

# PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: and Patricia A. Cave  
I or we, Edward Seidman, Charles J. McAvoy & Son, Inc., Kemper L. Cave  
County and which is described in the description and plat attached hereto and made a part hereof,  
nereby petition (1) that the zoning status of the herein described property be re-classified, pursuant  
to the Zoning Law of Baltimore County, from an \_\_\_\_\_ zone to an \_\_\_\_\_ 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 rec-ification 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.

See attached page.

Contract purchaser

Legal Owner

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Legal Owners:

CHARLES J. MCAVOY & SONS, INC.

By \_\_\_\_\_

Charles J. McAvoy, President

8306 Liberty Road

Baltimore, Maryland 21207

\_\_\_\_\_

Clarence W. Sharp

210 W. Pennsylvania Avenue

Towson, Maryland 21204

\_\_\_\_\_

Attorney for Charles J. McAvoy

& Son, Inc., Kemper L. Cave

and Patricia A. Cave, his wife

\_\_\_\_\_

Patricia A. Cave

3704 Laburnum Drive

Randallstown, Maryland 21133

\_\_\_\_\_

Edward Seidman

16 Guilford Avenue

Baltimore, Maryland 21202

\_\_\_\_\_

Henry J. Frankel

Tower Building

Baltimore, Maryland 21202

\_\_\_\_\_

Attorney for Edward Seidman

RE: PETITION FOR RECLASSIFICATION

from an R-6 zone to a B.L. zone

NE corner Liberty & Florida Roads,

SE corner Liberty & Kenmar Roads,

2nd District

Charles J. McAvoy, et al,

Petitioners

BEFORE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

No. 69-111-R

## OPINION

This case involves a request for reclassification from R-6 to B.L. of a .75 acre tract on the north side of Liberty Road, approximately 229 feet east of Millard Mill Road, in the Second Election District of Baltimore County. The parcel is now improved by three older residences, and is all that frontage on Liberty Road (approximately 206 feet) between Kenmar Road to the west and Florida Road to the east. The subject property is approximately 145 feet deep on the Kenmar Road side, and approximately 155 feet deep on the Florida Road side. The requested reclassification was denied by the Zoning Commissioner.

The uses surrounding the subject property are as follows: Immediately across Kenmar Road to the west is a parcel zoned R-A, and is improved by an older two-story stone apartment house. The intersection of Millard Mill and Liberty Roads and the Giant Food Shopping complex lies approximately 229 feet west of the subject property. To the rear of the subject parcel are single family residences, approximately fifteen to twenty years of age, on R-6 lots. The width of Kenmar and Florida Roads at these homes is no more than 20 feet; no curbs, gutters, or sidewalks exist. Easterly of the subject property, on the north side of Liberty Road, is an R-6 parcel now the subject of another zoning case requesting B.L. reclassification. The next tract is the site of a relatively recent reclassification from R-6 to B.L. (Case #64-173), and is now improved by a Burger King restaurant. The south side of Liberty Road, immediately across from the subject property, is the site of a newly constructed Esso Service Center, a four-bay gasoline station. This site was improved as result of a recent reclassification and special exception (Case #65-381). Practically all of the frontage on the south side of Liberty Road, for more than 1000 feet easterly from Millard Mill Road, is now zoned and developed as B.L. usages.

Charles J. McAvoy - #69-111-R

The petitioner proposes to develop a small B.L. specialty shopping area containing approximately 7180 square feet. Petitioner's Exhibit #1 reflects some, as well as the proposed site plan, which provides for thirty-seven off-sheet parking spaces and no direct access to Liberty Road itself, the area being served by entrances on both Kenmar and Florida Roads. The entire tract contains .75 acres, or approximately 30,900 square feet. The petitioner would widen both side streets to a thirty foot paved surface on a forty foot right-of-way.

Richard L. Smith, a professional engineer, testified on behalf of the petitioner, and stated that in his opinion the sewer and water facilities available to the site are adequate for the proposed reclassification.

Two qualified recitors added testimony: one being a party to this case. The summary of their testimony is that the area has undergone a substantial change in character since the adoption of the use map, as to warrant the granting of this reclassification. These changes include the actual physical widening of Liberty Road; a series of zoning reclassifications including many acres of R-A land and the actual development of some of this land, which has created considerable additional demand for B.L. areas. Especially impressive to this Board were four changes in close proximity to the subject property. These changes were cited and explained by Frederick P. Klous, a well-known zoning consultant. These cases are as follows: #64-173, #63-175, #66-174, and #65-381. Without going into detail regarding each of these changes, the Board is impressed by the fact that each case is a reclassification from R-6 to B.L., and are in close proximity to the subject property; two of these being previously mentioned as the site of the new Burger King, less than 200 feet east of the subject property, and the four-bay Esso Service Center, immediately across Liberty Road from the subject property.

A traffic expert testified that the proposed reclassification would not adversely affect the traffic at the site. Without further elaborating on his testimony, a detailed report of some is in evidence as Petitioner's Exhibit #5.

Charles J. McAvoy - #69-111-R

One neighbor, and George E. Gavrelis, Director of Planning for Baltimore County, testified in opposition to the reclassification. Mr. Gavrelis protested the further strip commercialization of the Liberty Road, and certainly this Board is well aware of the zoning situation in this area. While agreeing with this Planner's philosophy regarding strip commercialization, some really seems to be an impractical principle to apply to this particular section of Liberty Road. The subject property is but 200 feet east of Millard Mill Road and its commercial complexes, and is bounded by other commercial development to the south and within 200 feet to the east.

Considering the evidence and testimony, some of which has been detailed above, the Board is of the opinion that the petitioner has proven sufficient change in the character of the area, substantial enough to warrant the granting of this reclassification.

## ORDER

For the reasons set forth in the foregoing Opinion, it is this 12<sup>th</sup> day of December, 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 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

John A. Slawik, Acting Chairman

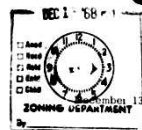
W. Giles Parker

Walter A. Reiter, Jr.

HENRY J. FRANKEL

ATTORNEY AND COUNSELOR AT LAW

938-4850



SUITE 900 TOWER BUILDING  
BALTIMORE ST. AT GUILFORD AVE  
BALTIMORE, MD. 21202

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

RE: Petition for Reclassification:  
N/E Cor. Liberty & Florida Avenue.,  
S/E Cor. Liberty & Kenmar Roads,  
2nd Dist., Edw. Seidman, Chas. J.  
McAvoy & Sons, Inc., Patricia A.  
Cave and Kemper L. Cave - Petitioners  
No. 69-111-R

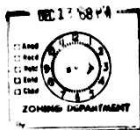
Dear Sir:

Please enter an Appeal on behalf of the property owners, as above set forth, from your decision rendered in the above-entitled matter, and transmit the papers to the Board of Appeals.

Very truly yours,

Henry J. Frankel

HJF:19



BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

CLARENCE W. SHARP, ESQ.,  
210 W. PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204

October 21, 1968

CLARENCE W. SHARP, ESQ.,  
210 W. PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204

Item 89  
SUBJECT: Type of Hearing: Reclassification  
from an R-6 zone to a B.L. zone  
Location: R/S of Liberty Road  
between Kenmar Road and Florida Rd.  
District: 2nd  
Petitioner: Charles J. McAvoy & Son, Inc.  
Committee Meeting of October 15, 1968

Dear Mr. McAvoy:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and have made an on site field inspection of the property. The following comments are a result of this review and inspection.

Subject property consists of .75 of an acre and is presently improved with three residential dwellings. It is bounded on the west by Florida Avenue and a residential dwelling, which is presently under consideration for reclassification from an R-6 to B.L. zone; on the north by R-6 property improved with dwellings on Florida Rd. & Kenmar Roads on the west by a apartment house. The property on the opposite side of Liberty Road is improved with a shopping center.

Road access and traffic conditions: Both Kenmar and Florida Roads are to be developed as a minimum 30 ft. paving on 40 ft. rights-of-way. The petitioner's plan provides for 10 ft. widenings on each of these roads. However, 30 ft. curb radii will be required at each corner. The plan indicates no direct access to Liberty Road, although presently there are two entrances to the site from this road. The plan must be revised to indicate that these entrances are being closed with concrete curb and gutter.

Public Services: There is an existing 12" water main in Liberty Road and a 6" water main in Kenmar and Florida Roads. An 8" sewer exists in all of these roads on which the site has frontage.

Site Plan: The site plan does not adequately indicate the limits of the paving. The plan should also provide for

CLARENCE W. SHARP, ESQ.,  
210 W. PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204  
Item 89 RE: Charles J. McAvoy & Son, Inc.

October 21, 1968

loading or service areas for the stores. If the 20 ft. drive to the rear of the stores is to be utilized as a loading area, it does not appear that there are adequate turning radiuses for trucks entering and leaving the site. A wall or fence should also be provided along the rear property line adjacent to the existing dwellings.

The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

The subject 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 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

JAMES E. DYER, Chairman

JED:JD

