PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

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and Special Permit for Off-Street Parking in R-6 Zone

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or partical difficulty)

See Attached Description

Property is to be posted and advertised as prescribed by Zoning Regulations.

I. or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this tion, and further agree to and are to be bound by the zoning regulations and restrictions of immer County adopted pursuant to the Zoning Law For Byltimore County.

Mare J Jakowsky Legal Owner

Contract purchaser

Address James B. E. Guman

6903 Danmanway, Balto, 22, Md.

Protestant's Attorney Petitioner's Attorney

ORDERED By The Zoning Commissioner of Baltimore County, this 8th day

., that the subject matter of this petition be advertised, as County, in two newspapers of general circulation through-sted, and that the public hearing be had before the Zoning County, that preperty be poste of <u>Baltimore</u> Coun**S**2n Room

MATHAN J. KAUFMAN, etc.

06 at 9:30 o'clock July

5613

MARIE J. JAKONSKI OFFICE OF LAW POR BALTIMONE COUNTY 1 MISC, DOCKET No. 7 Folio 262 Case No. 2773

> OPINION

The Petitiemer operates a small neighborhood tavern. He desired to use a portion of his property as an outdoor beer garden to the summer mouths. He applied for and was granted a building permit to erect a cinder block wall h feet 9 inches high on three sides of the area he proposed to so use. After he had partially consuranted this wall, at considerable expense, the County revoked the permit, apparently because its use for this purpose would make it ispossible for the Petitioner to comply with the requirements for off street parking although it is not clear whether or not he was previously complying there-

The Putitioner then filed a petition for an exception to allow him to conduct his business with less parking spaces than the regulations require and to possit parking on an adjoining property somed R-6 which he claimed to have an

The Board considered the first of these applications under Section 307 of the Louing Regulations although it is clear that it should have been considered, as to the parking, under Section k09.5.

It is not clear that the Board actually made any decision with respect to the application to permit parking in the R-6 Zone.

At the end of the Petitioner's case the Board announced tion was refused without hearing from the Protestants who apparently were present and prepared to voice their objections. This action of the Soard leaves the Re eerd in a rather unsatisfactory state since the Court has no way of determining what the objections might be.

This action of the Board is quite similar to a ruling on a Motion to Dismiss at the close of the Potitioner's case. Judge Turnbull recently relad, and this Court agrees, that the Board has to power to proceed in this manner to

RE: PETITION FOR VARIANCE of the Zoning Regulation 600 South 46th Street rie I. lakowski. Petitione

BEFORE COUNTY BOARD OF APPEALS OF

BALTIMORE COUNTY No. 5613-V

1 1 1 1 1 1 1 1 1 1 1 1 1 1 OPINION

The Board originally held a hearing on May 9, 1963 on the petition of Marie J. Jakowski for a Variance to Section 409.2, Section B-3 of the Zoning Regulations of Baltimore County on property located at 46th Street and Fait Avenue in the 12th District of Baltimore County. After hearing the petitioners case, the Board unani mously denied the variance whereupon the petitioner filed an appeal in the Circuit Court for Baltimore County. The Court remanded the case to the Board of Appeals for the purpose of considering the petitioner's application to permit parking in the "R-6" Zone under Section 409.5 of the Zoning Regulations and also to hear testimony of

A subsequent hearing was held by the Board on November 14, 1963. At this hearing four residents in the immediate vicinity stated their objections to the granting of the variance and to the use of "R-6" property for parking.

After hearing the additional testimony in this case, the Board is of the opinion that the variance should be denied, and that the application to permit parking in the "R-6" Zone should also be denied.

Section 307 of the Zoning Regulations plainly states that variances could be granted where strict compliance with the Zoning Regulations of Baltimore County would result in practical difficulty or unreasonable hardship. Section 409.5 of the Zoning Regulations provide for a modified plan for parking spaces where the requirements of Section 409 would create an undue hardship. The Board is of the opinion that the petitioner has failed to prove any undue hardship. In the instant case, it is the opinion of the Board that it is the petitioner's desire to enlarge his business operation through the granting of this variance which would enable him to use additionally zoned "B-L" property for business purposes, and allow him to provide necessary parking spaces in a residential area. We do not feel that such an instance as this falls in the category of practical difficulty or unreasonable hardship. Furthermore, the Board is of the opinion that the granting of this petition would cause substantial injury to the general welfare. The Board is of the opinion that this variance and the application for parking in a residential zone should be denied.

should hear the entire case so that in the event of apprais to this four, or the

For the reasons stated the case is remanded to the Beard of Appeals

Geo Bury

Goart of Appeals the entire situation will be presented.

for further proceedings in accordance with this Opinion.

Oatober 3, 1963

ORDER

For the reasons set forth in the aforegoing Opinion, it is this day of January, 1964 by the County Board of Appeals, ORDERED that the variance and parking permit petitioned for, be and the same are hereby denied

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

COUNTY ROARD OF APPEALS

Nathan Ntangham

Note: Mr. Austin did not sit at this hearing

MARIE J. JAKOWSKI Appellant

IN THE CIRCUIT COURT

ORDER OF APPEAL

MR. CLEUK

Please enter an Appeal on behalf of the above Appellant to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals entered in said proceeding and being known an lescribed as Potition #5613.V

George D. Edwards

I HERREY CERTIFY, that a copy of the aforegoing Order of Appeal ras served on the County Board of Appeals, this 2/ day of May, 1963, by mailing mane addressed to it at the County Office Building, Towner

George D. Edwards

The Jakowskis' subsequently acquired two lots adjacent to the tavern were also zoned B.L. In 1962, a permit was approved by the Building Inspector and the office of Planning and Zoning for Baltimore County for fencing in and enclosing a parking lot and number beer garden Construction on the wall was begun, but upon receipt of a complaint and the subsequent investigation by the Zoning Commission, the permit was celled on April 27, 1962. It was disclosed that utilization of the said permit would do away with a substantial assunt of needed parking for the existing tavern building under County Zoning Regulations. Section 409.2, b(3) of the Baltimore County Zoning Regulations require one parking space for each fifty square feet of total floor area in a

square fact of area contained within the existing typern building. This ent is one that admittedly has never been complied with by the Petitioner. Now the Petitioner seeks to construct a summer beer garden adjacent lot sound B.L. necessitating at least another thirty or more parking spaces which could not be provided if the summer beer garden is completed. The Variance was, therefore, sought to reduce the required number of parking spaces from sixty four to thirty four. Granting a

Testinony by the Protestants, who live close by the tavern ed that in the main this is a griet residential neighborhood with

permit for parking on an adjoining residential lot Zoned R. 6 on which

Petitioner claims to hold an option, would still fall short of providing

dance hall, night club or restaurant. It is not disputed that the

tavern is included in this estegory. Swidence shows that some thirty

four parking spaces are required for the approximately fifteen hundred

MARIE J. JAKOWSKI

CIRCUIT COURT POR BALTIMORE COUNTY #2773 Misc. 7 F. 262

OPINION

This is the second time that this case comes before the Circuit Court for Baltimore County. It was remanded to the County Board of Appeals on October 3, 1963, by Judge Berry because the Board had refused to grant the Petition at the close of the Petitioner's case without hearing from the Protestants, who were present and prepared to voice their objections. In addition, the Board had failed to make any decision with respect to the application to permit parking in the R.S Zone, and Judge Berry ruled that the County Board of Appeals must hear the entire case, so that in the event of subsequent Appeal to this Court or the Court of Appeals, the entire situation would be presented.

There was compliance with this Order by a Hearing before the Board of Appeals on November 14, 1963. In its decision dated January 4, 1964, the Board unanimously denied Petitioner's request for and also denied the application to permit parking in the R.6 The present Appeal to this Court followed.

The facts indicate that Mrs. Jakowski, Petitioner herein, and her husband have operated a tavern at the corner of 46th Street and Pait Avenue, in Baltimore County, for several years. Originally the applicable roning was that of a non-conforming use, but later in 1961, this was changed to a B.L. Zone, making the tavern a permitted use

a

The tavern business, there since the Jak esidents have tay to contend with frequent disturbe result of the patrons' rowdy behavior. The Board felt that granting of a Variance under such circumstances would only aggrevate in already undesirable situation and cause substantial injury to the general welfare.

In Zoning 1 M, a Variance is a device used to provide relief to a property owner who might otherwise be unjustly denied any reas or practical use of his property. But such is not the case here. If there be any hardship here, it would appear to be of the applicant's own doing, since the Variance sought is from that with which the Petitioner has never complied. The application for a Variance in the instant case is merely a device to enlarge the present business operation, while at the same time dispensing with any applicable statutory parking requirement If there be any hardship, we feel it has been created by the Petitioner alons, and for that reason the decision of the Board of Appeals for Baltimore County in Affirmed.

June 24. 1964

E. Scott Moore, Esq., James D. Nolan, Esq. John W. Maguire, Esq. Alfred L. Brennan, Esq.

Miss Edith T. Eisenhant, Sect'y.

Balthore County and known as the northermost 86 feet of lots \$52\$ and 53 on the plat of Harbor Mounty and known as the northermost 86 feet of lots \$52\$ and 53 on the plat of Harbor May, recorded mang the plat records of Balthore County in Plat Book W.P.C. 5, follo 80 and the southermost \$77\$ and no com-bundredth fost of lots 157, 505,15,28 and 53, ane above on maid plot. Said southermost \$7\$ feet, Being known as 600 south Light Street.

Concerning all that parcel of land in the Twelfth District of Baltimers County and being known as Lote #54,55 and 56 as shown on the plat of Winber Ylus and recorded among the Flat Records of Baltimers County in Plat Bock W.F.C. 5, folic 80,

Being property of Marie J. Jakowski, as shown on plat plan filed with the Zoning Department.

RE: PETITION FOR VARIANCE to Section 409.2 - b-3 of the Zoning Regulations 12th District Marie J. Jakowski, Petitioner

COUNTY BOARD OF APPEALS OF

> BALTIMORE COUNTY No. 5613-V

1 1 1 1 1 1 1 1 1 1 1 1 1 OPINION

The Board held a hearing on May 9, 1963 on the petition of Marie J. Jakowski for a Variance to Section 409.2, Section b-3 of the Zoning Regulations of Baltimore County, on property located at 46th Street and Fait Avenue in the 12th District of Baltimore County

After hearing the petitioners case and their reasons for requesting the Variance, it is the unanimous opinion of the Board that the Variance should be denied. Section 307 of the Zoning Regulations is very plain in stating that Variances could be granted where strict compliance with the Zoning Regulations of Baltimore County would result in practical difficulty or unreasonable hardship. In the instant case it is the opinion of the Board that it is the petitioner's desire to enlarge his business operation through the granting of this Variance which would enable him to use additionally zoned "B-L" property for business purposes, and allow him to produce necessary parking in a residential area. We do not feel that such an instance as this falls in the category of practical difficulty or unreasonable hardship. The Board is of the opinion that this Variance should be denied.

ORDER

For the reasons set forth in the aforegoing Opinion, it is this // day of May, 1963 by the County Board of Appeals, ORDERED that the Variance petitioned for, be and the same is hereby denied.

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

Note: Mr. Austin did not sit at this hearing.

CERTIFICATE OF POSTING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland #56/3
District 12 th Deverage Of Street Parking 6-2862
District 12 th James Off Street Parling to 2862 Posted for Joseph Extended Street Parling to Manual Petitioner March Jallowskie Street Parling to Manual Location of property Frankris 400 Santh 446 that, elected Startle
Location of Signs Ball agus parted an groupedy become bac
Remarks: Posted by M. 194 M. Mariner Date of return: 6-29-6-

BALTIMORE COUNTY, MARY AND OFFICE OF FINANCE

No. 12842 DATE 6/8/62

BILLED Zoning Department of

DEPOSIT TO A	CCOUNT NO. 01622	TO\$25.00UNT
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE	COST
*	Petition for a Variance for Marie Jakowski	25.00 _
	PAGE - Extraction and Charlestons	
	61-862 5852 0 0 0 FIL-	5.00
	8	

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. RE: PETITION FOR VARIANCE TO SEC. 409.2 -b-3 of the Zoning Regulations - 600 S. 46th St., Mario J. Jakowski, Petitioner

BETCHE

ZONING COMISSIONER

Œ BALTIMORE COUNTY

No. 5613-V

..............

The potitioner has requested a variance to the Zening Regulations of Haltimer Country practiting 34 parking spaces instead of the required 67 parking spaces on property located at 600 south 16th Street, in the Twelfth District of Baltimore Country, said property belonging to Earle Jakowski, and also permission to park cars on a rediential lot 75'x 125' south of the present conservial area. James J. Jakowski operates a tworm on the property. The Coemissions: has to consider the promoting of health, a sfety, socials and thegeneral welfare of the community.

In considering the patitions's request notice must be taken of the history of this particular property. Complains of various north have been received since 1500. On February 28, 1961, the Zoning Commissions' denied the commercial zoning for this property because the property in question had already been over-built. This decision was reversed by the County Board of Appeals on November 2, 1961.

Building Parait No. 13725 was approved by the Building Inspector and the Office of Planting and Coning for funcing in and onclosing a pricing lot and a summer parties. A complaint was received by the Zoning for funcion disclosed that utilization of said permit venual co way with a substantial amount of mode parking for the existing at warm tultimization and and permit when the content of the content of

Testimony indicated that the conjuct of the patrons of the tavern was avereious and that the neighborhood suffered greatly because of the various disturbances caused by the tavern. To permit such beisterous activities on an adjoining residential lot to be used for parking would create an intelerable situation in the neighborhood.

Considering how the petitioner conducts his business it is randatory that the parking in the residential area be denied. The tawern is now operating without any parking and the space now available is not being utilized properly. A plan submitted with pornit No. 13725 dones parking and screening. None of this has been accomplished.

The petitioner has created his own hardship and, therefores, his request for variance is donied.

Date: July 23, 1962

BALTMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Mr. John G. Rose, Zoning Commissioner Date July 6, 1962

Mr. George E. Gavrelis, Deputy Director

of the required 67 spaces and a Special Permit for Off-Street Parking in a Residential Zone. 600 South Loth Street. Being property of Harie Jakowski.

12th District

HEARING: Wednesday, July 18, 3' '2 (9:30 A.H.)

The staff of the Office of Flavning and Soning has reviewed the subject petition for a Fartance on parting together with a use pornth fore parting in a residential some. That he following advisory coments to make with respect to pertinent planning factors:

- 1. The two requests are inter-related in that the exact prayer of the variance is dependent not only on the shillty of the petitioner to secure the use pentil, but also to attain the second of the petitioner's site plan indicates that one parking space must be lost on that portion of the petition now somed for residential purposes. This is necessary in order to provide proper turn around facilities for vehicles in the perking area. At the same thes screening or lighting has not been indicated, as suntited the side plan is not assistantopy.
- Similarly, parking in that portion of the property moned for connectal purposes is shown (9 spaces), but the 5 spaces at the corner of left Street and Tath Avenue are not good ones in terms of manuscring cars into and out of the parking stylls





July 24, 1962

Zoning Commissioner County Office Building Towson 4, Maryland

RE: Petition for Variance to Sec. 409.2, b-3, of the Zening Regulations-600 South 46th St., 12th District, Marie J. Jakowski, Petitioner, No. 5813-V

Please enter an Appeal on behalf of Mr le J. Jakowski,

owner, from the decision rendered by you on July 23, 1962.

Very truly yours,

George D. Edune George D. Edwards

TELEPHONE

BALTIMORE COUNTY, MARYAND OFFICE OF FINANCE Division of Collection and Receipt COURT HOUSE TOWSON 4, MARYLAND

DATE 6/24/63

No. 17415

DEPOSIT TO	CCOUNT NO. 01.712	TOTAL 2".00"
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE	COST
-	Cost of Cartified Documents for - No. 5613-V Marie J. Jakowski 600 South 46th Street 12th District	\$6.00
	PAID Bullimore County, Mrs Origo of Fausce	
	6-2463 519 e a e 1115	6.00
	3	

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

AND A SPECIAL HEARING POR OFF STREET PARKING, JUNE DISTRICT.
ZONING: Petition for a Variance do its Zoning Registation of Railment Courty to permit 34 packing spaces instead of the required 87 papers, and a Special Courty of the Property of the Period State of the Pe
The Tanker Inspiritual to be contented as well as the content of t
By Order of JOHN G. ROSE Zening Commissioner of Baltimore County

CERTIFICATE OF PUBLICATION

5613

TOWSON, MD.......June 29, 1962

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of____3 ___successive weeks before the 18th day of ______, 19.62_, the ffff publication appearing on the 29th day of June 19 62

> THE JEFFERSONIAN, Frank Strutter

The Community Press PETITION FOR A ZONING VABLANCE AND A JUPICIAL HEARING FOR OUT STREET ZONING. Petition for a Variance to the Zoning Regulations of Balimore County to permit you will be a second of Salimore County to permit you will be a permit of Spaces; and a Spaces and a Spaces and a Spaces for Off Street Parking in a Residential Zone Street Town. 60 South 46th Street Town. 60 South 46th DUNDALK, MD., June 27 THIS IS TO CERTIFY, that the annexed advertisement of narie Jakowski was inserted in THE COMMUNITY PRESS, a weekly newspaper published in Baltimore County, Maryland, once a week Street A TIME WEDNES. DAY, JULY 18, 1962 at 9:30 A.M. PUBLIC HEARING ROOM successive weeks before the PUBLIC HEARING ROOM 108, County Office Building, 111 W. Chesapeake Avenue, Twa-son, Maryland Regulations to be excepted as follows: Section 409.2: (b)-3. 1 for each 50 square feet of total floor area. The Zoning Commissioner of 26 day of the same was inserted in the issues of The Zoning Commissioner of Baltimere Country, by authority of the Zoning Act and Replations of Baltimere Country, will be a considerate the Commission of Commission of Commission of Commission Country and Known as the north-country and Country in Country ESTATE OF P. G. STROMBERG. Stromberg Publisher. the southernmost 37 and no onehundredths feet of Lots No. 49, 50, 51, 52 and 53 as shown on 50, 51, 52 and 53 as shown on said plat. Said southermost 37 feet being known as 600 South 46th Street. Parcel No. 2 — Concerning all that parcel of land in the Twelfth District of Baltimore Twelfth District of Baltimere County and being known as Lota No. 54, 55 and 56 as shown on the Plat of Harbor View and recorded among the plat records of Baltimore County in Plat Book W.P.C. 5 felio 80. Being the property of M rie J. Jakowski, as shown on plet plan filed with the Zoning Department.
BY ORDER OF
JOHN G. ROSE
ZONING
COMMISSIONER OF
BALTIMORE COUNT

5613

19 6 2: that is to say.

6-27-62

TELEPHONE BALTIMORE COUNTY, MARYLAND No. 12967 OFFICE OF FINANCE Division of Collection and Receipts DATE 8/6/62 COURT HOUSE TOWSON 4, MARYLAND George D. Edwards, Esq., BILLED Office of Planning & Zoning 119 County Office Bldges Touson by No. DEPOSIT TO ACCOUNT NO. 01.622 TOTAL AMOUNT QUANTITY I DATACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE Cost of supeal to County Board of Accounts \$35.00 No. 5613-V IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND MAIL TODIVISION OF COLLECTION & RECEIP

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland District /2 74. Date of Posting APRIL-24-63 Posted for HEARING THURSDAY MAY 9-63 AT 1:30 pm. Petitioner: MARIE J JAKOWSKI Location of property: 600 South 46 T4 ST. Location of Signs: () FACTING 46 13 ST BETWOON The BAR. The 2 DOOR GARCE + 10 FT FROM THE CURL SIGN CON Remain Be Seen on 46057 only) Posted by Robert La Bul

BALTIMORE COUNTY, MARY AND OFFICE OF FINANCE DATE 7/18/62 Division of Collection and Receipts COURT HOUSE TOWSON 4, MARYLAND Zoning Progressent of Baltimore County TOTAL MOUN 01622 DEPOSIT TO ACCOUNT NO. DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE COST QUANTITY 33.60 Advertising and posting of property for Marie Jakowski 7-18-22 7-638 * * * TIL-3.60

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.

No. 12940

