BEFORE THE

38-SPH

PIKESVILLE PLAZA, I S/S 01d Court Rd., of Reisterstown Rd.

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378

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DE OF 1 ' THE PM

TONING T

ACTITION FOR SPECIAL HEARING PIKESVILLE P!AZA, INC.

construction has been commenced.

ing and forming; fabrication, composition.

Second Edition -

start: begin

material

HEARING
S/S Old Court Road, relocated.: DEPUTY ZONING COMMISSIONER
3/8 feet E of Relaterstown Road
3/8 d District
Fileswille Plaza, Inc.

BALTIMORE COUNTY

NO 67-38-SPH

## 

The Petitioner has requested a Special Hearing under Section 500, 7 of the Zoning Regulations of Baltimore County to determine whether the Deputy Zoning Commissioner should approve a building permit for a gasoline station. The Petition was necesstated by County Council passing Bill No. 64 (egislative session, 1966) which is commonly 'nown as the "gasoline station freeze".

Bill No. 54 states in part in Section I (b) 'If a special exception for a filling station has been granted, but the special exception has not been utilized as in the Zoning Regulations provided, or no substantial part of the construction has been commenced, such special exceptionshall be suspended and no action taken thereunder for a period of six months after this section is

The Petitioner is taking the position that the Special Exception previously granted February, 1985 has in effect been utilized. It support of this takin, Mr. James Spanier a registered engineer, testified that he there et al., the support of this takin, Mr. James Spanier a registered engineer, testified that he there et al., the support of the second property of the support of the second property of the previous supports of the support o The Petitioner is taking the position that the Special Exception

It must be borne in mind that the word construction does no necessarily mean that one must dig with a spade or pour concrete foundations to begin work. A great deal of preparatory work moss be completed before the ground is ver touched. Engineering plans must be drawn, architectural plans must be prepared, contracts must be entered into and utilities made vailable. In the opinion of the Deputy Zoning Commissioner, all of these factors amount to a beginning of construction,

he Deputy Zoning Commissioner feels that on the basis of the facts as presented at the hearing, the Special Exception previously granted has been in effect utilized and that the Petitioner has a vested right to develop his property as the situs of a gasoline service station

Gounty Hoard of Appeals Hoom 301 - Gounty Of the Bldg. 111 W. Chempeake Ave. Faltimore, Md. 71204

He: Petition of Pikesville Plaza, Inc. #67-30-3PH

Rec'd 2/17/67

9. 30 am

I wish to withdraw my appeal of the above mentioned

I would like the record to show that this appeal was good fulth in accordance with the more torium law, which in effect.

the repeal of Section 23-23A (b) of 5111 Joh has left me with no basis for an appeal.

Telebral h Frostle (Mrs.) Mildred L. Trostle Corres. Sec'y, MAPR, Inc.

CC: Johnson Bowle, Esq.

PETITION FOR SPECIAL HEARING S/S Old Court Road, relocated, 318 feet E of Reisterstown Road page 2

Thurs D. Hardesty

BEFORE THE

COMMISSIONER OF

BALTIMORE COUNTY Case 65-204-X

ZONING

MEMORANDIM

Definitions from Webster's New International Dictionary

Commence - to have or make a beginning: to originate:

Construction - act of building: erection: act of devis-

Substantial - that is of moment; important; essential;

A case almost directly on point was decided in Connecticut

City of New Britain v. Hilbourne, 147 A 124. There a permit had

been granted for the construction of a gas station, and the owner

filled in a ravine on the lot, graded it, and began preparing for

excavation. The city then sought an injunction from the Courts to

stop further construction on the grounds that a new zoning ordinance

forbade gas stations in the particular area, and that the owner did

not come within the exception provided by law for those "who began

construction within three months." The Court refused the injunction

The petitioner respectfully submits the following

authorities to substantiate its claim that the special exception

previously granted to construct a filling station on the subject

premises should not be suspenled since a substantial part of the

PETITION FOR SPECIAL HEARING 67-30

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY -

I, or we. <u>PIKESVILE PIAZA\_INC.</u> legal owner...of the property tuate in Baltimore County and which is described in the description and tat attached hereto and made a part hereof, hereby petition for a Special attached hereto and made a part hereof, hereby petition for a Special county. On the description of the Toning Regulations of Baltimore County. Othermine whether or not the Toning Commissioner and/or Deputy Zoning.

Commissioner should approve Building Permit for gasoline station in accord with special exception previously granted since the special exception has been utilized as in the Zoning Regulations provided and a substantial part of construction has been commenced.

See attac hed description

Property is to be posted and duvertised as property is to be posted and duvertising fegulations. arree to pay expenses of above Special Hearing advertising, posting, etc., upon filling of this petition, and further are to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. Property is to be posted and advertised as prescribed by Zoning

PIKESVILLE PLAZA INC. Contract Purchaser Legal Owner Address Maryland National Bank Buildin Baltimore, Maryland 21202 Fotestant's Attorney Petitioner's Attorney

ORDERED By the Zoning Commissioner of Baltimore County, this\_ltt\_\_\_ ONDERED by the ZORING COMMISSIONER OF SALIMOTE COUNTY, WILL INTERPRETABLE OF THE PROPERTY OF T at\_J9200\_o'clock\_\_A\_M.

Address 34 W. Chesapeake Avenue Towson, Maryland 21204

Edward D. Hardes ty

topla Bld - 4

(over)

the lot, grading and beginning preparation for excavation, all of which cost the owner some \$4,500.00 that he did come within the exthat the expenditures were made on the strength of the permit

[N.C.] the issue was whether a person holding a permit for a filling station could retain the permit under an exception applying to "construction which has been started". All that the owner of an existing building had done was place in it a grease dispenser and goods that would normally be sold out of a filling station, and the court held that this was a sufficient commencement to come within the exception. Further, in this opinion, the court stated, "Zoning ordinances are in derogation of the right of private property, and, where exemptions appear in favor of the property owner, they should

The petitioner in the present case likewise maintains that the exception should be liberally construed in his favor.

Further cases of interest are as follows

State v. Harpham [Ariz.], 410 P2d 100 considered a statute which provided that no new wells could be dug in a certain area, but those "substantially commenced" could be completed. It

PETITION FOR SPECIAL HEARING on property located on the \$/\$ of Old Court Road (relo 3184 east of Reisterstow 3rd District Pikesville Plaza, Inc.

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY No. 67-38-SPH

ORDER OF DISMISSAL

Petition of Pikesville Plaza, Inc. for special hearing to det not the Zoning Commissioner or Deputy Zoning Commissioner should approve a building permit for a gas station in accord with special exception previously granted since the special exception has been utilized as in the Zoning Regulations provided and a substantial part of of construction has been commenced, on property located on the south side of Old Court Road (relocated) 318 feet east of Reisterstown Road in the Third District of Baltimore County

WHEREAS, the Board of Appeals is in receipt of a Letter of Dismissal of Appeal filed February 17, 1967 (a copy of which is attached hereto and made a part hereof from the appeilant in the above entitled matter

WHEREAS, the said appellant requests that the appeal filled on behalf of of said appetlant, be dismissed and withdrawn as of February 17, 1967.

it is hereby ORDERED this 23rd day of February, 1967 that said speed be and the same is DISMISSED.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William S Baldwin Chairman

W. Giles Porker

was held that the trier of fact may consider grading of road for ingress and egress, purchase of material, construction of slush-pits, and actual excavation preparatory to drilling in order to determine if wells were commenced. The court did not find it necessary to actually have a drilling rig on the site before the critical date, but held that preparatory efforts, if made at considerable expense would satisfy the term "substantially commenced." See also McCallister v. Texas Co., 223 S.W. 859.

Williams v. Wofford, 140 S.E. 2d 190 [Ga.] involved an mption from building regulations for those "who began construction within six months". The owner had demolished an existing house graded the lot, and poured new footings, and this was held sufficient to satisfy the exemption even though the footings were later abando ed and covered over.

In view of the above authorities, and in view of the liberal construction of the law to which the petitioner is entitled, it is respectfully urged that the bringing of utilities to the site, the grading of the lot, the building of a retaining wall, all done at considerable expense and all done in reliance on the special exception granted by Baltimore County, do certainly require a finding that the petitioner has satisfied the exemption spelled out in the statute, and that an appropriate order should be entered that will enable petitioner to file his application for a zoning permit and to have said application duly processed

Respectfully submitted, William F. Mosner 34 West Chesapeake Avenue Towson, Maryland 21204 VAlley 3-1250 Attorney for Pecitione

I HEREBY CERTIFY that on this 9th day of September, 19 the aforecoing Memorandum was mailed to Johnson Bowie, a copy of the aforeguing Memorandum was mailed to Johnson Bowie, Esquire, 22 M. Pennsylvania Avenue, Towson, Md. 21204, Attorney for Protestants.

WILLIAM F. MOSNER

ception for those who "began construction". The court pointed out granted by the city, and that it would be inequitable for the city to later try to revoke the permit after the owner had invested substantial sums of money in the project. Similarly in W. P. Rose Builder's Supply Co., 163 SE 462

be liberally construed in favor of such owner."

Piping Specialties Co. v. Kentile, Inc. [Cal.], 229 C.A. 2d 586 held that materials which amounted to six percent of the contract and which were substantial on a functional basis co stituted a "substantial part of the work" for mechanics lien purposes. In the present case expenditures approximated \$12,000.00, and this should certainly be considered "substantial".

and permitted the station to be built, holding that the filling of

INTER-OFFICE CORRESPONDENCE

TO Edward D. Hardesty, Deputy Zoning Commission Pate August 19, 1966

FROM George E. Gavrelis , Director of Planning

SURJECT 67-38-SPH. Petition for Special Hearing to determine whether or not the Zoni-g Commissioner and J. Deputy Zoning Cemmissioner should approve building permit for gestalens station in accord with special exception previously granted since the special exception has been utilized as in the Zoning Regulations provided and a substantial part of construction has been communiced. South side of Old Court Road relocated, J31 feet east of Relitensiows Road. Being the property of Piksaville Plaza, bic.

3rd District

HEARING: Monday, August 29, 1966 (10-00 A.M.)

The Planning stoff has processed ownall plans for the shopping center within which the subject gasoline service station sets is located. It has not received or processed expositions for a building pennit covering the gasoline service station in the Pikewille Plaza center. It no pennt has been issued, the Planning staff questions how construction could have legally commenced on the service station itself.

GEG-land

BALTIMORE COUNTY DEFICE OF PLANNING AND CONING

County Office Building 111 W. Chesapeake Ave.a Towson, Maryland 2120h

Your petition has been received and accepted for filing this

day of august

Petitioner Pinceville Plans

W. Chasepeaks

Fettioner's Attorney Reserve Four and Reviewed by Asset S March Chairman of Advisory Countries

BALTAIORE COUNTY, MARTAND OFFICE OF FINANCE

No. 42975

Division of Collection and Receipts COURT HOUSE TOWSON, MARYLAND 21204

POSIT TO	ACCOUNT 101-692 RETURN THE POSITION WITH YOUR REMITTANCE. JUSTA: H ALONG PERFORATION AND KEEP THIS PO'TION FOR YOUR RECORDS	\$90.50 ·
	Advertising and posting of property for Pikesville Plats, Inc. 567-38-578	90.50

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

BALTECORE COUNTY, MAPS AND OFFICE OF FINANCE

No.39458 DATE 8/8/66

Division of Collection and Receipts COURT HOUSE TOWSON, MARYLAND 21204

Messrs. Power and H 34 W. Chesapeake Av Towson, MJ. 21204

BILLED Zoning Dept. of Balto. Co.

DEPOSIT TO A	OCCULATING 01-632 DETACH UPPER SECTION AND SETURN WITH YOUR RETITTANCE	\$25.00	
- ^	Petition for Special Macring for Pikesville Plaza, Inc. #67-38-591		
	6-966 1069 * 39858 UP-	25.00	
	4		

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

BALTIMORE COUNTY, MARY AND OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No.42264 DATE 11/23/66

67 38 SPH

To: Bon Air Esso Servetr. 1701 Taylor Ave. Baltimore, Md. 21234

BILLED Zoning Dept. of Salto. Co.

POSIT TO A	\$40.00			
	Cost of Appeal For #67-38-SPH	Pikesville Plaza,	INC.	40.00
			PST-tomeScoreHL=08adle	+
	THE PARTY.	11 23 06	2621 * 42264 TAP-	1000
	4			0540000

MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

CERTIFICATE OF PUSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 3 P 3 Special Hearing Date of Posting City 13, 1966 Petitioner Likewille Hodgen Love Location of property of Child Color Hel (Metralal) 313 6 of Kerstenton Krc

Toronton of Sugar 3/2 Well Court Rd. (Milocaled) 300' E 1 Remarks

Date of return (149 18 1866

second with special exception previously granted since the agechal exception has been obtained as the conconstruction has been conlocated and a sinkantatal particular and a second consecond and a sinkantatal particular and a second consecond and a sinkantatal particular and a second consecond control of the concontrol of the conconcontrol of the con
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OFFICE OF THE BALTIMORE COUNTIAN

THE COMMUNITY NEWS

THE PERALD - ARGUS

No. I Newburg Avenue

CATONSVILLE 3/D

THIS IS TO CERTIFY, that the annexed advertisement of Edward D. darlesty, Denuty coming Counted one of Bultimore County

was inserted in THE BALTIMORE COUNTIAN, a group of threex weekly newspapers published in Baltimore County, Maryland, once a week for One suggessive weeks before the 15th day of August, 1900 that is to say

the same was inserted in the issues of August 11, 1966.

THE BALTIMORE COUNTIAN

By Paul J. Morgay Editor and Manager of W

special exception previously grace, of since the special exception fast been stilled at his translation of the special exception fast been stilled at his translation part of construction has been exceptioned a sub-been exceptioned for forestrations has been exceptioned for forestrations from ALTE & TRIES, Monday, Mayou 27, 1004 at 10000 A.M. PUBLIC BEARDOR, moon 199, Comm. 10 Office Building, 199, Contraction from the forest forest

And the state of t

street, and the control of the contr

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the anaexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of 100 successive weeks before the 1004

19 the first publication appearing on the \_\_\_\_\_ day of \_\_\_\_\_\_

> THE JEFFERSONIAN, D. Leank Streethon

Cost of Advert sement, \$ ...

