PETITION FOR (1) ZORING RECLASSIFICATION (2) SPECIAL PERSIT

3159: 1.5

MAP.C

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To the Zening Commissioner of Reltitore County:

I, or on. <u>Bestimin 9, Meriday</u>, et al. <u>I legal Comment</u>

Chemby, on the north idea of 20 feet Roos, said 20 feet Roos, beginnin 122 feet north religion 122 feet to place on the religion 122 feet to place place 122 feet north religion 122 feet n

heroby potition (1) 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" Concernial Zone; and (2) for a Special Peruit, under said Zoning Lew and Zoning Regulations of Baltimore County, to use the above described property. for Boat Yard sud/or Morine Bailway

Property to be posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above reclassification and Special Permit, advertising, posting, etc., upon filing of this putition, and further agree to and are to be bound by the Zening Regulations and Rostrictions of Baltimore County, adopted pursuant to the Zening Law for Baltimore County.

Benjaming Markley. Whorles Regester Mary Cherkley Emme In Ornors Ob aboter

accept cent to manking's Boat ward middle Peiner, Md.

October 25, 1955

3159-RS

RECEIVED of Lawrence E. Ensor, Attoroxy for the appollants, the sum of Thirty (800,00) Bollars, being cost of appeal to the Board of Fording Appeals of Baltimore County from the decision of the Zoning Commissioner granting the reclassification of property of Charles Regester, Essa Regester, Benjamin S. Markley and Mary C. Markley, north side of 20 foot road, 122 feet S. Middle River, wast of Hanticoke Road, 15th District.

Zoring Commissioner



CRUERED by the Zoning Commissioner of Baltimore County this 27th day of August , 1991, that the subject matter of this petition be advertised in a acropaper of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly aforesaid, and that a public hearing thereon be had in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 20th

Upon hearing on polition (1) for reclassification of the purch of land described therein frees as "A" Decisions Rose the property of the purchase th

of the property was errosous at the two draws are sense. So the special season of the special season of the season

September 3, 199

Bujani & Markly RECEIVED of Witte He Mins, the sun of Territy (\$20.00) Dollars, being cost of petition for Re-classification, Special

Permit, advertising and posting property, north side of 20 foot

Road, said 20 foot Road, beginning 122 foot south of Middle River

Road, West of Manticoke Road, 15th District, Baltimore County, Mi.

at 10:30 a.m.

Recised Sailding Touson, Mi.

IN THE CIRCUIT COURT RIBANCH E. ORENCHER, et al

BOARD OF ZONING APPEALS FOR BALTIMORE COUNTY

FOR BALTIMORE COUNTY

mice s/ 82 1465

It is, by the Circuit Court for Baltimore County, CRESSED, this <u>Q.7</u> day of March 1956, that for the reasons set forth in my opinion dated February 2h, 1956 that the Order of the Board of Zoning Appeals for Baltimore County dated February 17, 1955, be and it is hereby reversed, and the case is hereby referred back to the Board of Zoning Appeals for Baltimore County for its consideration without the participation of Daniel W. Hubers, one of its members.

filled notin

FILED MAR 27 1956

September 16, 195)

RECEIVED of Benjamin 5, Markday, the sum of Tesaty Three (32500) Dollars, being cost of petition for Be-classification. Special Permit, advertising andposting property, north side of 20 foot Read, beginning 122 feet south of Middle River west of Manticole Road, 15th District, Baltimore County.

Monday, September 20, 195h at 10:30 a.m.

PAID

OPTHION OF BOARD OF ZUNING APPEALS Benjamin S. Markley - No. 3159

This case comes before the Board on an Appeal by the Protestants from an Order of the Zoning Commissioner reclassifying the property from an "A" e to an "E" Commercial Zone and the granting of a Special Permit to the property for a boat yard and/or marine railway.

Testimony shows that the property has in fact been used as a boat yard for many year, and such use has continued since the adoption of Zoning Regu

The property immediately adjoining to the east was originally a sidence property. It was reclassified for commercial use some years ago and is now being used for the sale of boats, gasoline and other marine purposes. The fact is that the property in question is surrounded by commercial propertie rties which are being used in the business of repairing, maintaining and and for this reason would not be suitable for residential purposes.

There has been a great increase in the use of small boats in the reneral area and a greatly increased public demand for facilities such as those many years. We think it better to continue this type of business where it is now in operation in order that the demand for boat repair and storage facilities may be met without the necessity of invading other areas of our water front which are essentially residential in character.

In granting the reclassification for connercial use, we are only confirming the use to which the property is in fact already being put. In our ppinion to do otherwise would result in unreasonable hardship upon the Petitioner and would deprive him of the only reasonable use of his land.

It is our opinion that the original classification of this land as residential was clearly erroneous and that the change of conditions on our

water front resulting from the greatly increased domaind for davilities to cervice small boats requires the reclassification of this property.

For these reasons we have signed an Order granting the reclassification requested and directing the insuance of a Special Fernit for the operation of a best yard and/or marine railway.

BOARD OF EDIFING APPEALS OF BALTIMORE COUNTY

For the reasons set forth in the afcresaid opinion, it is this 17th day of February, 1955, by the Board of Zoning Appeals of Baltimore County, OFDERGD that the decision of the Zening Commissioner be and the mame is hereby affirmed and the property mentioned in the petition is reclassified, from and after the date of this Order, from an "A" Residence Zone to an "E" Commercial Zone and a special permit granted for the operation of a beat yard and/or

BOARD OF ZONING APPEALS OF BALTIMORE COUNTY Case No. 3159

1111111111 STATEMENT OF THE EQUID OF ZONING APPEALS

This case came before the Board on an appeal from an Order of the Zoning Gorastandener dated September k, 195k granting a reclassification from un "A" Residential to "E" Commercial and a special pormit for a boat yard and/or marine railway.

The case was heard by the entire Board, Charles H. Doing, Chairman, Daniel W. Mubors and Carl F. Vohden.

ly an Order dated February 19, 1955 the Board affirmed the decision of the Zening Commissioner and granted the reclassification and the special permit.

This Order, and the Opinion of the Board upon which it was based, was concurred in by Messra, Nubers and Vohden, a majority of the board. Charles H. Doing finding himself in disagreement with the other two members of the Board did not consur in the Opinion

This Order was revisued by the Circuit Court for Ealtimore County on cortionari and by Order of the Circuit Court dated March 27, 1956 the Order of the Board of Zening Appeals was reversed and the case was referred back to this Board for

consideration without the participation of Daniel W. Bubers.

Upon further consideration by Mesers. Doing and Vohlon it is concluded as follows:

- That Garl Y. Vohdon is in flavor of granting the reclassification and the special permit and haroby adopts the original Opinion and Order of this Board dated Pobumary 17, 1955.
- That Charles H. Doing is opposed to the granting of the reclassification and the special permit for the reasons set forth in his Opinion filed herewith.
- 3. That on the advice of coursel, the Energy had concluded that since the two seabors not considering this care are divided in that system no destinate of the Board is possible at that the detains of the Zoning Con-tinators granting the realessification and the special permit is effective and binding.

POURD OF ZONING APPEALS

Date: May 17, 1956

or warrant the reclassification here sought. The very worst precedent that the Zoning Department could establish would be to set as this one on which intolerable traffic conjection and hezards 91, 92. etc.) The property which is the surject of the one zoning change, which has taken place in this arva, adjoins the Regester

In October, 1953, (Record page 18) Mr. Markley obtained

the Court's Decree is to obtain a reclassification of his property.

disfavor; they are to be discouraged and smuffed out as soon as possible and the property returned to a conforming use. To grant

Mr. Wilsie H. Adam Zoning Commissioner Towsen L. Maryland

Re: Potition for Reclassification from an "A" Residence Zono to an "E" an "A" Residence Zono to an "B"
Commercial Zone and Special Permit
for Boat Yard and/or Marine Reliway
N.S. 20 foot road 122 ft. S. Middle
River, W. Manticoke Road, 15th Dist., Chas. Regester, Erma Regester, Benj. S. Markley and Mary C. Markley,

You will please enter an Appeal from your Order in the above entitled case, dated September 24, 1954, to the Board of Zoning Appeals of Baltimore County.

Mathilde Steingrubner Eleanor & Oberender Posself Otin-grubuer Human Oberender Front Willy In 1800 Flo Doch. anna de breiber. Lee Schriber Richolas Pasternak B Rosenberg.

> Mary Raichmore ster Helpain Rahm

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FILEO 20cr. 1954 754

this reclassification is certainly not in conformity with the nolicy of the law.

For the foregoing reasons, the reclassification and special permit are refused.

of Board of Zoning Appeals of Baltimore County.

CHARLES H. DOING ----

April 20, 1956.

Mm Jeanette C. Harris, Chief Clerk, Buildings and Zoning Department, County Office Building, Towson &, Maryland.

Dear Mrs. Harris:

Enclosed pleass find Order, which please file. Also copies thereof for counsel for the petitioner and the protestants.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland #3159 District 15 th 9-8-54 Poures to: Cari A Aprilare to & Commercial Bone + Box Genfor Maine Starle vom en sal je provincentri ... Appendis Lego et treise francisco (pendis description) francisco.

Primium: Taladelle l'orman d'appendis Lego et treise, prime françoise, lego et traise, prime françoise, le maitin et province d'appendis françoise (pendis françoise et traise et prime prime françoise et prime françoise et traise et prime françoise et traise et traise et prime françoise et traise et prime françoise et traise et trais martiale Rd.

Nov 10. 1995

Date of return

9-7-54

Posted by George An Herry

RECEIVED of Lawrence E. Ensor, Attorney for Protestants, the sum of \$6.20 being cost of certified copy of petition and other papers in the ustter of colassification and special poredt for Boat Tard on property of Markley and Register, Patapaco Ione, 15th District.

Zoning Comissioner

MAY 1 0 1955

Re: Petition of Charles Regester and wife and Benjumin S. Markley and wife for reolassification from an "A" Rosidence Zone to an "E" Commercial Zone and a Special Ferait to use the subject property for a Boat Yard and/or Marine

OPINION AND ORDER OF CHARLES H. DOI", MEMBER OF THE BOARD OF ZONING APPEALS OF BALF ORE COUNTY

The applicants, Charles Regester and wife, own lots Nos. 82-C and 83, and the applicants, Benjamin S. Markley and wife, own lot No. 84, Plat of Middleborough, Fifteenth District.

Lot 82-C and 83 each have a width of fifty feet on a twenty foot right of way with an average depth of one hundred and ninety-two feet to Hopkins Creek. Lot 84, owned by Mr. and Mrs. Markley, is at the end of the twenty foot right of way, which dead ends at their lot, has an average width or fifty-five feet and a maximum depth of one hundred and forty-eight feet and contains about a quarter of an acre of land.

The combined area of the three lots is about threequarters of an acre and its only access, by land, is over a twenty foot lane or alley known as Patapaco Lane. The Record shows that all three lots enjoy non-conforming uses for the operation of boat yards and marine railways, and the zoning map shows that all three lots are zoned residential. No attempt was made to show that the original zoning was arroneous or that the character of the neighborhood has changed since the original zoning, although the Record shows that there are several boat yards and seven boat clubs in the surrounding area, all of which are non-conforming uses or are operating under special permits issued by the Zoning Department.

There has been but one reclassification granted by the Zoning Department in this area, since the adoption of zoning in Baltimore County. This one change certainly cannot be said to

have so completely changed the neighborhood as to require, justify up an unrestricted commercial area on so inadequate a right of way already exist, during the boating meason. (Record pages 66, 75, 83, property. It is largely responsible for the existing traffic

congestion. The applicant, Benjamin S. Karkley, had a non-conforming building, which the late John J. Timanus, Zoning Commissioner, authorized him to expand in accordance with the zoning regulations. Under this authority Mr. Markley built out into the navigable waters of Hopkins Creek, some distance off shore, a large unsightly boat house on piling or stilts which cuts off the view of his neighbors. He says he has a pier which runs the whole front of his place; that it is not possible to put any more piers there then he has at present, but there is room for more boat houses. (Record page 17) The unsightlyness of the boat houses, cutting off the view, is the basis of the large protest of surrounding property owners.

a building permit for another bout house. The building was begun, but was enjoined by the Circuit Court of Baltimore County. (Record

How, the only course open to Mr. Markley to circumvent Non-conforming uses are looked upon by the law with

Baltimore County Planning Commission

3157

303 Washington Avenue Towson 4. Maryland

WILLIAM W. MACVICAR. CHAIRMAN ALONZO G. DECKER. JR., VIGE CHAIRMAN JAMES E. CODY AUGUSTINE J. MULLER CHARLES W. SNYDER

MALCOLM H. DILL. DIRECTOR

November 27, 1954

Attention: Mr. Doing

Subject of Petition:

From "A" to "E" and a Special Permit for a Boat Yard and/or Marine Railway - N.S. of 20' Rd., 122' S. of Middle River and W. of Nanticoke Rd.

Comments:

The property in question, comprising approximately three quarters of an acre, is located at the tip of a promontory on the northern shore of the Middleborough peninsula. It has been in use for several years as a boat yard but does not conform to zoning.

Waterfront properties in this part of the County are extensively developed as seasonal cottages with boating facilities. Aerial photographs of the area show over 100 boat piers along the periphery of the Middleborough peninsula. Without doubt there is a demand for boat repair, service and storage facilities.

The interior land is partially developed with houses of the permanent type. Road access to the entire area is by means of Middleborough Road and the property under consideration is reached by Nanticoke Road, a secondary road leading north from Middleborough Road. The adjoining property to the northeast of the land which is the subject of the petition is in use as a boat yard and was zoned for commercial use in 1947.

In view of the prevailing seasonal and recreational character of the waterside development in the general area, and the apparent demand for boat yard facilities, it is considered that the use of the property in question as a boat yard is appropriate. It appears, however, that if recognition is to be given to the use by means of the Zoning Regulations, a Special Permit for the use would be preferable to Commercial Zoning of the property. The former would recognize the need for boat yard facilities but would exclude all miscellaneous commercial uses which could be possible if commercial zoning were granted. Requiring a Special Permit would also be in line with the proposals for revision of the Zoning Regulations which are soon to be adopted.

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It is considered that road access to the property is satisfactory but that any decision in regard to zoning should require adequate facilities for off-street parking as a condition of approval.

Petition No. 3159 - Dist. 15 Comments by D. J. Stanton Hearing Scheduled - Monday -September 20, 1954

NO PLAT IN THIS FOLDER