

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Elie L. Charnock, legal owner, of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an R-10 and R-20 zone to an AREA zone; for the following reasons:

1. Changes in the character of the neighborhood
2. Error in the original zoning map.

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:

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

I, or we, agree to pay expenses of above re-classification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Address 5007 Brandon Rd. #100B Elie L. Charnock
343 Maryland Rd. #1007 Legal Owner
200 E. 1st St. #1007 Contract purchaser
Address 200 E. 1st St. #1007 Legal Owner
200 E. 1st St. #1007 Contract purchaser
Address 200 E. 1st St. #1007 Legal Owner
200 E. 1st St. #1007 Contract purchaser

ORDERED By The Zoning Commissioner of Baltimore County, this 8th day of October, 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 10th day of November, 1968, at 10:00 o'clock.

Zoning Commissioner of Baltimore County.

ITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Edward Seidman, Charles J. McAvoy & Son, Inc., Kemper L. Cave, legal owner, of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an R-10 and R-20 zone to an AREA zone; for the following reasons:

1. Change of neighborhood.
2. Error in the original zoning of the property.
3. For other reasons to be assigned at the time of the hearing.

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:

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

I, or we, agree to pay expenses of above re-classification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Address 200 E. 1st St. #1007 Elie L. Charnock
343 Maryland Rd. #1007 Legal Owner
200 E. 1st St. #1007 Contract purchaser
Address 200 E. 1st St. #1007 Legal Owner
200 E. 1st St. #1007 Contract purchaser

ORDERED By The Zoning Commissioner of Baltimore County, this 8th day of October, 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 10th day of November, 1968, at 10:00 o'clock.

Zoning Commissioner of Baltimore County.

HENRY F. HANDELMEIER,

v.

JOHN A. SLOWIK,
WALTER A. REITER, JR. and
JOHN A. MILLER, being and
constituting the COUNTY
BOARD OF APPEALS FOR
BALTIMORE COUNTY

and

ELLA L. CHARNOCK, Petitioner,
and DR. HAROLD ROLL, et al.,
Contract Purchaser, Intervenor.

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

At Law

Miss. Docket No. 3
Folio No. 479
File No. 4505

ORDER TO ENTER APPEAL

Mr. Clerk:

Please enter an appeal to the Court of Appeals of Maryland from the decision rendered by the Circuit Court for Baltimore County on December 30, 1968, affirming the decision of the County Board of Appeals for Baltimore County.

Robert C. Vandervine,
Attorney for Petitioner-Appellant,
Henry F. Handelmeier

I hereby certify, that on this 27th day of January, 1969, a copy of the foregoing Order to Enter Appeal was mailed to Fred E. Volz, Esquire, Marquette Building, Towson, Maryland 21204, attorney for petitioner, and to County Board of Appeals for Baltimore County, County Office Building, Towson, Md.

Robert C. Vandervine,
Attorney for Petitioner-Appellant,
Henry F. Handelmeier

HENRY F. HANDELMEIER,

v.

JOHN A. SLOWIK,
WALTER A. REITER, JR. and
JOHN A. MILLER, being and
constituting the COUNTY
BOARD OF APPEALS FOR
BALTIMORE COUNTY,

and

ELLA L. CHARNOCK, Petitioner,
and DR. HAROLD ROLL, et al.,
Contract Purchaser, Intervenor.

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

At Law

Miss. Docket No. 8

Folio No. 479

File No. 4309

ORDER

The above matter, having come before the Court for argument and the Court having heard and considered the arguments of counsel for the Appellants and Appellees, and having read and considered the record and exhibits on file and for the reasons stated in the oral opinion of this Court rendered on the 23rd day of December, 1969, it is this 24th day of December, 1969, by the Circuit Court for Baltimore County:

CAREFULLY, that the Order of the County Board of Appeals for Baltimore County granting the reclassification of the subject property be and the same is hereby affirmed.

I HEREBY CERTIFY that on this 27th day of December, 1969, a copy of the above Order was mailed to Robert C. Vandervine, attorney for the Appellant, 232 St. Paul Place, Baltimore, Maryland 21202.

Fred E. Volz, Esquire, Attorney for Appellees

PET

Robert C. Vandervine, Esquire
214 Court Street, Suite 101, Baltimore, Md. 21201
August 31, 1968

Description for a lot on the Northeast side of the Liberty Road and Kemmer Road.

Beginning for the same at the corner formed by the intersection of the Northeast side of the Liberty Road and the Northwest side of Florida Road, thence running along the Northeast side of the Liberty Road, as now constructed, North 54 degrees 05 minutes West 206.70 feet to the Southeast side of Kemmer Road; thence running and binding on the Southeast side of Kemmer Road, North 35 degrees 55 minutes East 145.00 feet; thence running South 54 degrees 05 minutes East 250.00 feet to the Northwest side of Florida Road; thence running and binding on the Northwest side of Florida Road South 52 degrees 41 minutes West 155.12 feet to the point of beginning.

Containing 0.75 of an acre more or less and being the property of Edward Seidman, Charles McAvoy and Son, Inc. and Kemper Cave.

Robert C. Vandervine, Esquire
214 Court Street, Suite 101, Baltimore, Md. 21201

JOSEPH D. THOMPSON, P.E., S.L.B.
CIVIL ENGINEERS & LAND SURVEYORS

101 SHELL BUILDING - 200 WEST JOPPA ROAD
TOWSON, MARYLAND 21204 - VAILLY 5-3830

DESCRIPTION FOR REZONING-SOUTHWEST SIDE OF LIBERTY ROAD
SOUTHEAST OF MARRIOTTVILLE ROAD, 2nd DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at a point in the centerline of Liberty Road, 66 feet wide at the distance of 265 feet more or less measured southeasterly along the centerline of Liberty Road from the centerline of Marriottville Road said point being at the beginning of the lane which by deed dated August 3, 1951 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2000 folio 394 was conveyed by Herndon Corporation to Carlton E. Charnock and wife and running thence and binding on the first line of said land and on the centerline of Liberty Road and referring the courses of the description to the Baltimore County Grid Meridian South 57 degrees 18 minutes 02 seconds East 270.38 feet thence leaving the centerline of Liberty Road and binding on the second, third and last lines of said land South 22 degrees 55 minutes 43 seconds West 742.21 feet, North 66 degrees 55 minutes 42 seconds West 265.51 feet and North 22 degrees 48 minutes 57 seconds East 736.98 feet to the place of beginning.

CONTAINING 4.6731 acres of land more or less.

BEING all of the land which by deed dated August 3, 1951 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2000 folio 394 was conveyed by Herndon Corporation to Carlton E. Charnock and wife.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: John G. Rose, Zoning Commissioner Date: November 4, 1968

FROM: George E. Goveas, Director of Planning

SUBJECT: Petition #69-106-R. Reclassification from R-10 and R-20 to B.L. Zone. Southwest side of Liberty Road 265 feet southeast of Marriottville Road. Being the property of Elie L. Charnock.

2nd District

HEARING: Thursday, November 14, 1968 (10:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from R-10 and R-20 to B.L. zoning and has the following advisory comments to make with respect to pertinent planning factors:

1. We do not believe that the zoning map for the Northeastern Planning Area was in error with respect to affirming residential zoning on the subject tract. Similarly, changes in the character of the neighborhood do not warrant creation of yet additional commercial zoning here. We note that already there are three large tracts, commercially zoned and which have not yet been developed for commercial purposes.
2. We note that no program exist for widening Liberty Road beyond Chapin Road. We note also that our traffic agency states that Liberty Road will be well over its capacity when development occurs within the context of present zoning. Intensification of land use potential on the subject property would adversely affect the welfare and safety of this area and would further cause conditions of congestion and traffic hardships.

GEG:bms



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. James A. Dyer, Chairman Zoning Advisory Committee Date: October 8, 1968

FROM: Captain Charles F. Morris, Jr. Fire Bureau

SUBJECT: Property owner: Ella L. Charnock Location: 3/4 S/L Liberty Road 265' S/E of Marriottville Road District: 2nd Present zoning: R-10 and R-20 Proposed zoning: B.L. Acres: 4.67

1. On site fire hydrants shall be required and must be installed in accordance to the Baltimore County Standard Design Manual, 1964 Edition.

Charles F. Morris, Jr., Captain

cc: Mr. Martin J. Hanna, Fire Protection Engineer



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

the above Reclassification should be had; and it further appearing that by reason of...

a Special Exception for a... should be granted. IT IS ORDERED by the Zoning Commissioner of Baltimore County this... day of... 1968, that the herein described property or area should be and the same is hereby reclassified; from a... zone to a... zone, and/or a Special Exception for a... should be and the same is granted, from and after the date of this order.

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of the petitioners did not prove sufficient change in the neighborhood or there was an error in the map that would warrant the requested change.

the above reclassification should NOT BE HAD.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this... day of... 1968, that the above reclassification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued as and to remain a... zone.

Zoning Commissioner of Baltimore County

RE: PETITION FOR RECLASSIFICATION : BEFORE
from R-10 and R-20 zones to B.L. zone
Southwest side of Liberty Road 265 feet
Southwest of Marriottsville Road
2nd District :
Ella L. Charnock : BALTIMORE COUNTY
Petitioner :
(Harold Roll, Contract Purchaser) : No. 69-106-R

OPINION

This case comes before the Board on appeal by the Protestants from an Order of the Deputy Zoning Commissioner granting reclassification of the subject property from R-10 and R-20 to B.L.

This tract consists of approximately 4.67 acres, and is located on the south side of Liberty Road approximately 265 feet east of Marriottsville Road, in the 2nd Election District of Baltimore County. The parcel is rectangular in shape, having a frontage on the south side of Liberty Road of approximately 270.98 feet. The western boundary is approximately 786.88 feet in depth, while the east side is approximately 742.21 feet. Immediately to the west of the subject property is a newly developed modern Esso Service Center. This gasoline station is on the southeast corner of Marriottsville Road. Across Marriottsville Road, on the southwest corner, is a Flying "A" Gas Station which has been constructed. To the east of the subject property is a Baltimore Gas & Electric Company large tower transmission line right-of-way and the Bath El Cemetery. On the north side of Liberty Road across from this parcel is a shopping center which has been developed and is fully occupied.

The Petitioner seeks this reclassification to B.L. in order to develop a small neighborhood shopping location on the front face of this tract and a convalescent home on the rear portion. All access is planned and available only to Liberty Road.

Testimony showed that adequate utilities would exist for this proposal. Henry LeBrun, real estate appraiser and broker, cited numerous changes that have occurred in this area since the adoption of the existing use map. Included among these

Ella L. Charnock - #69-106-R

- 2 -

were the Esso station previously mentioned, and three separate R.A. reclassifications proposing more than 2300 units. Without going into great detail, as many are familiar with the rapid growth and expansion that this area has experienced in recent years, Mr. LeBrun also explained other changes, such as the reclassification to B.L. of the now existing shopping center immediately across Liberty Road from the subject property, as well as the development of the residential communities of King's Park, Hearnwood, Forest Hills, Pikeswood and Wildwood.

Only one neighborhood resident opposed this petition, complaining primarily about additional traffic on Liberty Road. Eugene Clifford, Director of Traffic Engineering for Baltimore County, testified that Liberty Road could, in the future, reach practical capacity; however, he did state on cross-examination that such a neighborhood shopping center and convalescent home as here proposed would not likely generate much, if any, new traffic to the area. Considering the testimony regarding changes, the prime objection would seem to be traffic, and this Board is impressed by the testimony that the use as proposed in this case would, in fact, primarily serve local residents within the existing traffic count and not draw traffic from any distance away from this property.

Without going into further detail, and considering the testimony in this case, some of which is set out above, it is the judgment of this Board that the Petitioner has sufficiently demonstrated substantial change in the character of this neighborhood to warrant the reclassification as sought in this petition, and the Order of the Deputy Zoning Commissioner is hereby affirmed.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 22nd day of July, 1969, by the County Board of Appeals ORDERED, that the reclassification petitioned for be and the same is hereby GRANTED.

Any appeal from this decision must be in accordance with Chapter

Ella L. Charnock - #69-106-R

- 3 -

1100, subtitle B of the Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Stowik, Acting Chairman

Walter A. Keller, Jr.

John A. Miller

RE: PETITION FOR RECLASSIFICATION : BEFORE THE
SW/S of Liberty Road, 265' SE of
Marriottsville Road - 2nd District : DEPUTY ZONING
Ella L. Charnock - Petitioner : COMMISSIONER
NO. 69-106-R :
OF
BALTIMORE COUNTY

The Petitioner requests a Reclassification of his property, consisting of 4.67 acres, from a R-10 and R-20 zone to a BL zone. Plans call for the construction of a small neighborhood shopping center to be constructed on the front portion of the tract and a proposed one hundred bed convalescent home to be erected on the rear portion. There would be a total of one hundred and seventy-one off-street parking spaces provided.

The subject property fronts two hundred and seventy-one feet on Liberty Road with a depth of seven hundred and eight feet. The front portion is zoned R-10 whereas the rear portion is zoned R-20. The Metropolitan District Line ends just west of the subject tract on Marriottsville Road.

Between Marriottsville Road and the Petitioner's property on the west is a gasoline service station. On the southwest corner of Marriottsville Road and Liberty Road is another gasoline service station. To the north across Liberty Road is another small shopping center. To the south is a housing development known as King's Park consisting of four hundred existing homes with another four hundred homes planned. To the east is a Gas and Electric Company tower line and sub-station. There was evidence of various other zoning changes in the area as set forth by Mr. Henry LeBrun, a realtor.

Mr. LeBrun also stated that nineteen hundred apartment units are proposed in the immediate area and that these proposed units along with other planned housing development create a need for additional shopping facilities in the general neighborhood. He also is of the opinion that the subject

property is not suitable for residential development because of its proximity to other commercial establishments. He also feels that this would be in the true sense a neighborhood center, which will be patronized by local residents, as opposed to a regional shopping center. He also stated that there is a great need for a convalescent home in this section of the county.

Without further reviewing the evidence, the Deputy Zoning Commissioner feels that a combination convalescent home-small shopping center would be appropriate at this location and feels that changes in the area justify granting the Reclassification.

For the foregoing reasons, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 19 day of December, 1968, that the herein described property or area should be and the same is hereby reclassified from a R-10 and R-20 zone to a BL zone, subject to approval of the site plan by the State Roads Commission, the Office of Planning and Zoning, the Bureau of Public Services, the Baltimore County Health Department and the Baltimore County Fire Bureau.

Edward D. Hickey
Deputy Zoning Commissioner

Legal Owners:

CHARLES J. McAVOY & SONS, INC.

Charles J. McAvoy, President
8306 Liberty Road
Baltimore, Maryland 21207

Patricia A. Cave
Kemper L. Cave

Patricia A. Cave
3704 Laburnum Drive
Baltimore, Maryland 21133

Edward Seidman
16 Guilford Avenue
Baltimore, Maryland 21202

Clarence W. Sharp
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Attorney for Charles J. McAvoy & Sons, Inc., Kemper L. Cave and Patricia A. Cave, his wife

Henry J. Frankel
Tower Building
Baltimore, Maryland 21202

Attorney for Edward Seidman

Fred E. Waldron, Esquire
Masonic Bldg.
Towson, Maryland 21204
Item 80

October 17, 1968

Indicates that Liberty Road will be over property when this shopping center is built.

Since there are no plans for improvement to Liberty Road at this time, the development of subject property as proposed appears to be premature.

In the event that the subject zoning is granted, on site fire hydrants shall be required and must be installed in accordance with Baltimore County Standard Design Manual, 1964 Edition.

This 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 nor more than 60 days after the date on the filing certificate, will be furnished to you in the near future.

Very truly yours,

JAMES E. LEE, Chairman

JED:JD

ORDER RECEIVED FOR FILING

DATE 12-19-68

BY J. A. Keller, Jr.

ORDER RECEIVED FOR FILING

DATE 12-19-68

BY J. A. Keller, Jr.

✓
#69-106R

MAP
1-C
WESTERN
AREA
NW-8-J
BL

IN THE COURT OF APPEALS OF MARYLAND

No. 435

September Term, 1969

ZONING FILE #69-106-R

HENRY F. HIMMELHEBER

v.

ELLA L. CHARNOCK, et al.

Hammond, C.J.
Barnes
McWilliam
Finan
Singley
Smith
Digges,
JJ.

Opinion by Barnes, J.

Filed: July 8, 1970

The two principal questions involved in this zoning appeal are whether or not the Circuit Court for Baltimore County (Raine, J.) erred in its order of December 23, 1969, affirming the order of July 22, 1969, of the County Board of Appeals of Baltimore County (Board), granting a zoning reclassification of the subject property from R-10 and R-20 (residential) to B.L. (business-local) upon the petition of Ella L. Charnock (Harold Roll, et al., contract purchaser) because (1) there was no legally sufficient evidence before the Board to support its findings of substantial change in the character of the neighborhood and (2) the uncontradicted evidence before the Board established that the proposed reclassification "could have an almost disastrous effect" on local traffic conditions in peak periods.

The subject property consists of approximately 4.7 acres of land situated in the Second Election District, Baltimore County, on the south side of Liberty Road approximately 265 feet east of its intersection with Marriottsville Road. The tract is rectangular in shape, having a frontage on Liberty Road of about 270 feet and having a depth ranging between 742 feet and 786 feet. Immediately to the west of the subject property is a newly developed Esso Service Center, being on the southeast corner of Liberty Road and Marriottsville Road. Across Marriottsville

Road from the Esso station, on the southwest corner of the intersection, is a Flying "A" gas station. To the east of the subject property is a Baltimore Gas and Electric Company large tower transmission line right-of-way and the Beth El Cemetery. Directly across from the subject property, on the north side of Liberty Road, is a fully developed shopping center.

In October 1968 Ella L. Charnock (Harold Roll, et al., contract purchaser) filed a petition for reclassification of the subject property from the then existing R-10 and R-20 zones to a B.L. zone in order to develop a small neighborhood shopping center on the front of this tract and a convalescent home on the rear portion. After a hearing on the petition was held on November 14, 1968, the Deputy Zoning Commissioner for Baltimore County passed an order granting the reclassification sought for the subject property. From that order, dated December 19, 1968, Henry F. Himmelheber, a neighborhood resident and appellant in this case, took an appeal to the Board.

On May 28, 1969, the Board conducted its own full hearing on the petition for reclassification of the subject property. Testimony and other evidence presented on behalf of the petitioner-appellee showed that adequate utilities would exist for the proposed development of the tract. Henry LeBrun, real estate appraiser and broker, testified for the petitioner-appellee that numerous changes had occurred in the area since the adoption of the master

plan (Western District map) in 1962. He pointed out that the character of the general area, and particularly that of the subject property, had changed from quiet and rural to dense residential and commercial development. In particular, Mr. LeBrun testified to the recent development of the residential communities of Kings Park, Hearnwood, Forest Hills, Pikeswood and Wildwood in the general area. Approximately 2,000 feet east of the subject property, Mr. LeBrun showed three properties which had been reclassified to R.A. (residential-apartment) in 1966 and 1967, permitting the erection of a total of 2,300 apartment units. In the immediate vicinity of the subject property, he testified that in 1965 the Esso Service Center abutting the subject property was built and in 1964 the property directly across Liberty Road, where the shopping center now exists, was reclassified B.L.

The appellant, Mr. Himmelheber, did not deny the existence of these changes in the area, but rather contested the magnitude of their impact on the character of the immediate neighborhood of the subject property. The main thrust of his testimony and that of his expert witness, Eugene Clifford, Director of Traffic Engineering for Baltimore County, was that the proposed use of the subject property would create additional traffic congestion on Liberty Road. Mr. Clifford testified that Liberty Road was only two lanes in the vicinity of the property and that upon his calculations he believed that during the peak period this [the proposed use of the subject property] could have an almost disastrous

effect as far as capacity is concerned." However, on cross-examination he testified that such a neighborhood shopping center and convalescent home as proposed would primarily serve residents in the area and "would not draw traffic from a great distance away." Joseph D. Thompson, a traffic expert and witness for the petitioner-appellee, also testified that in his opinion the proposed use would serve "only local traffic."

On July 22, 1969, the Board affirmed the order of the Deputy Zoning Commissioner and ordered that the reclassification petition be granted, setting forth its reasons in an opinion rendered the same day. Upon the evidence produced at its hearing on the matter, the Board stated that it found the petitioner-appellee had "sufficiently demonstrated substantial change in the character of this neighborhood to warrant the reclassification as sought in this petition," and that "the use as proposed in this case would, in fact, primarily serve local residents within the existing traffic count and not draw traffic from any distance away from this property."

From the order of the Board granting the reclassification of the subject property Mr. Himmelheber took a timely appeal to the Circuit Court for Baltimore County. After a hearing, Judge Raine filed an opinion in which he indicated that the evidence before the Board on the two disputed issues, the change in the character of the neighborhood and the potential traffic problem, was such as to make both issues "fairly debatable." In accord-

ance with his opinion, finding the issues fairly debatable and well considered by the Board, Judge Raine passed an order on December 30, 1969, affirming the Board's decision. From that order of December 30, 1969, a timely appeal was taken to this Court.

In our opinion, the lower court properly affirmed the decision of the Board in that there was sufficient evidence before the Board upon which it could reasonably find (1) that there had been a substantial change in the character of the neighborhood to warrant the reclassification as sought in the applicants' petition and (2) that the proposed use of the subject property would primarily serve local residents within the existing traffic on Liberty Road and not draw traffic from any distance away. We shall, therefore, affirm the order of December 30, 1969.

(1)

As Judge Oppenheimer, stated for the Court in DePaul v. Board of County Commissioners for Prince George's County, 237 Md. 221, 226, 205 A.2d 805, 807 (1965):

"We have held in many cases that the court, in reviewing the actions of zoning authorities, will not substitute its judgment for that of the authority unless the latter's action was arbitrary, capricious or illegal and that if the facts were sufficient to support the decision the question decided was fairly debatable and the decision must be upheld." Parsons Branch Co. v. Board, 232 Md. 536, 540, 194 A.2d 610 (1963) and cases therein cited. In John Corp. v. Rodgers Ferry, 236 Md. 166, 202 A.2d 612 (1964), we said: "We have stated time after time that it is not the function of the courts to zone or rezone, and the courts will not substitute their judgments for that of the expertise of the zoning officials." 236 Md. at 120."

In examining the record in the present case we find more than ample evidence to sustain the Board's finding that the character of the neighborhood in which the subject property is situated has undergone substantial change in the years following the comprehensive zoning enacted in 1962. Both Mr. Thompson and Mr. LeBrun gave knowledgeable and uncontroverted testimony that the area in question has been subjected to increasing development and commercialization. Mr. LeBrun testified to several specific zoning changes in that direction along Liberty Road within between 2,000 to 3,000 feet of the subject property. In immediate proximity to the property, he testified that an abutting Esso Service Center had been built in 1965 and directly across Liberty Road the zoning authorities had permitted a shopping center to be constructed in 1964. Unlike Hells v. Pierpont, 253 Md. 554, 253 A.2d 749 (1969) and Kaslow v. Mayor & City Council of Rockville, 236 Md. 159, 202 A.2d 638 (1964), the evidence in the present case demonstrates more than population growth and residential concentration in the subject area. There is undisputed evidence of reclassification of vicinal properties to commercial uses, including two such changes in contiguous properties. In our opinion, considering all of the changes and attendant circumstances as a whole, we have concluded that it is "fairly debatable" whether the neighborhood has acquired a new character warranting the reclassification of the subject property. Thus, under our prior decisions we should sustain the decision of the zoning authorities.

(2)

In regard to the alleged "almost disastrous effect" upon local traffic conditions, the evidence before the Board was conflicting. The well-qualified expert for the applicants testified that in his opinion the proposed use would serve "only local traffic," and this opinion is partially confirmed by the traffic expert of the protestants on cross-examination as we have indicated above. Here again, this issue was fairly debatable and the Courts should accordingly not disturb the decision of the Board on this issue. DePaul v. Board of County Commissioners for Prince George's County, supra.

ORDER OF DECEMBER 30, 1969,
AFFIRMED, THE APPELLANT TO
PAY THE COSTS.

✓
#69-106R

Petitioner Ellis L. Chernock
 Petitioner's Attorney Fred E. Whitrop, Esq. Reviewed by [Signature]
 Chairman of
 Advisory Committee

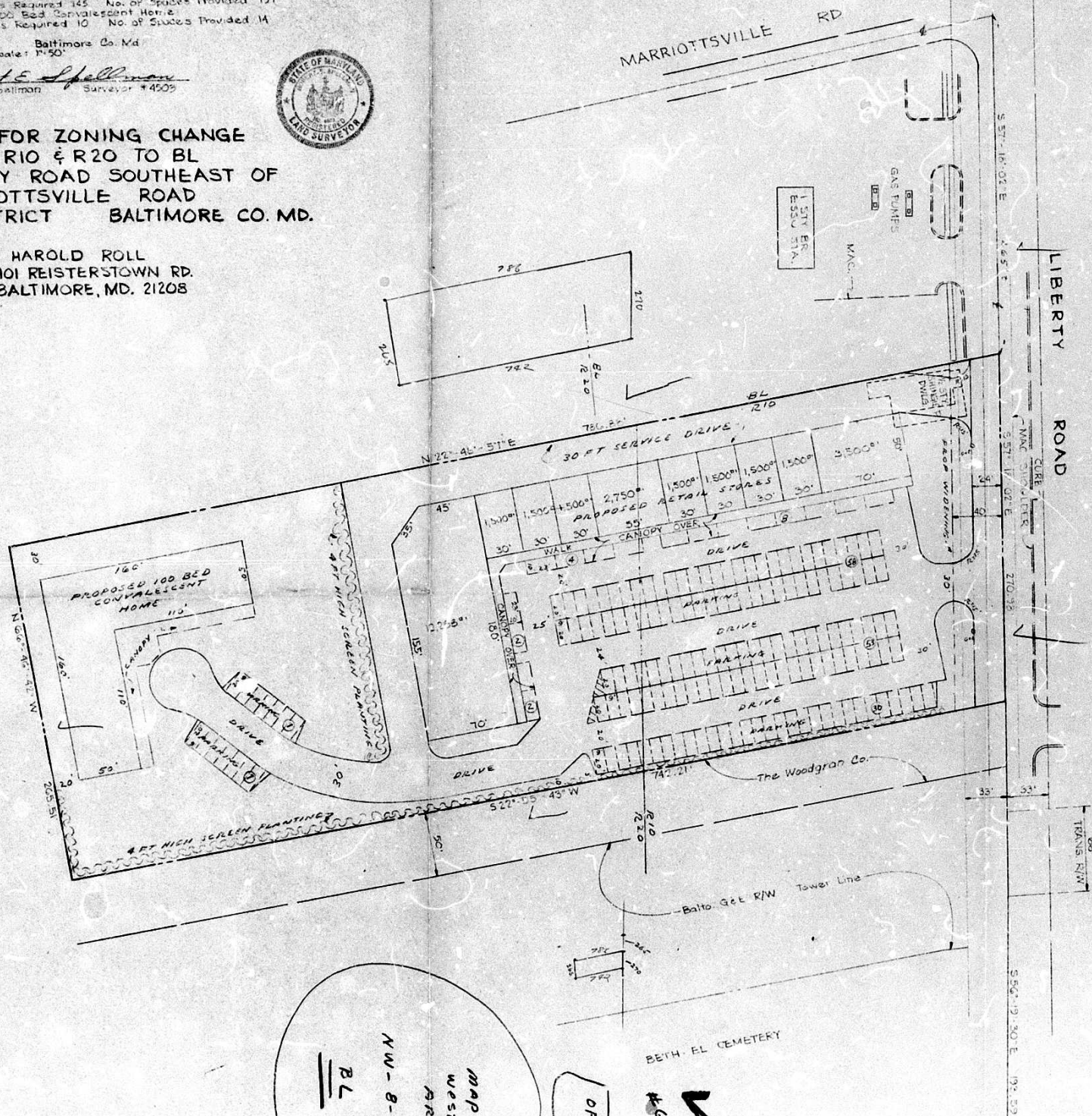
Existing Zoning: R10 & R20
 Proposed Zoning: BL
 Area of R10 & R20 to be changed: 4.74 Ac.±
 Total Area of Parcel: 4.67 Ac.±
 Off-Street Parking:
 Total Floor Area: 29,038 sq. ft.
 No. of Spaces Required: 145 No. of Spaces Provided: 157
 Proposed 100 Bed Convalescent Home:
 No. of Spaces Required: 10 No. of Spaces Provided: 14
 2nd District Baltimore Co. Md.
 Scale: 1"=50'

Robert E. Spallman
 Robert E. Spallman Surveyor #4509



**PLAY FOR ZONING CHANGE
 FROM R10 & R20 TO BL
 LIBERTY ROAD SOUTHEAST OF
 MARIOTTVILLE ROAD
 2ND DISTRICT BALTIMORE CO. MD.**

HAROLD ROLL
 1401 REISTERSTOWN RD.
 BALTIMORE, MD. 21208



JOSEPH D. THOMPSON
 ENGINEERS AND SURVEYORS
 101 SHELL BLDG. 200 E. JOPPA RD.
 TOWSON, MD. AUGUST 15, 1968
 SCALE 1"=50'

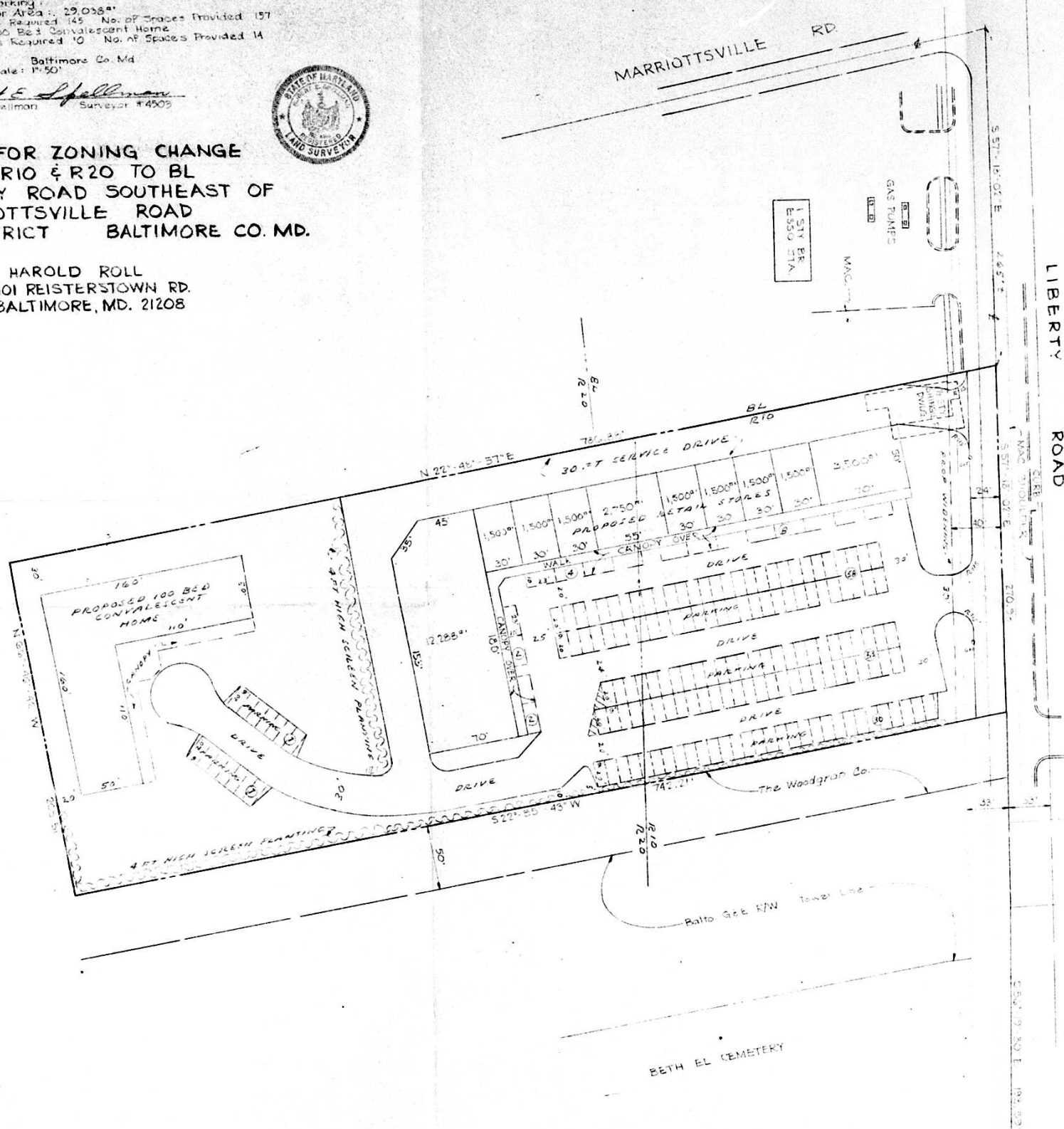
Existing Zoning: R10 & R20
 Proposed Zoning: BL
 Area of R10 & R20 to be changed: 4.74 Ac.±
 Total Area of Parcel: 4.67 Ac.±
 Off Street Parking:
 Total Floor Area: 29,038 sq.
 No. of Spaces Required: 145 No. of Spaces Provided: 157
 Proposed 100 Bed Convalescent Home
 No. of Spaces Required: 10 No. of Spaces Provided: 14
 2nd District Baltimore Co. Md.
 Scale: 1"=50'

Robert E. Spellman
 Robert E. Spellman Surveyor #4503



**PLAT FOR ZONING CHANGE
 FROM R10 & R20 TO BL
 LIBERTY ROAD SOUTHEAST OF
 MARIOTTVILLE ROAD
 2ND DISTRICT BALTIMORE CO. MD.**

HAROLD ROLL
 1401 REISTERSTOWN RD.
 BALTIMORE, MD. 21208



MAP
 1-C
 WESTERN
 AREA
 NW-8-J
 BL

JOSEPH D. THOMPSON
 ENGINEERS AND SURVEYORS
 1015 ELL BLDG. 200 E JOHNS RD.
 TOWSON, MD. AUGUST 15, 1968
 SCALE: 1"=50'