

FILED MAY 26 1953

THE EQUITABLE TRUST COMPANY
OF BALTIMORE, Trustee under the
will of Charles E. Bowers, deceased,
HARRY KENNETH BOWERS, unmarried,
CECIL DORRAN BOWERS and
JESSIE TITON BOWERS, his wife,
and
GEORGE ROSS VANEY, Executor
of the Estate of Charles E. Bowers

IS THE CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

D. JAY CROWELL,
DAVID V. JENNIS and
CARL F. TUDOR, being and
constituting the Board of
Zoning Appeals of Baltimore
County,
Defendants

PRITION FOR WRIT OF CERTIORARI

TO THE HONORABLE, THE JUDGE OF SAID COURT:-

The petition of The Equitable Trust Company of Baltimore, Trustee under the will of Charles E. Bowers, deceased, Harry Kenneth Bowers, unmarried, Cecil Dorran Bowers and Jessie Titon Bowers, his wife, and George Ross Vaneay, Executor of the Estate of Charles E. Bowers, by Michael Paul Smith, their attorney, respectfully represent unto your Honor:

1. That your Petitioners are property owners and taxpayers of Baltimore County, State of Maryland.
2. That on the 28th day of October, 1952, your Petitioners filed a petition with the Zoning Commissioner of Baltimore County for reclassification from an "A" Residence Zone to a "D" Residence Zone for property on the north side of Cooke Lane and the east side of St. Agnes Lane, in the First District of Baltimore County, the property mentioned being more specifically described in the petition above referred to. That subsequent to the filing of said petition and after a public hearing held on November 19, 1952, the Zoning Commissioner of Baltimore County passed an Order denying the zoning reclassification as mentioned aforesaid, under date of January 15, 1953.

3. That the Petitioners feeling aggrieved at the passage of said Order of the Zoning Commissioner of Baltimore County, entered an appeal therefrom, hearing on same having been had before the Board of Zoning Appeals of Baltimore County on January 22, 1953, and on said appeal, the said Board of Zoning Appeals of Baltimore County on the 7th day of May, 1953, passed an Order affirming the Order of the

Zoning Commissioner for Baltimore County denying the petition for zoning 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 7th day of May, 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 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 May 7, 1953;
- (c) That the Order of the Board of Zoning Appeals constitutes an attempted unlawful and unconstitutional exercise of authority;
- (d) That your Petitioners are entitled to the zoning reclassification applied for;
- (e) And for such other and further reasons as may be shown at the hearing hereof.

TO THE END, DISCLOSE:

- (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 May 7, 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 said Board of Zoning Appeals of Baltimore County may be required to return to this Honorable Court the original papers acted 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 purported 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

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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 May 7, 1953 denying the petition for zoning reclassification of the property described in said original petition.

(e) That this Honorable Court may direct the Zoning Commissioner for Baltimore County to issue the permit and grant the zoning reclassification as originally prayed by your Petitioners.

(f) For such other and further relief as the nature of their case may require.

And as in duty bound, etc.

Michael Paul Smith,
Attorney for Petitioners

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:-

I hereby certify that on this 22nd day of May, 1953, before me, the undersigned, a Notary Public of the State of Maryland, County of Baltimore, personally appeared Michael Paul Smith, Attorney for Petitioners, and made oath in due form of law that the matters and facts contained in the foregoing petition are true to the best of his knowledge, information and belief.

Notary Public

ORDER

Upon the foregoing petition and affidavit, it is this 22nd day of May, 1953, by the Circuit Court for Baltimore County,

ORDERED that a writ of certiorari be issued to D. Jay Crowell, Daniel W. Bowers and Carl F. Tudor, constituting the Board of Zoning Appeals of Baltimore County, to review the decision and Order of said Board of Zoning Appeals dated May 7, 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 acted, 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 ten 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 concisely 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 Herring
J.H.H.

True Copy Test

Michael Paul Smith
M.P.S.

OPINION OF THE BOARD OF ZONING APPEALS
OF
BALTIMORE COUNTY

RE: PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO A "D" RESIDENCE ZONE - N. S. Cooke Lane and E. St. Agnes Lane, First District - The Equitable Trust Co., Trustee, Petitioner.

The appeal in the above entitled matter coming on for hearing on the 26th day of February, 1953, before the Board of Zoning Appeals of Baltimore County from the Order of the Zoning Commissioner of Baltimore County dated January 15, 1953, denying the reclassification from an "A" Residence Zone to a "D" Residence Zone in regard to the property described therein; and it appearing from the facts and evidence adduced at the appeal that the reclassification from an "A" Residence Zone to a "D" Residence Zone would be detrimental to the health, safety, and general welfare of the community and for reasons set forth in the opinion; therefore,

It is this 7th day of May, 1953, Ordered by the Board of Zoning Appeals of Baltimore County that the reclassification from an "A" Residence Zone to a "D" Residence Zone be denied.

James W. Bowers
Chairman

Carl F. Tudor

Board of Zoning Appeals of
Baltimore County

This is an appeal by The Equitable Trust Company, Trustee, from an Order of the Zoning Commissioner of Baltimore County dated January 15, 1953, denying the reclassification from an "A" Residence Zone to a "D" Residence Zone in regard to the property described in said petition.

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 between the westernmost boundary line of Baltimore City and St. Agnes and Cooke Lanes in Franklintown.

From the testimony in the case and from an examination of the property by the Board it was found that the subject tract of land is very low, and that the building of group homes would accentuate the possibility of more excessive flooding in the Dead Run area and would be detrimental to the health and safety of the neighborhood; and, therefore, the Board will pass its Order denying the reclassification of the property from an "A" Residence Zone to a "D" Residence Zone.

James W. Bowers
Chairman
Carl F. Tudor

Board of Zoning Appeals of
Baltimore County

FILED JAN 23 1953

Re: Petition for Reclassification from an "A" Residence Zone to a "D" Residence Zone - N. S. Cooke Lane and E. St. Agnes Lane, First District - The Equitable Trust Co., Trustee

Augustine J. Muller, Esq.,
Zoning Commissioner
Town 4, Maryland

Mr. Commissioner:

Please enter an appeal to the Board of Zoning Appeals of Baltimore County from the Order of the Zoning Commissioner dated January 15, 1953 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 Petitioner

Dated January 23, 1953

RE: PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO A "D" RESIDENCE ZONE - N. S. Cooke Lane and E. St. Agnes Lane, First District - The Equitable Trust Co., Trustee, Petitioner

The property which is the subject of this petition is located between the westernmost boundary line of Baltimore City and St. Agnes and Cooke Lanes, Franklintown, First District. This property was the subject of a petition for reclassification to a "D" Residence Zone in February 1952. The petition was denied by Order of the Zoning Commissioner dated February 15, 1952. This Order stated in part as follows:

"The northwestern end is traversed by Dead Run; the property immediately adjacent to St. Agnes Lane is very low, beginning 150 feet, more or less, from St. Agnes Lane the land rises sharply to the City Line."

Plans have been developed by the County for the relocation of St. Agnes Lane through the property in question. This relocation is to be known as the extension of Forest Park Avenue.

As stated in Zoning Order No. 2181, the land which is the subject of this petition is very low. With the heavy rains which have taken place during the summer and fall of 1952 there has been excessive flooding in the Dead Run area and excessive flooding of the property in question. With the development of additional housing to the south on both St. Agnes and Cooke Lanes and development of the property to the north and west in the Dead Run drainage area the flooding of this land will be even more pronounced.

The storm drainage section of the Department of Public Works is now making extensive plans for the proper control of storm water. It has been found that storm houses are placed in low lands adjacent to streets that cause flooding of cellars results during the heavy rains. This flooding results in problems to the County, as generally the developer has completed his work and left the premises.

In view of the foregoing it is the opinion of the Zoning Commissioner of Baltimore County, that this property is not suitable for the construction of group houses and the reclassification would be detrimental to the general welfare of the community and the County as a whole and the reclassification should be denied.

It is this 15th day of January, 1953, ORDERED by the Zoning Commissioner of Baltimore County, that the above petition be and the case be hereby denied and that the above described property, or area, be and the same is hereby continued as and to remain an "A" Residence Zone.

Augustine J. Muller
Zoning Commissioner
of Baltimore County

To The Zoning Commissioner of Baltimore County:—

All that parcel of land in the 1st Meridian of
 Latitude County, beginning for the same at the intersection
 of road by the west corner of the southeast 1/4 of the
 north 1/4 of the 34th range township 37 feet, more or less,
 north side of 34th range township 37 feet, more or less,
 to the center of the said road, and then easterly
 said outline 70 feet, more or less, to the watercourse
 boundary of Latitude County, so now established, then said
 watercourse boundary of Latitude County, and then
 more or less, to intersect the watercourse outline of the
 water tract on the southwest side of Franklin road,
 thence lying on said outline and running
 of Franklin road northerly 130 feet, more or less, to the
 watercourse side of 34th range township 130 feet,
 northerly 130 feet, more or less, to the watercourse
 side of 34th range township 130 feet, more or less,
 to the center of 34th range, thence still binding
 on the outline of said 34th range township 130 feet,
 more or less, a bend in, as shown on plot plan filed with

[illegible]

See also Sp. 1, Docket No. 26, folio 281, for an additional 3/8 of an acre of land.

Mrs. Jessie M. Bowler
 Legal Owner
 Address
 Mrs. Mary Bowler

ORDERED By The Zoning Commissioner of Baltimore County, this _____ 28th _____ day of
October _____ 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 had in the office of the Zoning
Commissioner of Baltimore County, in the Rickard Bldg., in Towson, Baltimore County, on the _____
28th _____ day of November _____ 1952, at 11:00 o'clock A.M.

Zoning Commissioner of Baltimore County

To The Zoning Commissioner of Baltimore County:

And we, The Equitable Trust Company of Baltimore, ~~trustees of the~~
Trustees under the Will of Charles E. Bowers, deceased, Jesse Mar Bowers, unmarried,
Henry Kenneth Bowers, unmarried, Cecil Doran Bowers and Josephine Bowers, his wife
and George Ross Veazey, Executor of The Estate of Charles E. Bowers, legal owners of
the property situate in Baltimore County, known as No. 1601 St. Agnes Lane, lying
partly in Baltimore County and partly in Baltimore City, containing 25.355 acres,
and more particularly described as follows:

[illegible]

See also Equity Decket No. 26, folio 281, for an additional 3/3 of an acre of land.

Legal Owner
Mrs. Jessie M. Bowler
Legal Owner
Rose Mary Brown

Legal Owner
Lester P. Brown
Legal Owner
Address

ORDERED By The Zoning Commissioner of Baltimore County, this.....28th..... day of
October.....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 Heckard Bldg., in Towson, Baltimore County, on the.....
19th..... day of December.....1952, at 11:00 A.M.

Zoning Commissioner of Baltimore County

To The Zoning Commissioner of Baltimore County

1. Logical residential type use

2. Extension of existing zoning allowance

3. Adjoining group housing area

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.

THE FIDELITY AND SECURITY TRUST COMPANY, Trustee
By: W. J. Lane Asst. Secretary-Treasurer
Legal Owner
Harry Kenneth H. Rivers Legal Owner
Paul D. Brown Legal Owner
Miss Jessie M. Brown Legal Owner
Paul D. Brown Legal Owner
W. J. Lane Legal Owner
Address W. J. Lane Legal Owner

ORDERED By The Zoning Commissioner of Baltimore County, this.....22th..... day of
October.....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 Reckord Bldg. in Towson, Baltimore County, on the.....
19th.....day of November.....1952, at 11:00 o'clock A.M.

Zoning Commissioner of Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

Date of Posting	11-6-52
Diatrie	1st
Post to	Gen. D. Henderson, Same
Possition	1st Lt. Gen. D. Henderson, Same
Location of property	1st Lt. Gen. D. Henderson, Same
Location of items	1st Lt. Gen. D. Henderson, Same
Location of items	1st Lt. Gen. D. Henderson, Same
Remarks	11-6-52

RECEIVED of Michael Paul Smith, Attorney for The Equitable Trust Co., petitioner, the sum of Twenty two (\$22.00) Dollars, being cost of appeal to the Board of Zoning Appeals from the decision of the Zoning Commissioner denying the reclassification of property, north side of Cooke Lane and east side of St. Agnes Lane, 1st District of Baltimore County.

Zonitex Consultants

PAID
JAN 29 1953
COUNTY COMMISSIONER
OF BALTIMORE COUNTY
BY *Harvey Telewa*

(\$28.00)

RECEIVED of Crane & Crane, the sum of Twenty Eight (\$28.00) Dollars, being cost of petition of The Equitable Trust Company for reclassification, advertising and posting of property North side Cooks Lane, 1st District.

Zoning Commissioner

Hearing:
Monday, Nov. 19, 1956
at 11:00 a.m.
basement of
Reckord Building
Toyon Ml.

PAID
NOV 5 - 1962
COUNTY COMMISSIONER
OF BALTIMORE COUNTY
BY *Harry J. ...*

August 17, 195

96.3%

RECEIVED of Egerton Realty, Inc., the sum of \$6.20
being cost of certified copies of petition and other papers
filed in the matter of reclassification of property of The
Equitable Trust Co. Cooke and St. James Leases, 1st District

Zoning Commission
of Baltimore Coun

PAID
AUG 17 53
COUNTY COMMISSIONER
OF BALTIMORE COUNTY
BY *H. T. Sullivan*

**NO PLAT
IN
THIS FOLDER**