

NEVILLE R. RIDGELY,
ALFRED DE GRUIRE,
DOUGLAS PATER,
GROSS L. STEVENS and
ELIZABETH S. MATTHEWLY,
Petitioners
VS
DR. SAMUEL H. HOOVER,
MARIE L. DINGLE and
GALVIN J. CARTER,
Constituting the Board
of Zoning Appeals of
Baltimore County
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TO THE HONORABLE, THE JUDGE OF SAID COURTS

And now come Samuel H. Hoover, Marie L. Dingle and Galvin J. Carter, constituting the Board of Zoning Appeals of Baltimore County, and in answer to the writ of certiorari directed against them in this case, herewith return 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. 553
Feb. 11, 1947
" 11, "
" 20, "
" 24, "
- ZONING ORDERS FROM DOCKET OF ZONING COMMISSIONERS OF BALTIMORE COUNTY
Petition of County Commissioners of Baltimore County, for reclassification of property from an "A" Residence Zone to an "F" Light Industrial Zone, East of York Road and north of Texas Lane, 8th District of Baltimore County, filed.
Order of Zoning Commissioner directing advertisement and setting of property - date of hearing set for March 4, 1947, at 9:30 a.m.
Certificate of posting of property on February 20, 1947, filed.
Certificate of publication in newspaper, filed.

said Board is clearly without any authority to make such conditions in orders granting the reclassification of any property.

g. And for other and further reasons to be assigned at the hearing of this cause.

h. That this Petition and Appeal is filed pursuant to the provisions of Chapter 502 of the Laws of the State of Maryland.

WHEREFORE, your Petitioners pray:

1. That a Writ of Certiorari be issued by this Honorable Court directed to the Board of Zoning Appeals for Baltimore County prescribing the time within which a return thereto must be made and served upon relators' attorney.
2. That this Honorable Court reverse, set aside and annul and declare void and of no effect the Order of the Board of Zoning Appeals for Baltimore County, dated January 24, 1949.
3. That the Board of Zoning Appeals for Baltimore County be required to return to this Honorable Court the original papers acted upon by it or certified or sworn copies thereof, and that such return shall be only set forth such other facts as may be pertinent and material to the grounds of the decision of the Order appealed from, together with a transcript of the testimony taken at the hearing and copies of exhibits filed therein.
4. That your Petitioners may have such other and further relief as the nature of their case may require.

AND as to duty herein, etc.

Attorneys for Petitioners

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY that on this 11th day of February, in the year nineteen hundred and forty-nine, before me, the undersigned, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared Neville R. Ridgely, one of the Petitioners named herein, who made oath in due form of law in his own behalf and on behalf of his co-Petitioners, that the matters and facts set forth in the foregoing Petition and Appeal are true and correct as therein stated, to the best of his information, knowledge and belief.

MELTON R. SMITH
ATTORNEY AT LAW
TOWSON, MARYLAND

March 4, 1947, At 9:30 a.m. hearing held on petition by Zoning Commissioners, case held and adjourned.
April 1, 1948, Order of Zoning Commissioner, granting the petition for reclassification, from an "A" Residence Zone to an "F" Light Industrial Zone.
April 8, " Order of appeal to the Board of Zoning Appeals of Baltimore County from Order of Zoning Commissioner, filed.
May 6, " Hearing on appeal before the Board of Zoning Appeals.
Jan. 24, 1949, Order of Board of Zoning Appeals sustaining the Order of the Zoning Commissioner, granting the petition for reclassification, filed.
Feb. 24, " Writ of certiorari and appeal to the Circuit Court for Baltimore County served on the Board of Zoning Appeals.
March 18, " Transcript of testimony taken at the appeal hearing before the Board of Zoning Appeals, filed.

Petition of protest, brief submitted by counsel for protestants; Copy of Defendants' Docket and plat filed at hearings before the Zoning Commissioner and Board of Zoning Appeals.

Record of proceedings in this case filed in the Circuit Court for Baltimore County.

Record of proceedings pursuant to which said Order was entered and said Order 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 the zoning use district maps at the hearing on this petition or whenever directed to do so by this Court.

Respectfully submitted,

Counsel to the Board of Zoning Appeals of Baltimore County.

MELTON R. SMITH
ATTORNEY AT LAW
TOWSON, MARYLAND

RECEIVED FEB 24 1949
CIVIL
NEVILLE R. RIDGELY,
ALFRED DE GRUIRE,
DOUGLAS PATER,
GROSS L. STEVENS and
ELIZABETH S. MATTHEWLY,
Petitioners
VS
DR. SAMUEL H. HOOVER,
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Constituting the Board
of Zoning Appeals for
Baltimore County
Defendants) BALTIMORE COUNTY

PETITION AND APPEAL

TO THE HONORABLE, THE JUDGE OF SAID COURTS

The Petition of Neville R. Ridgely, et al., respectfully shews unto your Honors:

1. That your Petitioners are residents of Baltimore County residing in the Eighth Election District of Baltimore County, State of Maryland, in close proximity to a tract of land owned by the County Commissioners of Baltimore County, the subject of these proceedings.
2. That the County Commissioners of Baltimore County, owners as aforesaid, have heretofore applied to the Building and Zoning Commissioner of Baltimore County for a reclassification of said tract from an "A" Residence Zone to an "F" Light Industrial Zone. That the said Board of County Commissioners were at the time of said application, and is currently, using the subject premises for the purpose of a public dump.
3. That said Zoning Commissioner of Baltimore County by his Order dated April 10, 1948 granted the reclassification. That your Petitioners and others filed an appeal to the Board of Zoning Appeals of Baltimore County and the matter came on for hearing on the 6th day of May, 1948 before said Board of Zoning Appeals for Baltimore County. That on January 24, 1949, the Board of Zoning Appeals for Baltimore County passed an order sustaining the decision of the Zoning Commissioner.
4. That the aforesaid order of the Board of Zoning Appeals, dated January 24, 1949, should be reversed, set aside and annulled by this

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NEVILLE R. RIDGELY,
ALFRED DE GRUIRE,
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Petitioners
VS
DR. SAMUEL H. HOOVER,
MARIE L. DINGLE and
GALVIN J. CARTER,
Constituting the Board
of Zoning Appeals for
Baltimore County
Defendants) BALTIMORE COUNTY

ORDER OF COURT

Upon the foregoing Petition and Appeal and Affidavit, it is by the Circuit Court for Baltimore County this 24th day of February, 1949, ORDERED that a Writ of Certiorari be issued directed to the Board of Zoning Appeals for Baltimore County to reverse the decision and order of said Board of Zoning Appeals for Baltimore County, dated January 24, 1949, and that a return thereto must be made and served upon the relators' attorney within 10 days from the date of this Order.

IT IS FURTHER ORDERED that the Board of Zoning Appeals for Baltimore County be and it is hereby required to return to this Court the original papers acted upon by it, together with a transcript of the testimony taken at the hearing and copies of exhibits filed therein.

True Copy Test
Bridges
Clerk.

MELTON R. SMITH
ATTORNEY AT LAW
TOWSON, MARYLAND

MELTON R. SMITH
ATTORNEY AT LAW
TOWSON, MARYLAND

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Honorable Court on the grounds that said order is arbitrary, capricious and illegal in that:

- a. Said order constitutes an arbitrary and capricious act and amounts to a gross abuse of administrative discretion.
- b. That the area surrounding the subject premises is made up in its entirety of valuable farms and/or residences. That the creation of an industrial area in the middle of this type of property is in direct violation of the basic principles of zoning and certainly to contrary to the comprehensive planning expected by the citizens of Baltimore County, pursuant to a master zoning plan.
- c. That the temporary contingent reclassification of the subject premises as set forth in said order of the Board of Zoning Appeals is uncertain in meaning, indefinite in time, and unlawful in that there is no authority vested in said Board to grant such a reclassification.
- d. That the only evidence with reference to the effect on the health of the people living in the vicinity of the subject premises was to the effect that there might possibly be a detriment because of obnoxious odors and other unsanitary conditions as set forth in the record of the evidence produced on behalf of your Petitioners.
- e. That the decision of the Board of Zoning Appeals, filed together with said Order, declared in paragraph 4 thereof, that property values in the vicinity of said dump operation would not be affected by the reclassification. However all of the evidence offered at the hearing and contained in the record hereto relative to property values is to the effect that the properties of your Petitioners and others and the values thereof would be adversely affected by the continued operation of the dump as aforesaid. That said evidence was clearly and precisely set forth by qualified experts. That the applicant failed to present any witnesses on its behalf who could offer expert testimony in this connection.
- f. That in paragraph 5 of said opinion of Board of Zoning Appeals the Board sets forth a condition which must be complied with by the applicant if the applicant is to retain the "F" Light Industrial Classification. The

MELTON R. SMITH
ATTORNEY AT LAW
TOWSON, MARYLAND

THIS PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO AN "F" LIGHT INDUSTRIAL ZONE - PROPERTY EAST OF YORK ROAD, EIGHTH DISTRICT OF BALTIMORE COUNTY, COMMISSIONERS OF BALTIMORE COUNTY, PETITIONERS.

The appeal in the above case is the same on for hearing, testimony having been taken, counsel for the respective parties having been heard and the entire matter fully considered:

It is this 24th day of January, 1949, by the Board of Zoning Appeals of Baltimore County, ORDERED that the property petitioned for, described as follows:

Situate east of the York Road beginning from the east 1540 feet from the point of intersection of the center line of the York Road and the north side of Texas Lane; thence running North thence South 84 degrees 03 minutes east 1600 feet to a point; thence South 26 degrees 03 minutes east 1600 feet to a point; thence North 84 degrees 03 minutes west 1600 feet to the point of beginning.

be and the same is hereby reclassified effective with and from the date of this Order from an "A" Residence Zone to an "F" Light Industrial Zone, as long as it is being used by the County as a Dump for refuse purposes.

Board of Zoning Appeals
of Baltimore County

Approved:

County Commissioners
of Baltimore County

Christina M. Hall
President

Date: 1/24/49

This is an appeal by the County Commissioners of Baltimore County for the reclassification of certain property in the Eighth District of Baltimore County from an "A" Residence Zone to an "P" Light Industrial Zone. The case was heard on appeal on May 6, 1948. The property is a parcel of ground owned by the County, a part of the land on which the County Home is located, described as follows:

All that parcel of land situate east of the York Road and described as follows: Beginning for the same at a point South 84 degrees 03 minutes east 3940 feet from the point of intersection of the center line of the York Road and the north side of Texas Lane; thence running North 05 degrees 44 minutes east 1850 feet to a point; thence South 84 degrees 03 minutes West 1665 feet to a point; thence South 05 degrees 44 minutes West 1850 feet to a point; thence North 84 degrees 03 minutes West 1665 feet to the point of beginning.

The purpose of the County Commissioners in reclassifying this parcel is to enable the County to use the location for the deposit of refuse collection from a part of the Metropolitan District of the County principally collections from the Eighth and Ninth Districts.

This Board after hearing testimony of witnesses of both the petitioner and protestants and counsel for both sides; after giving thorough study to brief submitted by counsel for the protestants and after making a physical inspection of the premises finds as follows:

1. The residence of the protestant nearest to the location is at least one-half mile from the premises in question.
2. The Superintendent of the County Home, who is the closest resident to the location, testified emphatically that neither he, his family nor the inmates of the County Home found the use noxious or offensive by reason of odor, dust, smoke, gas, noise or any other reason.

3. After inspecting the property it is obvious that it would be indeed difficult to find a more isolated area to carry on these operations.
4. The County officials have assured this Board that new equipment, such as bull dozer, etc., will be placed on the premises permanently with additional personnel to see that the refuse is covered by dirt as soon as it is possible to do so after the refuse is deposited. This type of fill is carried on in other areas and found to be very satisfactory.
5. The County officials have assured this Board that there will be no burning of refuse on the location through intentional burning of any fire or smoke in the future would only be caused by accident. The refuse is to be covered and not ignited. This covering is a condition on which this Board will order the reclassification.
6. It is difficult for this Board to see how property values could be affected by this reclassification. The properties are so far removed from this location that we would venture to say that the owners would not be aware of the dump operations unless they visited the site or were told of the operations.
7. It follows that in our opinion the protestants in this case are so far removed from the property in question that they would not in any way be affected by the reclassification.
8. The reclassification of this property to "P" Light Industrial will not create congestion in the roads; cannot in any way increase the hazard of danger from traffic.
9. That neither the health, safety, morals or general welfare of the community will be adversely affected by the reclassification petitioned for.
10. That the reclassification will not cause any increase in hazards from fire, panic or other dangers nor will it interfere with traffic transportation and other public requirements.
11. That there has been no showing that the petitioners are not entitled to the lower classification petitioned for.

The Board after full consideration of all testimony and other data submitted as well as arguments of counsel for the petitioner and the protestants and after having given full and adequate opportunity for the submission of all pertinent testimony of any interested parties, is of the

opinion that the petition should be granted and that the Order of the Zoning Commissioner should be affirmed. The Board will sign an Order in accordance with this opinion, to remain Class "P" Industrial as long as it is being used by the County as a dump for refuse purposes.

Board of Zoning Appeals
of Baltimore County.

MILTON R. SMITH
ATTORNEY AT LAW
407 WEST BALTIMORE
TOWSON 4, MARYLAND

April 12, 1948

Mr. Charles H. Doing
Zoning Commissioner of Baltimore County
Rockwell Building
Towson 4, Maryland

Re: Petition of County Commissioners of Baltimore County for Reclassification of property on York Road from "A" Residential to "P" Light Industrial, 8th Election District of Balto. County

Dear Sir:

Please enter an appeal from your decision and order in the above entitled matter to the Board of Zoning Appeals of Baltimore County on behalf of Rev. H. R. Rigely, et al.

Enclosed is my check in the amount of \$22.00 which I understand is the costs for an appeal.

Very truly yours,

Edward H. Rigely

CHRETT

Enc. 1

5/4/48
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Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County:-

XXXXXX County Commissioners of Baltimore County

east of York Road and north of Texas Lane, Texas, in the 8th District of Balto. Co., beginning 1940' east of York Road measured along the extension westerly of Texas Lane, thence east, on said extension, 1850', thence north, at right angles to said extension, 1850', thence parallel to said extension 1850' and thence, at right angles to said extension, 1850' to beginning

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 "P" Light Industrial Zone.

Reasons for Re-Classification: Light Industrial Use.

Character of use for which above property is to be used: Light Industrial Use.

Size 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.

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.

COUNTY COMMISSIONERS OF BALTIMORE COUNTY
By: *Charles H. Doing*
Legal Owner

Address: _____

ORDERED by The Zoning Commissioner of Baltimore County, this 11th day of February, 1948, 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 Rockwell Bldg., in Towson, Baltimore County, on the

2nd day of March, 1948, at 10:30 A.M.

Charles H. Doing
Zoning Commissioner of Baltimore County

(over)

IN RE: PETITION OF COUNTY COMMISSIONERS OF BALTIMORE COUNTY FOR RECLASSIFICATION OF CERTAIN PROPERTY, IN THE 8TH DISTRICT OF BALTIMORE COUNTY FROM AN "A" RESIDENCE ZONE TO AN "P" LIGHT INDUSTRIAL ZONE

Pursuant to the advertising, posting of property, and public hearing on the above or within petition, and it appearing that a reclassification is necessary and desirable for the purpose of enabling the County Commissioners of Baltimore County to perform the essential public service and duty of disposing of garbage and refuse, and it further appearing that the granting of said reclassification will not be detrimental to the health, safety, morals and general welfare of the community.

THEREFORE, it is ORDERED by the Zoning Commissioner of Baltimore County this 1st day of April, 1948, that the above or within described property, or area, should be and the same is hereby reclassified from and after this date, from an "A" residence zone to an "P" light industrial zone for the reason and purpose as above set forth.

Charles H. Doing
Zoning Commissioner
of Baltimore County

Approved

Date

County Commissioners of Baltimore County

By

President

April 6, 1948

\$22.00

RECEIVED of Milton R. Smith, Esquire, the sum of Eight Dollars and Twenty Cents, being cost of certified copy of petition and other papers filed in the matter of appeal for reclassification of property in the 8th District of Baltimore County, County Commissioners of Baltimore County, Petitioners

Zoning Commissioner

PAID
APR 6 1948
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY
BY *Charles H. Doing*

April 12, 1948

\$22.00

RECEIVED of Carroll W. Boynton, Attorney for Rev. H. R. Rigely, et al., appellants, the sum of Twenty Two (\$22.00) Dollars, being cost of appeal to the Board of Zoning Appeals of Baltimore County from the decision of the Zoning Commissioner in granting the petition for reclassification of property, east side York Road, and north of Texas Lane, 8th District of Baltimore County.

Zoning Commissioner

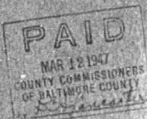
PAID
APR 13 1948
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY

March 12, 1947

\$18.00

RECEIVED of County Commissioners of Baltimore County, the sum of Eighteen (\$18.00) Dollars, being the cost of petition for reclassification, advertising and posting property, East of York Road, Texas, Baltimore County.

Zoning Commissioner



February 10, 1947

Description for the parcel of land to be reclassified for approved commercial use.

All that parcel of land situate East of the York Road and described as follows: Beginning for the same at a point South 84 degrees 03 minutes, East 3740 feet from the point of intersection of the center line of the York Road and the North side of Texas Lane; Thence running North 05 degrees 49 minutes East 1860 feet to a point; Thence South 84 degrees 03 minutes East 1665 feet to a point; Thence South 06 degrees 49 minutes West 1860 feet to a point; Thence North 84 degrees 03 minutes West 1665 feet to the point of beginning.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

833

District 8 Date of Posting Feb. 21, 1947
Posted for: Light Industrial Area
Petitioner: County Commissioners
Location of property: East of the York Rd. and North of Texas Lane
3740 feet east of the York Rd.
Location of signs: One sign on the north side of the extension of
Lakewood Rd. 3740 feet east of the York Rd. and the other sign at the
South east corner of York Rd. and Texas Lane
Remarks: _____
Posted by: Harry C. Lambie Date of return: Feb. 21/47
Signature

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THIS FOLDER