of the c	missione	of Bal-	
limore (ounty, by	gulation	of Bal-	1
timore !	County, wi	Il hold	n public	8
Concet	county with the Piffer of County of the Piffer of County in the Piffer of Coun	that p	arcel of	
Raltimos	. County.	r narrel	of land	
situate !	ying and	being in	the 15th	31
County	State of 3	faryland	and de-	31
REGIS	CNING for	the san	e on the	•
southear	the distan	ce of l	4.00 fee	
more or	id side of	sald ave	nue fron	3
the cort	er formed	by the	davenu	
with th	e northeas	side of	Potoma	0
being w	here the s	ald sout	intersect	•
the no	rtheastern	most o	Plan "I	č
as laid	out on a	plat and	records.	
more C	ounty in	Plat Bo	k W.P.C	
and bi	aing on	a part	of say	d
Park *	outh '0 de	grees 3	minute	
east 45	the third	or sou	h 19 de	
grees 3	the land	convey	ed by 7	ř.
Hernard	br a des	d wife t	Januar	ÿ
29th, 15	iss, and re	Raltimo	mong th	y
in Libe	r G.L.D.	No. 3107	ersely o	n
said ti	hird line	and rev	ersely o	nn Y-
ing tw	o courses	and dist	ances vi	:
1 325.17	feet and se	auth 60	degrees	11
the sec	ond line of	the lan	convey	èd
by T.	Bernard by	a deed	dated D	•
cembet	the afore	said La	d Recor	4
d in Lib	er G.L.H.	No. 2016	a part	oi.
said s	line ther	ein the	follow	ng
Iwo	courses a	nd dist	nuter es	
80.00	feet more	or less	to the e	64
degree	a 31 minu	tes east	200.63 fe	h
land o	nird lire to courses of the course of the courses of the course of	T. Be	rnard To	by
and w	dated A	pril 15th	1955, a	ne
record	ed among	Manual In	er tolla	15

5362-X

CERTIFICATE OF PUBLICATION

TOWSON, MD., Sept.14 19 61.

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 one successive weeks before the 2nd day of October 19 61 the first embor 19

> The COUNTY Paper, Inc. M. F. Gerry

T	ELE	PH	ONE	
VA	LLE	Y 3.	300	0

INVOICE BALTHORE COUNTY, MARKAND OFFICE OF FINANCE Division of Collection and Receipts countr HOUSE

No. 8069

TOWSON 4 MARYLAND

DATE 8/21/61

To: B.G. Engineering 500 Fetomac Avenue Chesaco Park Balto. 6, Ed.

DEPOSIT TO ACCOUNT NO. 01622 DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANG 50.00 Petition for Special Exception for T. Bernard Todd 0.00 8-22-61 4027 # * * TIL-0-2261 4021 * * * * Tri --

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.

TELEPHONE ALLEY 3-3000	OFFICE OF FINA	NCE DATE	8193 • 10/26/61
	COURT HOUSE TOWSON 4, MARYLAND		
to the same	Moorrs. Smith & Harrison Sull Jofferson Dailding Touson by Nde	Zoning Department 113 County Office I Tokson b, Md.	Bldg.,
DEPOSIT TO AC	us 01e622		TOTAL AMOUN
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YO	UR REMITTANCE	COST
	Cost of appeal to County Board of Appeals 2 signs	\$70.00 10.00	180,00
	FAID—w	pang na Caroly (1911) — William of Pin	1882 -
	162561 641 8	• • « mi-	00.08
	8		Augs.

52.50

52.50

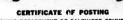
CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMOUS COUNTY Towson, Maryland

#5362

District15th	Date of Posting, Septs. 7, 1961
Posted for: Special Exception for Mobile Home	
Petitioner: T. Rernard & Martha L. Todd	
Location of property: S, E. Side Philadelphia	Road 1014 N. Potomac Ave. etc. See Plat
Location of Signs: One sign east side of Potomac east side of Potomac Ave. opposite Poplar Ave	
Remarks:	
Posted by	Date of return: S9Pt. 8, 1761
Zoning Commissioner of Baltimore County	

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland # 5362 Date of Posting. 7-1-6/ Posted for Special Escaption for Mobile Homes Call Petitioner J. Berryand & Marshack Josef Location of property J. 6, 5, of Miles W. 104 ft. Mf M. of Octomical artimule M. Su Vlad ; Location of Signs Ont. right. S. of Datemus level appoint Joses level. Constitut Light & S. of Jotamac level. appoint Daplan arems. Posted by Stunge B. James



	ZUNINU	DEPARTMENT OF BALTIN	TORE COURT	
		Towson, Maryland		#5362
District 15	to		Date of Posting	11-30-61
Posted for: Col	speal Heary	41111		
Petitioner: T	Bearing P	Il dilation	1.1046.1	nathel
Cottoniac	avenul	Held et al Madelphia A		0-10-
Location of Signs	One segu 3	eft my John	Widon ily	65 g Octomos
and and	au syn m	Reamy of Dour	www.ro	mises my
Remarks:	ange Mi H	ummend Dat	e of return:	12-1-6/

