

ROBERT F. EULER and ESTHER R. EULER Petitioners

BEFORE THE
ZONING COMMISSIONER FOR
BALTIMORE COUNTY

PETITION FOR RECLASSIFICATION
FROM AN R-10 ZONE TO A B-L
ZONE AND A SPECIAL EXCEPTION
FOR A GASOLINE SERVICE STATION.
S. S. RIDGELEY ROAD, BET. SECOND
AND KURTZ AVENUES - 8TH DISTRICT

ORDER FOR APPEAL

Please enter an appeal by the Petitioners in the above
entitled case to the county Board of Appeals from the Opinion
and order of the Zoning Commissioner dated January 19, 1962.

SMITH AND HARRISON
BY *Richard C. Murray*
Richard C. Murray
The Jefferson Building
Towson 4, Maryland
valley 3-6200

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BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Mr. John B. Rose, Zoning Commissioner Date: January 4, 1962

FROM: Mr. George E. Gervelle, Deputy Director

SUBJECT: 5458-8X. R-10 to B-L and Special Exception
For Gasoline Service Station. South side of
Ridgeley Road between Second and Kurtz Avenue.
Being property of Robert Euler.

8th District

HEARING: Wednesday, January 17, 1962 (2:00 P.M.)

Due to the exigencies of time the staff of the Office of Planning
and Zoning has an adverse comment to make with respect to the
subject petition. This will be clarified orally at the public
hearing. Attorneys are invited to discuss the matter with us
prior to the hearing.

08:00pm

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BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE

Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TO: Messrs. Smith & Harrison
The Jefferson Building
Towson 4, Maryland

BILLED BY: Zoning Department of
Baltimore County

DEPOSIT TO ACCOUNT NO. 01622

QUANTITY: 1

Advertising and posting of property for Robert Euler

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CERTIFICATE OF PUBLICATION

TOWSON, MD. December 23, 1961

THIS IS TO CERTIFY that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md. on December
23, 1961.

day of January, 1962, the first
publication appearing on the 23rd day of December,
1961.

THE JEFFERSONIAN,
Towson, Maryland

Cost of Advertisement, \$

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BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE

Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TO: Messrs. Smith & Harrison
The Jefferson Building
Towson 4, Maryland

BILLED BY: Office of Planning & Zoning
119 County Office Bldg.,
Towson 4, Md.

DEPOSIT TO ACCOUNT NO. 01622

QUANTITY: 1

Cost of appeal to County Board of Appeals

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BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE

Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TO: Messrs. Smith & Harrison
The Jefferson Building
Towson 4, Maryland

BILLED BY: Office of Planning & Zoning
119 County Office Bldg.,
Towson 4, Md.

DEPOSIT TO ACCOUNT NO. 01622

QUANTITY: 1

Cost of appeal to County Board of Appeals

70.00

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SHOPPING CENTER
PARKING AREA

TO YOURSELF

COMMERCIAL PROPERTY

RESIDENTIAL PROPERTY
B-2-102

ELECTION DISTRICT No. 8
AREA OF PROPERTY 1.077 ACRES
EXISTING USE: RESIDENTIAL
PROPOSED USE: SERVICE STATION
PRESENT ZONING: R-10
PROPOSED ZONING: BL

— 0 LIGHT STANDARDS & DIRECTION OF LIGHT

- ZONING MAP -

ATLANTIC REFINING CO.
KEYHIGHWAY & LAWRENCE STREET-BALTO, MD

MARYLAND SURVEYING AND ENGINEERING CO., INC.

200 NORTH CALVERT STREET
BALTIMORE 2, MARYLAND

Q204	1 L.M.	1767R	1956
CHK		DEC. 20 1956	
		FILE NO.	
		SCALE	1" = 20'

SCALE 100'

SCALE 100'

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, **Robert F. & Esther R. Euler** own of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an **R-10** zone to an **B-L** zone; for the following reasons:

Changes in the neighborhood since the original zoning

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for **gasoline service station**

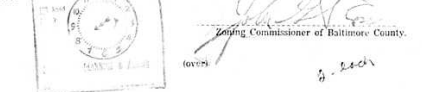
See attached description prepared by Maryland Surveying & Engineering Co., Inc.

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

Peter L. Peri
The Atlantic Refining Company, Agent
Address: _____

Richard C. Murray
Petitioner's Attorney
The Jefferson Building
Towson 4, Maryland
Address: _____

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 1962, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 1962, at 2:00 o'clock P.M.



ROBERT F. EULER and
ESTHER R. EULER, his wife
and
PETER L. PERI
and
THE SIBARCO CORPORATION
Appellants
v.
NATHAN H. KAUFMAN,
G. MITCHELL AUSTIN and
CHARLES STEINBOCK, JR.,
being and constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Appellees

PETITION

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Robert F. Euler and Esther R. Euler, his wife, Peter L. Peri and The Sibarco Corporation by Smith and Harrison and Richard C. Murray, its attorneys, respectfully represents:

(1) That the Petitioners, the Appellants, herein were applicants before the County Board of Appeals of Baltimore County in connection with their Petition for reclassification of their property situate, lying and being on the southwest corner of Ridgely and Kurtz Avenues in the 9th election district of Baltimore County from a "R-10" zone to a "B-L" zone, and a Special Exception for a gasoline service station, said application being known as No. 5458RX.

(2) That subsequent to the hearing on the aforementioned Petition before the said County Board of Appeals of Baltimore County, the said Board filed its written opinion and order, dated August 14, 1962, denying the requested reclassification from "R-10" to "B-L", and Special Exception for a gasoline service station, said order reading as follows: "For the reasons set forth in the foregoing

RE: PETITION FOR RE-CLASSIFICATION :
from an "R-10" zone to a "B-L" zone, :
and SPECIAL EXCEPTION for Gasoline :
Service Station - S/S Ridgely Road :
Bet. Second & Kurtz Avenues :
8th District :
Robert F. Euler et al - Petitioners :
BALTIMORE COUNTY :
No. 5458-RX

OPINION

This is a petition for reclassification from and "R-10" Zone to a "B-L" Zone, and a special exception for a gasoline service station on the south side of Ridgely Road and the west side of Kurtz Avenue in the Eighth District of Baltimore County.

The subject property faces the York Ridge Shopping Center which is located on the north side of Ridgely Road. The property, approximately 1.9 acres, forms a triangle; the point of the triangle being at the south side of Ridgely Road and the west side of Kurtz Avenue. To the east of Kurtz Avenue is a strip of land, the western boundary of this strip of land being Kurtz Avenue and the eastern boundary being Division Street. There are two substantially built houses located on this strip of land; the houses fronting on Kurtz Avenue.

Running to the east of Division Street to the western boundary of York Road, are a number of commercial uses fronting on either the south side of Ridgely Road or the west side of York Road. To the south of these existing commercial uses is a piece of property zoned "B-L" which runs from the west side of York Road in a westwardly direction to the east side of Division Street. Testimony to the effect that this property is contemplated for a large super-market.

To the south of the "Business Local" property, running from the west side of York Road to the east side of Division Street, is property occupied by a Baltimore County Public School and recreation areas used in connection with the school.

The petitioner testified that he had sold his property subject to reclassification and special exception for use as a gasoline service station. He further testified that properties to the south of the subject property are all residential. The petitioner purchased his home in 1950 and has lived there ever since. At the time the petitioner purchased his home, property now occupied by the York Ridge Shopping Center was in a residential classification. The York Ridge Shopping Center was zoned commercially at the time of the adoption of the Eighth District Land Use Map on November 4, 1955.

Mr. Bernard Willemain, an expert in the field of planning, testified that in his opinion the proper study was not given to the subject property at the time the Land Use Map was adopted, and that the map is in error.

-2-

Opinion, it is this 14th day of August, 1962, by the County Board of Appeals, ORDERED that the reclassification petitioned for, be and the same is hereby denied. Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of the Maryland Rules of Procedure, 1961 edition."

(3) Your Petitioners have filed their Order for Appeal within thirty (30) days of the Opinion and Order of said County Board of Appeals of Baltimore County, dated August 14, 1962, and are filing this petition within ten (10) days of the filing of their Order of Appeal, in accordance with the provisions of Rule 82a and 84a of the Maryland Rules of Procedure.

(4) That your Petitioners aver and allege that the action, decision, and order of the County Board of Appeals dated August 14, 1962, was erroneous, illegal, arbitrary, capricious, and wanting in sufficient legal justification, for the following reasons:

- That the same is against the evidence.
- That the same is against the weight of the evidence.
- That the facts as stated in the Opinion upon which the decision was based was not in accord with the evidence presented by the expert witnesses produced on behalf of your Petitioners at the hearing before said County Board of Appeals and as well as the evidence produced by the Director of Planning and Zoning of Baltimore County.

D. That there was abundant legally sufficient evidence of Board error in the original zoning placed upon the property of your Petitioners at the time of the adoption of the 9th district map on or about November 14, 1955 as well as abundant legally sufficient evidence showing changes in the immediate vicinity of the property of your Petitioners.

- 2 -

Additional testimony was presented showing that Charles Street Avenue will be extended and will connect with Ridgely Road. This will have the effect of placing the subject property on a major traffic artery.

It is the unanimous opinion of the Board of Appeals that this petition for reclassification should be denied. It seems quite evident that in adopting the Land Use Map, the County Commissioners were well aware of the need of guarding against commercial encroachment in the residential community of Lutherville. The York Ridge Shopping Center was a community need and was so recognized, and the need provided by the commercial zoning of this tract of land on the north side of Ridgely Road running in a westwardly direction from the York Road. The York Road frontage, running south from Ridgely Road to the area occupied by the Baltimore County school, was also given commercial zoning. The Board feels that Division Street is the proper western boundary for commercial zoning. To grant commercial zoning to the subject petition would be the opening wedge in the encroachment of commercial uses to the south, whereas at the present time we find only well built, well maintained residences, many of which have been located in this residential area of Lutherville for more than twenty-five years.

The petitioners' plea that the extension of Charles Street and its connecting with Ridgely Road would have an adverse effect on his property and should be considered in this petition, and has been given consideration by the Board. It is the Board's opinion that the widening of Charles Street and its connection with Ridgely Road only tends to strengthen the decision that this petition be denied. This major traffic artery tends to completely separate the commercial area to the north of Ridgely Road from the residential area to the south. To grant this reclassification would not only have a detrimental effect on the immediate property to the south of the subject property fronting on Kurtz Avenue, but would also practically destroy the residential value of the property between Kurtz Avenue and Division Street south of Ridgely Road. The Board of Appeals has always held that there is a presumption that the Land Use Maps are correct unless there are overwhelming facts that an error exists.

The Board is unanimous in its opinion that the County Commissioners gave proper consideration to the subject property and were correct in placing it in an "R-10" classification.

ORDER

For the reasons set forth in the foregoing Opinion, it is this _____ day of August, 1962 by the County Board of Appeals, ORDERED that the reclassification and special exception petitioned for, be and the same is hereby denied.

-3-

E. That the County Board of Appeals of Baltimore County misinterpreted the evidence and misapplied the law in reaching its decision, and the action taken, based upon said decision was clearly erroneous, and therefore illegal.

WHEREFORE, your Petitioners pray this Honorable Court:

- To reverse the aforesaid action, decision, and order of the Board of Appeals of Baltimore County dated August 14, 1962.
- To pass its order granting the reclassification of your Petitioners' property from a "R-10" zone to a "B-L" zone and to further grant a special exception for a gasoline service station.
- To grant such other and further relief as your Petitioners' case may require.

SMITH AND HARRISON

By Richard C. Murray
Attorneys for Petitioners

I HEREBY CERTIFY that on this _____ day of September, 1962, a copy of the foregoing Petition was mailed, by regular mail, to the County Board of Appeals of Baltimore County, County Office Building, Towson 4, Maryland.

By Richard C. Murray
Attorneys for Appellants

- 3 -

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Nathan H. Kaufman
CHAIRMAN

G. Mitchell Austin

ROBERT F. EULER and
ESTHER R. EULER, his wife
and
PETER L. PERI
and
THE SIBARCO CORPORATION
Appellants
v.
NATHAN H. KAUFMAN,
G. MITCHELL AUSTIN
and CHARLES STEINBOCK, JR.,
being and constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Appellees

ORDER FOR APPEAL

Mr. Clerk:

Please enter an appeal on behalf of the above Appellants to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals entered in said proceeding, being known and designated as Petition No. 5458 RX.

SMITH & HARRISON

By Richard C. Murray
Attorneys for Appellants

I hereby certify that copy of the within Order for Appeal was mailed this 17th day of September, 1962 to the County Board of Appeals, County Office Building, Towson 4, Maryland.

Richard C. Murray
Attorney for Appellants

*Rec'd 9/17/62
5458RX*

District 3 Date of Posting 7-5-62
 Posted for Official Business
 Petitioner James L. Miller et al
 Location of property at the intersection of Redgely Road and Forty Avenue
 Location of Signs at the southwest corner of Redgely Road and
Forty Avenue
 Remarks _____
 Posted by George J. Hummel Date of return 7-6-62

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of.....

the above Reclassification should be had; and it further appearing that by reason of.....

a Special Exception for a..... should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this.....

day of....., 196....., that the herein described property or area should be and

the same is hereby reclassified; from a..... zone to a.....

zone, and/or a Special Exception for a..... should be and the same is

granted, from and after the date of this order.

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of..... there has been no change in the area to warrant the requested reclassification and the map not being in error.

therefore reclassification should not be had; and it further appearing that by reason of..... the above Reclassification should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this..... day

of....., 196....., that the above reclassification be and the same is hereby

DENIED and that the above described property or area be and the same is hereby continued as and

to remain a..... zone, and/or a Special Exception for a.....

be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

ROBERT F. EULER and
ESTHER R. EULER, his wife
and
PETER L. PERI
and
THE SIBARCO CORPORATION
Appellants
vs.
NATHAN H. KAUFMAN,
G. MITCHELL AUSTIN and
CHARLES STEINBOCK, JR.,
being and constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Appellees

ANSWER TO ORDER OF APPEAL TO CIRCUIT
COURT FOR BALTIMORE COUNTY AND
CERTIFIED COPIES OF PROCEEDINGS BEFORE
THE ZONING COMMISSIONER AND BOARD
OF APPEALS OF BALTIMORE COUNTY

MR. CLERK:

Please file, & c.

Edith T. Eisenhart
Secretary to County Board of Appeals
of Baltimore County

ROBERT F. EULER and
ESTHER R. EULER, his wife
and
PETER L. PERI
and
THE SIBARCO CORPORATION
Appellants
vs.
NATHAN H. KAUFMAN,
G. MITCHELL AUSTIN and
CHARLES STEINBOCK, JR.,
being and constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Appellees

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 1101-8 (4) of the Maryland Rules of
Procedure, Nathan H. Kaufman, G. Mitchell Austin, and Charles Steinbock, Jr.,
constituting the County Board of Appeals of Baltimore County has given notice by mail
of the filing of the Appeal to the representative of every party to the proceeding before
it; namely, Richard C. Murray, Esq., The Jefferson Building, Towson 4, Maryland,
Attorney for the Petitioner, and W. Giles Parker, Esq., 717 Title Building, Baltimore 2,
Maryland, Attorney for the Appellants, and Edward C. Mackie, Esq., 605 Title Building, Baltimore 2, Maryland, and
N. Barton Benson, Jr., Esq., 1011 Mercantile Trust Building, Baltimore 2, Maryland,
Attorneys for the Protestants, a copy of which notice is attached hereto and prayed that
it may be made a part thereof.

Assistant Solicitor - County Office Building
Towson 4, Maryland - VS-3-3000, Ext. 346

I hereby certify that a copy of the foregoing Certificate of Notice has
been mailed to Richard C. Murray, Esq., The Jefferson Building, Towson 4, Maryland,
Attorney for the Petitioner, and W. Giles Parker, Esq., 717 Title Building, Baltimore 2,
Maryland, Attorney for the Appellants, and Edward C. Mackie, Esq., 605 Title Building, Baltimore 2, Maryland, and
N. Barton Benson, Jr., Esq., 1011 Mercantile Trust Building, Baltimore 2, Maryland,
Attorneys for the Protestants, on this 24th day of September, 1962.

Assistant Solicitor

XXXXXXXXXXXX
494-3180

April 7, 1970

Richard C. Murray, Esq.
Loyola Federal Building
Towson, Md. 21204

Re: Zoning File No. 5458-XX, Petition for
reclassification from R-10 to B-1, and
special exception for a Gasoline Service
Station - SW corner Ridgely Road and
Kurtz Avenue, 8th District
Robert F. Euler, et al, Petitioners

Dear Mr. Murray:

The petition on the above entitled case was denied by the
Board of Appeals on August 16, 1962, and an appeal was taken by you to the
Circuit Court for Baltimore County. There is an entry on the Court Docket,
dated July 24, 1963, as follows:

"Petition and Order of Court entering the case as to
THE SIBARCO CORP. only dismissed, nunc pro tunc as
of September 4, 1963."

We would appreciate it if you would advise us the present
status of this case.

Very truly yours,

Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

RCM:G
10-2-62
#82997

ROBERT F. EULER and
ESTHER R. EULER, his wife
and
PETER L. PERI
and
THE SIBARCO CORPORATION
Appellants
vs.
NATHAN H. KAUFMAN
G. MITCHELL AUSTIN and
CHARLES STEINBOCK, JR.,
being and constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Appellees

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 1101 I, of the
Maryland Rules of Procedure, William H. Carroll, Millard Cursey
and Richard Ross, three of the protestants and appellees herein,
through their counsel, W. Giles Parker and Edward C. Mackie, have
served upon counsel for the Appellants and the Assistant Solicitor,
as counsel for the County Board of Appeals, a copy of this Notice
and a copy of the appended Entry of Appearance, which is prayed to
be made a part of the record in this case.

W. Giles Parker
717 Title Building, Baltimore-2, Md.
Saratoga 7-4034

Edward C. Mackie
605 Title Building, Baltimore-2, Md.
Saratoga 7-2443

Attorneys for Appellees

I hereby certify copy of the foregoing Notice and Entry of
Appearance referred to therein was mailed postage prepaid this
24th day of October, 1962, to Richard C. Murray, Esq., The
Jefferson Building, Towson-4, Attorney for the Appellants, and to
the County Solicitors Office, County Office Bldg., Towson-4, Md.

Edith T. Eisenhart
County Board of Appeals

August 16, 1962

Eugene G. Elcks, Esq.
Smith & Harrison
The Jefferson Building
Towson 4, Maryland

Re: Petition for reclassification from an
R-10 Zone to a "B-1" Zone, and
special exception for Gasoline
Service Station
5/5 Ridgely Road & Kurtz Avenue
8th District
Robert F. Euler et al - Petitioners

Dear Mr. Elcks:

Attached is copy of Opinion and Order passed by the Board of
Appeals today in the above matter.

Yours very truly,

Secretary

cc: W. Giles Parker, Esq.
Edward C. Mackie, Esq.
N. Barton Benson, Jr., Esq.
Mr. J. O. Ziegfeld
Planning & Zoning

ROBERT F. EULER and
ESTHER R. EULER, his wife
and
PETER L. PERI
and
THE SIBARCO CORPORATION
Appellants
vs.
NATHAN H. KAUFMAN
G. MITCHELL AUSTIN and
CHARLES STEINBOCK, JR.,
being and constituting the
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Appellees

ENTRY OF APPEARANCE

MR. CLERK:

Please note the appearance of W. Giles Parker, Esq. and
Edward C. Mackie, Esq. for William H. Carroll, Millard Cursey,
and Richard Ross, additional appellees in the above case.

W. Giles Parker

Edward C. Mackie

I hereby certify copy of above Entry of Appearance was this
24th day of October, 1962 mailed to Richard C. Murray, Esq., The
Jefferson Bldg., Towson-4, Md., attorney for the Appellants, and to
the County Solicitor's Office, County Office Bldg., Towson-4, Md.

Edith T. Eisenhart
County Board of Appeals

ROBERT F. EULER, ET AL NO. 5458-RX

SW/corner Ridgely Road & Kurtz Avenue - 8th District

Reclassification from R-10 to B-1
Special Exception for Gasoline Service Station

Denied by Zoning Commissioner January 19, 1962
Appealed to Board February 2, 1962
Denied by the Board August 16, 1962
Appealed to Circuit Court September 17, 1962
Petition and Order of Court entering
the case as to THE SIBARCO CORP.
only dismissed, nunc pro tunc as of
September 4, 1963 July 24, 1963
Dismissed by the Circuit Court for
want of prosecution without prejudice
(from Court Docket) April 13, 1976

DENIED

MAY 11 1976