

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:
 CONSOLIDATED FOODS CORPORATION, a Maryland corporation
 (through its ABBEY RENTS DIVISION), contract purchaser,
 and Sarah D. Kelly, 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 for a Variance from Section 409.2(b) Offstreet Parking minimum standards to provide 28 parking spaces instead of the required 60 parking spaces.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

1. Undue hardship
2. Practical difficulty

See attached description

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

CONSOLIDATED FOODS CORPORATION, a Maryland corporation (through its ABBEY RENTS DIVISION), contract purchaser, 600 S. Normandie Avenue, Los Angeles, California 90005
 Sarah D. Kelly, Legal Owner, Address: 1728 E. Pikesville, Md. 21205

Donald P. McPherson, III, Protestants Attorney, 900 First National Bank Bldg., Baltimore, Maryland 21202

ORDERED By The Zoning Commissioner of Baltimore County, this 16th day of March, 1969, 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 21st day of May, 1969, at 11:00 o'clock A.M.

Zoning Commissioner of Baltimore County.



69-255-ASPH

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:
 We, CONSOLIDATED FOODS CORPORATION, a Maryland corporation, contract purchaser, (through its ABBEY RENTS DIVISION), and Sarah D. Kelly, 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 for a Special Hearing Under Section 500.7 of the zoning regulations of Baltimore County, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve (1) use of the zoned land shown on the plat attached hereto for parking area and (2) the use of the land zoned B-1 as shown on the plat attached hereto for warehouse and storage of party and sickroom supplies and equipment and accessory uses.

See attached description

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

CONSOLIDATED FOODS CORPORATION, a Maryland corporation (through its ABBEY RENTS DIVISION), contract purchaser, 600 S. Normandie Avenue, Los Angeles, California 90005
 Sarah D. Kelly, Legal Owner, Address: 1728 E. Pikesville, Md. 21205
 Donald P. McPherson, III, Protestants Attorney, 900 First National Bank Bldg., Baltimore, Maryland 21202

ORDERED By The Zoning Commissioner of Baltimore County, this 16th day of March, 1969, 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 21st day of May, 1969, at 11:00 o'clock A.M.

Zoning Commissioner of Baltimore County.

DATE 6/16/69
 BY [Signature]
 11:00 A
 5/21/69
 2000

RE: PETITION FOR VARIANCE from Section 409.2(b) of the Baltimore County Zoning Regulations, and SPECIAL HEARING for Parking in Residential Zone and Use of Land in B.L. zone for Retail Sales and Storage.
 OF BALTIMORE COUNTY
 No. 69-255-ASPH

OPINION

This case involves a request by the Petitioner for variances from the off-street parking regulations to permit less parking spaces than those required by law, and also involves a request for an off-street parking permit in a residential zone, as permitted under Section 409.4 of the Zoning Regulations of Baltimore County. However, the real crux of the question before the Board is whether or not the contract purchaser's proposed use for the subject property is an allowed use within the business local zone. Briefly, the contract purchaser, Abbey Rents, a division of Consolidated Foods Corporation, proposes to construct a building on the subject property from which to conduct its business, which is the sales and rental of sick room supplies, party equipment, etc.

The Petitioner contends that their operation is allowed in a Business Local zone, while the Protestants contend that the proposed operation is actually a warehouse type of operation, which is not allowed in a B.L. zone, but is only allowed in a B.M., B.R. or Manufacturing zone. Section 230.9, which specifies the permitted uses in a B.L. zone is silent as to any type of warehouse operations, while Section 233.2, which is the section setting forth the permitted operations in a B.M. zone, specifically includes Warehouses - Sales and Storage.

The property which is the subject of this petition is roughly L-shaped and is situated on the west side of the Reisterstown Road approximately one thousand feet

MICROFILMED

Sarah Kelly - Abbey Rents
 No. 69-255-ASPH

- 2 -

north of Naylors Lane, in the 3rd Election District, and consists of approximately .91 acres in total. The contract purchaser proposes to construct on the property a building and parking spaces as shown on Petitioner's Exhibit No. 1. The building proposed has 2,370 feet of "Display and Sales" area, 1,000 square feet of "Clerical" area, and an "Accessory Storage of Merchandise" area of 10,800 square feet.

A Mr. Arthur Major, director of real estate for Abbey Rents, testified that they are in the business of retail sales and rental of sick room supplies and party equipment, such as glasses, tents, linens, etc. He introduced several photos in evidence showing the type of business conducted at other locations. The company has seventy some locations scattered throughout the United States, and presently has a location on the Reisterstown Road in Baltimore City. They are desirous of moving this location to the subject property. He testified on direct examination that the business of the company is seventy-five percent rentals and twenty-five percent retail sales. However, on cross-examination he admitted that he testified at the Zoning Commissioner level the following: That ninety-five percent of the business is done by telephone; that he had used the word "warehouse" in connection with what is now called "Accessory Storage of Merchandise" that there are rarely more than one or two customers in the store at any one time; and that he did recall saying that equipment rental is the primary business of the company. He stated that they contemplate having twelve employees on the premises, three truck drivers, one warehouseman, a dishwasher and five to six persons employed in the clerical area.

George Gavrelis, Director of Planning for Baltimore County, stated that in his opinion the subject use could possibly come under Section 230.10 of the Zoning Regulations, which is "Combinations of the Above Uses", and that he felt the product here would be the same as those normally found in retail stores. He stated on cross-examination that the ratio of space in a building used for storage and that for retail sales is not important to him to determine the major type of use of that building. He also stated that the testimony that ninety-five percent of the business is done by telephone "bothers me some".

MICROFILMED

Sarah Kelly - Abbey Rents
 No. 69 - 255-ASPH

- 3 -

The Protestants, Malvin Berger, who is a co-owner of the property adjacent to the subject property to the south, testified that he objected to the proposed use of the property on the basis that basically it is a warehouse type of building - a special purpose building, which, if sold, will have to be used for a warehouse use. He also objected to the access to the parking lot to the rear of the building through the private right of way, stating that the people would have to drive to the rear to park and then walk along the right of way to get to the front portion of the building facing Reisterstown Road.

Sylvan Goldman, a realtor of some twenty years' experience in the Pikesville area, testified that in his opinion from looking at the plan, which is Petitioner's Exhibit No. 1, the building will be a warehouse-type of building, giving as reasons for his opinion the small clerical and show room area, the huge storage area, the fact that there is no front entrance to the building, only a window display, which in his opinion would be highly unusual for a retail type of operation, and the fact that the customers would have to park in the rear and in order to get to the sales area have to enter the building through a rear loading platform or walk easterly along the right of way to Reisterstown Road and enter a side entrance to the building.

From all the testimony heard by the Board, and from examining the Petitioners' proposed building, the Board is of the opinion that the use proposed is that of a "warehouse - sales and storage", which is only permitted in a B.M., B.R. or Manufacturing zone, and is not permitted in a B.L. zone.

The Board finds as a fact that the primary use proposed by the Petitioner is that of a warehouse and not that of a retail store, with the necessary incidental storage of goods for sale. The area devoted to retail sales or rental in the entire building consists of 2,370 square feet, while the area devoted to storage of materials held for sale or rental consists of 10,800 square feet. The sales area does not have any entrance from Reisterstown Road, and any customers coming to the sales area must either enter through the storage area by way of a loading platform, or walk along a right of way and enter a side entrance. The uncontradicted testimony is that ninety-five percent of the business is done by telephone;

Sarah Kelly - Abbey Rents
 No. 69-255-ASPH

- 4 -

that there are never more than one or two customers in the building at any one time (which would be highly unusual for a normal retail store operation); and the firm is primarily engaged in the rental of equipment rather than sales. It would have been quite simple for the County Council, in its wisdom, if they had intended this type of business be allowed in a Business Local zone, to have added "Warehouse - Sales and Storage" to Section 230.9, which are the permitted uses in a Business Local zone. Since they did not, but inserted the warehouse use in the B.M. and higher zones, we feel that the logical interpretation to be placed on the Regulation is that the type of operation proposed on the subject site will require either B.M., B.R. or Manufacturing zoning.

In view of the Board's ruling with regard to the proposed use of the property, there is no need for the Board to rule on the Petitioners' request for parking variances and an off-street parking permit in a residential zone.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 18th day of December, 1969, by the County Board of Appeals ORDERED, that the proposed use of the building by Abbey Rents, the contract purchaser, is that of a "Warehouse - Sales and Storage", which is not permitted in a Business Local zone.

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

COUNTY BOARD OF APPEALS
 OF BALTIMORE COUNTY

William S. Baldwin, Chairman
 Walter A. Keller, Jr.
 John A. Miller

ORDER RECEIVED FOR FILING
 DATE 6/16/69
 BY [Signature]

Re: Petition for Variance and Special Hearing - S/S Reisterstown Road 1017' N/W Naylors Lane, 3rd District - Sarah D. Kelly, Petitioner - Cons. Foods Corp., Cont. Par.
 Before Zoning Commissioner of Baltimore County
 No. 69-255-ASPH

The petitioner, in the above matter, requested a variance for off-street parking and special hearing for parking in a residential zone and use of land in a Business Local Zone, property located on the southwest side of Reisterstown Road 1017 feet northwest of Naylors Lane, in the Third District of Baltimore County.

The petitioner requested that the subject property be used for retail use and rental of party and sick room supplies and equipment and accessory uses. Testimony at the hearing was insufficient to prove that the requested use should be permitted in a Business Local Zone.

The petitioner also asked for a special hearing for parking and a variance for parking; inasmuch as the use should not be permitted the requested permit for parking and variance will not be permitted.

For the above reasons, the use of the property, the variance and special hearing, should not be granted.

It is this 17th day of June, 1969, by the Zoning Commissioner of Baltimore County, ORDERED that the above special hearing for off-street parking in a residential zone, variance for parking and use of land in a Business Local Zone, should be and the same are disapproved.

[Signature]
 Zoning Commissioner of Baltimore County

MICROFILMED

INTER-OFFICE CORRESPONDENCE
 BUREAU OF TRAFFIC ENGINEERING
 Baltimore County, Maryland
 Towson, Maryland, 21204

Date: March 12, 1969

TO: Mr. John G. Rose
 Attn: Oliver L. Myers
 FROM: C. Richard Moore
 SUBJECT: Item 210 - ZAC - March 11, 1969
 Property Owner: Sarah D. Kelly
 Reisterstown Road @ Naylors Lane
 Retail sales, rental of sickroom supplies & equipment & accessory uses

Review of the subject petition indicates a 20' right of way with use in common. The right of way and road width must be at least 24' wide to accommodate this type of use.

This office is of the opinion that a variance to parking is undesirable.

CRM:mf

[Signature]
 C. Richard Moore
 Engineer II

MICROFILMED

6-24-70

PETITION FOR VARIANCE, from Section 409.2 (B) of the Baltimore County Zoning Regulations, and SPECIAL HEARING for parking in residential zone and use of land in BL Zone for retail sales and rental, southwest side of Reisterstown Road, 1017 feet northwest of Naylor's Lane, Third District Sarah D. Kelly, Petitioner Abbey Rents Division of Consolidated Foods Corporation, Contract Purchaser, Appellants Expressway Realty Company, Appellees.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Misc. 4386 Docket 8 Folio 520

Tuesday, March 10, 1970

BEFORE: HONORABLE KENNETH C. PROCTOR

APPEARANCES:

Ernest C. Trimble, Esquire on behalf of Appellants

Joseph S. Kaufman, Esquire on behalf of Appellees

Reported by Paul A. McKelvie Official Court Reporter In the Circuit Court for Baltimore County

MICROFILMED

card tables and that sort of item.

The property in question is divided into four segments; a display area in front, a clerical area immediately behind that, a cleaning area where dishes, silverware and linens may be washed and laundered, and, finally, what on the plat is called area for accessory storage of merchandise, namely, the area where their stock in trade is stored. The showroom is made up of 2370 square feet, the clerical area is made up of 1,000 square feet, and the storage and cleaning area comprises some 10,800 square feet.

The testimony before the Board concerning similar operations by applicant elsewhere in the United States was that possibly, as much as 95% of the business came in over the telephone; that very rarely are there more than one or two customers on the premises at the same time; that 75 to 80% of the business is rental, and 20 to 25% is sales. The proposed parking area is all to the rear, and access to the premises by customers would be either through a loading platform or by walking some 200 feet from the parking area to a side entrance into the display

MICROFILMED

rooms. Unquestionably, the exterior appearance of the building would be quite different from that of the usual retail outlet. Merchandise either rented or sold would in the main be delivered by trucks owned by the applicant. From the testimony, I gather a very small percentage would be picked up by customers in their own cars. So that, once again the method of operating a retail establishment differs from what would be presented here. In lieu of numerous customers going to and from the establishment, there would be very few customers and numerous trips by the trucks.

The law applicable to this case is set forth in the BL Zone portion of the Baltimore County Zoning Regulations, Section 230, and in the BL portion of such Regulations, Section 233. Baltimore County Zoning Regulations are what are generally known and referred to in the cases and in the textbooks on the subject as permitted use regulations. For example, Section 230 starts off, "The following uses only are permitted." The various uses which are permitted in a BL Zone are then listed. Section 230.9 covers in the main, but not exclusively, retail establish-

MICROFILMED

ments of one kind or the other. There is nothing in Section 230.9 which would specifically authorize the desired use. For example, there is no reference to hospital supplies; there is no reference to a china shop. There is, of course, a reference to department stores. It is strenuously urged by counsel for applicant, that its operation is like that of a department store. However, the dissimilarities outweigh the similarities.

Counsel for applicant strenuously argues that under Section 230.10, combinations of the above uses, that is, those set forth in 230.1 to 230.9, are permitted. This is so, but it does not give any aid or comfort to applicant. I can not see, and it was not suggested to me, what combination of such uses would constitute the proposed use, unless it would be the department store which, however, is a specified use. Unless the proposed use is a permitted use in a BL zone, then we have to look elsewhere to ascertain where it is permitted.

The next lower classification is a business major zone. Section 233.7 sets forth specified permitted uses, the first of which is, "Warehouses - sales and storage."

MICROFILMED

It is interesting to note that in the course of his testimony, Mr. Major, the real estate developer for applicant, referred to the rear and larger proportion of the proposed establishment as a warehouse. It certainly seems to me that it is. However, even if I were inclined to agree with applicant, I am bound by decisions of the Court of Appeals dealing with appeals from zoning commissioners or zoning boards. In Board v. Oak Hill Farms, Inc., 232 Md. 274, at 283, Chief Judge Hammond said that, " * * * whether a reasoning mind could reasonably have reached the result the agency reached upon a fair consideration of the fact picture pointed by the entire record," is what must determine the decision of the court on appeal. Could a reasoning mind reasonably have reached the result the Board did in this case, namely, hold that the proposed use comes within "warehouses - sales and storage" and not within Section 230? It is my judgment that reasoning minds could have reasonably reached the result the Board did in this case.

One further comment: such emphasis was placed on the testimony of Mr. George Gavrelis, the Director of Planning for Baltimore County. Just before the hearing

MICROFILMED

started today, I read all of the testimony, including that of Mr. Gavrelis. His testimony at best vacillates. He does say at one point that in his judgment it would come within the combination of BL uses, but at other points he backs off from that and said that he had to think about it further, because of the very heavy percentage of business done by telephone rather than by customers going in and out of the store. His testimony is not definite and conclusive.

One other reference to the law, and that is that there is a presumption in favor of the legality of the action of the zoning authorities, and the Court may not substitute its judgment as to the wisdom or soundness of the action taken by such authorities, if the question decided by them was fairly debatable. That is found in Robb v. Baltimore County, 234 Md. 289 at 268.

In my judgment, at the very best, from the point of view of applicant, the issue is fairly debatable. For that reason, I will sign an Order affirming the Board.

JUNIOR

MICROFILMED

JAMES B. SPANER & ASSOCIATES
PROFESSIONAL ENGINEERS & LAND SURVEYORS
8017 YORK ROAD - TOWSON, MD. 21284

Abbey Rents Zoning Description SHEET 1 OF 1
DATE 2-26-70 FILE

Parcel 1: Variance on parking and use determinat on for retail sales and rental of party and accessory supplies and equipment and accessory uses.

Beginning for the same on the southwest side of Reisterstown Road at the distance of 1017 feet northwesterly from the northeast side of Naylor's Lane and running thence and binding on the southwest side of Reisterstown Road, a distance of 1017 feet 32° 14' West 70.1° feet, thence leaving said road (2) South 57° 00' West 129.3° feet, (3) North 29° 02' West 89.3° feet, (4) South 57° 56' West 102.6° feet, (5) South 18° 23' East 80.80 feet, and (6) South 34° 25' East 156.00 feet to the northeast side of a 20 foot road, thence binding thereon with the use in common with others, (7) North 51° 55' East 265.02 feet to the place of beginning.

Containing 0.71 acres of land more or less.

Parcel 2: Permit to park in Residential Zone

Beginning for the same at a point on the southwest side of a 20 foot road established for the use in common with others at the distance of 265.02 feet southwesterly from the southwest side of Reisterstown Road, a distance of 1017 feet northwesterly from the northeast side of Naylor's Lane and running thence and binding on said 20 foot road, (1) South 51° 55' West 214.00 feet, thence leaving said road, (2) North 71° 35' West 26.00 feet, (3) North 37° 00' West 261.00 feet, (4) North 53° 15' East 32.6° feet, (5) South 29° 02' East 101.76 feet, (6) North 18° 23' East 80.80 feet and (7) South 34° 25' East 100.00 feet to the place of beginning.

Containing 0.70 acres of land more or less.

RE: PETITION FOR VARIANCE
 from Section 409.2(b) of the
 Baltimore County Zoning
 Regulations, and
 SPECIAL HEARING for Parking
 in Residential Zone and Use
 of Land in BL zone for Retail
 Sales and Rentals
 Southwest Side of Reisterstown
 Road - 1017 feet Northwest of
 Mayors Lane, 3rd District
 Sarah D. Kelly
 Petitioner
 Abbey Rents Division of Consolidated
 Foods Corporation
 Contract Purchaser

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

ORDER FOR APPEAL

Mr. Clerk:

The Order for Appeal of Sarah D. Kelly and Abbey Rents
 Division of Consolidated Foods Corporation, Petitioners, by
 Ernest C. Trimble, their attorney, respectfully represents that
 they are the owner and contract purchaser respectively of prop-
 erty located on the southwest side of Reisterstown Road in the
 Third Election District of Baltimore County as above mentioned;
 which property is the subject of this Appeal and they are
 aggrieved by the Opinion of the County Board of Appeals of
 Baltimore County, dated December 18, 1969, which denied the
 proposed use of the building by Abbey Rents in a Business Local
 zone, etc., and, therefore, direct the Clerk to enter an appeal
 to the Circuit Court for Baltimore County from the aforesaid
 Order.

Ernest C. Trimble
 Ernest C. Trimble
 404 Jefferson Building
 Towson, Maryland 21204
 Attorney for Petitioners and
 Appellants

CERTIFICATE OF MAILING

IT IS HEREBY CERTIFIED, that on this 15th day of
 January, 1970 a copy of the foregoing Order for Appeal was
 mailed to County Board of Appeals, County Office Building,
 Towson, Maryland 21204.

Ernest C. Trimble

RE: PETITION FOR VARIANCE
 from Section 409.2(b) of the
 Baltimore County Zoning
 Regulations, and
 SPECIAL HEARING for Parking in
 Residential Zone and Use of Land
 in BL zone for Retail Sales and
 Rentals - Southwest Side of
 Reisterstown Road - 1017 feet
 Northwest of Mayors Lane,
 3rd District
 Sarah D. Kelly
 Petitioner
 Abbey Rents Division of Consolidated
 Foods Corporation
 Contract Purchaser

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

PETITION OF APPEAL

NOW COME, SARAH D. KELLY and ABBEY RENTS, Petitioners/
 Appellants, by Ernest C. Trimble, their attorney, and say:

1. That the Appellants, Petitioners, before the Board
 of Appeals, filed an Order for Appeal in this Court on January 15,
 1970, as owners, etc. from the Order of the County Board of
 Appeals of Baltimore County, dated December 18, 1969, denying
 the relief requested in connection with the proposed use of the
 property in a Business Local zone by Abbey Rents Division of
 Consolidated Foods Corporation.

2. That the Appellants are aggrieved by the aforesaid
 Order of the County Board of Appeals and state that said Order
 and decision was illegal, arbitrary, capricious and unreasonable
 because:

- (a) the decision was contrary to the law,
- (b) the decision was contrary to the provisions
 of the Zoning Regulation of Baltimore County.
- (c) the decision was against the evidence.

(d) the decision was against the weight of the
 evidence.

(e) the Board erred in failing to accept the
 only expert testimony, i.e. George E. Gavrelis, Director of
 Planning, relative to the uses contemplated by Section 230.10
 of the Zoning Regulations.

(f) the Board erred in basing its conclusion on
 the quantity of goods stored rather than the testimony of the
 use to be made of the property.

(g) the Board erred in its conclusion that the
 primary use of the property would be for "warehouse use" in
 view of the uncontradicted testimony that the property would
 be used for "sale and rental of goods."

(h) the Board was arbitrary and incorrect in its
 repetitive statement of fact and resulting conclusions adverse
 to the Petitioner that this was not a BL use because there was
 no sales area entrance from Reisterstown Road when, in fact,
 there is such an entrance.

(i) The Board was arbitrary and incorrect in its
 repetitive statement of fact and resulting conclusion adverse
 to the Petitioner's that this was not a BL use because customers
 would have to park in the rear and either walk to the front or
 walk through a storage area in order to get to the sales area.

(j) The Board was arbitrary and incorrect in
 its conclusion that extensive telephone orders, only one or
 two customers at a time and rental of equipment primarily, rather
 than the sale of equipment made the proposed use a "warehouse

use" rather than a permitted "BL use."

(k) the Board erred in its conclusion that the
 County Council failed to provide for this type of business in a
 BL zone, when, in fact, the County Council recognizing that it
 was impossible to specifically list every conceivable permitted
 use in a BL zone, by Bill No. 111, 1968, added Section 230.10
 to the Zoning Regulations permitting combinations of the speci-
 fically enumerated uses.

(l) the Board erred in its conclusion that the
 Petitioners' use was not permitted in a BL zone because it was
 primarily "rental," when, in fact, the word "sales" is not
 mentioned in connection with the uses permitted in a BL zone.

(m) parenthetically to Paragraph "l", the Board
 erred in holding that the proposed use was "warehouse - sales
 and storage," when, in fact, the Board, by its own admission,
 found that the proposed use was "rental" rather than "sales"
 and there was no testimony of "warehousing" the goods of another.

(n) the Board erred in failing to recognize that
 competitive companies such as A to Z Rental Company were already
 conducting rental businesses in BL zones in Baltimore County.

(o) In light of the uncontradicted testimony that
 the proposed use was compatible in every way with BL uses, the
 Board was arbitrary in not at least granting a use permit to
 the Petitioners instead of accepting the theory of the Pro-
 testant that the contemplated use was "warehouse - sales and
 storage."

3. That the Petitioners respectfully request this
 Honorable Court to reverse the Order of the Board of Appeals

and on the record before it and based on the provisions of the
 Zoning Regulations, grant the Petitioners the following affirma-
 tive relief in the alternative:

(a) Rule that the proposed use of the property by
 the Petitioners is a permitted use under Section 230.9 or 230.10
 of the Zoning Regulations.

(b) Rule that even if not a contemplated use under
 Section 230.9 or 230.10, that based on the testimony, the Board
 was arbitrary in not granting a use permit to operate a sales
 and rental business as described on the subject property.

(c) Rule that no parking permit or variance is
 necessary pursuant to the Zoning Regulations.

(d) Rule that based on the uncontradicted testi-
 mony and Section 409.5 of the Zoning Regulations, the 27 parking
 spaces and 2 loading spaces on land zoned BL as shown on
 Petitioners' plat are adequate without regard to what specific
 Section or Sections of 409 might be applicable.

(e) Rule that based on the evidence presented, a
 special permit to park in a residential zone should be granted
 and that the Petitioner, therefore, has sufficient parking as
 outlined under "alternative computation" on Petitioner's Plat.

(f) Rule that based on the evidence presented
 and the confused state of the Zoning Regulations relative to
 parking that the Petitioner is entitled to a variance from the
 severest possible parking calculations and permit the Petitioner
 to operate its business with a specified number of parking
 spaces (e.g. 27).

(g) And for such other and further relief as the
 Court may direct.

Ernest C. Trimble
 Ernest C. Trimble
 404 Jefferson Building
 Towson, Maryland 21204
 825-5512

Attorney for Petitioners/Appel-
 lants

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this ____ day of January,
 1970, a copy of the foregoing Petition of Appeal was mailed to
 Board of Appeals, County Office Building, Towson, Maryland 21204;
 and Joseph S. Kaufman, Esquire, 10 Light Street, Baltimore,
 Maryland 21202.

Ernest C. Trimble

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. John Franke
 Attention: Mr. G. L. Harvey Date: March 11, 1970
 TO: _____
 FROM: John Franke
 SUBJECT: Mrs. Sarah D. Kelly

Must meet all requirements of the Baltimore
 County Building Code.

John Franke
 John Franke
 Building Inspector

ZONING ADVISORY COMMITTEE MEETING
OF March, 1969

Petitioner: Kelly
Location: Reisterstown Rd
District: 3rd
Present Zoning: R-1, R-2, R-3
Proposed Zoning: R-1, R-2, R-3
No. of Acres: 0.71

Comments: NO EFFECT ON SCHOOL POPULATION

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: March 11, 1969
ATTN: Mr. Myers
FROM: Inspector John Lilley
Fire Department
SUBJECT: Property Owner: Sarah D. Kelly
Item #210 - Zoning Agenda - March 11, 1969
Location: SW/S Reisterstown Road, 1017' SW from the SW/S of
Naylor's Lane
District: 3rd
Present Zoning: Parcel #1 (R-1), Parcel #2 (R-20) 250' from Water
Present Zoning: Parcel #1 Variance from 409.2 (b) offstreet parking,
and use determination
Proposed Zoning: Parcel #2 Permit to park in residential zone
of any problem which may result, due to improper grading or other drainage
facilities, would be the full responsibility of the Developer.
No. Acres: Parcel #1 (0.71), Parcel #2 (0.20)

Any use that petitioner would propose for this site shall meet all Fire
Department regulations.

John Lilley
John Lilley,
Inspector

cc: Mr. Martin Jay Hanna, III
Fire Protection Engineer

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

To: Mr. Oliver L. Myers Date: March 12, 1969
FROM: William M. Greenwalt
SUBJECT: Item 210 - Zoning Advisory Committee Meeting, March 11, 1969
210. Property Owner: Sarah D. Kelly
Location: SW/S Reisterstown Rd., 1017' SW from
the SW/S of Naylor's Lane
District: 3rd
Present Zoning: Parcel #1 (R-1), Parcel #2 (R-20)
Present Zoning: Parcel #1 Variance from 409.2 (b)
offstreet parking and use determination
Parcel #2 Permit to park in
residential zone
Proposed Zoning: Retail sales, rental of sickroom
supplies & equipment & accessory uses.
No. Acres: Parcel #1 (0.71)
Parcel #2 (0.20)

Public water and sewers are available to the site.

Air Pollution Comments: 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.

William M. Greenwalt
Chief
Water and Sewer Section
BUREAU OF ENVIRONMENTAL HEALTH

WMO/ca

BUREAU OF ENGINEERING

Zoning Plat - Comment

210. Property Owner: Sarah D. Kelly
Location: SW/S Reisterstown Rd., 1017' SW from
the SW/S of Naylor's Lane
District: 3rd
Present Zoning: Parcel #1 (R-1), Parcel #2 (R-20)
Proposed Zoning: Parcel #1 Variance from 409.2 (b)
offstreet parking and use determination
Parcel #2 Permit to park in residential
zone
Retail sales, rental of sickroom
supplies and equipment and accessory uses.
No. Acres: Parcel #1 (0.71), Parcel #2 (0.20)

Preliminary comments were written for this site in October, 1968
(Abby Banta).

Highways

Reisterstown Road is a State Road. Any improvements along the frontage
of this site fall within the jurisdiction of the State Roads Commission.

It is the responsibility of the Developer to insure the right to use
the existing private road for access to this site.

Storm Drainage

The Developer must provide necessary drainage facilities (temporary or
otherwise) to prevent creating any nuisances or damages to adjacent properties,
especially by the concentration of surface waters. Correction of any problem
which may result, due to improper grading or other drainage facilities, would
be the full responsibility of the Developer.

Sanitary Sewers

There is an existing 8-inch sewer in Reisterstown Road.

Water

There is an existing 12-inch water main in Reisterstown Road.

REG:W

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

March 27, 1969

Donald P. McPherson, III, Esq.
900 First National Bank Building
Baltimore, Maryland 21202

Oliver L. Myers
XXXXXXXXXXXX

RE: Type of Hearing: Special Hearing
for off street parking and land
zoned BL for sickroom supplies and
equipment and accessory uses.
Location: SW/S Reisterstown Rd.,
1017' SW from the SW/S of Naylor's Lane
3rd District
Petitioner: Sarah D. Kelly
Committee Meeting of March 11, 1969
Item 210

Dear Sir:

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

The subject property is presently improved with a
two and a half story frame tourist home. The properties
immediately to the northwest improved with dwellings 20 to
30 years of age. The property to the southeast is improved
with the York Road Savings and Loan Company and service
station. The properties on the other side of Reisterstown
Road are improved with service stations, bowling alley
and a Howard Johnson's restaurant. Reisterstown Road at
the present time is unimproved as far as curb and gutter
are concerned.

BUREAU OF ENGINEERING:

Highways:

Reisterstown Road is a State Road. Any improvements
along the frontage of this site fall within the jurisdiction
of the State Roads Commission.

It is the responsibility of the Developer to insure the
right to use the existing private road for access to this site.

Donald P. McPherson, III, Esq.
900 First National Bank Building
Baltimore, Maryland 21202
Item 210

March 27, 1969

Storm Drains:

The Developer must provide necessary drainage facilities (temporary or
otherwise) to prevent creating any nuisances or damages to adjacent
properties, especially by the concentration of surface waters. Correction
of any problem which may result, due to improper grading or other drainage
facilities, would be the full responsibility of the Developer.

Sanitary Sewers:

There is an existing 8-inch sewer in Reisterstown Road.

Water:

There is an existing 12-inch water main in Reisterstown Road.

BUREAU OF TRAFFIC ENGINEERING:

Review of the subject petition indicates a 20' right of way with
use in common. The right of way and road width must be at least 24' wide
to accommodate this type of use.

This office is of the opinion that a variance to parking is undesirable.

BUILDING ENGINEER'S OFFICE:

Must meet all requirements of the Baltimore County Building Code.

BOARD OF EDUCATION:

No effect on school population.

FIRE DEPARTMENT:

Any use that petitioner would propose for this site shall meet all
Fire Department regulations.

HEALTH DEPARTMENT:

Public water and sewers are available to the site.

Air Pollution Comments: 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.

Donald P. McPherson, III, Esq.
900 First National Bank Building
Baltimore, Maryland 21202
Item 210

March 27, 1969

STATE ROADS COMMISSION:

The minimum width for a commercial entrance is 25' exclusive of
the radius returns. The full width of the entrance and the proposed
curb must extend at least as far as the right of way line, as indicated
on the attached plan. The entrance, including radius returns, must be
contained entirely within the frontage of the site.

The development as planned will cause a large concentration of
storm water which could be a problem to the State Roads Commission.
The plan must indicate where the storm water is to be carried.

The plan must be revised in accordance with the foregoing
comments prior to a hearing date being assigned.

ZONING ADMINISTRATION DIVISION:

This office is withholding a hearing date until such time as
revised plans are received in compliance with the comments by the State
Roads Commission. The parking lot as indicated on the petitioner's
site plan provides for a 30 ft. setback, from the north 27'02" West
89.34 ft. line. This parking area could be revised to provide for an
additional nine parking spaces. However, if the petitioner would wish
to proceed with the variance as indicated, he would be within his right.

Very truly yours,

Oliver L. Myers
OLIVER L. MYERS, Chairman

OLM:JD
Enc.

STATE OF MARYLAND
STATE ROADS COMMISSION
300 WEST FREIGHT STREET
BALTIMORE, MD. 21201
MARCH 27, 1969



STATE OF MARYLAND
STATE ROADS COMMISSION
300 WEST FREIGHT STREET
BALTIMORE, MD. 21201
MARCH 27, 1969

Mr. John G. Rose, Zoning Director
County Office Bldg.
Towson, Maryland 21284
Attn: Mr. Oliver L. Myers

Re: Zoning Advisory Committee
Meeting 3/11/69 - ITEM 210
Property Owner Sarah D. Kelly
Location: SW/S Reisterstown Road
1017' SW from the SW/S of
Naylor's Lane
3rd District (Route 140)
Present Zoning - Parcel 1 (R-1)
Parcel #2 (R-20)
Proposed Zoning: Retail Sales,
rental of sickroom supplies & equip-
ment & accessory uses.

Dear Mr. Rose:

The minimum width for a commercial entrance is 25' exclusive of the
radius returns. The full width of the entrance and the proposed curb must extend
at least as far as the Right of Way line, as indicated on the attached plan.
The entrance, including radius returns, must be contained entirely within the
frontage of the site.

The development as planned will cause a large concentration of storm
water which could be a problem to the State Roads Commission. The plan must
indicate where the storm water is to be carried.

The plan must be revised in accordance with the foregoing comments
prior to a hearing date being assigned.

Very truly yours,
Charles Lee, Chief
Development Engineering Section

By: John E. Meyers
Asst. Development Engineer

CLJ:JMB

Attached

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: May 9, 1969

FROM: George E. Covellis, Director of Planning

SUBJECT: Petition #69-55-ASPHJ. Variance to permit 32 parking spaces instead of the required 81 spaces. Special Hearing to permit off-street parking in a residential zone; and to approve the use of the land zoned B-1, and

3rd District HEARING: Wednesday, May 21, 1969 (11:00 A.M.)

The Planning staff offers no comment on the Special Hearing portion of this petition dealing with commercial usage. If an affirmative decision can be reached on the use, the Planning staff would then question the desirability of granting such an extensive variance.

GE:cms

LAW OFFICES DUE, WHITEFORD, TAYLOR & PRESTON

W. HAMILTON WHITEFORD, DUE, WHITEFORD, TAYLOR & PRESTON, INC. 1101 W. CHESAPEAKE AVENUE, TOWSON, MARYLAND 21284

REPLY TO TOWSON OFFICE January 15, 1970

Mr. William S. Baldwin, Chairman, County Board of Appeals, County Office Building, Towson, Maryland 21284

Re: Abbey Rents/Kelly Property Order for Appeal Our File No: D-10,434

Dear Mr. Baldwin:

Enclosed please find a copy of my Order for Appeal in the above captioned matter, case No. 69-255-ASPH.

Very truly yours, Ernest C. Trimble

ECT:djm Enclosure

LAW OFFICES OF PIPER & MARBURY

400 FIRST NATIONAL BANK BUILDING, 1017 N.W. BAYLORS LANE, BALTIMORE, MARYLAND 21204

June 20, 1969

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mr. John G. Rose, Zoning Commissioner, Baltimore County Office of Planning and Zoning, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21284

Re: Petition for Variance and Special Hearing - S/E Reisterstown Road, 1017 N.W. Baylors Lane, 3rd Dist., Sarah D. Kelly, Petitioner - Cons. Foods Corp., Contract Purchaser No. 69-255-ASPH

Dear Mr. Rose:

Please take notice that an appeal is hereby taken from your order filed herein dated June 10, 1969. Enclosed is a check for \$40.00 to cover the costs of filing such appeal.

Sincerely, Donald P. Wetherston, III

DFMcP:cjm Enclosure cc: Joseph S. Kaufman, Mr. Robert C. Levin



2 Signs 69-255 ASPH

CERTIFICATE OF POSTING

District: 3rd Date of Posting: 5-1-69
Posted for: Variance & Special Hearing
Petitioner: S. D. Kelly
Location of property: S.W. of Reisterstown Rd. - 1017 N.W. of Baylors Lane
Location of Sign: 1700 Reisterstown Rd.
Remarks:
Posted by: [Signature] Date of return: 5-8-69

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21284
Your Petition has been received and accepted for filing this day of May 1969.
Petitioner: Sarah D. Kelly
Petitioner's Attorney: Donald P. Wetherston, III

INVOICE BAL MORE COUNTY, MARYLAND OFFICE OF FINANCE. Invoice No. 62292, dated 5/26/69. To: Donald P. Wetherston, Esq., 500 First National Bank Bldg., Baltimore, Md. 21202. Cost of appeal - Property of Sarah D. Kelly No. 69-255-ASPH. Total amount due: \$40.00.

INVOICE BAL MORE COUNTY, MARYLAND OFFICE OF FINANCE. Invoice No. 65655, dated 5/26/69. To: Ernest C. Trimble, Esq., Adams Building, Towson, Maryland 21284. Cost of Certified Documents - App-255-4781 Sarah D. Kelly (Wiley Book) 250 S. Reisterstown Rd. 2nd Floor. Total amount due: \$40.00.

INVOICE BAL MORE COUNTY, MARYLAND OFFICE OF FINANCE. Invoice No. 62232, dated 5/21/69. To: Piper & Marbury, 400 First National Bank Building, Baltimore, Md. 21202. Advertising and posting of property for Sarah D. Kelly 69-255-ASPH. Total amount due: \$76.25.

INVOICE BAL MORE COUNTY, MARYLAND OFFICE OF FINANCE. Invoice No. 62187, dated 5/21/69. To: Piper & Marbury, 400 First National Bank Building, Baltimore, Md. 21202. Postage for Special Hearing and Hearings for Sarah D. Kelly 69-255-ASPH. Total amount due: \$5.25.

THE COMMUNITY TIMES. ORIGINAL. OFFICE OF THE COMMUNITY TIMES, RANDALLSTOWN, MD. 21133. May 7, 1969. THIS IS TO CERTIFY, that the annexed advertisement of John G. Rose, Zoning Commissioner of Baltimore County, was inserted in THE COMMUNITY TIMES, a weekly newspaper published in Baltimore County, Maryland, once a week for one week before the 7th day of May 1969, that is to say, the same was inserted in the issue of May 1, 1969.

CERTIFICATE OF PUBLICATION. TOWSON, MD. MAY 1, 1969. THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md. once in each of one week before the 1st day of May 1969, the said publication appearing on the 1st day of May 1969.

