

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:
Ernest B. Murray and

I, or we, Ernest B. Murray, his wife, Edith R. Murray, his wife, and their children, Ernest B. Murray, Jr., and Edith R. Murray, Jr., of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing Under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a mobile home as a permitted use on a tract of land outside the metropolitan district of Baltimore County and being more than one (1) acre in area and less than twenty-five (25) acres in area.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Ernest B. Murray
Contract Purchaser
Edith R. Murray
Legal Owner
Address: Deer Park Road
Clark Road
Reisterstown, Maryland 21136
Reisterstown, Maryland 20794
Petitioner's Attorney
Address: 123-6200
Protestant's Attorney

ORDERED By the Zoning Commissioner of Baltimore County, this 15th day of November, 1974, 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 newspapers of general circulation throughout Baltimore County, that the 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 17th day of November, 1974, at 10:00 o'clock A. M.



Zoning Commissioner of Baltimore County

(over)

January 15, 1975

Gregory Richard Dent, Esquire
414 Jefferson Building
Towson, Maryland 21204

RE: Petition for Special Hearing
E/S of Thompson Avenue, 225' N of
Deer Park Road - 4th District
Ernest B. Murray - Petitioner
NO. 75-134-SPH
(NO. 75-80-X, Item No. 28)

Dear Mr. Dent:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

James E. Dyer
JAMES E. DYER
Deputy Zoning Commissioner

JED/mc

Attachments

cc: Johnson Bowie, Esquire
22 West Pennsylvania Avenue
Towson, Maryland 21204

November 7, 1974

IN THE MATTER OF THE PETITION
of Ernest B. Murray, and
Edith R. Murray, his wife,
for a Special Hearing under
Section 500.7 of the Zoning
Regulations of Baltimore County.

MEMORANDUM IN SUPPORT OF APPLICATION

The Petitioners property comprises approximately 3.851 acres located on the easterly side of Thompson Avenue north of Deer Park Drive in the 4th Election District of Baltimore County. The property is zoned Rural-Suburban Conservation (RSC) and the Petitioners have filed a request for Special Exception (Case No. 75-80-X) to allow the residential use of one trailer on the said property. The Zoning Commission for Baltimore County has pointed out to the Petitioners that Sections 1A01.2A or 1A01.2B of the Zoning Regulations make no mention of the existence of a Special Exception to allow for residential trailer use in RSC zoning. Your Petitioners submit that the failure to specifically list trailers as one of the uses permitted by Special Exception was an error of omission in the Zoning Regulations and respectfully ask the Commissioner to grant a Special Hearing to interpret the said regulation. In order to ascertain whether the failure to make any mention of trailers in RSC zoning was an omission or an intentional act it is necessary to look into the legislative history of Bill No. 100 and the Planning Department's proposed Supplemental Zoning Amendments as they relate to the pre-existing zoning regulation.

1. Bill No. 100 created two new rural zones; Rural: Deferred Planning (RDP) and Rural Suburban - Conservation (RSC).
2. The Planning Board's proposed Bill No. 100 stated that the purpose for the RDP zoning classification were to (a) "prevent untimely urban development of relatively open rural land;

that if the regulations indicated in the above table (Exhibit A), permitting trailers as a Special Exception in RSC zoning, were intended as an amendment, then the Planning Board would have specifically amended the section dealing with uses permitted under RSC zoning in the proposed Amendments.

9. Further, your Petitioners have been informed by a spokesman for the Baltimore County Office of Planning, that the list of uses permitted by right and by Special Exception for both new zones, contained in Bill No. 100, were prepared in a hurried manner and the said uses were based on the lists of uses permitted in zones R. 40 and R. 6.

In light of the aforementioned legislative history, your Petitioners contend that the failure to include a Special Exception for the allowance of trailers in RSC zoning was an omission and further your Petitioners respectfully represent that the Zoning Commissioner of Baltimore County has the right, power and authority to grant the Special Exception requested in Zoning Case No. 75-80-X, for the following reasons:

- (1) In the existing Baltimore County zoning prior to Bill No. 100 there were no zones, with the exception of RAE 1 and RAE 2 which are exclusively apartments zones, wherein trailers were not allowed in some form.
- (2) Yet when the two new zones were created, RDP mentioned trailers as a permitted use and RSC failed to mention trailers.
- (3) The Planning Office admits that the use lists were hurriedly prepared.
- (4) The County Council was clearly working under the pressure of a passage deadline.
- (5) The County Council by the changes and deletions made in the proposed new zones, evidenced a desire to make the new

- 2 -

and, (b) foster conditions favorable to agriculture and other low intensity uses appropriate to rural areas, considering both the magnitude of total land acreage needed for such uses and the current prospective needs for developable urban land. The proposed Bill No. 100 also defined certain area restrictions for RDP zones, to wit: a 10 acre lot minimum and a 300 foot minimum linear dimension.

3. Proposed Bill No. 100 also stated that the purposes for the new RSC zone were as follows: (1) provide for residential use without community health hazard within area which will not be serviced by public sewerage and water supply systems; (2) provide for the appropriate zoning of land where low density institutions may feasibly be established; (3) maintain the integrity of regionally significant green areas; and, (4) provide for a reasonable and appropriate level of private development in areas where conservation of natural physiographic characteristics is of paramount importance. The proposed Bill No. 100 went on to define the area regulations of RSC zones, to wit: a 3 acre minimum lot size and a 200 foot minimum linear dimension.

4. Proposed Bill No. 100 listed the uses as a matter of right and the uses permitted by Special Exception for both of the new zones and in regard to the use of trailers, allowed trailers subject to the restrictions of Section 415.6 as a matter of right in RDP zones and failed to mention trailers whatsoever in either the uses permitted as a matter of right or the uses permitted by Special Exception in the new RSC zones.

5. In adopting Bill No. 100 the County Council for Baltimore County made certain deletions, said deletions that are pertinent to the instant case were as follows: (1) The Council re-

zones similar.

(6) The proposed Amendment No. 74 and the lack of any amendment to the use list for RSC show that the Planning Board thought RSC and RDP zones treated trailers identically.

(7) Your Petitioners proposed use of one trailer for residential purposes on 3.851 acres provides for an even lower density use than RSC zoning contemplates.

For the aforementioned reasons, your Petitioners contend that the most logical explanation for the failure of RSC zoning to deal with trailers, was that such failure was simply an error of omission and one that the Zoning Commissioner for Baltimore County can rectify in the instant case.

Respectfully submitted,

Gregory Richard Dent
SMITH, JOHNS & SMITH
414 Jefferson Building
Towson, Maryland 21204
823-6200

- 3 -

duced the minimum acreage and minimum linear dimension requirements for both of the new zones to a 1 acre minimum lot size and a 150 foot minimum linear dimension. (2) The Council deleted the third and fourth paragraphs of the General Purpose Section of RSC zones making the stated general purpose for both RSC zones and RDP zones generally the same; that of providing for low density residential use of existing rural land.

6. On March 18, 1971, the Baltimore County Department of Planning adopted a series of proposed Supplemental Zoning Amendments to Bill No. 100 in which the introductory statement admits that one of the reasons for the County Council's not including the said Amendments in Bill No. 100 was that the Council "scheduled date of passage" for Bill No. 100. The introduction to the said Amendments further states that the office of Planning and Zoning prepared a series of explanatory notes which follow each recommended Amendment.

7. Proposed Amendment No. 74 of the aforementioned Amendments proposes that trailers be permitted only in accordance with the proposed table (a copy of said table is attached and prayed to be taken as Petitioner's Exhibit A). The said table treats both new zones RDP and RSC, identically in regard to allowance of trailers, however, the explanatory notes (a copy of which is attached and prayed to be taken as Petitioner's Exhibit A) failed to mention, explain or amplify this identical treatment of the two new zones.

8. Even though the proposed Amendments contain proposals specifically dealing with RSC zones (Section 1A01), there is curiously no mention of adding trailers as a use permitted either as a matter of right or under Special Exceptions. It would seem

PETITION MAPPING PROGRESS SHEET

FUNCTION	Well Map		Original		Duplicate		Tracing		GEO Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <u>JED</u>	Revised Plans: Change in outline or description Yes _____ No _____									
Previous case: _____	Map # _____									

MAR 0 3 1975

RE: PETITION FOR SPECIAL HEARING : BEFORE THE
E/S of Thompson Avenue, 825' N of : DEPUTY ZONING
Deer Park Road - 4th District : COMMISSIONER
Ernest B. Murray - Petitioner :
NO. 75-134-SFH :
(NO. 75-80-X, Item No. 28) :
OF
BALTIMORE COUNTY

This Petition represents a request for a Special Hearing, under Section 500.7, for the purpose of determining whether or not the Deputy Zoning Commissioner should approve a mobile home as a use permitted by Special Exception in a R.S.C. Zone.

The property in question is situated outside the Metropolitan District of Baltimore County, contains 3.5 acres, and is located on the east side of Thompson Avenue, approximately 825 feet north of Deer Park Road.

A Special Exception hearing to determine whether or not a mobile home trailer should be permitted on the subject property was inadvertently filed prior to the discovery that trailers had been omitted from the Special Exception uses listed in the R.S.C. Zone, Section 1A01.2B. That request has been held in abeyance pending the outcome of this hearing.

Testimony proffered by the Petitioner's attorney attempted to establish justification for the Deputy Zoning Commissioner to proceed with the aforementioned Special Exception hearing. The Petitioner's detailed testimony is fully set forth in his brief, filed with and made a part of this Petition, and will not be so repeated in this Opinion. In essence, the testimony did establish, in the opinion of the Deputy Zoning Commissioner, that the Planning Board did intend to permit mobile homes as a Special Exception use, with certain restrictions, in the R.S.C. Zones. The testimony also established, to the satisfaction of the Deputy Zoning Commissioner, that the Planning Board intended to correct the omission of mobile homes from the R.S.C. Zones by adoption of supplementary zoning amendments on March 3, 1971.

The facts in this case are crystal clear, leaving no need for an interpretation or definition of a mobile home, as well as in which zones and under what conditions mobile homes are presently permitted by the Baltimore County Zoning Regulations.

Had the regulations listed mobile homes as a Special Exception use in the R.S.C. Zone when originally submitted to the County Council for approval, the Council would have, in all probability, approved the regulations as submitted. Notwithstanding this assumption, the decision to approve or disapprove such regulations is that of the County Council and has not been delegated to the Zoning Commissioners. The Zoning Commissioners have been delegated the authority to make certain changes under certain conditions with regard to zoning designations on the Comprehensive Zoning Map, to grant Variances to height and area regulations and to make interpretations considered necessary for the proper enforcement for all zoning regulations. As previously stated, the facts in this case are crystal clear leaving no need for an interpretation. To rule in favor of the Petitioner's request would, in the opinion of the Deputy Zoning Commissioner, be beyond the jurisdiction and power of the Deputy Zoning Commissioner. For this reason, the Petitioner's request must be denied.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 15TH day of January, 1975, that a mobile home is not a permitted use in a R.S.C. Zone, and that the Deputy Zoning Commissioner does not, under the conditions presented in this case, have the authority to permit such a use.

It is further ORDERED that Special Exception Case No. 75-80-X was improperly filed, cannot be considered, and is, therefore, Dismissed. The Petitioner's filing fee, under these conditions, should be returned.

Deputy Zoning Commissioner of Baltimore County

- 2 -

CERTIFICATE OF PUBLICATION

TOWSON, MD. November 23, 1974

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on each at one time, successive weeks before the 17th day of December, 1974, the next publication appearing on the 23rd day of November 1974.

THE JEFFERSONIAN,
H. Frank [Signature]
Manager

Cost of Advertisement, \$

PETITION FOR A SPECIAL HEARING
HOLDING: Petition for a Special Hearing for a Trailer, December 17, 1974 at 10:00 A.M.
PUBLIC HEARING: Room 104, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.
The Zoning Commissioner of Baltimore County, by authority of the Board of Commissioners of Baltimore County, will hold a public hearing for Special Hearing the day and hour set forth in the Petition for Special Hearing. The Zoning Commissioner and the Deputy Zoning Commissioner should appear at the Public Hearing as a permitted use in a R.S.C. Zone and the Comprehensive Zoning Map of Baltimore County and being more than one (1) acre and less than two (2) acres in area.
Ernest B. and Beth R. Murray
Hearing Date: Tuesday, December 17, 1974 at 10:00 A.M.
Public Hearing: Room 104, County Office Building, 111 W. Chesapeake Avenue, Towson, Md.
By order of
S. ERIC DINENNA
Zoning Commissioner of Baltimore County
Nov. 23

ORDER RECEIVED FOR FILING

DATE January 15, 1975
BY [Signature]

ORDER RECEIVED FOR FILING

DATE January 15, 1975
BY [Signature]

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received * this 7th day of

NOV. 1974. Item #

[Signature]
S. Eric DiNenna,
Zoning Commissioner

Petitioner MURPHY Submitted by

Petitioner's Attorney DEAT Reviewed by [Signature]

* This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

No. 17159

DATE Nov. 25, 1974 ACCOUNT 01-662

AMOUNT \$25.00

DISTRIBUTION
WHITE - CASHIER
PINK - AGENCY
YELLOW - CUSTOMER

Gilbert L. Smith
Clark Road D-69
Jesup, Md. 20794
Petition for Special Hearing for Ernest B. Murray
#75-134-SFH

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

No. 17436

DATE Jan. 13, 1975 ACCOUNT 01-662

AMOUNT \$28.10

DISTRIBUTION
WHITE - CASHIER
PINK - AGENCY
YELLOW - CUSTOMER

Gilbert L. Smith
Clark Rd. D-69
Jesup, Md. 20794
Advertising and posting of property for Ernest Murray
#75-134-SFH



