

Carl F. Vohsen
Carl F. Vohsen
Barrie W. Rubens
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Board of Zoning Appeals
of Baltimore County

Re: Petition for Reclassification
and Special Exception for a
boat yard and/or marine railway
Chas. Regeater, and wife, and
Benjamin S. Markley, and wife,
Petitioners

BEFORE
BOARD OF ZONING APPEALS
OF BALTIMORE COUNTY
Case No. 3159

STATEMENT OF THE BOARD OF ZONING APPEALS

This case came before the Board on an appeal from an Order of the Zoning Commissioner dated September 1, 1954 granting a reclassification from an "A" Residential to an "M" Commercial and a special permit for a boat yard and/or marine railway.

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

By an Order dated February 10, 1955 the Board affirmed the decision of the Zoning Commissioner and granted the reclassification and the special permit.

This Order, and the Opinion of the Board upon which it was based, was assented to by Messrs. Hubers and Vohden, a majority of the Board. Charles H. Doing finding himself in disagreement with the other two members of the Board did not concur in the Opinion or the Order.

This Order was reviewed by the Circuit Court for Baltimore County on certiorari and by Order of the Circuit Court dated March 27, 1956 the Order of the Board of Zoning Appeals was reversed and the case was referred back to this Board for

consideration without the participation of Daniel W. Hubers.
Upon further consideration by Messrs. Doing and Vohden it is concluded as follows:

1. That Carl F. Vohden is in favor of granting the reclassification and the special permit and hereby adopts the original Opinion and Order of this Board dated February 17, 1955.
2. 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 counsel the Board had concluded that since the two members now considering this case are divided in their opinion no decision of the Board is possible and that the decision of the Zoning Commissioner granting the reclassification and the special permit is effective and binding.

BOARD OF ZONING APPEALS
OF BALTIMORE COUNTY

Charles H. Doing
Charles H. Doing
Carl F. Vohden
Carl F. Vohden

Date: May 17, 1956

Mr. William H. Adams
Zoning Commissioner
Town of Maryland

Dear Mr. Adams:

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.

Re: Petition for Reclassification from
an "A" Residence Zone to an "M"
Commercial Zone and Special Permit
for Boat Yard and/or Marine Railway
Chas. Regeater, and wife, and
Benjamin S. Markley, and wife,
Petitioners

April 20, 1956.

Mrs. Jeanette C. Harris, Chief Clerk,
Buildings and Zoning Department,
County Office Building,
Towson 4, Maryland.

Dear Mrs. Harris:

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

Yours very truly,

CHD/S

Marshall Stimpelman
Paul H. Stimpelman
Frank W. Stimpelman
1800 E. 8th St.

Lawrence H. Huber
Attorney

Henry M. Menden
Henry M. Menden
Edmond E. Oberlander
Edmond E. Oberlander
Anna S. Oberlander
Anna S. Oberlander
Lee S. Oberlander
Lee S. Oberlander
Nicholas S. Oberlander
Nicholas S. Oberlander
Robert S. Oberlander
Robert S. Oberlander
William B. Oberlander
William B. Oberlander

Ralph A. Smith
Salmon A. Smith
Marie A. Smith
Marie A. Smith
Harold A. Smith
Harold A. Smith
John H. Smith
John H. Smith

FILED 20 OCT 1956

Re: Petition of Charles Regeater and wife
and Benjamin S. Markley and wife for
reclassification from an "A" Residence
Zone to an "M" Commercial Zone and a
Special Permit to use the subject
property for a Boat Yard and/or Marine
Railway.

OPINION AND ORDER OF CHARLES H. DOING, MEMBER OF
THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

The applicants, Charles Regeater and wife, one lots
Nos. 82-C and 83, and the applicants, Benjamin S. Markley and
wife, one 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 of 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 three-
quarters of an acre and its only access, by land, is over a twenty
foot lane or alley known as Patapoco 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 erroneous or that the character of the neighbor-
hood 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
or warrant the reclassification here sought. The very worst pre-
cedent that the Zoning Department could establish would be to set
up an unrestricted commercial area on so inadequate a right of way
as this one on which intolerable traffic congestion and hazards
already exist, during the boating season. (Record pages 66, 75, 83,
91, 92, etc.) The property which is the subject of the one zoning
change, which has taken place in this area, adjoins the Regeater
property. It is largely responsible for the existing traffic
congestion.

The applicant, Benjamin S. Markley, 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 than he has at
present, but there is room for more boat houses. (Record page 17)
The unsightliness of the boat houses, cutting off the view, is the
basis of the large protest of surrounding property owners.

In October, 1953, (Record page 18) Mr. Markley obtained
a building permit for another boat house. The building was begun,
but was enjoined by the Circuit Court of Baltimore County. (Record
page 22)

Now, the only course open to Mr. Markley to circumvent
the Court's Decree is to obtain a reclassification of his property.

Non-conforming uses are looked upon by the law with
disfavor; they are to be discouraged and snuffed out as soon as
possible and the property returned to a conforming use. To grant

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

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

Charles H. Doing
Member of Board of Zoning Appeals of
Baltimore County

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 15-A Date of Posting: 9-8-54
Posted for: *Charles H. Doing*
Petitioner: *Charles H. Doing*
Location of property: *1800 E. 8th St.*
Location of signs: *1800 E. 8th St.*
Remarks: *See above*
Posted by: *George K. Johnson* Date of return: 9-8-54

May 10, 1955

66.20
RECEIVED OF Lawrence H. Huber, Attorney for Protestants,
the sum of \$6.20 being cost of certified copy of petition and
other papers in the matter of reclassification and special permit
for Boat Yard on property of Markley and Regeater, Patapoco
Lane, 15th District.

RECEIVED
MAY 10 1955
COMPTROLLER OF THE CITY

Baltimore County Planning Commission

303 Washington Avenue

Towson 4, Maryland

WILLIAM W. MACVICAR, CHAIRMAN
ALONZO G. DECKER, JR., VICE 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**