County Commissioners of Waltimore County

Towson 4, Murpland

May 7, 1947

Instead of filing an injunction in the Circuit Court, we had Mr. Frederick s. Cole appear before our Board relative to his alleged violation of soning regulations at 5338 Frederick greenue.

We believe we have accomplished the same purpose that might have been accomplished by instituting injunction proceedings with considerably less delay and red tape. We do not believe there will be say further violations. Should there be another violation, bowever, you may be assured that injunction proceedings will be instituted in-

Very truly yours.

COUNTY COMMISSIONER OF BALTIMORE COUNTY

President

May 1. 1947.

ce - Mr. Charles H. Doing

Er. Harvey J. Morhiser, 102 3. Symington Avenue, Beltimore - 18, Mt.

regarding the operation of a funeral home by St. 1. Cole, 6335 Freezeld Arenue, bits anter has turned a Good Score E. Serry, Edg. Connect transparence of the state of the second paper besent, for his attention. It you do

Very truly you's,

coming Commissioner.

Dear Mr. Morhtman



ROOM 329 CITY HALL

September 6. 1944

Mr. P. A. Cole 1200 W. Lorbard Street.

At a meeting of the Board of Zoning Appeals on Tuesday

September 5, 1944. the following resolution was passed: *Resolved, that in the matter of Appeal No. 314-44,

to permit use of a portion of premises as a funeral home

at 5311 Edmondson Avenue,

the BOARD OF TONING APPEALS, after giving public notice, inspecting the premises, holding a public hearing, considering all data submitted,

known as the Zoning Ordinance, mederredctocmers:particularly below

byoponograph numbers; made a study of the premises and neighborhood and

THIS 18 POT A PERCENT

REND JAN 2 4 1047

Mr. Chas. H. Doing, Zoning Commissioner Reckord Duilding, Towson, L. Md.

Dear Mr. Doing:-

On November 18th, 1946, a hearing was held at Youngn for change of zone from residential to commercial so Mr. Fred 2. Cole could conduct a Funeral Home at 6330 Frederick Ave. and decision was made December 18th, 1946, in which Mr. Cole's application was rejected.

I am attaching a Notice from The Morning Sun of January 21, 1947, stating a funeral would be conducted from the Cole Hesiderce.

Your Office was contacted today and Mr. Mueller stated be would presentative out to investigate this Notice and I would appreciate g oppy of his report.

Yours yeary truly, Henry morbices.

102 S. Symington ave., Baltimore, 28, Md.

MEMBERSHIP 1946 -- 1236

GOAL FOR 1947 -- 2550 CATONSVILLE COMMUNITIES FILEU APR 21 1947 IMPROVEMENT AND PROTECTIVE ASSOCIATION, INC.

CATONSVILLE 28, MD. April 17, 1947

Mr. Charles A. Doing Soning Commissioner of Balto. Co. Reckord Building Towson 4, Maryland

Dear Mr. Doing.

The residents in the vicinity of 6228 Frederick Road have called to our attention that another funeral has been conducted from the residence of Mr. Frederick A. Cole. The clipping its attached. This is the furth funeral conducted by Mr. Onle from his new since January 1, and be considered that the people in the neighborhood area than the people in the neighborhood area that the people defined attitude is annoying to the people and 1 presume, guite substraining to your seem that there county authorities. It seems that there could be not be people and the people of the

F. A. Cole, 1200 W. Lombard Street, Appellant.

and by authority of Ordinance No. 1247, approved March 30, 1951,

To compute the manager and a study of the prestress and resignborhood and finds the property is on the southeast side of Edmondaon Avenue, 166,5 feet northeast of North Bend Road, in a Residential Was District. The loft is so situated that the boundary line of Satismore City and haltimore of the southeast side of the southeast s Mum G. Enmalos

caltimore, Mi., January 21, 1947.

Harvey J. Morhiser

Will you please let us know what will be done in this matter?

Very truly yours,

John F. Miller, Jr.

CC. Mr. Christian H. Kahl Pres. Board of County Commissioners

CRIEF-Co. Spoil 16 1947, at his house, 192 Oak resource, Cartest Park, AMERICA, Cartest of Mary F. Cartest The Property of Mary F. Cartest The Property of Mary P. Cartest The Property of Mar

Mr. Chas. Doing, Zoning Commissioner, Reckord Building, Towson, 4, Md.

In regard to Mr. Fred A. Cole, 6338 Frederick Avenue conducting funerals from his home which is in a residential Jone and about which the residents in this vicinity have been protesting.

I understand that papers have been drawn up to have an injunction by the Circuit Court against Mr. Cole and these papers have been forwarded by your Office to Mr. Eahl for signature.

The residents are now inquiring as to the status of this case and would appreciate reveiving a reply.

Very truly yours,

Hanry & morluses Harvey J. Morniser

May 5, 1947

Mr. Ceorge M. Berry Duncan Building Townen 4, Maryland

On the heafs of his sheeling procise that the precises at 5032 Trederick termon, Catcourtle, would come at 6032 Trederick termon, Catcourtle, would come at the control of the control of court, and the control of the control the Courty Commissioners will not file in Court at the courty Commissioners will not file in Complaint which court, at the precent time, the Bill of Complaint which court and the court of the court of the Still, helevatth, unschooled.

to also seeding you a copy of Baltimer city Double of pythe sheet, a suborization is given for the seed of pythe sheet, a suborization is given for the seed of pythe sheet, and the seed of the seed

When the imposed Ordinance has served your purpose, please return it to Mr. Frederick A. Onle.

cc - Mr. Charles H. Doing/

Report on funeral held on September 16, 1947, at 2:30 P. F. from the residence of Frederick A. Cole, 6338 Frederick Road, Catonsville.

The funeral of Edna V. Burrows was held at the above address on September 18, 1947, at 2:30 P. M. Miss Burrows was a woman approximately 45 to 50 years of age. We viewed the body at 2:15 P. W. and registered in the book provided for this

The services were held at 2:30 P. M. and the services were over at 2:50 P. M. Approximately 19 people attended the services. The body was removed at 3 P. M. There were approxinately 8 cars in the funeral procession. Following are the license tag numbers of some of the cars: Md. 392-670, 32-521 (flowers) 89-012, 611-839, 56-199 (funeral).

We also secured the names of the two Police Officers on duty at the funeral: Officer Seidlich and Officer Mooney.

There were about 3 people standing on the south side of Frederick Moad, who were people of the neighborhood.

William of State

February 14, 1947.

Report on funeral of Amos H. Barr, held February 13, 1947 at the home of Fred rick A. Cole, 6338 Edmonicon Ave.,

On February 13, 1947, I called at the home of Frederick A. Cole at 5:30 p. m. and viewed the body laid out in the front west room of Mr. Cole's home. The lady in charge told me that the funeral would be held at 8:60 p. m. that night but the body would not be shipped until Priday morning, February 14, 1947, to Millersville, Pa. She asked me to sign the register which I did. At 7:30 p. m. I went back again to the Cole home to see if the funeral was held at 8:00 o. m. About 7:45 p.m. a car arrived with the preacher and two ladies, they stayed in the house until 8:30 p. M. and then got in the car and went away. I stayed around the house until 9:10 p. m. and the body had not been removed up until that time.

STATE OF MARYLAND, BARTIMORE COUNTY, to wit:

I HERREBY CERTIFY that on this ____day of April, in the year ninoteen hundred and forty seven before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared Christian H. Kahl, President of the County Commissioners of Baltimore County, who made oath in due form of h w that the matters and facts set forth in each and every paregraph of the aforegoing Bill of Complaint are true and correct to the best of his knowledge, information and belief.

WITHESS my hand and Noterial Seal.

- Motory Public.

Upon the eforegoing Bill of Complaint and affidavit, it is this ____ day of April, 1947, by the Circuit Court for Beltimore County in Equity, ORDERED that the Defendant, Prederick A. Cole, show cause if any he has on or befor : the ___ day of 1947 why the injunction prayed for in the aforegoing Bill of Complaint should not be granted provided a copy of this Bill of Complaint and Order be served on said Defendant on or before the _____ day of

REPORT ON PUNERAL HELD ON APRIL 14, 1947, at 2:00 o'CLOCK P. M. FROM THE HOME OF PREDERICK A. CCLE, 6338 Prederick Road, Catonaville.

The funeral of James W. Hartley, was held at the above address on April 14, 1947, at 2:00 o'clock p. m. Mr. Hartley was a man approximately 60 to 65 years of age. We viewed the body at 1:25 p. m. and registered in the book provided for this purpose. The services were held at 2:00 o'clock p. m. and the services were over at 2:20 p. m. The body was removed from the home at 2:45 p. m. There were approximately 14 cars in the funeral procession. Two cars in the procession had Tag No. 101-560-47 and Tag no. 52-209-48. We also secured the name of the police officer who directed traffic. his name being Laumann, from the Catonaville Folice Station. There also was a photographer taking pictures, we did not get his name but the license number of his car was 355-372-48.

There were outte a number of people standing along the street, watching the funeral procession, who seemed to be people

Petition for Zoning Re-Classification

on the north side of Frederick Road, near Catonsville, in the 1st Election District of Balto, Co., beginning 148.88° seat of Syming-ton Ave., thence westerly, on said side of Frederick Road, 201.34° with a right angle depth northerly of 200°

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

Zoning Law of Baltimore County, from an "A" Regidence zone to an "E" Cormercial zone.

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

Mar we, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing

Vallie V. Cole

Towson, Baltimore County, on the 19,46, at 0 clock P. M.

Zoning Commissioner of Baltimore County

of this netition, and further agree to and are to be bound by the zoning regulations and restrictions of

ORDERED by The Zonine Commissioner of Haltimore County this 30th

Commissioner of Baltimore County, in the Reckord Bldg., in Towson, Baltimore Co.

18th day of November

October 19.46, 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

To The Zoning Commissioner of Baltimore County:
Vallie V. Cole and
fre we. Frederick A. Gole.

Reasons for Re-Classification

used for Funeral Home

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

Baltimore County adopted pursuant to the Zoning Law for Baltimore Co

Property to be posted as prescribed by Zoning Regulations.

#761-

A Municipal Corporation, Complement

IN THE CIRCUIT COURT POR BATIFFMORE COUNTY IN HOUSEY

111111111111

103 849

TO THE HONORABLE, THE JUDGES OF SAID COURT :

Your Orator complaining, says:

1, That pursuant to Section 12-B of Article 3 of the Code of the Public Local Laws of Maryland, your Complainant, by resolution dated January 2, 1945, established within the limits of Baltimore County a comprehensive plan of soning; that said when divided Beltimore County into soming districts and therein regulated and restricted the erection, construction, reconstruction, alteration, repair and use of buildings, structures

2. That one of the zones so established is known as "D" Residence fore and said Remulations provide that no building or land located within such a "D" Residence Zone shall be erected. altered, renaired or used expent for cortain specified uses as set forth to soid Regulations. That said specified uses do not include the use of such property for a funeral home or mortuery.

3. That the Defendant and his wife, Vallie V. Cole, are the omers of a tract of land situate at 6338 Prederick Avenue, in Catonsville, Baltimore County, Maryland; that said property is located within the outlines of a zoning district which has been by said Regulations established as a "D" Residence Zone.

4 2 U M 30 2

4. That in flagrant violetion of the said Boning Regulations, the Defendant, who is a licensed funeral director, has for many months been operating and maintaining a funeral parlor or mortuary on the said premises and using said land for the purnose of conducting funerals.

5. On the 30th day of October, 1946, the Defendant petitioned the Zoning Commissioner of Baltimore County for a reclassification of said property from a "D" Residence Zone to an "H" Commercial Zone in order that he might be legally entitied to conduct a funeral parlor on mid premises; that said petition was duly heard before the Zoning Commissioner of Beltimore County and by his order dated the And day of Jamary, 1947, the said petition was refused and timet no appeal from spid decision to the Board of Zoning Appeals of Beltimore County was prosecuted by the Defendant.

6. That the Defendant has, on a number of occasions been advised of lds violation of Zoning Regulations and has been warned repeatedly serinst a continuance of his illegal conduct of funerals and the operation of a funeral home on said permises. but in spite of said warnings the Defendant has continued to violate said Regulations and on April 14, 1947, whe Defendant conducted a funeral from said premises.

WHEREPORE YOUR COMPLAINANT PRAYER

1. That the Defendant may be enjoined from using the premises known as 6338 Frederick Avenue, Catonsville, for the sorduct of a funeral parlor and the conducting of funerals therein in violation of Zoning Regulations and Restrictions.

2. And for such other and further relief as your Complainant's case may require.

AND as in duty bound, etc.

Selicitor for Complainant,

President

Pursuant to the advertisement, posting of property, and public hearing on the above and it appearing that by reason of ... It Is Ordered by the Zoning Commissioner of Baltimore County ________, that the above described property or area should be and the same is hereby re-classified, from and after the dark of this Order, from a

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of location, "spot toning", Aspressive character of use and being in an exclusive residential zone.

the above re-classification should NOT be had:

It Is Ordered by the Zoning Commissioner of Baltimore County, this. 2 day of

January 2, 1947.

Ressrs. Vallie V. & Prederick A. Cole, 6400 Frederick Road, Catonsville - 28% Ed.

Ref Petition for Reclassification from a "D" Residence Zone to "R" Commercial Zone, N.S. Pred-erick Rom', Beg. 148,687 W.of Symingtom Ave., W. 201.51 by N. 2007 - Vallie V. Cole, et al,

I have today, January 2, 1947, passed my Order, as Zoning Commissioner, denving the petition for reclassification in the above entitled natter. My reasons for turning down this petition are briefly as follows:

petition are briefly as follows:
The load involved in this petition is situate on the north side of Frederick Road, at or near Gatonwille, in the First Blatylic of Petitione Courty, teepining about 100 feet west of Symington Avenue and having a frontage of about 100 feet west of Symington Avenue and having a frontage of about 100 feet west of Symington Avenue and having a frontage of about 100 feet morthrily of 900 feet, The zonding was about the lot above mentioned, as well as the land in the rear thereof, zoned for communications. The land is the land in the rear thereof, zoned for communication with a consticuently with the land of the land of

The petition recites that the building, which has heretofore been used continuously for residential purposes is now to be used -- "axisting building to be used for funeral home."

establish a small facilated comercial area in a large exclusive residential social area and would be apost soning. Spot soning has been held by the Courts and social mathematics (and is note fully smalled in a comparatively recent odd leavish in

County Commissioners of Baltimore County

In Ret Application of Fred. A. and Vallie V. Cole

This is an application for a change in zoning from D Residential to E Commercial for property located on the north side of Frederick Road 148 feet west of Symington Avenue.

Pursuant to an act of the General Assembly of Maryland, known as Chapter 302 of the Acts of 1945, and approved March 29, 1945, the County Commissioners of Baltimore County were empowered to regulate and restrict within Saltimore County, the height, number of stories and size of ouildings and structures, the percentage of lot that may be occupied, the size of yards, courts, the set back or distance of any buildings or structures from front or side lot, road, street or alley line and other open spaces, the density of population and location and use of buildings, structures and land for trade, industry, residence or other purpose. In accordance with this law, codified as Section 72B of Article 3 of Code of Public Local Laws of Maryland, the property for which the present change has been applied was zoned D

Within the past few months, and certainly since March 29, 1945, the applicants purchased this property knowing at that time that it was within a residential area and that it had been so classified by the authorities of Baltimore County and at the time of the hearing a sreat many of the residents within a radius of three blocks of the proposed location presented themselves and protested against this shange in zoning. In addition to that there was presented to the Commissioner written protests by approximately 250 people which number includes all but 8 of the property owners within a radius of three blocks. Several of the protestants testified before the Commissioner and among other things stated that there are now three funeral homes within three thousand feet of the proposed location but not within the area which has been classified D Residential. Some of the protestants who testified before the Commissioner have been residents of this particular area for several years, while others, many of whom are returned service men and who have acquired homes in the row house development

conditions." "Spot" zoning is not favored and to recommend this

invasion in a purely residential area by a commercial enterprise would

be to mullify, in effect, the present zoning laws in Boltimore County

and establish a dangerous precedent as far as the residents of Baltimore

residents of the area immediately adjacent to the proposed location have

Por the aforegiong reasons it is respectfully submitted that the

Attorney for Protestants

County and prospective home buyers in that County are concerned. The

almost unanimously registered a protest against the proposed invasion

recommendation of the Commissioner in this matter should be in the

of their residential use district.

negative.

of the Mosaic law that show how dreadful were its ravages, and how great the terror which it excited, and an almost universal sentiment, the result of a common concurrence of thought for centuries, cannot, in this day, be shaken or dispelled by mere scientific asseveration or conjecture. It is not, in this case, so much a mere academic inquiry as to whather the disease is in fact highly or remotely contagious, but the question is whether, viewed as it is by the people generally, its introduction into a reighborhood is calculated to do a serious injury to the property of the plaintiff there located."

Very truly yours,

Zoning Commissioner.

It might also be pointed out that in that same opinion the Court cited with approval several cases from out of this jurisdiction wherein it has been held that the establishment of a funeral home within a residential district may become a nuisance. The Court of Appeals. as recently as July of this year, had before it the case of Ullrich vs. State, 46 Atl. 2 and Folio 637 which was an appeal from the Criminal Court of Baltimore City which upheld the conviction of Mr. Ullrich for using his home within a residentall area as a funeral home. In the Ullrich case it was testified that as in the present case no preparation of the bodies was made at the location within the residential area but wandone elsewhere

The application in this case, if granted -Id amount to snot soning transmich as the location proposed to be changed is well within a residential area. "Spot zoning" has long been fromed upon. If this application is granted and this particular location rezoned to E Commercial, it is not speculative to say that the present applicants could do with the property as they saw fit in connection with any commercial venture that they or their assigns might undertake. Further it was pointed out at the hearing that inroads into this area of a commercial nature have already been attempted. Within the last three months the zoning Commissioner rejected an application for a filling station at the southeast corner of Frederick Road and Symington Avenue, which is almost directly across the street from where the involved property is located and for the reason that it was considered "spot zoning".

within this area have only lived there for a period of 8 or 9 months. If this area is changed from D Residential to E Commercial all of these home owners, those who have maintained homes within the area for many wears as well as those who have lived there only a few months, will sustain serious loss as far as property value is concerned. It is submitted that with narricular reference to the protestants who recently acquired property within the row house development had every right to believe when the zoning law was passed for Baltimore County and this area was zoned D Residential that they could rely upon that and not be subjected to a change in zoning upon the application of one individual. The establishment of a funeral home at this particular location will have a disestrous effect upon the other property owners in the immediate vicinity. No good and sufficient reason was sasigned by the applicant for a change in the zoning other than his

Council of Baltimore, et al, 164 Md. Page 147. In that case an application was made with the building engineer of Baltimore City for as 1804 Rutaw Flace in the City of Baltimore and to adapt it to use as a "funeral home". The proposed location was in territory shown on the use district map adopted as part of the zoning ordinance, as a residential use district. The application was opposed and denied by the Building Engineer and this decision was affirmed upon appeal by the Board of Zoning Appeals and later by the Baltimore City Court and Judge Offset in that opinion at page 155 is many postinger to the

" From the character of the applicat it is highly probably that the business will be conducted in the least offensive and most unobjectionable manner possible, but, even so, it will nevertheless be an undertaking business. That such a use may adversely affect ner-

in the comfortable enjoyment of their homes, and lesgen the value th of for residential purposes, is neither an arbitrary nor an unnatural presumption, but on the contrary it is an inevitable inference from common knowledge of the nature and the minds of men. Because of their mortal nature, the certainty of death and the uncertainty of the time thereof, there is in the human race an instinctive horror of death, and upon the intuitive desire to postpone or avoid it rests the first great law of nature. Much of the world's wealth is spent in prolonging life, the severest punishment known to the law is to be deprived of it, and few there are who when the last call comes "leave the warm procincts of the cheerful day nor cast one longing lingering look behind". Death to the ordinary man is associated always with sorrow and pain, with the loss of those nearest and dearest to him, with severed friendships that may not be renewed, and with the dissolution of ties of love and affection which sweetened his life, and cheered and consoled him in misfortune and adversity. Consequently, to one of normal rensibilities, the presence of dead bodies, the glocay trappings of funeral woe, the pall, the hearse, the shroud, and the casket, the knowledge that within a few feet of him bodies are being prepared for sepulture, the unending coming and going of funeral processions, must have a depressing and disturbing effect wholly inconsistent with the healing repose and respite from work and worry, which, shatever its character, is usually associated with the atmosphere of the home. And in dealing with the question in issue here, such factors are quite as much entitled to consideration as those which have a more direct, tangible, and physical effect, for it cannot now be doubted that physical deterioration may and probably will result from conditions which constantly depress and disturb the mind, nor, as was pointed out in City of Baltimore v. Fairfield Imp. Col, 87 Md. 384 et seq., 39 A 1081, 1084, is it essential that the sensations aroused by such condition be based upon demonstrable facts. In that case Judge EcSherry for the court referring to the establishment of a hospital for the treatment of leprosy said: "There are modern theories and opinions of medical experts that the contagion is remote, and by no means dangerous; but the popular belief of its perils, founded on the Biblical narrative, on the stringent provisions

1761

RECT NOV 1 2 1946

CERTIFICATE OF PUBLICATION

NOTICE OF FOUND.

day of Morember 1 Pof Cothe first publicati

THE JEFFERSONIAN,

CERTIFICATE OF POSTING

Towson, Maryland Date of Posting nov 4/46

Posted for: Turneral home Petitioner Nather V. Bale and fred a lash. Location of property: worth sinds of Frederick Res

148 feet mest of Any signs: Swith sich frederick Ry 248 fut west of Aymington au

desire to onen a fumeral home at this location. In 1933, the Count of Annuals of Manyland had before it

for decision the case of Jack Lewis. Inc. vs. The Mayor and City a permit to make pertain alterations or repairs in a private home known finally by the Court of Anneals of Maryland. The language used by

sons residing in the immediate neighborhood of the proposed establishment

RECEIVED of Vallie V. Cole and Prederick A. Cole. the sum of Eighteen (\$18.00) Dollars, being cost of petition for reclassification, advertising and posting of property, North side of Frederick Road, 1st District of Baltimore County.

Hearings

Woodsy, Nov. 18. 1946 at 2:30 o'clock p.m.

Zoning Commissioner

ZONING COMMISSIONER OF 1/4/6.

ZONING DEPARTMENT OF BALTIMORE COUNT

Date of return: Nov 6/46

Posted by . Hany & Genterile

In conclusion it is submitted that the applicants have not stated recommending a such a case to warrant the Commissioner in/changing the soning in this particular instance. It has not been shown that there is a need for additional funeral homes in this area and no sound reason has been

given why the zoning should be changed. As was said by the Michigan Court in the case of Adams vs. Kalamazoo Ice & Fuel Co., 245 Michigan 261, "The legitimate purpose of a zoning ordinance, a s erclative to a residence district, is to preserve and not to disrupt existing

October 30, 1946

519N FREDERICK 180