

PETITION FOR ZONING RE-CLASSIFICATION
AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Bernard Schwartz and

I, we, Dorothy Schwartz, 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 reclassified, pursuant to the Zoning Law of Baltimore County, from an R-20 to an R-40, and (2) for the following reasons:

1. There was a mistake in the original zoning and/or the character of the neighborhood has changed to such an extent that a reclassification as requested is proper; and

2. With Special Exception for Airport

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 airport use.

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

I, or we, agree to pay expenses of above reclassification 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.

Bernard Schwartz
Dorothy Schwartz, Legal Owner
Contract purchaser
Address: Philadelphia Road
Baltimore County, Maryland

Protestant's Attorney
James D. Nolan
Address: 204 A. Pennsylvania Ave.
Towson, Maryland 21204 (VA-3-7800)

ORDERED: By The Zoning Commissioner of Baltimore County, this 13th day of June, 1968, 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 had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 19th day of July, 1968, at 1:00 o'clock P.M.

Zoning Commissioner of Baltimore County

ROYSTON, MUELLER, THOMAS & MCLEAN

ATTORNEYS AT LAW
400 WEST BALTIMORE AVENUE
TOWSON, MARYLAND 21204

February 9, 1968

Board of Appeals of Baltimore County
County Office Building
Towson, Maryland 21204

Re: Case No. 68-19RX
Petition of Bernard Schwartz

Gentlemen:

Please enter the appearance of the following as attorneys for the Roman Catholic Archbishop of Baltimore, protestants in the above entitled matter:

Francis X. Gallagher
1100 One Charles Center
Baltimore, Maryland 21201

H. Anthony Mueller
600 Nottingham Building
Towson, Maryland 21204

Very truly yours,

H. Anthony Mueller

HAM/1g

cc: Francis X. Gallagher, Esq.

RE: PETITION FOR RECLASSIFICATION
from an R-20 zone to an R-40 zone,
and SPECIAL EXCEPTION for
an Airport
Beginning 2830' S. of New Forge Rd.
as now relocated, and 1386' NW of
Northeastern Expressway
11th District
Bernard and Dorothy Schwartz,
Petitioners

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 68-19-RX

OPINION

The petitioners, Bernard and Dorothy Schwartz, and the corporate successor in interest, Baltimore Aviation Service, Inc., are requesting the reclassification of a tract of land consisting of some six acres, more particularly described in a metes and bounds description and in a plat filed in the proceedings. The petitioned property is located in the Eleven n Election District of Baltimore County, south of New Forge Road and northwest of Northeastern Expressway. The subject land has been used for growing crops with some small portions being wooded. It is presently zoned R-20 and the petitioners seek to reclassify this property to R-40, with a special exception for airport use thereon. The proposed purpose is to lengthen by 400 feet an existing 2000 foot long runway from an adjacent airport property, formerly known as Quinn Airport but now owned by the petitioner. It took four days to hear this case and all pertinent facts, for the sake of brevity, cannot possibly be recited in detail in this decision.

The subject tract was described as being bounded by land uses as follows: On the north by cultivated fields, owned by Bernard and Dorothy Schwartz; to the east by the aforementioned Quinn Airport (this airport tract having been formerly granted a special exception for airport use in 1956, zoning case No. 3520); to the south by property primarily in an orchard; and on the west by other cultivated fields primarily owned by Bernard and Dorothy Schwartz. The Northeastern or Kennedy Expressway lies to the southeast of the existing airport with its nearest point being several hundred feet from its southeast corner. As was previously noted, this six acre tract occupies the existing airport property at its western boundary and thus, the reclassification, in addition to lengthening the existing runway, is being sought in order to realign its western and northwardly away from the Chapel Hill Elementary School, and its eastern end southwardly away from the advancing residential development of Forge Heights.

Petitioners' witness, Francis M. Dane, a flight instructor, described the plan as rotating the old runway 15° clockwise thereby moving air traffic further away from the school and the developed area. He testified that, in his opinion, granting the special exception would not violate the provisions of Section 502.1 of the Zoning Regulations. In answer to a question from the Board, Mr. Dane replied that no new operations

Bernard Schwartz - #68-19-RX

DC-3 could be flown safely in and out of the existing Quinn Airport. Much of the protestants' case seemed to be directed against the very existence of the present airport, a question not here at issue, rather than the propriety or advisability of the proposed reclassification and special exception. The testimony of Mr. Jack Doff, who testified on behalf of the protestants, can largely be classified in that category as can the testimony of the protestants' real estate expert; namely, the inadvisability of having an airport in a residential area.

The protestants produced a number of witnesses, residents of the general area. They protested against the low flying of aircraft, buzzing, and dangerous flying tactics that emanate from the existing airport. After having heard these numerous witnesses at great length, the Board must again state that these witnesses primarily directed their testimony to the propriety or impropriety of the existing airport use, rather than to the petition here at issue.

Similarly the White Marsh Improvement Association, the Chapel Hill Elementary P.T.A., the P.T.A. Council of Baltimore County, and the Forge Heights Improvement Association, Inc., all directed their testimony to the existence and operation of the present airport. They further based their opposition on a fear that by granting the petition, in itself, there would be a resultant increase in air traffic volume which would outweigh the potential safety benefits derived from the proposed runway realignment. The Board finds this fear unsubstantiated by the facts given in testimony, and believes there would be an intensification in use and an increase in air traffic volume at the existing airport even if the petition were denied. There was sufficient testimony on both sides of the case to clearly convince the Board that the present airport could accommodate nearly the same size runway as proposed, and the same size airplanes as it will be able to do if the petition is granted. The undenied benefit of added safety through realignment of the runway is possible, however, only by granting the petition. The Board is of the opinion that granting the special exception will not contravene the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

As to the reclassification from R-20 to R-40, the Board must concern itself with the narrow question as to whether the zoning map was in error in classifying the subject property as R-20. Since the map is not yet two years old, changes in character and use of the neighborhood cannot be used as a basis for considering the petition.

The Board feels that there was error in the original zoning in that the Planning Board and the County Council erred in not providing additional R-40 land for the logical growth and expansion of safety areas to the north and west of the existing airport to alleviate the problem which was created by another County department, the Board of Education, in its choice of site for the Chapel Hill Elementary School. It is manifest

Bernard Schwartz - #68-19-RX

could be conducted by virtue of granting the petition than those not already possible with the existing airport facility, but that only a safer operation would result if the petition were granted.

Mr. Howell Mece, President of Baltimore Aviation Service, Inc., testified that the petition is being sought primarily for safety reasons. He stated that he could in fact build a runway nearly 2400 feet long on the existing airport, a point not refuted by any other witness, but the granting of the petition would enable him to construct a safer, relocated, 2400 foot runway whereby airplanes could take advantage of the strongest prevailing winds, and have safer landings and take-offs. It should be noted that this petition in no way involves the existing airport or airport use, but concerns only the subject six acre tract. Under the present zoning and special exception for the existing airport property the petitioners can operate or improve their airport as they might wish to do, so long as such operations and improvements meet State and Federal safety requirements, which it apparently does since it is licensed.

Paul Didier, a sanitarian with the Baltimore County Health Department, made seven test borings and testified that the petitioned tract did not pass standard percolation tests for septic sewerage disposal and, therefore, could not be developed in its present R-20 classification for building purposes until such time as it is provided with public sewer service.

Mr. Hugh Gelston, a qualified expert real estate appraiser, testified for the petitioners that the reclassification and special exception would not adversely affect the neighborhood or the property values in the surrounding area. He supported this view by stating that the Forge Heights development and the Chapel Hill Elementary School were both developed after the Quinn Airport was in existence. He described Forge Heights as a very fine residential development with homes ranging from \$20,000 to \$40,000 in value, which have been constructed right up to the airport boundary and which sold readily at full value.

Bernard Willemain, a recognized land planner, testified for the petitioner that the proposed reclassification and special exception would benefit the surrounding neighborhood by assuring a safer operation of the existing airport by diverting aircraft traffic away from homes and school. He stated that, in his opinion, the Baltimore County Council, in adopting the zoning map, had erred in failing to consider the advancement of the Forge Heights development and the existing airport's runway alignment with the Chapel Hill School. The school and the Forge Heights development were built in the interim between the original airport zoning in 1956 and the adoption of the zoning map on August 1, 1966. He further testified that the zoning map should have designated

Bernard Schwartz - #68-19-RX

that while the Planning Board and Council could not, perhaps, compel such improvement in realignment of the existing runway or increase the safety factors, they should not have impeded such voluntary action by the airport owners, and R-40 land should have been provided on the subject tract. Lack of public sewer, water, and a history of poor percolation tests should have been compelling reasons to place the subject in an R-40 classification. Furthermore, it is debatable that had this subject tract been part of the Quinn Airport ownership at the time of the map's adoption, it would have been included in the R-40 zone on the map.

It also should be noted that although the Board is of the opinion that there is manifest error present, these proceedings are truly not in the nature of a reclassification from R-20 to R-40, for the property owner has no intention to develop for residential use, but rather these proceedings are in the nature of an application for a special exception for airport use. Probably it is not necessary to state that the only reason the R-40 reclassification is sought is that a special exception for airport use may only be attained in residential R-40 zoned land. A glance at the map shows that this property is bordered on the east by R-40 land, and is a logical extension of this R-40 zone.

The Board is of the opinion, upon all testimony presented, that the reclassification and special exception requested is appropriate and concurs with the ruling of the Zoning Commissioner in this petition. However, the Board's action here is not to be interpreted as an opening wedge to further rezoning of adjacent tracts for airport use.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 1st day of August, 1968 by the County Board of Appeals, ORDERED that the reclassification and special exception petitioned for, be and the same are hereby GRANTED, subject to site plan approval by the Bureau of Public Services and the Office of Planning and Zoning, and subject to the following restrictions on the subject six acre tract:

1. No plane having a gross weight exceeding 12,500 pounds shall use this facility
2. No commercial airline service engaged in transporting cargo, freight, or airline passengers shall use this facility

Bernard Schwartz - #68-19-RX

R-40 classification for the subject property because of unplanned public sewer facilities for the White Marsh-Gunpowder area. He believed that the land should have been placed in R-40 as a reservoir category in fairness to the property owners and as notification to the public. There have been numerous septic tank failures in the area, and the Health Department has tightened their regulations regarding percolation tests so that the subject property cannot be developed now in its R-20 classification. He contended that to simply reclassify the subject property only to R-40 in itself would only continue to restrict the use of the property, therefore, a special exception treatment should be afforded it. He cited the Huff and Castello cases as precedents presenting essentially an application for a special exception; see Huff v. Board of Zoning Appeals, 214 Md. 51 (1957), and Castello v. Seling, 223 Md. 24 (1959). It was his opinion that granting the special exception would not violate any of the provisions of Section 502.1 of the Zoning Regulations.

The protestants in their case, and the Office of Planning in its comments, both seemed to fear or to interpret this petition as an expansion of the existing airport's facilities. Yet, all witnesses before this Board, versed in aviation, testified that any aircraft which could land and take-off on a 2400 foot runway as proposed, could similarly land or take-off on the existing 2000 foot runway; the only difference being that the proposed 2400 foot runway as realigned would allow a much safer operation rather than a quantitative increase in airport usage.

Mr. Leslie Groef, Deputy Director of Planning for Baltimore County, testified that his department had not inspected nor specifically considered the airport property in the deliberations leading to the adoption of the Northeastern zoning map. He agreed that the subject land probably would not pass percolation tests and, therefore, could not be developed as R-20 lots. He also stated that there are no sewer improvements proposed in the current five year Capital Improvement Plan that would serve the subject land. This point was further confirmed in the testimony of Mr. Sam Ballestri, Chief of Sanitary Sewer Design for Baltimore County. Mr. Groef stated that the subject land was designated R-20 on the zoning map because public sewer service would be available to it "in time". A similar position was taken by protestants' expert witness, Mr. Jack Doff, Landscape Architect.

Mr. William Simpkins, an aviation expert testifying for the protestants, agreed that the proposed realignment and improvement of the runway would result in a safer airport operation. He agreed that any plane that can land on the proposed 2400 foot runway, can also land on the existing 2000 foot runway. He stated that for take-offs and landings, a small twin engine plane needs only 1000 feet of runway; a twin engine Beechcraft carrying as many as six people would need 1200 feet; and a loaded

Bernard Schwartz - #68-19-RX

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

John A. Slawik, Acting Chairman

Walter A. Riter, Jr.

John A. Miller

RE: PETITION FOR RECLASSIFICATION : BEFORE THE
AND SPECIAL EXCEPTION : ZONING COMMISSIONER
Beg. 2830 feet S of New Forge Road : OF
and 1386 feet NW of the Northeastern :
Expressway - 11th District : BALTIMORE COUNTY
Bernard Schwartz, Petitioner :
NO. 68-19-RX :

The Petitioners have requested the reclassification of this property consisting of 6.07 acres (as more particularly described in a metes and bounds description and plat filed in these proceedings), presently being utilized for the growing of wheat and in some small part in woods, from the present classification of R-20 to a classification of R-40, with a special exception for an airport.

The land was described as being bounded on the north by other wheat fields owned by the Petitioners, namely Bernard L. Schwartz and Dorothy Schwartz, on the east by the existing Quinn Airport, now owned by the optionee of the Petitioners, namely, Baltimore Aviation Service, Inc. which entire airport tract is classified R-40 with a special exception for airport use, which zoning was granted to a predecessor in title, Frank E. Quinn, in Case Number 3520, in 1950; on the south by property devoted to agricultural use, much of it as an orchard; and on the west the tract in question is bounded by other wheat fields, primarily owned by the Petitioners, Bernard L. Schwartz and wife. It should be noted that the Northeastern Expressway borders the existing airport property on the southeast side.

At the hearing on July 19, 1967, Mr. Julius Frieser and Mr. E. C. Hardesty, both residents of the developments known as Forge Heights, which lies to the northeast of the existing airport property, and which consists of fine, single family dwellings situated on large shaded lots, were present.

The corporate optionee, through its President, Howell Mace Jr. and through its counsel, indicated that the reclassification and special exception was being sought primarily for safety reasons. Although the existing facility is properly licensed by both the State and Federal authorities, it was indicated that the Baltimore County Board of Education has constructed the new Chapel Hill Elementary School in a line with the western approach to the existing runway. Similarly, the eastern end of the existing 2000-foot-plus runway is being somewhat encroached upon by new homes being built in the Forge Heights development. The reclassification of the six-acre tract in question is being sought, according to Mr. Mace, in order to lengthen slightly the existing runway, but more importantly to realign the runway at the west end away from the Chapel Hill Elementary School by moving its western terminus northward, on the east end away from the homes by moving its eastern terminus southward of its existing position. The grade of the existing runway is also to be changed and leveled, and a hard macadam surface is to be applied, according to Mr. Mace's testimony. It was pointed out that were zoning for the airport to be sought today, the alignment sought by the Petitioners and their contract purchaser would be clearly the preferable alignment. It should be also noted that the Petitioners under the existing zoning as to the larger tract could quite legally continue to utilize the facility as it is now, and that at

MICROFILMED

this hearing this usage was not in question as to the larger tract.

As for error in the original zoning, the Petitioners contend, and with some merit, that the Planning Board and County Council erred in not providing additional R-40 land to the north and west of the existing airport for logical growth and expansion to alleviate the problem created by another County Department, the Board of Education, in its choice of site for the Chapel Hill Elementary School. While the Planning Board and the Council could not, perhaps, compel such realignment, it is manifest that on the other hand, they should not have impeded such voluntary action by the property owners, and R-40 land should have been provided to the west and north of the existing airport, and it was an error not to do so. Parenthetically, the corporate contract purchaser was not in a position, at the time of adoption, to point out such error to the Council or to the Planning Board, as it did not take title to the land until May, 1967, according to the testimony offered.

Some concern was expressed by both Mr. Frieser, President of Forge Heights Improvement Association, and Mr. Hardesty, both residents of Banger Avenue, in the Forge Heights development, as to the proper agency to police the future operation of the facility, both as it exists now, and as it may be hereafter altered; and it was pointed out that the present use is legal and that the policing of the facility falls most effectively within the ambit of the Federal Aviation Agency, and it is to that agency that any illegal or unsafe condition should be reported. No such present condition was mentioned by either Mr. Frieser or Mr. Hardesty.

Furthermore, upon the testimony presented and a view and inspection made, that the reclassification is appropriate and desirable, and that the airport use for which the special exception is requested is in compliance with Section 502.1 of the Baltimore County Zoning Regulations.

For the foregoing reasons, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 24th day of July, 1967, that the herein described property or area should be and the same is hereby reclassified from an R-20 zone to an R-40 zone, and a Special Exception for an airport 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.

Zoning Commissioner

MICROFILMED

RE: PETITION FOR RECLASSIFICATION : BEFORE
from R-20 zone to R-40 zone, and : COUNTY BOARD OF APPEALS
SPECIAL EXCEPTION for Airport :
Beg. 2830' South of New Forge Road : OF
on new relocated, and 1386' North- : BALTIMORE COUNTY
west of Northeastern Expressway, :
11th District :
Bernard Schwartz, et al, : No. 68-19-RX
Petitioners :

AMENDED ORDER

WHEREAS, by Order of the Circuit Court for Baltimore County in the proceedings concerning the above entitled case on appeal to the Circuit Court (Misc. Docket #8, Folio #347, File #4040), an Order was passed by Walter R. Huille, Judge, on the 30th day of July, 1969, affirming the Board's Order in part, and remanding the said case to the County Board of Appeals for a new metes and bounds description of the property for which this special exception is granted, in accordance with the Court's Order.

THEREFORE, in accordance with the aforementioned Order of Court, it is this 24th day of October, 1969, by the County Board of Appeals ORDERED that the reclassification and special exception petitioned for be and the same are hereby GRANTED, subject to the restrictions in the Order of the County Board of Appeals, dated August 1, 1968, for the parcel of land as described in the attached description and plat, prepared by Robert C. Norris and dated October 18, 1969, which is attached hereto and made a part of this Order.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Slawik, Acting Chairman

Walter A. Keller, Jr.

John A. Miller

Robert C. Norris, Reg. Surveyor
Old Court Road, Balto., Md. 21207

Oct. 18, 1969

Description for a parcel of land, now used for an Airplane runway, lying at the Western end of the runway, for the Baltimore Aviation Services, Inc..

Beginning for the same at a point on the second line of the land described in a deed from Bernard L. Schwartz, et al to the Baltimore Aviation Services, Inc. at a point 92 ft. from the beginning of said line, then so running, and binding on said line North 38 degrees 49 minutes East 271.3 ft.; Thence running South 86 degrees 17 minutes West 360 ft.; Thence running South 03 degrees 43 minutes East 200 ft.; Thence running North 86 degrees 17 minutes East 175.0 ft. to the point of beginning. Containing 1.22 acres more or less

Robert C. Norris, Reg. Surveyor

C. LAMAR CRESWELL, SR. and : IN THE
ELISE M. CRESWELL, his wife : CIRCUIT COURT
Joppe Road :
Ferry Hall, Maryland 21128 : FOR
GEORGE F. MOORE and : BALTIMORE COUNTY
BETTY MOORE, his wife :
Joppe Road :
Ferry Hall, Maryland 21128 :
DONALD M. CULLY and :
CHARLOTTE A. CULLY, his wife :
Ferry Hall, Maryland, :
Appellants :
vs. :
JOHN A. SLOWIK, :
WALTER A. REITER, JR. and :
JOHN A. MILLER, :
constituting the County Board of :
Appeals for Baltimore County :
Case No. 68-19-RX :
Appellees :

ORDER FOR APPEAL

Mr. Clerk:
Please enter an Appeal in the above-entitled matter to the Circuit Court for Baltimore County, from the Order of the County Board of Appeals, dated August 1, 1968.

E. Scott Moore

I HEREBY CERTIFY that on this 28th day of August, 1968, a copy of the foregoing Order for Appeal was mailed to the County Board of Appeals of Baltimore County, County Office Building, Towson, Maryland, 21204, and to James D. Nolan, Esq., 204 W. Pennsylvania Avenue, Towson, Maryland, 21204, Attorney for Applicant.

E. Scott Moore

BEFORE THE : RE: Petition for Reclassification
ZONING COMMISSIONER : and Special Exception
FOR BALTIMORE COUNTY : Beg. 2830 feet S of
New Forge Road and
1386 feet NW of the
Northeastern Expressway -
11th District
Bernard Schwartz,
Petitioner
NO. 68-19-RX

NOTICE OF APPEAL

MR. COMMISSIONER:
Please enter an Appeal to the Baltimore County Board of Appeals, in the above-entitled matter, from the Order of the Zoning Commissioner dated July 26th, 1967.

E. Scott Moore, Attorney for
C. Lamar Creswell, et al.,
Protestants



Robert C. Norris, Reg. Surveyor
Old Court Road, Balto., Md.

May 20, 1967

#68-19-RX

Description for a parcel of land Southwest of the Philadelphia Road, in the Eleventh District, Baltimore Co., Maryland.

Beginning for the same at a point the four following courses and distances from the point of intersection of the center of the New Forge Road as now relocated and the Northwest edge of the right of way of the Northeastern Expressway to wit:
South 51 degrees 45 minutes West 2830 ft. along the Northwest edge of the right of way of the Northeastern Expressway, thence North 61 degrees 15 minutes West 210 ft. and South 40 degrees West 285.8 ft. and North 77 degrees 02 minutes West 1386 ft., said point being also at the end of the first line of the land described in a deed from Albert Willink and wife to Bernard L. Schwartz and wife, dated Oct. 23, 1956 and recorded among the Land Records of Balto. Co. in Liber No. 3039, folio 410 etc., thence running and binding on the second line of said deed North 38 degrees 49 minutes East 271.3 ft.; Thence running for a line of division North 71 degrees 01 minutes West 394.2 ft. to the beginning point of the last line of said deed; Thence running and binding on said last line South 33 degrees 10 minutes West 396.73 ft. and thence binding on the first line of the above mentioned deed South 77 degrees 02 minutes East 729.22 ft. to the point of beginning.

Containing 6.07 acres more or less and being a part of the land conveyed in the deed mentioned above.

Robert C. Norris, Reg. Surveyor, No. 700

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

James D. Nolan, Esq.
204 W. Pennsylvania Avenue
Towson, Maryland 21204

SUBJECT: Reclassification from R-20 to R-40
Special Exception for an Airport for
Bernard Schwartz, located NW/4
Northeast Expressway, 2830' E of
Forge Road
11th District
(Item 3 of June 13th, 1967)

Dear Sirs:

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

BUREAU OF ENGINEERING:
Water and sewer not available.

If the petition is granted no occupancy may be made until such time as plans have been submitted and approved and the property inspected for compliance to the approved plan.

The above comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems that may have a bearing on this case. The Director and/or the Deputy Director of the Office of Planning and Zoning will submit recommendations on the appropriateness of the requested zoning 10 days before the Zoning Commissioner's hearing.

The following members had no comment to offer:

Zoning Administration Division
Project Planning Division
Bureau of Traffic Engineering
Health Department
Bureau of Fire Prevention
State Roads Commission
Building Engineer
Board of Education
Industrial Development

Very truly yours,

James D. Nolan, Principal
Zoning Technician

cc: Carlisle Brown-Bureau of Engineering

MICROFILMED

ZONING FILE NO. 68-19-RX - Bernard and Dorothy Schwartz, Petitioners

C. LAMAR CRAWWELL, ET AL. : IN THE CIRCUIT COURT
V. : FOR BALTIMORE COUNTY
COUNTY BOARD OF APPEALS : MISC. NO. 4086

ORDER TO APPEAL

Mr. Clerk:

Please enter an Appeal to the Court of Appeals of Maryland on behalf of C. Lamar Crawlwell, et al., Petitioner, and Appellant, in the above-captioned matter.

E. Scott Moore, Attorney for
C. Lamar Crawlwell, et al.,
408 Jefferson Building
Towson, Maryland 21204
212-2510

I HEREBY CERTIFY that a copy of the above was mailed to E. Scott Moore, Attorney for Appellees, 408 W. Pennsylvania Avenue, Towson, Maryland, 21204, this _____ day of August 1, 1967.

E. Scott Moore

of the locality involved, which, of course, includes the airport.

The zoning Commission (1953) provide, in section 521.1, that before any special exception shall be granted, it must appear that the use for which the special exception is requested will not be detrimental to the health, safety, or general welfare of the locality involved. The burden of proof on the applicant in this case was not, according to the Board. This court cannot substitute its judgment for that of the Board. The Board found that the extension would improve the safety of these using the airport. That it might also increase the income of the legal owner of the airport, is irrelevant.

The protestants argue that the extension of the landing strip will permit the use of larger planes, and the use of larger planes will lead to commercial activities at the airport of a broader nature. Presently, the airport is used to shelter private planes, fuel them, and service them, and also to train persons to fly. It is contended that with the longer landing strip the legal owner will be able to establish a passenger and freight handling service comparable to Friendship Airport.

The Board was not insensitive to this argument, and, accordingly, the Board imposed the restriction hereinabove set forth. They seem to this court to be reasonable restrictions. Perhaps they would be rendered more binding if the Board of Appeals would require an agreement to be entered and recorded, in accordance with the provisions of section 521.2 of the zoning regulations. While this court cannot order that this be done, it is suggested that it would be prudent that it be done. Should the legal owner refuse to enter into the agreement, then he would be unable to extend the landing strip over the property involved in this proceeding.

The Board erred, however, in extending the special exception to include the entire tract of 6.07 acres. There is no evidence in the transcript legally sufficient to support such an extension.

ZONING FILE NO. 68-19-RX - Bernard and Dorothy Schwartz, Petitioners

C. LAMAR CRAWWELL, ET AL. : IN THE CIRCUIT COURT
V. : FOR BALTIMORE COUNTY

COUNTY BOARD OF APPEALS : MISC. NO. 4086

Attorney for Protestants - E. Scott Moore
Attorney for Legal Owner - James D. Nolan

STATEMENTS AND OTHER OF COURT

This proceeding was initiated on June 13, 1967 by the filing with the office of planning and zoning of a petition for zoning reclassification from an R-20 zone to an R-40 zone and a special exception for airport. The petitioners were Bernard Schwartz, and Dorothy Schwartz, legal owners, and Baltimore Aviation Service, Inc., contract purchaser. A description and plat of the property were filed with the petition as part thereof.

The description indicates the subject property contains 6.07 acres, more or less. The plat shows the subject property, and it also shows an adjacent property containing a landing strip 200 feet wide, the center line of which is approximately 2,100 feet long, and showing the proposed extension of that landing strip a distance of approximately 300 feet into the eastmost third of the subject property.

The zoning commission approved the proposed extension of the length of the landing strip, by reclassifying the subject property from an R-20 zone to an R-40 zone, and by granting the special exception for airport use.

Crawlwell perfected an appeal to the Board of Appeals on August 24, 1967. By deed dated December 6, 1957, the contract purchaser, Baltimore Aviation Service, Inc., became the legal owner of the subject property. When the hearing is held before the Board of Appeals commenced on January 19, 1968, the petition

In Article VI of the Baltimore County Charter, this court is empowered to modify the decision of the Board of Appeals. Baltimore County Charter, Section 604.

It is the opinion of this court that the reclassification and special exception should be limited to the area marked "Proposed Extension" (enclosed in dotted lines) as shown in Petitioner's Exhibit No. 1. Since the exhibit does not show the courses and distances of the dotted lines, the case is remanded to the Board of Appeals for the purpose of establishing the lines by notes and bounds, and incorporating them into the Board's order.

One issue posed by the appellants in this proceeding remains to be discussed. The appellants claim that the Board erred in finding that the County Council mistakenly named the subject property from R-20 to R-25 when it adopted the Northeastern Area Comprehensive Zoning Map on August 1, 1955.

The Board's decision on this issue of mistake in the map was unnecessary, however, since the reclassification and special exception should be granted on other grounds, as hereinabove set forth, the order of the Board of Appeals cannot be reversed. As the Board stated in its opinion (page 2):

"It also should be noted that although the Board is of the opinion that there is manifest error present, those proceedings are truly not in the nature of a reclassification from R-20 to R-40, for the property owner has no intention to convert for residential use, but rather those proceedings are in the nature of an application for a special exception for airport use."

That there is a difference between a reclassification and a special exception case is indicated in the opinion in *Condon v. Board of Appeals*, 210 Md. 410, 164 P.2d 400, where the court said that different standards of proof apply to petitions of reclassification than do to special exceptions, and that all persons of good faith may appear to support a special exception

was amended by designating Baltimore Aviation Service, Inc., as the legal owner in place of Bernard Schwartz and Dorothy Schwartz.

After four days of testimony (the transcript contains 793 pages), the matter was submitted to the Board of Appeals for a decision. On August 1, 1967, the Board of Appeals granted the reclassification and special exception subject to the restrictions.

In the Baltimore County Zoning Regulations 1955, it is stated, in Section 521.2, that in granting any special exception, the zoning commission, or the County Board of Appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding or neighboring properties.

In granting the special exception in this proceeding, the Board of Appeals imposed the following restrictions on the six-acre tract:

1. No plane having a gross weight exceeding 12,500 pounds shall use this facility.
2. No commercial airline service engaged in transporting cargo, freight, or airline passengers shall use this facility.

The owners of three of the neighboring properties, perfected this appeal to this court. No cross-appeal was filed by the legal owner, from the restrictions imposed. Neither side offered additional testimony. Arguments of counsel were heard, and the case was submitted on the petition for appeal, the answer thereto, and the record transmitted to this court by the Board of Appeals.

In accordance with Local Rule 2.3 of this court, the parties filed legal memoranda, containing points of law, legal authorities, and citations of particular portions of the record transcript in support of each party's position.

Insofar as the decision of the Board of Appeals is supported by substantial evidence adduced upon the

case, plus either a showing of error in the original zoning or a substantial change in neighborhood conditions, must be established in a reclassification case. The court decided that case as a special exception case, and by-passed the issue of whether or not there was error in the original zoning or a substantial change in neighborhood conditions.

After four days of the Court of Appeals heard out the distinction. It has been said that the error and change rule does not apply to zoning case petitions, because zoning cases are similar to special exceptions. The converse is true; that is to say, special exceptions, such as the one applied for in this case, are similar to an application for a change from a classification from a zoning zone.

In 1955 the subject airport was established as a special exception in a residential zone, and the classification of the property was changed from R-20 to R-40, without a finding of error or change in the original zoning. Since there was no appeal from this decision of the zoning commission (which is shown in an amended exhibit filed in this proceeding), it still stands. It was confirmed by the County Council when it adopted the Northeastern Area Comprehensive Zoning Map (Petitioner's Exhibit No. 1). The validity of these decisions is not in question in this proceeding, and, accordingly, all testimony tending to establish zoning and conditions of the airport, is irrelevant to the resolution of the issues in this proceeding.

For the reasons stated, it is this _____ 30th _____ day of July, 1967, by this court:

Certified that the proceedings in *Condon v. Board of Appeals* and the proceedings in the instant case, in accordance with the opinion.

Walter R. Hall

City Clerk of the Circuit Court of Baltimore.

issue, so as to render the decision of the Board thereon fairly debatable, the action of the Board must be affirmed.

In *Condon v. Board of Appeals*, 210 Md. 410, a ~~reclassification case~~ special exception was granted to a utility company to construct a steam electric generating station, subject to restrictions. On the issue of whether the use permitted by the special exception would not seriously impair the use of neighboring properties for residential purposes, particularly under the conditions and restrictions imposed by the Board, it was found that the Board had received substantial evidence at its hearing so as to render its decision fairly debatable, and affirmed.

In the instant case, on the issue of whether the extension of the landing strip for 300 feet into the subject property would not seriously impair the use of neighboring properties for residential purposes, the testimony was conflicting. However, in the testimony there is substantial evidence, from Hugh R. Colson, to the effect that the use of neighboring properties for residential purposes will not be impaired by the extension, thus making the issue fairly debatable.

Accordingly, insofar as the decision of the Board of Appeals has the effect of approving the extension of the landing strip for 300 feet, it is affirmed.

The protestants contend, however, that the decision to permit the extension of the landing strip is arbitrary and capricious in that the only basis for its decision was the economic gain to be achieved by the legal owner of the airport. (Petition for Appeal, paragraph 4 (2)).

On this issue, again, there is substantial evidence, in the testimony of Frank E. William Shapkins, and Harold W. Hays, that the additional 300 feet enhances the safety of that segment of the public which flies, including students, instructors, pilots, and passengers. This evidence is legally sufficient to tend to prove that the extension of the landing strip will not be detrimental to the safety

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Ross, Zoning Commissioner Date: July 7, 1967
FROM: Leslie H. Gneaf, Deputy Director

SUBJECT: Petition 68-19-RX. Reclassification from R-20 to R-40. Special Exception for an Airport. Beginning 2830 feet south of New Forge Road and 1350 feet northwest of the Northeastern Expressway. Being the property of Bernard Schwartz.

11th District

HEARING: Wednesday, July 19, 1967 (1:00 P.M.)

The planning staff of the Office of Planning and Zoning has reviewed the subject petition and offers the following comments:

1. Information submitted with the petition is inadequate to make firm comprehensive judgments as to the worth of this proposal.
2. It is unquestioned that the recently adopted zoning map for the Northeastern Area was not in error in allocating R-40 zoning on the airport property; the R-40 designation is completely consistent with the residential acre-let development to its north side. But it can be assumed further that neither the Planning Board nor the County Council wanted to encourage enlargement of the airport since no additional land on its southern and western sides was approved for R-40 at either level.
3. Two existing nearby uses are now affected by the present airport - Chapel Hill Elementary School and Kennedy Freeway. The former is located approximately one-third mile to the southwest directly on an extension of the line of the runway; the latter is just off the end of the recent runway. While we would question any extension of it; existing runway closer to the school on the basis of public safety, without further information (e.g., the types of the airplanes to be accommodated, landing and take-off frequency, etc.) we cannot at this time ascertain exactly what factors of safety may be involved relative to the school and the highway.
4. If, in fact, it can be proved that no hazards would exist in the event of extension of the runway, this office would still question allowing the airport installation to expand its operation. Expansion would lead to permanence of the airport in an area whose future development potential is strictly residential. Either of two policy approaches should now be set: a. The airport should be required to own or to have other complete control of the airport approaches to guarantee safety under the full or conditions of fully developed vicinal residential properties; or, b. The airport should be required to move to a different location where residential development does in the vicinity.

C. LAMAR CRESWELL, ET AL. * IN THE CIRCUIT COURT
VS. * FOR BALTIMORE COUNTY

COUNTY BOARD OF APPEALS * NISC. NO. 4040

Attorney for Protestants - D. Scott Moore

Attorney for Legal Owner - James D. Holm

RESUMÉ AND ORDER OF COURT

This proceeding was initiated on June 15, 1967 by the filing with the office of planning and zoning of a petition for zoning reclassification from an R-20 zone to an R-40 zone and a special exception for airport. The petitioners were Bernard Schwartz and Dorothy Schwartz, legal owners, and Baltimore Aviation Service, Inc., contract purchaser. A description and plat of the property were filed with the petition as part thereof.

The description indicates the subject property contains 5.07 acres, more or less. The plat shows the subject property, and it also shows an adjacent property containing a landing strip 700 feet wide, the center line of which is approximately 2,100 feet long, and showing the proposed extension of that landing strip a distance of approximately 300 feet into the easternmost third of the subject property.

The zoning commissioner approved the proposed extension of the length of the landing strip, by reclassifying the subject property from an R-20 zone to an R-40 zone, and by granting the special exception for airport use.

Creswell perfected an appeal to the Board of Appeals on August 24, 1967. By order dated December 6, 1967, the contract purchaser, Baltimore Aviation Service, Inc., became the legal owner of the subject property. When the hearing is held before the Board of Appeals commencing on January 19, 1968, the petition

was amended by designating Baltimore Aviation Service, Inc., as the legal owner in place of Bernard Schwartz and Dorothy Schwartz.

After four days of testimony (the transcript contains 793 pages), the matter was submitted to the Board of Appeals for a decision. On August 1, 1968, the Board of Appeals granted the reclassification and special exception, subject to two restrictions.

In the Baltimore County Zoning Regulations 1968, it is stated, in Section 501.2, that in granting any special exception, the zoning commissioner, or the County Board of Appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding or neighboring properties.

In granting the special exception in this proceeding, the Board of Appeals imposed the following restrictions on the six acre tract:

1. No plane having a gross weight exceeding 12,500 pounds shall use this facility.
2. No commercial airline service engaged in transporting cargo, freight, or airline passengers shall use this facility.

The owners of three of the neighboring properties, perfected this appeal to this court. No cross-appeal was filed by the legal owner, from the restrictions imposed. Neither side offered additional testimony. Arguments of counsel were heard, and the case was submitted on the petition for appeal, the answer thereto, and the record transmitted to this court by the Board of Appeals.

In accordance with Local Rule 2.3 of this court, the parties filed legal memoranda, containing points of law, legal authorities, and citations of particular portions of the record transcript in support of each party's position.

Insofar as the decision of the Board of Appeals is supported by substantial evidence adduced upon the

issue, so as to render the decision of the Board shrouded fairly debatable, the action of the Board must be affirmed.

In *Candido vs. Board of Appeals*, 216 Md. 416, a special exception was granted to a heavy commercial building for use as a steam electric generating station, subject to restrictions. On the issue of whether the use permitted by the special exception would not seriously impair the use of neighboring properties for residential purposes, particularly under the conditions and restrictions imposed by the Board, it was found that the Board had received substantial evidence at its hearing as to render its decision fairly debatable, and affirmed.

In the instant case, on the issue of whether the extension of the landing strip for 300 feet into the subject property would not seriously impair the use of neighboring properties for residential purposes, the testimony was conflicting. However, in the testimony there is substantial evidence, from Hugh R. Colston, to the effect that the use of neighboring properties for residential purposes will not be impaired by the extension, thus making the issue fairly debatable.

Accordingly, insofar as the decision of the Board of Appeals has the effect of approving the extension of the landing strip for 300 feet, it is affirmed.

The protestants contend, however, that the decision to permit the extension of the landing strip is arbitrary and capricious in that the only real basis for its decision was the economic gain to be achieved by the legal owner of the airport. (Petition for Appeal, paragraph 4 (d)).

On this issue, again, there is substantial evidence. In the testimony of Francis Dine, William Simpkins, and Howell Mose, that the additional 300 feet enhances the safety of that segment of the public which flies, including students, instructors, pilots, and passengers. This evidence is legally sufficient to tend to prove that the extension of the landing strip will not be detrimental to the safety

of the locality involved, which, of course, includes the airport.

The *Pringle* Regulations (1953) provide, in section 501.1, that before any special exception shall be granted, it must appear that the use for which the special exception is requested will not be detrimental to the health, safety, or general welfare of the locality involved. The burden of proof on the applicant in this case was met, according to the Board. This court cannot substitute its judgment for that of the Board. The Board found that the extension would improve the safety of these using the airport. That it might also increase the income of the legal owner of the airport, is irrelevant.

The protestants argue that the extension of the landing strip will permit the use of larger planes, and the use of larger planes will lead to commercial activities at the airport of a broader nature. Presently, the airport is used to charter private planes, fuel them, and service them, and also to train persons to fly. It is contended that with the longer landing strip the legal owner will be able to establish a passenger and freight handling service comparable to Friendship Airport.

The Board was not insensitive to this argument, and, accordingly, the Board imposed the restrictions hereinabove set forth. They seem to this court to be reasonable restrictions. Perhaps they would be rendered more binding if the Board of Appeals would require an agreement to be entered and recorded, in accordance with the provisions of section 501.2 of the Zoning Regulations. While this court cannot order that this be done, it is suggested that it would be prudent that it be done. Should the legal owner refuse to enter into the agreement, then he would be unable to extend the landing strip over the property involved in this proceeding.

The Board erred, however, in extending the special exception to include the entire tract of 6.07 acres. There is no evidence in the transcript legally sufficient to support such an extension.

In Article VI of the Baltimore County Charter, this court is empowered to modify the decision of the Board of Appeals. *Baltimore County Charter*, Section 614.

It is the opinion of this court that the reclassification and special exception should be limited to the area marked "Proposed Extension" (enclosed in dotted lines) as shown in Petitioner's Exhibit No. 1. Since the exhibit does not show the source and distance of the dotted lines, the case is remanded to the Board of Appeals for the purpose of establishing the lines by notes and bounds, and incorporating them into the Board's order.

One issue raised by the applicants in this proceeding remains to be discussed. The applicants claim that the Board erred in finding that the County Council mistakenly reclassified the subject property from R-6 to R-20 when it adopted the Northwestern Area Comprehensive Zoning Map on August 1, 1966.

The Board's decision on this issue of mistake in the map was unnecessary. However, since the reclassification and special exception should be granted on other grounds, the mistake in the map, the order of the Board of Appeals cannot be reversed. As the Board stated in its opinion (page 5):

"It also should be noted that although the Board is of the opinion that there is manifest error (mistake), these proceedings are truly not in the nature of a reclassification from R-20 to R-40, for the property owner has no intention to develop for residential use, but rather these proceedings are in the nature of an application for a special exception for airport use."

That there is a difference between a reclassification case and a special exception case is elucidated in the opinion in *Candido vs. Board of Appeals*, 216 Md. 416, at page 420, where the court sets forth different standards of proof apply to petitions of reclassification than do to special exceptions, and that all evidence of proof which must appear to support a special exception

case, plus either a showing of error in the original zoning or a substantial change in neighborhood conditions, must be established in a reclassification case. The court decided that case as a special exception case, and by-passed the issue of whether or not there was error in the original zoning or a substantial change in neighborhood conditions.

Later decisions of the Court of Appeals bear out the distinction. It has been held that the error and change rule does not apply to floating zone petitions, because floating zones are similar to special exceptions. The converse is true, that is to say, special exceptions, such as the one applied for in this case, are similar to an application for a change from a residential zone to a floating zone.

In 1955 the subject airport was established as a special exception in a residential zone, and the classification of the property was changed from R-6 to R-40, without a finding of error or change in the original zoning. Since there was no appeal from that decision of the zoning commissioner (which is shown in an unmarked exhibit filed in this proceeding), it still stands. It was confirmed by the County Council when it adopted the Northwestern Area Comprehensive Zoning Map (Petitioner's Exhibit No. 3). The validity of these decisions is not in question in this proceeding, and, accordingly, all testimony tending to impeach against the existence of the airport, is irrelevant to the resolution of the issue in this proceeding.

For the reasons stated, it is this 30th day of July, 1968, by this Court

ORDERED that the proceeding is remanded to the Board of Appeals for the hearing of the notes and bounds of the subject tract and for the change of an unmarked order, in accordance with this opinion.

By: Walter R. Halle
Judge

Copy mailed to each of the Council of Record.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

Mr. W. Mark Petrosich,
FBI/Department of Education of Balto. Co.

Date: July 7, 1967

TO: John G. Rose,

SUBJECT: Airport in vicinity of school

MICROFILMED

I received your note concerning the airport on New Forge Forge Road-Bangert Avenue area dated July 5, 1967.

It would assist us very much if you could go on the regularly scheduled field trip with the Zoning Advisory Committee. It is our intention in the very near future to have equipment available on the trip so that spontaneous comments may be recorded by means of the equipment we are purchasing.

Zoning Commissioner

cc: Mr. Grimm
Mr. Krensborg

PAGE 2
BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner

Date: July 7, 1967

FROM: Leslie H. Green, Deputy Director

SUBJECT: Petition #68-19-RX

This office recommends the second policy ("b"). The future character of the area within which the airport is operating is clearly to be suburban residential. Aside from the safety factors involved, there are, in addition, nuisance factors (noise, etc.) to be considered. It is not to the benefit of either residential or airport uses to be located in proximity to each other. In line with the recommended policy, however, this office does see some prospect of allowing this special exception on a temporary basis, but only for a year at a time and, in any case, for no more than 5 years (the period of time when the residential infilling should be taking place), assuming, also, that it is possible that there are, or will be, no public safety hazards to existing and impending developments.



MICROFILMED

Nos. 328 and 410

September Term, 1969

68-19-KX

C. IANAR CRESSWELL, Sr. et al.

v.

BALTIMORE AVIATION SERVICE, INC.

Hammond, C. J.
Barnes
McWilliams
Finan
Singlesy, JJ.

Opinion by Hammond, C. J.

Filed: May 6, 1970

The second expert land planner who testified for the protestants deduced from the official County report on the Master Plan for the northeast area that there will be tremendous growth in the 11th District, that it will be one of the fastest growing areas in the County and that it will increase in population from 74,000 people in 1965 to 140,000 in 1980. "This growth will happen: the challenge is to plan and guide it so good new towns can be built." This expert agreed with the deputy director, as did the chief of the sanitary sewer design group for Baltimore County that sewerage could become available to the area around the airport within five years, possibly less by reason of pressure from home seekers and land developers. The expert concluded that the planning report reinforced his view that the definite official intent in 1966 was that "this be a highly residential, rather high-density residential area - where an intrusion of R. 40 would not be in keeping with the program." His expert opinion was that there had been no error in the 1966 map.

The testimony for the applicant as to error included that of the president of Baltimore Aviation, who said that because Baltimore County had built the elementary school near the airport it had been a mistake for the County Council not to have so zoned in 1966 as to afford ample room for improvement to the airport in the form of realignment and extension of the runway.

There was testimony that the soil and underground conditions of the subject property and the airport were such that various percolation tests had failed. The qualified land planner who for the applicant said that in his opinion an area bounded by the Kennedy Expressway, by the Gunpowder Falls, by Joppa Road and by Cross Road should have been zoned R.40 in 1966 as a reservoir area (although he admitted that

In 1956 a tract of 43 acres in the Perry Hall area of the 11th District of Baltimore County between the Belair Road and the Kennedy Expressway, an area then essentially rural, was permitted to be used as an airport by grant of a special exception. It remained a "cowfield" airport for some years used by its owner Quinn, himself a flyer, and others, spasmodically and relatively infrequently. In the 1966 comprehensive rezoning of the 11th District the airport land was put in an R. 40 zone and considerable contiguous and adjacent land of neighboring owners (predecessors in title of the appellee) and others, to the west and south, was zoned R. 20. On May 5, 1967, Quinn conveyed the airport to Baltimore Aviation Service, Inc., the appellee, which has regraded and paved the runway and plane parking area, and built hangars and a small office building. The use of the airport has increased substantially since Baltimore Aviation acquired it. This growth must have been anticipated because about a month after it acquired the property Baltimore Aviation caused to be filed a petition with the zoning commissioner requesting that 6.07 acres of the R. 20 land to the west (the subject property) be reclassified to R. 40 so that a special exception could be granted to allow the 6.07 acre parcel to be used for realignment of the 2000-foot runway and its extension by 400 feet. The reclassification was an essential prerequisite to the grant of the special exception for airport use, which is permitted in an R. 40 zone but not in an R. 20 zone.

The evidence before the Board of Appeals was directed largely to the reason for seeking to enlarge the airport area and the effect of airport use on the neighborhood. After airport use was permitted

reservoir areas are not officially recognized by either the planning or zoning officials of Baltimore County and that the idea of a reservoir of R. 40 land bounded as he suggested had first occurred to him when, in the words of the question to him by counsel for the protestants, "you were trying to justify your position in appearing in this case today for the petitioner?". The reasons he gave for his opinion were that sewerage is not present and the subject property and the other land in the "reservoir" area cannot be built on without it, the area is sparsely settled and will remain so until sewerage is available and that it was not fair to the public and the County Council for the planners to show the land as R. 20 when it cannot be built on.

Rebuttal to this testimony was that 290 homes are within the "reservoir area," most built since 1956, there are 466 homes within a one-quarter mile circle around the subject property and that within 2 miles some 800 additional housing units are soon to be constructed.

The Board found error in the failure of the planning board and the Council to provide areas to the north and west of the airport (R. 40 areas on which a special exception could be granted) "to alleviate the problem which was created by . . . the Board of Education, in its choice of site for the Chapel Hill Elementary School," and because "lack of public sewer, water and a history of poor percolation tests should have been compelling reasons to place the subject [property] in an R. 40 classification." The finding of error by the Board was impermissible as a matter of law for reasons to be noted later, but it appears that the actual basis for the Board's action was its belief that the granting of the special exception would be logical and appropriate. The Board said:

In 1956, the Chapel Hill Elementary School was built to the south of the subject property. To the immediate east of the airport runs the Kennedy Expressway, built after 1956. A high tension line 100 feet high runs nearby. To the north is a development of 56 expensive homes, called Forge Heights, and next to that is Forge Acres, a development of 100 homes. The surrounding neighborhood is zoned and used primarily for residential purposes.

The testimony for the applicant on the question of the new special exception was that (1) realignment and extension were desirable for safety reasons by taking planes away from the school and the high tension wires and the nearby homes, and to enable the best use of the prevailing wind patterns (although it was admitted that the runway could be extended 400 feet within the original 43 acres and the airport as it was met Federal and State safety standards); (2) the grant of the new special exception would not adversely affect either property values in or the general welfare of the neighborhood. Testimony for the protestants on this point was that the adverse effect on the neighborhood of airport use had greatly increased in recent years because of noise and disturbance amounting to a nuisance, fear of low flying planes, damage to livestock and chickens from noise and fear (the chickens laid bloody eggs).

The zoning commissioner and the Board granted the reclassification and the special exception and the Circuit Court affirmed the Board, although limiting the reclassification and the special exception to the area of the extension of the runway and disallowing both for the remaining part of the 6.07 acres. It appears that although the use of the original 43 acres for an airport might have been warranted in 1956 as compatible with the neighborhood, that this no longer reasonably

"It also should be noted that although the Board is of the opinion that there is manifest error present, these proceedings are truly not in the nature of a reclassification from R-20 to R-40, for the property owner has no intention to develop for residential use, but rather these proceedings are in the nature of an application for a special exception for airport use. Probably it is not necessary to state that the only reason the R-40 reclassification is sought is that a special exception for airport use may only be attained in residential R-40 zoned land."

Judge Haile was even more casual in his approach to the matter of error. After having found that the applicant had met the burden of showing that the special exception use would not be detrimental to the health, safety or general welfare of the locality, he held that the Board erred in extending the special exception use to the entire 6.07 acres, saying: "There is no evidence in the transcript legally sufficient to support such an extension," and held that only the runway area, as proposed to be extended, should be covered by the special exception.

Judge Haile then said: "The Board's decision on this issue of mistake in the map was unnecessary" but "since the reclassification should be granted on other grounds . . . the order of the Board . . . cannot be reversed." Cassidy v. Baltimore County Board of Appeals, 218 Md. 413, was cited by him as holding that a special exception could be granted without reference to whether or not there was original error or subsequent change, and Judge Haile further opined that:

"It has been said that the error and change rule does not apply to floating zone petitions, because floating zones are similar to special exceptions. The converse is true, that in so far as a special exception, such as the one applied for in this case, is similar to an application for a change from a Euclidean zone to a floating zone."

These concepts of the nature of a special exception and of the basis for its grant, are not those of the statutes and the cases.

Cassidy v. Baltimore County Board of Appeals did not hold that a

could have been found to be so, but we do not reach the point for we find that there was no error in the comprehensive rezoning in 1966 (that there had been no change in the character of the neighborhood between 1966 and 1967 is conceded and change was not considered below) and therefore there was no basis for reclassifying the 6.07 parcel to R. 40, and as a result the absolutely necessary prerequisite for the granting of the requested special exception was completely lacking.

The testimony on error in the 1966 comprehensive zoning - in the Northeastern Area Comprehensive Zoning Map - came largely from three land planners. One, the deputy director of Planning for Baltimore County had been at the time of the planning for and adoption of the 1966 map chief of the Comprehensive Planning Division and responsible for the basic planning of the map. Prior to 1966 land to the west of the airport, then zoned R. 6 was owned by a Mr. and Mrs. Schwartz, the people who sold the 6.07 acres to Baltimore Aviation. The planning board recommended to the County Council that the Schwartz land be zoned R. 20 of the new map. The reason for the recommendation was that the plan envisioned high density along Belair Road to lower densities as the airport and the Kennedy Expressway were approached, so that the zoning from Belair Road east was first R. A, then R. 6; R. 10, R. 20 and R. 40. Neither the planning board nor the County wanted to encourage enlargement of the airport and no land not previously zoned R. 40 either to the west or south was put in a category that would permit airport use. The subject property and surrounding property were zoned R. 20 because sewerage would become available within a reasonable time - possibly five years - and it is more economic and a better public investment to develop land in less than acre lots rather than acre or larger lots. In the opinion of the deputy director the 1966 zoning was not in error.

special exception can be granted without regard to the classification of the land involved. There, a utility asked for a reclassification from R. 6 to M-H, a zone that would allow operation of a generating plant as a permitted use. The Board did not reclassify but granted a special exception. This Court held this action proper because in the existing R. 6 zone a generating plant could be built and operated as a special exception.

A special exception is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the condition being that a zoning body must, in each case, decide under specified statutory standards whether the presumptive compatibility in fact exists. In Rockville Fuel and Feed Company, Inc. v. Board of Appeals of the City of Gaithersburg,

Md. , 262 A.2d 499, 502, we said:

"In Montgomery County v. Merlands Club, Inc., 203 Md. 279, 287, we went to some pains to stress that the special exception is a valid zoning mechanism that delegates to an administrative board a limited authority to permit enumerated uses which the legislative body has determined can, prima facie, properly be allowed in a specified use district, absent any fact or circumstance in a particular case which would change this presumptive finding."

There cannot be a scintilla of doubt that in Baltimore County, as generally, there cannot be a grant of a special exception unless the zoning statutes provide that the conditional use sought is permissible in the zone in which the land involved is situated, and that the floating zone rule has nothing to do with the granting or denial of a special exception. See §§ 502 and 270 of the Zoning Regulations of Baltimore County. In Westview Park Improvement & Civic Ass'n. v. Hayes, 256 Md. 575, 582, 261 A.2d 164, 168, the application was for reclassification of a lot from R. 6 to a business zone and then the grant of

a special exception to extend a filling station, a use not permitted in R. 6 and permitted in the business district only by special exception. This Court reversed the grant of the reclassification and the special exception, finding no evidence of mistake or change. Judge Singley for the Court said:

"Under our view of the case, we need consider only one [of the] protestants' grounds of attack on the orders appealed from: Was there legally sufficient evidence to support the granting of a reclassification from an R. 6 zone to a B. 1 zone? Since we have concluded that there was not, most of the other portions of the Board's *** order [including the grant of the special exception] tumble like a house of cards.

"A C.N.S. District may be imposed *** only on land zoned B. 1. *** which, under our holding, the Hayes property is not. A special exception for an automotive filling station can be granted *** only in a C.N.S. District, where the Hayes property cannot be, so long as it is zoned R. 6."

In Board of County Comm'rs of Howard County v. Turf Valley Associates, 247 Md. 556, 562, the effort was to have 140 acres rezoned from one and two-family use to garden-type apartments and a shopping center. The trial court bought the argument of the appellant that the floating zone concept controlled, and reversed the Board which had guided itself by the mistake and change rule in denying the application. Judge Oppenheimer for the Court said:

"The analogy of special exception uses has been applied to zoning actions dealing with the placement of a floating zone. Buino v. Montgomery Co. Council, 243 Md. 110, 220 A.2d 186 (1966); Chatham Corp. v. Belfram, 243 Md. 139; Beall v. Montgomery County Council, 240 Md. 771, and authorities therein cited. But this analogy is not applicable to situations like the one before us, where the governing application is only to change one existing use, established under a comprehensive zoning plan, to another existing, established use, where the result would be a spot rezoning and where no original mistake or subsequent change has been established. To apply the floating zone approach to such situations would be in effect, either to open the floodgates of uncontrolled administrative discretion or to authorize the courts to zone and to rezone.

"*** The application of the 'analogy to a special exception' approach to the placement of a floating zone does not

mean that the 'change' or 'mistake' rule is no longer applicable to petitions for spot rezoning. We find that the 'change' or 'mistake' rule applies to this case."

To show that under established law no error permitting rezoning was shown to the Board will not take long. There is a strong presumption of the correctness of both original zoning and comprehensive rezoning and to effect a piecemeal change the applicant bears the burden, sometimes called heavy, sometimes onerous, of adducing strong evidence of error consequential to the property involved or substantial changes in the character of the neighborhood. Shadybrook Improvement Ass'n v. Molloy, 232 Md. 265; Greenblatt v. Toney Schloss Properties Corp., 235 Md. 9; Mack v. Crandell, 244 Md. 193; Board of County Comm'rs of Howard County v. Turf Valley Associates, supra; France v. Sheno, 248 Md. 335; Brenbrook Constr. Co. v. Dahne, 254 Md. 443. An opinion, even that of an expert, is not evidence strong or substantial enough to show error unless the reasons given by the expert as the basis of his opinion or other supporting facts relied on by him are themselves substantial and strong enough to do so. Greenblatt v. Toney Schloss Properties Corp., supra; Miller v. Abrahams, 239 Md. 263; Pill v. Johar Corp., 242 Md. 16; Smith v. Board of County Comm'rs of Howard County, 252 Md. 280; Westview Park Improvement & Civic Ass'n v. Hayes, supra.

The opinion of the president of Baltimore Aviation that not enough land to permit expansion of the airport was provided in the 1966 zoning is no more probative than that of the official of the applicant in Westview that the depth of commercial land provided on the comprehensive map at Johnnycake Road and Ingleside Avenue was insufficient for present day commercial uses. In addition, the Council was not asked to rezone land adjacent to the airport, did not want

the airport enlarged because of its effect on the neighborhood, and was justified in assuming - as was the fact - that its operation was safe since it was licensed by the Federal and State regulatory bodies. In Co. Comm'rs of Cecil Co. v. Phillips, 255 Md. 229, it was held that error in original zoning was not shown by failure to afford an industry extensive room to expand.

The reasons which the expert who testified for Baltimore Aviation gave in support of his opinion that there had been original error were not strong and substantial, being somewhat similar to those rejected in Greenblatt, supra, and weaker than those offered in Shadybrook, supra. The land admittedly should have been zoned residential and the deficiencies of sewerage and poor percolation would have prevented immediate development and use of the land whether it had been zoned R. 40 or R. 20. It might not have been error to have zoned the subject property R. 40 but clearly it was not error to have zoned it R. 20. Zoning lines must be drawn by the legislative body and the strong presumption that they were correctly drawn ordinarily is not overcome by an opinion that one or more lines should have been drawn slightly to the east, the west, the north, the south, as Greenblatt and other cases have stressed. Baltimore Aviation did not meet its heavy, onerous burden of overcoming the strong presumption of correct official action, and there was no basis for a finding of error by the Board.

ORDER OF THE CIRCUIT COURT FOR BALTIMORE COUNTY REVERSED AND CASE REMANDED FOR PASSAGE OF AN ORDER DENYING THE RECLASSIFICATION AND THE SPECIAL EXCEPTION APPLIED FOR, COSTS TO BE PAID BY APPLICANT.

Board of Education of Baltimore County
WILLIAM S. BALDWIN, SECRETARY-TREASURER
SUPERINTENDENT

TELEPHONE VALLEY 5-2200
AUGSBURGH MANOR
Towson, Maryland 21204

Mr. William S. Baldwin, Chairman
Board of Appeals
County Office Building
Towson, Maryland 21204

February 11, 1968

Dear Mr. Baldwin:
Transmitted herewith please find a copy of a Resolution which members of our Board adopted on February 8, 1968 with respect to a hearing which is to be continued before the Board of Appeals on February 21, 1968.

Sincerely,

William S. Baldwin
Secretary-Treasurer

cc: Mr. T. Bayard Williams, Jr.
Mr. E. Scott Moore
Mr. James D. Nolan

Att. (1)

RESOLUTION

WHEREAS: It has been brought to the attention of the Board of Education of Baltimore County that a hearing is to be continued, on February 21, 1968, before the Baltimore County Board of Appeals, concerning an appeal and,
WHEREAS: This hearing represents an appeal with respect to an order granted by the Zoning Commissioner of Baltimore County for reclassification to R-40, with a special exception to permit improvements to an existing airport facility which is generally located south of Forge Hill Road, west of the John F. Kennedy Expressway, in the Eleventh Election District of Baltimore County, and
WHEREAS: This Board has been informed that the petitioners for the reclassification and special exception, Baltimore Aviation Services, Inc., has acquired additional property which would link the acreage of the existing airport facility with the site of the existing Chapel Hill Elementary School, which is located on Joppa Road, southwest of the Airport in question, and
WHEREAS: Planes from the existing air strip fly over the Chapel Hill Elementary School,
BE IT RESOLVED: That the Board of Education of Baltimore County, herewith convened in regular session on February 8, 1968, while taking no position in the matter, does wish to apprise the members of the Baltimore County Board of Appeals of the above information.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 11th Date of Posting 6/23/67
Posted for: Howard Wood July 12, 67 at 6:00 P.M.
Petitioner: Howard Wood
Location of property: 2830 S. of New Long Rd. by New Long Rd. at 1386 N. of the Northampton Expressway
Location of Signs: at the top of the road at the intersection of the road and the Expressway
Remarks: 2830 S. of New Long Rd. at the top of the road at the intersection of the road and the Expressway
Posted by: Robert A. Smith Date of return: 7/1/67

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 11th Date of Posting July 12, 67
Posted for: Robert A. Smith
Petitioner: Robert A. Smith
Location of property: 2830 S. of New Long Rd. at 1386 N. of the Northampton Expressway
Location of Signs: at the top of the road at the intersection of the road and the Expressway
Remarks: 2830 S. of New Long Rd. at the top of the road at the intersection of the road and the Expressway
Posted by: Robert A. Smith Date of return: July 20, 67

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 11th Date of Posting Aug. 31, 1967
Posted for: Robert A. Smith
Petitioner: Robert A. Smith
Location of property: 2830 S. of New Long Rd. at 1386 N. of the Northampton Expressway
Location of Signs: at the top of the road at the intersection of the road and the Expressway
Remarks: 2830 S. of New Long Rd. at the top of the road at the intersection of the road and the Expressway
Posted by: Robert A. Smith Date of return: Sept. 1, 1967

CERTIFICATE OF PUBLICATION

OFFICE OF
The Community Press

DUNDALK, MD., June 26, 19 67

THIS IS TO CERTIFY, that the annexed advertisement of "Harvard Schwartz" was inserted in THE COMMUNITY PRESS, a weekly newspaper published in Baltimore County, Maryland, once a week for 1 successive weeks before the 27th day of June 19 67; that is to say, the same was inserted in the issues of 6-26-67

Stromberg Publications, Inc.
Publisher.

By Mrs. Palmer Price

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 21, 1967

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md. 21204, on the 21st day of June, 1967, the first publication appearing on the 21st day of June, 1967.

THE JEFFERSONIAN
Manager.

Cost of Advertisement, \$.....

MICROFILMED

TELEPHONE
823-3000
EXT. 387

**BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE**

Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 49272

DATE 9/22/67

TO: E. Scott Moore, Esq.
Jefferson Building
Towson, Md. 21204

BILLED
County Board of Appeals
(Zoning)

QUANTITY	DEPOSIT TO ACCOUNT NO. 01-712	RETURN THIS PORTION WITH YOUR REMITTANCE DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS	TOTAL AMOUNT \$13.00	COST
1	Cost of certified documents - Case No. 48-19-01 Bernard Schwartz 2837 S. of New Forge Road as now relocated, and 1366 NW of Northwestern Expressway, 11th District		\$13.00	

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

TELEPHONE
823-3000
EXT. 387

**BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE**

Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 49619

DATE 9/23/67

TO: E. Scott Moore, Esq.
Jefferson Building
Towson, Md. 21204

BILLED
Zoning Dept. of Balto. Co.

QUANTITY	DEPOSIT TO ACCOUNT NO. 01-422	RETURN THIS PORTION WITH YOUR REMITTANCE DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS	TOTAL AMOUNT \$16.00	COST
1	Cost of posting property of Bernard Schwartz for Appeal Hearing 488-19-01		\$16.00	

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

TELEPHONE
823-3000
EXT. 387

**BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE**

Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 48436

DATE 9/25/67

TO: E. Scott Moore, Esq.
Jefferson Building
Towson, Md. 21204

BILLED
Zoning Dept. of Balto. Co.

QUANTITY	DEPOSIT TO ACCOUNT NO. 01-422	RETURN THIS PORTION WITH YOUR REMITTANCE DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS	TOTAL AMOUNT \$76.00	COST
1	Cost of Appeals - 488-19-01 Bernard Schwartz		\$76.00	

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

TELEPHONE
823-3000
EXT. 387

**BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE**

Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 44274

DATE 9/21/67

TO: James D. Nolan, Esq.
200 N. Potomac Ave.
Baltimore, Md. 21201

BILLED
Zoning Dept. of Balto. Co.

QUANTITY	DEPOSIT TO ACCOUNT NO. 01-422	RETURN THIS PORTION WITH YOUR REMITTANCE DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS	TOTAL AMOUNT \$66.35	COST
1	Advertising and posting of property for Bernard Schwartz 488-19-01		\$66.35	

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

TELEPHONE
823-3000
EXT. 387

**BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE**

Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 44229

DATE 9/27/67

TO: Baltimore Aviation Service, Inc.
1410 Marsh, Md. 21142

BILLED
Zoning Dept. of Balto. Co.

QUANTITY	DEPOSIT TO ACCOUNT NO. 01-422	RETURN THIS PORTION WITH YOUR REMITTANCE DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS	TOTAL AMOUNT \$50.00	COST
1	Petition for Reclassification & Special Exception for Bernard Schwartz 488-19-01		\$50.00	

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

James D. Nolan, Esq.
1 W. Pennsylvania Avenue
Baltimore, Maryland 21201

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this

13th day of June, 1967.

Petitioner: Bernard Schwartz

Petitioner's Attorney: James D. Nolan

JOHN G. ROSE
Zoning Commissioner

Reviewed by: James E. Moore
Chairman of
Advisory Committee

**PETITION FOR
RECLASSIFICATION AND
SPECIAL EXCEPTIONS**

ZONING: From R-20 to
R-40 Zone. Petition for Special
Exception for an Airport.
LOCATION: Beginning 2629
feet south of New Forge Road
as now relocated and 1366 feet
northwest of the Northwestern
Expressway.
DATE & TIME: WEDNESDAY,
JULY 19, 1967 at 1:00
P.M.

PUBLIC HEARING: Room
109, County Office Building,
111 W. Chesapeake Avenue,
Towson, Maryland.

The Zoning Commissioner
of Baltimore County, by authority
of the Zoning Act and
Regulations of Baltimore
County, will hold a public
hearing:

Present Zoning: R-20
Proposed Zoning: R-40
Petition for Special
Exception for an Airport.

All that parcel of land in
the Eleventh District of Baltimore
County.

Beginning for the same at
a point, the four following
courses and distances from
the point of intersection of
the center of the New Forge
Road as now relocated and the
Northwest edge of the right
of way of the Northwestern
Expressway to wit: South 51
degrees 15 minutes West 23.9
ft. along the Northwest edge of
the right of way of the Northwestern
Expressway, thence North 51
degrees 15 minutes West 210 ft.,
thence North 51 degrees 15 minutes
West 283.5 ft. and North 77
degrees 02 minutes West 1366
ft., said point being also at the
end of the first line of the
lot described in and adjoined
from Albert W. Black and wife to
Bernard L. Schwartz and wife,
dated Oct. 23, 1956 and recorded
among the Land Records of
Baltimore County, in Liber
No. 3029 folio 149 etc., thence
running and binding on the section
line of said deed North 24
degrees 19 minutes East
327.09 ft., thence running for
a line of division North 71
degrees 01 minutes West 729.2
ft. to the beginning point of the
last line of said deed. Thence
curving and binding on said
last line South 33 degrees 10
minutes West 286.72 ft. and
thence binding on the first line
of the above mentioned deed
South 77 degrees 02 minutes
East 729.22 ft. to the point of
beginning.

Containing 6.07 acres more
or less and being a part of the
land conveyed in the deed
mentioned above.

Being the property of Bernard
and Dorothy Schwartz as
shown on plat plan filed with
the Planning Department.

Hearing Date: Wednesday,
July 19, 1967 at 1:00 P.M.

Public Hearing: Room 109,
County Office Building, 111
W. Chesapeake Avenue, Towson,
Md. 21204.

BY ORDER OF
JOHN G. ROSE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

CERTIFICATE OF PUBLICATION

OFFICE OF
The Community Press

DUNDALK, MD., June 28, 1967

THIS IS TO CERTIFY, that the annexed advertisement of
"Bernard Schwartz"

was inserted in THE COMMUNITY PRESS, a weekly newspaper
published in Baltimore County, Maryland, once a week

for 1 successive week before the
27th day of June 1967; that is to say,

the same was inserted in the issues of 6-28-67

Stromberg Publications, Inc.
Publisher.

By: Mrs. Palmer Price

NO WATER ON EAST SIDE OF ROAD. 2. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 846. 847. 848. 849. 850. 851

[illegible]

11TH DISTRICT, BALTO. CO., MD.
JUNE 1920 APRIL 27 1967

No WATER AVAILABLE
COLUMBIA RIVER, NEARLY DRY
OLD COW - ROAD, BAYCO, N.Y.
AVAILABLE

68-19-
RE: PETITION FOR RECLASSIFICATION : IN THE
AND SPECIAL EXCEPTION : CIRCUIT COURT
Beg. 2830' South of New Forge Road : FOR
and 1386' Northwest of the Northeastern : BALTIMORE COUNTY
Expressway - 11th District : AT LAW
Bernard Schwartz, et al, :
Petitioners :
Zoning File No. 68-19-RX :
C. Lamar Creswell, Sr., et al :
Protestants-Appellants :
Mile. Docket No. 8
Folio No. 347
File No. 4040

ANSWER TO ORDER OF APPEAL TO CIRCUIT
COURT FOR BALTIMORE COUNTY AND
CERTIFIED COPIES OF PROCEEDINGS BEFORE
THE ZONING COMMISSIONER AND BOARD
OF APPEALS OF BALTIMORE COUNTY

MR. CLERK:

Please file, &c.

Edith T. Elshart, Secretary
County Board of Appeals of Baltimore County

cc: Zoning

RE: PETITION FOR RECLASSIFICATION : BEFORE THE
AND SPECIAL EXCEPTION : ZONING COMMISSIONER
Beg. 2830 feet S of New Forge Road :
and 1386 feet NW of the Northeastern :
Expressway - 11th District : OF
Bernard Schwartz, Petitioner :
NO. 68-19-RX : BALTIMORE COUNTY

The Petitioners have requested the reclassification of this property consisting of 6.6 acres (as more particularly described in a metes and bounds description and plat filed in these proceedings), presently being utilized for the growing of wheat and in some small part in woods, from the present classification of P-20 to a classification of R-40, with a special exception for an airport.

The land was described as being bounded on the north by other wheat fields owned by the Petitioners, namely Bernard L. Schwartz and Dorothy Schwartz; on the east by the existing Quinn Airport, now owned by the Petitioners, namely, Baltimore Aviation Service, Inc., which entire airport tract is classified R-40 with a special exception for airport use, which zoning was granted to a predecessor in title, Frank P. Quinn in Case Number 3520, in 1956; on the south by property devoted to agricultural use, much of it as an orchard; and on the west the tract in question is bound by other wheat fields, primarily owned by the Petitioners, Bernard L. Schwartz and wife. It should be noted that the Northeastern Expressway borders the existing airport property on the southeast side.

At the hearing on July 19, 1967, Mr. Julius Frieser and Mr. E. C. Hardesty, both residents of the developments known as Forge Heights, who live to the northeast of the existing airport property, and which consists of fine, single family dwellings situated on large shaded lots, were present.

The corporate petitioner through its President, Howell Mace Jr. and through its counsel, indicated that the reclassification and special exception was being sought primarily for safety reasons. Although the existing facility is properly licensed by both the State and Federal authorities, it was indicated that the Baltimore County Board of Education has constructed the new Chapel Hill Elementary School, a line with the western approach to the existing runway. Similarly, the eastern end of the existing 2000-foot-plus runway is being somewhat encroached upon by new homes being built in the Forge Heights development. The reclassification of the six-acre tract in question is being sought, according to Mr. Mace, in order to lengthen slightly the existing runway, but more importantly to realign the runway at the west end away from the Chapel Hill Elementary School by moving its western terminus northward, on the east end away from the homes by moving its eastern terminus southward of its existing position. The grade of the existing runway is also to be changed and leveled, and a hard macadam surface is to be applied, according to Mr. Mace's testimony. It was pointed out that were zoning for the airport to be sought today, the alignment sought by the Petitioners and their contract purchaser would be clearly the preferable alignment. It should be also noted that the Petitioners under the existing zoning as to the larger tract could quite legally continue to utilize the facility as it is now, and that at

this hearing this usage was not in question as to the larger tract.

As for error in the original zoning, the Petitioners contend, and with some merit, that the Planning Board and County Council erred in not providing additional R-40 land to the north and west of the existing airport for logical growth and expansion to alleviate the problem created by another County Department, the Board of Education, in its choice of site for the Chapel Hill Elementary School. While the Planning Board and the Council could not, perhaps, compel such realignment, it is manifest that on the other hand, they should not have impeded such voluntary action by the property owners, and R-40 land should have been provided to the west and north of the existing airport, and it was an error not to do so. Parenthetically, the corporate contract purchaser was not in a position at the time of adoption to point out such error to the Council or to the Planning Board as it did not take title to the land until May, 1967, according to the testimony offered.

Some concern was expressed by both Mr. Frieser, President of Forge Heights Improvement Association, and Mr. Hardesty, both residents of Bangert Avenue, in the Forge Heights Development, as to the proper agency to police the future operation of the facility, both as it exists now, and as it may be hereafter altered; and it was pointed out that the present use is legal and that the policing of the facility falls most effectively within the ambit of the Federal Aviation Agency, and it is to that agency that any illegal or unsafe condition should be reported. No such present condition was mentioned by either Mr. Frieser or Mr. Hardesty.

Furthermore, upon the testimony presented and a view and inspection made, that the reclassification is appropriate and desirable, and that the airport use for which the special exception is requested is in compliance with Section 502.1 of the Baltimore County Zoning Regulations.

For the foregoing reasons, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 17th day of July, 1967, that the herein described property or area should be and the same is hereby reclassified from an R-40 zone to an R-40 zone, and a Special Exception for an airport 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.

ORDER RECEIVED FOR FILING

DATE 7/19/67

BY J. Frieser

Zoning Commissioner

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

1. I, or we, agree to pay expenses of above reclassification 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.

2. There was a mistake in the original zoning and/or the character of the neighborhood has changed to such an extent that a reclassification as requested is proper; and

3. With Special Exception for Airport

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, AIRPORT USE.

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

I, or we, agree to pay expenses of above reclassification 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.

Baltimore County, Maryland
James D. Nolan, Esq.
204 W. Penna. Ave.
Towson, Md. 21204
Protestant's Attorney
Bernard Schwartz
Dorothy Schwartz
Legal Owners
Address: Philadelphia Road
Baltimore County, Maryland

James D. Nolan
204 W. Pennsylvania Ave.
Towson, Maryland 21204 (VA-3-7600)
ORDERED BY The Zoning Commissioner of Baltimore County, this 17th day of July, 1967, 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 19th day of July, 1967, at 1:00 o'clock P.M.

Zoning Commissioner of Baltimore County
1:00 P.M.
3-21-67

June 27, 1967

James D. Nolan, Esq.
204 W. Penna. Ave.
Towson, Md. 21204

NOTICE OF HEARING

Re: Petition for Reclassification & Special Exception for
Bernard Schwartz
#68-19-RX

TIME: 1:00 P.M.

DATE: Wednesday, July 19, 1967.

PLACE: ROOM 106 COUNTY OFFICE BUILDING, 111 W. Chesapeake

TOWSON, MARYLAND

PETITION FOR RECLASSIFICATION AND
SPECIAL EXCEPTION
11th DISTRICT
ZONING: From R-20 to R-40 Zone.
LOCATION: Beginning 2830 Feet South of New Forge Road as now relocated and 1386 feet Northwest of the Northeastern Expressway.
DATE & TIME: WEDNESDAY, JULY 19, 1967 at 1:00 P.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:
Present Zoning: R-20
Proposed Zoning: R-40
Petition for Special Exception for an Airport.
All that parcel of land in the Eleventh District of Baltimore County

Being the property of Bernard Schwartz and Dorothy Schwartz as shown on plat plan filed with the Zoning Department.

Hearing Date: Wednesday, July 19, 1967 at 1:00 P.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Md.

BY ORDER OF
JOHN G. ROSE
ZONING COMMISSIONER OF
BALTIMORE COUNTY

July 18, 1967

James D. Nolan, Esq.
204 W. Penna. Ave.
Towson, Md. 21204

Re: Petition for Reclassification & Special Exception
for Bernard Schwartz
#68-19-RX

Dear Sirs:

This is to advise you that \$60.36 is due for advertising and posting of the above property.

Please make check payable to Baltimore County, Md. and remit to Mrs. Anderson, Room 119, County Office Building, before the hearing.

Yours very truly,

JOHN G. ROSE
ZONING COMMISSIONER

JGR/ba

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING July 7, 1967

COUNTY OFFICE BUILDING
111 W. Chesapeake Ave.
Towson, Md. 21204
VA-3-7600

GEORGE E. GAVELLIS
DIRECTOR
JOHN G. ROSE
ZONING COMMISSIONER

James D. Nolan, Esq.
204 W. Penna. Ave.
Towson, Md. 21204

Dear Sirs:

The enclosed memorandum is sent to you in compliance with Section 23-27 of the 1961 Supplement of the Baltimore County Code.

Any questions of correspondence in regard to the enclosed subject matter must be directed to the Director of Planning and Zoning (or his Deputy) and NOT to the Zoning Commissioner.

If you desire to have a member of the Planning Staff testify, it will be necessary for you to summons him through the Sheriff's Office.

Yours very truly,

JOHN G. ROSE
ZONING COMMISSIONER

JGR/ba

encl:

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: July 7, 1967
FROM: Leslie H. Groef, Deputy Director
SUBJECT: Petition #68-19-RX. Reclassification from R-20 to R-40. Special Exception for an Airport. Beginning 2830 feet south of New Forge Road and 1386 feet northwest of the Northeastern Expressway. Being the property of Bernard Schwartz.
11th District
HEARING: Wednesday, July 19, 1967 (1:00 P.M.)

- The planning staff of the Office of Planning and Zoning has reviewed the subject petition and offers the following comments:
1. Information submitted with the petition is inadequate to make firm comprehensive judgments as to the worth of this proposal.
 2. It is unquestioned that the recently adopted zoning map for the Northeastern Area was not in error in allocating R-40 zoning on the airport property; the R-40 designation is completely consistent with the residential area development to its north side. But it can be assumed further that neither the Planning Board nor the County Council wanted to encourage enlargement of the airport since no additional land on its southern and western sides was approved for R-40 at either level.
 3. Two existing nearby uses are now affected by the present airport - Chapel Hill Elementary School and Kennedy Freeway. The former is located approximately one-third mile to the southwest directly on an extension of the line of the runway; the latter is just off the end of the present runway. While we would question any extension of the existing runway closer to the school on the basis of public safety, without further information (e.g., the types of airplanes to be accommodated, landing and take-off frequency, etc.) we cannot at this time ascertain exactly what factors of safety may be involved relative to the school and the highway.
 4. If, in fact, it can be proved that no hazards would exist in the event of extension of the runway, this office would still question allowing the airport installation to expand its operation. Expansion would lead to permanence of the airport in an area whose future development potential is strictly residential. Either of two policy approaches should now be set: a. The airport should be required to own or to have other complete control of the airport approaches to guarantee safety under the future conditions of fully developed vicinal residential properties; or, b. The airport should be required to move to a different location when residential development closes in on the vicinity.

PAGE 2
BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: July 7, 1967
FROM: Leslie H. Groef, Deputy Director
SUBJECT: Petition #68-19-RX.

This office recommends the second policy ("b"). The future character of the area within which the airport is operating is clearly to be suburban residential. Aside from the safety factors involved, there are, in addition, nuisance factors (noise, etc.) to be considered. It is not to the benefit of either residential or airport uses to be located in proximity to each other. In line with the recommended policy, however, this office does see some prospect of allowing this special exception on a temporary basis, but only for a year at a time and, in any case, for no more than 5 years (the period of time when the residential infilling should be taking place), assuming, also, that it is probable that there are, or will be, no public safety hazards to existing and impending developments.



BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVE.
TOWSON, MD. 21204
VA. 8000
GEORGE E. GAVNELLS
DIRECTOR
JOHN G. ROSE
ZONING COMMISSIONER

June 16, 1967

RE: Reclassification from R-20 to R-40
Special Exception for an Airport
for Bernard Schwartz, located NW/4
Northeast Expressway, 2830' SW of
Forge Road
11th District
(Item 3 of June 13th, 1967)

Dear Sir:

The above referenced petition is accepted for filing as of the date on the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30 days nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

If you have any questions concerning this matter, please do not hesitate to contact me at VA 3-3000, Extension 351.

Very truly yours,

JAMES E. DYER, Principal
Zoning Technician

JED/jd
Enclosure

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th
Posted for: Petition for Reclassification from R-20 to R-40 for Special Exception for an Airport
Petitioner: Bernard Schwartz
Location of property: 2830' S of New Forge Road and 1386' NW of the Northeastern Expressway
Location of Sign: Made change to 5200'
Remarks:
Posted by: Mark X. [Signature] Date of return: July 20, 1967

(43)
Bob Bell
VIEM EXCEE BY
5200'
7-16-67
Howell Moore
Sign: made change to 5200'
68-19-RX
7-16-67

No. 68-19-RX - Bernard Schwartz

Petition, description of property, order of the Zoning Commissioner
Certificate of posting
Certificate of publication
Comments Office of Planning
Order of Appeal
Pet filed with petition 2 signs

James D. Nolan, Esq.
204 W. Pennsylvania Ave.
Towson, Maryland 21204
E. Scott Moore, Esq.
Jefferson Building
Towson, Maryland 21204
Counsel for petitioner
Counsel for protestant

August 30, 1967

Mr. Julius M. Friessner,
24 Bangert Avenue
Perry Hall, Maryland 21128

Re: Petition for Reclassification and
Special Exception - Prop/ Beginning
2830' S of New Forge Road and 1386'
N/W Northeastern Expressway,
11th Dist., Bernard Schwartz,
Petitioner - No. 68-19-RX

Dear Mr. Friessner:

Please be advised that an appeal has been filed from the decision of the Zoning Commissioner rendered in the above matter.

You will be duly notified of the date and time of appeal hearing when scheduled by the Board of Appeals.

Very truly yours

Zoning Commissioner

cc: Mr. Edwin C. Hardesty,
37 Bangert Avenue
Perry Hall, Maryland 21128

August 25, 1967

James D. Nolan, Esq.
204 W. Penna. Ave.
Towson, Md. 21204

Re: Petition for Reclassification and
Special Exception, located 2830' S of
New Forge Road and 1386' NW of the
Northeastern Expressway - 11th District
Bernard Schwartz-Petitioner
No. 68-19-RX

Dear Sir:

An Appeal has been filed from the decision of the Zoning Commissioner rendered in the above matter.

Yours very truly,

JOHN G. ROSE
ZONING COMMISSIONER

JGR/ba

August 24, 1967

Hon. John G. Rose
Zoning Commissioner of Baltimore County
County Office Building
Towson, Maryland 21204

Re: No. 68-19-RX
Reclassification and Special Exception Beg. 2830 feet S of
New Forge Road and 1386 feet NW of the Northeastern Expressway -
11th District - Bernard Schwartz, Petitioner

Dear Mr. Rose:

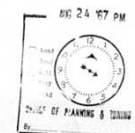
Enclosed herewith is Notice of Appeal, in the above-captioned matter, together with my check in the amount of \$70.00.

Respectfully,

E. Scott Moore

ESM:ey

Enclosures



BEFORE THE
ZONING COMMISSIONER
FOR BALTIMORE COUNTY

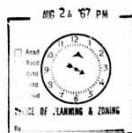
RE: Petition for Reclassification
and Special Exception
Reg. 2-30 feet S of
New Forge Road and
1986 feet NW of the
Northwestern Expressway -
11th District
Bernard Schwartz,
Petitioner
NO. 68-19-RX

NOTICE OF APPEAL

MR. COMMISSIONER:

Please enter an Appeal to the Baltimore County Board of Appeals,
in the above-entitled matter, from the Order of the Zoning Commissioner
dated July 26th, 1967.

E. Scott Moore, Attorney for
C. Lamar Creswell, et al.,
Protestants



BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

July 26, 1967

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MD. 21204
JAMES D. NOLAN
ZONING COMMISSIONER

James D. Nolan, Esquire
204 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Reclassification
and Special Exception
Reg. 2-30 feet S of New Forge
Road and 1986 feet NW of the
Northwestern Expressway - 11th Dist.
Bernard Schwartz, Petitioner
NO. 68-19-RX

Dear Mr. Nolan:

I have this date passed my
Order in the above captioned matter. Copy of said Order is attached.

Very truly yours

JOHN G. ROSE
Zoning Commissioner

JGR/jdr

cc: Mr. Julius M. Frisner
24 Bangert Avenue
Perry Hall, Md. 21228

Edwin C. Hardesty
37 Bangert Avenue
Perry Hall, Md. 21228

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

SUBJECT: Reclassification from R-20 to R-40
Special Exception for an Airport for
Bernard Schwartz, located 25 1/2
Northwestern Expressway, 2830' SW of
Forge Road
11th District
(Item 3 of June 19th, 1967)

Dear Sir:

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

NOISE OF ENGINEERING
Water and sewer not available.

If the petition is granted no occupancy may be made until such time as plans have
been submitted and approved and the property inspected for compliance to the approved plan.

The above comments are not intended to indicate the appropriateness of the
zoning action requested, but to assure that all parties are made aware of plans or
problems that may have a bearing on this case. The Director and/or the Deputy Director
of the Office of Planning and Zoning will submit recommendations on the appropriateness
of the requested zoning 10 days before the Zoning Commissioner's hearing.

The following members had no comment to offer:

Zoning Administration Division
Project Planning Division
Bureau of Traffic Engineering
Health Department
Bureau of Fire Prevention
State Roads Commission
Building Engineer
Board of Education
Industrial Development

Very truly yours,

JAMES E. STEB, Principal
Zoning Technician

cc: Carlyle Brown-Burton of Engineering

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

68-19-RX

Mr. W. Nick Petrovich,
FROM: Board of Education of Baltimore Co.,

Date: July 7, 1967

TO: John G. Rose,

SUBJECT: Airport in vicinity of school

I received your note concerning the airport on New Forge
Forge Road-Bangert Avenue area dated July 5, 1967.

It would assist us very much if you could go on the regularly
scheduled field trip with the Zoning Advisory Committee. It is our
intention in the very near future to have equipment available on the trip
so that spontaneous comments may be recorded by means of the equipment
we are purchasing.

Zoning Commissioner

cc: Mr. Grimm
Mr. Kreuzburg

JAMES D. NOLAN
LOW OFFICE
TOWSON, MARYLAND

July 20, 1967



Mr. Julius Frisner
24 Bangert Avenue
Perry Hall, Maryland 21228

Mr. E. C. Hardesty
37 Bangert Avenue
Perry Hall, Maryland 21228

Gentlemen:

Enclosed herewith is a copy of the proposed
Opinion and Order, as was suggested by John Rose, Zoning
Commissioner for Baltimore County. Please feel free to discuss
this with Mr. Rose, Robert L. Weinberg, Esquire, or this
office.

I would suggest that if the Opinion and Order meets
with your approval, you advise Commissioner Rose promptly.

Very truly yours,

James D. Nolan

JDN:n

cc: Robert L. Weinberg, Esquire
Commissioner Rose
Mr. Howell Mace, Jr.

Board of Education of Baltimore County

AGBUTTH HAND
Tolson 4, Maryland

FROM: W. Nick Petrovich

DATE: July 5, 1967

TO: John G. Rose, Zoning Commissioner
cc: Mr. Grimm and Mr. Kreuzburg
RE: Airport in Vicinity of School



A hearing is to be held on Wednesday, July 19, 1967 at 1:00 p.m. to
hear a request for rezoning of R-20 land to R-40 with "special exception"
for an airport in the New Forge Road - Bangert Avenue area.

A field trip to the area failed to give a clear picture as to what
hazards, if any, would exist as a result of aircraft flying over the
Chapel Hill Elementary School on take-offs and landings since a plat of
the proposal was not available to me at the time of the trip.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE

No. 48436

DATE: July 25, 1967

TO: E. Scott Moore, Esq.
Jefferson Building
Towson, Md. 21204

DEPOSIT TO ACCOUNT NO. 01-622

QUANTITY
Cost of Specials - 688-1508
Bernard Schwartz

RETURN THIS PORTION WITH YOUR REMITTANCE
DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS
TOTAL AMOUNT
COST
70.00

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

TELEPHONE
623-3000
EXT. 387

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE

No. 44229

DATE: June 27, 1967

TO: Baltimore Aviation Service, Inc.
White Marsh, Md. 21162

DEPOSIT TO ACCOUNT NO. 01-622

QUANTITY
Petition for Reclassification & Special Exception for Bernard Schwartz
688-19-RX

RETURN THIS PORTION WITH YOUR REMITTANCE
DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS
TOTAL AMOUNT
COST
50.00

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

TELEPHONE
623-3000
EXT. 387

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE

No. 44274

DATE: July 21, 1967

TO: James D. Nolan, Esq.
204 W. Pennsylvania Ave.
Towson, Md. 21204

DEPOSIT TO ACCOUNT NO. 01-622

QUANTITY
Advertising and posting of property for Bernard Schwartz
688-19-RX

RETURN THIS PORTION WITH YOUR REMITTANCE
DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS
TOTAL AMOUNT
COST
60.75

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

James D. Nolan, Esq.
204 W. Pennsylvania Avenue
Towson, Maryland 21204

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this

13th day of June, 1967.

John G. Rose
Zoning Commissioner

Petitioner: Bernard Schwartz

Petitioner's Attorney: James D. Nolan
Reviewed by: James D. Nolan
Chairman of
Advisory Committee

CERTIFICATE OF PUBLICATION

TOWSON, MD. June 29, 1967.

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md. on the 1st day of July, 1967, the 13th day of the month of June, appearing on the 25th day of June, 1967.

THE JEFFERSONIAN

L. Frank Smith
Manager.

Cost of Advertisement, \$.

CERTIFICATE OF PUBLICATION

OFFICE OF
The Community Press

DUNDALK, MD. June 28, 1967

THIS IS TO CERTIFY, that the annexed advertisement of "Bernard Schwartz" was inserted in THE COMMUNITY PRESS, a weekly newspaper published in Baltimore County, Maryland, once a week for 1 successive week before the 27th day of June, 1967; that is to say, the same was inserted in the issues of 6-28-67

Stromberg Publications, Inc.

Publisher.

By Mrs. Palmer Price

Mrs. Palmer Price

RE: PETITION FOR RECLASSIFICATION from an R-20 zone to an R-40 zone, and SPECIAL EXCEPTION for an Airport Beginning 2830' S. of New Forge Rd. as now relocated, and 1386' NW of Northeastern Expressway 11th District Bernard and Dorothy Schwartz, Petitioners

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 68-19-RX

OPINION

The petitioners, Bernard and Dorothy Schwartz, and the corporate successor in interest, Baltimore Aviation Service, Inc., are requesting the reclassification of a tract of land consisting of some six acres, more particularly described in a metes and bounds description and in a plat filed in the proceedings. The petitioned property is located in the Eleventh Election District of Baltimore County, south of New Forge Road and northwest of Northeastern Expressway. The subject land has been used for growing crops with some small portions being wooded. It is presently zoned R-20 and the petitioners seek to reclassify this property to R-40, with a special exception for airport use thereon. The proposed purpose is to lengthen by 400 feet an existing 2000 foot long runway from an adjacent airport property, formerly known as Quin Airport but now owned by the petitioner. It took four days to hear this case and all pertinent facts, for the sake of brevity, cannot possibly be recited in detail in this decision.

The subject tract was described as being bounded by land uses as follows: On the north by cultivated fields, owned by Bernard and Dorothy Schwartz; to the east by the aforementioned Quin Airport (this airport tract having been formerly granted a special exception for airport use in 1956, zoning case No. 3520); to the south by property primarily in an orchard; and on the west by other cultivated fields primarily owned by Bernard and Dorothy Schwartz. The Northeastern or Kennedy Expressway lies to the southeast of the existing airport with its nearest point being several hundred feet from its southeast corner. As was previously noted, this six acre tract adjoins the existing airport property at its western boundary and thus, the reclassification, in addition to lengthening the existing runway, is being sought in order to realize its western and northwesterly away from the Chapel Hill Elementary School, and its eastern end southwesterly away from the advancing residential development of Forge Heights.

Petitioners' witness, Francis M. Done, a flight instructor, described the plan as rotating the old runway 15° clockwise thereby moving air traffic further away from the school and the developed area. He testified that, in his opinion, granting the special exception would not violate the provisions of Section 502.1 of the Zoning Regulations. In answer to a question from the Board, Mr. Done replied that no new operations

Bernard Schwartz - #68-19-RX

DC-3 could be flown safely in and out of the existing Quin Airport. Much of the protestors' case seemed to be directed against the very existence of the present airport, a question not here at issue, rather than the propriety or advisability of the proposed reclassification and special exception. The testimony of Mr. Jack Daft, who testified on behalf of the protestors, can largely be classified in that category as can the testimony of the protestors' real estate expert; namely, the inadvisability of having an airport in a residential area.

The protestors produced a number of witnesses, residents of the general area. They protested against the low flying of aircraft, buzzing, and dangerous flying tactics that emanate from the existing airport. After having heard these numerous witnesses at great length, the Board must again state that these witnesses primarily directed their testimony to the propriety or impropriety of the existing airport use, rather than to the petition here at issue.

Similarly the White Marsh Improvement Association, the Chapel Hill Elementary P.T.A., the P.T.A. Council of Baltimore County, and the Forge Heights Improvement Association, Inc., all directed their testimony to the existence and operation of the present airport. They further based their opposition on a fear that by granting the petition, in itself, there would be a resultant increase in air traffic volume which would outweigh the potential safety benefits derived from the proposed runway realignment. The Board finds this fear unsubstantiated by the facts given in testimony, and believes there would be an intensification in use and an increase in air traffic volume at the existing airport even if the petition were denied. There was sufficient testimony on both sides of the case to clearly convince the Board that the present airport could accommodate nearly the same size runway as proposed, and the same size airplanes as it will be able to do if the petition is granted. The undeniable benefit of added safety through realignment of the runway is possible, however, only by granting the petition. The Board is of the opinion that granting the special exception will not contravene the provisions of Section 502.1 of the Baltimore County Zoning Regulations.

As to the reclassification from R-20 to R-40, the Board must concern itself with the narrow question as to whether the zoning map was in error in classifying the subject property as R-20. Since the map is not yet two years old, changes in character and use of the neighborhood cannot be used as a basis for considering the petition.

The Board feels that there was error in the original zoning in that the Planning Board and the County Council erred in not providing additional R-40 land for the logical growth and expansion of safety areas to the north and west of the existing airport to alleviate the problem which was created by another County department, the Board of Education, in its choice of site for the Chapel Hill Elementary School. It is manifest

Bernard Schwartz - #68-19-RX

could be conducted by virtue of granting the petition than those not already possible with the existing airport facility, but that only a safer operation would result if the petition were granted.

Mr. Howell Mace, President of Baltimore Aviation Service, Inc., testified that the petition is being sought primarily for safety reasons. He stated that he could in fact build a runway nearly 2400 feet long on the existing airport, a point not refuted by any other witness, but the granting of the petition would enable him to construct a safer, relocated, 2400 foot runway whereby airplanes could take advantage of the strongest prevailing winds, and have safer landings and take-offs. It should be noted that this petition in no way involves the existing airport or airport use, but concerns only the subject six acre tract. Under the present zoning and special exception for the existing airport property the petitioners can operate or improve their airport as they might wish to do, so long as such operations and improvements meet State and Federal safety requirements, which it apparently does since it is licensed.

Paul Didier, a sanitarian with the Baltimore County Health Department, made seven test borings and testified that the petitioned tract did not pass standard percolation test for septic sewerage disposal and, therefore, could not be developed in its present R-20 classification for building purposes until such time as it is provided with public sewer service.

Mr. Hugh Gelston, a qualified expert real estate appraiser, testified for the petitioners that the reclassification and special exception would not adversely affect the neighborhood or the property values in the surrounding area. He supported this view by stating that the Forge Heights development and the Chapel Hill Elementary School were both developed after the Quin Airport was in existence. He described Forge Heights as a very fine residential development with homes ranging from \$20,000 to \$40,000 in value, which have been constructed right up to the airport boundary and which sold readily at full value.

Bernard Willemin, a recognized land planner, testified for the petitioner that the proposed reclassification and special exception would benefit the surrounding neighborhood by assuring a safer operation of the existing airport by diverting aircraft traffic away from homes and school. He stated that, in his opinion, the Baltimore County Council, in adopting the zoning map, had erred in failing to consider the advancement of the Forge Heights development and the existing airport's runway alignment with the Chapel Hill School. The school and the Forge Heights development were built in the interim between the original zoning in 1956 and the adoption of the zoning map on August 1, 1966. He further testified that the zoning map should have designated

Bernard Schwartz - #68-19-RX

that while the Planning Board and Council could not, perhaps, compel such improvement in realignment of the existing runway or increase the safety factors, they should not have impeded such voluntary action by the airport owners, and R-40 land should have been provided on this subject tract. Lack of public sewer, water, and a history of poor percolation tests should have been compelling reasons to place the subject in an R-40 classification. Furthermore, it is debatable that had this subject tract been part of the Quin Airport ownership at the time of the map's adoption, it would have been included in the R-40 zone on the map.

It also should be noted that although the Board is of the opinion that there is manifest error present, these proceedings are truly not in the nature of a reclassification from R-20 to R-40, for the property owner has no intention to develop for residential use, but rather these proceedings are in the nature of an application for a special exception for airport use. Probably it is not necessary to state that the only reason the R-40 reclassification is sought is that a special exception for airport use may only be attained in residential R-40 zoned land. A glance at the map shows that this property is bordered on the east by R-40 land, and is a logical extension of this R-40 zone.

The Board is of the opinion, upon all testimony presented, that the reclassification and special exception requested is appropriate and concurs with the ruling of the Zoning Commissioner in this petition. However, the Board's action here is not to be interpreted as an opening wedge to further rezoning of adjacent tracts for airport use.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 1st day of August 1968 by the County Board of Appeals, ORDERED that the reclassification and special exception petitioned for, be and that same are hereby GRANTED, subject to site plan approval by the Bureau of Public Services and the Office of Planning and Zoning, and subject to the following restrictions on the subject six acre tract:

1. No plane having a gross weight exceeding 12,500 pounds shall use this facility
2. No commercial airline service engaged in transporting cargo, freight, or airline passengers shall use this facility

Bernard Schwartz - #68-19-RX

R-40 classification for the subject property because of unplanned public sewer facilities for the White Marsh-Gunpowder area. He believed that the land should have been placed in R-40 as a reservoir category in fairness to the property owners and as justification to the public. There have been numerous septic tank failures in the area, and the Health Department has tightened their regulations regarding percolation tests so that the subject property cannot be developed now in its R-20 classification. He contended that to simply reclassify the subject property only to R-40 in itself would only continue to restrict the use of the property, therefore, a special exception treatment should be afforded it. He cited the Huff and Castello cases as cases presenting essentially an application for a special exception; see Huff v. Board of Zoning Appeals, 214 Md. 51 (1957), and Castello v. Sieling, 223 Md. 24 (1959). It was his opinion that granting the special exception would not violate any of the provisions of Section 502.1 of the Zoning Regulations.

The protestors in their case, and the Office of Planning in its comments, both seemed to fear or to interpret this petition as an expansion of the existing airport's facilities. Yet, all witnesses before this Board, versed in aviation, testified that any aircraft which could land and take-off on a 2400 foot runway as proposed, could similarly land or take-off on the existing 2000 foot runway. The only difference being that the proposed 2400 foot runway as realigned would allow a much safer operation rather than a quantitative increase in airport usage.

Mr. Leslie Graef, Deputy Director of Planning for Baltimore County, testified that his department had not inspected nor specifically considered the airport property in the deliberations leading to the adoption of the Northeastern zoning map. He agreed that the subject land probably would not pass percolation tests and, therefore, could not be developed as R-20 lots. He also stated that there are no sewer improvements proposed in the current five year Capital Improvement Plan that would serve the subject land. This point was further confirmed in the testimony of Mr. Sam Ballestri, Chief of Sanitary Sewer Design for Baltimore County. Mr. Graef stated that the subject land was designated R-20 on the zoning map because public sewer service would be available to it "in time". A similar petition was taken by protestors' expert witness, Mr. Jack Daft, Landscape Architect.

Mr. William Simpkins, an aviation expert testifying for the protestors, agreed that the proposed realignment and improvement of the runway would result in a safer airport operation. He agreed that any plane that can land on the proposed 2400 foot runway, can also land on the existing 2000 foot runway. He stated that for take-offs and landings, a small twin engine plane needs only 1000 feet of runway; a twin engine Beechcraft carrying as many as six people would need 1200 feet; and a loaded

Bernard Schwartz - #68-19-RX

Any appeal from this decision must be in accordance with Chapter 1100, subtitle 8 of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Slawik, Acting Chairman

Walter A. Keller, Jr.

John A. Miller

TELEPHONE 223-3000 EXT. 357

INVOICE No. 49619

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

DATE Sep. 2, 1967

TO: E. Scott Smith, Esq.
Jefferson Building
Towson, Md. 21204

RE: **Cost of posting property of Bernard Schwartz for Special Hearing 8-19-67**

AMOUNT TO ACCOUNT NO. 01-622	REMAINING BALANCE	TOTAL AMOUNT DUE
10.00		10.00
	10.00	10.00
	10.00	10.00

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

RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

Re: 2530 West S of New Forge Road and 1386 feet NW of the Northeastern Expressway - 11th District

Bernard Schwartz, Petitioner

NO. 68 19-RX

BALTIMORE COUNTY

The Petitioners have requested the reclassification of this property consisting of 6.67 acres (as more particularly described in a metes and bounds description and plat filed in these proceedings), presently being utilized for the growing of wheat and in some small part, to woods, from the present classification of R-20 to a classification of R-40, with a special exception for an airport.

The land was described as being bounded on the north by other wheat fields owned by the Petitioners, namely Bernard L. Schwartz and Dorothy Schwartz; on the east by the existing Quian Airport, now owned by the optionees of the Petitioners, namely, Baltimore Aviation Service, Inc., which entire airport tract is classified R-40 with a special exception for airport use, which zoning was granted to a predecessor to Mr. Frank F. Quinn in Case Number 3520, in 1956, on the south by property devoted to agricultural use, much of it as an orchard, and on the west the tract in question is bounded by other wheat fields, primarily owned by the Petitioners, Bernard L. Schwartz and wife. It should be noted that the Northeastern Expressway borders the existing airport property on the southeast side.

At the hearing on July 19, 1967, Mr. Julius Frieser and Mr. E. C. Hardesty, both residents of the developments known as Forge Heights, which lies to the northeast of the existing airport property, and which consists of fine, single family dwellings situated on large shaded lots, were present.

The corporate optionees, through its President, Howell Mace Jr. and through its counsel, indicated that the reclassification and special exception was being sought primarily for safety reasons. Although the existing facility is properly licensed by both the State and Federal authorities, it was indicated that the Baltimore County Board of Education has constructed the new Chapel Hill Elementary School in a line with the western approach to the existing runway. Similarly, the eastern end of the existing 2000-foot-plus runway is being somewhat encroached upon by new homes being built in the Forge Heights development. The reclassification of the six-acre tract in question is being sought, according to Mr. Mace, in order to lengthen slightly the existing runway, but more importantly to realign the runway at the west end away from the Chapel Hill Elementary School by moving its western terminus northward, on the east end away from the homes by moving its eastern terminus southward of its existing position. The grade of the existing runway is also to be changed and leveled, and a hard macadam surface is to be applied according to Mr. Mace's testimony. It was pointed out that were zoning for the airport to be sought today, the alignment sought by the Petitioners and their contract purchaser would be clearly the preferable alignment. It should be noted that the Petitioners under the existing zoning as to the larger tract could quite legally continue to utilize the facility as it is now, and that at

this hearing this usage was not in question as to the larger tract.

As for error in the original zoning, the Petitioners contend, and with some merit, that the Planning Board and County Council erred in not providing additional R-40 land to the north and west of the existing airport for logical growth and expansion to alleviate the problem created by another County Department, the Board of Education, in its choice of site for the Chapel Hill Elementary School. While the Planning Board and the Council could not, perhaps, compel such realignment, it is manifest that on the other hand they should not have impeded such voluntary action by the property owners, and R-40 land should have been provided to the west and north of the existing airport, and it was an error not to do so. Parenthetically, the corporate contract purchaser was not in a position at the time of adoption to point out such error to the Council or to the Planning Board, as it did not take title to the land until May, 1967, according to the testimony offered.

Some concern was expressed by both Mr. Frieser, President of Forge Heights Improvement Association, and Mr. Hardesty, both residents of Bangert Avenue, in the Forge Heights Development, as to the proper agency to police the future operation of the facility, both as it exists now, and as it may be hereafter altered; and it was pointed out that the present use if legal and that the policing of the facility falls most effectively within the ambit of the Federal Aviation Agency, and it is to that agency that any illegal or unsafe condition should be reported. No such present condition was mentioned by either Mr. Frieser or Mr. Hardesty.

Furthermore, upon the testimony presented and a view and inspection made, that the reclassification is appropriate and desirable, and that the airport use for which the special exception is requested is in compliance with Section 502.1 of the Baltimore County Zoning Regulations.

For the foregoing reasons, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 21st day of July, 1967, that the herein described property or area should be and the same is hereby reclassified from an R-20 zone to an R-40 zone, and a Special Exception for an airport 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.

[Signature]
Zoning Commissioner

ORDER RECEIVED FOR FILING
DATE 7/24/67
BY *[Signature]*

PETITION FOR ZONING RECLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

I, or we, *[Signature]* legal owner(s) of the property situated 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 reclassified, pursuant to the Zoning Law of Baltimore County, from an R-20 zone to an R-40 zone, for the following reasons:

1. There was a mistake in the original zoning and/or the character of the neighborhood has changed to such an extent that a reclassification as requested is proper;
2. With Special Exception for Airport

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 airport use

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

[Signature] Bernard Schwartz
Contract purchaser
Address Philadelphia Road
Baltimore County, Maryland

[Signature] James D. Nolan
Petitioner's Attorney
Address 204 M. Pennsylvania Ave.
Towson, Maryland 21204 (VA-3-7800)

ORDERED By The Zoning Commissioner of Baltimore County, this 11th day of June, 1967, 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 had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 19th day of July, 1967, at 1:00 o'clock P.M.

[Signature]
Zoning Commissioner of Baltimore County

PETITION FOR ZONING RECLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

I, or we, *[Signature]* legal owner(s) of the property situated 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 reclassified, pursuant to the Zoning Law of Baltimore County, from an R-20 zone to an R-40 zone, for the following reasons:

1. There was a mistake in the original zoning and/or the character of the neighborhood has changed to such an extent that a reclassification as requested is proper;
2. With Special Exception for Airport

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 airport use

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

[Signature] Bernard Schwartz
Contract purchaser
Address Philadelphia Road
Baltimore County, Maryland

[Signature] James D. Nolan
Petitioner's Attorney
Address 204 M. Pennsylvania Ave.
Towson, Maryland 21204 (VA-3-7800)

ORDERED By The Zoning Commissioner of Baltimore County, this 11th day of June, 1967, 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 had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 19th day of July, 1967, at 1:00 o'clock P.M.

[Signature]
Zoning Commissioner of Baltimore County

68-19-RX

November 29, 1974

Baltimore County,
Zoning Commission
Towson, Maryland, 21204

Dear sir,

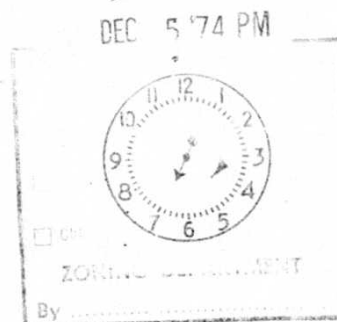
In regard to my corporation's desire to maintain a mobile trailer as an office and storage facility at Baltimore Airpark, White Marsh, Md; the following supplementary information is pertinent to this application.

Being an active member of the Civil Air Patrol, East Balto. Composite Sqdn; a part of Maryland Wing C.A.P. arrangements have been authorized to allow the CAP use of this trailer facility during training and actual mission performance by their personnel. The use of this particular modified trailer will in effect be a direct replacement for the CAP's previous trailer which is to be removed. It is also my expectation that more permanent housing of Eastern Aero Marine's repair facility will be obtained within the next twelve months.

In consideration of the above stated conditions, I seek your review and favorable action in this matter.

Respectfully yours,

Bernard H. Ulbrich
Bernard H. Ulbrich
President/ General Manager
Eastern Aero Marine, Inc.



O.K. as per SAC & JAC
12/5/74