SPOT ZONING?
NOT FOR BOARD

School Authorities Say They
"Do Not Believe In" It

The Board of School Commissioners not only refused yesterday to make the school system a proponent of the controversial ordinance to rezone a piece of land on Druid Park drive from first commercial to residential, but declared the school authorities "do not believe in spot zoning."

Roszel C. Thomsen, president of the board, told the City Council Committee on Buildings and Building Regulations the board's views are shared by Dr. David E. Wieglin, superintendent of public education, and John W. Lewis, assistant superintendent in charge of buildings.

At a previous hearing before the committee, at which John J. Carlin, owner of the land, charged that the ordinance was introduced because he refused to sell the land to James H. (Jack) Pollack, Fourth district Democratic leader, at the latter's price, proponents of the measure claimed their only interest was in protecting children who must pass the plot on their way to and from school.

"Something Queer Here"

Mrs. William Bauernschmidt, who had been asked by proponents to attend the previous hearing demanded at that time to know why if the rezoning was to protect school children, the Department of Education was not represented.

It was Mrs. Bauernschmidt, too, who introduced the name of Mr. Pollack into the case by declaring "there's something queer here and I've heard Mr. Pollack's name mentioned in this matter."

Mr. Pollack who was present at the previous hearing denied Mr. Carlin's charges were false. Mr. Carlin had stated he didn't want to sell the land but that when Mr. Pollack insisted on the price, he named $50,000. Mr. Pollack, he said, wanted it for $35,000.

"Neither For Nor Against"

Neither Mrs. Bauernschmidt nor Mr. Pollack attended yesterday's hearing and Councilman William Bonnett (D., First), chairman of the committee, admitted he was puzzled as to procedure and said the committee will not make a report "for a week or two."

"Here we heard all this talk about the safety of the children and the schools being interested," he said, "and Mr. Thomsen tells us they're not interested, and Mrs. Bauernschmidt doesn't show up at all."

Mr. Thomsen said that the position of the schools "is that we are neither for nor against the ordinance."

"What Is The Purpose?"

Asked by Councilman Bonnett if the change would not be of some benefit to the schools, Mr. Thomsen said:

"In view of what already is on the corner, it is so commercial that changing this one piece would have so slight an effect as to be negligible. We were satisfied to put the school there with it zoned as it is."

Leon Abramson (D., Fourth), sponsor of the ordinance, admitted that under the law, Mr. Carlin could use the land for any first commercial purpose, even though it were rezoned residential, because he already has it in commercial use in the form of a garage.

"Then what is the purpose of the ordinance?" Frank Michael, attorney asked. "Is it just to prevent Mr. Carlin from selling? Would anyone buy it for a residence?"

The Smoking Ordinance

Mr. Abramson denied the purpose was to keep Mr. Carlin from selling.

"Wouldn't it be less marketable," Mr. Michael asked.

"I don't know," said Mr. Abramson.

The Council referred to its Committee on Legislation a proposed amendment to the ordinance against smoking on public conveyances in the city to substitute the word "bus" for "motor vehicle."

The City Solicitor, Jerome Sioman (D., Fifth), which would declare the Expressway disapproved.

No Expressway Action

An ordinance to ratify an agreement under which the city will assume responsibility for building a recreation area at Lake Roland with money left by the late Elizabeth D. Garrett White was finally passed and sent to the Mayor.

The Council took no action yesterday on either Mayor McKeil's letter asking for public hearings on the proposed Mid-City Expressway, or the resolution by Councilman Jerome Sioman (D., Fifth), which would declare the Expressway disapproved.

Councilman Sioman, chairman of the Committee on Legislation, said the hearing of the Committee on Buildings and Building Regulations took so much time that he could not hold a scheduled meeting of his committee prior to the Council session.
Fighting Spot Zoning

In all the older residential sections of Baltimore, home owners must be constantly on the alert against attempts to get commercial establishments—beauty parlors, pants-pressing establishments, and so on—past the Board of Zoning Appeals. Another and even more destructive form of attack upon the zoning regulations is the multiplicity of City Council bills calling for alterations in the zoning sheets. The current demand by residents of Hamilton for protection against a change of status of their properties is an example of the manner in which spot zoning operates.

In this case a contracting firm wishes to get the area rezoned from a cottage section to a group-house section. The question is raised as to whether this will constitute spot zoning, in that it is not a case of residential blocks being "broken" by a different kind of construction from that already in existence, and the lawyer for the firm points out that it is proposed to use a large plot that would be a "self-integrated unit unto itself." As to the merits of the argument, that is a matter for the Council to decide. The fact is, however, that a large number of residents in the area don't want this group-house development in their midst and are banding together to oppose it. That is the only way a neighborhood can hope to preserve its character.

Spot zoning has spread ruin throughout the older residential sections. It will continue to do so unless it is stoutly and promptly opposed. The methods of fighting an attack on zoning in a given area are as follows: First, pressure on the City Council. Councilmanic approval must be obtained or the thing can't go through. But if the Council fails to protect the neighborhood, i.e., lets the bill pass, the Mayor can be called upon to stop it by his veto. If the Mayor won't help, there are the courts. Back in August a Court of Appeals decision held spot zoning generally to be illegal. Here is a weapon for residents of residential neighborhoods who want to save their areas from commercial encroachment and other undesirable change.

It seems a wretched business that home owners in the city should have to be constantly prepared to oppose spot-zoning attacks; but since this is the case, they should "know the ropes" and be prepared to defend their rights.
ZONING POWER UNDER FIRE

Council Holds First Hearing On City Charter Revision

At the first Council hearing yesterday on the proposed revision of the City Charter, the only attacks were aimed at a section that would require approval of the Planning Commission before the Board of Municipal and Zoning Appeals could grant special exceptions to the zoning law.

Members of the Charter Revision Commission said "special exceptions" generally were intended to mean "spot zoning." The "Planning Commission," under revision would be the name of the present Commission on City Plan, and the "Board of Municipal and Zoning Appeals" would be what now is simply the Board of Zoning Appeals.

The Council, sitting as a committee of the whole, departed from its plan of going through the 126-page document paragraph by paragraph as members launched their attack on the new power that would be given the Planning Commission. The attack was believed at least partly inspired by Mayor McKeldin's veto earlier in the day of a rezoning ordinance because of the disapproval of the Commission on City Plan.

Provision Of Section

The attacked section provides that all requests for exceptions to the zoning law would be filed with the Planning Commission. Its director, after investigation, would report to the commission. The commission then could give its approval to the request, or it could approve it in an amended form. It would then certify its approval to the Board of Municipal and Zoning Appeals, which could grant, but not amend, the special exception.

The only other way in which such special exception could be granted would be by an ordinance passed by the affirmative vote of not less than three fourths of the membership of the City Council.

Not only was the policy of the proposal attacked, but its constitutionality was questioned.

Attack Led By Sloman

Councilman Sloman, leading the attack on the section, said the people of the city now "get more consideration and more of a hearing by appearing before the Board of Zoning Appeals than they do from the Commission on City Plan. If exceptions to the zoning law have to be sent to the Planning Commission for approval or disapproval, all people of a district will have nothing to say about what can or can not be done."

Councilman Wells said that before the Commission on City Plan was organized six years ago, "justice was dispensed in the city without it."

"I don't think," he said, "that it was ever intended for the commission to get mixed up in local squabbles. I don't think changes in zoning should be sent to the commission at all."

Matter Of Veto

When Paul R. Karch, assistant city solicitor and member of the Charter Revision Commission, reminded the Council that it still could override any action of the Planning Commission by adopting an ordinance, he was told by members that the Mayor would veto such an ordinance because of the previous action of the commission.
McKeldin Seeks Two Agencies Co-Ordination

Frequent conflict in rulings of the Board of Zoning Appeals and the Commission on City Plan on zoning ordinances is to be the subject of a conference arranged by Mayor Theodore R. McKeldin with the chairman of both bodies, it was learned today.

It was understood that the Mayor will seek to set up a plan for closer cooperation between the board and the commission to provide for joint study of such ordinances with a view of bringing about a larger measure of agreement on the measures.

Under the Charter amendment giving specific powers to the commission the City Council is required to submit ordinances making zone changes to the commission for the purpose of getting the advice of that body on the proposals.

No Review Required

There is no requirement in the law that such ordinances be referred for review by the zoning board, but the Council adopted the policy of referring such measures to the board as well as the commission. The Charter does not bind the Council to take action in conformity with the recommendations of the commission, which are regarded simply as advisory.

The judgment of the zoning board is also treated as advisory. A study of the Council Journal shows that the board and the commission frequently rule differently on these measures and that the Council enacts them notwithstanding the disapproval of the commission, which has legal authority to advise, or of the board, which advises only in conformity with a council policy.

Three ordinances before the Mayor some days ago are regarded as illustrating the conflict in the advice of the two bodies. All three measures provided for spot zoning.

For Grocery Store

One measure would have changed the classification of a single property from residential to first commercial to make possible the establishment of a grocery store there. The commission disapproved this measure and recommended its defeat.

The board approved it and recommended its passage.

The second bill would have changed a small tract from residential to commercial to permit its development to include commercial enterprises. The commission disapproved the bill and that the area was in the path of the proposed expressway.

The board approved and recommended passage. The Mayor vetoed each of these bills.

Agreed On Disapproval

The third measure would change a single property from residential to commercial to permit the establishment of a funeral home in the residence on the site. Both the commission and board were in agreement in disapproving this proposal.

The chairman of the commission is Thomas F. Hubbard, who was appointed to that post by the Mayor. The head of the zoning board is Southey F. Miles, who had been appointed to the place by former Mayor Howard W. Jackson.
Mayor To Ask Single-Agency Referral For Zoning Bills

Mayor McKeldin will ask the City Council to refer future zoning bills only to the Commissioner on City Plan instead of to both that commission and the Board of Zoning Appeals as at present.

The request, aimed at the elimination of conflicting recommendations by the two city agencies, met with the approval of Southey F. Miles, chairman of the Zoning Board, and Thomas F. Hubbard, chairman of the planning body, at a conference in the mayor's office yesterday.

The mayor first proposed the conference several days ago.

Matter Of Custom Only

On Thursday the Council rejected the mayor's vote of an ordinance to rezone from residential to first commercial a piece of property at Edson highway and Lawnview avenue. The Zoning Board had approved the ordinance, and the Commissioner on City Plan, describing its object as "spot zonings," had recommended its defeat.

The law requires the Council to submit ordinances for the consideration of the Planning Commission. They have been referred to the Zoning Board by custom only. There is considerable doubt in municipal circles that the Council will accept the mayor's suggestion for reference to the commission only. The commission's recommendations have been opposed by councilmen with those of the Zoning Board on a number of recent occasions.

"Disturbs Over-All Picture"

On Thursday, Councilman Sloan, who is a member of the Planning Commission, described it as an ordinance that never hears the public and works on a set of fast rules, while the Zoning Board "has the attitude that if it can be of benefit to a citizen without injuring anyone else, it will help him.

While it was the opinion of both chairmen at yesterday's meeting that the views of both bodies should be helpful to the Council and to the Mayor, rather than a hindrance, they acceded to the Mayor's wish that the municipal government "have one city policy for zoning."

"If the Commission on City Plan is supposed, under the law, to make the recommendations," the Mayor said, "I don't believe another agency should usurp that duty. It disturbs the over-all picture."

"Primarily Legislative Body"

Early in the conference, Mr. Miles recalled that before the Planning Commission was established, the bills were sent to the Zoning Board for recommendations. When the commission was set up the law required references of the bills to that body.

"However," the zoning chairman said, "zoning is the prerogative of neither body. It is up to the zoning authority, which is the Mayor and City Council of Baltimore. It is primarily a legislative body."

He said his board does not hold hearings on the rezoning bills and that the only hearings are those of the Council Committee on Building and Planning Regulations, held after the bills have passed through the Zoning Board and the Planning Commission.

Advantage Of Both Views

"When the bills are sent to us, we feel obligated to make a study and report to the Council," he said. "We send the bills with our report to the Commission on City Plan.

"Quite frequently our members are not in agreement, and sometimes there is a minority report by the Commission on City Plan. These are the exceptional cases. Usually our members are in agreement and our report is in agreement with that of the commission. When there is a difference, the views of both bodies should be helpful to the Council because then it has the advantage of both views. As I see it, under the law, the Mayor doesn't have to adopt either view. When the ordinance gets to the Mayor he has the views of both boards and of the Council."

"But if you want a single report, just see to it that the Council does not send the bills to the Board of Zoning Appeals. If all are sent to the Planning Commission and the commission wants our views, we will give them. That would answer the whole problem."

Mr. Hubbard agreed that the proposal was "very good" but said he has "not been disturbed by the occasional disagreement."

Mr. Miles raised another issue at the conference. The Planning Commission has been advocates for change in the zoning law to set up a separate classification for funeral parlors in residential areas, the purpose being that if the funeral parlor's use ever was abandoned the property would revert back to residential use.

Objection To Proposal

Mr. Miles said it would be much better to write into each ordinance rezoning to first commercial for the purpose of permitting a funeral parlor, that the property would revert to residential use of the funeral establishment were discontinued. He said the agreement of the person seeking the rezoning should be obtained.

Lester H. Crowther, deputy city solicitor, said there would be "only one objection" to Mr. Miles' proposal.

"When you start spot zoning for funeral parlors," he said, "there is nothing to prevent spot zoning for other businesses."
Reapplications on Zones Must Wait Year

An ordinance stipulating that a zoning proposal turned down by the Board of Municipal and Zoning Appeals may not be resubmitted until twelve months have elapsed was among six measures enacted by the City Council last night.

As now in effect, the zoning law requires that six months must elapse before a rejected proposal is brought forward again.

Another of the enacted measures authorizes the creation of an off-street parking commission with powers granted by the Legislature to assemble sites to be sold or leased to individuals or companies for operation as off-street parking facilities.

Proposal Is Amended

The bill was amended before passage to give the Council power to approve or veto each off-street parking project initiated by the commission. Under this amendment each project would require an assenting ordinance of the Council.

The measure calls for the Mayor to name the five members of the commission, subject to confirmation by the legislative body. The members are to serve without compensation. At the May election the voters approved a $1,000,000 loan allotment to finance the assembly of sites.

Repair Shop Is Permitted

Other bills passed at the session: Authorize closing Ridgely street from a point west of Bush street to Monroe street, Gunpowder street for a distance of 741 feet southeast from Paca street, and Elk street from Paca to Russell street.

Permit a laundry company to erect a truck-repair building on its premises in the 200 block of South Bruce street.

Extend the time for exercise of authority for the construction of a movie theater in the 2200 block of McElhenny street.

Becomes Residential Area

Change the zoning of the property bounded by Milton avenue, Kenwood avenue, the Pennsylvania Railroad and Chase street from the second commercial to the residential category.

Waive with respect to the property at the southwest corner of Liberty Heights avenue and Hillsdale road the provisions of the zoning law prohibiting the establishment of a filling station within 500 feet of a theater or church.

Among the bills introduced at the meeting was one authorizing the city to put into effect a form of agreement pertaining to the safekeeping of collateral posted by financial institutions to cover deposits of city money in those institutions.

Parking Ban Voted

Other new measures would: Change the zoning of the property on the southwest side of Sixth street, between Audrey and Doris avenues, from the residential to the first commercial category, and the zoning of property on the east side of Conduit street for a distance south of Thirty-seventh street from the residential to the first commercial category.

Ban parking on the west side of Reisterstown road, between Hayward and Garrison avenues, from 7.30 A.M. to 10 A.M. and ban loading and unloading of merchandise in the area covered by the bill between 8 A.M. and 9 A.M.

Ban parking at any time on the north side of Colorado avenue between Summit avenue and the Maryland and Pennsylvania Railroad.