

RE: PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO A "B" RESIDENCE ZONE - N. S. Sulphur Spring Road, 2450 ft. N.E. Shelbourne Road, Thirteenth District - Edward J. and Lorraine Brennan, Petitioners

The property which is the subject of this petition is located between Shelbourne Road and Sulphur Spring Road, to the east of the intersection of said roads, Ariosto, Thirteenth District. The property to the northwest of the property in question across Shelbourne Road is zoned "A" Residential and is undeveloped, being the property of the Spring Grove State Hospital. The property to the southeast is sparsely developed with cottages. The property to the south across Sulphur Spring Road is zoned "B" Residential and is being developed as such. The property to the east is zoned "A" Residential and is developed with frame asbestos shingle cottages.

The property in question comprises 38 acres. It is the plan of the petitioners, if the petition is granted, to construct 38 group dwelling units.

It is contended by the petitioners that the bases of the reclassification to allow the construction of group houses are, one, the changed conditions in the immediate neighborhood of this subject tract of land since January 2, 1945; two, the demonstrated need for moderate size group type dwellings in the general area.

The petitioners pointed out that the Zoning Commissioner of Baltimore County recognized in petition No. 2311, filed by Lloyd E. Mitchell, Inc., that various changes have taken place in the area which would justify the reclassification of certain areas for group house use. The petitioners further contends that the reasoning of the Zoning Commissioner as set forth in the Mitchell Order is applicable with equal fitness and force to the subject property.

The petitioners further contends that topographically the property is well suited to group house construction and that environmentally the subject land is adaptable for a more moderate type of housing, due to the fact that "the tract is bounded in part by a nondescript community, known as Crowdentown (colored) and by the truck farm of Spring Grove State Hospital, which fields are worked by the inmates of the Hospital."

The petitioners contends that public utilities in the form of water and sewers are available and adequate.

The petitioners to the granting of this reclassification contend that there is a serious storm water problem in the area and that this storm water problem will be aggravated by the development of this land with group houses. The petitioners further contend that the development of the land with group houses will have a deprecating effect upon property values in the area.

It is the opinion of the Zoning Commissioner that certain changes have taken place since the adoption of the Zoning Regulations and Restrictions in 1945 which would warrant a reclassification of the property in question to allow the construction of group houses. The construction of the group house project immediately across Sulphur Spring Road seems to indicate that the logical stopping point for the group house areas would be at Shelbourne Road bordering the Spring Grove property.

Due to the critical school problem which exists in the area, it is the opinion of the Zoning Commissioner that the density of population on the subject land will not be greater than that allowed under the present "A" Residence Zone. In view of this it is the opinion of the Zoning Commissioner that the property, with

the exception of that fronting on Shelbourne Road, should be reclassified to allow the construction of group houses. It is further the opinion of the Zoning Commissioner that group houses should not face directly upon Shelbourne Road but that either cottages or semi-detached houses should be built in this area so that driveways may be installed and preclude parking on Sulphur Spring Road.

It is further the opinion of the Zoning Commissioner that the park area along Herberts Run should be widened so as to set up a flood control strip as required by the Department of Public Works of Baltimore County.

It is this 27th day of February, 1953, ORDERED by the Zoning Commissioner of Baltimore County, that a part of the property described in the petition, be and the same is hereby reclassified, from an "A" Residence Zone to a "B" Residence Zone, subject to compliance with the following restrictions:

1. That the gross residential density be restricted to five housing units per gross acre.
2. That group houses shall not face Sulphur Spring Road.
3. That the park area along Herberts Run be widened so as to set up a flood control strip as required by the Department of Public Works.
4. That no applications for building permits shall be approved as to the zoning for the construction of any houses until the three bridges over the west branch of Herberts Run have been completed and the storm water problem, which now exists in the area, has been corrected.

The property so reclassified being more particularly described as follows:

Beginning for the same on the north side of Sulphur Spring Road, approximately 2450 feet northeast of Shelbourne Road at the dividing line between Lots Nos. 4 and 5, thence westerly, on the north side of Sulphur Spring Road, 83.7 feet, thence North 1 degree 10 minutes East 38.42 feet; thence South 72 degrees 20 minutes West 237.45 feet; thence South 11 degrees 41 minutes East 114.10 feet to a stone on the north side of Sulphur Spring Road, thence South 83 degrees 58 minutes West 197.07 feet; thence North 43 degrees 5 minutes West 214.27 feet to a stone, thence South 89 degrees 10 minutes West 97.07 feet to a stone

RE: PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO A "B" RESIDENCE ZONE - P. S. side of Shelbourne Road to Sulphur Spring Road, 13th District - Edward J. and Lorraine S. Brennan, Petitioners.

The appeal in the above entitled matter coming on for hearing on the 18th day of June, 1953, before the Board of Zoning Appeals of Baltimore County from an Order of the Zoning Commissioner of Baltimore County dated February 27, 1953, granting the reclassification as requested in regard to the property described therein; and it appearing from the facts and evidence adduced at the appeal that the granting of the petition in part would not be detrimental to the health, safety, and general welfare of the community and for reasons set forth in the opinion; therefore,

It is this 18th day of August, 1953, Ordered by the Board of Zoning Appeals of Baltimore County that this property be reclassified from an "A" Residence Zone to a "B" Residence Zone with the exception that the property facing directly upon Shelbourne Road shall be reclassified from an "A" Residence Zone to a "B" Residence Zone; and conditioned further that off-street parking and driveways be provided so as to preclude parking on Sulphur Spring Road; and further, that a deed be executed by the petitioners, or their heirs or assigns, of that portion of the tract of land which they volunteered to deed to the County Commissioners of Baltimore County for the use of the Board of Recreation, as shown on the blue print dated August 13, 1952, a copy of which is a part of this record. This Order is not subject to the restrictions as set forth by the Zoning Commissioner in his Order of February 27, 1953.

Approved: County Commissioners of Baltimore County

SEP 24 1953

OPINION OF THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

This is an appeal by Edward J. Brennan and Lorraine Brennan, his wife, from an Order of the Zoning Commissioner of Baltimore County dated February 27, 1953, in regard to the property therein described.

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

The property which is the subject of this petition is located in the Thirteenth District of Baltimore County between Shelbourne Road and Sulphur Spring Road. Adjoining the property in question to the Northwest is the Spring Grove State Hospital. To the Southwest are a few cottages and to the South is a tract of land zoned "B" Residential, and to the East is a tract of land zoned "A" Residential.

The protestants' most serious objections to this petition for reclassification appeared to be that the developing of the land with group houses would aggravate the serious storm water problem in this area. A letter in the record of this case written by Mr. John Funk, Chief Engineer of Baltimore County, dated September 17, 1952, stated that he had been authorized by the County Commissioners to begin the design of bridges and other drainage structures to correct the flood conditions; and since it has been almost a year since such authorization and it will probably be another year before any appreciable increase in storm water run-off will be noticed, after this property is reclassified. It would not be proper to deny the petitioner the right to proceed merely because of the delay in taking corrective action on storm drainage. The Board is also informed that the Chief Engineer's office expects to have a new bridge under construction over Herbert's Run at Francis Avenue.

The objection that the change of classification would depreciate the present cottage area is not substantiated. There was considerable testimony in reference to the overcrowding of the public schools which is, of course, regrettable; however, it was pointed out that without any change in classification the builder could construct duplex houses, providing 14 families to the acre, which would give approximately the same density as group homes.

From the testimony in the case and from the visible inspection of the property the Board is of the opinion that this land should be reclassified for the following conditions:

1. It is contiguous to an existing group house development known as Gaylord Manor.
2. It is bounded by Sulphur Spring Road on the South, Shelbourne Road on the Northwest, and a park area on the Northeast creating natural boundaries to the adjacent cottage area.
3. That since January 2, 1945, there have been numerous changes in this area as far as the use of land are concerned, and that large tracts of land have been reclassified so as to permit garden-type apartments to be erected, as well as rapid industrialization in the Thirteenth District.

The petitioners volunteered to deed, without cost, to the County Commissioners of Baltimore County to the use of the Board of Recreation a portion of the tract or land shown on the blue print dated August 13, 1952, as park area; and the Board will, therefore, make this one of the conditions of its order.

The Board is of the opinion that the reclassification of this property would not be detrimental to the health, safety, and general welfare of the community; and it will, therefore, pass its Order reclassifying the property from an "A" Residence

Zone to a "B" Residence Zone with the exception of the property facing directly upon Shelbourne Road, which should be reclassified from an "A" Residence Zone to a "B" Residence Zone, subject to the following restrictions:

1. That adequate off-street parking facilities be provided in the rear of the properties fronting on Sulphur Spring Road and Shelbourne Road.
2. This Order is not subject to the restrictions as set forth by the Zoning Commissioner of February 27, 1953.

Approved: Board of Zoning Appeals of Baltimore County

FILED MAR 6 1953

FILED MAR 6 1953

IN THE MATTER OF THE PETITION :
FOR RECLASSIFICATION FROM AN :
"A" RESIDENCE ZONE TO A "D" :
RESIDENCE ZONE - N. S. SULPHUR :
SPRING ROAD, 2450 FT. N.E. :
SHELBOURNE ROAD, EDWARD J. :
AND LORRAINE BRANNAN, :
PETITIONERS. :
FOR :
BALTIMORE COUNTY

MR. COMMISSIONER:

Please enter an Appeal to the Board of
Zoning Appeals of Baltimore County from the Order
of the Zoning Commissioner passed in these proceedings
February 27, 1953.

Julius G. Mayer
Julius G. Mayer,
Attorney for Appellants,
448 Equitable Building,
Baltimore-2, Maryland.

RE: Petition for Re-classification :
from an "A" Residence Zone to a :
"D" Residence Zone - North side of :
Sulphur Spring Road, 2450 feet North- :
east of Shelbourne Road - Edward J. :
and Lorraine Brannan. :
of :
BALTIMORE COUNTY

Mr. Commissioner:

Please enter an appeal from your decision in the above entitled
matter to the Board of Zoning Appeals for Baltimore County.

Julius G. Mayer
Julius G. Mayer,
Attorney for Protestants

RE: PETITION FOR RECLASSIFICATION FROM
AN "A" RESIDENCE ZONE TO A "D"
RESIDENCE ZONE - N. S. Sulphur
Spring Road, 2450 ft. N.E. - Shel-
bourne Road, Thirteenth District-
Edw. J. and Lorraine Brannan,
Petitioners

PETITION FOR CLARIFICATION AND MODIFICATION
OF ZONING ORDER DATED FEBRUARY 27th, 1953.

TO THE ZONING COMMISSIONER FOR BALTIMORE COUNTY:

The Petitioners, Edward J. Brannan and Lorraine Brannan,
his wife, respectfully show:

1. - That the Order of the Zoning Commissioner passed in these
proceedings on February 27, 1953, contains a number of patent errors,
contradictions, vague conditions and inconsistent limitations which
could, and well may, invalidate the said Order.

2. - That the said errors, contradictions, vague conditions
and inconsistent limitations can and will paralyze planning and
construction activity of your Petitioners if the said Order is
not clarified and modified.

3. - That the said Order abrogates the "Zoning Regulations
and Restrictions of Baltimore County", and also, the "Sub-Division
Regulations for Baltimore County", the latter having been pre-
pared by the Baltimore County Planning Commission and approved on
April 22, 1949, by the Board of County Commissioners for Balti-
more County.

(a) The Order, in the last paragraph thereof on page #2,
states: "It is the opinion of the Zoning Commissioner that the
density of population on the subject land should not be greater
than that allowed under the present 'A' Residence Zone." In
its conclusion, the Order (page #3) limits the number of housing
units to not more than five (5) housing units per gross acre.
This is inconsistent with the density mentioned in page #2 of
the Order, and, if not modified, would operate to reduce the
utility of the land under a "D" Residence Zone considerably below

(2)
the utility of land now permissible under an "A" Residence Zone.
Pursuant to the "Zoning Regulations and Restrictions for Balti-
more County", the Use Regulations in any "A" Residence Zone
authorize and permit the erection and use of two-family dwellings.
Such an authorized and permitted use will develop a density as
high as fourteen (14) housing units per gross acre which is well
and fully illustrated by the MELVIN PARK development at Winters
Lane and Old Frederick Road, in the First Election District,
containing slightly under nineteen (19) gross acres of area and
on which there have been erected one hundred and thirty (130)
two-family dwellings in an "A" Residence Zone. A total of two
hundred and sixty (260) housing units situated on slightly less
than nineteen (19) gross acres of land is precisely fourteen
(14) housing units per gross acre. The extreme inconsistency
between the limitation as to density indicated on page #2 of
the Order and the density as prescribed on page #3 thereof is
the relationship of fourteen (14) housing units in the first in-
stances against five (5) such units in the second instance, or
nearly a 200% variation.

(b) The Zoning Law of Baltimore County does not preclude
large two-family dwellings from being erected in an "A" Residence
Zone, so that, the housing units can be as equally spacious from
the standpoint of housing children of school age as can small
and moderately sized single-family group houses. Therefore, the
consideration of the capacity of existing school facilities is,
if for no other reasons, erroneously used in the subject Zoning
Order in limiting the housing density to less than is now per-
mitted by law. Aside from this clear error, the burden legally
rests upon the County Government to provide school facilities as
the population increases under the provisions of existing law on
the subject-land; i.e. land development and housing construction.

(c) The most grievous and oppressive error in the subject
Zoning Reclassification Order is the premature application of a
density restriction to an individual tract of land prior to the

(3)

passage of a general density law by the County Commissioners
under the procedures of public advertising, public discussion
and public hearings as required by the Zoning Enabling Act.
Existing zoning and sub-division regulations will in themselves
restrict the housing density, but nowhere near as low as that
attempted to be promulgated by the subject Order. Administra-
tive fiat should not be permitted to replace uniform prescribed
legislative procedure. The subject Order is illegal, because
if it is not modified it will amount to a confiscation in part
of the land of the Petitioners without just compensation or due
process of law by reason of administrative action which reduces
the utility of the land below the limitation of an "A" Residence
Zone which is presently the most tightly restricted Zone under
the existing general "Zoning Regulations and Restrictions".

(d) Restriction No. 2 of the subject Order, as set
forth on page No. 3, provides: "That group houses shall not
face Sulphur Spring Road." This is, obviously, erroneous as the
first paragraph on page No. 3 says: "It is further the opin-
ion of the Zoning Commissioner that group houses should not face
directly upon Shelbourne Road." It also appears to be erroneous
since the Sulphur Spring Road frontage faces group housing of
Gaylord Manor situated directly across the street.

(e) That the subject Order lacks definiteness as to when
construction by the Petitioners may be started; that the Engineer-
ing Department of Baltimore County should know with reasonable cer-
tainty when the storm water problem referred to in the Order will
be corrected. Therefore, the Order should be specific in time
and give the date when the Petitioners may start building operations.

WHEREFORE, your Petitioners request a clarification and
modification of the Zoning Reclassification Order as herein prayed.

Respectfully submitted,

Baltimore, Maryland,
February 28, 1953.

Julius G. Mayer
Julius G. Mayer,
Attorney for Petitioners

OUTLINE DESCRIPTION OF WESTBURY VILLAGE, 13th DISTRICT BALTIMORE COUNTY, MARYLAND.

All that parcel of land in the 13th District of Balti-
more County, beginning for the same on the North side of Sulphur
Spring Road, 2450 feet Northeast of Shelbourne Road at the dividing
line between Lots Nos. 4 and 5 as shown on plat accompanying the
deed of partition of the Deboy family recorded among the Land
Records of Baltimore County in Plat Book W.P.C. No. 4, folio 46,
and running thence westerly and binding on the North side of
Sulphur Spring Road 643.7 feet to the beginning of the second
line of the land which by Deed dated March 19, 1920 and recorded
among the Land Records of Baltimore County in Liber W.P.C. No.
522, folio 613 was conveyed by Peter J. Deboy, et al. to Alfred G.
Applegate and wife and running thence and binding on the outlines
of said land as now surveyed North 1 Degree 16 Minutes 10 Seconds
East 394.72 feet to a stone, thence South 71 Degrees 20 Minutes
36 Seconds west 297.42 feet, thence South 11 Degrees 44 Minutes
30 Seconds East 314.10 feet to a stone on the North side of
Sulphur Spring Road, thence South 65 Degrees 58 Minutes 40 Seconds
West 197.07 feet to a stone at the beginning of the second line
of the land which by Deed dated April 26, 1916 and recorded among
the Land Records of Baltimore County in Liber W.P.C. No. 460,
folio 322 was conveyed by Peter J. Deboy, et al. to Hensan Garrett
and wife, and running thence with the line of said land as now
surveyed North 44 Degrees 5 Minutes West 254.27 feet to a stone

ALBERT E. FOHMER
PROFESSIONAL ENGINEER and REGISTERED LAND SURVEYOR

331 PARK AVENUE, BALTIMORE-1, MD.

Page 2.

June 28, 1952.

OUTLINE DESCRIPTION OF WESTBURY VILLAGE, 13th DISTRICT BALTIMORE COUNTY, MARYLAND. (Continued)

and South 85 Degrees 48 Minutes 40 Seconds West 99.66 feet to a
stone heretofore set in the outline of the whole tract of which
the land now being described is a part and thence with a part of
said outline North 44 Degrees 48 Minutes West 556.50 feet to the
Southeast side of Shelbourne Road, thence binding on the South-
east side of Shelbourne Road North 23 Degrees 0 Minutes 20 Seconds
East 52 feet and North 46 Degrees 12 Minutes 50 Seconds East
1361.45 feet to the outline of the whole tract which is also the
Northeast side of a 10 foot sewer right-of-way which by Deed dated
December 9, 1925 and recorded among the Land Records of Baltimore
County in Liber W.P.C. No. 680, folio 363, was conveyed by
Peter J. Deboy, et al. to County Commissioners of Baltimore County
and thence with the outline of the whole tract and the Northeast
side of said sewer right-of-way South 35 Degrees 6 Minutes East
1208 feet to a stone heretofore set and to a point on the North
side of Lot No. 4 as shown on said Plat, thence binding on the
North side of Lot No. 4 Easterly 281.60 feet more or less to the
dividing line between Lots Nos. 4 and 5 as shown on said Plat,
and thence with said dividing line Southerly 500.00 feet to the
place of beginning as shown on plot plan filed with the Building and
Zoning Department.

ALBERT E. FOHMER
PROFESSIONAL ENGINEER and REGISTERED LAND SURVEYOR

331 PARK AVENUE, BALTIMORE-1, MD.

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County—
Edward J. Brannan and
Lorraine S. Brannan, his wife, legal owner, of the property situate

hereby 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 a "D" Residence zone.
Reasons for Re-Classification: Changes in the character of the neighborhood (Thirteenth
Election District of Baltimore County) which have taken place since the enactment
in 1945 of the original zoning, which still remains in effect, precludes the successful
development of this tract of land except with modest priced housing units of the
kind most economical to own and operate, i.e., group type dwellings.
Size and height of building front: 15 feet; depth: 31 feet; height: 30 feet.
Front and side set backs of building from street lines: front: 25 feet; side: 15 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.

Edward J. Brannan
Edward J. Brannan
Lorraine S. Brannan
Legal Owner
Address: 541 Equitable Bldg. Suite 2nd Fl.

ORDERED BY The Zoning Commissioner of Baltimore County, this 13th day of
August 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 hereon be held in the office of the Zoning
Commissioner of Baltimore County, in the Bookend Bldg., in Towson, Baltimore County, on the
3rd day of September 1952, at 1:00 o'clock P.M.

Zoning Commissioner of Baltimore County
(over)

