

2317
MAP #9

WALTER J. SINS
IRENE SINS, his wife,
HENRY W. UNDERWOOD
and MILDRED P. UNDERWOOD
Petitioners

VS

BOARD OF ZONING APPEALS
OF BALTIMORE COUNTY
Defendants

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

LAW

The Court has read the testimony and is familiar with the premises in the above-entitled matter. In addition, I recently made a trip to the locality and inspected it carefully. In my opinion, the health, safety and morals of this community would not be in any way affected by the reclassification to commercial of the property involved. As a matter of fact, it is impossible to conceive why anyone would put a house upon the unimproved portion of the property in question or upon the vacant property across the way on Loch Haven Boulevard in the present transitional condition of that community.

The refusal to rezone, in my judgment, constitutes a virtual continuation of the property involved. For the reasons given the action of the Board will be reversed.

October 26, 1952

John H. Courtney, Judge

ORDER

Upon the foregoing petition and affidavit, it is this 2nd day of March, 1953, by the Circuit Court for Baltimore County, ORDERED that a writ of certiorari issue directed to H. Guy Campbell, Daniel V. Hubers and Carl F. Vaden, being and constituting the Board of Zoning Appeals for Baltimore County, to review the decision and Order of said Board of Zoning Appeals dated February 10th, 1953, and requiring said Board to return to this Court all papers, records, and proceedings, in said matter and a transcript of all testimony presented before the Board in connection with said proceedings and a copy of any and all rules and regulations pursuant to which said Order was entered and said Board asked, to enable this Court to review said Order and decision of the Board and that a return to this petition shall be made and served upon the Defendants' attorney within days from the date of this Order; and

IT IS FURTHER ORDERED that the said Board of Zoning Appeals of Baltimore County shall return to this Court all the original papers, or certified or sworn copies thereof and the return shall carefully set forth such other facts as may be pertinent to show the grounds of the decision and Order appealed from, together with a transcript of all testimony taken at the hearing and copies of the exhibits filed therewith.

J. Howard Murray
Clerk

True Copy Test
J. Howard Murray
Clerk

2317

WALTER J. SINS and
IRENE SINS, his wife,
HENRY W. UNDERWOOD
and MILDRED P. UNDERWOOD,
his wife
Petitioners

VS

H. GUY CAMPBELL,
DANIEL V. HUBERS and
CARL F. VADEN, being
and constituting the
BOARD OF ZONING APPEALS
FOR BALTIMORE COUNTY
Defendants

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE THE JUDGE OF SAID COURT:-

The petition of Walter J. Sins and Irene Sins, his wife, and Henry W. Underwood and Mildred P. Underwood, his wife, by Charles R. Kohnen and Michael Paul Smith, their attorneys, respectfully represents unto your Honor:

1. That your petitioners are residents, property owners and taxpayers of Baltimore County, State of Maryland.
2. That on the 23rd day of June, 1952 your petitioners filed an application with the Zoning Commissioner of Baltimore County for a reclassification from an "A" Residence zone to an "E" Commercial zone of the property more fully described in said petition. That subsequent to the filing of said petition and after a public hearing, the Zoning Commissioner of Baltimore County passed an Order under date of September 30, 1952 denying the reclassification as mentioned aforesaid.
3. That the applicants feeling aggrieved at the passage of said Order of the Zoning Commissioner of Baltimore County, entered an appeal therefrom, hearing on same being held on the 24th day of November, 1952 by the Board of Zoning Appeals of Baltimore County. That upon said appeal the said Board of Zoning Appeals for Baltimore County on the 10th day of February, 1953 passed an Order affirming the Order of the Zoning Commissioner of Baltimore County, and denying the petition for the reclassification as prayed in the petition aforesaid.
4. That the aforesaid decision and Order of the Board of Zoning Appeals of Baltimore County on the 10th day of February, 1953 whereby your petitioners are aggrieved, and injured, is void, without legal force and effect and should be reversed, set aside and annulled by this Honorable Court

RE: PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO AN "E" COMMERCIAL ZONE - S. S. Corp. Loch Haven Boulevard and Yakona Road, 42d District Walter J. and Irene Sins, Henry W. and Mildred P. Underwood, Petitioners

The appeal in the above entitled matter coming on for hearing before the Board of Zoning Appeals of Baltimore County on the 20th day of November, 1952, denying the reclassification from an "A" Residence Zone to an "E" Commercial Zone in regard to the property described therein; and it appearing from the facts and evidence adduced at the appeal that the granting of the reclassification would be detrimental to the health, safety, and general welfare of the community, therefore,

It is this 10th day of February, 1953, Ordered by the Board of Zoning Appeals of Baltimore County that the Order of the Zoning Commissioner of Baltimore County denying the reclassification from an "A" Residence Zone to an "E" Commercial Zone be and the same is hereby ratified and affirmed.

H. Guy Campbell
Chairman
Daniel V. Hubers
Carl F. Vaden
Board of Zoning Appeals of
Baltimore County

for the following reasons:

- (a) That said Order of the Board of Zoning Appeals constitutes an arbitrary and capricious act and a gross abuse of administrative discretion.
 - (b) That there was no substantial evidence before the aforesaid Board of Zoning Appeals for Baltimore County in these proceedings conducted before it to justify it and support its order of February 10th, 1953.
 - (c) That the Order of the Board of Zoning Appeals constitutes an attempted unlawful and unconstitutional exercise of authority by said Board;
 - (d) And for such other and further reasons as may be shown at the hearing hereof.
- TO THE END, THEREFORE:
- (a) That a writ of certiorari be granted by this Honorable Court directed against said Defendants, constituting the Board of Zoning Appeals of Baltimore County, to review the decision and Order of said Board of February 10th, 1953, in the within proceeding and prescribing therein the time within which a return thereto shall be made and served upon the attorney for the Defendants.
 - (b) That the said Board of Zoning Appeals of Baltimore County may be required to return to this Honorable Court the original papers caused upon by it, or certified copies thereof, together with a copy of all records in said proceeding and a transcript of all testimony taken before said Board in connection with said proceedings, as well as a copy of the Order entered by said Board and a copy of any and all rules and regulations pursuant to which said Order was entered and said Board purporting to act.
 - (c) That this Honorable Court may permit your petitioners to take such other and further testimony as may be necessary for the proper disposition of the matter.
 - (d) That this Honorable Court may reverse, set aside, annul and declare void and of no effect the decision and Order of the Board of Zoning Appeals for Baltimore County of February 10th, 1953, denying the petition for a reclassification from an "A" residence zone to an "E" commercial zone of the property described in said original petition.
 - (e) That this Honorable Court may direct the Zoning Commissioner for Baltimore County to grant the permit as originally prayed by the petitioners.
 - (f) And for such other and further relief as the nature of their case

OPINION OF THE BOARD OF ZONING APPEALS
OF
BALTIMORE COUNTY

This is an appeal by the Petitioners from an Order of the Zoning Commissioner of Baltimore County dated September 30, 1952, denying the reclassification from an "A" Residence Zone to an "E" Commercial Zone of a tract of land on the Southeast corner of Loch Haven Boulevard and Yakona Road.

The case came on for hearing before the Board, testimony was taken, and counsel heard.

The Board very carefully reviewed the testimony in this case and checked the Zoning maps, as well as viewing the property and surrounding neighborhood considered in the petition for this reclassification. It was also noted that this property was subject to two prior petitions, both of which were denied.

There is no evidence in this case of any change of conditions justifying the reclassification; and furthermore, there is no need shown for additional commercialization in this area. It is clear that there is adequate commercial property in this neighborhood, and should there be a need for additional "E" Commercial property, it is the opinion of the Board that the Petitioners' land is not well adapted for such use as the area south of Yakona Road is improved with substantial residences and well kept and attractive homes. Yakona Road appears to be the logical stopping point for commercialization; and the Board will pass its Order denying the reclassification.

H. Guy Campbell
Chairman
Daniel V. Hubers
Carl F. Vaden
Board of Zoning Appeals of
Baltimore County

may require.
And as in duty bound, etc.

Attorneys for Petitioners

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:-

I, Henry Cerdly, that on this _____ day of February, 1953, before me, the undersigned, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared Walter J. Sins and Irene Sins, his wife, and Henry W. Underwood and Mildred P. Underwood, his wife, and they made oath in due form of law that the matters and facts contained in the foregoing Petition are true to the best of their knowledge and belief.

As Witness my hand and Notarial Seal.

Notary Public

RECD OCT 4 1952

Augustine J. Fuller, Esq.
Zoning Commissioner
Towson 4, Maryland

Re: Petition for Reclassification from an "A" Residence Zone to an "E" Commercial Zone - S.S. Corp. Loch Haven Blvd. and Yakona Road Walter J. and Irene Sins, Henry W. and Mildred P. Underwood, Petitioners

Sr. Commissioner:

Please enter an appeal to the Board of Zoning Appeals of Baltimore County from the Order of the Zoning Commissioner dated September 30th, 1952 in the above application for reclassification, and forward transcript of record to the Board of Zoning Appeals of Baltimore County.

Michael Paul Smith
Attorney for Petitioners

Dated October 4, 1952

#2317
MHP
#9

THE PETITION FOR RECLASSIFICATION FROM
AN "A" RESIDENCE ZONE TO AN "C" COMMERCIAL ZONE
IN THE 9th DISTRICT
Baltimore and Takoma Road, 9th District
Walter J. and Irene Sims, Harry W. and
Mildred F. Underwood, Petitioners

The property in question was the subject of a petition for reclassification, from an "A" Residence Zone to an "C" Commercial Zone in December 1949, said petition having been denied by the Zoning Commissioner on January 6, 1951. The property was again the subject of a petition for reclassification in March 1951, said petition having been denied by the Zoning Commissioner on March 30, 1951.

The report of the Baltimore County Planning Commission at that time stated that Takoma Road appears to be the logical stopping point for commercialization there being no further neighborhood need. The commercial area on Loch Raven Boulevard, between Johns and Takoma Roads and the Loch Ridge Shopping Center appear to provide all the necessary facilities for this area.

The fact that no need has been shown, that the area south of Takoma Road is improved with very substantial houses and that the continuing of the commercial area southward would only add to the parking and traffic problems already prevalent in this area, it is the opinion of the Zoning Commissioner that the granting of this reclassification would be detrimental to the safety and general welfare of the community and should be denied.

It is ordered by the Zoning Commissioner of Baltimore County this 30th day of September, 1952, that the above petition be and the same is hereby denied and that the above described property or area should be and the same is hereby continued as and to remain an "A" Residence Zone.

Walter J. Sims
Zoning Commissioner
of Baltimore County

July 14, 1952

\$23.00

RECEIVED OF Charles H. Watson, Attorney for Sims and Underwood, petitioners, the sum of Two and Three (\$23.00) dollars being cost of petition for reclassification, advertising and posting property, Loch Raven Boulevard, Takoma and White Oak Roads, 9th District.

Hearing
Monday, August 19, 1952
at 10:00 a.m.

Witness of
Redwood Building
Towson Md.



Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County—

Walter J. and Irene Sims and
Harry W. and Mildred F. Underwood
Legal owner of the property situated
All that parcel of land at the southeast corner of Loch Raven Blvd. and Takoma Road, thence easterly, and binding on the south side Takoma Road South 87 degrees 23 minutes East 192.12 to the east side of an alley 151' wide, thence along west side of alley South 4 51' West 431 ft. to the north side of White Oak Avenue, thence along the North side of White Oak Avenue in a westerly direction 194.60 ft. to the east side of Loch Raven Boulevard, thence northerly along the east side of Loch Raven Blvd. 322.61 to beginning.

111 that parcel of land beginning at the southeast corner Loch Raven Blvd. and Takoma Road, thence easterly, and binding on the south side Takoma Road South 87 degrees 23 minutes East 192.12 to the east side of an alley 151' wide, thence along west side of alley South 4 51' West 431 ft. to the north side of White Oak Avenue, thence along the North side of White Oak Avenue in a westerly direction 194.60 ft. to the east side of Loch Raven Boulevard, thence northerly along the east side of Loch Raven Blvd. 322.61 to beginning.

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" Residence zone to an "C" Commercial zone.

Reasons for Re-Classification: *Appropriate Com. 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.

Walter J. Sims - Irene Sims
Harry W. Underwood - Mildred F. Underwood
Legal Owner

Address _____

ORDERED BY The Zoning Commissioner of Baltimore County, this _____ day of _____, 1952, 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 had in the office of the Zoning Commissioner of Baltimore County, in the Redwood Bldg., in Towson, Baltimore County, on the _____ day of _____, 1952, at 2:00 o'clock P.M.

1952 _____ day of _____, 1952, at 2:00 o'clock P.M.

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1952 _____ day of _____, 1952, at 2:00 o'clock P.M.

1952 _____ day of _____, 1952, at 2:00 o'clock P.M.

1952 _____ day of _____, 1952, at 2:00 o'clock P.M.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: *9th* Date of Posting: *7-2-52*
Posted for: *Ans. J. Underwood gone to Ans. C. Commercial zone*
Petitioner: *Walter Sims - Harry W. Underwood*
Location of property: *S.E. corner of Loch Raven Blvd. & Takoma Rd. 9th Dist. North*
C.S. Underwood and Harry W. Underwood 55 1/2 blocks
Location of Sign: *E. side of Loch Raven Blvd. 75 ft. south of Takoma Rd.*

Remarks: _____
Posted by: *George P. Hummel* Date of return: *7-2-52*

CERTIFICATE OF PUBLICATION

TOWSON, MD. *March 9, 1952*

THIS IS TO CERTIFY, That the annexed advertisement was published in THE UNION NEWS, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of _____ successive weeks before the _____ day of _____, 1952, the first publication appearing on the _____ day of _____, 1952.

THE UNION NEWS
Manager.

CERTIFICATE OF PUBLICATION

TOWSON, MD. *July 4, 1952*

THIS IS TO CERTIFY, That the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of _____ successive weeks before the _____ day of _____, 1952, the first publication appearing on the _____ day of _____, 1952.

THE JEFFERSONIAN
Manager.

Cost of Advertisement, \$ _____

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: *9th* Date of Posting: *7-23-52*
Posted for: *Ans. J. Underwood gone to Ans. C. Commercial zone*
Petitioner: *Walter Sims - Harry W. Underwood*
Location of property: *S.E. corner of Loch Raven Blvd. & Takoma Rd. 9th Dist. North*
C.S. Underwood and Harry W. Underwood 55 1/2 blocks
Location of Sign: *E. side of Loch Raven Blvd. 75 ft. south of Takoma Rd.*

Remarks: _____
Posted by: *George P. Hummel* Date of return: *7-23-52*

**NO PLAT
IN
THIS FOLDER**