

JOHN J. TIMANUS
ZONING COMMISSIONER OF
BALTIMORE COUNTY

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

vs.

WILLIAM H. HARNEY
EDWARD L. MARTIN
J. KEAT BARLETT, JR.
CONSISTING OF THE BOARD OF ZONING
APPEALS OF BALTIMORE COUNTY

Respondents.

TO THE HONORABLE JUDGE OF SAID COURT:

The Petition of John J. Timanus, Zoning Commissioner of Baltimore County, respectfully shows:

(1) That he is the duly appointed Zoning Commissioner of Baltimore County and as such is an officer of Baltimore County.

(2) That on July 28th, 1946 Frederick L. Becker et al. filed with the Zoning Commissioner of Baltimore County, a Petition for the Reclassification of certain property therein described from an "A" Residence Zone to an "C" Commercial Zone. In order that an existing building on said property might be used for a feed store.

(3) That after proper advertising your Petition held a hearing on said petition and by this Order dated August 16th, 1946 denied said petition and ordered that said property should remain on "A" Residence Zone.

(4) That thereafter the Petitioner for said Reclassification prosecuted an appeal to the Board of Zoning Appeals of Baltimore County which said Board after a hearing passed its Order reciting the fact that an agreement had been entered into between Frederick L. Becker, one of the petitioners and the County Commissioners of Baltimore County to the effect that the premises "would be used only for the sale of feed and grain" and stating further "that the Order of the Zoning Commissioner of Baltimore County be and the same is hereby reversed and the permission to use the property as a feed store is hereby granted."

(5) Your Petitioner is aggrieved by said decision of the

Board of Zoning Appeals and says that said decision is wholly illegal for the following reasons:

(a) The Board of Zoning Appeals has no legal authority to grant "permission" for the operation of a feed and grain store in an "A" Residence Zone as the Order of the Board purports to do.

(b) Said Order attempts to grant "permission" to operate a retail business in an "A" Residence Zone without reclassifying the property for commercial use which action is illegal and void.

(c) Said Order is wholly arbitrary, unreasonable and improper in that it grants "permission" to conduct a commercial interference in a location remote from any existing commercial Zone and entirely surrounded by residence property.

(d) Said decision has no reasonable relation to the general plan or scheme of zoning as established by the County Commission of Baltimore County and as laid out on the various Zoning purports to permit a Commercial use in a location not adopted for such purpose nor required by public convenience and security.

WHEREFORE your petitioners pray that this Court may issue a Writ of Certiorari directed to the Board of Zoning Appeals to review said decision and reverse the same.

AND AS IN DUTY BOUND, etc.

Attorney for Petitioners

Zoning Commissioner of
Baltimore County

ORDER OF COURT

Upon the foregoing Petition and Affidavit, it is this day of November 1946, by the Circuit Court for Baltimore County ORDERED that a Writ of Certiorari issue to the Board of Zoning Appeals of Baltimore County to which a return shall be made on or before the day of November 1946, provided a copy of this Petition and Order be served on a member of said Board on or before the day of November 1946.

Judge

JOHN J. TIMANUS
Zoning Commissioner
BALTIMORE COUNTY

ROBERT J. HOLLER
Attorney

JOHN J. TIMANUS
Zoning Commissioner

OFFICE OF Zoning Department of Baltimore County

SECOND FLOOR, TOWNSHIP 4, MARYLAND
Telephone TWENTY 488-EXTENSION 18

Towson 4, Maryland
October 24, 1946

RECEIVED of John J. Timanus, Zoning Commissioner of Baltimore County, for purpose of preparing and prosecuting petition to Circuit Court of Baltimore County for writ of certiorari, on behalf of the Zoning Department from the decision of the Board of Zoning Appeals overruling the Order of the Zoning Commissioner in the matter of the petition of Frederick L. Becker, et al. for reclassification from an "A" Residence Zone to an "C" Commercial Zone, the property on the west side of Twelfth Avenue, Corner, beginning 180 feet east of Joppa Road, being the Number 691 of the files of the Zoning Department, enclosing the following papers:

- (1) original and copy of petition for Zoning Reclassification having thereon the Order of the Zoning Commissioner, and the Order of the Board of Zoning Appeals, thereto.
- (2) carbon copy of notice inserted in Jeffersonian.
- (3) copy of receipt to petitioner for reclassification fees
- (4) certificate of publication of advertisement and copy thereof,
- (5) certificate of posting
- (6) original letter of petitioner's attorney, addressed to the Board of Zoning Appeals advising of the enclosure of agreement.
- (7) order of petitioner's appeal to Board of Zoning Appeals
- (8) carbon copy of correspondence in above matter

George B. Bader
for Petitioner

WITNESS the hands and seals of the parties hereto

Test:

Frederick L. Becker

Walter A. Becker

Charles H. Oittings

County Commissioners of Baltimore County

by

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this day of 1946, before me, the subscriber and Notary Public in and for the County and State aforesaid, personally appeared Frederick L. Becker, Walter A. Becker his wife, and Charles H. Oittings, and they each acknowledged the foregoing Agreement to be their act.

AS WITNESS my hand and Notarial seal.

Notary Public

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this day of 1946, before me, the subscriber and Notary Public, personally appeared CHRISTIAN B. KELL, President of the Board of County Commissioners of Baltimore County, and acknowledged the foregoing Agreement to be the act of said County Commissioners of Baltimore County a municipal corporation.

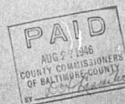
AS WITNESS my hand and Notarial seal.

August 27, 1946.

\$22.00

RECEIVED of Frederick L. Becker, et al., the sum of Twenty-two (\$22.00) dollars, being cost of appeal to the Board of Zoning Appeals from decision of Zoning Commissioner of Baltimore County denying petition for reclassification of property on west side of 12th Ave., 300' South of Joppa Road, to use existing building for Feed Store.

Zoning Commissioner.



REC'D AUG 27 1946

691-1

August 27, 1946

John J. Timanus, Esq.,
Zoning Commissioner,
Baltimore Co., Towson, Md.

Dear Sir:

Please enter an Appeal to the Board of Zoning Appeals of Baltimore County from your denial of petition for reclassification of property on W. 12th Ave., at Corner, 300' S. Joppa Road. Your Order denying this reclassification was passed on August 19, 1946.

Enclosed herewith you will find check in the amount of Twenty-two (\$22.00) dollars to cover costs of filing this Appeal.

Frederick L. Becker
Petitioner

Walter A. Becker
Petitioner

Charles H. Oittings
Petitioner

BOARD OF ZONING APPEALS
WILLIAM H. HARNEY
EDWARD L. MARTIN
J. KEAT BARLETT, JR.
A. HARRIS BARTLETT, JR.

THIS AGREEMENT made this day of in the year nineteen hundred and forty-six by and between FREDERICK L. BECKER, WALTER A. BECKER, his wife, and CHARLES H. OITTINGS of the first part, and the COUNTY COMMISSIONERS OF BALTIMORE COUNTY a municipal corporation, of the second part.

WHEREAS the parties of the first part have petitioned the Zoning Commissioner of Baltimore County for a reclassification from an "A" residential zone to an "C" commercial zone of property owned by them and described as follows:

WITNES that part of a tract or land owned by the parties of the first part on the West side of Twelfth Avenue 600 feet South of Joppa Road and running thence South 100 feet, said 100 feet strip of land running thence westerly across the whole tract of land owned by the parties of the first part, so as to permit the sale of grain and feed from a barn now standing on said 100 foot strip of land said barn to be used only for the sale of grain and feed and similar commodities; it being agreed that if the said reclassification be made for such modified use as aforesaid, the said land and the use shall be subject to the conditions and restrictions hereinafter set forth.

NOW THEREFORE this Agreement witnesses that in consideration of the premises and the sum of Two Dollars (\$2.00), the receipt of which is hereby acknowledged, and the further consideration of the benefits and advantages accruing to the parties of the first part under the reclassification and modified use as aforesaid, said parties of the first part hereby agree and agree to the following conditions and restrictions to wit:

1. That no other building will be erected on the lot of ground aforesaid.

2. That the barn now erected on the lot aforesaid will be used only for the purposes aforesaid.

THIS AGREEMENT shall bind the parties of the first part, their heirs and assigns and shall bind and be a covenant running with the land.

ZONING DEPARTMENT - BALTIMORE COUNTY, MD.

Certificate of Posting of Re-Classification of Special Permit Notice

1. District: Towson 4, Md.
Date of Posting Property: Aug 27/46
Location of Sign on Property: East from front Street on Road.
Location of property: South side corner of 12th Ave. & Joppa Rd.
Reclassification of Special Permit Petitioner for: Feed Store.
Petitioner: Frederick L. Becker
Remarks:
Inspector making return: George B. Bader

CERTIFICATE OF PUBLICATION

TOWSON, MD. August 27/46

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 day of August, 1946, the first publication appearing on the 24th day of August, 1946.

THE JEFFERSONIAN,
Manager.

Cost of Advertisement, \$.....

Petition for Zoning Re-Classification

0691

To The Zoning Commissioner of Baltimore County:--

~~xxx~~ we, Frederick L. Becker, et al legal owners of the property situate on west side of 12th Ave., at Carney, in the 11th District of Bal to. Co., beginning 300' south of Joppa Road, thence southerly, on said side of 12th Ave., 100' with a rectangular depth westerly of 200',

herely petition that the zoning status of the above described property be re-classified, pursuant to the

"R" Commercial

Reasons for Re-Classification

Character of use for which above property is to be used: Existing building to be used for Feed Store

Site and height of building: front.....feet; depth.....feet; height.....feet.

Front and side set backs of building from street lines: front.....feet; side.....feet.

Property to be posted as prescribed by Zoning Regulations.

~~xxx~~ we, agree to pay expenses of above re-classification, 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.

Frederick L. Becker
Charles McCallister
Legal Owner

Address Joppa Road, Fullerton, Md

ORDERED By The Zoning Commissioner of Baltimore County, this.....29th.....day of

July.....1946 that the subject matter of this petition be advertised, as required

by the "Zoning Law of Baltimore County, in a newspaper of general circulation throughout Baltimore County, that property be posted, and that the public hearing hereon be had in the office of the Zoning Commissioner of Baltimore County, in the Reckard Bldg., in Towson, Baltimore County, on the.....13th.....day of.....August.....1946.....at.....1:30.....o'clock P.M.

John J. McCallister
Zoning Commissioner of Baltimore County

(over)

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of.....the above re-classification should be had

It is Ordered by the Zoning Commissioner of Baltimore County this.....day of.....19.....that the above described property or area should be and the same is hereby re-classified, from and after the date of this Order, from a.....zone to a.....zone.

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of location, not connected with or adjacent to an existing commercial zone, the granting of which would be "spot zoning" the above re-classification should NOT be had:

It is Ordered by the Zoning Commissioner of Baltimore County, this.....12th.....day of.....August.....1946, that the above petition 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 "R" zone.

John J. McCallister
Zoning Commissioner of Baltimore County

The appeal of Frederick L. Becker, et al, from the order of the Zoning Commissioner of Baltimore County passed on the 19th day of August 1946 coming before the Board of Zoning Appeals of Baltimore County and testimony having been taken and it appearing to the Board that an agreement has been entered into by Frederick L. Becker and the County Commissioners of Baltimore County, which agreement has been recorded in the Land Records of Baltimore County to the effect that the property mentioned in the petition would be used only for the sale of feed and grains, therefore:

It is hereby ORDERED this 15th of October, 1946, by the Board of Zoning Appeals of Baltimore County that the order of the Zoning Commissioner of Baltimore County be and the same is hereby reversed and the permission to use the property as specified in said agreement is hereby granted.

John J. McCallister
Edward J. McCallister
John J. McCallister
Board of Zoning Appeals of Baltimore County.

Approved.....County Commissioners of Baltimore County

Date July 15, 1947 By Christie H. Kahl
President

July 29, 1946

\$18.00
paid

RECEIVED of Frederick L. Becker, et al, the sum of Eighteen (\$18.00) Dollars, being cost of petition for reclassification, advertising and posting of property, West side of 12th Ave., 300' S of Joppa Road, 11th District of Baltimore County, pursuant to petition being filed for reclassification.

Hearings:
Monday, August 19, 1946
at 1:30 o'clock p.m.

Zoning Commissioner.

PAID
JUL 29 1946
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY