

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:
Congregation B'nai Jacob Incorporated

I, or we, _____ 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 reclassified, pursuant to the Zoning Law of Baltimore County, from an... D. R. 5.5... zone to an... D. R. 16... zone; for the following reasons:

that there is a need for housing for senior citizens

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 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 for Baltimore County.

CONGREGATION B'NAI JACOB INCORPORATED

Contract purchaser: _____ Legal Owner: _____
Address: _____ Address: 6605 Liberty Rd., Baltimore County, Md. 21207

Harold Posner, Esq. _____ Protestants' Attorney
Address: 101 E. 25th St., Baltimore, Md. 21218

ORDERED By The Zoning Commissioner of Baltimore County, this... 8th... day of February, 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... 13th... day of March, 1972, at 1:00 o'clock P. M.

Zoning Commissioner of Baltimore County.

(over)

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

Congregation B'nai Jacob Incorporated
I, or we, _____ legal owner... of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1. 1802.2C...

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

to permit a frontyard setback of 30 feet in lieu of the required 75 feet; and also to permit a rear yard setback of 57 feet in lieu of the required 75 feet. That due to the relative smallness of the lot involved, granting of the aforementioned variances are essential to allow erection of the proposed building.

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

CONGREGATION B'NAI JACOB INCORPORATED

Contract purchaser: _____ Legal Owner: _____
Address: _____ Address: _____

Harold Posner, Esq. _____ Protestants' Attorney
Address: 101 E. 25th St., Baltimore, Md. 21218

ORDERED By The Zoning Commissioner of Baltimore County, this... 8th... day of February, 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... 13th... day of March, 1972, at 1:00 o'clock P. M.

Zoning Commissioner of Baltimore County.

(over)

RE: PETITION FOR RECLASSIFICATION AND VARIANCES : BEFORE THE
SW/corner of Liberty Road, : DEPUTY ZONING
and Patterson Avenue - : COMMISSIONER
2nd District : OF
Congregation B'nai Jacob, Inc. : BALTIMORE COUNTY
Incorporated - Petitioners :
NO. 72-206-RA (Item No. 33)

This is a Petition for a Reclassification from a D. R. 5.5 Zone to a D. R. 16 Zone and for Variances to Section 1802.2C to permit a front yard setback of thirty (30) feet instead of the required twenty-five (25) feet and to permit a rear yard setback of fifty-seven (57) feet instead of the required seventy-five (75) feet. The parcel consists of 1.57 acres which is improved with an existing synagogue and is located on the southwest corner of Liberty Road and the proposed Patterson Avenue Extended.

A real estate consultant, testifying on behalf of the Petitioner, stated that the proposed apartments were being planned for the senior citizens and that there was a great need for this type of housing in the area. He also felt that since the property was located on a major thoroughfare near commercial zoning, the property should have been zoned for a higher density.

Rabbi Joseph Baumgarten and other members of the synagogue, who are also residents of the area, gave testimony to the effect that senior citizen type apartments were definitely needed in the area and would bring a type of people to the area who would have a stabilizing affect on the neighborhood. It was pointed out that while this type of operation was well established in Baltimore City it was relatively new to the County. They felt that it was becoming a necessary part of the operation of a synagogue and that the maps are in error since the D. R. 5.5 zoning does not make provisions for this type of use.

Insofar as the Variances are concerned, the Petitioners felt that the total lot size was such that it would not permit the expansion as proposed.

RE: PETITION FOR RECLASSIFICATION
From D. R. 5.5 zone to D. R. 16 zone
and VARIANCE from Section 1802.2C
of the Baltimore County Zoning
Regulations
SW/corner Liberty Road and
Patterson Avenue
2nd District
Congregation B'nai Jacob Incorporated
Petitioner
Law Booklet 9 Folio 249
Baltimore County
MISCELLANEOUS LAW NO. 4944
IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY
FOREST GARDEN IMPROVEMENT ASSOCIATION
PROTESTANTS

ORDER OF APPEAL TO THE
COURT OF APPEALS OF
MARYLAND

Dr. Clerk:

Please enter an appeal to the Court of Appeals of Maryland on behalf of the Petitioner, Congregation B'nai Jacob Incorporated, a Maryland Corporation, from the Order dated April 4, 1972 of Judge Walter R. Haile, of the Circuit Court for Baltimore County, which affirmed the order of the Baltimore County Board of Appeals dated November 1, 1972, and also ordered that costs be paid by said Petitioner.

Harold Posner
Attorney for Petitioner,
Congregation B'nai Jacob Incorporated
101 E. 25th St.
Baltimore, Md. 21218

467-5326

I HEREBY CERTIFY that on this... day of April, 1972, I mailed a copy of the foregoing Order of Appeal to the Court of Appeals of Maryland to Edward L. Ritsel, Esq., Attorney for Lockearn and Forest Garden Improvement Associations, First National Bank Bldg., Light & Reduced Sts., Baltimore, Md. 21202.

Harold Posner

RE: PETITION FOR RECLASSIFICATION : BEFORE
From D. R. 5.5 zone to D. R. 16 zone : COUNTY BOARD OF APPEALS
and VARIANCE from Section 1802.2C : OF
of the Baltimore County Zoning : BALTIMORE COUNTY
Regulations : No. 72-206-RA
SW/corner of Liberty Road and :
Patterson Avenue :
2nd District :
Congregation B'nai Jacob, Incorporated :
Petitioner :

UNION

This case comes before the Board on an appeal by the Petitioners from an Order of the Deputy Zoning Commissioner, which denied a requested reclassification and variance.

The subject property is located at the southwest corner of Liberty Road and Patterson Avenue, in the 2nd Election District of Baltimore County. The Petitioners seek a reclassification from D. R. 5.5 to D. R. 16, and a variance from Section 1802.2C, so that they might erect apartments next to their existing synagogue. The subject property contains approximately 1.57 acres, and is now improved by an orthodox Jewish synagogue and adjoining school. If this reclassification and variance would be granted, the Petitioners plan to raise the school and construct the apartments to the side and rear of the existing synagogue.

There was considerable testimony concerning need for apartments at this specific location, as some would be convenient for senior citizens and members of this congregation who would wish to live next to the synagogue. The rabbi and several members of this congregation attested as to the desirability of such a project. A land planner and architect also testified on behalf of the Petitioners. Frank M. Fisher, a member of the Baltimore County Planning Staff, testified in opposition to this petition, citing that this area had been carefully considered by the staff and the Planning Board at the time preceding the adoption of the comprehensive land use map on March 24, 1971. Mr. Fisher also noted that the subject property is surrounded by D. R. 5.5 zoning, which is primarily utilized for single family residences. The Planning Staff and Planning Board

Cong. B'nai Jacob, Inc. - No. 72-206-RA

2.

recommended the existing D. R. 5.5 zoning, which classification was ultimately adopted by the County Council, as mentioned above, on March 24, 1971. The Lockearn Improvement Association and the Forest Garden Improvement Association also testified in opposition to this petition. These communities are immediately across Liberty Road from the subject property.

The sole question to be decided by this Board is whether or not the County Council erred in placing the subject property in the D. R. 5.5 classification. It is the judgment of this Board that the Council did not err. Frankly, in carefully reviewing the testimony and evidence presented in this case, the Board could find not one shred of information which might lead to the conclusion that the Council was in error. Therefore, this Board is compelled to deny this request for reclassification and the accompanying requested variance, and the Order of the Deputy Zoning Commissioner shall be affirmed.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 1st day of November, 1972, by the County Board of Appeals ORDERED, that the Order of the Deputy Zoning Commissioner dated April 10, 1972 is hereby affirmed, and the reclassification petitioned for from D. R. 5.5 to D. R. 16, and the variance from Section 1802.2C of the Baltimore County Zoning Regulations, be and the same are hereby Denied.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Slowik, Chairman

Walter A. Miller, Jr.

John A. Miller

To grant the requested reclassification and variances would have a tendency to overcrowd the land and would not be in harmony with the general purposes and intent of the regulations.

Without reviewing the evidence further in detail, but based on all the evidence presented at the hearing, in the opinion of the Deputy Zoning Commissioner, the Petitioner has failed to prove error in the Comprehensive Zoning Map as adopted by the Baltimore County Council on March 24, 1971. The burden of proving error is borne by the Petitioner and in this case, this burden has not been met.

Therefore, it is ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 10th day of April, 1972, 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 in a D. R. 5.5 Zone.

It is further ORDERED that the requested Variances also be DENIED.

Deputy Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING
DATE 4/10/72
BY [Signature]

CONGREGATION BHAI JACOB INCORPORATED,

Petitioner

vs.

THE ZONING COMMISSIONER OF BALTIMORE COUNTY

PETITIONER'S BRIEF

Harold Posner
Attorney for Petitioner
101 E. 25th St.
Baltimore, MD. 21218
467-5330

STATEMENT OF FACTS

Congregation Bhai Jacob Incorporated is a non-profit corporation chartered in Maryland. This corporation owns and operates on its property a synagogue located in the Lochearn section of Baltimore County; the address being known as 6605 Liberty Road (Liberty Road at Patterson Avenue). This synagogue is conducted in accordance with the traditions, rites and customs of the Orthodox Jewish religion, which means that parking is prohibited on its land on Saturdays (the Jewish sabbath) and other Jewish holidays.

This Petition for Zoning Re-Classification is for a change of zoning re-classification from the presently existing D. R. 5.5 to D. R. 16. The reason for this is to allow the erection of an apartment building to house senior citizens, for which there is a definite need.

QUESTION INVOLVED

Is there an error in the zoning map?

ANSWER TO QUESTION INVOLVED

Yes.

ARGUMENT: This error in the zoning map as applied to Petitioner's property was arbitrary, capricious, discriminatory, and illegal.

The zoning of Petitioner's property and the property immediately adjacent and surrounding thereto, was deliberately designed to exclude or to reduce the number of persons of the Jewish faith from living in the Lochearn section of Baltimore County.

The testimony at any hearing of this Petition will show affirmatively and clearly that in years past, Jewish people were systematically excluded from buying land and homes in the Lochearn area, and from living in the area. The device used were restrictive racial and religious covenants placed into deeds which were then recorded among the land records of Baltimore County in the Court House in Towson.

It took a United States Supreme Court decision, Shelley vs. Kraemer, 334 U. S. 1 (1948) to upset this practice. This Supreme Court case held these covenants to be unenforceable in Court.

Page 3

Now this recently adopted Baltimore County zoning map is an attempt by Baltimore County to perpetuate discrimination against Jewish people, and as such runs counter to the equal protection clause of the 14th Amendment to the United States Constitution.

The Courts have struck down similar attempts at discrimination. There is the case of American Civil Liberties Union vs. Black Jack (Missouri). Here, an outside church group bought land and announced plans to put up government-subsidized townhouses, thereby changing the complexion of the small community. Black Jack responded by incorporating itself as an independent city and then zoned all the vacant land for single-family residences. It is now reported that this attempt at reasoning was held to be unconstitutional.

Also, the case of Green vs. Board of Zoning Appeals of Baltimore County, 209 Md. 420 (1956) is on point. It was pointed out in this Maryland case that an attack upon a zoning ordinance, to be successful, must show affirmatively and clearly, that it is arbitrary, capricious, discriminatory, or illegal. ARGUMENT: There is D. R. 16 zoned land only about a block from Petitioner's property.

At the southwest corner of Liberty Road and St. Luke's Lane, you have a rather large vacant tract of land, unimproved, which is presently zoned D. R. 16.

CONCLUSION

For the foregoing, Petitioner respectfully urges that its Petition for Zoning Re-Classification to D. R. 16 be granted.

Respectfully submitted,
Harold Posner
Attorney for Petitioner
101 E. 25th St.
Baltimore, Md. 21218

From D.R. 5.5 Zone to D.R. 16 Zone and VARIANCE From Section 1202.2C of the Baltimore County Zoning Regulations
5700 Corner Liberty Road and Patterson Avenue
2nd District

BALTIMORE COUNTY

MISCELLANEOUS LAW NO. 49-4

CONGREGATION BHAI JACOB INCORPORATED
Petitioner

LAW Docket 9 Folio 249

LOCHEARN IMPROVEMENT ASSOCIATION
FOREST GARDEN IMPROVEMENT ASSOCIATION
Protestants

OPINION

The Baltimore County Board of Appeals was asked to declare that on March 24, 1971 the County Council acted in not zoning the Congregation's property D. R. 16, instead of D. R. 5.5, which was the classification assigned to all of the surrounding property, as part of a comprehensive rezoning of the whole area.

The Board found no evidence legally sufficient to prove that the County Council erred.

There was testimony before the Board indicating that the County Council did not contact the congregation to learn of their plans for the property before zoning the property D. R. 16 on March 24, 1971; there was testimony that if the congregation had been approached, they would have revealed to the County Council their plans to construct a conversion factor of the existing R-6; that there were publicly advertised hearings in 1968, 1969, and 1970 by the Planning Staff, Planning Board, and County Council before final action was taken on March 24, 1971; that the congregation did not decide to disclose their plan to construct housing for senior citizens until after final action was taken on March 24, 1971; that the congregation's disclosure came in the form of the petition for reclassification filed in the fall of 1971.

There was other testimony indicating that on March 24, 1971 the property, and other properties surrounding it, previously zoned R-6, were rezoned D. R. 5.5; that it was just a number changing, the changing of the zone from R-6 to D. R. 5.5, which is about the same density; that the density remained about the same, it was just a conversion factor of the existing R-6; that there were publicly advertised hearings in 1968, 1969, and 1970 by the Planning Staff, Planning Board, and County Council before final action was taken on March 24, 1971; that the congregation did not decide to disclose their plan to construct housing for senior citizens until after final action was taken on March 24, 1971; that the congregation's disclosure came in the form of the petition for reclassification filed in the fall of 1971.

After consideration of the testimony produced before it, the Board concluded that the County Council had not acted. These sentences appear in the written opinions: "Frankly, in carefully reviewing the testimony and evidence presented in this case, the Board could find not one shred of information which might lead to the conclusion that the Council was in error. Therefore, this Board is compelled to deny this request for reclassification and the accompanying requested variance, and the order of the Deputy Zoning Commissioner shall be affirmed."

Whether the action of the Board was arbitrary must be determined from the facts from which the Board drew its conclusion. Ordor v. Board of Zoning Appeals of Baltimore County, 204 Md. 397.

My opinion is that at the Board hearing there was no evidence legally sufficient to show that the County Council had actual or constructive knowledge of the plans of the congregation to construct a conversion factor of the existing R-6; that there were publicly advertised hearings in 1968, 1969, and 1970 by the Planning Staff, requiring D. R. 16 zoning; but there was no evidence that the County Council improperly rezoned their property the same way they rezoned the property surrounding it.

In the congregation's petition filed in support of the appeal to this court, paragraph three alleges that the congregation proved its case before the Board of Appeals as to the error in the zoning map as to the congregation's property. In paragraph 4 it is alleged that the congregation's expert witness "proved by his testimony categorically that there was, indeed, error in the zoning map as applied to Petitioner's property, and he gave his reasons for said conclusion".

At oral argument, counsel for the congregation argued that there was error in the zoning map because the County Council was not aware of the congregation's plan for the improvement of their property when the map was approved.

The transcript of testimony taken before the Board on July 6, 1972 contains the following question and answer:

Q. When did the synagogue decide that it wanted to put up an apartment house at this location?

A. The discussion has been going on for a number of years, but active efforts in this direction only have been made within the last year and a half, with certain preliminary inquiries. (Rec. 8, 9, testimony of petitioner's first witness, Rabbi Joseph Baumgarten.)

The Council's unawareness of the congregation's plan was no evidence of error or mistake on the part of the Council. Rather it

is evidence from which a reasonable inference may be drawn that the congregation acted in not informing the Council of their plan for improvement of their property before the final map was approved on March 24, 1971.

In written and oral arguments the congregation advanced other reasons why the reclassification should be granted, other than mistake in the comprehensive rezoning.

The correctness of the original zoning and of comprehensive rezoning is strongly presumed, and to sustain piecemeal changes therefore, strong evidence of mistake in original zoning or in comprehensive rezoning is required. Shadbrook Imp. Ass'n. v. Molloy, 232 Md. 255; Creswell v. Baltimore Aviation, 257 Md. 712.

In the absence of any supporting evidence of mistake, the reclassification must be denied. Westview Park v. Haysa, 256 Md. 573, 582.

An order will be signed affirming the decision of the Baltimore County Board of Appeals.

April 2, 1972
JUDGE

Copies sent to:
Administrative Office of this Court
Harold Posner, Attorney for Petitioner
Edward L. Putzel, Attorney for Protestants

HOWARD D. TUSTIN, JR., REGISTERED
RICHARD P. TUSTIN



ESTABLISHED 1849
S. J. MARTENET & CO.
LAND SURVEYORS
9 E. LEXINGTON STREET
BALTIMORE, MD. 21202
PHONE: 537-4263

SIMON J. MARTENET 1849-1883
HARRY B. JAYNE 1871-1891
SEPTIMUS P. TUSTIN 1870-1931
J. HOWARD BUTTON 1884-1940
WILLIAM O. ATWOOD 1887-1931
SAMUEL A. THOMPSON 1888-1944
GEORGE E. WINKLER 1897-1945
HOWARD D. TUSTIN 1897-1945
HOWARD C. BUTTON 1844-1883

LIBERTY ROAD AND PATTERSON AVE.

BEGINNING for the same at the corner formed by the intersection of the southwest side of Liberty Road, 80 feet wide, with the West side of Patterson Avenue as shown on Baltimore County Bureau of Land Acquisition Plat No. HRF 61-159 recorded among the Land Records of Baltimore County in Liber R.R.O. No. 49-9 folio 471 and running thence, binding on said avenue South 4 degrees 07 minutes East 25.07 feet, South 33 degrees 29 minutes 12 seconds East 111.60 feet and Southwesterly by a line curving to the left with a radius of 535 feet the distance of 217.68 feet to intersect the last line of the land described in a deed from Benjamin Friedman et al to Congregation Bhai Jacob Inc. dated September 6, 1957 and recorded among said Land Records in Liber O.L.B. No. 3828 folio 462 etc. thence binding reversely on the outlines of said land North 47 degrees 35 minutes West 253.89 feet and North 31 degrees 18 minutes 55 seconds East 280.4 feet to said Liberty Road and thence binding thereon South 63 degrees 06 minutes 23 seconds East 203.82 feet to the place of beginning. Containing 1.57 acres of land, more or less.



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
CURTIS BUILDING, 14th and WALNUT STREETS
PHILADELPHIA, PENNSYLVANIA 19106
February 13, 1973

CERTIFIED COPY

Zoning Commissioner
Baltimore County
111 W. Chesapeake Avenue
Baltimore, Maryland 21204

Dear Sir:

Re: Congregation Bhai Jacob, Inc. v. Balt. Co. Zoning Com.

This letter is to notify you that the above captioned complaint of alleged discriminatory housing practices was made against you by Congregation Bhai Jacob Inc. Said complaint was filed in this office on January 22, 1973. However, in accordance with the Federal law in respect to State and local laws, this complaint has been referred to the Maryland Commission on Human Relations for investigation and appropriate resolution.

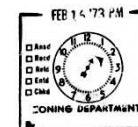
It is incumbent upon the Maryland agency to commence action and proceed with reasonable promptness. You may expect to be contacted by a representative thereof within the near future.

If you have any questions in regard to this complaint, please contact:

Maryland Commission on Human Relations
701 St. Paul Street
Baltimore, Maryland 21202
Attention: Housing Director
(301) 383-3680

Sincerely,

Wagner S. Jackson
Wagner S. Jackson
Assistant Regional Administrator
For Equal Opportunity



No. 53
September Term, 1973

CONGREGATION B'NAI JACOB,
INCORPORATED

v.

LOCHearn IMPROVEMENT
ASSOCIATION et al.

Murphy, C.J.
Barnes
McWilliams
Singer
Smith
Digges
Levine, JJ.

PER CURIAM

Filed: November 7, 1973

the County Council was not aware of the Congregation's plan for the improvement of their property when the map was approved.

"The Council's unawareness of the Congregation's plan was no evidence of error or mistake on the part of the Council. Rather it is evidence from which a reasonable inference may be drawn that the Congregation erred in not informing the Council of their plan for improvement of their property before the final map was approved on March 24, 1971."

Appellant presents a few other questions but, in our judgment, they lack both novelty and persuasiveness. We see no reason for disturbing the result reached by the trial judge.

ORDER AFFIRMED.
COSTS TO BE PAID
BY THE APPELLANT.

PER CURIAM:

Congregation B'nei Jacob (appellant), according to its spiritual leader, Rabbi Joseph Baumgarten, is an orthodox congregation "fully subscribing to the tenets of traditional Judaism." In 1958 it built a synagogue on its land (01.57 acres) at the southwest corner of Liberty Road and Patterson Avenue, in Baltimore County, about 3,500 feet northwest of the corporate limits of Baltimore City. Because of changes in the character of the neighborhood many of its congregants have moved away and its school has been closed. It proposes to adjust to these pejorative conditions by the demolition of the school and the erection of "a senior citizens" apartment building. Although available Federal financing would require the appellant to rent to the public generally it says its congregants would occupy most of the units. To this end appellant filed a petition for the reclassification of its land from D.R. 5.5 to D.R. 16 and for a variance to permit a front yard setback of 30 feet instead of 75 feet and a rear yard setback of 57 feet instead of 75 feet.

The recommendation of the Baltimore County Planning Board is as follows:

"This property containing a synagogue, is located on the southwest side of Liberty Road, opposite Patterson Avenue. Single-family homes exist on the north and east sides. The property to the west is owned by the Baltimore Gas and Electric Company, and the Woodlawn Cemetery is to the rear.

"Rezoning of this property was not an issue before either the Planning Board or the County Council during the recent zoning map processing. Prior to the adoption of the new comprehensive zoning maps by the County Council, this property was zoned R-6, and D.R. 5.5 zoning was recommended by the Planning Board. On March 24, 1971, the County Council adopted D.R. 5.5 zoning on the property. Actually, the preparation and adoption of these zoning maps covered a period of more than two years, was widely publicized, and included numerous public hearings by both the Planning Board and County Council. It should be noted that D.R. 16 zoning was neither requested nor was D.R. 5.5 zoning opposed for the property during this entire process. Now the petitioner is requesting D.R. 16 zoning, proposing to construct 17 apartment units.

"This petition, if granted, would constitute spot zoning. All of the surrounding properties are zoned D.R. 5.5 and medium-density single-family housing, characteristic of the immediate area, has been firmly established. Further, the Board believes that ample higher-density zoning has been provided in this general area; there are about 17 acres of vacant D.R. 16 zoned land located approximately 1600 feet to the west of this property.

"It is therefore recommended that the existing zoning, D.R. 5.5, be retained."

On 10 April 1972, after a hearing on 13 March, the Deputy Zoning Commissioner denied the petition. In his opinion, he said, in part:

"After reviewing the aspects of this case the Deputy Zoning Commissioner must conclude that, the use as proposed by the Petitioner is permitted under the existing D.R. 5.5 Zone. However, development of the property could not exceed a density of 5.5 units to the acre, and the building height would have to be compatible with existing dwellings in the surrounding area. In short, it appears that the major if not the only drawback, in developing the property as proposed is the small size lot as it presently exists. To grant the requested reclassification and variances would have a tendency to overcrowd the land and would not be in harmony with the general purposes and intent of the regulations.

"Without reviewing the evidence further in detail, but based on all the evidence presented at the hearing, in the opinion of the Deputy Zoning Commissioner, the Petitioner has failed to prove error in the Comprehensive Zoning Map as adopted by the Baltimore County Council on March 24, 1971. The burden of proving error is borne by the Petitioner and in this case, this burden has not been met."

The appellant filed an appeal to the County Board of Appeals which held a hearing on 6 July. On 1 November the Board denied the reclassification. In its opinion the Board said, in part:

"The sole question to be decided by this Board is whether or not the County Council erred in placing the subject property in the D.R. 5.5 classification. It is the judgment of this Board that the Council did not err. Frankly, in carefully reviewing the testimony and evidence presented in this case, the Board could find not one shred of information which might lead to the conclusion that the Council was in error. Therefore, this Board is compelled to deny this request for reclassification and the accompanying requested variance, and the Order of the Deputy Zoning Commissioner will be affirmed."

A prompt appeal to the Circuit Court for Baltimore County was taken by the appellant. The case came on for a hearing before Judge Haile on 12 January 1973. In the course of stating his reasons for affirming the action of the Board of Appeals, Judge Haile said, in part:

"The Baltimore County Board of Appeals was asked to declare that on March 24, 1971 the County Council erred in not zoning the Congregation's property D.R. 16, instead of D.R. 5.5, which was the classification assigned to all of the surrounding property, as part of a comprehensive rezoning of the whole area.

"At oral argument, counsel for the Congregation argued that there was error in the zoning map because

RE: PETITION FOR RECLASSIFICATION
FROM D.R. 5.5 zone to D.R. 16 zone
AND VARIANCE FROM SECTION 1800.2C
OF THE BALTIMORE COUNTY ZONING
REGULATIONS
S.W. corner of Liberty Road and
Patterson Avenue
2nd District
Congregation B'nei Jacob Incorporated
Petitioner
IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Appeal Docket
APPEAL from the
County Board of Appeals of
Baltimore County
No. 72-206-RA

NOTICE OF APPEAL

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

Please enter an appeal in the above-entitled case on behalf of the Petitioner, Congregation B'nei Jacob Congregation Incorporated, a Maryland Corporation, to the Circuit Court for Baltimore County, from the Order dated November 1, 1972 of the County Board of Appeals of Baltimore County, which affirmed the Order of the Deputy Zoning Commissioner dated April 10, 1972, which denied both the reclassification and variances petitioned for, and kindly forward all necessary papers, records, and transcript of testimony to the Circuit Court for Baltimore County.

SERVICE OF COPY ADMITTED:
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

By:

Harold Posner
Attorney for Petitioner
101 E. 29th St.
Baltimore, Md. 21218
467-5330

I HEREBY CERTIFY that on this 9th day of November, 1972, I mailed a copy of the foregoing Notice of Appeal to Edward L. Putsel, Esq., Attorney for the Lochearn Improvement Association and also the Forest Garden Association, First National Bank Building, Light & Redwood Sts., Baltimore, Md. 21202.

Harold Posner

OFFICE 467-5330

HAROLD POSNER
ATTORNEY AT LAW
101 E. 29th STREET
BALTIMORE, MARYLAND 21218



April 12, 1972

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

Re: Petition for Reclassification and
Variances
S.W. corner of Liberty Road, and
Patterson Avenue- 2nd District
Congregation B'nei Jacob, Incorporated-
Petitioner
NO. 72-206-RA (Item No. 33)

Dear Mr. DiNenna:

Please enter an appeal on behalf of my client, the Petitioner, Congregation B'nei Jacob Incorporated, from the Order dated April 10, 1972 of the Deputy Zoning Commissioner of Baltimore County denying both Reclassification and the requested Variances, to the County Board of Appeals.

Harold Posner
Attorney for Petitioner
101 E. 29th St.
Baltimore, Md. 21218

Tel. No. 467-5330

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

TO: S. Eric DiNenna
Attn: Oliver L. Myers
FROM: C. Richard Moore
SUBJECT: Item 33 - Cycle Zoning II
Property Owner: Cong. Bnai Jacob, Inc.
Liberty Road N/W/S Patterson Avenue
Reclass to DR 16

Date: November 4, 1971

The subject petition, due to its size, should create no major change in trip density.

C. Richard Moore
Assistant Traffic Engineer

CRM:rr



STATE HIGHWAY ADMINISTRATION

300 WEST PRESTON STREET
BALTIMORE, MD. 21201

October 28, 1971

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Bldg.
Towson, Maryland 21204

Attn: Mr. O. L. Myers

Baltimore County Reclamation
Cycle for the period of Oct. 171 to April 172

ITEM 33:
Property owner: Cong. Enal Jacob, Inc.
Location: Int. S/W Liberty Rd. (Route 26)
N/S Patterson Avenue
Present Zoning: D.R. 5.5
Proposed Zoning: Reclass to D.R. 16
District: 2nd Sector: Northwest
No. Acres: 1.57

Dear Mr. DiNenna:

The existing entrance to the subject site at Liberty Road is 25' in width, however, the on-site portion of the entrance is only 15' in width.

The plan indicates a proposal for extending Patterson Ave., however, this may not be done for some time; therefore, it is recommended that the on-site portion of the entrance be widened to 25 ft.

A concrete curb must be constructed at some point between the right of way line of Liberty Road and the proposed parking lot. The plan should be revised to indicate the curb.

Very truly yours,

Charles Lee, Chief
Development Engineering Section

By: John E. Meyers
Asst. Development Engineer

CLJ:ENB

TO: S. Eric DiNenna, Zoning Commissioner
Attention: Mr. Myers

DATE: October 27, 1971

FROM: Fire Prevention Bureau
Fire Department

SUBJECT: Property Owners
Cong. Enal Jacob, Inc.

LOCATION: S/W Liberty Rd., N/W Patterson Avenue

ITEM # 33 zoning Agenda: Cycle for October '71

(X) 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 300 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", 1967 Edition, and the Fire Prevention Code prior to occupancy or commencement of operations.

(X) 5. The owner shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101, "The Life Safety Code", 1967 Edition, and the Fire Prevention Code when construction plans are submitted for approval.

() 6. The Fire Department has no comment on the proposed site.

Handwritten signature
Planning Division
Fire Prevention Bureau

Note: Above comments indicated with a check apply.

nb

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Oliver Myers

DATE: October 26, 1971

FROM: Hoyt V. Bonner

SUBJECT: Item 33 - Zoning Advisory Committee Meeting, October 22, 1971

33. Property Owners: Cong. Enal Jacob, Inc.
Location: Int. S/W Liberty Rd.,
N/W Patterson Avenue
Present Zoning: D.R. 5.5
Proposed Zoning: Reclass to D.R. 16
District: 2
Sector: Northwestern
No. Acres: 1.57

Metropolitan 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.

Handwritten signature
Sanitation II
Water and Sewer Section
BUREAU OF ENVIRONMENTAL HEALTH

HVB/kir

ZONING ADVISORY COMMITTEE MEETING

OF Period of Oct. 171 to April 172

Petitioner: Cong. Enal Jacob, Inc.

Location: S/W Liberty Rd., N/W Patterson Ave.

District: 2

Present Zoning: D.R. 5.5

Proposed Zoning: D.R. 16

No. of Acres: 1.57

Comments: A second means of access is required for the site.
POPULATION

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna
ATTN: Oliver L. Myers
FROM: Ellsworth M. Dwyer, P.E.

DATE: November 4, 1971

SUBJECT: Item #33 (Cycle October 1971 - April 1972)
Property Owner: Cong. Enal Jacob, Inc.
Location: Int. S/W Liberty Rd., N/W Patterson Avenue
Present Zoning: D.R. 5.5
Proposed Zoning: Reclass. to D.R. 16
District: 2nd Sector: Northwest
No. Acres: 1.57

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:

Liberty Road is a State Road; therefore, all improvements, intersections and entrances on this road will be subject to State Highway Administration requirements.

Patterson Avenue is proposed to be extended south of Liberty Road as a 50-foot curbed street on a 70-foot right-of-way.

Storm Drains:

The Petitioner is to provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisance or damage 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.

Liberty Road is a State Road. Therefore, drainage requirements as they affect the road come under the jurisdiction of the State Highway Administration.

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.

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

Item #33 (Cycle Octob '71 - April 1972)
Property Owner: Cong. Enal Jacob, Inc.
Page 2
November 4, 1971

Water:

Public water service is available.

Liberty Road is a State Road; therefore, any construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State Highway Administration, in addition to those of Baltimore County.

Sanitary Sewer:

Public sanitary sewer service is available with the appropriate extensions and easements.

Liberty Road is a State Road; therefore, any construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State Highway Administration, in addition to those of Baltimore County.

Handwritten signature
ELLSWORTH M. DWYER, P.E.
Chief, Bureau of Engineering

END:EM:ROP:as

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REMARKS

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Based on testimony at the annual membership meeting of the Lochearn Improvement Association held May 13, 1972, the Board of Directors of the Lochearn Improvement Association reaffirms our opposition to the rezoning of the property of Enal Jacob Synagogue for the proposed construction of apartments or any other action requiring a change in the zoning map as they presently exist. 6605 Liberty Road, the neighborhood, the need for housing, not only for the elderly in general, but for certain members of the Synagogue in particular. However, we seriously question and oppose the proposed rezoning to build apartments in the site in question.

Our reasons are the same as discussed in earlier meetings of the Board of Directors, as presented by Dr. George Evans at the initial rezoning hearing and at the membership meeting. We oppose the rezoning as we feel it will be a detriment to the surrounding neighborhood and will not bring a stabilizing influence to the neighborhood; the construction of these apartments will be the resulting increase in traffic and noise and congestion in an already congested road and already congested intersection; creating an appeal would constitute a detriment to the only area of Liberty Road for miles which is unimpacted by commercial or multi-unit residential structures. If such a site is established, not only for the erection of such a building in a residential area but in the granting of the necessary variance in order to do so. Lastly, there is land already zoned R1S within walking distance of the Synagogue.

Handwritten signature
President
Handwritten signature
Vice President

Handwritten signature
Treasurer

Handwritten signature
Secretary

June 13, 1972

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 2
Posted for: APPEAL
Petitioner: COOPERATION R. ENAL JACOB INC.
Location of property: S.W. CORNER LIBERTY ROAD & PATTERSON AVE.
Location of Signs: 1. W. of LIBERTY ROAD, S. of PATTERSON AVE.
2. W. of LIBERTY ROAD, S. of PATTERSON AVE.
Remarks: Posted on Sunday, SAT. 15, 1971
Posted by: Charles H. Hild
Date of return: May 15, 1972

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

658

OLIVER L. MYERS
Chairman

MEMBERS

BUREAU OF
ENGINEERING

DEPARTMENT OF
TRAFFIC ENGINEERING

STATE ROADS COMMISSION

BUREAU OF
FIRE PREVENTION

HEALTH DEPARTMENT

PROJECT PLANNING

BUILDING DEPARTMENT

BOARD OF EDUCATION

ZONING ADMINISTRATION

INDUSTRIAL
DEVELOPMENT

Mr. Harold Posner
101 E. 25th Street
Baltimore, Md. 21218

RE: Type of Hearing: Reclass. to D.R. 16
Location: Int. S/W/S Liberty Rd., N/W/S
Patterson Ave.
Petitioner: Cong. Bnai Jacob, Inc.
2nd District
Item 33

Dear Sir:

The following comments were compiled after a field investigation and an in-office review which will provide the Planning Board and/or the petitioner with pertinent information of possible development problems.

The subject property is located on the south side of Liberty Road, almost directly opposite its intersection with Patterson Avenue. The property is currently improved with an existing synagogue. There are residential homes on the north side of Liberty Road and to the east of the subject site. The rear of the subject property is the Woodlawn Cemetery, and the property to the west is owned by the Baltimore Gas & Electric Company.

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:

Liberty Road is a State Road; therefore, all improvements, intersections and entrances on this road will be subject to State Highway Administration requirements.

Patterson Avenue is proposed to be extended south of Liberty Road as a 50-foot curbed street on a 70-foot right-of-way.

Storm Drains:

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.

Mr. Harold Posner
Item 33
Page 2

Liberty Road is a State Road. Therefore, drainage requirements as they affect the road come under the jurisdiction of the State Highway Administration.

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.

Drainage 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 service is available.

Liberty Road is a State Road; therefore, any construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State Highway Administration, in addition to those of Baltimore County.

Sanitary Sewer:

Public sanitary sewer service is available with the appropriate extensions and easements.

Liberty Road is a State Road; therefore, any construction within the State Roads right-of-way will be subject to the standards, specifications and approval of the State Highway Administration, in addition to those of Baltimore County.

DEPARTMENT OF TRAFFIC ENGINEERING:

The subject petition, due to its size should create no major change in trip density.

STATE HIGHWAY ADMINISTRATION:

The existing entrance to the subject site at Liberty Road is 25' in width, however, the on-site portion of the entrance is only 15' in width.

The plan indicates a proposal for extending Patterson Ave., however, this may not be done for some time; therefore, it is recommended that the on-site portion of the entrance be widened to 25 ft.

A concrete curb must be constructed at some point between the right of way line of Liberty Road and the proposed parking lot. The plan should be revised to indicate the curb.

Mr. Harold Posner
Item 33
Page 3

FIRE PREVENTION:

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 300 feet along an approved p road.

The owner shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101, "The Life Safety Code", 1967 Edition, and the Fire Prevention Code when construction plans are submitted for approval.

HEALTH DEPARTMENT:

Metropolitan 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.

BOARD OF EDUCATION:

Acreage too small to have an effect on student population.

ZONING ADMINISTRATION DIVISION:

The plat submitted does not indicate the proper breakdown of types of dwelling units proposed on the subject property, nor does it indicate a proper entrance from the proposed Patterson Avenue.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30, nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

Oliver L. Myers
OLIVER L. MYERS, Chairman

JJD,Jr.:mw

Enc.

