

THE DAILY RECORD, BALTIMORE, SATURDAY **THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY** **WATKINS, EMMETT, ET AL.** **BOARD OF ZONING APPEALS OF BALTIMORE COUNTY** **ET AL.**

Two appeals were received from the Circuit Court for Baltimore County, June 10, 1953.

Appeal by **WATKINS, EMMETT, ET AL.**

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IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
 Harry Schiff, et al. vs. Bd. of Zoning Appeals

Case No. 11822, 11335

June 10, 1953 - Order reversed.
 Opinion filed by the appellants.
 The Board of Zoning Appeals.
 The Board of Zoning Appeals.

GEORGE L. IVERLY, Clerk

RE: PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENTIAL ZONE TO AN "E" COMMERCIAL ZONE.
 J. S. Smith Ave. between Green Spring Ave. and Old Pimlico Road, Third District.
 William T. Norman, Harvey J. Goldman and Philip E. Klein, Petitioners.

The appeal in the above entitled matter coming on for hearing before the Board of Zoning Appeals of Baltimore County on the 11th day of May, 1953, granting 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 and for reasons set forth in the Opinion attached hereto that the granting of the reclassification for the whole area should not be had as it would be detrimental to the safety and general welfare of the community; therefore,

It is this 12th day of October, 1953, Ordered by the Board of Zoning Appeals of Baltimore County that a part of the property described in these proceedings be reclassified from an "A" Residence Zone to an "E" Commercial Zone, and a part be granted a special permit for parking, and the balance of the property described in said petition shall remain in an "A" Residence Zone classification as follows:

1. All the property lying on the North side of Smith Avenue for a depth of 800 feet between Greenspring Avenue and Pimlico Road shall be subject to a Special Permit for parking in connection with the commercial area hereinafter provided.
2. All that piece or parcel of land lying on the West side of the Pimlico Road beginning at a point 400 feet Northerly from the intersection of the North side of Smith Avenue and the West side of Pimlico Road and continuing along the West side of Pimlico Road for a distance of 100 feet with an even depth of 200 feet, shall not be reclassified or be subject to a Special Permit, but shall remain in an "A" Residence

detrimental to the neighborhood. This size and type of a commercial enterprise does not draw on nearly so great an area for its patrons and, consequently, would not create a serious traffic hazard. There are numerous non-residential uses, such as the Bendix Radio Plant on the Curtis-Wright Airport property, a large stone quarry in operation to the West across Greenspring Avenue, an ice cream drive-in restaurant, and an anti-aircraft battery or installation across from Smith Ave., all of which are of a non-residential use; and while they may not be a commercial zone classification, they, nevertheless, appear to be well established and could continue to operate indefinitely as though they were zones as such.

The Board is of the opinion that these miscellaneous non-residential uses do not adequately provide for commercial needs in this area. The original petitioners produce no definite plans to use all the property requested, and the Board can find no justification for reclassifying or using such a large tract of land for a commercial use.

An Order will be passed reclassifying from "A" Residential to "E" Commercial a part of this subject property, and granting a special permit for an additional area to provide off-street parking space for the shopping center.

H. B. Campbell
 Chairman
 J. H. Fisher
 J. H. Fisher
 Board of Zoning Appeals of Baltimore County

3. An area of land not to exceed 5 acres is hereby reclassified from "A" Residence Zone to "E" Commercial Zone for the purpose of a shopping center, and no part thereof shall be closer to the North side of Smith Avenue, the East side of Greenspring Avenue, and the West side of Pimlico Road than 300 feet.

4. The remaining property in said petition shall remain in an "A" Residence Zone.

H. B. Campbell
 Chairman
 J. H. Fisher
 Board of Zoning Appeals of Baltimore County

PETITION FOR RECLASSIFICATION FROM "A" RESIDENTIAL ZONE TO AN "E" COMMERCIAL ZONE NORTH SIDE SMITH AVENUE, BETWEEN GREENSPRING AVENUE AND OLD PIMLICO AVENUE.
 WILLIAM T. NORMAN, HARVEY J. GOLDMAN, AND PHILIP E. KLEIN, Petitioners.
 WATKINS, EMMETT, ET AL., Respondents.
 WILLIAM T. NORMAN, HARVEY J. GOLDMAN, AND PHILIP E. KLEIN, Petitioners.
 WATKINS, EMMETT, ET AL., Respondents.
 WILLIAM T. NORMAN, HARVEY J. GOLDMAN, AND PHILIP E. KLEIN, Petitioners.
 WATKINS, EMMETT, ET AL., Respondents.

ORDER TO SHOW AFFIDAVIT
 TO THE CLERK OF THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY:
 Please enter my appearance as associated counsel for the above named respondents and petitioners in the appeal pending before the Board in the above captioned matter taken from the Order of the Board of Zoning Appeals of Baltimore County bearing date of February 27, 1953, re: reclassifying the above described property from an "A" residential zone to an "E" commercial zone.

May 2, 1953
 H. B. Campbell
 Chairman
 J. H. Fisher
 Board of Zoning Appeals of Baltimore County

I hereby certify that on this 6th of May, 1953, a copy of the foregoing was duly mailed to Michael Paul Smith, Esquire, Attorney for the original applicants and to John E. Baine, Jr., Esquire, Attorney for the respondents, addressed to their respective offices in Towson, Maryland.

H. B. Campbell
 Chairman
 J. H. Fisher
 Board of Zoning Appeals of Baltimore County

OPINION OF THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

This is an appeal by Oak View Realty Company, and others, from an Order of the Zoning Commission of Baltimore County dated February 27, 1953, granting a reclassification from an "A" Residence Zone to an "E" Commercial Zone for the purpose of establishing a regional shopping center in regard to the property described in the petition.

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

The property which is the subject of this petition is a large tract of land of approximately 50 acres located on the North side of Smith Avenue between Greenspring Avenue and Old Pimlico Road. The petitioners own additional land adjoining this property which they are not requesting a reclassification, and the same shall remain for residential purposes. There has been phenomenal growth in this section; and with still larger open areas remaining to be developed, it is apparent that there will be great need for commercial enterprises in this region.

From the testimony in this case and from an observation and inspection of the subject property and its surrounding territory, the Board is of the opinion that this tract of land is not situated at a location having adequate arterial highways, such as dual-lane boulevards capable of handling large volumes of traffic. Regional shopping centers draw large numbers of patrons who would be required to use limited highways both in this neighborhood and miles beyond; and it is doubtful that the proposed belway, which may be built nearby, would be sufficient in itself to change the Board's opinion as to the inadequacy of the highway system.

However, a smaller shopping center more of a community size and nature can serve a part of this area and would not be

detrimental to the neighborhood. This size and type of a commercial enterprise does not draw on nearly so great an area for its patrons and, consequently, would not create a serious traffic hazard. There are numerous non-residential uses, such as the Bendix Radio Plant on the Curtis-Wright Airport property, a large stone quarry in operation to the West across Greenspring Avenue, an ice cream drive-in restaurant, and an anti-aircraft battery or installation across from Smith Ave., all of which are of a non-residential use; and while they may not be a commercial zone classification, they, nevertheless, appear to be well established and could continue to operate indefinitely as though they were zones as such.

The Board is of the opinion that these miscellaneous non-residential uses do not adequately provide for commercial needs in this area. The original petitioners produce no definite plans to use all the property requested, and the Board can find no justification for reclassifying or using such a large tract of land for a commercial use.

Considering topography and other factors, there seems to be no other site in this northwestern area, of comparable size, that could be as satisfactory for a regional shopping center as the one proposed. The site is located on the corner of the intersection of the base of the Suburban Club of Baltimore County, now used as a golf course, and the Baltimore-Washington Parkway, which is the main regional center, lying as it does between two main radial arterials, "Centers Road and Park Heights Avenue - and within a few thousand feet of the main arterial, the Baltimore-Washington Parkway. Access to the site, thus providing access from a future radial expressway, 7 miles from the city center, is excellent. The site is well available for such a purpose. It is understood that 250,000,000 cubic yards of aggregate are available in the area. It is suggested that the Board of Planning, however, without any evidence of interest on the part of the membership of the Suburban Club in the idea of development of the site, should not make any statement on the subject, but should be merely considered in deciding on the petition in question.

It is this 27th day of February, 1953, ORDERED by the Zoning Commissioner of Baltimore County, that the above described property or area, should be the same in hereby reclassified, from and after the date of this Order, from an "A" Residence Zone to an "AM" Commercial Zone, subject to the following provisions:

9 SIGNS

as too serious a factor in judging the appropriateness of the site.

The tract of land itself, as indicated by the tentative plan for its development, appears well suited for this kind of use. The proposed development plan provides a practicable and efficient grouping of buildings, adequate parking, and well-located entrances and exits.

Considering topography and other factors, there seems to be no other site in this northwestern area, of comparable size, that would be as satisfactory for a regional shopping center as the one in question. One possible exception should be made to this statement. The land of the Suburban Club of Baltimore County, now used as a golf course and country club, in many ways would be ideally situated for a regional center, lying as it does between the main radial arteries - Baltimore Road and Park Heights Avenue - and within a few thousand feet of the proposed beltway. The intersection of the Northwest Expressway with the Beltway would be not over a mile and a half from this site, thus providing access from a future radial expressway. There is no present indication, however, that the Suburban Club might be available for such a purpose. It is understood that \$150,000 were spent not long ago on improvement of the Club House. There is a question, therefore, whether without any evidence of interest on the part of the membership of the Suburban Club in the idea of development of a regional shopping center there, this remedy possibility should be seriously considered in deciding on the petition in question.

Actually only a market analysis study could reveal definitely whether or not this general locality has a present and potential tributary population sufficient to justify a regional shopping center. Such an analysis would take into consideration the proximity of other existing or prospective large centers like the one just announced for the Homewood estate at Liberty Heights Avenue and Intersecting Road and probably the Baltcliff development in Towson. Both of these, however, would be about five miles away from the tract in question.

The scarcity of present residential development within the immediate vicinity is such that it can hardly be said that a regional center of the type proposed should not be permitted because of any possible depreciating effect on residential properties. Actually, I think that a well-planned center, assuming adequate improvement of approach roads by the time the center is built, should not have an unfavorable effect on the very few dwellings that are now located within one mile or so of the site or on those which might be built during the interim.

The real problem, if the proposed rezoning were granted, lies in the fact that under our present Zoning Regulations, the entire tract would be thrown open not only for any type of commercial use but also for group houses or apartments. In other words, if for any reason the intention of the present owner should be upset, there would inevitably be made of this tract which could produce an undesirable mixture of residential and commercial types that could well have a depreciating effect on the entire neighborhood. This statement would be true, however, for any project such as that proposed, in any location in Baltimore County. The question is, therefore, whether might be done under the present regulations to assure that the tract would be preserved for the type of center contemplated, and only therefore. It is possible that some effective contractual agreement could be worked out by the owner of the land and the county commissioners that would grant conditional commercial rezoning only for the type of project proposed. (In order to permit the carrying of such a tract of land for a period of several years, consideration might be given to rezoning of one or two filling stations - say at corner locations - but only with written agreement that they would fit

properly into the future plan and that their direct entrances and exits near any street corner would be temporary and would be eliminated at the time of construction of the shopping center, so that their only access would be by way of the general entrances to the center itself. As now planned these would be removed some distance from the main street intersections in order to avoid traffic congestion.

Possibly a better arrangement would be to add planned shopping centers to the list of items in the present zoning regulations which call for a Special Permit. There is increasing tendency throughout the county to use this procedure. I should think that there would be less objection on the part of property owners in the general vicinity if this large tract were rezoned specifically for the purpose of a shopping center as planned; and that suitable conditions and restrictions could be made a part of the granting of such a special permit with less likelihood of legal challenging than would be the case if they were attached to straight commercial rezoning.

cc: Amputation J. Miller
Christian R. Kahl
W. H. MacVicar

Wanda H. Dill, Director
Baltimore County Planning Commission

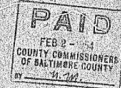
CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 3rd Date of Posting: 12-21-52 #2445
Posted for: An Act to amend the Zoning Ordinance of Baltimore County
Petitioner: William F. Herman
Location of property: 3rd District, between Green Spring Avenue and Old Plinko Road
Location of Sign: 3rd District, between Green Spring Avenue and Old Plinko Road
Signed by: William F. Herman
Notarized by: [Signature]
Posted by: [Signature] Date of return: 12-21-52

February 2, 1953

RECEIVED of Service Realty Co. Inc. the sum of \$6.00
cost of certified copies of petition and other papers filed
in the matter of rezoning of property of Herman,
Klein and Goldman, Old Plinko Road, South Avenue and
Green Spring Avenue, 3rd District.

Zoning Commissioner

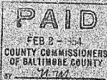


February 2, 1953

\$6.00

RECEIVED of William F. Herman, et al, the sum of \$6.00
being cost of certified copies of petition and other papers
filed in the matter of rezoning of property of Herman,
Klein and Goldman, Old Plinko Road, South Avenue and Green
Spring Avenue, 3rd District.

Zoning Commissioner



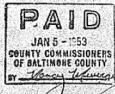
December 31, 1952

\$16.00

RECEIVED of William F. Herman the sum of Forty Six
(\$46.00) Dollars, being cost of petition for rezoning, rezoning,
advertising and posting property, South Avenue and Plinko Road,
3rd District.

Zoning Commissioner

Hearings
Wednesday, Jan. 7, 1953
at 10:00 a.m.
Examination of
Petition Building
Towson Md.

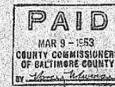


March 6, 1953

\$22.00

RECEIVED of John R. Reins, Jr., Esquire, Attorney
for Protestants, the sum of Twenty Two (\$22.00) Dollars
being cost of appeal to the Board of Zoning Appeals of
Baltimore County from the decision of the Zoning Commissioner
rendered in the matter of rezoning of property, North
side of South Avenue, between Green Spring Avenue and Old Plinko
Road, 3rd District.

Zoning Commissioner



**NO PLAT
IN
THIS FOLDER**