

IN THE COURT OF APPEALS OF MARYLAND

No. 215

September Term, 1967

GEORGE H. BROUILLETT, et al.

v.

EUDWOOD SHOPPING PLAZA, INC., et al.

Harvey
Marbury
Barnes
McWilliams
Singley, JJ.

Opinion by Marbury, J.

Filed: May 2, 1968

EUDWOOD SHOPPING PLAZA, INC. (67-18-X)
Plaintiff in Error
vs.
Patty Hill Hill M. Co. (67-18-X)
Defendant in Error

This case concerns a petition for a special exception filed by the appellees, Eudwood Shopping Plaza, Inc. (as legal owner) and the J. C. Corporation (as lessee contingent on zoning), to the zoning commissioner of Baltimore County. The petition requested a special exception to allow the erection and operation of a self-service car wash on a part of what is now the parking lot of the Eudwood Shopping Plaza. The deputy zoning commissioner had originally granted the special exception but the County Board of Appeals denied the appellees' request, finding that it would "be detrimental to the health, safety, and general welfare of the locality involved." An appeal was taken to the Circuit Court for Baltimore County where Judge Barrett reversed the Board, holding that its decision "was not based on substantial evidence." All of the appellants appeared as protestants before the Board and had answered and argued the appeal to the Circuit Court. All are residents of the immediate neighborhood and a subdivision known as Fellowship Forest.

The proposed car wash is described as a building 30 feet wide, 171 feet 10 inches long and 24 feet high, to be built of cinder block with steel sidings and roof. The proposed building would be fully enclosed and the actual washing will be in ten bays which could be entered from the parking area in front of the building, which is of sufficient size to hold forty automobiles.

The building was to be situated on a 120 feet by 200 feet area near the southwest corner of the shopping center parking lot, at the intersection of Patty Hill Road and Goucher Boulevard, in

the Towson area of Baltimore County. Immediately adjacent to the shopping center are: a tract to the north and west being developed for apartments; a tract south of Patty Hill Road and west of Goucher Boulevard known as the Fellowship Forest Apartments; Calvert Hall High School to the south; to the east are dwellings zoned as group houses and to the north of that is a parking lot, zoned industrial.

The shopping center property is now zoned Business-Local and was given this classification on the comprehensive zoning map of 1955. Under this classification a car wash is a permitted use only if it is authorized by the granting of a special exception. The proposed business would be operated on a twenty-four hour, seven day a week basis and would be unattended from 5:30 p.m. until 9:00 a.m. At the hearing before the Board there was testimony from Ira James Alligood, a witness for the appellees, who owned three similar businesses in York, Pennsylvania, that such an operation would not be feasible unless carried out on the above basis. He also testified that ten to fifteen per cent of the business was done between 10:00 p.m. and 8:00 a.m. while the operation was unattended. He further testified that "Sunday morning, from 8:00 a.m. to noon, it is full if the weather is clear * * *. So that is one of the maximum periods."

The real party in interest is the J. C. Corporation which had, at the time of the hearing, negotiated a lease for the subject property with the Eudwood Shopping Plaza, Inc., the lease to be contingent on obtaining the special exception. The J. C. Corporation was organized for the specific purpose of operating the proposed

car wash and fifty per cent of its capital stock is owned by Mr. Chris William George, who operated a car rental agency and who has no experience with a car wash operation.

One of the questions presented to us is whether the Board's decision was based on substantial evidence produced before it. We believe that it was and that the evidence presented for the Board's determination a question which was fairly debatable. Consequently, the Circuit Court was in error and should have permitted the decision of the Board to stand. The zoning authority is presumed to possess the expertise necessary for deciding the matters brought before it and if its decision is based on substantial evidence then the courts may not substitute their judgment for that of the zoning authority. As we stated in *Crowther, Int. v. Johnson*, 225 Md. 379, 383, 170 A. 2d 768:

"* * *, conditions upon which a special exception may be granted are set out in the ordinance, and the board is given a wide latitude of discretion in passing upon special exceptions so long as the resulting use is in harmony with the general purpose and intent of the zoning plan and will not adversely affect the use of neighboring properties and the general plan of the neighborhood as provided by the zoning ordinance. *Courier v. Board of Zoning Appeals*, 204 Md. 397, 104 A. 2d 568; *Dorsey Enterprises v. Spink*, supra [219 Md. 16, 147 A. 2d 833]; *Brown v. Board of Zoning Appeals*, supra [212 Md. 288, 189 A. 2d 121]; *Montgomery Co. v. Merlandis Club*, supra [202 Md. 279, 96 A. 2d 201]."

In the present case the Board had before it the following evidence on which it could have relied to reach the result that it did:

- "(a) That the proposed use would be clearly visible to a residential area with home values of \$45,000.00 and more.
- (b) The use will be conducted by one who is unfamiliar with the business.
- (c) No studies or surveys have been made to determine the amount of business anticipated.

- (d) Residents of the area testified to other car wash facilities in the general area, pointing out a lack of need for a self-service facility in the immediate neighborhood.
- (e) The plan as presented was inadequate, particularly as to paving, lighting and the organization of parking aisles.
- (f) The impact of such a use on public utilities is 'unknown.'
- (g) No information was furnished as to the number and type of signs to be erected advertising the use.
- (h) This type of car wash 'is rather a rare thing' in this portion of the county.
- (i) The Director of planning, the sole expert called by the Appellees, was unable to state if this type of operation would or would not adversely affect the neighborhood.
- (j) Five outside light standards were proposed, but no one had any idea as to their type, height, wattage or illumination.
- (k) Business will continue throughout the night every night (Sunday included) with possibly fifteen per cent of the total business being done between 10:00 p.m. and 8:00 a.m.
- (l) Despite the around-the-clock operation, no attendant will be furnished after 9:30 p.m. or before 9:00 a.m.
- (m) The busiest periods will be on weekends.
- (n) On Sunday mornings the car wash is expected to be full. It is one of the 'maximum periods.'
- (o) Unless the Appellees can operate seven days a week, 24 hours a day the use is not economically feasible."

These items of evidence taken cumulatively gave the Board legally sufficient grounds for denying the special exception.

A further reason in support of the Board's action in denying the special exception was the appellees' failure to adduce sufficient evidence that the requested use would not "be detrimental to the health, safety or general welfare of the locality involved."

In a hearing for a special exception where the requested use is permitted under the existing zoning classification the applicant need only show that the use is consistent with the existing classification and that it would not be adverse to the welfare of the neighborhood. In the case of *Courier v. Bd. of Zoning Appeals*, 204 Md. 397, 104 A.2d 568, where the application was for a special exception permitting a restaurant in Baltimore County, we said:

"* * * in Baltimore County, where restaurants are prima facie permissible in residential zones, an applicant for a permit to conduct a restaurant in a residential zone is not required to show that denial of a permit would result in 'practical difficulty, or unnecessary or unreasonable hardship,' as in the case of a variance, but must show only that the exception would be in harmony with the zoning plan and would not be detrimental to the welfare of the neighborhood."

Accord, County Commissioners v. Lucia, 249 Md. 1, 238 A. 2d 108; *Montgomery Co. v. Merlandis Club*, supra. In the instant case the appellees did not show that the proposed use would be in conformity with the zoning regulation, i.e., that it would not "be detrimental to the health, safety or general welfare of the locality involved." Baltimore County Zoning Regulations, Sec. 502.1 a.

Their only expert to testify on this aspect of the case, Mr. George E. Gavrells, Director of Planning, who had studied the proposed site plan, stated in answer to a question as to the effect of the car wash on the community, that "this kind of car wash, at least in this portion of the county, is a rather rare thing, and I don't have any personal experience on which to form a judgment. I don't really know." This being the only testimony on this subject the Board was justified in finding, as it did, that the application should be denied. Under the facts of the case before us the action taken by the Board of Zoning Appeals was justified.

ORDER REVERSED AND ORDER OF
BOARD OF ZONING APPEALS REINSTATED;
COSTS TO BE PAID BY APPELLEES.

EUDOWOOD SHOPPING PLAZA, INC.
and
J.C. CORPORATION,
a Maryland Corporation
Appellants
vs
WILLIAM S. BALDWIN
JOHN A. SLOWIK
W. G. LES PARKER,
Constituting the Board of
Appeals of Baltimore County
Appellee

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY

MEMORANDUM OPINION

This is an Appeal from an Order of the County Board of Appeals of Baltimore County, dated February 9, 1967, which denied the Petitioner's request for a Special Exception for the construction of a Self-Service Car Wash on the southwest corner of the existing Eudowood Shopping Center parking lot. The subject property is presently zoned Business-Local and is located within the actual confines of the Eudowood Shopping Center itself. A car-wash is a permitted use as a Special Exception in a Business-Local zone.

Testimony was offered by the Petitioner to the effect that the proposed structure would be built of cinder block with steel roof and siding, and would cover an area of approximately 176 feet by 30 feet with a height of 24 feet. The roof of the building, as agreed in the Petitioner's lease with Eudowood, will be in keeping with the rest of the Shopping Center (R30). Testimony was also offered that, unlike most self-operated car washes with their washing base open and exposed, this operation would be completely enclosed by an attractive steel frame structure. An artist's drawing of the proposed structure was offered in evidence before the Board, which appears

to the Court to be a reasonably attractive building and the witness, Fred Ratowsky, who is to supply the building and equipment, stated that the building is much prettier than the artist's drawing and that he does not think the exhibit does the building justice (R38). This building would house a self-service car wash in which customers drive their automobiles into a bay of the building, wash it, dry it and then exit. The operation would be on a 24 hour, 7 day a week basis and will be unattended.

The Petitioners produced George A. Gavrelis, who is the Director of Planning in the County Office of Planning and Zoning for the purpose of showing that the granting of the Special Exception would not in any way violate Section 502.1 of the Baltimore County Zoning Regulations. At Page 6 of the record, Mr. Gavrelis testified as follows:

A. "In connection with this petition, 67-13-X, on July 15 of this year, I wrote the following comments: (Reads) 'The planning staff of the office of Planning and Zoning has reviewed the subject petition and offers the following comment:

"We agree in principle with the notion of locating car washes on shopping center sites. The Project Planning Division of this office will require certain additions and detail alterations in its review of the site plan. These will deal with the provision of landscaping, screening, lighting, etc."

And further at Page 7 testified:

C. "Does it meet the requirements as set forth in the regulations with respect to car washes?

A. "Insofar as I can determine, the site plan for the proposed car wash does meet the basic requirements set forth in the zoning regulations in the sense that it does provide the appropriate amount of stack-up space, based on a half-hour capacity of three cars per bay, it does in fact have a circulation plan that in our judgment works, the circulation plan incidentally works off of the internal circulation of the shopping center itself, rather than creating new accessways from either Goucher Boulevard or Putty Hill Road."

Further, at Page 9 of the transcript record, Mr. Gavrelis testified:

"With respect to compliance with Section 502.1 of the zoning regulations, I would say that from a planning

viewpoint that the car wash facility located within the shopping center complex itself, with no external other access, would certainly not, from a planning viewpoint, tend to create congestion in the roads, streets or alleys therein.

We have no knowledge that car washes do offer any hazard with regard to fire, panic, or other dangers. With respect to overcrowding, the land or causing undue concentration of population, we don't see any involvement between the car wash and that standard here - pointing out again that the area is some commercial, it is used for parking, and that the car wash is an internal feature really of the shopping center at large.

Certainly we don't believe that the car wash would interfere with provisions for schools, parks, transportation, or other public requirements. We don't really know its impact on the utility system, but I can't recall any adverse comment by the Public Works people, water or sewer facilities, when the petition was processed.

I don't think that the car wash ought necessarily to interfere with adequate light or air. Since it is fairly removed from any adjoining or abutting tract on the roads adjacent to this, to start with, plus the institutional use of Calvert Hall."

A number of protestants testified adversely to the granting of the petition. However, a fair analysis of their testimony was to the effect that the Eudowood Shopping Plaza itself had affected the neighborhood in which they resided in an adverse manner, including its unsightliness, its effect on the values of their properties and the noise and illumination during the nighttime as a detriment to the enjoyment and value of their properties. The erection of the car wash would amount to but one additional building in the presently established shopping center complex.

While there is testimony to the effect that the operation of the car wash, in the opinion of several witnesses, will increase the amount of traffic on their roads, yet the record is uncontradicted that there will be no separate entrance provided for the car wash, but all users will emanate from

the shopping center complex itself. As stated by Mr. Gavrelis, "this certainly would not, from a planning viewpoint, tend to create congestion in the roads, streets or alleys." (R.3)

The principal and perhaps the only material complaint concerning the operation of the car wash was the effect of the possible use of the facility as a teen-age hangout due to the unattended 24 hour operation of the business. The Court cannot help but conclude that this is pure speculation on the part of these witnesses as they gave no reasons as to this conclusion other than that Amoco's, which is somewhere in the neighborhood, attracts a number of teen-agers in relation to its business. It also would appear that this operation would attract teen-agers no more than the general shopping area of the Eudowood Shopping Plaza, and its parking areas, of which this property would be a part.

The Board, in its opinion, stated "The protestants, who mainly reside in the Fellowship Forest community, south of the subject site and across Goucher Boulevard, oppose the Special Exception mainly on the grounds that there was not any need for the car wash; that it would be unsightly; and that they particularly objected to the 24 hour unattended operation, several witnesses stating that in their opinion they fear it would become a meeting place for teen-agers in the early A.M. and that lack of adequate policing would create an undesirable situation in the neighborhood."

The artist's drawing of the proposed facility would indicate that the building would not be unattractive and the opinion of the protestants that this area would become a meeting place for teen-agers is entirely speculative and based on no substantive evidence. The Board's opinion concluded: "The Board cannot find that the granting of the Special Exception would in any way violate

Section 502.1, sub-sections B through F. However, the Board does find that the possible unsightliness of the proposed building and the 24 hour unattended operation would be detrimental to the health, safety and general welfare of the locality involved."

The Court is of the opinion that the Board in refusing the granting of the Special Exception acted arbitrarily; that the testimony in this case before the Board did not present a reasonably debatable question; that the decision of the Board was not based on substantial evidence and that the Order of the Board should be reversed.

The Order of the Board of Appeals in this case, dated February 9, 1967, is therefore reversed and this case is remanded to the Board for the granting of the Special Exception and imposition of such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties in accordance with Section 502.2 of the Baltimore County Zoning Regulations.

George E. Gavrelis
Judge

June 27, 1967

RE: PETITION FOR SPECIAL EXCEPTION
for a Car Wash
NE CORNER Putty Hill Road and
Goucher Boulevard,
9th District
Eudowood Shopping Plaza, Inc.,
Petitioner

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 67-18-X

OPINION

The petitioner in this case seeks a special exception for a self service car wash on the southwest corner of the existing Eudowood Shopping Center parking lot. The property is zoned Business-Local and a car wash is a permitted use as a special exception in a Business-Local zone.

The petitioner proposes to erect a structure 176 feet by 30 feet, with a height of 24 feet, and proposes five light standards on poles to illuminate the building. The construction of the proposed building is cinder block with steel roof and sides, with automobile bays 16 feet by 30 feet. The petitioner proposes a self service coin operated car wash that would be open twenty-four hours a day but would have an attendant on duty only during the daylight hours.

Before granting any special exception the Board must find that the granting of the requested special exception will not in any way violate Section 502.1, subsections a through f. The owner testified that the proposal met all the requirements of Section 419 of the Zoning Regulations, which is the section of the Zoning Regulations that sets up special requirements for car washes in addition to those of Section 502.1. The petitioner produced testimony that, in his opinion, the use would not create traffic congestion or parking problems on the streets surrounding the shopping center.

George E. Gavrelis, Director of Planning for Baltimore County, was summoned by the petitioner, and while he did not offer any opposition to the proposed use he did state that if the special exception were granted, the petitioner should be allowed to use only the existing shopping center entrance and, further, that the plan as submitted by the petitioner did not make adequate provision for screening or parking.

The protestants, who mainly reside in the Fellowship Forest community south of the subject site and across Goucher Boulevard, opposed the special exception mainly on the grounds that there was not any need for the car wash; that it would be unsightly; and that they particularly objected to the twenty-four hour unattended operation, several witnesses stating that, in their opinion, they feared it would become a meeting place for teenagers during the early A.M. hours, and that the lack of adequate policing would create an undesirable situation within the neighborhood. They also objected for aesthetic reasons.

Eudowood Shopping Plaza, Inc. - #67-18-X

The Board cannot find that the granting of the special exception would in any way violate Section 502.1, subsections b through f. However, the Board does find that the possible unsightliness of the proposed building and the twenty-four hour unattended operation would "be detrimental to the health, safety, and general welfare of the locality involved".

ORDER

For the reasons set forth in the foregoing Opinion, it is this 9th day of February, 1967 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 must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Baldwin, Chairman

John A. Slowik

NOTE: Mr. Paul T. McHenry, Jr. sat at the hearing of this case, however, his term expired prior to the Board's decision and hence, Mr. McHenry did not vote on this case.

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, Tenant and 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 that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an NE-9D zone to an NE-9D zone, for the following reasons:

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 Car Wash

Property is to be posted and advertised as prescribed by Zoning Regulations. I or we, agree to pay expenses of above re-classification and of 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.

EUDOWOOD SHOPPING PLAZA, INC.
By Carlton President
215 West Fayette Street
Baltimore, Md. 21201
Telephone's Attorney
10 Light Street
Address Baltimore, Md. 21202

ORDERED By The Zoning Commissioner of Baltimore County, this 21st day of June, 1966, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through out Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 406, County Office Building in Towson, Baltimore County, on the 27th day of July, 1966, at 11:00 A.M.

DEPUTY 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 the requirements of Section 502.1 of the Baltimore County Zoning Regulations having been met

the above Re-classification should be had, and it further appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations having been met

a Special Exception for Car Wash should be granted

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 21st day of September, 1966, that the herein described property be re-classified, and the same be hereby reclassified, from an NE-9D zone to an NE-9D zone, and a Special Exception for Car Wash should be and the same is granted from and after the date of this order, subject to approval of the site plan by the Bureau of Public Services and the Office of Planning and Zoning.

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IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 21st day of September, 1966, that the herein described property be re-classified, and the same be hereby reclassified, from an NE-9D zone to an NE-9D zone, and a Special Exception for Car Wash should be and the same is granted from and after the date of this order, subject to approval of the site plan by the Bureau of Public Services and the Office of Planning and Zoning.

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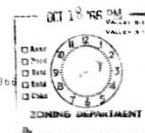
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AUSTIN W. BRIZENDINE
RICHARD C. MURRAY
BRIZENDINE AND MURRAY
ATTORNEYS AT LAW
LYNDIA BUILDING
22 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

October 18, 1966



Mr. Edward D. Hardesty,
Deputy Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Petition No. 67-18-X
Petition for Special Exception
on NE corner of Putty Hill
and Goucher Boulevard -
Eudowood Shopping Plaza, Inc.

Dear Mr. Hardesty:

Please enter an appeal in the above entitled matter from the decision and Order of the Deputy Zoning Commissioner passed on September 20th, 1966, on behalf of the following:

Dr. and Mrs. George H. Brouillett, 602 Lake Drive
Mr. J. R. Feldmann, 607 Hillen Road
Mrs. Marian Yeaple, 619 Hillen Road

Enclosed please find a check in the amount of \$70.00 payable to Baltimore County, Maryland.

Very truly yours,

Richard C. Murray

RCM/SW

Enclosure

CC: George W. White, Jr., Esquire

OFFICE OF THE BALTIMORE COUNTEAN

THE COMMUNITY NEWS
Towson, Md.

THE HERALD - ARGUS
Catonsville, Md.

No. 1 Newburg Avenue

CATONSVILLE, MD.

July 19, 1966.

THIS IS TO CERTIFY, that the annexed advertisement of Edward D. Hardesty, Deputy Zoning Commissioner of Baltimore County

was inserted in THE BALTIMORE COUNTEAN, a group of ~~three~~ weekly newspapers published in Baltimore County, Maryland, once a week for one ~~two~~ week before the 19th day of July, 1966, that is to say the same was inserted in the issues of July 7, 1966.

THE BALTIMORE COUNTEAN

By Paul J. Murray
Editor and Manager R.M.

TELEPHONE
823-3000

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE

No. 41082

DATE 2/28/67

TO: George W. White, Jr., Esq.
10 Light Street
Baltimore, Maryland 21202

BILLED BY: County Board of Appeals
(Zoning)

QUANTITY	DEBIT TO ACCOUNT NO. 01-712	DEBIT AMOUNT
	DEBIT TO ACCOUNT NO. 01-712	\$5.00
Cost of certified documents - File No. 67-18-X		5.00
Eudowood Shopping Plaza, Inc. NE cor Putty Hill Road and Goucher Boulevard 9th District		5.00
		5.00

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
823-3000

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE

No. 39412

DATE 7/1/66

TO: Messrs. Buchmaster, White, Mindel & Clarke
10 Light Street
Baltimore, Md. 21202

BILLED BY: Zoning Dept. of Balt. Co.

REPORT TO ACCOUNT NO. 01-622		TOTAL AMOUNT \$50.00
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REBATE/CHECK	COST
	Petition for Special Exception for Eudowood Shopping Plaza, Inc.	50.00
	#67-18-X	
	7-166 3 513 = 39412 TIP-	50.00

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.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 051 Date of Posting: 7-7-66
Posted for: George W. White, Jr., Esq.
Petitioner: Eudowood Shopping Plaza, Inc.
Location of property: NE cor Putty Hill Road and Goucher Boulevard, 9th District
Location of Signs: At NE corner of Putty Hill Road and Goucher Boulevard
Remarks: See attached description
Posted by: Richard C. Murray Signature Date of return: 7-7-66

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 051 Date of Posting: 7-7-66
Posted for: George W. White, Jr., Esq.
Petitioner: Eudowood Shopping Plaza, Inc.
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State Registered
Member ASCE
NSPE
MSS

DAVID W. FOHMER
Consulting Engineering
Land Surveying, Site Planning
111 W. 25th Street
Baltimore, Md. 21201

Office
899-3122

#67-18-X

#9

April 25, 1966.

DESCRIPTION OF PART OF EUDOWOOD SHOPPING CENTER, 9th DISTRICT, NE-9
BALTIMORE COUNTY, MARYLAND.

Beginning for the same at a point measured the two following courses and distances from the 75.00-foot cutoff at the intersection of the North side of Putty Hill Road 94 feet wide and the East side of Goucher Boulevard 110 feet wide, as shown on a Plat of Section Three Loch Raven Manor, recorded among the and Records of Baltimore County in Plat Book G.L.B. No. 23, folio 122, North 85 Degrees 40 Minutes 50 Seconds East measured along the North side of said Putty Hill Road 94.25 feet and North 4 Degrees 19 Minutes 10 Seconds West 5.00 feet, and running thence North 4 Degrees 19 Minutes 10 Seconds West 120.00 feet, North 85 Degrees 40 Minutes 50 Seconds East 200.00 feet, South 4 Degrees 19 Minutes 10 Seconds East 120.00 feet, and running thence parallel to and at the distance of 5.00 feet measured at right angles from the North side of Putty Hill Road herein referred to South 85 Degrees 40 Minutes 50 Seconds West 200.00 feet to the place of beginning.

Containing 0.5518 acres more or less.



RE: LHM.

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

George W. White, Esquire
10 Light Street
Baltimore, Maryland 21202

Special Exception - Car Wash
for Eudowood Shopping Plaza, Inc., located at NE corner Putty Hill Road and Goucher Boulevard, 9th District
(Item 1, June 21, 1966)

Dear Sir:

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

WATER - EXISTING: 20" water in Putty Hill Road.
SEWER - EXISTING: 18" sewer in Goucher Boulevard.
ADJACENCY: Existing utilities to be determined by developer or his engineer.
FEES - All roads are existing curb and gutter runs to which no further improvements are necessary.

BUREAU OF TRAFFIC ENGINEERING: The plan as shown appears to be satisfactory.

In a hearing for a special exception where the requested use is permitted under the existing zoning classification the applicant need only show that the use is consistent with the existing classification and that it would not be adverse to the welfare of the neighborhood. In the case of Oursler v. Bd. of Zoning Appeals, 397, 402, 104 A.2d 558, 204 Md., where the application was for a special exception permitting a restaurant in Baltimore County, we said:

" * * * in Baltimore County, where restaurants are prima facie permissible in residential zones, an applicant for a permit to conduct a restaurant in a residential zone is not required to show that denial of a permit would result in 'practical difficulty, or unnecessary or unreasonable hardship,' as in the case of a variance, but must show only that the exception would be in harmony with the zoning plan and would not be detrimental to the welfare of the neighborhood."

Accord, County Commissioners v. Luria, 249 Md. 1, 238 A. 2d 108; Montgomery Co. v. Merlands Club, supra. In the instant case the appellees did not show that the proposed use would be in conformity with the zoning regulation, i.e., that it would not "be detrimental to the health, safety or general welfare of the locality involved." Baltimore County Zoning Regulations, Sec. 502.1 a.

Their only expert to testify on this aspect of the case, Mr. George E. Gavrellis, Director of Planning, who had studied the proposed site plan, stated in answer to a question as to the effect of the car wash on the community, that "this kind of car wash, at least in this portion of the county, is a rather rare thing, and I don't have any personal experience on which to form a judgment. I don't really know." This being the only testimony on this subject the Board was justified in finding, as it did, that the application should be denied. Under the facts of the case before us the action taken by the Board of Zoning Appeals was justified.

ORDER REVERSED AND ORDER OF
BOARD OF ZONING APPEALS REINSTATED;
COSTS TO BE PAID BY APPELLEES.

NOTE:

PRESENT ZONING: B L

PROPOSED ZONING: SPECIAL EXCEPTION (CAR WASH)

ALL SCREENING TO COMPLY WITH ZONING REQUIREMENTS

ALL LIGHTING TO BE DIRECTED AWAY FROM RESIDENTIAL PROP.

SURFACE OF LOT TO BE DUSTLESS, DURABLE & SHALL BE PROPERLY DRAINED

PARKING STORAGE DATA:

NO. OF CARS CAPABLE OF BEING WASHED IN ONE HALF HOUR = 3 PER BAY

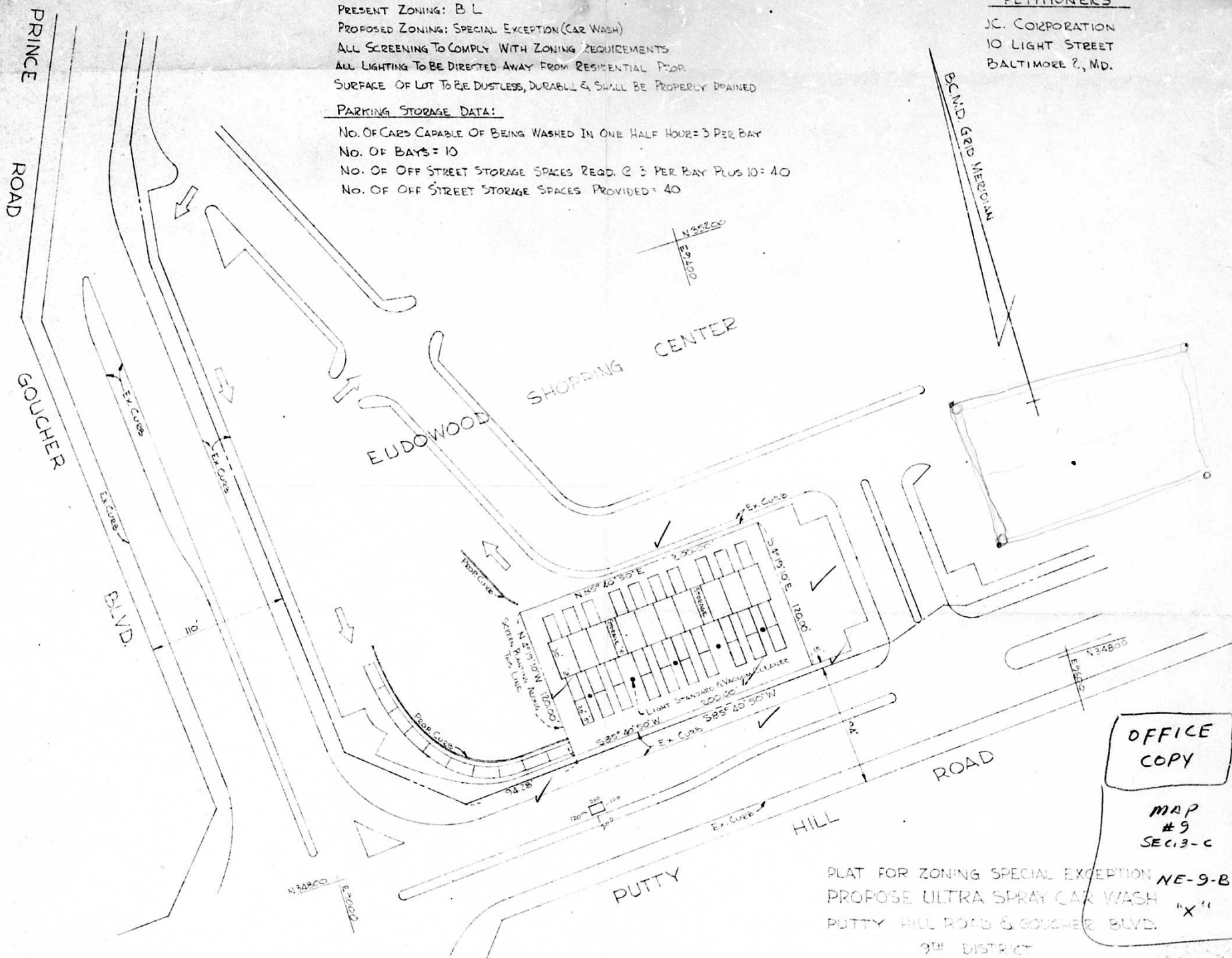
NO. OF BAYS = 10

NO. OF OFF STREET STORAGE SPACES REQD. @ 3 PER BAY PLUS 10 = 40

NO. OF OFF STREET STORAGE SPACES PROVIDED = 40

PETITIONERS

JC. CORPORATION
10 LIGHT STREET
BALTIMORE 2, MD.



OFFICE
COPY

MAP
#9
SEC. 13-C

PLAT FOR ZONING SPECIAL EXCEPTION NE-9-B
PROPOSE ULTRA SPRAY CAR WASH "X"
PUTTY HILL ROAD & GOUCHER BLVD.

9TH DISTRICT
BALTIMORE CO., MD.



Drawn by JFS
Checked by DWP
Date 4-28-1966

DANIEL W. JENNINGS
CITY ENGINEER & LAND SURVEYOR
114 W 25TH ST BALTIMORE, MD.
SCALE 1"=50' RECORDED APRIL 25, 1966

