

Petition for Zoning Re-Classification

#988
0988

MRP #13

To The Zoning Commissioner of Baltimore County

I, James J. Gubart, legal owner of the property herein

First Parcel: (Garden Type Apartments)

All that parcel of land situate on the south side of Wilkins Ave., near "Ridgewood", in the 13th District of Balto. Co. beginning 114.85' west of St. Charles Ave., thence westerly, on said side of Wilkins Ave., 394.85', thence southerly, at right angles to Wilkins Ave., 140', thence west, parallel to Wilkins Ave., 400', westerly, at right angles to Wilkins Ave., 140', thence north, on said side of Wilkins Ave., 300' to the southeast side of Old Maiden Choice Lane, thence southeasterly, on said side of Old Maiden Choice Lane, 107.47' to a point 120' northwest of Highview Ave., thence northeasterly, parallel to Highview Ave., 450', thence continuing northeast on a straight line 720.40', thence westerly, at right angles to St. Charles Ave., 106.00' to the west side thereof, thence north, on said side of St. Charles Ave., 40', thence westerly, at right angles to said avenue, 97.49', thence 9', plus or "Ridgewood", 316.19', thence on the rear lines of lots Nos. 7 and 8 and on the west line of lot No. 1, Section 9, on said plat, 214.0' to beginning. Excepting therefrom the hereinafter described property for which application is made for reclassification from "A" Residence Zone to "B" Commercial Zone.

Second Parcel: (Community Shopping Center)

Beginning at the southeast corner of Wilkins Ave. and Old Maiden Choice Lane, thence east, on south side of Wilkins Ave., 300', thence at right angles to Wilkins Ave., 400' to the southeast side of a proposed 60' road to be known as Alan Drive, as shown on plat of the same Lane Apartments filed with the zoning department, thence southeast, on said side of Alan Drive, 300' to the southeast side of Hooper Ave., as shown on said plat, thence southeast, on said side of Hooper Ave., 303', more or less, to a point thereon 140' northwest of Highview Ave., thence southeasterly, parallel to Highview Ave., 450', thence north, parallel to Highview Ave., 107.47' to the southeast side of Old Maiden Choice Lane, thence north, on said side of Old Maiden Choice Lane, 107.47' to beginning. Excepting therefrom the 50' x 140' lot situate on the south side of Wilkins Ave., 100' east of Old Maiden Choice Lane, known as #4421 Wilkins Avenue.

Address Buving Mills, Md.

ORDERED BY The Zoning Commissioner of Baltimore County, this 24th day of July, 1947, 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 13th day of August, 1947, at 10:00 o'clock A.M.

Charles H. Long
Zoning Commissioner of Baltimore County

(over)

388

Petition for Zoning Re-Classification

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To The Zoning Commissioner of Baltimore County

I, James J. Gubart, legal owner of the property herein

First Parcel: (Garden Type Apartments)

All that parcel of land situate on the south side of Wilkins Ave., near "Ridgewood", in the 13th District of Balto. Co. beginning 114.85' west of St. Charles Ave., thence westerly, on said side of Wilkins Ave., 394.85', thence southerly, at right angles to Wilkins Ave., 140', thence west, parallel to Wilkins Ave., 400', westerly, at right angles to Wilkins Ave., 140', thence north, on said side of Wilkins Ave., 300' to the southeast side of Old Maiden Choice Lane, thence southeasterly, on said side of Old Maiden Choice Lane, 107.47' to a point 120' northwest of Highview Ave., thence northeasterly, parallel to Highview Ave., 450', thence continuing northeast on a straight line 720.40', thence westerly, at right angles to St. Charles Ave., 106.00' to the west side thereof, thence north, on said side of St. Charles Ave., 40', thence westerly, at right angles to said avenue, 97.49', thence 9', plus or "Ridgewood", 316.19', thence on the rear lines of lots Nos. 7 and 8 and on the west line of lot No. 1, Section 9, on said plat, 214.0' to beginning. Excepting therefrom the hereinafter described property for which application is made for reclassification from "A" Residence Zone to "B" Commercial Zone.

To be approved by the Buildings Department
Size and height of building: front 40' high depth 100' high lot height 100' high
Front and side set backs of building from street lines: front 10' high side 10' high rear 10' high
Property to be posted as prescribed by Zoning Regulations.

I, James J. Gubart, agree to pay expenses of above reclassification, 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.

James J. Gubart
Legal Owner
Address Buving Mills, Md.

ORDERED BY The Zoning Commissioner of Baltimore County, this 24th day of July, 1947, 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 13th day of August, 1947, at 10:00 o'clock A.M.

Charles H. Long
Zoning Commissioner of Baltimore County

(over)

Handwritten note:
10/24/47
3 AM
9 AM
10 AM
15:00
15:30

Handwritten note:
Copy for
Zoning Bd.

JAMES J. GUBART

vs.

HAROLD H. HOOPER,
JAMES L. PINGEL and
VICTOR A. BOWY, constituting the
BOARD OF ZONING APPEALS FOR
BALTIMORE COUNTY

IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The petition and appeal of James J. Gubart respectfully shew unto your Honor:

PETITION That he is the owner of the property sought to be rezoned in this appeal that he is the petitioner in this case before the Buildings and Zoning Commissioner for Baltimore County, which petition prayed for a reclassification of said property from "A" Residence Zone to "B" Commercial Zone.

ANSWER That under date of August 13, 1947, the Buildings and Zoning Commissioner for Baltimore County passed an order in which he denied your petitioner's request for the aforesaid reclassification on the grounds that there is no need for a shopping center in the vicinity of the property described in said petition that the establishment of such a shopping center would create a traffic hazard and congestion in the streets and roads; and that the requested reclassification would be "spot zoning".

OBJECTION That subsequent to said decision of the Buildings and Zoning Commissioner for Baltimore County, passed as aforesaid, an appeal was filed on behalf of your petitioner to the Board of Zoning Appeals for Baltimore County; that upon said appeal said Board of Zoning Appeals for Baltimore County on November 3, 1947, passed an order denying the appeal and sustaining the decision of said Buildings and Zoning Commissioner for Baltimore County, the grounds of said decision being stated in said order as follows:

"That the application of the petition for said reclassification ought to be denied, when the granting of same would adversely affect the health, safety and morals of the community and would tend to create congestion in the streets and roads, streets and highways, and would interfere with the safety and transportation of children to schools and churches and would interfere with other public requirements and conveniences in a residential area and since various kinds of stores may attract rats, vermin and other pests

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and may lead to unsanitary and insanitary conditions affecting the health of the community, and since the area sought to be reclassified for commercial purposes is in fact exclusively residential to allow a reclassification thereof would be "spot zoning".

OBJECTION That the aforesaid order of the Board of Zoning Appeals for Baltimore County dated November 3, 1947, should be reversed, set aside and annulled by this Honorable Court on the ground that said order is illegal in that:

(1) said order of the Board of Zoning Appeals for Baltimore County constitutes an arbitrary and capricious act and a gross abuse of administrative discretion.

(2) Evidence adduced by your petitioner at the hearing before said Board of Zoning Appeals for Baltimore County shewed conclusively that there is a need for a shopping center in the vicinity of the property sought to be reclassified in this case; that the construction of a shopping center on said property would not constitute "spot zoning" and would not adversely affect the health, safety, morals or general welfare of the community; further that at said hearing the petitioner's witness failed to adduce any substantial evidence showing that there was no need for a shopping center in the vicinity of the property sought to be rezoned in this case or that the construction of a shopping center on said property would constitute "spot zoning" or that the construction of a shopping center on said property would adversely affect the health, safety, morals or general welfare of the community.

OBJECTION That this petition and appeal is filed pursuant to the provisions of Chapter 502 of the Laws of Maryland, 1945.

WHEREFORE YOUR PETITIONER PRAYS:

1. That a writ of Certiorari be issued by this Honorable Court directed to the Board of Zoning Appeals for Baltimore County and prescribing the time within which a return thereto must be made and served upon relator's attorney.

2. That this Honorable Court reverse, set aside and annul and declare

County dated November 3, 1947.

3. That the Board of Zoning Appeals for Baltimore County be required to return to this Honorable Court the original papers asked upon by it, or certified or sworn copies thereof, and that such return shall conclusively set forth such other facts as may be pertinent and material to show the grounds of the decision of the order appealed from, together with a transcript of the testimony taken at the hearing in this matter before said Board, and copies of exhibits filed therewith.

4. And for such other and further relief as your petitioner's cause may require.

Petitioner

Attorney for Petitioner

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 24th day of November, 1947, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County of Baltimore, aforesaid, personally appeared James J. Gubart, petitioner in the foregoing petition, and made oath in due form of law that the matters and facts set forth therein are true and correct to the best of his knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.

Notary Public

JAMES J. GUBART

vs.

HAROLD H. HOOPER,
JAMES L. PINGEL and
VICTOR A. BOWY, constituting the
BOARD OF ZONING APPEALS FOR
BALTIMORE COUNTY

IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY

Upon the foregoing petition and appeal and affidavit it is this 6th day of November, 1947, by the Circuit Court for Baltimore County,

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 November 3, 1947, and that a return thereto must be made and served upon relator's attorney within ten days from the date of this order.

FURTHER ORDERED that the Board of Zoning Appeals for Baltimore County be and it hereby is required to return to this Court the original papers asked upon by it, or certified or sworn copies thereof, and the return shall conclusively set forth such other facts as may be pertinent and material to show the grounds of the decision and order appealed from, together with a transcript of testimony taken at the hearing in this matter before said Board and copies of exhibits filed therewith.

True Copy Tost
James J. Gubart
Clerk

James J. Gubart
Judge

Approved: Charles H. Long Zoning Commissioner of Baltimore County

Date Nov 9, 1947

Charles H. Long
Zoning Commissioner of Baltimore County
President.

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November 21, 1947

\$5.00

RECEIVED of Kenneth C. Proctor, Counsel for Jerome J. Gebhart, petitioner, the sum of Five Dollars and Twenty Cents (\$5.20) being cost of making certified copies of papers filed in the appeal in the matter of petition of Jerome J. Gebhart for reclassification of property on Wilkins Avenue, 13th District of Baltimore County.

Zoning Commissioner



REC'D AUG 4 1947

CERTIFICATE OF PUBLICATION

TOWSON, MD. August 1, 1947

THIS IS TO CERTIFY, That the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each week, before the day of August 1, 1947, the first publication appearing on the day of August 1, 1947.

THE JEFFERSONIAN,

Manager.

Cost of Advertisement, \$

August 1, 1947

\$54.00

RECEIVED of Kenneth C. Proctor, attorney for Jerome J. Gebhart, petitioner, the sum of Fifty Four (\$54.00) Dollars, being cost of advertising, petition and posting of property, South side of Wilkins Avenue, 13th District of Baltimore County.

Buildings & Zoning Commissioner

Hearing:
Tuesday, August 12, 1947
at 10:00 o'clock a.m.

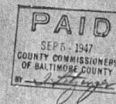


September 4, 1947

\$20.00

RECEIVED of Kenneth C. Proctor, Attorney for Jerome J. Gebhart, Petitioner, 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 passed on August 25, 1947 - property South side Wilkins Avenue at corner of Old Maiden Choice Lane, 13th District of Baltimore County.

Zoning Commissioner



CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

988

District, 13 Date of Posting, July 25/47
Posted for, Improvement, Houses and Commercial use
Petitioner, Jerome J. Gebhart
Location of property, South side of Wilkins Ave. 117.83' west of R. B. Thomas Ave.
Location of sign, 1 sign 50 feet x 80 feet and 3 signs 110 feet on the south side of Wilkins Ave. west.
Remarks, 4 Maiden Choice Lane
Posted by, Harry E. Larkins Date of return, July 25/47

SEP 3 1947

IN THE MATTER OF
PETITION FOR RECLASSIFICATION
FROM "A" RESIDENCE ZONE TO "C"
RESIDENCE ZONE - S.E. Wilkins
Ave., "Hillwood", and
FROM "A" RESIDENCE ZONE TO
"C" COMMERCIAL ZONE - S.W.
Cor. Wilkins Ave. and 514
Maiden Choice Lane, 13th
District - Jerome J. Gebhart,
Petitioner

BUILDINGS AND ZONING COMMISSIONER

OF BALTIMORE COUNTY

TO CHARLES H. DOING, BUILDINGS AND ZONING COMMISSIONER OF BALTIMORE COUNTY:
Please enter an appeal to the Board of Zoning Appeals of Baltimore County from that portion of the order of the Buildings and Zoning Commissioner entered in the above matter on August 29, 1947, which denied the reclassification from an "A" Residence Zone to an "C" Commercial Zone of a portion of the property referred to in the above matter and more particularly described therein, and reclassifying said property from an "A" Residence Zone to a "C" Residence Zone.

Kenneth C. Proctor
Attorney for Jerome J. Gebhart, Petitioner

RE: PETITION FOR RECLASSIFICATION
From "A" Residence Zone to "C"
Residence Zone - S.E. Wilkins
Ave., "Hillwood" and from
"A" Residence Zone to "C" Commercial
Zone - S.W. Cor. Wilkins Ave. and Old Maiden
Choice Lane, 13th District -
Jerome J. Gebhart, Petitioner

The appeal in the above entitled petition for reclassification coming on for hearing on the 2nd day of October, 1947, from the Order of the Zoning Commissioner of Baltimore County, passed on the 20th day of August, 1947, denying a reclassification of so much of said property as is sought to be reclassified, from an "A" Residence Zone to an "C" Commercial Zone, appearing from the facts and evidence adduced at the appeal hearing that the application of the petition for said reclassification ought to be denied, since the granting of same would adversely affect the health, safety and morals of the community and would tend to create congestion in the roads, streets and highways, and would interfere with the safety and transportation of children to schools and churches and would interfere with other public requirements and conveniences in a residential area; and since various kinds of stores may attract rats, vermin and other pests and may lead to unhealthful and insanitary conditions affecting the health of the community, and since the area sought to be reclassified for commercial purposes is in fact exclusively residential to allow a reclassification thereof would be "spot zoning".

It is this 1st day of November, 1947, ORDERED by the Board of Zoning Appeals of Baltimore County that the Order of the Zoning Commissioner in denying the petition in this matter for the reasons above set forth, is hereby affirmed.

Charles H. Doing
William A. Hoff
Earle F. Conrad

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NO PLAT
IN
THIS FOLDER