

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Joseph L. Soley, 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 _____ zone to an _____ zone; for the following reasons:

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 offices and office building.

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 of Baltimore County.

Contract purchaser Joseph L. Soley
Address 800 York Road (21204)

Petitioner's Attorney W. L. Harrison
Address 306 W. Joppa Road

ORDERED By The Zoning Commissioner of Baltimore County, this 27th day of July, 1972, 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 25th day of August, 1972, at 10:00 o'clock A.M.

Deputy Zoning Commissioner of Baltimore County.
(over)

DESCRIPTION FOR SPECIAL EXCEPTION FOR OFFICES

Beginning for the same at a point on the southeastermost corner of a Building E. Said point of beginning being distant 419.56 feet from the northeast corner of York Road and Albemarle Road and 30 feet setback therefrom northerly 24 feet. Thence right angles thereto 32 feet to the party wall of 8025 Building E and continuing thence in a southerly direction and along said party wall 24 feet. Thence leaving said party wall and at right angles thereto westerly 32 feet to the point of beginning.

Being known as 8021-8023 York Road, also being described for the purposes of professional offices.

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Joseph L. Soley, 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 Sections 1801.2B.2, 1802.2C, and 1802.2A of the Zoning Regulations

NE corner of York Road and Albemarle Road 9th District
Joseph L. Soley, Petitioner
George and Nellie Frank, Petitioners

building within 50 feet of a D.R. 10.5 zone in lieu of the required 75 feet.
Section 1801.2B.2 - to permit 15% open space spread over the overall area in lieu of the required one site.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or 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 of Baltimore County.

Contract purchaser Joseph L. Soley
Address 800 York Road (21204)

Petitioner's Attorney W. L. Harrison
Address 306 W. Joppa Road

ORDERED By The Zoning Commissioner of Baltimore County, this 27th day of July, 1972, 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 25th day of August, 1972, at 10:00 o'clock A.M.

Deputy Zoning Commissioner of Baltimore County.
(over)

RE: PETITION FOR SPECIAL EXCEPTION for Offices and Office Building and VARIANCES from Sections 1801.2B.2, 1802.2C and 1802.2A of the Zoning Regulations NE corner of York and Albemarle Roads 9th District Joseph L. Soley, Petitioner
BALTIMORE COUNTY
No. 72-40-XA and No. 71-283-A

OPINION

This hearing included appeals from two decisions of the Zoning Commissioner which granted several variances and a special exception for offices. The subject property is in the Ninth Election District of Baltimore County, on the north side of Albemarle Road approximately 324 feet east of the York Road. This parcel is immediately behind the existing Cardiff Hall East Apartments and is adjoined on its east side by the property of William H. McLean, Jr., 9 Albemarle Road, the sole protestant in the case. The subject property was formerly owned by George and Nellie Frank and has been recently purchased by Joseph L. Soley, the owner of the existing Cardiff Hall East Apartments. The subject tract and the McLean property are zoned D.R. 16. Mr. Soley proposes to erect garden type apartments and a small office building, approximately 32 feet by 24 feet, as set out on Petitioner's Exhibit #4. In order to complete the project as proposed the petitioner, in case #71-283-A, seeks variances from Sections 1801.2C2a and 1802.3C1, and in case #72-40-A, variances from Sections 1801.2B2, 1802.2C and 1802.2A, and a special exception for offices. In addition to Petitioner's Exhibit #4, other plats and also comments explaining these requests may be examined in detail in the respective zoning files, #71-283-A and #72-40-XA, which have been accepted into evidence as Petitioner's Exhibits #1 and #2.

The Board heard testimony from the petitioner, Mr. Soley; a registered professional engineer, James W. Spamer, and an expert landscape consultant, William B. Anacker. Each of these three presented various elements of the petitioner's case, which included evidence and testimony indicating satisfaction of the provisions of Section 502.1 which are required for the granting of a special exception, and also elements of practical difficulty and/or unreasonable hardship which are necessary if the variances are to be granted.

Approved 7/31/72

RE: PETITION FOR SPECIAL EXCEPTION for Offices and Office Building and VARIANCES from Sections 1801.2B.2, 1802.2C and 1802.2A of the Zoning Regulations NE corner of York Road and Albemarle Road 9th District Joseph L. Soley, Petitioner
BALTIMORE COUNTY
AT LAW

PETITION FOR VARIANCES from Sections 1801.2C2a and 1802.3C1 of the Zoning Regulations N/S Albemarle Road 324' E. of York Road 9th District George and Nellie Frank, Petitioners
Zoning Files Nos. 72-40-XA and 71-283-A
William H. McLean, Jr. Protest-Appellant

William H. McLean, Jr. Protest-Appellant

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 11-1-8(4) of the Maryland Rules of Procedure, Walter A. Rafter, Jr., John A. Miller and William H. Gaffney, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, W. Lee Harrison, Esq., 306 W. Joppa Road, Towson, Maryland, 21204, and G. Mitchell Austin, Esq., 306 W. Joppa Road, Towson, Maryland, 21204, Attorneys for the Petitioners; Richard F. Cadigan, Esq., Loyola Federal Building, Towson, Maryland, 21204, and Edgar H. Gans, Esq., Attorneys for the Protestants; and Mr. D. B. Warfield, The Burleigh Square Association, Inc., 61 Burleigh Road, Towson, Maryland, 21204, and Colonel William K. Weaver, Jr., The Towson Manor Association, Inc., 3 Terrace Dale, Towson, Maryland, 21204, Protestants, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County
County Office Bldg., Towson, Md. 21204
Telephone - 474-3180

Frank-Soley, #72-40-XA and #71-283-A

The sole protestant in this case was William H. McLean, Jr., and he was the only witness offered by the protestant's attorney. Mr. McLean was opposed only to the one variance concerning the site yard window setback, which he alleged would interfere with his light, air and privacy. The protestant resides at the adjoining property, which is a parcel approximately 110 feet by 250 feet, zoned D.R. 16. Mr. McLean had only this one objection and was not opposed to the other variances nor the requested special exception for offices.

From the testimony and evidence presented, this Board is satisfied that the special exception for the small office area will not violate any of the provisions of Section 502.1. As to the requested variances, the Board was particularly impressed with the testimony of Mr. Anacker, the landscape consultant. Considering this, along with the testimony of the engineer and Mr. Soley, the Board is satisfied that the petitioner would suffer a practical difficulty and unreasonable hardship if the requested variances were not granted. Therefore, the Board shall affirm exactly the Orders of the Zoning Commissioner in each case and grant the special exception for offices as requested, and the variances as granted and as limited by the Zoning Commissioner's Orders.

ORDER

For the reasons set forth in the foregoing Opinion, the Board affirms the Orders of the Zoning Commissioner; therefore, it is this 11th day of July, 1972, by the County Board of Appeals, ORDERED that the special exception for an Office Building and Offices petitioned for, be and the same is hereby GRANTED, subject to the approval of the site plan by the State Highway Administration, the Bureau of Public Services and the Office of Planning and Zoning; and

The Board finds that strict compliance with the Baltimore County Zoning Regulations would result in practical difficulty and unreasonable hardship upon the petitioner; and

FURTHER ORDERS that the variances petitioned for, be and the same are hereby GRANTED as follows:

To permit a building 425 feet long in lieu of the required 300 feet;
To permit a building within 50 feet of a D.R. 10.5 zone instead of the required 75 feet;
To permit 15 percent open space spread over the overall area in lieu of the required one site;

Soley - 72-40-XA
Frank - 71-283-A

- 2 -

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice

has been mailed to W. Lee Harrison, Esq., 306 W. Joppa Road, Towson, Maryland, 21204, and G. Mitchell Austin, Esq., 306 W. Joppa Road, Towson, Maryland, 21204, Attorneys for the Petitioners; Richard F. Cadigan, Esq., Loyola Federal Building, Towson, Maryland, 21204, and Edgar H. Gans, Esq., Attorneys for the Protestants; and Mr. D. B. Warfield, The Burleigh Square Association, Inc., 61 Burleigh Road, Towson, Maryland, 21204, and Colonel William K. Weaver, Jr., The Towson Manor Association, Inc., 3 Terrace Dale, Towson, Maryland, 21204, Protestants, on this 1st day of August, 1972.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

Frank-Soley, #72-40-XA and #71-283-A

To permit dwelling unit windows within a subdivision facing a property line which is part of the tract boundary and not a street line prior to development to have a setback of 20 feet from the boundary instead of the requested 10 feet, in lieu of the required 35 feet;
To permit a rear yard setback of 15 feet instead of the requested 5 feet, in lieu of the required 30 feet,

subject to the approval of the site plan by the Bureau of Public Services and the Office of Planning and Zoning.

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

Walter A. Rafter, Jr., Acting Chairman
John A. Miller
William H. Gaffney

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations having been met.

the above petition should be granted and the variance should be granted.

a Special Exception for an Office Building and Offices should be granted. IT IS ORDERED by the Zoning Commissioner of Baltimore County this 23rd day of November, 1971, that the above described property, as shown on the map.

Special Exception for an Office Building and Offices should be and the same is granted from and after the date of this order, subject to the approval of the site plan by the State Highway Administration, the Bureau of Public Services and the Office of Planning and Zoning.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations having been met.

the above re-classification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 23rd day of November, 1971, that the above re-classification be and the same is hereby DENIED and that the above described property or area be and the same is hereby DENIED and that the above described property or area be and the same is hereby DENIED.

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 following finding of facts that strict compliance with the Baltimore County Zoning Regulations would result in practical difficulty and unreasonable hardship upon the Petitioner; it appearing that the Petitioner has met the requirements of Section 502 of the Baltimore County Zoning Regulations with regard to the length of the building; and the Variance requested granting relief without substantial injury to the public health, safety and general welfare of the locality involved. Variance to permit a building four hundred and twenty-five (425') feet long in lieu of the required three hundred (300') feet; to permit a building within fifty (50') feet of a D.R.10.5 Zone instead of the required seventy-five (75') feet; and to permit fifteen (15%) percent open space spread over the overall area of the site plan by the State Highway Administration, the Bureau of Public Services and the Office of Planning and Zoning.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 23rd day of November, 1971, that the herein Petition for a Variance should be and the same is hereby granted from and after the date of this order, to permit a building four hundred and twenty-five (425') feet long in lieu of the required three hundred (300') feet; to permit a building within fifty (50') feet of a D.R.10.5 Zone instead of the required seventy-five (75') feet; and to permit fifteen (15%) percent open space spread over the overall area of the site plan by the State Highway Administration, the Bureau of Public Services and the Office of Planning and Zoning.

same is granted from and after the date of this order, to permit a building four hundred and twenty-five (425') feet long in lieu of the required three hundred (300') feet; to permit a building within fifty (50') feet of a D.R.10.5 Zone instead of the required seventy-five (75') feet; and to permit fifteen (15%) percent open space spread over the overall area of the site plan by the State Highway Administration, the Bureau of Public Services and the Office of Planning and Zoning.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 23rd day of November, 1971, that the above Variance be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION for Offices and Office Building, and VARIANCES from Sections 1801.28.2, 1802.2C and 1802.2A of the Baltimore County Zoning Regulations NE corner of York and Alburgh Roads 9th District Joseph L. Soley, Petitioner

PETITION FOR VARIANCES from Sections 1801.2C2a and 1802.3C1 of the Baltimore County Zoning Regulations N/S Alburgh Road 324' E. of York Road 9th District George and Nellie Frank, Petitioners

Zoning Files Nos. 72-40-XA and 71-283-A

William H. McLean, Jr. Protester-Appellant

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Misc. Docket No. 9
Folio No. 213
File No. 4872

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Walter A. Raiter, Jr., John A. Miller and William H. Gaffney, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

No. 72-40-XA - Soley

May 28, 1971 Comments of Baltimore County Zoning Advisory Committee - filed

July 27 Petition of Joseph L. Soley for Special Exception for Offices and Office Buildings and Variances from Sections 1801.28.2, 1802.2C and 1802.2A, on property located on the northeast corner of York and Alburgh Roads - 9th District - filed

" " Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for August 26, 1971 at 10 a.m.

Aug. 5 Certificate of Posting of property - filed

" " Publication in newspaper - filed

" 26 At 10 a.m. hearing held on petition by Zoning Commissioner - case held sub curia.

Soley - No. 72-40-XA - Frank - 71-283-A

Nov. 23, 1971 Order of Zoning Commissioner granting Special Exception and Variance.

Dec. 6 Order of Appeal to County Board of Appeals from Order of Zoning Commissioner

No. 71-283-A - Frank

May 4, 1971 Petition of George and Nellie Frank (Joseph L. Soley, contract purchaser), for Variance from Sections 1801.2C2a and 1802.3C1 of the Baltimore County Zoning Regulations, on property located on the north side of Alburgh Road 324' east of York Road, 9th District - filed

" " Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for June 23, 1971 at 10 a.m.

" 27 Comments of Baltimore County Zoning Advisory Committee - filed

June 3 Certificate of Posting of property - filed

" " Publication in newspaper - filed

" 23 At 10 a.m. hearing held on petition by Zoning Commissioner - case held sub curia

July 16 Order of Zoning Commissioner granting variances to permit dwelling unit windows to have a setback of 20' from the boundary instead of requested 10', in lieu of required 35'; and to permit a rear yard setback of 15' instead of the requested 30', in lieu of required 30', subject to site plan approval.

Aug. 12 Order of appeal to County Board of Appeals from Order of Zoning Commissioner

Mar. 7, 1972 Hearing on appeal before County Board of Appeals on Cases No. 72-40-XA and No. 71-283-A - cases held sub curia

July 11 Order of County Board of Appeals granted Special Exception for Office Building and Offices petitioned for, subject to approval of site plan. Further Ordered that Variance petitioned for be granted as specified in Board's Order.

" 31 Order for Appeal filed in the Circuit Court for Baltimore County

" " Petition to accompany Order for Appeal filed in the Circuit Court for Baltimore County

Aug. 1 Certificate of Notice sent to all interested parties

" 18 Transcript of testimony filed - 1 volume

PETITION FOR SPECIAL EXCEPTION for Offices and Office Building and VARIANCES from Sections 1801.28.2, 1802.2C and 1802.2A of the Zoning Regulations NE corner of York and Alburgh Roads 9th District Joseph L. Soley, Petitioner

PETITION FOR VARIANCES from Sections 1801.2C2a and 1802.3C1 of the Zoning Regulations N/S Alburgh Road 324' E. of York Road 9th District George and Nellie Frank, Petitioners

William H. McLean, Jr., Protester

ORDER FOR APPEAL BY WILLIAM H. McLEAN, JR., PROTESTANT

MR. CLERK: Enter an appeal to the Court of Appeals on behalf of William H. McLean, Jr., Protester, below from the Decision entered herein on January 19, 1973.

Richard F. Cadigan
22 W. Pennsylvania Avenue
Towson, Maryland 21204
Telephone: 828-9100

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of February, 1973, a copy of the foregoing Order for Appeal was mailed, postage prepaid, to W. Lee Harrison, Esq., 306 West Joppa Road, Towson, Maryland 21204, counsel for the original Petitioners, Joseph L. Soley and George and Nellie Frank.

Richard F. Cadigan

RE: PETITION FOR SPECIAL EXCEPTION for Offices and Office Building, and VARIANCES from Sections 1801.28.2, 1802.2C and 1802.2A of the Baltimore County Zoning Regulations NE corner of York and Alburgh Roads 9th District Joseph L. Soley, Petitioner

PETITION FOR VARIANCES from Sections 1801.2C2a and 1802.3C1 of the Baltimore County Zoning Regulations N/S Alburgh Road 324' E. of York Road 9th District George and Nellie Frank, Petitioners

Zoning Files Nos. 72-40-XA, and 71-283-A

William H. McLean, Jr. Protester-Appellant

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Misc. Docket No. 9
Folio No. 213
File No. 4872

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.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

cc: Zoning
Cadigan, Esq.
Gaffney, Esq.
Austin, Esq.
Harrison, Esq.

Soley - No. 72-40-XA - Frank - No. 71-283-A

Petitioners' Exhibit No. 1 - File No. 71-283-A

" " 2 - File No. 72-40-XA

" " 3 - Folder - 3 photos - Frank property

" " 4 - Plat of subject property - 7/27/71 - prepared by Spomer & Associates

" " 5 - Copy of Exhibit No. 4 showing trees and shrubs

Protesters' Exhibit "A" - Five photos of 2 Alburgh Road, residence of William H. McLean, Jr.

Aug. 22, 1972 Record of proceedings filed in the Circuit Court for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, and also the use district maps, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations, together with the zoning use district maps at the hearing on this petition, or whenever directed to do so by this Court.

Respectfully submitted,

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

AMES B. SPOMER & ASSOCIATES
PROFESSIONAL ENGINEERS & LAND SURVEYORS
1001 YORK ROAD - TOWSON, MD. 21204

Cardiff Hall
York Road Addition
Petition for Variance

Beginning for the same at a granite stone hereinafter set at the corner formed by the intersection of the east side of York Road with the north side of Alburgh Road, and running thence binding on the north side of Alburgh Road, (1) South 89° 47' 30" East 323.86 feet to a granite stone and (2) South 79° 21' 20" East 200.20 feet, thence leaving Alburgh Road, (3) North 11° 59' 00" East 504.07 feet to the south side of a 20 foot alley, thence binding on the south side of said 20 foot alley, (4) North 78° 13' 50" West 255 feet to the west side of Burleigh Road at the south side of a 10 foot alley, thence continuing the same course along the south side of said 10 foot alley, (5) North 78° 13' 50" West 151.00 feet, thence still continuing the same course (6) North 78° 13' 50" West 117.12 feet to the east side of York Road, thence binding on the east side of York Road, (7) South 11° 50' 00" West 522.50 feet to the place of beginning.

Thence for a continuation of the description for the purpose of establishing the gross area for density calculations and to include the following:

1. The north part of the bed of Alburgh Road varying from a width of 17 feet to 25 feet along the first line herein
2. The north half of the bed of Alburgh Road, being a strip of land 25 feet in width along the second line herein
3. The south half of the 20 foot alley along the fourth line herein
4. The south half of the 10 foot alley along the fifth line herein
5. The eastmost 30 feet of the bed of York Road extending along the last line herein and continuing to the center of the bed of Alburgh Road

The total area herein includes 6.1190 acres net

.7183 acres in beds of alleys and streets

6.8673 Gross Area



IN THE COURT OF APPEALS OF MARYLAND

No. 23

September Term, 1973

WILLIAM H. McLEAN, JR.

JOSEPH L. SOLEY

Murphy, C.J.
Barnes
McWilliams
Singley
Smith
Digges
Levine,

JJ.

Opinion by Levine, J.

Filed: November 7, 1973

This appeal is from an order of the Circuit Court for Baltimore County which affirmed a decision of the County Board of Appeals of Baltimore County (the Board) granting a variance from the side yard window setback requirement contained in the county zoning regulations. Appellee, Joseph L. Soley (Soley), had applied for the variance in connection with his proposed apartment house-office building project, and appellant, William H. McLean, Jr. (McLean), who lives in a house adjacent to the Soley property, was the only protestant.

The property in question is located on the north side of Aigburth Road approximately 324 feet east of York Road. Immediately to its west is a development previously built by Soley known as Cardiff Hall East Apartments, which also combines apartment units and office space. The McLean property, including his residence, is situated immediately to the east and fronts on Aigburth Road. The subject property, consisting of 2.43 acres, is rectangularly-shaped with the south end also fronting on Aigburth Road. The rear end of the parcel backs up on an alley which separates it from a development of detached homes called "Burkleigh Square."

Soley proposes to erect two rectangular-shaped buildings, each to contain 20 dwelling units, positioned upon the parcel in a north-south direction. In other words, the south end of one building would front on Aigburth Road and the north end of the second would back up on the alley.

The adjacent parcel to the west, previously developed by Soley, consists of 4.44 acres and is improved by 60 units. Since the property

claimed, denial of the variance would result in a "practical difficulty or unreasonable hardship," and would have a detrimental effect on the welfare of the community.

It was also established that even with the variance, since the McLean house is set back 28 feet from its property line, it would be 48 feet from the proposed apartment building. The engineer testified that this exceeds the county requirement for a 40-foot "window-to-window" relationship.

The evidence summarized above has not been seriously challenged by McLean. His complaint is that the reduction of 15 feet "will contribute to a greater invasion of my [yard] privacy, and I think that despite anything to the contrary, the summer breezes are going to be snuffed off, and, in a way, impair the enjoyment of the rear property."

As we have indicated, the Board decision was upheld by the circuit court which based its decision upon the test enunciated in *Loyola Loan Ass'n v. Bushman*, 227 Md. 243, 176 A.2d 355 (1961); and held that the evidence of whether strict compliance with the regulations would result in practical difficulty or unreasonable hardship was fairly debatable. Hence, the Board had not been arbitrary, unreasonable or capricious in reaching its decision. We agree and shall affirm that judgment.

Succinctly stated, McLean's argument in this Court is that whatever the degree of practical difficulty or hardship required for a variance, neither is shown here; and that the request is "merely for the convenience of the applicant," *Carney v. City of Baltimore*, 701 Md. 130, 137, 93 A.2d 74 (1952). In our view, McLean reads the requirements for a variance too severely.

We think the facts in *Carney*, *supra*, upon which McLean places his principal reliance, are distinguishable from those at bar. There, a homeowner sought a variance from a sideyard requirement for the purpose of building a bedroom and bath on the ground floor of his house due to his wife's physical condition. The adjacent property owner objected because the variance would have deprived him of light in his dining room. This Court upheld the Board of Appeals decision denying the requested variance. There, we said:

"... The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant, inasmuch as the aim of the ordinance is to prevent exceptions as far as possible, and a liberal construction of the ordinance would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance. (citations omitted)."

"The expression 'practical difficulties or unnecessary hardships' means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are not necessary to carry out the spirit of the ordinance and which are of such a degree of severity that their existence amounts to a substantial and unnecessary injustice to the applicant. Exceptions on the ground of 'practical difficulties or unnecessary hardships' should not be made except where the burden of the general rule upon the individual property would not, serve the essential legislative policy, and so would constitute an entirely unnecessary and unwarranted invasion of the basic right of private property. (citations omitted)." 201 Md. at 137.

We think the cases are distinguishable in that there the Board of Appeals determined that the variance was based on convenience rather than practical difficulty; and, furthermore, no benefit to any other persons was established.

In our view, this case is controlled by *Loyola Loan Ass'n v. Bushman*, *supra*. There, the applicant sought a variance from the height limitations for a proposed office building. Two additional

is in the D.R. 16 classification, as in the McLean property, it permits 16 dwelling units to the acre; and by treating the two parcels as one unit for density purposes, as Soley was permitted to do, it could properly accommodate 110 units.

Although Soley was required to seek relief from the strict requirements of the Baltimore County Zoning Regulations in several respects, only one is of concern in this appeal. Section 1801.2C2a of the zoning regulations provides:

"a. Where any dwelling unit window within a subdivision faces a property line which is not a street line prior to the time of development but, otherwise, which forms any part of the tract boundary, the window shall not be closer than 35 feet to the boundary."

When Soley initially filed his petition for a variance, he asked for a reduction in the above-described requirement from 35 to 10 feet for the southernmost (front) building in relation to McLean's property line. His principal reason for this request was - and remains - the retention of "the present trees and natural growth, terrain, and topography which provides excellent drainage and natural screening and beauty." In a word, therefore, this dispute is over trees. McLean in his testimony describes the issue poetically: "It is a question of a tree or me: I think I am more important than the tree."

After this petition was presented to the Zoning Commissioner of Baltimore County, he ordered that it be granted, but modified Soley's application by reducing the setback requirement from 35 feet to 20 feet instead of the requested 10 feet. That decision was affirmed by the Board which rejected McLean's contention that the

floors were required because the side setback and parking space requirements made it necessary to build the structure in that manner. The standard for granting a variance then, as it is now, was whether strict compliance with the regulations would result in "practical difficulty or unreasonable hardship"; and if it should be granted only if in strict harmony with the spirit and intent of the zoning regulations; and only in such manner as to grant relief without substantial injury to the public health, safety and general welfare.

There we noted that the requirements "practical difficulty or unreasonable hardship" are in the disjunctive. Thus we said:

"The terms of § 307 are applicable only to variances as to height and area. We see no occasion to construe that section otherwise than as it reads - in the disjunctive - 'practical difficulty or unreasonable hardship,' and we see no reason to construe 'practical difficulty' here as the equivalent of a taking in the constitutional sense. In our estimation, the Board had at least sufficient evidence before it to make the question of practical difficulty a debatable one; and under the authorities above referred to, its order should, therefore, have been affirmed. ... This, we think, presents at least a case of 'practical difficulty' within the meaning of § 307 of the Regulations. To ignore it and to restrict *Loyola* to a building of un-economic size where, as here, the Board's findings that there is no injury to the public health, safety and general welfare and that the proposed variance is in strict harmony with the spirit and intent of the Regulations should be upheld, would, we think, place too narrow a construction upon § 307, and would itself impose an unreasonable hardship on the applicant. ..." 227 Md. at 250-51.

We think it clear that the evidence in this case was fairly debatable on the issue of "practical difficulty." In 2 Rathkopf, *The Law of Zoning and Planning*, (3d ed. 1972) 45-28, 29, the following criteria for determining whether "practical difficulty" has been established are set forth:

variance "would interfere with his light, air and privacy," and determined that Soley "would suffer a practical difficulty and unreasonable hardship if the requested variances were not granted."

In addition to his own testimony, at the Board hearing Soley also presented two expert witnesses, an engineer and an arborist. Soley's testimony established that he is dedicated to preserving as many existing trees as he can in his building projects, including the one proposed here. This objective influenced the design of the first apartment complex, and it has been fully occupied during its entire six-year existence. He explained - and this was supported by the two experts - that if he chose to destroy the existing trees, he could build 110 units without requiring the contested variances.

Soley also described the meticulous care which he, the engineer and the arborist have taken on the first project in "pinpointing" the existing trees and in designing the projects "around" them. For example, the parking areas were built with "notches" and "cutouts" wherever trees were located, all at substantial expense to Soley. It was also established that the loss of a number of attractive trees running along the western boundary of the subject property would result if the buildings were constructed without the variance.

In short, Soley's case is that the preservation of these and other trees situated about the parcel depends upon the variance from the 35-foot requirement; and there was considerable evidence to show the natural beauty of these trees and their importance to the ecology. On the other hand, the loss of existing trees, if the variance is granted, would be relatively minor. Thus, it is

"1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unreasonably burdensome.

"2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district; or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

"3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

Given the unique facts of this case, we think these criteria are met by this evidence: That the construction of the buildings in strict compliance with the sideyard requirements would result in the destruction of the trees; that the preservation of trees in the construction of the first section had contributed to full occupancy for its entire six years; that the benefits of retaining the trees would accrue to the general public; that greater density would result from strict compliance; and that there was only meager evidence to support the contention that a detriment would befall the neighboring property owner.

It is also contended by McLean that Soley is precluded from asserting "practical difficulty" because he was charged with knowledge of the sideyard requirements when he purchased this property. We see no merit in this argument. We noted in *Zenkerle v. Bd. of Co. Comm'rs*, 262 Md. 1, 21, 276 A.2d 646 (1971), citing *Loyola*, *supra*, that this "rule" is more strictly applied in "use variance" cases than in cases of "area variances," such as the one at bar. In other words, it has less significance where we are concerned with "practical

difficulty" than it does in the event of "hardship" which usually characterizes the "use variance" cases.

Concededly, this is a close case, but it is nevertheless sufficient to support the findings of the Board. Under similar circumstances, we said in Seably v. County Bd. of Appeals, 269 Md. 177, 304 A.2d 814 (1973), quoting with approval from Ever v. Stone, 253 Md. 533, 542, 253 A.2d 372 (1969):

"This rule [if the issue is "fairly debatable," we will not substitute our judgment for that of the administrative body] will be adhered to even if we were of the opinion that the administrative body came to a conclusion we probably would not have reached on the evidence. In the instant case, but for the rule, we might well have reached the conclusion [that the Board of Appeals erred], but in enforcing the rule we are obliged to say that reasonable persons could have reached a different conclusion on the evidence so that the issues were fairly debatable, and hence, the decision of the Board must be sustained." 269 Md. at 184.

This statement is applicable here.

In sum, we think the circuit court applied the correct test and therefore reached the only permissible result in this case.

JUDGMENT AFFIRMED:

APPELLANT TO PAY COSTS.

RE: PETITION FOR SPECIAL EXCEPTION
for Offices and Office Building and
VARIANCES from Sections 1801.2B.2,
1802.2C and 1802.2A of the
Zoning Regulations
NE corner of York and Aigburth Roads
9th District
Joseph L. Soley, Petitioner
BALTIMORE COUNTY
PETITION FOR VARIANCES from
Sections 1801.2C2a and 1802.2C1
of the Zoning Regulations
N/S Aigburth Road 324'
E. of York Road
9th District
George and Nellie Frank, Petitioners

ORDER FOR APPEAL

MR. CLERK:

Please enter an Appeal to the Circuit Court for Baltimore County from the Order of July 11, 1972 by the County Board of Appeals in the above captioned case on behalf of the Protestant, William H. McLean, Jr.

Richard F. Cadigan
22 W. Pennsylvania Avenue
Towson, Maryland 21204
Telephone: 828-9100

CERTIFICATE OF COMPLIANCE

In accordance with Rule 82(c) of Chapter 1100 of the Maryland Rules of Procedure, I hereby certify that said section of the Rules has been complied with in that a copy of an Order for Appeal has been served on the County Board of Appeals, the agency whose action is appealed from.

XXXXXXXXXXXXXXXXXXXX Secretary
Muriel E. Buddemeier

RE: PETITION FOR SPECIAL EXCEPTION
for Offices and Office Building and
VARIANCES from Sections 1801.2B.2,
1802.2C and 1802.2A of the
Zoning Regulations
NE corner of York and Aigburth Roads
9th District
Joseph L. Soley, Petitioner
BALTIMORE COUNTY
PETITION FOR VARIANCES from
Sections 1801.2C2a and 1802.2C1
of the Zoning Regulations
N/S Aigburth Road 324'
E. of York Road
9th District
George and Nellie Frank, Petitioners

PETITION FOR APPEAL

William H. McLean, Jr., Petitioner herein, by Richard F. Cadigan, his attorney, and in accordance with Rule 82 (w) of Chapter 1100 of the Maryland Rules of Procedure petition the Circuit Court for Baltimore County to reverse the Order of the County Board of Appeals of July 11, 1972 granting a variance to allow a proposed apartment building to have a set back of only 20 feet from the boundary of the adjoining land of the Protestant Petitioner instead of the required 35 feet required by Section 1801.2C2a of the Zoning Regulations, and for reasons therefor states:

1. Your Petitioner is an immediately adjoining land owner residing in his family residence adjacent to the proposed apartment complex sought by the original petitioner. He is an aggrieved party.
2. This Petition and an Order for Appeal filed herewith are filed with the Clerk of the Circuit Court for Baltimore County within thirty (30) days of the date of the Order of the County Board of Appeals.
3. The sole part of the Order of the County Board of

Appeals of July 11, 1972 which is appealed from herein is that part of the Order granting a variance "to permit dwelling unit windows within a subdivision facing a property line which is part of the tract boundary and not a street line prior to development to have a setback of 20 feet from the boundary instead of the requested 30 feet, in lieu of the required 35 feet."

4. The original petitioner below utterly failed to show such practical difficulty and unreasonable hardship to support the desired variance; on the contrary, the original petitioner developer below based his entire request on the preservation of plant life of dubious intrinsic value and of no value whatsoever when compared to the human values of your Petitioner William H. McLean, Jr. and of the injury to his privacy and to his light and air as originally protected by the zoning authorities when the Zoning Regulations were propounded. Grounded on such specious and whimsical arguments by the developer below, the Order of the County Board of Appeals herein appealed from could not possibly be anything but arbitrary and capricious and, under the circumstances, illegal.

5. The Order appealed from herein is against the law as well as the evidence; the law requires a showing of urgent necessity, hardship peculiar to the particular property and a burden upon the petitioner not justified by the public health, safety and welfare. The required removal of a few items of plant life, even to the most ardent ecologist, cannot be considered that type of urgent necessity and hardship as defined and reiterated by the Court of Appeals of Maryland.

6. While your Petitioner William H. McLean, Jr. in the testimony shows that he is using his dwelling as a family residence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of July, 1972, a copy of the foregoing Order for Appeal and Certificate of Compliance was mailed, postage prepaid, to W. Lee Harrison, Esq., 306 West Joppa Road, Towson, Maryland 21204, counsel for the original Petitioners, Joseph L. Soley and George and Nellie Frank.

Richard F. Cadigan

LAW OFFICES
RICHARD F. CADIGAN
22 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND
21204

December 2, 1971

Hon. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Petition for Special Exception
and Variances
N/S corner of York Road and Aigburth
Road - 9th District
Joseph L. Soley - Petitioner
No. 72-40-NA (J-109, 138)

NOTICE OF APPEAL

Dear Mr. Commissioner:

Please note an appeal to the County Board of Appeals from the Order of the Zoning Commissioner dated November 23, 1971 in the above captioned matter granting a special exception.

The aggrieved persons are Mr. and Mrs. William H. McLean, Jr., whose address is 9 Aigburth Road, Towson, Maryland 21204. This appeal is filed within 30 days from the date of the final order and is accompanied by a check in the amount of \$70.00.

Very truly yours,

Richard F. Cadigan

RFC:ps
Enclosure
cc: W. Lee Harrison, Esq.

- 2 -

and intends to do so in the foreseeable future, it is a fact that his adjoining property is zoned B10. To allow the developer to place apartment unit windows only 20 feet from Appellant's property would place any possible future development for apartments on his own property at an almost impossible disadvantage because of window set back requirements which would apply to any development of your Petitioner's property.

WHEREFORE, your Petitioner William H. McLean, Jr. prays for relief to the effect that Section 1801.2C2a of the Zoning Regulations be strictly enforced and that the required 35 feet set back from the boundary line of your Petitioner's property be restored so that your Petitioner may enjoy such light, air and privacy that his privately owned property is entitled to under the applicable Zoning Regulations.

Richard F. Cadigan
22 W. Pennsylvania Avenue
Towson, Maryland 21204
Telephone: 828-9100

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July, 1972, a copy of the foregoing Petition for Appeal was mailed, postage prepaid, to W. Lee Harrison, Esq., 306 West Joppa Road, Towson, Maryland 21204, counsel for the original Petitioners, Joseph L. Soley and George and Nellie Frank.

Richard F. Cadigan

LAW OFFICES
RICHARD F. CADIGAN
22 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND
21204

August 23, 1971

Hon. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Petition for Special Exception for Offices and Office Building
Petition for Variance for Maximum Width of Building
Elevation, Setbacks and Open Space
Location: Northeast corner of York and Aigburth Roads

Dear Mr. Commissioner:

Please enter my appearance for Mr. and Mrs. William H. McLean, Jr. as protestants to the above captioned applications; hearing is scheduled for 10 A.M. Thursday, August 26, 1971.

Very truly yours,

Richard F. Cadigan

RFC:ps

cc: W. Lee Harrison, Esq.

- 3 -

DEC 6 - 1973

August 20, 1971

Hon. S. Eric DiWenna
Zoning Commissioner of Baltimore County
County Office Building
Towson, Maryland 21204

In re: Joseph S. Day petition for variances and/or
exception to property M. R. corner York Rd.
and Aigburth Road #72-40-XA.

Dear Sir:

Community Associations are without financial wealth but they do reflect the pulsation and true feeling of their residents in the pride of their community and a burning desire to protect it from deterioration. Such associations accept the law of the community and rebel violently to the granting of exceptions to the law to those whose motive is increased profits from the exceptions as granted or a selfish imposition of improvement location to the annoyance, invasion of privacy, inconvenience, etc. of surrounding residents, all of which the zoning regulations were promulgated to protect the residents from.

The Towson Manor Association, Inc. and The Burkleigh Square Association, Inc. find themselves with limited resources to combat the multiple requests for variances from the zoning laws by the above applicant. Both of these associations consider the above request as a direct and flagrant abuse of the law and completely oppose the granting of these variances. It is the opinion of these community

organizations that offices and office building have no place in our home community and are in violation of the zoning laws. Such a permission would operate to open our community to extraordinary commercial use and completely invalidate the residential purposes our peaceful community has enjoyed and wishes to continue to enjoy.

Such a business complex among our residences can only bring noises, increased transient flow, disregard by office building tenants in relationship with residents, litter, and commercial annoyance to residents as well as utter invasion of the privacy of the residents.

In addition to the foregoing, certain deplorable and questionable circumstances have arisen in this matter and are hereby brought to your attention.

1. The property referred to is the northeast corner of York and Aigburth Rds. as a whole. This includes the property under contract of sale by George and Nellie Frank and the question is, "Can such an uncompleted contract be a part of the property under this variance request?"
2. The zoning hearing notices were placed on the York Road and on Aigburth Road alongside of the Cardiff Hall Apartment. Not on the Frank property to which the variance applies. This has tended to make many residents feel that the offices/office building was to be directly on the York Road.

-2-

3. Col. Wm. Weaver, Ret., representing both organizations applied for a photo of the architects plat of the proposed variances and was denied his request by the clerks in the zoning office and only after great insistence was he permitted to have such a copy.
4. After a review of plat by the zoning committees of both organizations jointly, they were unable to determine just what the variance was and asked one of its members, Mr. Warfield, to visit the zoning office and have someone explain the variance on the map. Mr. Warfield found the application of the requested variances very difficult to comprehend.
5. Both of the associations then jointly employed Edgar H. Gans, Esquire, to visit the zoning office to find out what was going on. Mr. Gans did get the information needed.

Now, Mr. Commissioner, doesn't this all seem to be rough on a group of taxpayers who only want what should be a complete, honest, clear, and unobstructed explanation of something that almost slipped by unnoticed?

The Board of Directors of both association has thoroughly reviewed this matter and hereby opposes the granting of exceptions and/or variances requested in the

-3-

application referred to above.

The Towson Manor Association, Inc.

Walter P. Bruckner
President

The Burkleigh Square Association, Inc.

Samuel H. Souders
President

Reply to
Mrs. Robert T. Jobe, Secretary
Towson Manor Association, Inc.
131 Warburth Avenue
Towson, Maryland 21204

CC: Mr. George E. Gavrielis, Director
Baltimore County Office of Planning
and Zoning
301 Jefferson Building
Towson, Maryland 21204

-4-

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

May 28, 1971

W. Lee Harrison, Esq.,
306 W. Joseph Road
Towson, Maryland 21204

RE: Type of Hearing: Special Exception
for Offices and Office Building
Locations NE/Cor. York and Aigburth
Petitioners: Joseph L. Soley
Committee Meeting of May 4, 1971
9th District
Item 158

Dear Sirs:

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 improved with garden type apartments. The property to the south is improved with single family dwellings zoned R-16. The property to the west is improved with the Towson State College. York Road and Aigburth Road are improved insofar as concrete curb and gutter are concerned.

BUREAU OF ENGINEERING:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

York Road (Md. 45) is a State road and Joint County - State Improvements being considered for York Road, in the vicinity of this property, would provide for a 66-foot median area, together with 10-foot sidewalk areas, within a proposed 80-foot wide right-of-way at this location. In addition, reversible easement for slopes will be required.

W. Lee Harrison, Esq.
Item 158
Page 2
May 28, 1971

York Road (Md. 45) is a State road; therefore, all improvements, intersections and entrances on this road will be subject to State Roads Commission requirements.

Aigburth Road, an existing County road is proposed to be improved as a 40-foot closed type highway cross-section, increasing in width to 44 feet near the York Road intersection, with a proposed 50-foot right-of-way. A highway right-of-way widening strip of irregular dimensions, based upon the center line of the existing 30-foot paving, together with a fill area at the York Road intersection (indicated in red on the attached plan) together with reversible easement for slopes, will be required in connection with any grading or building permit application.

The entrance locations are subject to approval by the Department of Traffic Engineering. The entrance shall be constructed in accordance with Baltimore County Standards.

The Petitioner is advised to consult with the Chief of the Street, Road and Bridge Design Group of the Bureau of Engineering in regard to highway requirements as they affect this property and building setbacks.

Sediment Controls:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Grading studies and sediment control drawings will be necessary to be reviewed and approved prior to the issuance of any grading or building permits.

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan.

York Road (Md. 45) is a State road. Therefore, drainage requirements as they affect the road come under the jurisdiction of the Maryland State Roads Commission.

W. Lee Harrison, Esq.
Item 158
Page 3
May 28, 1971

The Petitioner must provide necessary drainage facilities (temporary or permanent) 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 improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Water and Sanitary Sewers:

Both public water supply and sanitary sewerage are available to serve this property.

DEPARTMENT OF TRAFFIC ENGINEERING:

The subject special exception should not create any major effect on traffic. However, the parking solution shown does not clearly define the upper and lower parking levels nor the circulation between the two. Therefore, before any detailed comment on the plan itself can be forthcoming, more information will be required.

STATE ROADS COMMISSION:

There is a high steep bank fronting the subject site at the location of the proposed entrance from York Road. It may be difficult to establish the minimum acceptable grade of 3%, therefore, a grading study must be made prior to the State Roads Commission's approval of the plan. If direct access to York Road is permitted, the corner at Aigburth Road must be improved with new curb on a 30' radius. This may involve the relocation of the traffic signal pole which would have to be done at the petitioner's expense.

At present the site has road access to York Road by way of Aigburth Road. The intersection is signalized. Considering the foregoing conditions, it is our opinion that all access to the site should be restricted to Aigburth Road.

The plan should be revised and/or the grading study for the entrance to York Road made prior to a hearing date being assigned.

Any access to York Road would be subject to State Roads Commission approval and permit.

W. Lee Harrison, Esq.
Item 158
Page 4
May 28, 1971

FIRE PREVENTION BUREAU:

The owner shall be required to comply to all applicable requirements of the 101 Life Safety Code, 1957 edition, and the Fire Prevention Code when construction plans are submitted for approval.

BOARD OF EDUCATION:

No bearing on student population.

BUILDINGS ENGINEER'S OFFICE:

Petitioner to meet all applicable requirements of Baltimore County Building Code and regulations. See Multiple Occupancies Section 400.3 and Business Occupancies Section 405.

ZONING ADMINISTRATION DIVISION:

This office is withholding a hearing date until such time as revised plans are received indicating the following:

1. The widening of York Road.
2. The existing area zoned for offices in one of the apartment buildings.
3. The proper overall density calculations for both parcels of land.
4. The revised location of the proposed office building and parking lot.

Very truly yours,

Oliver L. Myers
OLIVER L. MYERS, Chairman

OLM:JG
Enc.

TO: S. Eric DiNenna, Zoning Commissioner
Attention: Mr. Myers
DATE: August 13, 1971
FROM: Fire Prevention Bureau
Fire Department
SUBJECT: Property Owner:
Joseph L. Soley

Location:
1/4 Aigburth Road, 250' E of York Road
ITEM # 27 Zoning Agenda: August 10, 1971

1. Fire hydrants for the proposed site (are required and) shall be in accordance with Baltimore County Standards.
The hydrants shall be located at intervals of _____ feet along an approved road.
2. A second means of access is required for the site.
3. The dead-end condition shown at _____ exceeds the maximum allowed by the Fire Department.
4. The site shall be made to comply with all applicable requirements of the National Fire Protection Association Standard No. 101, "The Life Safety Code", 1957 Edition, and the Fire Prevention Code prior to occupancy or commencement of operations.
5. The owner shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101, "The Life Safety Code", 1957 Edition, and the Fire Prevention Code when construction plans are submitted for approval.
6. The Fire Department has no comment on the proposed site.

H. Kelly, Comm.
Planning Division
Fire Prevention Bureau

Note: Above comments indicated with a check apply.

sh

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna
ATTN: Oliver L. Myers
DATE: August 12, 1971
FROM: Ellsworth N. Myers, P.E.

SUBJECT: Item 27 (M-1-1971)
Property Owner: Joseph L. Soley
1/4 Aigburth Road, 250' E. of York Road
Present Zoning: D.R. 16
Proposed Zoning: Special Exception for offices
District: 9th
No. of Acres: 6.119

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

The comments supplied in conjunction with Item 158 (1970-1971), copy attached, remain valid and applicable to this Petition, Item 27 (1971-1972).

Ellsworth N. Myers, P.E.
Ellsworth N. Myers, P.E.
Chief, Bureau of Engineering

END:RAN:PNR:ms

8-WK Key Sheet
35 NE 3 Position Sheet
NS 9 A Topo
70 Tax Map

Attachment

cc: John J. Trenner

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Edward Hordley
ATTN: Oliver L. Myers
DATE: May 17, 1971
FROM: Ellsworth N. Myers, P.E.

SUBJECT: Item 158 (1970-1971)
Property Owner: Joseph L. Soley
1/4 corner York and Aigburth
Present Zoning: D.R. 15 Variances
Proposed Zoning: Special Exception for offices; Variances
from 217.2 - front setback
District: 9th
No. Acres: 6.23

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highway:

York Road (M. 15) is a State road and joins County - State improvements being considered for York Road, in the vicinity of this property, would provide for a 60-foot closed type highway cross-section including a 16-foot to 20-foot median area, together with 20-foot sidewalk areas, within a proposed 100-foot wide right-of-way at this location. In addition, feasible easement for slopes will be required.

York Road (M. 15) is a State road; therefore, all improvements, intersections and entrances on this road will be subject to State Road Commission requirements.

Aigburth Road, an existing County road is proposed to be improved as a 60-foot closed type highway cross-section, increasing in width to 100 feet near the York Road intersection, within a proposed 100-foot right-of-way. A 16-foot right-of-way shoulder strip of irregular dimensions, based upon the centerlines of the existing 30-foot road, together with a 10-foot area at the York Road intersection (indicated in red on the attached plan) together with feasible easement for slopes, will be required in connection with any grading or building permit application.

The entrance locations are subject to approval by the Department of Traffic Engineering. The entrance shall be constructed in accordance with Baltimore County standards.

The Petitioner is advised to consult with the Chief of the Street, Road and Traffic Bureau of the Bureau of Engineering in regard to highway requirements as they affect this property and building setback.

Item 158 (1970-1971)
Property Owner: Joseph L. Soley
Page 2
May 17, 1971

Sediment Control:

Development of this property through striping, grading and stabilization could result in a sediment pollution problem, damaging private and public holders downstream of the property. A grading permit is, therefore, necessary for all grading, including the striping of top soil.

Grading studies and sediment control drawings will be necessary to be reviewed and approved prior to the issuance of any grading or building permits.

Storm Drainage:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan.

York Road (M. 15) is a State Road. Therefore, drainage requirements as they affect a road come under the jurisdiction of the Maryland State Roads Commission.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem with any result, due to improper grading or improper installation of drainage facilities, shall be the full responsibility of the Petitioner.

Water and Sanitary Sewer:

Both public water supply and sanitary coverage are available to serve this property.

Ellsworth N. Myers, P.E.
Ellsworth N. Myers, P.E.
Chief, Bureau of Engineering

END:RAN:PNR:ms

Attachment

cc: John J. Trenner

8-WK Key Sheet
35 NE 3 Position Sheet
NS 9 A Topo
70 Tax Map

BALTIMORE COUNTY BOARD OF EDUCATION

ZONING ADVISORY COMMITTEE MEETING OF AUG 16, 1971

Petitioner: Soley
Location:
District: 7
Present Zoning: D.R. 16
Proposed Zoning: S.M. FOR OFFICES
No. of Acres: 6.119

Comments: NO READING ON EXISTENT POPULATION

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF TRAFFIC ENGINEERING JEFFERSON BUILDING TOWSON, MARYLAND 21204 INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna
ATTN: Oliver L. Myers
DATE: August 16, 1971
FROM: C. Richard Moore
SUBJECT: Item 27 - ZAC - August 10, 1971
Property Owner: Joseph L. Soley
Aigburth Road E. of York Road
Special Exception for offices

Since the special exception appears to be only for a small office and a maintenance unit, the subject special exception should have no major effect on traffic.

C. Richard Moore
C. Richard Moore
Assistant Traffic Engineer

CRM:mr

Court of Appeals of Maryland

No. 23 September Term, 1973

William F. McLean, Jr. Richard F. Cadiann
v. Annelle for appellant W
Joseph L. Soley et al. W. Lee Harrison
R. Bruce Alderman
Attorneys for appellee

STATE OF MARYLAND, ss:
I hereby certify that on the twentieth day of March
(p.m. 3/19/73)
nineteen hundred and seventy-three I received from the Circuit Court for
Baltimore County Transcript of Record in the above entitled case.

Brief for appellant due to be filed April 30, 1973

Chief of the Court of Appeals of Maryland

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

2 Signs

District 9th Date of Posting Dec 16, 71

Petitioner: Joseph L. Soley

Location of property: N.E. Cor. York Rd. & Aigburth Rd.

Location of Signs (2): Loc. York Road 1 on Aigburth Rd.

Remarks: Mark X House

Posted by: Mark X House Date of return: Dec 22, 1971

Candida Alb. 4 and 2

Gr. Cat. IV. C
18.11.11-30
Field G. Thompson
Dec. 10, 1968

Dec. 10, 1968

3. *Phragmites australis*

6.8

Nov. 29, 1965

