

FILE NO. 72213

July 25, 1940

Commission on City Plan  
400 Municipal Building  
Baltimore, Maryland

Gentlemen:

Reference is made to your letter of July 20, 1940, enclosing a builder's plat submitted to your Commission for approval by the Bureau of Plans and Surveys of the Department of Public Works.

The plat discloses that the proposed filling station on Liberty Heights Avenue is within 300 feet of the school grounds of the Howard Park Public School but that the proposed station is more than 300 feet from the school building. You request my opinion as to whether or not the proposed filling station would violate the provisions of Ordinance No. 318, approved January 16, 1937, which prohibits gasoline filling stations on -

"any lot or premises where any of the boundaries of such lot or premises are within three hundred (300) feet of the boundary of any . . . public playground or of any building or structure used as a . . . school . . ."

In the case of *Derman vs. Mayor and City Council of Baltimore, et al.* (Daily Record January 7, 1939), the situation was exactly the same as in the instant case. In that case the school building was more than 300 feet from the filling station but the school yard or grounds was less than 300 feet therefrom. Judge Dickerson decided that the words "public playground" mentioned in Ordinance 318 did not include the playground of a public school. By implication he held that the words "boundary line" did not apply to the word "school".

In view of Judge Dickerson's decision and after a careful reading of the ordinance, I am of the opinion that the proposed filling station would not violate the provisions of Ordinance No. 318.

I am returning herewith the plat which you forwarded to me.

Very truly yours,

(signed) CHARLES C. G. EVANS  
City Solicitor

CCG/ERS  
Enc.