

RE: PETITION FOR RECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO AN "E" COMMERCIAL ZONE FROM S. E. CORNER OF HARRISTONVILLE AND HARMWOOD ROADS, SECOND DISTRICT - HARMWOOD CORPORATION, PETITIONERS.

The appeal in the above entitled matter coming on for hearing before the Board of Zoning Appeals of Baltimore County on the 10th day of June, 1954, from an order of the Zoning Commissioner of Baltimore County, denying the reclassification from an "A" Residence Zone to an "E" Commercial Zone in the 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 would be improper and detrimental to the general welfare of the community; therefore,

It is this 30th day of July, 1954, Ordered by the Board of Zoning Appeals of Baltimore County that the petition of reclassification of an "A" Residence Zone to an "E" Commercial Zone is hereby denied.

Carl F. Volder
James C. Williams
Board of Zoning Appeals of Baltimore County

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County--

I, or we, Harmwood Corporation, legal owner... of the property situate

All that parcel of land in the Second District of Baltimore County on the southeast corner of Harriottsville Road and Harmwood Road, thence running north and starting on the north side of Harriottsville Road 142 feet thence north 11 degrees 30 minutes east 126.5 feet thence south 88 degrees 30 minutes east 79.9 feet thence south 11 degrees 30 minutes east 116.25 feet thence north 83 degrees 36 minutes west 240 feet, to the east side of Harmwood Road; thence 83 degrees 36 minutes west 240 feet, to the east side of Harmwood Road; 121 feet to place of beginning and thence on the east side of Harmwood Road 121 feet to place of beginning. Being property having a population as shown on plot plan filed with the Building and Zoning Department.

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 an "E" Commercial zone.

Reasons for Re-Classification: APPROVED (BMA USE)
(GENERAL STORE)

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.

Harmwood Corporation
Legal Owner
Address: Randalltown, Md.

ORDERED BY The Zoning Commissioner of Baltimore County, this 24th day of September, 1954, 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 Beekod Bldg., in Towson, Baltimore County, on the 31st day of August, 1954, at 11:30 o'clock A. M.

Zoning Commissioner of Baltimore County

(over)

OPINION OF THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

This is an Appeal by the Harmwood Corporation from an Order of the Zoning Commissioner of Baltimore County dated September 27, 1953, denying the application for reclassification from an "A" Residence Zone to an "E" Commercial Zone in regard to the property described therein.

The case came on for hearing, testimony was taken and Counsel heard.

The property which is the subject of this Appeal is a tract of land in the Second District of Baltimore County on the southeast corner of Harriottsville Road and Harmwood Road, having a frontage of 142 feet on the former and 328 feet on the latter road.

The Petitioner proposed to use this property for a general store and it was noted that for a number of years a building located on this site had been used for such purposes and even subsequent to zoning which took effect on January 2, 1952. No such business has been conducted on this property for over a year and whatever non-conforming use may have been established prior hereto was lost as a consequence thereof.

A Petition dated August 5, 1953, addressed to the Zoning Commissioner of Baltimore County, listed a number of names of persons living in the area of the subject property showing that they were in favor of this reclassification for "General store." However, on January 18, 1954, many of the same persons signed a Petition revoking and rescinding their action of August 5th on the basis that they desired the neighborhood to remain strictly residential and that there are adequate commercial areas in nearby Randalltown and Liberty Road. Some of the signers changed their minds because the reclassification of the property did not necessarily limit the use thereof to a general store.

In a recent case of the Court of Appeals of Maryland, Offutt vs Board of Zoning Appeals of Baltimore County, in which there was an application for reclassification from an "A" Residence Zone to an "E" Industrial Zone pertaining to two large tracts of land on the Reisterstown Road at Owings Mills, Maryland, the Court said: "In the first place, it must be kept in mind that in determining the validity of a zoning restriction, the Court may take into consid-

eration the character of the neighborhood."

From the testimony in the instant case and from an examination of the property by the members of the Zoning Board, it is clear that the subject property is located in an exclusively residential zone being surrounded by a sparsely settled community of farms and small tracts of land. There are no commercially zoned properties within a mile of the Petitioner's land and it would appear to this Board that a reclassification from an "A" Residence Zone to an "E" Commercial Zone would constitute "spot zoning" as cited in U-Offutt case, supra, in which the Court of Appeals said: "In Caswell vs City of Baltimore, 135 Md. 348, 355, 72 Atl. 2nd, 856, we stated that a spot zoning ordinance which singles out a parcel of land within the limits of a use district and marks it off into a separate district for the benefit of the owner, thereby permitting the use of that parcel inconsistent with the use permitted in the rest of the district, is invalid if it is not in accordance with the comprehensive zoning plan and is merely for private gain. But a reclassification can be considered as 'spot zoning' only when it falls to bear a substantial relationship to the public health, safety, morals and general welfare, and is out of harmony and in conflict with the comprehensive zoning ordinance."

At the time of the original zoning, the subject property was not reclassified and the Board is of the opinion that the original action with regard to this property was correct and there has been no showing of a substantial change in the community to justify a reclassification at this time. This is in accordance with another part of the Offutt case in which the Court stated: "Therefore, before Zoning Board resumes the property, there should be proof either that there was some mistake in the original zoning or that the character of the neighborhood had changed to such an extent that reclassification ought properly to be made. See also Kracke vs Weinberg, 197 Md. 339, 347, 79 Atl. 2nd 387; Wakefield vs Kraft, Md., 96 Atl. 2nd 27; Tang & Sons, Builders, Inc. vs Taylor, Md., 102 Atl. 2nd 723, 727."

The Board will, therefore, pass this Order denying the reclassification from an "A" Residence Zone to an "E" Commercial Zone.

Carl F. Volder
James C. Williams
Board of Zoning Appeals

NOTICE OF ZONING PETITION FOR RECLASSIFICATION. The Board of Zoning Appeals of Baltimore County, in accordance with the provisions of the Zoning Law of Baltimore County, will hold a public hearing on the above described property on the 31st day of August, 1954, at 11:30 A.M. in the office of the Zoning Commissioner of Baltimore County, in the Beekod Bldg., in Towson, Maryland. Any person desiring to be heard at such hearing should appear in person or by counsel at the hearing on the date and at the place above specified. The Board of Zoning Appeals of Baltimore County is the authority for the zoning of the property described herein. The Board of Zoning Appeals of Baltimore County is the authority for the zoning of the property described herein. The Board of Zoning Appeals of Baltimore County is the authority for the zoning of the property described herein.

FILED AUG 25 1953
OFFICE OF THE BALTIMORE COUNTIAN
THE COMMUNITY NEWS
Baltimore, Md.
THE HERALD-ARGUS
Catonville, Md.
No. 1 Newburg Avenue
CATONVILLE, MD.

August 24, 1953
THIS IS TO CERTIFY, that the annexed advertisement of Charles H. Dany, Zoning Commissioner of Baltimore County, was inserted in THE BALTIMORE COUNTIAN, a group of three weekly newspapers published in Baltimore County, Maryland, once a week for 2 successive weeks before the 24th day of August, 1953, that is to say the same was inserted in the issues of August 14 and 21, 1953
THE BALTIMORE COUNTIAN
By P. J. Morgan
Editor and Manager.

OFFICE PHONE PLAZA 804
FILED SEPT. 30, 1953
RESIDENCE PHONE FORTVILLAGE 08-34
WALTER I. WELLS
Attorney at Law
111 N. CHARLES STREET
BALTIMORE 5, MD.
September 29, 1953.
Zoning Commissioner of Baltimore County, Towson, Maryland.
In the matter of the Petition for reclassification from A residential zone to E Commercial zone, Southeast corner of Harriottsville Road, and Harmwood Road, Harmwood Corporation, Petitioner.
Mr. Commissioner: Please enter an appeal from your decision in the above entitled matter. Enclosed find check for \$0. to cover cost of your very truly,
Walter I. Wells
Att. for Harmwood Corporation, Petitioner.

August 13, 1953
\$23.00
RECEIVED of Harmwood Corporation the sum of Twenty Three (\$23.00) Dollars, being cost of petition for reclassification, advertising and posting property southeast corner of Harriottsville Road and Harmwood Road, 2nd, District, Baltimore County.
Zoning Commissioner.
Hearing:
Monday, August 31, 1953
at 11:30 A.M.
Hearings of Beekod Building
Towson, Md.

PAID
AUG 14 '53
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY
W. McKelvey

2668

October 9, 1953

\$30.00

RECEIVED of Walter I. Walls, Attorney for the Herwood Corporation, petitioner, the sum of Thirty (\$30.00) Dollars being cost of appeal to the Board of Zoning Appeals from the decision of the Zoning Commissioner denying the reclassification of property at the southeast corner of Harriettsville and Herwood Roads, 2nd District.

Zoning Commissioner



