SH to confirm and allow petitioners' use of a portion of such property as a small warehouse, above gound storage in accordance with Section 253,4 of the Zoning Regulations and pertinent structures Granted by Zoning Commissioner Appealed to Board of Appeals Hearing before Board of Appeals (also case No. 63-80-SPH) Order of Board covering both cases:

No. 64-96-SPH

13th District

Crost or opens covering som owner.

"ROBERED that his special oxception presently in existence on
the subject property be modified to eliminate from the said
special exception the nere described by meter and bounds in the
ottoched document hoosted "DESCRIPTION OF AREA FOR WHICH
MODIFICATION OF SPECIAL EXCEPTION APPLICABLE" and
s shown on the plot attached hereto."

Appealed to Circuit Court (PAPERS NOT FILED) Motion to Dismiss Appeal granted by Judge Raine Jan. 13, 1965

GRANTED

William T. Biermann and Florence C. Biermann

May 15 Aug. 18,

Oct 29

SE/S Southwestern Blvd. 386.32' N. of Knecht Ave.

STT ASSO. INC. 1 IN THE RIDGEWOOD IMPROVEMENT 108 E. Centre Street Ealtimore 2, Maryland CTRCUTT COURT BALTIMORE COUNTY CHARLES WORDEXTHE 4405 Rillside Avenue Ealtimore 29, Marylan COUNTY BOARD OF APPEALS
William Faldwin
Giles Parker
Mitchell Austin
County Office Building
Townon 4, Waryland TILE NO.

APPEAL FROM COUNTY BOARD OF APPEALS

Mr. Clerks

Please enter an appeal from the decision of the County Board of Appeals, dated the 29th day of Ostober, 1964, rendered in the matter of Patitions 63-808FH and 64-968FH. Patition by William T. Biermann, et al SE/S Southwestern Bouleward, 366. 32' North of Knecht Avenue, Thirteenth District of Baltimore County.

WONNEMAN, STYLES & 11 THEREY

Lebuhashy.

by Albert W. Styles

Attorney for Appellants

and

IN THE CIRCUIT COURT

FOR

ANSWER TO MOTION TO DISHUSS AND ORDER WISE

TO THE HONORABLE THE JUDGE OF SAID COURT

CHARLES WOBBEKING

Ridgewood Improvement Association, Inc., and Charles Wobbeking, by Styles & HoConkey respectfully shows:

1. That notice of the decision of the Board of Zoning was not received by this office until October 30, 1964 and that the time of filing counts from the date of receipt of decision ( Rule B-4 A)

2. That the appeal was timely received by the Clerk of Circuit Court for Baltimore County and should have been docket even the advance cost had not been remitted (Rule R-2 4)

3. For other reason to be assigned at hearing on this matter.

That this the appeal not be dismissed

AND AS IN DUTY BOUND, etc.

WONNEMAN, STYLES & McConkey

ATTORNEYS AT LAW 108 EAST CENTRE STREET BALTIMORE 2, MD.

RE: Aumes1 - Pet. #64-96 SIM

Very truly yours,

alleddy

COUNSEL FOR PROTESTAINTS

WONNEHAM, STYLES & MCCOUNTY

Flease enter as appeal from your decision of April 16, 1964 to the Zoning Fourd of Appeals in the above matter.

We enclose our check No. 2769 in the amount of Thirty-Five Dollars (835.00) to cover the cost of the appeal.

Mr. John Rose Zoning Commission of Paltimore County Court Office Emilding Towson, Maryland, 21204

CC: W. Lee Thomas, Esq. Campbell Building, Towson, Md., 21204

13 May 1964

Attorney for Appellants

I HEREBY CERTIFY that a copy of the foregoing AMSWER to HOTION to DISMISS AND ORDER NISE was mailed to W. Lee Thomas, Esq., Campbell Building, Towson, Maryland (21204), this 9th day of December, 1964.

May 15 KA M

WONNEMAN, STYLES & MCCONKEY ATTORNEYS AT LAW 108 EAST CHIER STREET BAITMORE 2, Mo.

County Foard of Appeals County Office Fullding 111 W. Chesapeake Avenue Towson, Maryland 21204

Patition for Special Hearing-SE/S Southwester Fouleward, 386.32° V. Knecht Ave., 13th Dist. Hillin T. Eiermann, et al. Fatitioners Vo. 6-20-SFH and Vo. 6/2-6-SFH

Attention: Edith T. Eisenhart

Gentlemen:

As per your request of December 11, 1964, we enclose serewith one Order for Appeal in the above matter, and also one opposition for the Motion to Dismiss.

Very truly yours. WOMMERAN, STYLES A-Megonikey altertestifs Albert W. Styles

WONNEMAN, STYLES & McCONKEY

January 19, 1965

County Board of Appeals, County Office Building, 112 West Chesapeako Aver Towson 4, Maryland

Attention: Edith T. Eisenhert.

Ridgewood Improvement Association, Inc., et al vs. Charles Welteking vs. County Found of Appeals Misc. Docket No. 7 Folio No. 426

You are edvised that the "Votion To Dismiss" filed in the above matter by W. Lee Tommes, fitterney for Protestants, was greated by order of Judge John Binke, on January 13, 1965. Consequently, it will not be necessary to file and record with the Circuit Court in this matter.

It will be appreciated if you will return our check deposited with you to cover cost.

Thank you.

Very truly yours, WONTERAN, STYLES & RECONKEY leeke tools

AWS/ez

Albert W. Styles Ostermed checks 1-20.65

CERTIFICATE OF POSTING G DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland District 13 TH APPEAL

Date of Posting June 4 1964

64-96-SPH

No. 23262

DATE 5/20/64

\$5.00

Posted for: Petitioner William T. Burmann, et al Location of property 5 5/3 SOUTH MESTERN BIVE 356 32 Nof Knecht Grz.

Location of Signas FRONT of 4305 Society STER Blad

Remarks: S. Joane
Signature

June 4,1964

1 sign

TELEPHONE 823-3000

BALTMORE COUNTY, MACYLAND OFFICE OF FINANCE

Division of Collection and Receipt COURT HOUSE TOWSON 4. MARYLAND

Office of Planning & Zoning 119 County Office Mdg., Torson h, M.

TOTAL AMOUNT No. 66-96-SPH

PAID-1- None Sand Services 2-2164 4237 . 23262- TIP-

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

FEB 27 '64

In the Hatter of

For a Special Meaning

Petition of

As per attacked

PETITONON FOR A SPECIAL HEARING

11:11:11:11:1

hereby petition for a Special Hearing, under the Zoning Law and

Regulations of Faltimore County, to determine whether or not the

Zening Commiss: ser of Baltimore County should approve an application

To the Zoring Commissioner of Baltimore County

Petitioner

for a building permit to \_\_\_\_\_

Location of property:

BE ORK T.E

20MING CONCUSTIONER

OF BALLINGS, COUNTY

## PETITION FOR SPECIAL HEARING

THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

We, William T. Biermann and Florence C. Biermann, legal of the property situate in Baltimore County which is desibed in the description and outlined on the plat attached hereto an'l made a part hereof, hereby petition for a special hearing to confirm and allow Petitioners' use of a portion of such property as a small warehouse, above ground storage in accordance with Section 253.4 of the Baltimore County Zoning Regulations, and pertinent structures.

The Petitioners represent that #11 of such real property is in a Manufacturing-Light zoning classification; that on Sovember 14, 1949, a Special Exception for a gasoline filling station was granted as to such real property, and that a portion of such real property is still so used for gasoline filling station use.

The Petitioners further represent that they intend to continue such filling station on a portion of the tract of such real property and to utilize the remainder of such real property for the above ground storage of fuel oil, as allowed by Section 253.4 of the Baltimore County Zoning Regulations, small warehouse use, and pertinent structures.

We agree to pay all of the expenses of the above special hearing, upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltiere County adopted pursuant to the Zoning Law for Baltimore County

W.Lee Thomas, Attorney for Petitioners Campbell Building

Florence C. Biermann Logal Owners

# 464-96-371 CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

District13th	Date of PostingMarah 16, 1964
Posted for Residing for Special Mearing to	acofier and allow Patisioners'
Petitioner: A112.1 cm. f. Bie room	
Location of property: 58/8 Southwestern Blvd.	396.381 N.of. Frecht. Ave
Location of Signar SE/S. Southwarstern Blvd 3	SA.321-H.of. Enacht. Azz. in front
of Phillips 66 Station	
Remarks:	
Posted by Signature	Date of return_March.19, 1964

TELEPHONE 823-3000	BALLETOKE COUNTY, MANUERIAD NO.	21697 <b>/2/64</b>
To: Com	smore. Proctor, Reyston & Hueller pholl Building multp Zenting Department of smon h, Ma.  Baltimore County	
DEPOSIT TO	01.622 ACCOUNT NO.	\$67.00
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE	COST
-	Advertising and posting of property for Ma. Disrusses	67,00
	PAID - Survey to my text of text freeze	
	4364 1932 * 21697* NP-	67.00
		STATE OF THE PARTY

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO .... Mr. John G. Ross, Zoning Commissioner Date ... March 20, 1964.

FROM Mr. George E. Gavrelie, Acting Director

or Action Arm. Special Boaring to confirm and allow pathioners' use a further of such as a small variabous, above ground steries in accordance with Section 253, but the Maltimers Commy fouriest and partiament structures. Southeast side of company of the 356,12 feet forth of Excell Armsen. Baing property of Ms. and Floren

WEARTING.

Tuesday, March 31, 1964

mands on the writer's time have made it impossible to propers written comments regarding the subject petition within the time period required by law, Heabers of the Flaming staff will be available to testify orally at the hearing if desired.

(9+30 A.K.)

GEDahms

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING COUNTY OFFICE BUTTOTNO TOWSON I. MARYTAND

W. Ise Thomas, Ecq. Campbell Building Toweon h, Maryland

Dear Sire

Petition for Special Scaring for William T. Biermann

The Zoning Advisory Committee has reviewed the subject petition and makes the following comments:

OFFICE OF PIANNING & ZONING: If the proposed additional uses are permitted, the engress and agrees to the sits should be limitted to two (2) entrances.

TRAFFIC DEPARTMENT: Same as above comment

BUREAU OF ENGINEERING. Face as above comment.

HEALTH DEPARTMENT: No comment

STATE ROADS COMMISSION: Semme as Office of Planing & Toming Comment

REDEVELOPMENT COMMISSION: No comment

FIRE DEPARTMENT. No coment

INDUSTRIAL DEVELOPMENT. No comment

BUILDINGS DEPARTMENT: No comment

BOARD OF EDUCATION: No comment

oe: Cilbert Helson-Traffic

Yours very truly,

Janes & Pyer sc: Office of Planning & Zoning-Albert Cutsby State Foads Condesion-John Duerr Bureau of Engr. - George Feier

PETITION FOR A SPECIAL HEARING 13th District

and allow petitioners' use of a portion of such property as a small warehouse, above ground storage in accordance with Section 253.4 of the Raltimore County Zoning Regulations, and pertinent LOCATION: Southeast side of Southwestern Boulevard 356,32 feet North of Kaecht

Avenue
DATE & TIME: TUESDAY,
MARCH 31, 1984 at 9:30
AM.
PUBLIC HEARING: Room
105, County Office Building,
111 W. Cheanpeake Avenue
Towney, Maryland

The Zoning Commissioner of Baltimore County, by author-ity of the Zoning Act and Regulations of Baltimore County, will hold a public bearing: Concerning all that parcel of land in the Thirteenth Dis-trict of Rallimore County

trict of Staltimere County

RECINNING for the ease
at a point on the Southeast
side right of way line of
the new State Road, knows
for the control of the new State
for the control of the new State
for the control of the control
to new State Road, knows
for the control of
the control of the control
to the control of
the control of
the whole lot
in a deed from Willia E.
Dation, dated October 24,
1350 and reached
the control of
the control the pattern described in an official control of the control of the

BEING part of all that lot or parcel of ground des-cribed in a Deed from Daniel Bear and Clare S. Ber, his wife, to the Grantors here, in, dated August 3, 1948 and recorded among the Land Records of Baltimere County in Liber T.B.S. No. 1703, folio 5.

in Liber T.B.S. No. 1703; folio 5.

This description is a copy of a deed on record is Bal-timore County and not an actual survey.

Being the property of Wil-liam T. Biermann and Flo-fence C. Biermann, as shown on plat plan filled with the Zoning Department.

CERTIFICATE OF PUBLICATION

BALTIMORE COUNTY, MD. March 27 , 19 64

THIS IS TO CERTIFY. That the annexed advertisement was published in THE TIMES, a weekly newspaper printed and published in Baltimere County, Md., once in each of one

successive weeks before the 31st 19 64, the first publication appearing on the 12th day of March

THE TIMES,

Martin John M. Martin

Cost of Advertisement \$35.00 Purchase order T 6790 Requisition No. N 5028

LOCATIONS Southeast tide of Southerstein Bollevard Mod. 31 feet of the Southerstein Mod. 32 feet of the Southerstein Bollevard Southerstein Bollevard Mod. 32 feet of the Southerstein Mod. 32 feet of the Southerstein Mod. 32 feet of the Southerstein Mod. 32 feet of the Zenida and a southerstein Mod. 32 feet of the Zenida and the Southerstein Mod. 32 feet of the Zenida and the Southerstein Mod. 32 feet of the Zenida and the Southerstein Mod. 32 feet of the Zenida and the Southerstein Mod. 32 feet of the Zenida and the Thirrestein District of Baltimore County.

Baltimore County.
BEGINNING for the same at a points on the Southeast side right of way line of the new State Road, known as Withens Avenue extended (said place of beginning being streamed Southeasterly forty-six; and three one hum-

being distinct bouleasers's properties and the end to be the control of the whole left in a deed from of the whole left in a deed from the control of the whole left in a deed from the control of the whole left in a deed from the control of the co

County and not an actual survey.
Being the property of William 7.
Blermann and Florence C. Blermann, as shown on plat plan filled with the Zeolog Department.
BY ORDER OF
JOHN G. ROSE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
March IJ.

THE BALTIMOR COUNTIAN 64-96 THE HERALD - ARGUS

No. I Newburn Avenue CATONSVILLE MD

March 16. 1014

THIS IS TO CERTIFY that the annexed advertisement of John G. Rose, Zoning Commission er of Baltimore County

was inserted in THE BALTIMORE COUNTIAN, a group of three weekly newspapers published in Baltimore County, Maryland, once a week for One Week: xuccessive wants before the 16th day of March, 19 64, that is to say the same was inserted in the issues of

THE BALTIMORE COUNTIAN

By Paul J. Margery Editor and Manager

TELEPHONE BALTIMORE COUNTY, MARYLAND No. 21627 OFFICE OF FINANCE DATE 2/27/64 Division of Collection and Receipt COURT HOUSE TOWSON 4, MARYLAND BILLED Zoning Department of Baltimore County 01/22 T\$25.08" Petition for Special Searing 25.00 FAID-Entered thomps was - Office of Pro-2-2864 698 • 21627• TIP-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 RENITTANCE.

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 SPECIAL HEARING: : S. E. Side Southwestern Boule vard 386.24 N. Knecht Ave., 13th District - Vm. T. Bierma and Florence C. Bierman, Petitioners - No. 64-96-SFM

BEFORE TOTAL COMPLESTONE OF

BALTIMONE COUNTY No. 64-96-SPH

#### ..........

ir, and irs. Fillian T. Bierman, comers of the lot of ground leads on the southmast side of Southwastern Scalavars, apprecimently 255-52 feet, were or less, not because of Shouth Assembly and the southmast of Shouth Assembly and the state of Sailh Service state of Sailh Service services of a small varieties and fee show ground storage of feet all and middless the services of the state of the services of the ser

The property is new and has been for many years some lanufacturing light. The front half thereof has been a Special exception for a gasoline filling station since 1989.

method of impress and egroup, the type and the definition of impress and egroup, the type and the framework in properties, and in the contract of the contract

It was brought out by the Putitioners that they expect to continue the filling station use on the front pertien of the property but desire in market on use the rear conshalf of the property for the stations above mentioned. Such purposes are all permitted uses in a fundamental-light zero, in accordance with Decited 503-4 of the Baltimere County Zening Regulations.

For the above reasons the matter requested in a petition received by this Office on February 7, 1964 is confirmed.

Ti is this A during the partial point in centiment.

Commissions of Salthers Dounty (DESCE) this bepatitions's request to use a pertian of seath property for a small warehouse and for above ground attempt of faul till and tackental appeartemance, is briefly granted.

#### PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

We, William T. Biermann and Florence C. Biermann, legal owners of the property situate in Baltimore County which is described in the description and outlined on the plat attached hereto and made a part hereof, hereby petition for a special hearing to confirm and allow Petitioners' use of a portion of such property as a small warehouse, above ground storage in accordance with Section 253.4 of the Baltimore County Zoning Regulations, and

The Petitioners represent that all of such real property is in a Manufacturing-Light zoning classification; that or November 14, 1949, a Special Exception for a gasoline filling station was granted as to such real property, and that a portion of such real property is still so used for gasoline filling

The Petitioners further represent that they intend to continue such filling station on a portion of the tract of such real property and to utilize the remainder of such real property for the above ground storage of fuel oil, as allowed by Section 253.4 of the Baltimore County Zoning Regulations, small warehouse use, and pertinent structures.

We agree to pay all of the expenses of the above special hearing, upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Balti-County adopted pursuant to the Zoning Law for Baltimore County.

William T. Legal Owners

508 Surrey Road Timonium, Maryland

11010

. . . . .

the new State Road, known as Wilkens Avenue extended fauld place of bactunior being used Southeasterly forty-six and three one hundredthe feet along the second line of the whole lot in a deed from Willis E. Myers, Trustee, to Ida H. D. Batson, dated ar 24, 1930 and recorded among the Land Records of Baltimore County in Libe W.P.C. No. 861, fello 280), and running thence from said place of beginning with ond line South sixty-one dogrees forty-seven minutes twenty seconds East red sixty-two and thirty-two one hundredths feet to an Iron pipe, thence binding on the outline of said lot as new surveyed North thirty-three degrees thirtywhen four recents Park two hundred and constructions are bundreds fast to an Iron pipe situated South thirty-three degrees thirty-one minutes forty seconds Was forty-two and three one hundredths feet from a stone at the end of said line, thence leaving said outline and renning and binding on the second line of the parcel described in a deed from George Batson to George J. Arold, et al. as recorded in the Land Basenda of Baltimore County in Liber L. Mal. M. No. 845, falls 86, North sixty-one degrees forty-seven minutes twenty seconds West one bundred eighty-on and seventy-seven one hundredthe feet to the Southeast side of the present State Rose right of way, thence binding on said State Road, known as Wilkens Avenue extended, South twenty-seven degrees fifty-seven minutes forty seconds West two hundred and fifteen one hundredths feet to the place of beginning; subject to an easement as established by dead from Raymond E. Crouse, et al. to the State Roads Commiss of Maryland, recorded among the Laud Records of Baltimore County in Liber T.B.S.

BEING part of all that lot or parcel of ground described in a Dood from said Baer and Clars S. Baer, his wife, to the Grantors hereis, dated August 3, 1948 and recorded among the Land Records of Baltimore County in Liber T.B.S. No 1762 falls #

This description is a copy of a deed on record in Baltimore County and not

+/39/64

FFB 27 '64

Thomas, Attorney for Petitioners Campbell Building Towson 4. Maryland

- 2 immediate neighborhood and that the existing streets are totally inadequate to handle

additional truck traffic." This despite the fact that the Planning staff of the Department of Planning and Zoning in a memo from Mr. George E. Gavrelis, Deputy Director, offered no adverse comment as to the land use, and despite the fact that the Baltimore County Fire Bureau by memo from Paul H. Reincke, Captain, had stated that there was no objection to the use assuming that the owner operated within the "stringent regulations" required by the Fire

An appeal was taken from Mr. Hardesty's decision to the Board on October 14, 1963. Before this appeal could be heard the property owner filed another petition on February 7, 1964 with the Zoning Commissioner for a special hearing which represented that all of the property was in an "M-L" zone; that only a portion of the property was being used for the gas station special exception; and that the proposed utilization of the remainder of the property was an allowed use under Section 253.4 of the Baltimore County Zoning Requlations and that such use should be allowed without a special exception under the basic

A hearing was conducted on this petition by Mr. John G. Rose, Zoning Commissioner, and on April 16, 1964 an order was passed by him that "the petitioner's request to use a portion of such property for a small warehouse and for above ground storage of fuel oil and incidental appurtenances, is hereby granted", from his opinion, for the serves that such was a permitted use under Section 253 A and only part of the total parce of land was actually in use for the gasoline station allowed by the special exception.

Protestants entered an appeal from this decision on May 13, 1964 and this Board combined the two present appeals for a hearing on August 18, 1964 at which time testimony was heard from experts and others resulting in the present decision

The petitioners have filed a Memorandum of Law in which the petitioners' el makes three contentions:

- That the rights conferred by a special exception may be abandoned voluntarily, either in part or in whole
- 2. That the granting of a special exception does not after modify or supersede the basic zoning of the land, nor does it restrict usage of such land as permitted under the basic zoning classification.
- The use here contemplated by petitioners does not violate any of the requirements of Section 502.1 of the zoning regulations and should be allowed as a modification of the alleged existing special exception

It is to be noted that some of the cases cited involve an application or petition, specifically in so many words, asking for a modification although the last petition could possibly be construed to be broad enough to include such a request.

Counsel for the protestants objected to the hearing before Commissioner Rose and also wrote a letter to the Zoning Commissioner objecting to the last appeal being

eceived while the first appeal was still pending. The Board would be inclined to say that these objections were well founded, however, the Board determined to hear both at the same time without objection from counsel at the time of the hearing.

The Board must disagree with the petitioner on his first two contentions in view of previous rulings of the Board in other cases. We have consistently held that while a special exception may be abandoned voluntarily, or even in fact abandoned by non user, this can only be done as to the whole tract for which the special exception was granted and not for part of the same. This Board has also ruled in previous cases that the granting of a special exception not only may, but does restrict the usage of land to the particular use granted for the special exception which would bar other uses even though such were completely allowable under the use regulations for the basic zoning. There is no doubt that in the instant case if there had been no special exception it would not have been necessary for the petitioner to make any application to the zoning authorities for the projected use, and there would have been no case before us. This we feel is a necessary result of the zoning regulations with respect to special exceptions because many special exceptions are granted with imposed conditions, restrictions, and regulations as set out in Section 502.2 of the zoning rules which might be, in some cases, avoided by the allowance of partial abandon-

As to the third point raised by the petitioner, it is the Board's opinion that we do have the jurisdiction or authority under the zoning regulations to modify an existing special exception not only as to conditions or restrictions, but as to changes concerned with actual portions or parts of land tracts so zoned. We find, as a fact, that the portion of the land for which the modification is to be granted is not needed for the satisfactory operation of the gasoline station which can continue its present operation on the portion of the total area it presently occupies without violating any zoning restrictions or rules and we, therefore, modify the previous special exception to the extent of removing therefrom the area shown on the plat filed in this case and also shown on a metes and bounds description, both of which documents are attached hereto (together with a metes and bounds description of the portion which will remain under the special exception) and are to be taken as a part of this opinion and order. This decision is based upon the following findings of fact:

- 1. From the evidence we find that the requested modification rrom me evidence we find that the requested modification does not constitute any fire hazard greater than normal to such use and in fact, if normal precontions are observed and it conforms with the regulations of the Fire Bureau (which we must presume will be enforced by that department) it would be almost no fire hazard whatever.
- We further find from the testimony that no congestion would be created by the requested modification in the adjoining

- We further do not find, upon the evidence, that it will be a detriment to the health, safety or the general wel-fare of the general locality involved which property is on what amounts to an industrial boulevard and backs up against a railroad line.
- Nor do we find that the protestants have presented any evidence to support a possible failure of any of the conditions imposed by Section SO2.1 by the medification of the existing special exception which allows a higher use under the zoning regulations and which use, under ordinary conditions, could not even be the subject of a

It is, therefore, determined by the Board that the existing special exception should be modified as stated above, and it is further found that such modification permits the requested use of the property described in the attached documents without further authorization by this Board or the Zoning Commissioner but, of course, subject to all rules and regulations of the Baltimore County Building Code and all other appropriate restrictions as to fire, traffic and safety.

## ORDER

For the reasons set forth in the aforegoing Opinion, it is this 29 day of October, 1964 by the County Board of Appeals, ORDERED that the special exception presently in existence on the subject property be modified to eliminate from the said special exception the area described by metes and bounds in the attached document headed "DESCRIPTION OF AREA FOR WHICH MUDIFICATION OF SPECIAL EXCEPTION APPLICABLE" and as shown on the plat attached hereto.

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

RE: PETITION FOR SPECIAL HEARING SE/S Southwestern Boulevard, 386.32' N. of Knecht Avenue, 13th District COLINTY ROAPD OF APPEALS William T. Biermann, et al. OF

BALTIMORE COUNTY No. 63-80-SPH No. 64-96-SPH

# OPINION

The history of this case might be classified as a minor comedy of errors. The property involved is classified as Manufacturing Light (M-L). This classification has been in effect for many years and the particular property involved has had the benefit of a special exception for a gasoline service station since November 14, 1949, and a portion of the property is and has been since that date, used for this purpose

The owner of the property applied for a building permit to use the portion of the property unused by the gasoline station operation for the storage of fuel oil above ground and the operation of a fuel oil delivery business. This building permit was denied by the Department of Permits and Licenses on the advice of the Department of Planning and Zoning. An appeal was taken from such denial to the Board of Appeals which had a hearing on November 21, 1963, and on January 6, 1964 affirmed the denial of the building permit saying: "The Board is of the opinion that the special exception granted for the entire tracprecludes its use for any purposes other than that for which the special exception was requested and granted." This decision is in line with precedents established in previous decisions of the Board: the present Board concurs.

Pending the decision in the above case the owner of the property filed with the Zoning Commissioner an application for hearing dated July 29, 1963. In a letter the property owner stated that "On November 14, 1949 a special exception for use of the below described property as a gasoline service station was granted by the Zoning Authorities of Baltimore County. I, as owner, hereby abandon the granted special exception as to suc real property described below. I do not abandon the special exception as to any other real property, parcel of land or part thereof covered by the mentioned special exception and not described below", and anneaded a description of the land he proposed to use for the first all Upon this application a hearing was held by Mr. Edward D. Hardesty, Deputy

Zoning Commissioner, and on the 9th of October, 1963 he ordered that the petition should be denied stating as his reasons therefore. "It is the pointion of the Deputy Zoning Commitsioner that the proposed bulk storage facilities would create an imminent fire hazard in the

CONSOLIDATED CASES NUMBERS 63-80-SPH and 64-96-SPH William T. Biermann, et ux. Petitioners

. . . . .

DESCRIPTION OF AREA TO REMAIN SUBJECT TO SPECIAL EXCEPTION FOR GASOLINE SERVICE STATION

BEGINNING for the same at the beginning of the first or South 61 degrees 47 minutes 20 seconds East 162.32 foot line of that tract of land which by deed dated October 4, 1949 and recorded among the Land Records of Baltimore County in Liber T.B.S. No. 1794 folio 169 etc. was conveyed by Nathan R.Johnson et al to Wm. T. Biermann et al said point being at the beginning of said conveyance on the Southeast side of the new right of way of Wilkens Avenue extended (now known as Southwestern Boulevard) and distant 386.32 feet measured Northeasterly along the said Southeast side of said right of way from the Northeast side of Knecht Avenue, thence running with and binding on the Southeast side of Wilkens Ave. extended North 27 degrees 57 minutes 40 seconds East 137.65 feet, more or less, to the Northernmost edge of the existing asphalt pavement thence leaving said line and running for lines of division the two following courses and distances (South) 61 degrees 47 minutes 20 seconds East 50 feet, and South 27 degrees 57 minutes 40 seconds West 31.50 feet to a prolongation Northwesterly of the face of the Northerly wall of the Service Station building erected on a portion of said conveyance of which this description is a part, thence for a line of division and binding reversely on said prolongation Southeasterly and on or near the said face of said wall South 61 degrees 47 minutes 20 seconds East 35 feet, more or less, to a point on the prolongation Northeasterly of the face of the rear (or easterly) wall of the same Service Station building, thence for a line of division and binding reversely on said prolongation Northeasterly and on or near the said face of said wall Southwesterly South 27 degrees 57 minutes 40 seconds West 106 feet to a point in the first or South 61 degrees 47 minutes 20 seconds East 162.32 foot line above mentioned, said point being at the intersection of such prolongation and the first line or South 61 degrees 47 minutes 20 seconds East 162.32 feet of the hereinbefore referred to deed from Johnson to Biermann, thence binding reversely on such first line North 61 degrees 47 minutes 20 seconds West 85.25 feet to the place of beginning.



