

LAYTON S. ALXANDER,
BALTIMORE SHOPPING CENTER, INC.,
et al
Vs.
BOARD OF ZONING APPEALS FOR
BALTIMORE COUNTY, etc.

IN THE
CIRCUIT COURT FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket No. 4, Page 178
Misc. Case No. 804.

ORDER OF COURT

The appeal in the above entitled case having come on for hearing, the Court having read the testimony and having reviewed all of the papers and proceedings in the case, and counsel for all parties having been heard in open court, and the Court having filed its written opinion herein, (a) to the effect that the Board of Zoning Appeals of Baltimore County erred in its order of July 30th, 1948, which reversed the Order of the Zoning Commissioner of Baltimore County of April 30th, 1948, and (b) to the effect that the Order of the Zoning Commissioner of Baltimore County dated April 30th, 1948, was proper in reclassifying from an "A" residence zone to an "R" commercial zone, subject to the terms and conditions set forth in said order dated April 30th, 1948, the lots Nos. 79, 80, 81, 82 and 83 on the south side of Francis Avenue in Baltimore County as shown on the plat of West Haleshorpe, it is

ORDERED BY THE CIRCUIT COURT FOR BALTIMORE COUNTY, this 5th day of May, 1949, that (a) the said order of the Board of Zoning Appeals of Baltimore County dated July 30th, 1948, is hereby reversed, and (b) the said order of the Zoning Commissioner of Baltimore County dated April 30th, 1948, is hereby approved.

John B. Southern
Judge

True Copy Test

Wm. B. Southern
Clerk

LAYTON S. ALXANDER, et al
Vs.
BOARD OF ZONING APPEALS, et al

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW

This is an appeal from the Board of Zoning Appeals' reversal of the reclassification order of the Zoning Commissioner reclassifying from an "A" Residence zone to an "R" Commercial Zone property on the southernmost side of Francis Avenue in Haleshorpe, Baltimore County.

The Court has read the testimony and reviewed the proceedings, and in addition viewed the premises.

The property involved in this bill is a typical Maryland suburban jungle overgrown with honeysuckles, weeds, poison oak and saplings, and is bounded on one side by Francis Avenue. Along one line of the property flows a foul, stinking stream - an open sewer. It is a short distance from the point where Francis Avenue will be carried over the Pennsylvania Railroad on a viaduct and is approximately one thousand feet west of the former commercial area of Haleshorpe.

Francis Avenue, upon which the property fronts, is a heavily travelled thoroughfare which will become even more used after the completion of the viaduct.

The site is to be improved, according to the plans submitted, by a modern shopping and business center with adequate parking space to replace the retail stores that lie in the path of the projected expressway along the Pennsylvania Railroad.

The planning factors in connection with the petition for rezoning the site in question were considered by the Planning Commissioner of Baltimore County and approved by him. In his judgment the future advantages to the neighborhood resulting from such a development would outweigh any possible disadvantages.

The Zoning Commissioner, in his opinion, stated that "the greatest utility to which the said property is susceptible is for commercial use which use will not be detrimental to the health, safety, and morals of the community involved, and will not tend to create a fire hazard and will not improperly interfere with schools, churches, transportation and other public facilities, requirements and conveniences; further that the establishment of a community shopping center at said location is necessary and desirable for the present and future needs, growth and development of the community".

The Court is of the opinion that not only will this proposed commercial center

not be detrimental to the health, safety and morals of the community but that improvement will be of great value to the community. To prevent the establishment of a modern shopping center would result in the denial to the people of Haleshorpe of any convenient shopping facilities and would result in a hardship to the members of the community.

There is overwhelming testimony that the greatest utility to which this property is susceptible is for commercial use and that such use will not be detrimental to the health, safety and morals of the community involved, and that there will be no tendency to create congestion in the roads, streets and alleys and that it will not create a fire hazard or interfere with the schools, churches, transportation and other public facilities, requirements and conveniences.

The Court agrees with the Zoning Commissioner that the establishment of a community shopping center at this location is both necessary and desirable for the present and future needs, growth and development of the community.

The action of the Board of Zoning Appeals in reversing the Zoning Commissioner's order for reclassification is arbitrary and the decision of the Board will be reversed.

May 2, 1949

True Copy Test

John B. Southern
Clerk

John B. Southern
John B. Southern, Judge

RE: PETITION FOR RECLASSIFICATION FROM "A" RESIDENCE ZONE TO "R" COMMERCIAL ZONE SOUTH SIDE OF FRANCIS AVENUE, BALTIMORE, 13TH DISTRICT OF BALTIMORE COUNTY - R. B. HELFRICH COMPANY, PETITIONERS.

The appeal in the above entitled petition for reclassification coming on for hearing on the 27th day of May, 1948, from the Order of the Zoning Commissioner of Baltimore County, passed on the 30th day of April, 1948, granting the reclassification of said property, from an "A" Residence Zone to an "R" Commercial Zone and it appearing from the facts and evidence adduced at the appeal hearing that the said petition should have been denied since the granting of same will adversely affect the safety of the community by creating congestion in the highways, streets and roads and interfere with the transportation of children to schools, and otherwise interfere with public requirements and conveniences, and will adversely affect the health of the community since various kinds of stores will attract vermin and other pests and lead to an unsanitary condition.

It is this 28th day of July, 1948, ORDERED BY the Board of Zoning Appeals of Baltimore County, that the Order of the Zoning Commissioner in granting the petition as aforesaid be reversed and the above described property or area is hereby continued as and is to remain an "A" Residence Zone.

William A. Sapp
John B. Southern
of Baltimore County

(SEE ORDER OF COURT)

REDD MAY 6 1948

Mr. Charles H. Deing,
Zoning Commissioner
Towson - 4, Md.

Mr. Commissioner:

Re: Petition for Reclassification
from "A" Residence Zone to
"R" Commercial Zone - S. S.
Francis Ave., 100' S. 3rd Ave.,
Haleshorpe - 13th District
of Baltimore County,
R. B. Helfrich Company,
Petitioner

Please enter an appeal to the Board of Zoning Appeals of Baltimore County from your decision of April 30, 1948 granting the petition filed by R. B. Helfrich Company, in the above case and forward the papers to the Board of Zoning Appeals of Baltimore County.

Charles V. Chelmas
5625 Oakland Road
Haleshorpe-27, Md.

John G. Atkinson
5639 Oakland Rd
Haleshorpe-27, Md.

Edwin M. Brier
1357 Francis Ave.
Baltimore 27, Md.

Walter H. Hines
1200 Francis Ave.
Haleshorpe-27, Md.

RE: PETITION FOR RECLASSIFICATION FROM "A" RESIDENCE ZONE TO "R" COMMERCIAL ZONE SOUTH SIDE OF FRANCIS AVENUE, BALTIMORE, 13TH DISTRICT OF BALTIMORE COUNTY - R. B. HELFRICH COMPANY, PETITIONERS

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of location the above reclassification should be granted in part. The part hereby reclassified being all of said lots Nos. 79, 80, 81, 82 and 83, as shown on the plat of West Haleshorpe, giving and excepting therefrom the northernmost 100' of said lots which said northernmost 100' of said lots shall be reserved as a set-back for any commercial buildings to be erected thereupon. Said area, however, may be used as part of the off-street parking area, as shown on plat plan filed with this department. Said reclassification being granted upon the expressed condition that an off-street parking area shall be provided having a minimum of 24 square feet of parking area for each 1 square foot of land to be covered by commercial building or buildings.

And it appearing that the greatest utility to which said property is susceptible is for commercial use which use will not be detrimental to the health, safety, and morals of the community involved, and will not tend to create congestion in the roads, streets and alleys and will not create a fire hazard and will not improperly interfere with schools, churches, transportation and other public facilities, requirements and conveniences; further that the establishment of a community shopping center at said location is necessary and desirable for the present and future needs, growth and development of the community.

WHEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 30th day of April, 1948, that the above described property or area should be and the same is hereby reclassified, from and after the date of this Order, from an "A" Residence zone to an "R" Commercial zone.

Charles H. Deing
Zoning Commissioner of Baltimore County

Approved County Commissioners of Baltimore County

Date MAY 1 1949

John R. Hunt
President

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County:-

XXX vs. R. B. Helfrich Co., legal owner of the property situate

Haleshorpe, Baltimore County, Maryland. Lot No. 79, 80, 81, 82, 83, Plat of West Haleshorpe.

on south side of Francis Ave., Haleshorpe. In the 13th Dist. of Balto. Co., bearing 100' S. 3rd Ave., twice east, on said side of Francis Ave., 200' with an irregular depth south of 260'. Being lots Nos. 79 to 83, Inc'l., on plat of West Haleshorpe, property of R. B. Helfrich Co.,

hereby petition that the zoning status of the above described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an Residential zone to an Commercial zone.

Reasons for Re-Classification In order to erect a building for commercial use.

Character of use for which above property is to be used As a Pharmacy.

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 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 of Baltimore County.

Edwin M. Brier
John G. Atkinson

Legal Owner
Address: 5625 Oakland Road
Haleshorpe-27, Md.

ORDERED BY The Zoning Commissioner of Baltimore County, this 1st day of March 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 between be had in the office of the Zoning Commissioner of Baltimore County in the Record Bldg. in Towson, Baltimore County, on the 28th day of March 1948, at 10:00 o'clock A.M.

Zoning Commissioner of Baltimore County

Baltimore County Planning Commission

Town 4, Maryland

WILLIAM W. MACVICAR, Chairman
CHRISTIAN H. KAHL
JOHN W. NEFFALL
JOHN K. RUFF
H. NIGGEL-WARFIELD

MALCOLM H. DILL, Director

April 10, 1948

Mr. Charles H. Doing
Zoning Commissioner
Reckord Building
Towson 4, Maryland

Dear Mr. Doing:

This is to supplement the statement previously sent to you regarding planning factors in connection with the petition for zoning reclassification #1166.

Rather than receive a large contingent of opponents in my office as originally proposed, I went yesterday afternoon to the site on Francis Avenue and met two or three each of the proponents and opponents of the shopping center proposal. We walked over the entire tract involved and noted its relation to the immediate vicinity. No arguments were brought out by the opponents which threw any new light on the picture or tended to change my former opinion.

It is true that the proposed site is somewhat closer to the Arbutus shopping area at Sulphur Spring and Garville Roads than would ordinarily be desirable between two neighborhood shopping centers. The Arbutus center now has more stores than are found in the present Haleshorpe center which is to be completely eliminated by the expressway and overpass. There seems to be no possibility, however, for appreciable expansion of the Arbutus center because the vicinity is almost completely developed.

Residents along Francis Avenue who are protesting the reclassification are skeptical as to the need of additional shopping facilities in this area, feeling that the Arbutus stores are close enough. From what I can learn and observe, however, it appears highly probable that the creation of an expressway to Baltimore and elimination of the Francis Avenue grade crossing will tend to stimulate extensive residential development southwestward in the vicinity of Francis Avenue toward Relay. The proposed shopping center location would be a logical one to serve the future population of this rather large area. It could also serve that portion of Haleshorpe east of the railroad which will become conveniently accessible to it by way of the new Francis Avenue bridge over the railroad and which now has rather scattered shopping facilities along the Baltimore-Washington Boulevard.

It is my understanding that, with the exception of one or two houses on the north side of Francis Avenue, dwellings in the vicinity were built about 10 years ago at which time there was no zoning and, therefore, there was no assurance that the entire vicinity would remain residential.

In view of the above factors, my original opinion is confirmed that, provided the proponents go ahead with a scheme generally in accordance with that indicated on submitted plot plan for a unified off-street shopping center, the future advantages to the neighborhood resulting from such development would outweigh any possible disadvantages.

Very truly yours,

Malcolm H. Dill
Director

cc: Christian H. Kahl
Nathan L. Smith
William W. MacVicar

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY TOWNSHIP, Maryland

1166

District: 13 Date of Posting: March 15/48
Posted for: Commercial
Petitioner: E.B. Helfrich Co.
Location of property: south side Francis Ave. 100 feet east
3rd Ave.
Location of Signs: south side of Francis Ave. 230 feet
east of 3rd Ave.
Remarks:
Posted by: Harry G. Landwehr Signature Date of return: March 17/48

March 1, 1948

\$18.00

RECEIVED of E. B. Helfrich Company, the sum of Eighteen (\$18.00) Dollars, being cost of petition for reclassification, advertising and posting of property, south side of Francis Ave., beg. 100' east of 3rd Avenue, 13th District of Baltimore County.

Zoning Commissioner

Hearings:

Monday, March 29, 1948

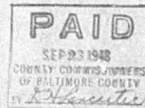
at 10:00 a.m.

Sept. 23, 1948

\$5.20

RECEIVED of Julius G. Maurer, Attorney for E. B. Helfrich, Co., petitioners, the sum of Five Dollars and Twenty Cents (\$5.20) cost of certified copies of papers filed in the matter of petition for reclassification of property on Francis Ave., 13th District of Baltimore County

\$5.20



#1166
MAP
#13

