FILED AUG 1 3 1952

EDWARD N. WHEELER, and HELEN P. WREELER, his wife, Pikesville, Baltimore County, Maryland. IN THE CIRCUIT COURT H. GUY CAMPSELL, DANIEL S. HUBERS, and CARL T. VOMDEN, Constituting the Board of Zoning Appeals of Baltimore County YOR

BALTIMORE C UNT

LANGENCE H. GRIMM, Pikesville, Baltimore County,

H. GUY CAMPBALL, DANIEL W. HUBERS, and CARL T. VOHDEN, Constituing the Board of Zoning Appeals of Baltimore County

TO THE HOMORABLE, THE JUDGE OF SALD COURTS

The Patition and appeal of Edward M. Wheeler and Helen P. Wheeler, his wife and Lawrence H. Crimm, Petitionera, respectfully shows unto your Honor:

1. That your fetitioners, Edward N. Sheeler and wife, are the owners of a certain percel of ground located at or mear the southwest commer of Reisterstown Road, and Rose Avenue, in the Third District of Baltimore County, said parcel of ground being sore fully described in an application filed with the Zoning Commissioner of Deltimore County, hereinefter neferred to.

2. That your Petitioner, Lawrence H. Orimm is the owner of a lot or percel of ground located on the west side of the Reistarstown woad, north of Colby Road, in the fhird Slection District of Beltimore County, more particularly describe

E. That the failure of the Board of Zoning Appeals of Baltimore County to reclassify the properties of your Patitioners constitutes, in effect, a confiscation of the value of you Petitioners' proporties for the benefit of noighboring protestants, without due process of law and without compensation therefor, in violation and derogation of the constitutions rights of your Petitioners; and is, therefore,

erbitrary, void and an improper and excessive

- use of the police power of the States F. That the order of said Board and its opinion discloses. In affect, only two alleged resso for the reversal of the order of the Buildings and Toning Consissioner, to wit, that traffin hazards night be increased, and that no me ity need for the reclassification was shown; but said opinion and order sets forth no bases for such conclusions, nor does the testimony adduced before said Doard; that the proceeding and bestimony, on the very face of such propeedings and testimony, petablishes that the Zoning ordinance of Saltimore County, is, as applied to the properties of your Petition illegal, sepricious, arbitrary and unconstitu
- 0. That the reclassifications requested would no dversely affect the health, safety, morals, pal welfare of the community, but, to

in an application filed with the Zoning Con more County hereinsfter referred to-

3. That your Fatitioners heretofore filed patitions praying for realissification for said properties from an "A" residence some to an "E" Commercial some.

4. That under date of Marchi9th, 1952, the Bulldings and Zoning Commissioner for Baltimore County passed an order in which he granted your Patitioners' request for the eforesaid reslassifications, so will more fully appear from the copy of said order, filed in said proceedings.

5. That subsequent to said desiston of the Rulldings and Zoning Commissioner for Baltimore County passed as aforesaid, an appeal was filed by the Colonial Village Improvement Association, to the Board of Toning Appeals of Beltisore County; that upon seld appeal said Board of Zoning Appeals of Baltimore County on the 17th day of July, 1952, passed an order sustaining the appeal and reversing the decision of the said Buildings and Zoning Commissioner for Baltimore County, the grounds of said decision being stated in said Order, after preliminary comments in an opinion then filed, as follows: The further extension of commercial area, as enticipated by the Petitioners, would tend to further traffic hazards along this road; and since they have falled to show a need such as to justify reclassification of this property in view of other commercial properties available in this section, the reclausification should not be had; and the Board will pass its orde denying the applications and reversing the action of the Zoning Commissioner of Beltimore County as to both petitions"; and, in said order stated: " it appearing from the facts and evidence adduced at the appeal that there is no need for the

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ordinance of Baltimore County, to the end that sold toning ordinance night be reasonable, fair and equitable as to the properties of these Petitioners

- H. That the said record establishes that the existing soning ordinance is orreneous, illegal, capricious, and eroltrary, as applied to the properties of your Petitioners, in that the record and proceedings in this case before said Board of Zoning Appeals clearly demonstrates that said ordinance, as to said properties, is not required for the reasonable protection of the public health, safety, morals or general welfare, but, to the contrary, the record establishes that the properties of your Petitioners are nalawfully and illugaly subjected to a highly restricted use, for which said property is not susceptible or useable; and that, therefore, said soning ordinance, is, as to the properties covered in these petitions, unconstitutional thlow bea
- I. That the zoning ordinance of Baltimore County. and amendments thereto, and the Asts of the General Assembly under which said ordinances been passed, are unconstitutional, illegal and vold.

That this posision and speal is filed pursuant to the provisions of Chapter 502 of the Laws of Maryland, 1965 Session of the General Assembly.

reclassification and no arror shown in the original County soning", the order thereupon proceeding to reverse the action of the Buildings and Zoning Counted oner and denvine the

6. That the eforesaid order of the heard of Zonine Appeals of Baltimore County, dated July 1705,1952, should be reversed, set aside and annulled by this honorable Sourt because the said order is illegal for the following reasons:

a. That the order of the Board of Zoning Appeals of Baltimore County constitutes and is an arbitrary and capricious act, and a gross abuse of administrative discretio for the following reasons:

- A. That said Board had no authority or jurisdicti to hear and determine the appeal filed by the Colonial Village Improvement Association, for the reason that the sme is not shown to be a texpaper in Baltimore County and has, therefore, no standing legally to enter an appeal from the Order of the Buildings and Zoning Countes ioner for Beltimore County;
- B. That the undisputed evidence siduced before said Board of Zoning Appeals disclosed that southerly from the property of the Petitions: Orien, a distance of approximately 250 feet, there is the beginning of an extensive commu cial mone; that immediately northerly of the adjoining property of the Petitioners Wheeler there is a particularly objectionable, nonconforming near that temediately appear the Relateratown Road, from the property of the Petitioners, Sheeler, there is an existing non-conforming use Mi Cha Form WF a stabl

d riding soudery; that within very short distances of the properties of both these the there are hon-ounterning uses and eratal comes; which owldence said Pourd of Zonting Appeals Egroped and did not take into

- O. That the evidence adduced at the hearing before said Seard of Soning Appeals of Baldisore County disclosed, without con radiation, that the section in which the properties of your Petitioners are located is and has been for years dorment, insofar as residential development on properties facing the Reisterstown Road is concerned;
- D. That the evidence adduced by your Patitioners at said hearing showed, without contradiction. that the properties of your Petitioners is useful solely and only for connercial purposes, because of the cherector of the surrounding and adjoining properties on said Relateratown Roads with the result that the utility of the land of your Petitioners for residential purposes has been and is completely destroyed and wiped out; that the location of the properties of your Patitioners, surrounded and adjoined as they are by properties goned for conservial purposes and existing commercial non-conforming uses, makes the utilization of said properties for resident purposes by your Petitioners, or by prospective purchasers, completely valueless; all of which clearly appears in the testimony adduced before said Boards

WHEREPORE YOUR PETITIONERS PRAY

1. That a writ of Certifrari be issued by this Nonorable Court, directed to the Board of Joning Appeals of Baltimore County, and prescribing a time within which a return thereto must be made and served upon relators!

2. That this Honorable Court reverse, set aside, annul and declare yold and of no effect the Order of the Board of Zoning Appeals of Baltimore County, dated July 17th, 1952.

3. That the Board of Zoning Appeals of Beltimore County to required to return to this Honorable Court the original papers soted upon by it, or certified or sworn copies thereof, thgether with a transcript of testimony taken at the time of the hearing before the said Board, and copies of exhibits, and that such return shall set forth such other fact or facts as may be pertiment and material to show the grounds upon which the Order appealed from was made.

4. And for such other and further relief as the nature of your Petitioners' cause may require.

Edward W. Whoslar

Helen P. Wheeler Laurence H. Grimm

I manad certify that on this day of

Marian D. Tevlor, Matury Public

AS witness arr hand and coveried small

STATE OF MANYLAND, BALTIMONE COUNTY, to with

August, 1952, before me, the subscriber, a Notary Public of

personally appeared Edward H. Wheeler, Helen 7. Thouler,

the State of Maryland, in and for Beltimore County aforesaid.

and Lawrence S. Orims, Petitioners herein, and they made onth

are true and correct to the best of their knowledge, infor-

mation and belief.

in due form of law that the natters and facts set forth thereis

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Deen the foregoing Patition, Appeal and Affidavit, is to this littley of aspuse, 1939, by the Gireal's Court for Salthers County, ORDERED that a writ of Certifical be toroid, directed to the Board of Seming Appeals of Saithware County, dated June 30,1952, and that a return thereto mugt be made and served upon relators, atturneys situin ten days from the date of this Orders and it is further

consent that the Sourd of Roning Appeals of Saltimore County be and it is berety required to return to this Court the original papers ested upon by it, or certified or scorp copies thereof, together with a transcript of testimmy taken at the hearing before the said Beard, exhibits filed before it, and considery setting forth such other fatts as may be portinent and material to show the grounds of the destates and order appealed from-

True Copy Test

RE: PETITION FOR REGLASSIFICATION FROM AN "A" RESIDENCE ZONE TO AN "B" COMPERCIAL ZONE S. W. Oor. Relateratoum Road and Rose Ave., Third District of Balthrore County - Zew. N. & Helon F. Wheeler, Petitioners.

The appeal in the above entitled matter coming on for hearing before the Board of Zoning Appeals of Baltimore County on May 15, 1952, granting the petition for reclassification of the property described therein from an "A" Residence Zone to an"E" Commercial Zone, and it appearing from the facts and evidence adduced at the appeal that there is no need for the reclassification and no error shown in the original County

It is this 17 day of July, 1952, Ordered by the Board of Zoning Appeals of Baltimore County that the order of the Zoning Commissioner of Baltimore County, granting the petition for reclassification, be and the same is hereby reversed and

RE: PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO AN "E" COMMERCIAL ZONE S. W. Cor. Reisterstown Road and Rose Ave., Third District of Baltimore County -Edw. N. & Helen P. Wheeler, Pstitioners

The properties across ^Relstaratown Road, between Smith and Euralli Avenues, are improved with cottages. The Telephona Company Entliding Instaltors mentioned is a large quadr-commercial building.

Let has a very depreciating effect upon the remainder of the properties in the two blocks between Perbar AventUP/GLD, Road, Fush plant. stored around the building and thebuilding itself is not kept in a very good state of repair.

very good state of repairs.

The truck traffic being aspecially heavy. In view of the uses to which he properties to the north heave been ped and the heavy conservation to the properties to the north heave been ped and the heavy conservation use of this property for residential use. To require the petitions use of this property for residential use. To require the petitions calculated the property for residential use. To require the petitions of the property for residential use. To require the petitions of measurements of the property for residential use. To require the petitions of measurements of the property for residential use. To require the petitions of the state of the property for the pedition of the property of the pedition of the property of the p

In view of the foregoing it is the opinion of the Zening Commissioner of Emittacre County that the logical and reasonable use of the property in question is for commercial use and the reclassifi-cation should be had.

Ending Consistence of Mallocome County, that the above described prepared to this Order, from an offer the date of this Order, from an offer the date of this Order, from an offer Consected prepared Consected from an offer the date of this Order, from an offer Section Consected Consecte

Petition for Zoning Re-Classification

Property to be posted as prescribed by Zoning Regulations

Mone we, Edward M. & Helen P. Wheeler southwest corner of Reisterstown Road and Rose Ave., 1rd District of Reiter-Co., themes northwesterly, on the southwest side of Reisterstown Road, 50 fost, themes South 52 degrees 55 minutes west 18,655, themes South 37 degrees Of admates east 71.77 Fost to the northwest side of Rose Ave., themes north-easterly, on said side of Rose Ave., 18.655 feet to beginning.

2156

hereby petition that the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an A" Regidence ___zone to an "E" Gommarcial zone Reasons for Re-Classification: Approved Comparcial use

Size and height of building: front._____feet; depth.____feet; height_____ Front and side set backs of building from street lines; front feet; side

I, or we, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing

Freef 4. Thules Welen Owheeler

ORDERED By The Zoning Commissioner of Baltimore County, this 19th day of December. 1951, 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 Bldg, i., Towson, Baltimore County, on the9thday of ...January.....

...... 19.52., at 3:00.o'clock ... P.M.

Zoning Commissioner of Baltimore County

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland #2156 District J. District Jones of Protein 12-22-51

Pasted for Cars At "Mendewel Jones for an E" Commenced Jane

Petitioner Edward M. Whilletter

8 0 11 4

Location of property S.W. Corner Resolvent fond & Rose leve, theree north willy Consiss of project sine we were present grown 1 1000 the first particular of the continuent and of free the transfer of the state of the transfer of the trans

Remarks: Date of return: 12-22-51

FILED JAN 2 1952

CERTIFICATE OF PUBLICATION

MITTER OF ZONING PETITION PRINTERS AND DIST.

TOWSON, MD December 28, 1951 THIS IS TO CERTIFY, That the annexed advertisement was ublished in THE JEFFERSONIAN, a weekly newspaper printed nd published in Towson, Baltimore County, Md., KREKEREKE 2 times xxxxxxxxxxxxxxxxxx of the by of ______ January _____ 19 52, the first publication pearing on the 21st day of December

THE JEFFERSONIAN,

RECEIVED of John Grason Turnbull, Attorney for Edward No Wheeler, ot al, potitioners, the sun of Twenty (620. 0) Dollars, being cost of polition for realessification, advertising and posting property, southwest corner of Reisterstown Road and Ross Avanue, 3rd District.

Jane 14, 1952

Zoning Comissioner

Wednesday, Jan. 30, 1952 at 1:00 p. n. becoment of Sectord Building Young Md.

NO PLAT IN THIS FOLDER

ZONING DEPARTMENT OF BALTIMORE COUNTY

Date of Posting 1-16-52 Posted to Un A Beadout Sant to an E Commune Jane Location of property S. W. Got of Section and Aft Prose and There of W. on the SN. S Justinton Af 50, there S.50°58'W144 of thoul S. 37°22' S747 ptathe NWS & forward through 144 56 ft to beg Location of Signs 9. W. Comer of Bustistion Rd & Have are W. W. 35ft on SW Reiderton A

CERTIFICATE OF POSTING

Posted by Glorge R. Hernmel Date of return: 1-16-52

#2156