

15-71-X

HARRY GIARDINA, Appellant
vs.
R. BRUCE ALDERMAN, JOHN A. SLOWIK, and PAUL T. MCNEARY, JR., Complainants
Board of Appeals of Baltimore County, Appellee
AT LAW
JOHN T. BLAIR, JR. and SHIRLEY S. BLAIR, his wife, DONALD H. BERNART and DEIRD H. BERNART, his wife, DONALD F. KELLY and ANNE H. KELLY, his wife, Intervenor

September 7, 1964
Before: HONORABLE JOHN CHASO TURNBULL, Judge

AFFIDAVITS:

A. Owen Hennegan, Esquire, in behalf of the Appellant.

John W. Houslin, Jr., Esquire, in behalf of the Intervenor.

Reported by:
Paul G. Griffin
Official Court Reporter
In the Circuit Court for Baltimore County

that he could not economically develop it in residences, and yet when his application was turned down proceeded to develop it in residences, it takes his approach in this particular piece of property full a little flat. Further, before the Zoning Commissioner or before the Board, I have not which -- yes, it looks like the Board of Appeals, petitioner's exhibit number 228, a review of the Baltimore County Joint Subdivision Planning Committee, in the last paragraph there is a suggestion that the Board of Recreation and Parks might want to buy this property for recreation uses for that community, and the Joint Subdivision Planning Committee also recommended if the Board of Recreation and Parks does not plan to purchase it the developer should look to the possibility of buying the land to the west in order that he may provide additional frontage on the subdivision street, and provide a better layout for the overall subdivision. In the light of these facts, petitioner, I find that the developer did not meet the burden imposed upon him to show by indisputable evidence that the refusal of his application would amount to a denial of justice. The order of the Board will therefore be affirmed.

Description to Accompany Request for Special Exception for Convalescent Home

July 31, 1964

Beginning for the same at the intersection of the north side of Towson Avenue as proposed to be widened 5.00 feet, and the east side of Goucher Avenue as proposed to be widened 5.00 feet said Avenue being shown on a plat entitled "Talbot Manor" recorded among the Plat Records of Baltimore County in Liber C.H.K. 13, folio 71-72, and running thence binding on the east side of Goucher Avenue as proposed to be widened 5.00 feet the three following courses and distances viz: first North 4° 28' East 357.85 feet, second northeasterly along a curve to the right with a radius of 355.00 feet for a distance of 148.70 feet, said curve being subtended by a chord bearing North 16° 28' East 147.62 feet and third North 28° 28' East 46.80 feet to intersect the north side of Lot 11, Block V, as shown on the above mentioned plat, thence binding on part of said north side of Lot 11, Block V South 85° 32' East 85.28 feet thence binding on the east side of Lots 11 through 2, and part of Lot 1, Block V as shown on said plat South 4° 28' West 545.00 feet to intersect the north side of Towson Avenue as proposed to be widened 5.00 feet, thence binding on said north side of Towson Avenue as proposed to be widened 5.00 feet, northeasterly along a curve to the right with a radius of 3795.00 feet for a distance of 139.00 feet to the place of beginning.

Containing 1.61/2 acres of land more or less.

Being part of the land conveyed by Belvedere Building Corporation to Harry Giardina by deed dated May 14, 1958, and recorded among the Land Records of Baltimore County in Liber G.L.B. 3347, folio 249.

RE: PETITION FOR SPECIAL EXCEPTION
for a Convalescent Home
NE corner Goucher and
Towson Avenue,
8th District
Harry Giardina,
Petitioner
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 65-71-X

OPINION

Petitioner seeks a special exception for a fifty (50) bed convalescent home on an unimproved land at Goucher and Towson Avenues in Lutherville, Eighth Election District. The subject property consists of some 1.616 acres and is zoned R-6. The west boundary of the property is the Baltimore-Harrisburg Expressway. Access to the property is along streets on which the protestant neighbors reside.

The immediate neighborhood is developed in single family cottages and the narrow tree lined streets are used only for neighborhood traffic. The proposed nursing home would, of course, be a different type of structure and a different use from any other in the neighborhood. The question before the Board is whether or not the proposed use would be detrimental to the locality or tend to create congestion in the streets (Section 502.1).

The testimony indicates that the owner will have extra cost and some difficulty in residential development. The drainage and topography add to the probable economic difficulty in realizing as much from the land as the nursing home would produce. We are also mindful of the testimony that a nursing home has slight traffic demands.

In many areas a nursing home will blend into the development pattern of a community and into the existing roads. However, in this area the non-access expressway closes the whole west side of the property and clearly would put the entire impact of the nursing home and its traffic upon a settled neighborhood.

We do not believe that we can justify potential harm to the settled housing complex in this area. We also believe that a convalescent home use would tend to congest streets which are now barely adequate.

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, HARRY GIARDINA, legal owner 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 LA zone to an R-6 zone for the following reason:

See Attached Description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for a Convalescent Home.

Property is to be posted and advertised as provided 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.

Contract purchaser

Address

Towson, Md.

Petitioner's Attorney

Address

Towson, Md.

Protestant's Attorney

Address

Towson, Md.

ORDERED BY THE Zoning Commissioner of Baltimore County, this 21st day of July, 1964, 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 22nd day of September, 1964, at 2:00 o'clock.

By [Signature] Zoning Commissioner of Baltimore County.

(over)

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Harry Giardina - #65-71-X

ORDER

For the reasons set forth in the foregoing Opinion, it is this 20th day of April, 1966 by the County Board of Appeals, ORDERED that the special exception petitioned for, be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

R. Bruce Alderman, Acting Chairman

John A. Slowik

Paul T. McNeary, Jr.

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

the above Re-classification should be had; and it further appearing that by reason of

a Special Exception for a Convalescent Home should be granted

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 21st day of July, 1964, that the herein described property or area should be and the same is hereby reclassified; from a LA zone to a R-6 zone, and/or a Special Exception for a Convalescent Home should be and the same is granted, from and after the date of this order.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that the subject property is so located in Lutherville, Md. that it would cause a considerable traffic problem in that there would be a great deal of traffic through the various streets in the Lutherville community, thus creating a situation detrimental to the health, safety and the welfare of the locality known as Lutherville, the above re-classification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED.

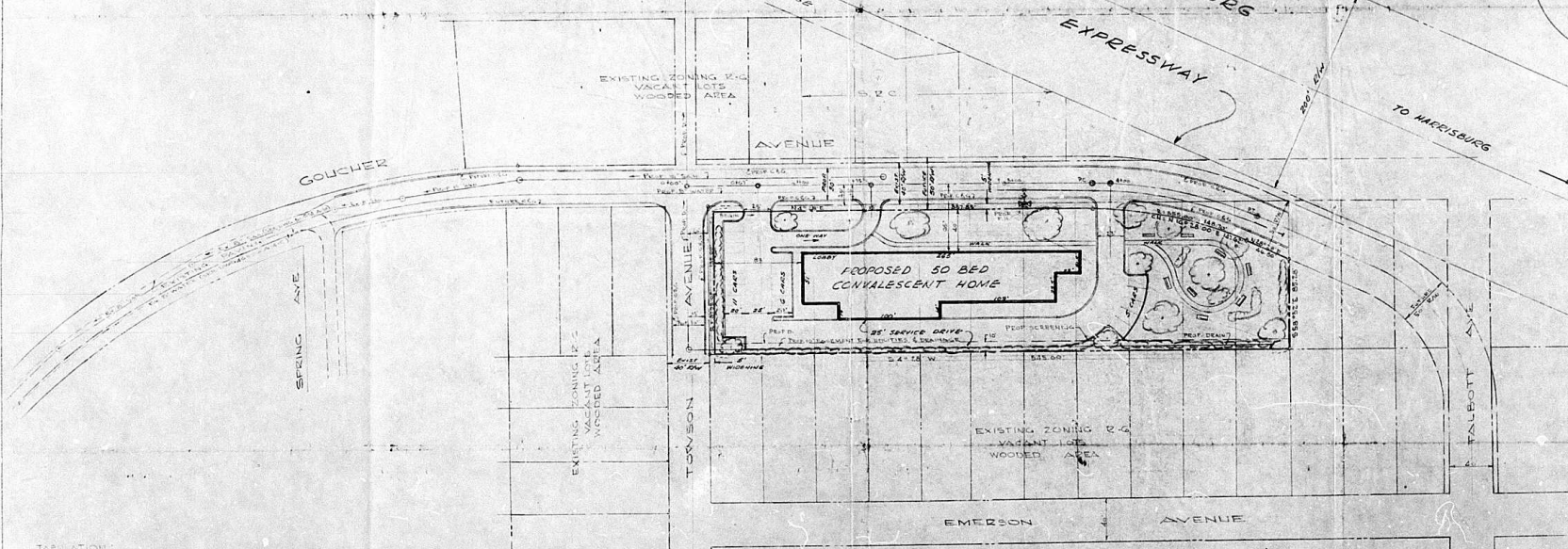
IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 21st day of September, 1964, that the herein described property or area should be and the same is hereby DENIED.

By [Signature] Zoning Commissioner of Baltimore County.

#65-71X

MAP
#9
SEC. 3-C

TO BALTIMORE
BALTIMORE - HARRISBURG
EXPRESSWAY
TO HARRISBURG



TABLETATION:
EXISTING ZONING ----- R-2
PROPOSED ZONING ----- R-2C W/SPECIAL EXCEPTION
EXISTING USE ----- VACANT WOODS
PROPOSED USE ----- CONVALESCENT HOME
SCREENING (M) ----- NO CONTACT
TOTAL NO. OF PARKING SPACES ----- 52

PLAT TO ACCOMPANY DESCRIPTION
FOR REQUEST OF SPECIAL EXCEPTION
FOR
CONVALESCENT HOME

GOUCHER AVE. & TOWNSON AVE
TO 200' WIDE CORNER LOT
BALTO. CO. MD.
SCALE 1" = 50'
ELECT. DIST. 8
JULY 15, 1964
REVISED JULY 31, 1964
SEEDS, ALLIANCE ENGINEERS
AND ASSOCIATES, INC.
300 ALLEGANY AVE.
TOWNSON, MARYLAND

