Appeal in the above matter coming on for hearing on July 21, 1949 from an Order of the Zoning Commissioner of Baltimore County, dated June 2, 1949, denying the petition for replacation, from an "A" "estience Zone to an "E" Commercial Zone, subject to a nonconforming use and it appearing from the evidence and facts adduced at the anneal hearing that the granting of the petition would be detrimental to the health, safety, morals and the general welfare of the community:

It is this _7th _ day of September, 1949, ORDERED by the Board of Zoning Appeals of Baltimore County that the Order of the Zoning Commissioner of Baltimore County in denying the petition for reclassification, from an "A" Residence Zone to an "R" Commercial Zone, be and the same is affirmed and reverses that portion of the Order of the Zoning Commissioner granting a nonconforming use.

RECO JUNIO 19949

REGU JUN 11 1949

KNOWN AS 4607 KENWOOD AVENUE BALTIMORE COUNTY, MARYLAND, PILED BY FRANK J. LIPA, ET AL.

Mr. Commissioner:

Please enter an appeal on behalf of William E. Dixon and Janie B. Divon, his wife and other protestants from the Order of the Zoning Commissioner dated June 2, 1949 approving a non-conforming commercial use.

rney for Appellants

William & Distor Janie B. Dogon ellents and Protestants

OPINION OF THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

This is an appeal by William E. Dixon and Janie B. Dimon and other protestents from the Order of the Zoning Commissioner of Baltimore County, dated June 2, 1949, approving a nonconforming commercial use, the Zoning Commissioner having denied the petition for reclassification of the property described therein and ordered it continued and to remain an "A" Residence Zone.

The case came on for hearing before the Board, testimony filed was taken and the petitions/for and sgainst the reclassification were considered by the Board. The property, which is the subject of the petition, is located at the southwest corner of Kenwood and Greenwood Avenues, known as No. 4606 Kenwood Avenue, in the Pourteenth District of Baltimore County.

This property has the general appearance of a dwelling with the right front portion on the first floor, consisting of one large double room with a double glass window, converted for the use of a small grocery store by the Ode family. In 1941 the Ode family vacated the premises and sold the store business. The purchaser of the business occupied the residential portion as a residence and continued the store business in the vacated portion until May 1942 when he vacated the premises and the store business was abandoned.

On May 26, 1942 Walter Weller and wife lessed the premises "exclusive of the room on the first floor formerly used as a store" and occupied the portion mentioned as a residence. On April 28, 1943 the lesse with Weller and wife was cancelled and a newlease entered into with them embracing the entire building and Weller and wife occupied the entire premises as a residence until Warsh 7, 1945 and at no time during the occupancy of Weller was any part of the premises used for a store.

Petition for Zoning Re-Classification

On November 16, 1944 the owner of this property entered into a contract with Frank J. Lips and wife for the sale of the property which was consummated on January 25, 1949 subject to the Weller lease which was assigned to Line and wife on that date; Lips and wife occupied the premises as a residence after Weller and wife vacated on March 7, 1945 and on July 9, 1945 Lips and wife opened a beauty shoppe in the room formerly used as

The Board, therefore, feels that there was an abandonment of the use of this property for a store on April 20, 1943. The Zoning Act of Baltimore County became effective on January 2, 1945 and on July 9, 1945 Lips and wife opened a beauty shoppe in the room formerly occupied as a store. This was an actual change from the nonconforming use as a grocery store and, therefore, an illegal use of the premises, the owners not having applied for a reclassification to cover this type

The Board feels that the lowering of the classification to an "E" Commercial Zone would create congestion in the roads, both Kenwood and Greenwood Avenues are narrow residentisl streets, would lessen sefety from fire, penic, treffic and other dangers, would adversely affect the health, morals and/or the general welfare, would cause overcrowding of land, cause undue concentration of population, would interfere with adequate provisions for schools, parks, water, severage, transportation and other public requirements, conveniences and improvements. The Board further finds that there is no community Reed for this communcial reclassification and that the use as a store property had been discontinued and the attempted use as a beauty shoppe was a change from a non-

conforming use as a grocery store and that there is, in fact, no nonconforming use of this property existing at this time.

To The Zoning Commissioner of Baltimore County:-
Francis J. Lipa and
at 400 Kemmod Arenae . loanted at southermost course of the property sinuse at 400 Kemmod Arenae . loanted at southermost course of Kemmod Arenae and Greenmood Arenae in the latth Datrict of Salte Go. Princing seaterly, on the south also of Arenae of Arenae and Date and Data and Da
hereby petition that the zoning status of the above described property be re-classified, pursuant to the
Zoning Law of Bultimore County, from an Residential zone to an . Commercial zone.
Reasons for Re-Classification: This property has been used commercially
at all times previously - as confectionery and gracery stores -
and at present is being used as a beauty shop - Known as Kenwood
Beanty Shoppe - where an operator has been employed at various times and occmetion have been and are sold on premises.
Size and height of building: front 40 feet; depth 49 feet; height 35 feet
Front and side set backs of building from street lines: front 30 feet; side 10 feet
Property to be posted as prescribed by Zoning Regulations.
XXR 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 restriction: of
Baltimore County adopted pursuant to the Zoning Law for Baltimore County.
Typeners Lina
Generica Bisa
Igigal Owner
Mayor 4607 Kennoch Avenae "Litural Fathers" out of purchaser falm of the later than burchaser falm of the later 2012
ORDERED By The Zoning Commissioner of Baltimore County, this 19th day of
April 19 49 that the subject matter of this petition be advertised, as required
by the "Zoning Law of Baltimore County," in a new spaper of general circulation throughout Baltimore
County, that property be posted, and that the public hearing hereon be had in the office of the Zoning
Commissioner of Baltimore County, in the Reckord Bildg., in Towson, Baltimore County, on the
13th day of Mey 19.49, at 6'clock A. M.
Chest Ding

Pursuant to th	e advertisement, posting of property, and public hearing on the above petition
and it appearing the	at by reason of
	* 1
	the above re-classification should be had.
It Is Ordered b	by the Zoning Commissioner of Ballanore Courts that
	19, that the above described property or area should be and the same is
	rom and after the date of this Order, from a
to a	
	Zoning Commissioner of Baltimore County
Pursuant to the	advertisement, posting of property and public hearing on the above petition and
it appearing that by	
Maria de la companya del companya de la companya del companya de la companya de l	
	the above re-classification should NOT be had;
It Is Ordered by	
1	y the Zoning Commissioner of Baltimore County, this day of
	erty or area be and the same is hereby continued as and to remain and
	tone, subject to a more continued as and to remain activities
	, , ,
	Zoning Co.umisaloner of Baltimore County
Approved	
.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	County Commissioners of Baltimore County
	Ву
Date	

IN RE: PETITION FOR RECLASSIFICATION FROM "A" RESIDENCE ZONE TO "E" COMMENCIAL ZONE - SHE UEN-TOOD AVENUE & GREENMOOD AVENUE - LIPH ATTENTO - FRANCIS J.

LIPA & WIFE & EDS. 2. WATCHESKI & WIFE, PETITIONES.

Pursuant to the advertisement, posting of property and public hearing on the above pestition and it appearing that by reason of location, the above reclassification should NOT be hed.

However, the Pattitioners sought to prove the existence of a leavest measured remains of an of this precises existing as of this date. The fracts conserved the date. The fracts conserved the date of the date of the fracts of the date of the fracts of the date of the fracts of the date, when the precises, exclusive of the store, were leased as a dealing. This lease was concluded in April, 1913, and a new lease was executed covering the entire building, permitting its use for a store and dwelling.

The property was sold to the Petitioners in November, 1944, as a store and dwalling, subject to the last mentioned lease. The purchasers opered a beauty perior on the presince in April or May, 1945, and has continued to use it for said purpose up to the time of the filing of the instant petition.

The question now presented is whether or not the property enjoys a lawful non-conforming use under the Zoning Regulations of Beltisore County, since on the date of the adoption of the Regulations no business was actually being carried on upon asid premises.

The use of a building can be shown by its form. For in-stands, a storm with plate glass front, constructed before the storm of the storm of the storm of the storm used as a store, would be a larval can-confident to in a residential district after soning, and could be used as a store. Yene if such a building were uset temperarily for residential purposes, its use would not be deemed to change. (Barsett, Nge 105).

"seaThe use for which the property is adapted need not be in actual operation at the time of the adoption of the ordinance, if the attending circustance connected with the property bears out the conclusion that the owner intended to use the property for that purpose.

"eseIn Appeal of Haller Baking Co., 295 Pa. 257, the question of discontinuance, as considered in the Haller case, is quoted by Judge Offutt in Landay vs. Zoning Appeals Board 173 Md. McO, etc, apparently with approval as follows:

"sewThe discontinuance defined by the moning ordinance in section 18 does not begin to run until after the date of the adoption of the ordinanceses".

In view of the fact that the use of the premises for a commercial purpose was resumed within one year of the date of the adoption of the Zoning Regulations of Saltimore County, and hay been discontinued for

a period of one year since, it seems to me that based upon the above authorities, a lawful non-conforming commercial use exists as of this date.

No notice has been given to the public, as required by the Zoning Regulations of the purpose of the Fetitioners to have the question of whether or not the predicts in question enjoys a lawful non-conforming use determined. It may be necessary to do so before this question can be considered adjudicately

It is Ordered by the Zoning Commissioner of Baltimore County, this 2 nd day of June, 1949, that the petition for a reclassification of said property be and the same is hereby DENTED and that the above described property or area be and the same is hereby continued as and is to remain an "A" Residence Zone, subject to a nonconforming commercial use.

RECD APR 30 1949

CERTIFICATE OF PUBLICATION

TOWSON NO Upile 39/49 19

published in THE JEFFERSONIAN, a weekly newspaper

Baltimore County, Md., 2 trues for the 134-194 The first publication 55 nd may of The man

THE JEFFERSONIAN,

Cost of Advertisement

CERTIFICATE OF POSTING

ZCAING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

Posted for Genmercial

Date of Posting Ofice 29/49 Portrain of property Stellword corner of Kenwood + Steenwood

1434

avel Location of Sign southwest corner of Stenwood & Greenwood aves

Pontal & Harry 6, Gartside

District 14

April 20, 1949

\$19.00

RECEIVED of Edward P. Watcheski and wife, the sum of Eighteen (\$18.00) Dollars, being cost of petition for reclassification, advertising and posting of property at southwest corner of Kenwood and Greenwood Avenues, 14th District of Beltimore County.

Zoning Commissioner

\$22,00 /

HIDENTYD of G. Telter Cole, attorney for while B. Dixon and wife, appliants and probestants, being cost of appeal from the decist Comming Commissioner in the metter of public the recommendations in the metter of public the recommendation of the commission of the c

June 24, 1949