

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County--

I, Earle H. Harrington, legal owner, of the property situate

On the south side of the Joppa Road, 335 Feet East of Goshen Avenue and 350 Feet West of Pershing Avenue, being a lot 115 Feet by 345 Feet and also being lot no. 75 on the Plat of Joppa Heights, Plat Book No. P.C. 6, Folio 165, 3th Election District, Baltimore County, Maryland.

herby petition that the zoning status of the above described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an "A" Residence Zone to an "B" Commercial Zone.

Reasons for Re-Classification: Approved commercial zone.

Character of use for which above property is to be used: Grocery Store

Size and height of building: front.....feet, depth.....feet, height.....feet. Front and side set back of building to a 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 for Baltimore County.

Earle H. Harrington
Legal Owner

Address: 1111 Joppa Road
Baltimore County, Maryland

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd 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 herein be held in the office of the Zoning Commissioner of Baltimore County, in the Rickard Bldg., in Towson, Baltimore County, on the 30th day of March, 1948, at 10:30 A.M.

Charles H. Harrington
Zoning Commissioner of Baltimore County

(over)

RE: PETITION FOR RECLASSIFICATION "A" RESIDENCE ZONE TO "B" COMMERCIAL ZONE - EARLE AND HELEN G. HARRINGTON - SOUTH SIDE OF JOPPA ROAD, 335' EAST OF GOSHEN AVENUE - 3TH DISTRICT OF BALTIMORE COUNTY, PETITIONERS

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of the fact that this property consists of a single unimproved interior lot, fronting 115' on and the lots adjoining on both the east and the west sides thereof are improved with the east and the west with in less than a mile there are three existing commercial zones with ample vacant land for future commercial developments, and since there seems to be no more reason to the immediate vicinity, a reclassification of it would be, or curve, on Joppa Road, which is somewhat obscured by trees; should a retail business be located there it would tend to create a serious traffic problem, therefore, for the above reasons, a reclassification should NOT be had,

It is ORDERED by the Zoning Commissioner of Baltimore County, this 10th day of April, 1948 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 an "A" residence zone.

Charles H. Harrington
Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of the fact that the above reclassification should be had. It is Ordered by the Zoning Commissioner of Baltimore County, this 19th 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 a _____ zone to a _____ zone.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of the fact that the above reclassification should NOT be had: It is Ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____, 1948, 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 _____ zone.

Zoning Commissioner of Baltimore County

Appeal in the above entitled petition for reclassification from an "A" Residence Zone to an "B" Commercial Zone coming on for hearing on April 15, 1948, from the Order of the Zoning Commissioner of Baltimore County passed on the 12th day of April, 1948, denying the petition and it appearing from the facts and evidence adduced at the appeal hearing that the petition should 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 interfere with the safety and transportation of children to schools and churches and would interfere with other public requirements and conveniences, therefore:

It is this 20th day of May, 1948, ORDERED by the Board of Zoning Appeals of Baltimore County that the Order of the Zoning Commissioner in denying the petition aforesaid is hereby affirmed and the above described property or area is hereby continued as and is to remain an "A" Residence Zone.

Charles H. Harrington
Board of Zoning Appeals
of Baltimore County

Approved _____
County Commissioners of Baltimore County

Date _____ By _____
President

REC'D APR 12 1948

IN THE MATTER OF THE PETITION
FOR ZONING RE-CLASSIFICATION
FROM "A" RESIDENCE ZONE TO
"B" COMMERCIAL ZONE OF
EARLE HARRINGTON and HELEN G.
HARRINGTON

1: BEFORE
11: JUDGE CHARLES H. JONES
11: ZONING COMMISSIONER
11: OF
11: BALTIMORE COUNTY

MR. COMMISSIONER:

Please enter an appeal to the Board of Zoning Appeals from your order dated this day of April, 1948, disapproving the above application.

Earle Harrington
Helen G. Harrington
Petitioners

REC'D JUN 2 1949

T. BRADEN BILGOTY



CLERK'S OFFICE
Circuit Court for Baltimore County
TOWSON, Md.

June 1, 1949

Board of Zoning Appeals
of Baltimore County
Towson, Maryland.

Dear Sirs:

In the appeal of Harrington and wife against the Board of Zoning Appeals, the action of the Board was sustained by the Court (Judge Gentrum) on June 1st, 1949.

Very truly yours

T. Braden Bilgoty
Clerk

March 6, 1948

\$10.00

RECEIVED of Earle Harrington the sum of Eighteen (\$18.00) Dollars, being cost of petition for reclassification, advertising and posting of property, south side of Joppa Road, 335' E. of Goshen Ave., 3th District of Baltimore County.

ZONING COMMISSIONER

Hearings
Tuesday, March 30, 1948
at 10:30 A.M.

PAID
MAR 31 1948
COUNTY COMMISSIONERS

April 12, 1948

\$22.00

RECEIVED of Earle Harrington, and wife, the sum of \$22.00, being cost of appeal to the Board of Zoning Appeals of Baltimore County from the decision of the Zoning Commissioner in denying the petition for reclassification of property on south side of Joppa Road, 9th district.

Zoning Commissioner.

PAID
APR 12 1948
COUNTY COMMISSIONERS
BALTIMORE COUNTY

E. Anthony Mueller, Esquire,
Offutt Building,
Towson - 4, Md.

to

June 24, 1948

County Commissioners
of Baltimore County,
Zoning Department,
Record Building,
Towson - 4, Md.

To making certified copies of papers to be
filed in Circuit Court in the matter of
appeal of Earle Harrington, and wife,
for reclassification of property on
south side Joppa Road, 8th Dist.

\$5.00

Ed
7/15/48

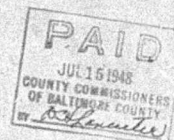
1172

July 15, 1948

\$5.00 ✓

RECEIVED of E. Anthony Mueller, Attorney for
Earle Harrington, and wife, the sum of Five Dollars
and Twenty Cents (\$5.20), being cost of making
certified copies of papers to be filed in the
Circuit Court in the matter of petition for re-
classification of property on south side Joppa Road,
8th District of Baltimore County.

Zoning Commissioner.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

1172

District... 9 Date of Posting... Mar. 11/48
Posted for: Commercial
Petitioner: Earle Harrington & wife
Location of property: South side of Joppa Road 335 feet
East of Post line
Location of Signs: South side of Joppa Road 435 feet
East of Post line
Remarks: _____
Posted by: Harry L. Bertine Date of return: Mar. 11/48

SAULE HARRINGTON
and
HELEN G. HARRINGTON

Appellants,

vs.
DR. SAMUEL H. HOOVER, et al.,
THE BOARD OF ZONING APPEALS
FOR BALTIMORE COUNTY,

Appellees.

APPELLEES' ANSWER TO PETITION FOR WITH-
DRAWAL OF CASE AND DISMISSAL
OF THE CASE AS MOOT

Cornelius V. Roe,
Counsel for Appellants,
Attorney at Law

The Daily Record Co., Baltimore 5, Md.

6. Answering the sixth paragraph, your Respondent's Counsel admit, as already stated, that when this case was called for argument on February 14, 1960, Cornelius V. Roe and George M. Berry appeared in this Court and Cornelius V. Roe argued the case with the permission of this Court. As to what action the Clerk of this Court took with respect to the appearance of the Appellants, your Respondent has no knowledge. Your Respondent's Counsel admits that since there was no appearance for the Appellants the Court declined to hear more than one Counsel for the Appellees and that Mr. Berry was permitted to speak and the only argument was made by Mr. Roe.

7. Answering the seventh paragraph, your Respondent's Counsel, Cornelius V. Roe, admits that in early March, 1960, Mr. C. Arthur Eby communicated with him and asked for a copy of the brief on behalf of the Appellees in this case, which was forwarded to him March 8, 1960. Said Respondent's Counsel has no knowledge as to his concern that a decision in this case might adversely affect the right to maintain an appeal in any other litigation pending before this Court or any other court. Your Respondent's Counsel had no knowledge of any appeal from the Circuit Court for Baltimore County or elsewhere which might be affected by the decision in this case and respectfully submit that even if they had such knowledge they were under no obligation whatever to consider the effect of the decision of this case on any other pending or future case. That the appeal in the case of Wilbur F. Johnson et al. v. the Board of Zoning Appeals for Baltimore County, referred to in said paragraph, was not filed until February 20, 1960, six days following the argument in the present case.

Your Respondent's Counsel have no knowledge as to conversations between James B. Lyons, Jr., Esquire, and C. Arthur Eby, Esquire, but again emphatically deny that C. Arthur Eby had assured Counsel for the Appellants that this case would be dismissed without any judicial decision.

Your Respondent's Counsel had no knowledge as to any conversations between Messrs. Lyons and Eby with respect to the manner in which Mr. Roe might have this case dismissed, and state that it is too clear for argument under the statute with which he was not familiar at the time said appeal was withdrawn that Mr. B. Lyons, Jr., had no conceivable power or right to dismiss the appeal. Your Respondent's Counsel, Cornelius V. Roe, most emphatically denies that he had any agreement with Counsel for the Appellants in this case with respect to the dismissal thereof.

8. Answering the eighth paragraph, your Respondent's Counsel emphatically deny and resent the implication that this Court through their actions was "led to attempt to decide a case *ex parte*." * * * after that case had become moot." That your Respondent's Counsel had no intention from any source that the question involved in this case had become moot or that there was no real controversy. They had no knowledge as to what other litigation might be affected by a decision in this case and respectfully submit that they are not expected or re-

quired to determine what cases other than the case in which they are involved may be affected by a judicial decision.

1. Answering the first paragraph, your Respondent admits the allegations thereof.

2. Answering the second paragraph, your Respondent admits the allegations thereof.

3. Answering the third paragraph, your Respondent says that neither it nor its Counsel have any knowledge with respect to the facts alleged in said paragraph and therefore can neither admit nor deny the same.

4. Answering the fourth paragraph, your Respondent and its Counsel emphatically deny and resent the implication that Mr. Lyons and Mr. Eby, on several days before this case was expected to be in this Court's assignment for argument, Cornelius V. Roe, of Counsel for the Respondent, contacted James B. Lyons, Jr., Counsel for the Appellants, by telephone, asking him whether he would arrange to argue the case for the Appellants. Your Respondent's Counsel had been advised that Counsel for the Appellants had conceded that the appeal had been implicitly taken and that he had no right to an appeal under the statute with which he was not familiar at the time said appeal was withdrawn. Mr. B. Lyons, Jr., had no use for him to argue the case as he knew he could not be successful and indicated that he did not intend to appear before this Court for argument. He did not, however, then state that the appeal would be dismissed and that its case would be decided without any judicial decision. Your Respondent's Counsel, Cornelius V. Roe, most emphatically denies that he in any manner assured the said James B. Lyons, Jr., that "he would see that this appeal would not be decided judicially, but would be dismissed

no right or interest to be protected at this stage of the case, and that Mr. Lyons, Jr., was Counsel for the Appellants in the case of William F. Johnson et al. v. Consolidated Gas Electric Light and Power Company and the Board of Zoning Appeals for Baltimore County. That the said Arthur W. Maclean has admitted to conceding that your Respondent's Counsel had been advised by him that the case would be decided without any judicial decision and the copy of the Petition which was delivered to Counsel for your Respondent had his initials in the upper left hand corner. A printed copy of said Petition was received by Counsel for your Respondent together with a letterhead memorandum dated and captioned as above and that the said Petition was not prepared by nor is it being prepared by James B. Lyons, Jr., whose client has no conceivable interest therein, but by Counsel in another case whose client has no interest in this case.

Further answering said Petition your Respondent suggests that while the question of the propriety of the action might have been raised by the Appellants by reason of the fact that the case was not moot as to the Appellants, an agency of the County, which was interested in having a decision as to the propriety of its action in refusing to reclassify the property for commercial purposes, the reclassification of the property for commercial purposes might desire to use the same for commercial purposes, the reclassification of a particular piece of property being in the nature of a proceeding in rem, affecting the property itself, rather than a proceeding in personam affecting its owner.

Further answering the said Petition your Respondent's Counsel suggest that it is a most irregular and extra-

ordinary proceeding which can serve no useful purpose in the litigation in which it is filed, and further your Respondent respectfully submits that this Court has no right or duty to consider the effect of the decision in this case on any other litigation.

And having fully answered said Petition, your Respondent prays that it may be dismissed.

Respectfully submitted,

Cornelius V. Roe,
George M. Berry,
Attorneys for Appellants.

Court of Appeals of Maryland

In The

October Term, 1960

No. 102

SAULE HARRINGTON
and
HELEN G. HARRINGTON,

Appellants,

vs.

DR. SAMUEL H. HOOVER, et al.,
constituting
THE BOARD OF ZONING APPEALS
FOR BALTIMORE COUNTY,

Appellees.

APPELLEES' ANSWER TO PETITION FOR WITH-
DRAWAL OF CASE AND DISMISSAL
OF THE CASE AS MOOT

To THE HONORABLE THE JUSTICES OF
THE COURT IN APPEALS:
The Answer of Dr. Samuel H. Hoover, et al., constituting the Board of Zoning Appeals for Baltimore County, to the Petition for Withdrawal of Opinion and Dismissal of the case respectfully shews:

JOPPA HEIGHTS. LITTLE FARMS.

1" = 200'

