CARTY HOPPHEISTER T/A PINE GROVE Hoad Gaves Hoad Owings Mills, Maryland THE MOTO Pleintiff CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND Towson, Maryland 21204 HALTIMORE COUNTY and e Rouity JOHN G. ROSE, Zoning Commissioner of of Baltimore County, Maryland Towson, Maryland 21204 Defendants BILL OF COMPLAINT

TO THE HONORABLE. THE JUDGE OF SAID COURT:

The Bill of Complaint of Carty Hoffmeister T/A Pine Crove Cavaca, by his attorneys. H. Kenn MacDaniel, MacDaniel and Payne, respectfully shows unto Your Honor:

- 1. That he is the proprietor of the Pine Grove Carare which is his place of business and which is located on Caves Road in Baltimore County, Maryland.
- 2. That the particular business carried on is that moun as a "Junk Yard" and "lutomobile Venety Shop" which tovolves the storing of old sutomobiles, dismontled sutomobiles. utomobile parts, as well as the business of repairing automobiles with respect to both mechanical as well as body and fen-
- 3. That this Complainant and his brother, Marion N. Hoffmeister, have built up a substantial and lugrative huniness in the County of Raltimore and have nextormed and are nextorming a necessary and beneficial service to the residents of their reneral area as well as to the County of Baltimore.
  - 4. That your Complainant purchased the interest of

- 19. That the said Ordinance is a wold attempt to everetes the police powers of the State in that it has no relation to any moral need of the County of Baltimore and the acts prohibited do not create or constitute or throaten any damage or danger to the health, morals or general welfare of the citiseny of Baltimore County.
- 20. That the Ordinance is void in that it imposes an undue hardship on your Complainant in allowing only two (2) years for the discontinuance of your Complainant's business, which period of time is completely unreasonable, arbitaray and canricious, and without a corresponding benefit to Baltimore County or its residents, which substantially outwelchs resulting harm and damage to your Complainant.
- 21. That your Complainant charges that said Ordinance is void and of no legal effect, and that said Ordinance being void, he should not be compelled by the threats of the Zoning Commissioner of Baltimore County, or Beltimore County, to abruntly discontinue the operation of his business in compliance with the terms of said Ordinance until his contesting the validity thereof has been finally determined by the Courts of this State, and as to this, he is without remedy except by the intervention of this Honorable Court.

TO THE END THEREPORE.

- (a) That this Court will by its decree declare Bill No. 150 of the County Council of Saltimore County's Maryland and signed by the Baltimore County Executive on October 3, 1962, null and wold and of no legal effect.
- (b) That this Court will by its decree declare Bill No. 140 of the Baltimore County Council, by its intent and wording does not apply to and is of no effect as to the business of your Complainant.

his brother, Marion M. Hoffmeister, on October 15, 1964, and is now the sole owner.

- 5. That your Complainant has placed into use approximately twelve (12) scree, owned by him, for the purpose of carrying on the said business of Pine Grove Carage.
- 6. That the aforesaid business has constituted the Pullatime occupation of your Complainant and has been your Complainant's sole source of income and financial security,
- 7. That your Complainant has in his employ two (2) senlovees who earn their living from the business of your Comnlatmanh.
- 8. That your Completenant's business is located in a remote section of Baltimore County, is limited to property owned by your Complainant, and has been operated in such a manmer so as not to affect the health, welfare or ceneral well being of any of the residents in the immediate vicinity or anyone else in Baltimore County.
- 9. That your Complement has, upon the premises of the said business, approximately nine hundred (900) automobile units in which he has invested a considerable sum of money.
- 10. That the objet value of the automobile units now in the newscaster of the Completent to derived from the use of merts therefrom which are used in the repairing of automobiles sa well as for sale to the general public.
- 11. That the market for funk automobiles is, and has been, for several years, extremely low, so that the sale of such automobiles as junk would result in great financial loss to your Complainant.
- 12. That your Completentie west property used for the purposes of said business, has been improved by a carace. approximately 80' x 70' in dimensions with a present value of

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approximately Twenty Thousand Dollars (\$20,000.00), which building is fully equipped for repairing, storing and stripping of automobiles and great financial loss and damage would be sustained by your Complainant should be be required to discontinue the use of the premises as a Junk Yard.

13. That the presises upon which the Pine Grove Carage is being operated are Zoned ShO (Residential), buy your Complainant has operated said business continuously since 1930 without change, interruption, reduction or abundonment thereof and, therefore, had established a legal nonconforming use in 1945 when the Zoning Laws of Baltimore County were placed in effect, which legal nonconforming use still exists.

1h. That the business of your Complainant is entitled to protection as a nonconforming use by virtue of Section 104 of the Baltimore County Zoning Regulations which provides, "A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such conconformling use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other essualty to the extent of seventy-five (75) per cent of its replacement cost at the time of such loss, the right to continue or resume such conconforming use shall terwinete. We nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area or buildings so used."

15. That while your Complainant was carrying on his usiness as set forth in a lawful, orderly and peaceful manner, an Ordinance, designated as Bill No. 140, was signed by the Baltimore County Executive on the Third day of October, 1962, whereby the County Executive and County Council of Baltimore County unlawfully and without legal warrant provided, inter nlis, thats

Section 200.16 - Junk Yards and Open Dumps

"Any extering Junk Yards in this or any other residential cone, and any existing Oper Dumps in any zone shall be completely eliminated not later than two (2) years after the date of effectuation of this amendment.

I hereby certify that bill No. 140 is true and correst and will take effect on November 17, 1962, Signed Dale Anderson, Chairman, County Council."

A copy of which Ordinance is herewith filed, marked "Complainant's Exhibit No. 1", and forms a part hereof.

- 16. That the said Ordinance does not by its intent and wording apply to a junk yard in Baltimore County which is being operated under a legal nonconforming use as provided in Section 104 of the Baltimore County Zoning Regulations and therefore, has no application and is of no effect as to your Complainent's business.
- 17. The: the said Ordinance is vold because it is so unreasonable and extravagant in its nature as it deprives this Complainant of his property without due process of law, and the property and personal rights of your Complainant are unnecessarily and arbitrarily interferred with and destroyed.
- 18. That said Oreinance is void because it makes an arbitrary distinction between Junk lards operated under a nonconforming use situated within the City Limits of Beltimore City and those situated in the Counties adjoining Baltimore County and there are such Junk Yards in operation in whose favor this Ordinance creates an unfair and unlawful discrimination.

- h -

CARTY HOFFWEISTER T/A PINE

Owings Mills, Maryland

VS.

BALTIMORE COUNTY, MARYLAND Townon, Maryland 2120h and

FOR BALTIMORE COUNTY Equity

IN THE

CIRCUIT COURT

4

JOHN C. ROSE, Zoning Commissioner e of Baltimore County, Maryland Towson, Maryland 2120h Defendants a

Plaintiff

...............

ORDER

UPON the aforegoing Petition and Affidavit, it is. thereupon, this 18th day of November, 1964, by the Circuit Court for Baltimore County, ORDERED that Baltimore County, Maryland, its agents, servants and employees and/or John G. Rose, Zoning Commissioner of Seltimore County, Maryland be and are hereby restrained and enjoined from enforcing any and all of the provisions of Baltimore County Bill No. 140 new known as Section 200.16 of the Baltimore County Code against Carty Hoffmeister T/A Pine Grove Carage or his agents, servents or employees unless caus, to the contrary be shown on or before the 10th day of Ocember \_, 1964, provided that a copy of said Bill of Complaint be served on the said Baltimore County, Maryland and John G. Rose, Zoning Commissioner of Baltimore County, Maryland, Defendants herein, on or before the 10 day of \_ with the , 1964, all subject to the further Order of the Court in the premises.

3 Mea

(c) That this Court will by its Order prohibit and enjoin the Defendants, Baltimore County, Maryland and John G. Rose. Zoning Commissioner of Baltimore County, or any other officer or agent of Baltimore County, by whatever name they may be designated, from arresting or causing the arrest of your Complainant, or from imposing any fine or fines, or interferring in any manner with the lawful operation of your Complainant's business, or the employees and servents of your Complainant during the pending of this action until the same may be duly decided and the validity or invalidity of said Bill No. 140 shall he determined.

(d) And that this Court will grant to your Complainand such other and further relief as his case may require.

May it please Your Honor to grant unto your Complainand the Writ of Subpoens directed to the Defendants, Baltimore County, Maryland and John G. Rose, commanding them to be and appear in this Honorable Court some day certain to be named therein and show cause, if any they may have, why the relief prayed shall not be granted.

AND AS IN DUTY BOUND, ETC.

H, Kemp HapPantel
Hackeniel and Payne
4,12 Muney Building
Saltimore, Maryland 21202
Pf. 2-0191 MU 5-1875
Attorneys for Plaintiff

Carty Hoffmelater T/A Pine

STATE OF MARYLAND: CANATY OF come direct 1 35:

I HEREBY CERTIFY, that on this 9th day of November . 1964, before me, the subscriber, a Notary Public of the State of Maryland, in and for the On-ty aforesaid, personally appeared Carty Hoffmeister T/A Pipe Grove Carage, the Complainant named herein, and made outh in due form of law that the matters

and facts set forth in the foregoing Bill of Complaint are true

and bons fide as therein stated, to the best of his knowledge AS WITNESS my hand and Notarial Seal.

and helter.

Anew But Notary Public

FILED MAY 2 1302

IN THE MATTER OF THE PETITION FOR RECLASSIFICATION from "A" to "E", S.S. Caves Boad, west of Green Spring Avenue, Jrd District of Baltimore County,

:: BEFORE AUGUSTINE J.MUELLER ZONING COMMISSIONER FOR

BALTIMORE COUNTY

Leo C. and Ada E. Hofseister, Petitioners

......

Mr. Commissioner:

Please enter an appeal from your order dated April 24th, 1952, in the above entitled matter.

24 W. Ponna. Ave., Towson h. Md.

ACT Le Ernest C. Trimble 506 Washington Ave., Towson 4,Md. Attorneys for Petitioners HE: PETITION FOR HECLASSIFICATION FIRM AN #4"
HESTLENCE ZONE TO AN #2" COMMENCIAL ZONE
5. S. CAYON ROAD, 700 foot west of Green
Spring Are, 3 Hol District of Balto. Co.,
Leo C. and Ada E. Holmsister, Fetitioner

the property which is the subject of this petition is located on the sents also of Garas Soud, 700 feet west of Green Spring Avenue, in the This property are formed to the property of the Springer Company. The property of the Springer Company of

It is the purpose of the potitioner in question to re-classify the lot described to commercial use to allow smother son, the G. McChester, to carry on the automobile repair business on this lot.

There was considerable widence to the effect that catomobile repair facilities are moded in the neighborhood due to the fact little are repair facilities are from three to six falles says. The same property facilities are from location at the just you'd had not prover to be entirely satisfactories and the just prefrontly little varieties worked on the just prefrontly little varieties worked on the just prefrontly little varieties worked on the just prefrontly little varieties of the large to get the care including the updeltery dirty. Narten had been also also the prefrontly little varieties to be relieved of the outside automobile repair wither.

to be relieved of the outside automobile reputs duties, when the first head is a need for astembells repair facilities in Min saighborhood, it is need for astembells repair facilities in Min saighborhood, it is the cpinion of the Zonigo Gountadenor of Bulliones County that the control of the control of the property which is control of the property which is the saightest of this pertition. The reclaimed astembells property would be "spet coning". The fact that the property which is the saightest of the pertition. The relationship is the property would be "spet coning". The fact that the property repair facilities if my use for justify and astembilised in Fig. 1 and astembilised in the property and the property could control to conservated use of other prevale of lated in the saws, the realisatification of which would be detrimented to the heavy of the property could control to conservate use of the property and in the saws, the realisatification of which would be detrimented to the heavy of the property of the dependence of the property could control to conservate use of these prevale of lated in the saws, the realisatification printing of residential use. In view of the revented to the two property could control to the foreyeast part is the opinion for should be denied.

It is this \_\_\_\_\_\_ day of April, 1952, ONDERDO by the Zoning Constantors of MolHance County, that the above petition is and the same is her by detailed both the above concribed property or area be and the same is heaving continued as and to remain an %\*\*

Zomine Gozelandon o

April 2, 1952

\$20.00

RECEIVED of Lee C. Hofmister, at al, the sum of Twenty (\$20.00) Dellars, being cost of patition for reclassification, advertising and posting property, south side of Casus Road, 700 feat west of Oreen Spring Avenue,

Zoning Commissioner

Wednesday, April 23, 1952 at 10:00 a.m.



Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County :-

som we Leo + Ada Hotmeister legal owners of the property situate South of Cares Road, 700 feet west of Green Spring Avenue

2234

District\_3 rd

thence westerny and binding on the south side of Cares Road 12h feet, thence south ho west 202.59 feet, thence north h5° 23' east 115.33 feet, thence worth h0° west 23h.21 feet to place of beginning

of Baltimore County, from an A. R. E.S. some to an A. Correct. some for Re-Classification APPROVED COMM USE. AUTO REPAIR GARAGE)

Size and height of building: front 24 feet; depth feet; height feet. Front and side set backs of building from street lines: front.... Property to be posted as prescribed by Zoning Regulations.

A 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,

> Leo C. Hofmeister Ada E. Hofmeister

Address Owings Bills Me

.....19.52, 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., in Towson, Baltimore County, on the...... ....day of .....April..... ... 1952., at 10..o'elock. A. M.

Zoning Commissioner of Baltimore County

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

#2234

Towson, Maryland

Date of Praise of Lord "Mexicological Josel Lot Core Co Concrete and Praise of Praise of Lord Co. Afternalister

Praise as a ground S. South Feb 100 W. Hesseymen feet there will be word on this school of the Manufacture of the San My bound of the Manufacture of the San My be ground of the San My be grown of the San water at sign South and of barr head 250 ft west of Briengery arrand

Beneric ... Date of reurn 4-9-52

FILED APR 1 4 1952

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## CERTIFICATE OF PUBLICATION

THE OF BOXISE PRIFITON FOR TOWSON, MD ... Apr 13 11, 1952 TRIS IS TO CERTIFY, That the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., GRONGEREES EX. R. times exemplements before the ...... 23rd day of ...... Apr 11 19 52 the first publication appearing on the 4th day of Apr 11 19.52



May 22, 1952

RE SIVED of Day Browster, Attorney for Lee C. and Adm C. Hofbedstory positioners, the one of firmty Two (\$22,00) reliars, being cost of a poal to the Board of Zoning Appeals of Baltimore County from the desiston of the Soming Commissioner denying the petition for reclassification of property on the south also of Caves heat, west or wrom Spring Aleme, 3rd District.

Loning Comfenience

MAY 8 2 1950





