

KATHERINE P. THEARLE,
HARRY J. HOLLAND and
MARGARET J. HOLLAND,
his wife
VS.
EARL L. DINGLE,
SAMUEL H. HOOVER and
WILLIAM A. SAPP constituting
the BOARD OF ZONING APPEALS
OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition and appeal of Katherine P. Thearle, Harry J. Holland and Margaret J. Holland, his wife, respectfully shows:

1. That by order of the Board of Zoning Appeals of Baltimore County dated December 18, 1946 the property owned by Jacob C. Dimis et al, located at the southeast corner of Harford and Northwind Roads at "Cub Hill", Eleventh District of Baltimore County, was reclassified from "A" Residence Zone to "E" Commercial Zone for the distance of 185.4 feet along the southeast side of Harford Road and the distance of 845.11 feet along the southwest side of Northwind Road. That said order reversed the order of the Zoning Commissioner in that the Zoning Commissioner had reclassified the property for a depth along the southwest side of Northwind Road of 180 feet instead of 845.11 feet as allowed by the Board of Zoning Appeals.

2. That your Petitioner, Katherine P. Thearle and Irvin Thearle, her husband, are the owners of the property consisting of four acres improved with a ten room dwelling located on the southwest side of Northwind Road abutting the said property of Jacob C. Dimis, et al, and your petitioners, Harry J. Holland and Margaret J. Holland, his wife, are the

JACOB C. DIMIS et al
SEE HARFORD & NORTHWIND ROADS
11TH DIST.

owners of the property consisting of four and a half acres improved with a fifteen room dwelling located at the northeast corner of Harford and Northwind Roads, immediately across Northwind Road from the property of the said Jacob C. Dimis et al. That the said Thearles have resided on their property continuously for twenty-two years and the said Hollands have resided on their property continuously for over twenty-five years.

3. That your said petitioners are aggrieved by the aforesaid order of the Board of Zoning Appeals dated December 18, 1946 for the reasons hereinafter set forth.

4. That the aforesaid order of the Board of Zoning Appeals dated December 18, 1946 is arbitrary, capricious and illegal for the following reasons:

(a) That the only use heretofore made of the said property affected by the aforesaid order was for the purpose of a hotel and inn, and that such use extended southeasterly along Northwind Road from the Harford Road a distance, at most, of not more than 150 feet. That the remaining portion of the property along Northwind Road is unimproved and has never been used for any commercial purpose.

(b) That the neighborhood in which said property is located is predominately residential and the creation of an additional commercial zone for the use of a welding and machine shop will cause noises and odors constituting a nuisance to the residents and causing a serious depreciation in the value of your petitioners' properties and other residential properties in the neighborhood.

(c) That such reclassification for the use of a welding and machine shop will be detrimental to the health, safety, morals and general welfare of the community in which said property is located.

KATHERINE P. THEARLE,
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TO THE HONORABLE, THE JUDGES OF SAID COURT:

And now come Earl L. Dingle, Samuel H. Hoover and William A. Sapp, constituting the Board of Zoning Appeals of Baltimore County, and in compliance with the writ of certiorari directed against them in this case, herewith submit the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

No. 220 DOCKET ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

Sept. 11, 1946, Petition of Jacob C. Dimis, et al, for reclassification of property at Southeast corner of Harford and North Wind Roads, at "Cub Hill", in the 11th Dist., fronting southeasterly on southeast side of Harford Road, 185.4' with a rectangular depth southeasterly of 800' and binding on the southwest side of North Wind Road.

" " " Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for Sept. 30, 1946, at 2:30 o'clock P. M.

" 18 " Certificate of posting of property on Sept. 18, 1946, filed.

" 23 " Certificate of publication of advertisement in newspaper, filed.

KATHERINE P. THEARLE,
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constituting the
BOARD OF ZONING APPEALS
OF BALTIMORE COUNTY

(d) That there is no need in the community for the establishment of an additional commercial zone particularly for the use of a welding and machine shop.

(e) That the general zoning plan in the county is to establish commercial zones or areas fronting on main highways or avenues to a depth of 150 feet except in cases of non-conforming use or in cases where there is a need in the community for the particular commercial use applied for.

(f) That the Zoning Commissioner in allowing a reclassification of only 150 feet in depth recognized the foregoing fundamental reasons and the order of the Board of Zoning Appeals under the circumstances in reversing the order of the Zoning Commissioner in extending the depth to 845.11 feet acted arbitrarily, capriciously and illegally against the best interest and welfare of the community and contrary to the intended purpose of the Zoning Laws of Baltimore County. That said action of the Board of Zoning Appeals was an abuse of their administrative authority vested in them under the Zoning Laws of Baltimore County.

(g) That your petitioners have no objection to the order of the Zoning Commissioner allowing a reclassification to a depth of 180 feet along Northwind Road but, for the aforesaid reasons, are opposed to a depth along Northwind Road of more than 150 feet, wherefore this petition and appeal is filed pursuant to the provisions of the Zoning Laws of Baltimore County.

(h) And for other reasons to be assigned at the hearing.

WHEREFORE YOUR PETITIONERS PRAY:

1. That a Writ of Certiorari be issued by this Court directed to the Board of Zoning Appeals for Baltimore County to review the decision of the Board of Zoning Appeals for Baltimore County and prescribe the time within which a return thereto must be made and served upon the relators' attorney.

2. That the Board of Zoning Appeals for Baltimore County be required to return to this Court the original papers acted upon by it or certified or sworn copies thereof and that such return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision and order appealed from.

4. And for such other and further relief as the nature of the cause of your petitioners may require.

And as in duty bound, etc.

Katherine P. Thearle
Harry J. Holland
Margaret J. Holland

Attorney for Petitioners

STATE OF MARYLAND:
CITY OF BALTIMORE: TO WIT:

I HEREBY CERTIFY that on this day of January, 1947, before me, the subscriber, a Notary Public of the State of Maryland and in and for Baltimore City aforesaid, personally appeared KATHERINE P. THEARLE, HARRY J. HOLLAND and MARGARET J. HOLLAND, his wife, the petitioners in the above entitled matter and made oath in due form of law that the matters and facts set forth in the foregoing petition are true and correct according to the best of their knowledge and belief.

AS WITNESS my hand and notarial seal.

Notary Public

Sept. 30, 1946, At 2:30 o'clock P. M. hearing held on petition by Zoning Commissioner. Case held sub curia.

Nov. 30, 1946, Order of Zoning Commissioner, granting in part the petition for reclassification.

Dec. 7, 1946, Order of appeal to Board of Zoning Appeals of Baltimore County from Order of Zoning Commissioner of November 30, 1946, filed.

Dec. 14, 1946, Hearing on appeal before the Board of Zoning Appeals of Baltimore County.

Dec. 18, 1946, Order of Board of Zoning Appeals of Baltimore County affirming the decision of the Zoning Commissioner as to the property fronting on Harford Road and reversing the decision of the Zoning Commissioner as to the property fronting on North Wind Road, filed.

Jan. 20, 1947, Writ of certiorari and appeal to Circuit Court for Baltimore County served on Board of Zoning Appeals.

Transcript of testimony taken at hearing on appeal before the Board of Zoning Appeals of Baltimore County by the stenographer who took and transcribed the same, filed.

Feb. 3, 1947, Transcript of docket entries and all papers filed in Circuit Court for Baltimore County.

The rules and regulations pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County as are also the use district maps and your Respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your Respondents will produce any and all such rules and regulations together with its zoning use district maps at the hearing on this petition or whenever directed to do so by this Court.

Respectfully submitted,

Attorney for Board of Zoning Appeals of Baltimore County.

State of Maryland, Baltimore County, Sci:

To Earl L. Dingle, Samuel H. Hoover and William A. Sapp, Constituting To the Board of Zoning Appeals of Baltimore County

YOU ARE COMMANDED, that the record and proceedings in a certain case of Katherine P. Thearle, Harry J. Holland and Margaret J. Holland, his wife with all things touching the same, as fully and perfectly as they remain before you, by whatever name or names the parties aforesaid, or either of them, are called in the same, you send and certify to the CIRCUIT COURT FOR BALTIMORE COUNTY, before the Honorable J. Howard Murray Associate Judge of the Circuit Court for Baltimore County, presiding, together with this writ, immediately after receipt of the same.

WITNESS, the Honorable C. Cua Grayson Chief Judge of the Circuit Court for Baltimore County, this day of December, 1946

Issued this 17th day of January, 1947 - To

JOHN W. Bickner
Clerk



True Copy Test
J. Howard Murray
Clerk

RE: PETITION FOR RECLASSIFICATION FROM
"A" RESIDENCE ZONE TO "A" COMMERCIAL
ZONE, S. E. COR. HARFORD AND NORTH
WIND ROADS, AT "CUB HILL", 11th DISTRICT
OF BALTIMORE COUNTY, BENDING
AND FRONTING SOUTHWESTERLY ON S. E.
SIDE OF HARFORD ROAD, 155.8' WITH A
RECTANGULAR DEPTH SOUTHWESTERLY AND
BENDING ON SOUTHWEST SIDE OF NORTH
WIND ROAD, 289 FT.,
JACOB C. DIMMIS, ET AL, PETITIONERS
ORDER OF BOARD OF ZONING APPEALS OF BALTIMORE
COUNTY

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#719

December 7, 1946

Mr. John J. Timanus
Zoning Commissioner
Dunham Building
Towson -4- Maryland

Re: Petition for Zoning Reclassification from "A" Residence Zone to "A" Commercial Zone, S. E. Cor. Harford Road & North Wind Road, "Cub Hill", Jacob C. Dimmis, et al, Petitioners

Dear Mr. Timanus:

You will please enter an appeal from your Order of November 30, 1946 in the above matter and forward the papers to the Board of Zoning Appeals of Baltimore County.

You will find check enclosed for \$22.00 being the appeal costs.

Joseph Dimmis
Petitioner

Joseph Dimmis
Petitioner

The above matter coming up for hearing before the Board of Zoning Appeals of Baltimore County on appeal from the Order of the Zoning Commissioner of Baltimore County, passed on November 30, 1946, in which the reclassification of the entire area as described in the petition as fronting 155.8 feet on Harford Road with a depth southeasterly on North Wind Road of 289 feet was denied by the Zoning Commissioner and in lieu thereof that portion of said entire area, as fronting 155.8 feet on Harford Road with a southeasterly depth of 150 feet on North Wind Road, was reclassified by said Zoning Commissioner, and it appearing to the Board, from the facts as shown at the appeal hearing and from the nonconforming use of the property that that portion of the said entire area as now hereinafter particularly described should be reclassified as petitioned for, therefore:

It is this 7th day of December, 1946, ORDERED by the Board of Zoning Appeals of Baltimore County that the aforesaid Order of the Zoning Commissioner is reclassifying that portion thereof as described in his Order which is inconsistent with this Order now passed by the Board be and the same is hereby reversed. And it is further ORDERED by the said Board that, that portion of the entire area, (as described in petition) as is hereinafter particularly described be and the same is hereby reclassified from and after the date of this Order from an "A" Residence Zone to an "A" Commercial Zone, to wit:

Beginning at the southeast corner of Harford and North Wind Roads, at "Cub Hill," in the Eleventh District of Baltimore County, fronting southeasterly on the southeast side of Harford Road, 155.8 feet with a rectangular depth southeasterly on the southwest side of North Wind Road, of 245.11 feet, more or less, to a point 100 feet northeasterly from the southeastermost corner of the said entire parcel.

It is further ORDERED that the said remaining 100 feet rear strip, as fronting on the North Wind Road, be and the same is to remain as heretofore zoned, to wit, as an "A" Residence Zone; and further, that all setback distances of buildings or structures, on the tract hereby renamed, from the abutting roads or other lines of the now zoned property, be approved by the Zoning Department.

W. B. Mahoney
Edward J. Doherty
King W. Smith
Board of Zoning Appeals
of Baltimore County.

RE: PETITION FOR RECLASSIFICATION FROM
"A" RESIDENCE ZONE, S. E. COR.
HARFORD AND NORTH WIND ROADS, AT
"CUB HILL", 11th DISTRICT OF
BALTIMORE COUNTY, BENDING AND
FRONTING SOUTHWESTERLY ON S. E. SIDE
OF HARFORD ROAD, 155.8' WITH A
RECTANGULAR DEPTH SOUTHWESTERLY AND
BENDING ON SOUTHWEST SIDE OF NORTH
WIND ROAD, 289 FT.,
JACOB C. DIMMIS, ET AL, PETITIONERS

#719

Pursuant to advertisement, posting of property, and public hearing on the above petition and it appearing by reason of location, the long continued nonconforming use of a portion of the property described in the petition that the following described part thereof, should be reclassified as petitioned for, therefore:

It is ORDERED by the Zoning Commissioner of Baltimore County, this 30th day of November, 1946, that, that portion of said entire parcel as described in petition as is hereinafter particularly described should be and the same is hereby reclassified as to zoning from and after the date of this Order from an "A" Residence Zone to an "A" Commercial Zone, being particularly described as follows, to wit:

Beginning at the southeast corner of Harford and North Wind Roads, at "Cub Hill", in the 11th District of Baltimore Co., running and fronting westerly on east side of Harford Road 155.8' with a rectangular depth southeasterly and bending on southwest side of North Wind Road 150'.

And it is hereby further ORDERED that the remaining portion of the entire property as described in petition not hereby reclassified and described as aforesaid, be and the same remains as formerly zoned, to wit, an "A" Residence Zone.

Joseph Dimmis
Zoning Commissioner
of Baltimore County.

\$21.00

RECEIVED of Jacob C. Dimmis, & wife, the sum of Twenty One (\$21.00) Dollars, being cost of petition for reclassification, advertising and posting of property, Southeast corner of Harford and North Wind Roads, 11th District of Baltimore County.

Hearings:
Monday, Sept. 30, 1946
at 8:30 o'clock p.m.

Zoning Commissioner



Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County:-

EXCERPT: The Jacob C. Dimmis, & wife, legal owner of the property situated at the southeast corner of Harford and North Wind Roads, at "Cub Hill", in the 11th District of Baltimore County, fronting southeasterly, on the southeasterly side of Harford Road, 155.8 feet, with a rectangular depth southeasterly of 289 feet and bending on the southwest side of North Wind Road,

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herely petition that the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an "A" Residence zone to an "A" Commercial zone.

Reasons for Re-Classification:-

Character of use for which above property is to be used: Approved Commercial use

Size and height of building: front: feet, depth: feet, height: feet.
Front and side set backs of building from street line: front: feet, side: feet.
Property to be posted as prescribed by Zoning Regulations.

I, or 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.

Joseph Dimmis
Joseph Dimmis
Joseph Dimmis
Zoning Commissioner

ORDERED by The Zoning Commissioner of Baltimore County, this 11th day of September, 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 herein be had in the office of the Zoning Commissioner of Baltimore County, in the Record Bldg., in Towson, Baltimore County, on the 30th day of September, 1946, at 8:30 o'clock P.M.

Joseph Dimmis
Zoning Commissioner of Baltimore County
(ccr)

December 7, 1946

\$22.00

RECEIVED of Joseph Dimmis, the sum of Twenty Two (\$22.00) Dollars, being cost of appeal to the Board of Zoning Appeals of Baltimore County from decision of Zoning Commissioner of Baltimore County denying petition for reclassification of the property at S. E. Cor. Harford Road and North Wind Road, "Cub Hill".

Zoning Commissioner



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 11th day of September, 1946, 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 Residence zone to a Commercial zone.

See Order of Zoning Commission Attached

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 NOT be had, It is Ordered by the Zoning Commissioner of Baltimore County, this 11th day of September, 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 a Residence zone.

Approved on Recommendation of the Zoning Commissioner
Date: Dec 17, 1946
By: *Charles H. Hall*
President



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11 Commercial Use
Posted for: Jacob C. Dimmis
Location of property: Southeast corner of North Wind Road and Harford Road
Location signs: One sign 75 feet south of North Wind Road on the east side of Harford Rd. The other sign on the south side of North Wind Rd 155 feet east of Harford Rd.
Posted by: *Harry C. Smith*
Date of return: Sept 19/46

