

2079

JAMES B. DAVIS, et al
vs
BOARD OF ZONING APPEALS, et al
BALTIMORE COUNTY
COURT

In this case it appears that the residents of the community are nearly united in their opposition to the proposed shopping center. Mr. Messen, the promoter of the proposed shopping center, is of the opinion that shopping facilities are needed in the community and should be provided whether the prospective patron want them or not. He may be right but the residents apparently are content to continue to undergo whatever inconvenience they experience through the lack of stores in the immediate neighborhood. They are content in the same position as a farmer who prefers to use a horse instead of a muley tractor or the old spring rather than to install electricity and a modern electric pump with its mechanical complications.

The Court feels that persons who build in a thoroughfare such as the Liberty Road must expect sooner or later a certain amount of commercialization in their communities. If they desire absolute peace and quiet the only way to secure it is to build in some more isolated community, but the record in this appeal does not disclose any valid reason for changing the present status of this particular neighborhood.

It is clear that the traffic hazard would be much increased by the construction of a shopping center at this location. There is some testimony that the Liberty Road is to be widened but that, at the present time, is purely speculative. Proper improvement may come in months or years. The evidence against the proposed water in this particular is so fortified with sound facts and is so much more convincing that that of the petitioner that the Court must reverse the action of the Board.

July 6, 1950
True Copy Test
John B. DAVIS, et al
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RE: PETITION FOR RECLASSIFICATION FROM AN
"A" RESIDENCE ZONE TO AN "A" COMMERCIAL
ZONE - Southernmost side of Liberty
Highway, 157-4 feet from Old Hill
Road, Second District -
Guaranteed Realty Corporation,
Petitioner

The property which is the subject of this petition is located on the southwest side of Liberty Road, opposite Patterson Avenue, Second District. It is adjacent to the property of Mary G. Thurgay and Clara A. Stewart, which is also the subject of a petition for reclassification and which is being heard concurrently with this petition in question. The two petitions should be considered as one as the owner in petition No. 2079 is also the contract purchaser in petition No. 2078. If the petition for reclassification is granted, the two parcels of land will be developed as one as set forth in the plan filed with this Department.

The property of Mary G. Thurgay and Clara A. Stewart, (petition No. 2078) was the subject of a petition for reclassification in February 1948. This petition was denied by the Board of Zoning Appeals and an appeal was not taken.

This property was the subject of a petition for reclassification again in March 1947. The reclassification in this case was granted by the Board of Zoning Appeals and an appeal was not taken. This Order of the Board was reversed by Judge John B. DAVIS in the Circuit Court for Baltimore County dated July 6, 1950.

The petition for reclassification was granted by the Board of Zoning Appeals and an appeal was not taken. This Order of the Board was reversed by Judge John B. DAVIS in the Circuit Court for Baltimore County dated July 6, 1950.

The property of the petitioner lying immediately to the southeast of the property of Mary G. Thurgay and Clara A. Stewart and fronting 390 feet on Liberty has not been the subject of a petition for reclassification, according to the records of this Department.

The petitioner in this case offered testimony to the effect that this was an ideal and logical place for a shopping center. The property is centrally located in the side of a community of 670 people. The area is now served with public utilities including water and sewer and will continue to grow, increasing the need for such services in that area. It was testified that at the present time there is no close place for the residents of that area to shop, the closest available shopping center being one mile away at Ogden Oak Junction.

Petition for Zoning Re-Classification

To The Zoning Commission of Baltimore County
I, or we, the undersigned, legal owner(s) of the property situate

beginning at a point on the southernmost side of Liberty Highway North 56 degrees 42 minutes West 152.5 feet from the point of intersection of the southernmost side of Liberty Highway North 56 degrees 42 minutes West 397 feet thence running south 77 degrees 56 minutes East 365 feet, thence running south 42 degrees East 302 feet to the north side of an alley there situate, thence running along the said alley North 49 degrees 18 minutes East 463 feet to the point of beginning, being 3.2 acres of land, more or less.

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 A Commercial Zone.

Reasons for Re-Classification: approved commercial use

Character of use for which above property is to be used: approved commercial 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.

GUARANTEED REALTY CORPORATION
157-4 feet from Old Hill Road, Second District
Address: 35 West Franklin Street

ORDERED By The Zoning Commission of Baltimore County, this 13th day of

August, 1951, 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 Backlot Bldg., in Towson, Baltimore County, on the

5th day of September, 1951, at 1:00 o'clock P.M.

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The petitioner further testified that he has consulted with the Baltimore County Planning Commission and it is planned to extend Patterson Avenue westerly through the property, which is a part of the Planning Commission's plan for extending Patterson Avenue westerly and southerly to Ogden Oak Avenue. The petitioner also offered considerable testimony by a zoning expert that this was a logical use of the property, that it was not especially suited for residential development and that the granting of this reclassification would not be detrimental to the health, safety and general welfare of the community but rather add a service which was needed in the community.

Expert testimony was also offered by a traffic engineer of the J. R. Greiner Company that the use of this property for a shopping center would not create a traffic hazard on Liberty Road at this location that with ingress and egress from the shopping center at one location only, namely, the extension of Patterson Avenue where traffic could be controlled if necessary by a traffic signal, no hazard would be set up. It was testified also that the grade of Liberty Road at Patterson Avenue was 58 and that the sight distance from the top of the hill to the south in Patterson Avenue was about 1050 feet which was more than sufficient to give the required sight distance.

The protesters in this case testified that the use of this property for a shopping center would be detrimental to the proper enjoyment of their properties for residential use. Several persons testified that there is no need for a shopping center in this area, that they are willing to drive the distance of one mile to Ogden Oak Avenue or to some other shopping center. In addition they stated that most of the merchants who supplied the area offered delivery service and that their needs are sufficiently taken care of.

A voluminous written protest was filed with this reclassification. Many of the persons residing in Lochearn protesting some of the residents of Lochearn, who had signed against the reclassification, recorded themselves as being for the reclassification. This petition also included many other persons in the area approving the reclassification.

From a physical inspection of the area it appears that few of the residents of Lochearn could be adversely affected by the use of this property for a shopping center. Outside of the properties which front on Liberty Road it does not appear that the use of this property for this purpose could possibly be detrimental to the safety and general welfare of the community. There are at present two residences, however, only two residences actually front on Liberty Road, the other two fronting the side streets, namely, Oak Avenue and Patterson Avenue. The residences to the north of Sylvan Drive do not face directly into the property in question and are, therefore, not directly affected by this petition.

August 20, 1951

RECEIVED OF GUARANTEED REALTY CORPORATION, the sum of \$200.00 (\$200.00) Dollars, being cost of petition for reclassification, advertising and posting property, southernmost side of Liberty Highway North, Second District of Baltimore County.

Zoning Commissioner

Hearings
Wednesday, Sept. 5, 1951
at 1:00 p. m.
303 Washington Avenue

PAID
20
C. Davis

2079

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In Judge Conrath's opinion in the case of Jarvis B. DAVIS vs Board of Zoning Appeals, he stated as follows:
"The Court feels that persons who build on a thoroughfare such as Liberty Road must expect sooner or later a certain amount of commercialization in their communities."

With the residential growth that has taken place in this section it is natural to expect that the commercial growth should keep pace with it. As a matter of sound zoning it is better that modern shopping centers be located at strategic points along heavily travelled thoroughfares rather than having "show-stings" or linear commercialization the whole length of such a thoroughfare. Such a shopping center provides adequate off-street parking and controlled channelized ingress and egress. In this case parking facilities have been planned for 300 cars. Access to the center from Liberty Road will be had by an entrance, namely, the extension westerly of Patterson Avenue. Report testimony was to the effect that such controlled access would not create a traffic hazard.

In view of the foregoing it is the opinion of the Zoning Commissioner of Baltimore County that the use of the two parcels of land described in petitions Nos. 2078 and 2079, for commercial use for the operation of a shopping center, will not be detrimental to the health, safety and general welfare of the community and the reclassification should be had.

It is ORDERED by the Zoning Commissioner of Baltimore County, this 7th day of November, 1951, 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 "A" Commercial Zone, subject to the following provisions and restrictions:

1. That any buildings to be constructed upon these properties have a setback of at least 110 feet from the present right-of-way of Liberty Road.
2. That a 17 foot widening strip be dedicated for the future widening of said Liberty Road.
3. That a 60 foot right-of-way be provided for the extension westerly of Patterson Avenue.
4. That any buildings to be constructed on the properties have a setback of at least 25 feet from the right-of-way line of the proposed Patterson Avenue so as to provide proper sight distance for persons using the parking lot.
5. That a planting of evergreen trees and shrubs be supplied along Liberty Road to properly screen the shopping center from said Liberty Road.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District 2nd # 2079
Date of Posting 8-24-51

Posted for: An "A" Residence zone to an "C" Commercial zone

Petitioner: Guaranteed Realty Corp.

Location of property: the point of intersection southwest side of Liberty Heights Ave. N. 56° 42' west 152.5 ft. from
southern most point of Liberty Heights Ave. & Old Mill Rd.

thence running southwest side of Liberty Heights Ave. N. 56° 42' west 359.7 ft. thence south 37°
56' west 369.5 ft. thence east 302.4 ft. to the north side running side of said alley 49° 18' east 463
Location of Signs: southwest side of Liberty Heights Avenue 520 ft. south west of
Old Mill Rd.

Remarks: _____

Posted by: George R. Hummel Date of return: 8-24-51
Signature

NO PLAT
IN
THIS FOLDER