

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Earl Lipchin and Walter L. McManus, Jr., legal owners of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an R-10 or DR-3.5 and DR-16 zone to an B-L zone; for the following reasons:

Error in original zoning.

See attached description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for:

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

Contract purchaser

Earl Lipchin

Address

Walter L. McManus, Jr. Legal Owner

Address 306 W. Joppa Road

Towson, Maryland 21204

W. Lee Harrison, Petitioner's Attorney

Protestant's Attorney

Address 306 W. Joppa Road

Towson, Maryland 21204 (623-1200)

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd day of August, 1971, 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 104, County Office Building in Towson, Baltimore County, on the 16th day of September, 1971, at 3:00 o'clock.

W. Lee Harrison
Zoning Commissioner of Baltimore County

(over)

Re: Petition for Reclassification
Ridgely Road
R-10 or DR-3.5 and DR 16 to BL
Earl Lipchin and Walter L. McManus
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

MEMORANDUM

New come Earl Lipchin and Walter L. McManus, legal owners of the above captioned property, by W. Lee Harrison, their attorney, and in accordance with Bill 72, Section 12, 22 (b) states that the reclassification requested should be granted and for reason says:

The County Council adopted the New Zoning Map and made this property DR 3.5 and DR-16. The council has committed a definite error by not taking into consideration the cutting off of the property by the proposed Ridgely Road and Greenspring Drive. The proposed new roadways will, in effect, lump the subject parcel with the existing Stewart's Shopping Center and Ridgely Shopping Center, directly across the street, but not providing zoning compatible with the existing centers zoning. To correct this error the property must be reclassified to BL.

W. Lee Harrison
W. Lee Harrison
306 W. Joppa Road
Towson, Maryland 21204
823-1200
Attorney for Petitioners

RE: PETITION FOR RECLASSIFICATION
from D.R. 3.5 and D.R. 16 to B.L.
5/5 Ridgely Road, 388 feet
West of Kurtz Avenue
8th District - Central Sector
Earl Lipchin and
Walter L. McManus, Jr.,
Petitioners

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 72-61-R

OPINION

This case comes before the Board on an appeal by the Petitioners from an Order of the Deputy Zoning Commissioner which denied the requested reclassification. The Petitioners in this case are seeking to reclassify to B.L. a 4.16 acre parcel which is now zoned partly D.R. 16 and partly D.R. 3.5. The subject property is located on the south side of Ridgely Road, approximately 388 feet west of Kurtz Avenue in the Eighth Election District of Baltimore County. By way of further description, the subject property lies on the south side of Ridgely Road where some dead-ends at the Northern Central Railroad. This property is immediately across Ridgely Road from the Stewart's shopping complex, which exists on the north side of Ridgely Road from the railroad tracks to York Road. There exists, cut out of the subject property, an area of approximately 1/4 of an acre which is in the ownership of the Baltimore Gas and Electric Company. An electrical substation has been erected on this site. The Lutherville community lies to the south and rear of the subject property.

There has been proposed, at some future time, the extension of Charles Street Avenue and a relocation of Green Spring Avenue. If, in fact, each of these roads is constructed, some would transgress the subject property as set out in Petitioners' Exhibit #1.

Witnesses for the Petitioners included a traffic engineer, a civil engineer and the property owner. In summary, the traffic engineer explained the impact that the development of the subject property, as proposed in Petitioners' Exhibit #1, would have upon the surrounding area. It was his opinion that some would represent a negligible increase over the existing traffic in this general area. He also pointed out that the now completed widening of York Road will greatly aid the traffic flow through this immediate community.

Lipchin & McManus - 72-61-R

Hence, it is the judgment of this Board that that portion of the subject property shown as Parcel B on the Petitioners' Exhibit #1 should be reclassified to B.L., and all other remaining portions of the subject property should remain in their existing zoning classification. As indicated on Petitioners' Exhibit #1, the proposed roadbeds of Charles Street extension and Green Spring Avenue relocated and all of Parcel A shall remain in their existing zoning classification.

ORDER

For the reasons set forth in the foregoing Opinion, the Board will affirm in part and reverse in part the Order of the Deputy Zoning Commissioner; therefore, it is this 18th day of October, 1972, by the County Board of Appeals, ORDERED that the reclassification to a B.L. zone on that portion of the subject property noted as Parcel B on Petitioners' Exhibit #1 petitioned for, be and the same is hereby GRANTED; and it is FURTHER ORDERED that the reclassification petitioned for on all of the remaining portions of the subject property, be and the same is hereby DENIED. Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Miller
John A. Miller, Chairman

Walter A. Ketter, Jr.
Walter A. Ketter, Jr.

John A. Miller
John A. Miller

Lipchin & McManus - 72-61-R

2.

The civil engineer testified as to the general area and uses of the surrounding property, the impact that the proposed roads might have upon this site, if and when same are built, and the fact that there now exists adequate sewer and water to serve the proposed use.

The property owner alleged that the County Council erred in considering this property for residential use as it was his opinion that, considering the small size of this parcel, the location of the electrical substation, the location of the large shopping complex across the street and the railroad tracks on the subject property's western boundary, the subject property would be undesirable for residential use.

Eight residents of the community testified in opposition to the reclassification. A main consideration of the Protestants was the tremendous amount of traffic which transgresses the Lutherville community in order to reach the Stewart's shopping complex. It was their testimony that this traffic through their development has been steadily increasing ever since this shopping center opened. It was further stated by the Protestants that if the proposed Charles Street extension and the Green Spring Avenue relocation were in existence they would have no objection to this reclassification, as such construction would effectively isolate the subject property from their community. However, it was their general opinion that no one could fairly estimate the timing for the construction of these roads. Interestingly, on cross examination, most of the Protestants were asked if they would want to live on the subject property. Each answered "No". With this the Board agrees. After viewing this location, the Board is hard pressed to envision a desirable residential use of at least that part of the property immediately along Ridgely Road.

Without reviewing further the detailed testimony heard by the Board in this case, the Board would comment that it agrees with the Protestants that it now would be difficult to predict if and when the proposed Charles Street extension and Green Spring Avenue relocation would be built past and through the subject property. However, it would seem logical to expect that some would be a fair accomplishment at some future date. Such construction will be necessary to relieve the community of the thru traffic which uses

Lipchin & McManus - 72-61-R

3.

its residential streets in order to get to the Stewart's complex.

Noting that the property is now zoned D.R. 16 for a depth of approximately 150 feet and D.R. 3.5 for the balance, and considering primarily the location and small size of the subject property, it is the opinion of this Board that such residential zoning is at least partially in error. The Board has viewed the subject property and it is our judgment that the front of the subject property has completely lost its residential character. As previously stated herein, same is bounded on its west side by a railroad track and is situated immediately across Ridgely Road from the large Stewart's shopping complex. The existence of the electrical substation cut out of the subject property itself adds further diminishment to the residential character of at least the front strip (the D.R. 16 strip) of the subject property. It is the presumption of this Board that the County Council, in considering the front portion of the subject property, really did not envision apartments constructed on this small portion of land. The small size of this strip would greatly diminish the desirability of the project. It is likely that the Council thought that perhaps a Special Exception for business offices might be in the offing.

Considering the proposed commercial use as testified to by the property owner in this case, the Board is of the opinion that some would do no more harm, if any, to the residential character of the community to the rear of the subject lot than would a proposal to erect a business office building and, in fact, same would be a harmonious land use considering the elements previously mentioned. Frankly, the development of the front part of this property in a small B.L. use as proposed herein would be a "drop in a bucket" compared to the adjoining shopping center, and the Board seriously doubts that the surrounding community would notice any adverse effect at all from same. If and when the proposed roads are built, as stated by the Protestants, a complete barrier would then separate the site from the residential part of the community. As mentioned heretofore, the Board feels that the construction of roads through the subject property at this time is speculative. However, some would not be necessary for the protection of the residential character of the land to the rear of the subject property if the rear portion of the subject property is retained in its present D.R. 3.5 zoning classification as a buffer zone.

RE: PETITION FOR RECLASSIFICATION
5/5 of Ridgely Road, 388' W
of Kurtz Avenue - 8th District
Earl Lipchin, et al -
Petitioners
NO. 72-61-R (Item No. 14)

BEFORE THE
DEPUTY ZONING
COMMISSIONER
OF
BALTIMORE COUNTY

The Petitioners seek a Reclassification from a D.R. 3.5 Zone and D.R. 16 Zone to a B.L. Zone. The subject property contains four (4) acres, more or less, and is improved with a dwelling and a garage. It is located on the south side of Ridgely Avenue at its terminus at the east right of way line of the Northern Central Railroad. The eastern and southern boundary lines are traversed by the one hundred (100') foot right-of-way for the proposed realignment of Ridgely Road and the proposed Greenspring Drive, respectively. A Baltimore Gas and Electric Company Substation is located on the south side of Ridgely Road and appears to have been conveyed out of this tract at some prior date. A shopping center which contains several retail stores, two (2) restaurants, a department store, and two (2) movies is located opposite the subject site on the north side of Ridgely Road. Another shopping center is located approximately six hundred (600') feet east of the subject site and is oriented to York Road. However, this center does have two (2) entrances on Ridgely Road.

The Petitioner based his case for error on the fact that the proposed roads, i.e., the realignment of Ridgely Road and the proposed Greenspring Avenue, will sever his property from the residential neighborhood to the south and will orient it to the commercial shopping area on the north side of Ridgely Road. The Petitioner's engineering expert gave details as to how the thirty (30') feet elevation of the proposed roads will prohibit any access from them to the subject property, and would have the effect of

creating a Chinese wall. There was no expert testimony by the Petitioner as to traffic conditions in the area.

The Deputy Zoning Commissioner agrees that there is a possibility that once completed, the roads could effectively separate the Petitioner's property from the residential property and may orient it to the commercial property. However, until such time as these roads are constructed, there can be no Chinese wall and the traffic problems that they are designed to alleviate, will continue to exist. Since the best estimation obtainable as to when these roads will be constructed is anywhere from five (5) to twenty (20) years in the future, any rezoning based on these roads, at the present time would be detrimental to the health, safety and general welfare of the community, and, therefore, must be considered premature. The burden of proof of proving error is on the Petitioner and was not met.

IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 17 day of November, 1971, that the above Reclassification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued as and to remain a D.R. 3.5 Zone and a D.R. 16 Zone.

James E. Miller
Deputy Zoning Commissioner of
Baltimore County

OCT 19 1973

IN THE
Court of Appeals of Maryland

No. 16

September Term 1973

FRANK TRAINER ET AL.
Appellant.
vs.
EARL LIPCHIN ET AL.
Appellee.

Appeal From the Circuit Court of Baltimore County
(JOHN N. MAGUIRE, Judge)

APPELLANTS BRIEF AND APPENDIX

ANNE KAY KAMMER,
Attorney for Appellant.

King Bros. Inc., Printers, 208 N. Calvert St., Balt., Md. (5-10-73-30)

ZONING FILE #72-61-R

IN THE COURT OF APPEALS OF MARYLAND

No. 16

September Term, 1973

FRANK TRAINER et al.

v.

EARL LIPCHIN et al.

Burnes
McWilliams
Singley
Smith
Digges
Levine,

JJ.

Opinion by Levine, J.

Filed: October 2, 1973

This case presents yet another assault on the county-wide comprehensive zoning maps adopted by the Baltimore County Council (the Council) on March 24, 1971. Almost immediately thereafter, appellees filed an application to rezone the 4.16 acres of subject property from the Council's designated classifications to the B.L. (business local) zone. The front portion, containing 1.76 acres, had been zoned by the Council as D.R. 16 (density residential, 16 units per acre) to a depth of 150 feet, and the remainder had been zoned D.R. 3.5 (3.5 residential units per acre).

The Deputy Zoning Commissioner initially heard the rezoning application and denied it. On appeal, the County Board of Appeals (the Board) reversed, in part, the Deputy Zoning Commissioner by granting the requested zoning for the front portion, but affirmed so much of the decision that retained the remainder of the property in D.R. 3.5. Appellants, who appeared as protestants before the Board, appealed the decision to the Circuit Court for Baltimore County. There, Judge John N. Maguire affirmed the Board's decision. From that ruling, this appeal has been taken.

The subject property is improved by a dwelling and garage. It is located on the south side of Ridgely Avenue which terminates at that point because the ~~xxxx~~ Central Railroad tracks are adjacent to the western boundary of the property. A Baltimore Gas & Electric Company substation is located on the same side of Ridgely Avenue

1/ Similar attacks were made in *Stratakis v. Beauchamp*, 268 Md. 643, 304 A.2d 244 (1973); *Ford v. Baltimore County*, 263 Md. 172, 300 A.2d 204 (1973); and *Nottingham Village v. Balto. Co.*, 266 Md. 339, 292 A.2d 650 (1972).

on a quarter-acre parcel which appears to have been carved out of the subject property. The north side of Ridgely Avenue is dominated by retail commercial development that includes a shopping center and additional stores. Ridgely Avenue intersects with York Road approximately 1,000 feet east of the subject property. The south side of the street in this block is characterized by residential development.

Situation immediately to the rear of the subject property in the community of Lutherville, which was founded in 1852. Many of its existing homes, including a number occupied by protestants appearing in this case, were built in the 1950's. In 1972, a segment of the community was listed as a historic district by the Maryland Historical Trust, which has also nominated it to the National Register of Historic Sites and Places.

Prior to the adoption of the comprehensive map on March 24, 1971, the subject property had been zoned in the R-10 classification (single family residential, 10,000 square-foot minimum lot size). Appellees' application was reviewed by the Baltimore County Zoning Advisory Committee which submitted a detailed report on May 18, 1971. By way of analyzing the impact that the proposed reclassification might have on highways and other public facilities, the report states in relevant part:

"... [T]he intersection of Ridgely Road and York Road is presently at capacity and serious delays occur during certain periods of the day. Any increase in trip density from the subject property can only aggravate the existing problem.

"... Any additional commercial development in this area will only compound the existing problem which exists at the

intersection of Ridgely Road and York Road as far as traffic is concerned. Serious delays can be anticipated at peak hours as far as traffic congestion is concerned."

A hearing on the application was held before the Deputy Zoning Commissioner. He concluded, largely because of the expected impact on traffic, that the rezoning "would be detrimental to the health, safety and general welfare of the community," and therefore denied the request. In virtually every proceeding, the application was discussed in light of proposed extensions of Charles Street and Greenspring Drive, and the resulting realignment of Ridgely Avenue. The principal consequence of this proposed development would be the construction of two elevated highways, one of which would cut a swath through the rear of the subject property, thereby severing a small portion and creating what is characterized as a "Chinese Wall" around the main part.

As will be noted later, a major thrust of appellees' case before the various agencies was that this project would separate the subject property from the residential area to the south, thereby linking it with the commercial development on the north side of the street. In rejecting this contention, the Deputy Zoning Commissioner noted that these improvements would not materialize for five to twenty years, and thus the "traffic problems they are designed to alleviate will continue to exist"; hence, he said, the rezoning "must be considered premature."

Before the Board, appellees bottomed their application on a claim of error in the comprehensive zoning which had just been adopted. They contended that the rezoning would have no significant impact on the traffic volume in the vicinity; that the present widening of

York Road would ease the existing traffic problems; that the subject property, facing commercial development across the street, should have been placed in the same category; and that it was impractical to erect apartments on that site as contemplated by the D.R. 16 and D.R. 3.5 classifications. The protestants, on the other hand, countered these claims with evidence that not only was traffic too heavy on the main arteries, particularly at the intersections, but that it had also inundated their neighborhood streets; and, furthermore, that it had become much worse after the comprehensive rezoning, due to the shopping center across the street from the subject property.

The Board, although noting the existence of the traffic problems in this area, concluded that the Council had been "at least partially in error" in placing the front part of the property in D.R. 16, since it had "completely lost its residential character." The Board also stated:

"It is the presumption of this Board that the County Council, in considering the front portion of the subject property, really did not envision apartments constructed on this small portion of land. The small size of this strip would greatly diminish the desirability of the project. It is likely that the Council thought that perhaps a Special Exception for business offices might be in the offing. (emphasis added).

"... [T]he Board is of the opinion that [the proposed commercial use] would do no more harm, if any, to the residential character of the community to the rear of the subject lot than would a proposal to erect a business office building and, in fact, same would be a harmonious land use considering the elements previously mentioned. ..."

Apparently, the Board was not impressed with the "Chinese Wall" argument advanced by appellees, since it was of the view that the elevated highway plan was "speculative."

In affirming the Board decision, the trial judge noted:

"Now the Court is of the opinion, and only guided by the experts' opinions, that traffic generated from this B.L. zone, formerly D.R. 16, would be slight, if a shopping center were developed by the owner. The present D.R. 16 gives to the present owners the right to use the property for an apartment house, which, because of the size, is apparently not feasible for an income producing development, or they could file for a special exception before the Zoning Board and ask for the use of an office building, which again, would generate some traffic from that area. ... The best use of the property would be for that purpose [small shopping area]. I think that the Council did not err in the granting of the D.R. 16 for that use, and the only thing this Court is doing is extending to little or no degree the use of the property for B.L. purposes, whatever they might be." (emphasis added). 3/

In this Court, appellants contend that appellees have failed to sustain the heavy burden imposed upon them to establish error in the comprehensive zoning. Appellees say they produced sufficient evidence to make the issue fairly debatable. Therefore, they urge, the decision of the Board may not be overturned.

In our view, *Stratakis v. Beauchamp*, 268 Md. 643, 304 A.2d 244 (1973), which involved a similar challenge to the same set of comprehensive zoning maps, is virtually dispositive of the issues presented by this case. The applicable test noted there and recognized by the parties here is:

2/ The trial judge rendered his decision orally from the bench at the conclusion of the hearing. According to the transcript of those proceedings, he then said:

"It would seem to the Court there was no error on the part of the Council. The logical approach to the problem would be to grant the B.L. zoning to the parcel they did, and the remainder to be D.R. 3.5. ... (emphasis added).

Subsequently, he executed an affidavit in which he stated that the use of the word "Council" was an inadvertence; that he intended to say "Board." The affidavit was later the basis for a Motion to Correct Record in this Court, an effort which was vigorously resisted by appellants. The ruling on that motion was deferred until argument on the merits. In the view we take of this case, it now becomes unnecessary to rule upon the motion. The point seems to be moot for an additional reason. As we have quoted above, the trial judge had previously said, "I think that the Council did not err...."

"... Where a legislative body, or a board of county officials, pursuant to authority conferred upon it, has granted a rezoning of property, the question of judicial review is whether or not such action is arbitrary and discriminatory or fairly debatable. *Montgomery County v. Pleasant*, 268 Md. 462, 295 A.2d 216 (1972); *Hammer v. Chubbuck*, 257 Md. 566, 267 A.2d 179 (1970); *Chevy Chase Village v. Mont. Co.*, 256 Md. 27, 264 A.2d 861 (1970); *Smith v. Co. Comm'rs of Howard Co.*, 252 Md. 280, 249 A.2d 708 (1959). We shall follow that test in considering this appeal.

"While, in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as these present here, strong evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced. *Rockville v. Henlev*, 268 Md. 469, 302 A.2d 45 (1973); *Heller v. Prince Georges Co.*, 264 Md. 410, 412, 286 A.2d 778 (1972); *Greenwell v. Baltimore Aviation*, 257 Md. 712, 721, 264 A.2d 838 (1970). Since, as we have also said, this burden is onerous, *Cabin John Ltd. v. Montgomery Co.*, 259 Md. 601, 271 A.2d 174 (1970); *Greenwell v. Baltimore Aviation*, supra; *Wells v. Piedmont*, 251 Md. 554, 253 A.2d 749 (1959), the task confronting appellants [appellees], whose application followed the comprehensive rezoning by merely 70 months, is manifestly a difficult one." 268 Md. at 652-53 (emphasis in original).

As we have already suggested, appellees maintain they met their heavy burden by producing the following evidence: A civil engineer, Robert W. Czaban, called as an expert witness by appellees, testified that the 104 parking spaces proposed for the subject property would generate a negligible traffic flow of 30 to 50 cars per hour compared to the daily number of 25,000 to 28,000 automobiles already burdening the neighborhood. It should be noted that these figures are based on a traffic count taken on Wednesday, March 3, 1971, and do not reflect the situation as of the date of the Board hearing, some sixteen months later. He also supported his opinion by the widening of York Road.

Although the widening project was advertised for bids in September 1971, there is nothing in the record to show that the Council, upon

adopting the comprehensive zoning map in March, was unaware of the plans. We think it unlikely that it was. At most, the widening of York Road would possibly reduce some of the pressure at the Ridgely Road intersection. No evidence was introduced to establish that it would also relieve the traffic problems on the neighborhood streets described by the uncontested testimony of the protestants. In short, the record before us projects a possible improvement in the flow of north-south traffic on York Road, but fails to suggest a remedy for the traffic problems already generated by the local commercial development.

The other expert witness produced by appellees, also a civil engineer, described the "Chinese Wall" effect that the elevation of Greenspring Drive and Charles Street would have upon the subject property, but also conceded the indefiniteness of those plans. That they are not "reasonably probable of fruition in the foreseeable future," Senby v. County Bd. of Appeals, 259 Md. 177, 183, 304 A.2d 814 (1973); Chapman v. Montgomery County, 259 Md. 641, 649, 271 A.2d 156 (1970), is established indisputably by the evidence. The Board itself agreed that it "would be difficult to predict if and when" the proposal would materialize. In these circumstances, the evidence describing that project is insufficient to make the issue before the Board fairly debatable.

The second expert witness also rendered an opinion "that it would not be 'practical' to build apartments on the subject parcel, stating as his reason:

"You would have it facing the shopping center, you would have very little parking area for recreational purposes and, generally, for anything under 75 units it becomes a management problem to where your break-even point is, so you would have a great deal of problem here in trying to develop this site."

MICROFILMED

He was joined by one of the appellees, Earl Lipchin, who said that the property could not be utilized for apartments because of a commercial development across the street. Lipchin also stated:

"... [I]t has to be a large apartment house in order for management to be able, in order for management to take care of it. Anything less than 75 to 100 apartments, you have trouble; your expenses would exceed your amount of income, in order to do it properly."

"Yes, you can make money if you take that one and operate it yourself; yes, but we are not here for that." (emphasis added).

Finally, as a reason for his opinion that the comprehensive zoning was erroneous, he said "in our estimation the best suitable use for that is commercial."

To the extent that the testimony of the latter two witnesses is intended to support a claim of unconstitutional confiscation, it is strikingly reminiscent of the testimony we rejected in Stratakin v. Beauchamp and Rockville v. Henley, both supra, as "generalizations of economic infeasibility." As Judge Digges said for the Court in Henley:

"Here, the vague and unsupported expert testimony, however emphatic, does not take the place of the necessary factual support that would prove an applicant is denied all reasonable use of his property. Appellee's experts merely invoked economic infeasibility as some form of magic incantation in hope of transposing one zoning use to another. Such general statements and use of magic words are ineffective. In order to obtain rezoning on the basis of an unconstitutional confiscation an applicant must show that he has been deprived of all reasonable use of his property and that it could not be used for any of the permitted uses in the existing zone. Cabin John Ltd. v. Montgomery Co., 259 Md. 661, 271 A.2d 174 (1970); Montgomery Co. Council v. Kasur, 253 Md. 220, 252 A.2d 832 (1969); Baltimore City v. Robinson, 239 Md. 641, 212 A.2d 506 (1965)." 200 Md. at 477 (emphasis in original).

MICROFILMED

The evidence here that a special exception for office building construction is available in the D.R. 16 zone underscores the failure of the applicant to show that "he has been deprived of all reasonable use of his property and that it could not be used for any of the permitted uses in the existing zone." Indeed, as we have noted, the Board assumed that to be the result intended by the Council in adopting that designation for the front portion of this property.

In sum, what we deal with here are unsupported claims that there was error in the comprehensive zoning because an already overburdened traffic problem will only be made slightly worse; that apartments cannot succeed when built across the street from commercial development; and an apartment use on this site would be "impractical" since only thirty-six units can be built. These are bald allegations, unsubstantiated by facts sufficient to overcome the presumption of correctness which attaches with the adoption of a comprehensive zoning, especially one adopted only a few weeks before the rezoning application was filed. In other words, the evidence produced to show error in the comprehensive zoning of March 24, 1971 was insufficient to make the issue fairly debatable. Accordingly, the decision of the Board cannot stand, nor can the order of the circuit court affirming it.

ORDER REVERSED; CASE REMANDED FOR THE PASSAGE OF AN ORDER REVERSING THE DECISION OF THE COUNTY BOARD OF APPEALS; COSTS TO BE PAID BY APPELLEES.

MICROFILMED

MCA 
MATZ, CHILDS & ASSOCIATES, INC.
CONSULTING ENGINEERS
1020 Cromwell Bridge Rd., Baltimore, Md. 21204, Tel. 301/893-0900

DESCRIPTION

4.16 ACRE PARCEL, SOUTH SIDE OF RIDGELY ROAD, 388 FEET, MORE OR LESS, WEST OF KURTZ AVENUE, EIGHTH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND.

This Description is for "B-1" Zoning

Beginning for the same at a point on the Southerly side of Ridgely Road at the distance of 338.00 feet, more or less, from the intersection formed by the west side of Kurtz Avenue and the southerly side of Ridgely Avenue and running thence binding on the southerly side of Ridgely Road S 76° 00' W 132.5 feet, thence S 88° 00' W 160.0 feet, thence N 22° 50' E 13.4 feet, thence S 88° 15' W 146.95 feet to the Easterly side of a lot of ground of the Baltimore Gas and Electric Company, thence binding on three sides of said lot S 01° 43' E 169.0 feet to a concrete monument thence S 38° 51' W 100.0 feet to another monument, thence N 01° 43' W 110.0 feet to the South side of said road, thence S 88° 15' W 66.05 feet to the Easterly side of the right of way of the Northern Central Railway (Penn Central) thence along the said right of way S 04° 56' 25" E 356.14 feet, thence S 21° 30' W 34.0 feet to the center of North Avenue as shown on a plat of Lutherville, thence on said centerline S 69° 00' E 120.0 feet, thence leaving said avenue N 22° 50' E 170.0 feet, thence S 69° 00' E 251.0 feet to the center of Second Avenue, shown on said plat, thence binding thereon N 22° 50' E 441.0 feet to the place of beginning.

Containing 4.16 acres of land, more or less.
Water Supply & Sewerage > Drainage > Highways & Structures > Developments > Planning & Reports
RLS:mp1 J.O. #70044



Frank Trainer et al.
Appellants
vs.
Earl Lipchin et al.
Appellees

IN THE COURT OF APPEALS
OF
MARYLAND
SEPTEMBER TERM (1973)
NO. 16

OFFICE OF LAW

STIPULATION

It is stipulated this 23rd day of April, 1973 by the parties, pursuant to Maryland Rule 730 C (1), that the time for filing appellee's brief in this appeal be postponed fifteen (15) days, from April 25, 1973 to May 10, 1973.

/s/
Gerald E. Topper
Attorney for Appellants
1610-1611 Munsey Building
Baltimore, Maryland 21202
436-2069

/s/
W. Lee Harrison, Esq.
Attorney for Appellees
306 West Joppa Road
Towson, Maryland 21204
823-1200

/s/
W. Lee Harrison, Esq.
Attorney for Appellees
County Office Building
Towson, Maryland 21204
823-1200

MICROFILMED

PETITION FOR RECLASSIFICATION
From D.R. 3-5 and D.R. 16 to B-1
8/3 Ridgely Road, 388 feet
West of Kurtz Avenue
8th District - Central Sector

Earl Lipchin and
Walter L. McManus, Jr.
Petitioners

Zoning File No. 72-61-R

Frank Trainer
Mrs. John Waters
Carl Reiser
Dan Walke, et al.
Protestants-Appellants

IN THE
CIRCUIT COURT
OF
BALTIMORE COUNTY
AT LAW
9/25/73

ORDER FOR APPEAL BY APPELLEES

Mr. Clerk:

Enter an appeal to the Court of Appeals from the Order of the Circuit Court for Baltimore County, entered in this action on January 24, 1973.

/s/
Gerald E. Topper
Attorney for Appellants
1610-1611 Munsey Building
Baltimore, Maryland 21202
436-2069
Counsel for Appellants

I HEREBY CERTIFY, that on this day of February, 1973, a copy of the within "Order for appeal" was mailed postage prepaid to W. Lee Harrison, Esq., 306 West Joppa Road, Towson, Maryland, 21204, and Theodore R. McKeldin, Esq., 10 Light Street, Baltimore, Maryland 21202, Attorneys for Appellees.

/s/
Gerald E. Topper

MICROFILMED

RE: PETITION FOR RECLASSIFICATION
From D.R. 3-5 and D.R. 16 to B-1
8/3 Ridgely Road, 388 feet
West of Kurtz Avenue
8th District - Central Sector

Earl Lipchin and
Walter L. McManus, Jr.
Petitioners

Zoning File No. 72-61-R

Frank Trainer
Mrs. John Waters
Carl Reiser
Dan Walke, et al.
Protestants-Appellants

IN THE CIRCUIT COURT
OF
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 9
File No. 4948

REASONS FOR APPEAL TO CIRCUIT COURT FROM THE ORDER OF THE COUNTY BOARD OF ZONING APPEALS

Protestants, parties to the proceedings before the Board of County Appeals, feeling aggrieved by that portion of the decision of the Order of the Board, dated October 18, 1972, which ordered:

... that the reclassification to a B-1 zone on that portion of the subject property noted as Parcel 8 on Petitioners' Exhibit #1 petitioned for, be and the same is hereby GRANTED;

prosecute their appeal to the Circuit Court of Baltimore County pursuant to their rights as provided under Sections 501 - 504 of the Baltimore County Zoning Code. They give the following reasons for taking this appeal:

1. The action of the Board of Appeals' creation of commercial zoning here establishes use potentials which are not in accordance with the comprehensive zoning plan of Baltimore County and are incompatible with the potentials of adjoining residential properties.
2. The proposed reclassification will depreciate the value of the adjoining residential properties whose owners purchased and improved these properties acting in reliance upon existing zoning.
3. The Order of the Board of County Appeals, in this case, gives momentum to the rash of applications for zoning reclassifications in Lutherville and serves as another instance to remove stabilization for the uses established by the County Council for the Lutherville properties.

GERALD E. TOPPER
ATTORNEY AT LAW
1610-1611 MUNSEY BUILDING
BALTIMORE 2, MARYLAND
436-2069

MICROFILMED

4. Protestants believe the Board erred in reversing the Zoning Commissioner's Order of November 17, 1971, in the matter.
5. And for other reasons to be given at the time of the hearing.

Gerald E. Topper, Attorney for
Protestants-Appellants
1610-1611 Munsey Building
Baltimore, Maryland 21202
436-2069

I HEREBY CERTIFY, that on this 16th day of November 1972, a copy of the foregoing Reasons for Appeal to Circuit Court from the Order of the County Board of Zoning Appeals was forwarded to County Board of Appeals, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, W. Lee Harrison, Esquire, 306 West Joppa Road, Towson, Maryland 21204 and Theodore R. McKeldin, Esquire, 10 Light Street, Room 1035, Baltimore, Maryland 21202, Attorneys for Petitioners.

Gerald E. Topper, Attorney for
Protestants-Appellants
1610-1611 Munsey Building
Baltimore, Maryland 21202
436-2069

MICROFILMED

GERALD E. TOPPER
ATTORNEY AT LAW
1610-1611 MUNSEY BUILDING
BALTIMORE 2, MARYLAND
436-2069

RE: PETITION FOR RECLASSIFICATION
from D.R. 3.5 and D.R. 16 to S.L.
S/S Ridgely Road, 388 feet
West of Kurtz Avenue
8th District - Central Sector

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Earl Lipchin and
Walter L. McManus, Jr.,
Petitioners

Zoning File No. 72-61-R

Frank Trainer, et al,
Protestants-Appellants

Misc. Docket No. 9

Folio No. 251

File No. 4948

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

MR. CLERK:

Please file, &c.

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

cc: W. Lee Harrison, Esq.
Theodore R. McKelvin, Esq.
Gerald E. Topper, Esq.
Mrs. Anne Ray, Secretary

RE: PETITION FOR RECLASSIFICATION
from D.R. 3.5 and D.R. 16 to S.L.
S/S Ridgely Road, 388 feet
West of Kurtz Avenue
8th District - Central Sector

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Earl Lipchin and
Walter L. McManus, Jr.,
Petitioners

Zoning File No. 72-61-R

Frank Trainer, et al,
Protestants-Appellants

Misc. Docket No. 9

Folio No. 251

File No. 4948

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come John A. Slovick, Walter A. Balter, Jr. and John A. Miller,
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 LOCKET OF ZONING
COMMISSIONER OF BALTIMORE COUNTY**

No. 72-61-R

May 18, 1971 Comments of the Baltimore County Zoning Advisory Committee filed

Aug. 2 Petition of Earl Lipchin and Walter L. McManus, Jr. for reclassification
from D.R. 3.5 and D.R. 16 to S.L. on property located on the south
side of Ridgely Road, 388 feet west of Kurtz Avenue, 8th District - Id.

" 3 Order of Zoning Commissioner directing advertisement and posting of
property - date of hearing set for September 16, 1971 at 3:00 p.m.

" 30 Certificate of Publication in newspaper - filed

" 2 Certificate of Posting of property - filed

" 16 At 3:00 p.m., hearing held on petition by Deputy Zoning Commissioner -
case held sub curia

Nov. 17 Order of Deputy Zoning Commissioner denying reclassification

Dec. 3 Order of Appeal to County Board of Appeals from Order of Deputy
Zoning Commissioner filed by W. Lee Harrison, Esquire, Attorney for
Petitioners

July 20, 1972 Hearing on appeal before County Board of Appeals - case held sub curia

Oct. 18 Order of County Board of Appeals granting reclassification to a S.L.
same on that portion of the subject property noted as Parcel B on
Petitioners' Exhibit #1, and denying reclassification petitioned for on all
of the remaining portions of the subject property.

Lipchin and McManus - 9/25/4948

Nov. 18, 1972 Order for Appeal filed in the Circuit Court for Baltimore County by
Gerald E. Topper, Esquire, Attorney for Protestants, Frank Trainer,
et al

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

" 13 Certificate of Notice sent to all interested parties

Dec. 5 Transcript of testimony filed - 1 volume

Petitioners' Exhibit No. 1 - Plot of subject property in color -
Maps, Childs 4/12/71

" " " 2 - Traffic counts - Ridgely & York Rds.

" " " 3 - File in subject case #72-61-R

Protestants' Exhibit A - List of protestors in hearing room

" 11 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, as
are also the use district maps, and your Respondents respectfully 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

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

RE: PETITION FOR RECLASSIFICATION
from D.R. 3.5 and D.R. 16 to S.L.
S/S Ridgely Road, 388 feet
West of Kurtz Avenue
8th District - Central Sector

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Earl Lipchin and
Walter L. McManus, Jr.,
Petitioners

Zoning File No. 72-61-R

Frank Trainer, et al,
Protestants-Appellants

Misc. Docket No. 9

Folio No. 251

File No. 4948

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 1101-6 (4) of the Maryland Rules of Procedure
John A. Slovick, Walter A. Balter, Jr. and John A. Miller, 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 my secretary, W. Lee Harrison,
Esquire, 306 West Joppa Road, Towson, Maryland 21204 and Theodore R. McKelvin, Esquire,
Room 1035 - 10 Light Street, Baltimore, Maryland 21202, Attorneys for the Petitioners, and
Gerald E. Topper, Esquire, 1610-1611 Munsey Building, Baltimore, Maryland 21202,
Attorney for the Protestants, a copy of which notice is attached hereto and prayed that it
may be made a part thereof.

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
County Office Building, Towson, Md. 21204
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been
mailed to W. Lee Harrison, Esquire, 306 West Joppa Road, Towson, Maryland 21204 and
Theodore R. McKelvin, Esquire, Room 1035 - 10 Light Street, Baltimore, Maryland 21202,
Attorneys for the Petitioners, and Gerald E. Topper, Esquire, 1610-1611 Munsey Building,
Baltimore, Maryland 21202, Attorney for the Protestants, on this 15th day of
November, 1972.

cc: Zoning - B. Anderson
Planning - J. Cyle

Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

RE: PETITION FOR RECLASSIFICATION
from D.R. 3.5 and D.R. 16 to S.L.
S/S Ridgely Road, 388 feet
West of Kurtz Avenue
8th District - Central Sector

IN THE CIRCUIT COURT
OF
BALTIMORE COUNTY
AT LAW

Earl Lipchin and
Walter L. McManus, Jr.,
Petitioners

Zoning File No. 72-61-R

Frank Trainer
Mrs. John Waters
Carl Balter
Dan Spikes, et al
Protestants-Appellants

Docket

Folio

File No.

ORDER FOR AN APPEAL

Mr. Clerk:

Kindly enter an appeal to the Circuit Court of Baltimore County
from the County Board of Zoning Appeals' decision of October 18, 1972.
in Case No. 72-61-R.

Gerald E. Topper, Attorney for Protestants
1610-1611 Munsey Building
Baltimore, Maryland 21202
Lexington 9-3230

I HEREBY CERTIFY, that on this 9th day of November 1972, two
copies of the foregoing Order of Appeal was forwarded to County Board
of Appeals, County Office Building, 111 W. Chesapeake Avenue, Towson,
Maryland 21204; and one copy was forwarded to W. Lee Harrison, Esquire,
306 West Joppa Road, Towson, Maryland 21204 and Theodore R. McKelvin,
Esquire, 10 Light Street, Room 1035, Baltimore, Maryland 21202, Attorneys
for Petitioners.

Gerald E. Topper, Attorney for Protestants
1610-1611 Munsey Building
Baltimore, Maryland 21202
Lexington 9-3230

LAW OFFICES
W. LEE HARRISON
300 WEST JOPPA ROAD
TOWSON, MARYLAND 21204

November 30, 1971

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

Re: Petition for Reclassification S/S of Ridgely Road, 388' W of
Kurtz Avenue - 8th District, Earl Lipchin, et al - Petitioners
No. 72-61-R (Item No. 14)

Dear Mr. DiNenna:

Please note an appeal to the County Board of Appeals from the decision
and order of the Deputy Zoning Commissioner dated November 17, 1971,
denying the above requested Petition on behalf of Earl Lipchin, Petitioner.

I enclose herewith check in the amount of \$75.00 to cover the costs
of said appeal.

Very truly yours,

J. Lee Harrison
W. Lee Harrison

b/enc.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Oliver Myers Date: May 13, 1971

FROM: Ian J. Forrest

SUBJECT: Item 14

14 Property Owner: Earl Lipchin & Walter L. McManus
Location: S/S Ridgely Rd., 388' W. of Kurtz Ave.
Present Zoning: D.R. 3.5 & D.R. 16
Proposed Zoning: S.L.
District: 8th Sector: Central
No. Acres: 4.16

Public water and sewer 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.

Chief
Water and Sewer Section
BUREAU OF ENVIRONMENTAL HEALTH

137/ca

BALTIMORE COUNTY BOARD OF EDUCATION

ZONING ADVISORY COMMITTEE MEMORANDUM
OF April 27 1971 (Case No. 72-61-R)

Petitioners: Lipchin & McManus
Location:
District: 7
Present Zoning: D.R. 3.5 & D.R. 16
Proposed Zoning: S.L. (Residential Single-Family)
No. of Acres: 4.16

Comments: Would result in a loss of 10 to 15% of existing
parking.

Rec'd 11/10/72
9-30 AM

TO: Mr. Edward D. Hardesty, Zoning Commission
Attn: Mr. Myers
Date: 5/10/71

FROM: Planning Division
Fire Prevention Bureau

SUBJECT: Property Owner:
Earl Lipchin & Walter L. McManus

Location: S/S Ridgely Road, 388' W. of Kurtz Avenue

Item #14

Fire hydrants for the proposed site are required and shall be in accordance with Baltimore County Standards. The hydrants shall be located at spacings of 300 feet.

The owner shall be required to comply with all applicable requirements of the 101 Life Safety Code, 1967 Edition, and the Fire Prevention Code when construction plans are submitted for approval.

H. Thomas Kelly
Supt. Planning Div.

STATE OF MARYLAND
STATE ROADS COMMISSION
300 WEST PATTERSON STREET
BALTIMORE, MD. 21201
April 30, 1971

Mr. Edward D. Hardesty
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: ITEM 14
Z.A.C. Meeting, April 27,
Property Owner: Earl Lipchin &
Walter L. McManus
Present Zoning: D.R. 3.5 & W.R. 16
Proposed Zoning: B. L.
District: 8th Section Central
No. Acres: 4.16
Charles St. Extended (Route 139)

Dear Mr. Hardesty:

The subject site could be seriously affected by the State Roads Commission's tentative proposed preliminary highway improvement plans.

Very truly yours,
Charles Lee, Chief
Development Engineering Section
by: John E. Meyers
Asst. Development Engineer

CJ:ENB:sk

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. Edward D. Hardesty
Zoning Commissioner
Date: May 11, 1971

FROM: Project Planning Division

SUBJECT: Zoning Advisory Agenda Item #14

April 27, 1971
Earl Lipchin & Walter L.
McManus
S/S Ridgely Road,
388' W. of Kurtz Avenue

This office will withhold comment until the plan is revised as per the State Roads Commission and the Bureau of Engineering's comments.

BALTIMORE COUNTY, MARYLAND

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

TO: Edward D. Hardesty
Attn: Oliver L. Myers
Date: May 11, 1971

FROM: C. Richard Moore

SUBJECT: Item 14 - Cycle Zoning
Property Owner: Earl Lipchin & Walter L. McManus
Ridgely Road west of Kurtz Avenue
DR 3.5 & DR 16 to BL

The subject petition was reviewed as Item 71-69 and the previous comment remains valid.

The subject petition is requesting a change from DR 3.5 to BL. Without going into great detail on the subject petition, it must be pointed out that the intersection of Ridgely Road and York Road is presently at capacity and serious delays occur during certain periods of the day. Any increase in trip density from the subject property can only aggravate the existing problem.

C. Richard Moore
Assistant Traffic Engineer

CRM:RF

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Edward Hardesty
Attn: Oliver L. Myers
Date: May 10, 1971

FROM: Ellsworth N. Myers, P.E.

SUBJECT: Item #14 (April - October Cycle 1971)
Property Owner: Earl Lipchin & Walter L. McManus
Location: S/S Ridgely Rd., 388' W. of Kurtz Ave.
Present Zoning: D.R. 3.5 & W.R. 16
Proposed Zoning: B.L.
District: 8th Section Central
No. Acres: 4.16

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:

The subject plan correctly depicts the proposed intersection and extensions of Charles Street Avenue - Ridgely Road and Greenspring Drive in respect to this property. Both highways are proposed to be improved as closed roadway sections within 100-foot wide rights-of-way with a channelized intersection. Since Greenspring Drive will require construction of a bridge over the North Central Railroad, it is anticipated that a fill of approximately 30 feet above the railroad track elevations will be required. Therefore, considerable slope easement is required through this property adjacent to the proposed highway right-of-way. An approximate list of required slope easement has been indicated on the attached plat for the information of all concerned.

Due to the extreme elevation of the proposed vertical alignment required for the proposed highway construction, it is not possible to develop this property as proposed without constructing retaining walls or changing the grade of the site by adding considerable fill. However, the extent of fill is controlled by the elevation of existing Ridgely Road and the Baltimore Gas and Electric Company sub-station.

That portion of Ridgely Road adjacent to the northernmost outline of this property and severed by the proposed extension of Charles Street Avenue would become a service road only when the other proposed highway improvements are completed. Specific requirements for the alignment, paving and right-of-way width will be resolved in connection with the preparation of final contract drawings for Greenspring Drive and Charles Street Avenue.

In order to develop this property in a manner that is compatible with the proposed highway construction, the Petitioner and his engineer should contact the Chief of the Street, Road and Bridge Design Group of this office for more specific details.

Item #14 (April - October Cycle 1971)
Property Owner: Earl Lipchin & Walter L. McManus
Page 2
May 10, 1971

Storm Drains:

No provisions for accommodating storm water or drainage have been indicated on the subject plan; however, storm drainage facilities, including drainage and utility easements will be required in connection with the proposed development of this property.

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.

Sediment Control:

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.

Water:

Public water supply is available to serve this property.

Sanitary Sewer:

Public sanitary sewerage can be made available to serve this property by construction of an extension of the existing sanitary sewer located along the west side of the North Central Railroad right-of-way.

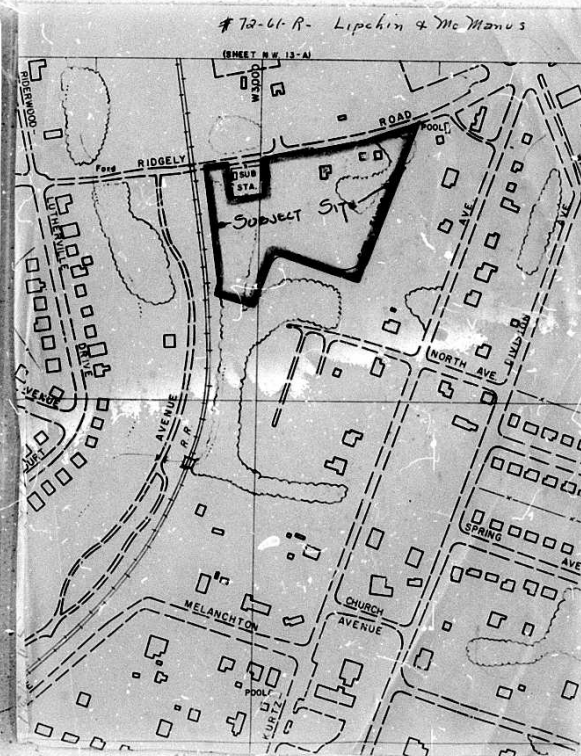
Ellsworth N. Myers, P.E.
Chief, Bureau of Engineering

END:ENB:RND:as

cc: File (3)

Attachment

Key Sheet: S-SE
Position Sheets: 40 NW 2 and 3
Topo: NW 12 A



CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: S-7
Date of Posting: DEC 11-1971

Posted for: APPEAL

Petitioner: EARL LIPCHIN & WALTER L. McMANUS, JR.

Location of property: S/S RIDGELY ROAD, 388' W. OF KURTZ AVE.

Location of Sign: S/S RIDGELY ROAD, SOUTH E. OF G.T.E. POWER STATION

Remarks:

Posted by: *Charles M. Neal*
Date of return: DEC 17-1971



MATZ, CHILDS & ASSOCIATES			
1020 CROW WELL BRIDGE ROAD			
BALTIMORE MARYLAND 21204			
J. O. NO.	QUAN BY	TERMS BY	CHECKED BY
70044	ELS		PL

