

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County:

I, or we, Missouri Realty, Inc., legal owner... of the property situate at the corner of Old Harford Road and Diehl Avenue, produced westerly, said point of beginning being also 610 feet more or less measured along said north side of Diehl Avenue, from the west side of Old Harford Road, and running thence binding on the west side of said unnamed road south 4 degrees 42 minutes 50 seconds east 306.09 feet; thence south 87 degrees 15 minutes 40 seconds west 1604.41 feet; thence north 43 degrees 22 minutes 10 seconds east 1091.42 feet; thence north 8 degrees 09 minutes 45 seconds west 308.50 feet; thence south 83 degrees 07 minutes 57 seconds east 887.92 feet to intersect the west side of said unnamed road; thence binding on the west side of said unnamed road south 4 degrees 42 minutes 50 seconds east 609.26 feet to the place of beginning.

herely petition that the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an R-6 zone to an R-6 zone.

Reasons for Re-Classification As above stated

Size and height of building: front 18 feet; depth 28 feet; height 22 feet.
Front and side setbacks of building from street lines: front 25 feet; side 10 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 to be and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

MISSOURI REALTY, INC.
Paul R. Pl.
Legal Owner
Address 514 S. of Paul Pl.
Baltimore

ORDERED By The Zoning Commissioner of Baltimore County, this 11th day of July, 1956, 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 Record Building, in Towson, Baltimore County, on the 20th day of August, 1956, at 11 o'clock A.M.

Zoning Commissioner of Baltimore County
(over)

OFFICE OF PLANNING

Inter-Office Correspondence

From O. N. Stirling, Jr. August 13, 1956
To Winnie H. Adams, Zoning Commissioner
Subject Lot 50, Block 1, containing on the north side of Diehl Avenue with the west side of Old Harford Road, 7th District.

This property is adjacent to a proposed County Junior High School site and to the intersection which has been planned between the major highways (Perring Parkway and the extension of Putty Hill Road). Because of the importance of these projects and their impact on the neighborhood, it is recommended that a decision be withheld until the Bureau of Land Development and Office of Planning have the opportunity to approve the detailed plan for development of the property.

OS/gh

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 7th Date of Posting 8-8-56
Posted for Mr. O. N. Stirling, Jr. and Mr. G. N. Zane
Petitioner Missouri Realty, Inc.
Location of property Lot 50, Block 1, containing on the north side of Diehl Avenue with the west side of Old Harford Road, 7th District.
Remarks Location of signs given per third of Diehl Ave., south of the east of Williams Ave.
Posted by Raymond H. Hazzard Date of return 8-9-56

A BILL
ENTITLED

AN ACT, to approve Zoning Re-Classification No. 3888, dated November 16, 1956, and to amend the official Zoning Map of Baltimore County, pursuant to Section 531(c) of the Code of Public Local Laws of Baltimore County, 1955 edition.

SECTION 1. Be it enacted by the County Council of Baltimore County, Maryland, that Zoning Re-Classification No. 3888, dated November 16, 1956, reclassifying the property of Missouri Realty, Inc. from "R-6 Residential" to "Residential Group"

be and the same is hereby approved, said property being situate in the Ninth Election District of Baltimore County and more particularly described as follows:

BEING all that parcel of land beginning for the same at a point on the West side of an unnamed road and the north side of Diehl Avenue produced westerly, said point of beginning being also 610 feet more or less measured along said north side of Diehl Avenue from the west side of Old Harford Road and running thence binding on the west side of said unnamed road south 4 degrees 42 minutes 50 seconds east 306.09 feet; thence south 87 degrees 15 minutes 40 seconds west 1604.41 feet; thence north 43 degrees 22 minutes 10 seconds east 1091.42 feet; thence north 8 degrees 09 minutes 45 seconds west 308.50 feet; thence south 83 degrees 07 minutes 57 seconds east 887.92 feet to intersect the west side of said unnamed road; thence binding on the west side of said unnamed road south 4 degrees 42 minutes 50 seconds east 609.26 feet to the place of beginning.

SECTION 2. And be it further enacted, that the official Zoning Map of Baltimore County is hereby amended in accordance with the reclassification described in Section 1 hereof, and the Zoning Commissioner of Baltimore County is hereby directed and authorized to make said amendment upon the official Zoning Map.

SECTION 3. And be it further enacted, that this Act shall take effect forty-five days after its enactment.

Passed by County Council July 11, 1956
W. H. Adams

RE: PETITION FOR RECLASSIFICATION FROM AN "R-6" Zone to an "R-6" Zone
V.S. Unnamed Road and N.S. Diehl Ave., 9th District - Missouri Realty, Inc., Petitioner

OPINION

This is a petition to reclassify two tracts of land containing in the aggregate 26.5 Acres, from "R-6 Residence" to "Residence Group Residential". The property is located to the west of Old Harford Road at the end of Diehl Avenue and Williams Avenue which run westerly from Old Harford Road. The subject tract adjoins a group housing zone on the east and a storage yard of the Ehrhardt & Hay Company. Present plans are that a new boulevard to be known as Perring Parkway will be located immediately to the west of the subject property, and the County plans a school immediately to the west of this new road. There are other tracts zoned for group houses in the immediate area so that this does not present a situation where an exclusive cottage type area will be invaded by group housing.

It is clear that when Perring Parkway is completed it will act as a natural barrier for the protection of the cottage developments lying to the west.

It has been our policy to discourage additional group housing, but there is a demand for a modest priced homes which group housing makes possible. If this reclassification were an area devoted exclusively to cottage development, and so zoned, we would not grant the reclassification. Since, however, there is another area already zoned for group housing in the immediate vicinity, we think it is reasonable that this property should have a similar classification.

CONCLUSION

For the reasons set forth in the foregoing opinion, it is this 16th day of January, 1957, by the Board of Zoning Appeals of Baltimore County, ORDERED that the reclassification herein from "R-6 Residence" to "Residence Group Residential" be and the same is hereby granted.

BOARD OF ZONING APPEALS OF
BALTIMORE COUNTY

James M. Sullivan
Carl J. Hahn
Heath Young

IN THE MATTER OF PETITION FOR RECLASSIFICATION, from an "R-6" Zone to an "R-6" Zone - V.S. Unnamed Road and N.S. Diehl Ave., 9th District - Missouri Realty, Inc., Petitioner

BEFORE

WILHELM ADAMS
ZONING COMMISSIONER
OF BALTIMORE COUNTY

APPEAL

MR. COMMISSIONER:

PLEASE enter an appeal from your decision in the above-designated matter, to the Board of Zoning Appeals for Baltimore County.

Shirley Ann Adams Martin Taylor
John J. Enrich

Attorneys for Protestants



February 5, 1957

\$35.00

RECEIVED of George William Stephens, Jr. and Associates, for petitioner, Missouri Realty, Inc., the sum of Thirty-five (\$35.00) dollars, being cost of petition, advertising and posting property on the West side of an unnamed road and the North side of Diehl Avenue, Ninth District of Baltimore County.

Thank you.

Zoning Commissioner
of Baltimore County

and

01632-110.00
01633-110.00

RECEIVED
FEB 5 1957
COUNTY CLERK'S OFFICE

LAW OFFICES
JAMES M. SULLIVAN
JAMES A. HAHN
HEATH YOUNG

43888

that the case involved reclassification from one residential sub-category to another, not the removal of land from the use category in which it was placed when originally zoned. The question of delegation of power was not squarely raised in that case, or the other cases cited.

It is true that in Buff v. Bd. of Zoning Appeals, 214 Md. 18, 68, we sustained a reclassification from R-10 to R-1 (Manufacturing Restricted) by analogy to a special exception, stating that "the rules which are applicable to special exceptions would apply, not the general rules of original error or change in conditions or the character of the neighborhood; that control the propriety of rezoning. This is because, as in the case of a special exception, there has been a prior legislative determination, as part of a comprehensive plan, that the use which the administrative body permits, upon application to the particular case of the specified standards, is prima facie proper in the environment in which it is permitted. This prior determination and the establishment of sufficient standards effectively refute the claim of improper delegation of legislative power", citing Montgomery Co. v. Harlan's Club, 202 Md. 279. That was not a holding that without prior determination delegation would be improper. In Bd. of Zoning Appeals v. Bailey, 216 Md. 535, 543, we noted that the Buff case was exceptional, and that the ordinary rules applicable to reclassification did not apply, as they were applied in the Harley case, and more recently in White v. County Board of Appeals (No. 139, this Term), just decided.

As Judge Harwell, for the Court, said in Freeman v. D'Alessandro, 193 Md. 672, 678, "the basic question is not whether the City Council can delegate legislative power, but whether the legislature has conferred, by the Baltimore charter or otherwise, power - of whatever nature, legislative or executive or both - to make the choice of alternatives. There can be no question as to the power of the legislature to make such grants of powers of local government, whether to an existing municipal corporation or agency, a specially constituted body, or an existing executive or administrative body such as county commissioners. The

constitutional requirement of separation of powers is not applicable to local government. (Citing cases.) Just how much power is granted by a particular statute is a question of statutory construction, not a constitutional question." See also Freeman v. Barnes, 209 Md. 544, 552; Oliver v. Commissioner of Health, 207 Md. 188, 191; Davis, Administrative Law Treatise (1958), §2.15. In the instant case the power stems directly from the statute and Charter, and there was no redelegation by the County Council to the Board. We do not suggest that a different result would follow if there had been a redelegation authorized by basic law.

We think the power to rescind in particular cases, by changing boundaries, as distinguished from the power to adopt a comprehensive zoning ordinance, which has been nowhere delegated and for which no statutory authority exists, may be, and has been, validly delegated to the County Board of Appeals. In Byrd v. Baltimore County, 215 Md. 135, 141, we indicated that in Baltimore County such zoning "changes as conditions from time to time warranted could be effected either by reclassification or by Special Exception or by both." The only difference is that in the former case the Board must find a substantial justification for its action in an original error or changed circumstances and conditions, and not merely consider the effects upon neighboring property, the traffic and school problems, and other matters appropriate to an exercise of the police power, as spelled out in sec. 532(a) of the Statute. The presence of these statutory prerequisites to the exercise of the legislative function, whether delegated or not, is, we think, a complete answer to the appellants' contention that there are no statutory standards for the guidance of the Board.

There is the further safeguard that, to the extent that the action taken may be arbitrary, capricious, discriminatory, or illegal, or not fairly debatable, any action taken is subject to judicial review. Green v. Board of Zoning Appeals, 209 Md. 120, 121; Hokes v. Board of Zoning Appeals, 209 Md. 132,

137. The presumptions arising from the adoption of a comprehensive plan are designed to promote stability and prevent ill-considered changes, and the statutory prohibition against reconsideration within 18 months is aimed in the same direction. This Court has recognized, in many of the cases cited, and generally in the field of administrative law, that the basic statutes should be liberally construed to permit delegation to subordinate expert bodies because of the practical necessity of freeing the local legislative bodies from the pressure of the numerous and complex problems, calls; for special expertise, that plague the modern world.

Since we hold that the order for reclassification was valid without further action by the County Council, the decree appealed from will be affirmed.

DECREE AFFIRMED, WITH COSTS.

IN THE MATTER OF PETITION FOR
RECLASSIFICATION, FROM AN "R-6"
Zone to an "R-10" Zone - Vids.
Unnams Road and N.E. Ditch Ave.,
9th District - Missouri Realty, Inc.
Petitioner
ZONING COMMISSIONER
OF BALTIMORE COUNTY
No. 3888

Pursuant to the advertisement, posting of property and public hearing on the above petition, it is shown on the zoning maps that the subject parcel adjoins a group house zone on one side and Shurhard & May's Storage Yard adjoins on another side.

The Office of Planning agreed that since the Board of Education has acquired the group house land on the west side of the New Perring Parkway that group homes should be limited to the east side of said Parkway. The developer agreed and submitted plans as stated above which are acceptable to the Office of Planning.

It is also evident that the changes in the character of the neighborhood since the adoption of the original zoning warrant the requested change, the granting of which will not be detrimental to the health, safety and the general welfare of the community involved.

It is ORDERED by the Zoning Commissioner of Baltimore County, this 16th day of November, 1956, that the above described property or area should be and the same is hereby reclassified, from and after the date of this Order, from an "R-6" (cottage) Zone to an "R-10" (group house) Zone.

William F. Moorer
Zoning Commissioner
of Baltimore County

Baltimore County, Maryland
OFFICE OF LAW
Inter-Office Correspondence

TO: Spiro T. Agnew, Chairman County Board of Appeals
FROM: Johnson Bowie
SUBJECT: Baltimore County v. Missouri Realty, Inc.

Date... March 3, 1959

Enclosed herewith is a copy of the opinion of the Court of Appeals in the above case.

Johnson Bowie
Johnson Bowie
Solicitor

JB:c
encl.

County Council of Baltimore County
County Office Building, Towson 4, Maryland
July 7, 1958

COUNCILMEN
First District
JOHN R. DAVIS, JR.
Second District
WILLIAM C. COLEMAN

Third District
Mr. Wilkie Adams
Zoning Commissioner
GORDON G. POWELL
Chairman
Towson 4, Maryland

Fourth District
J. GASTON BARNES

Fifth District
JOHN E. LARSEN

Sixth District
JOSEPH L. SCHMIDT

Seventh District
JAMES H. BARRY

Eighth District
WILLIAM F. MOORER

WFM:c
Enclosure

Very truly yours,

William F. Moorer
William F. Moorer
Secretary

NO PLAT
IN
THIS FOLDER