COUNTY BOARD OF APPRAIS

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## OPINION

This is a petition for the reopening of a hearing which resulted in the demial of the patitionar's request for a recla sification concerning certain property bounded by York Road and Cedar Avenue in Wiltondale.

The original hearing was heard on September 10, 1956, before the Zoning Commissioner, who then hold the case sub curia until, by his Order dated Nevember 28, 1956, he demied the reclassification.

The petitioner contends that the Zoning Commissioner considered his evidence in arriving at his decision two letters from protestants who were not at the hearing, viz; a letter dated September 12, 1956 from F. E. Sutton, President of the Wiltondale Improvement Association and a letter dated November 2, 1956 from U. T. Linzey, president of the Towsen High School PTA.

It is the petitioner's contention that he was denied the basic right of cross-examination of Sutton and Linzey, thoroby depriving him of a fair and impartial hearing, and so he sacks to have the case reopened for the specific purpose of cross-

examining the two persons above mentioned personally and as agents of their respective organizations.

The right to cross-examine hostile witnesses is certainly fundamental and might not be enlarged upon here. However, the Board does not feel that the mere receipt and reading of letters from the protestants by the Zoning Commissioner subsequent to the hearing, but prior to his determination, constitutes an addition of additional evidence in derogation of the petitioner's right of cross-examination The Zoning Commissioner has certain administrative duties which necessitate that he receive and process a great deal of correspon dence. To say that every complaint communicated to him by letter or reaching his attention by any other means during the period he is holding sub curia : case related to such complaint constitutes additional evidence unlawfully received and thereby forms a valid basis for recpening the hearing, would be to needlessly prolong the determination of important issues.

We find that the Zoning Commissioner in making his decision understood the legal requirements that he be guided only by the evidence presented at the hearing and, in the absence of specific proof to the contrary, find that he acted accordingly in

The quartien of the propriety of this appeal is also before us, but is not strongly contested. Without consideraing each question in detail, we would merely note a broad construction of the section relief on by the notitioner, which seems to give the Board authority to hear such a motion.

ORDER

For reasons set forth in the aforegoing Opinion it is this Ward day of March, 1957, by the County Board of Appeals OFDERED that the petition to re-open the hearing in the above matter, be and the same is hereby denied.

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NOTE: Mr. Matham H. Maufman, did not sit in the above case.

Mr. Wilsie H. Adams Zoning Commissioner of Baltimore County Towson h. Marylan

RE: Petition for Reclassification #3922

February 6, 1957

JW/mcy

Enclosed herewith is a self explanatory Appeal from your final decision dated February 4, 1957 re the above. Transmich as this has been reduced to a legal opinion I assume there is no fee involved in filing this formal appeal from your

LAW OFFICES OND NATIONAL BANK BUILD

decision and please advise me to the contrary if this is

Thut asher Elmer Weisheit, Jr.

Enclosure (1)

- 3 -2. That the Zoning Commissioner of Baltimore County rescind and word his prior Order dated November 28, 1956, denying the Petition for Reclassification, pending the outcome of the public hearing requested herein.

3. Such other relief as the nature of the cause may require. AND AS IN DUTY BOUND, ETC.

OElmu Wishit gr. J. Elmer Weisheit, Jr.

February 4, 195

CHARL H. LOOKS
CANEL W. HUNGER
CARL P. YORDER

Mr. J. Elmer Weisheit, Jr.

Is reply to your patition received in his office December 194, 1956, requesting the reopening of the patition of the Inter-City Land Company, #3922, leasted on the South-cast side of Tark Road, Martheast of Codar Avenue.

Sinibings und Zming Bepartment

of Baltimore County

ON WARRINGTON AVE. TO BON 4. MARYLAND

I have reviewed your request with the Seliciter's Office and wave been advised that I do not have the authority to reopen tels case.

Very truly yours,

New M.Com Wilste H. Adams Zoning Commissions

Wasted

IN THE MATTER OF THE

7 630 PETITION FOR ZONING RECLASSIFICATION OF INTER-CITY LAND COMPANY. a body corporate of the State of Maryland. :

BEFORE WILSTE H. ADAMS THE CONTESTONER OF BALTIMORE COUNTY

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PETITION

NOW COMES Inter-City Land Company, a body corporate of the State of Maryland, Petitioner, by J. Elmer Weisheit, Jr., its attorney, and respectfully represents unto the Zoning Commissioner of Baltimore County:

1. That reference to the within proceedings will show a proper Petition for Zoning Reclassification from an R-6 Zone to an R-A Zone of certain property therein described was duly filed in the office of the Zoning Commissioner of Baltimore County and after proper advertising and posting a public hearing was held in the Hearing Room of the office of the Zoning Commissioner of Baltimore County, on September 10, 1956, at 3 o'clock p.m., for the publicly announced and posted purpose of presenting all partinent testimony either advocating or opposing the aforesaid zoning reclassification.

2. That said hearing was held as advertised and was duly attended by your Petitioner and by protestants, with each having adequate, reasonable and equal opportunity to present any and all testimony sermane to the issues in-

3. That at the conclusion of said hearing, each side declining to offer or present further testimony, the Zoning Commissioner announced the case would be held sub curium and his formal decision rendered at a later date.

4. That examination of the public records of these proceedings reweals that on or after September 12, 1956, this being at least two days subsequent to the hearing on the aforesaid Petition, Mr. F. E. Sutton, as President of the Wiltondale Improvement Association, on behalf of said Association and it Board of Directors, forwarded to the Zoning Commissioner of Baltimore County a letter of protest to the aforesaid Petition for Reclassification, which was received as evidence by the Zoning Commissioner and incorporated in the official

records of this case.

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5. Similarly, a letter dated November 2, 1956, signed by Mr. U. T. Linzey, as President of the Towson Senior High School P.T.A., was forwarded to the Zoning Commissioner of Baltimore County, protesting the aforesaid Petition for Reclassification, and this letter also, although being dated six weeks subsequent to the date of the hearing, was received as evidence by the Zoning Commissioner of Baltimore County, and duly entered and incorporated in the official records of this case.

- 2 -

6. That as a result of the aforesaid facts, the Zoning Commissioner of Baltimore County received, accepted and considered certain representations as evidence in the case and your Petitioner was denied its lawful and proper right of cross-examination as to these particulars, said evidence being arbitrarily, illegally and unlawfully received by the Zoning Commissioner of Baltimore County.

7. That in spite of the aforesaid facts the Zoning Commissioner of Baltimore County passed his order on November 28, 1956, denying the aforesaid Petition for Reclassification.

8. That Article 5, Section 500.7 permits the Zoning Commissioner of Baltimore County to grant a public hearing to any interested person after advertisement and notice to determine any rights whatsoever of any person in any property in Baltimore County insofar as they are afforted by these regulations

9. That Article 5. Section 500.6 grants the Zoning Commissioner the power, after proper notice, to conduct hearings involving the proper interpretation of the zoning regulations of Baltimore County.

TO THE END THEREFORE, that your Petitioner seeks and requests of the Zoning Commissioner of Baltimore County:

1. That this proceeding be re-opened and an additional public he set, after proper advertising and notice, in compliance with law, affording you Petitioner an opportunity to cross-examine the protestants, Messrs. F. E. Sutton and U. T. Linzey, who have made themselves parties, both individually and as agent, to this proceeding in the manner aforementioned

DI THE MATTER OF THE THE INTER-CITY LAND COMPANY, CARD OF ZONING APPEALS

etition for

..... HOPTOR OF APPEAL

Mr. Zoning Commissioners

This Notice of Appeal is filed under authority of Article 5, Section 500.10 of the Zoning Regulations for Baltimore County and states The Inter-City Land Company is aggrieved by the final decision of the Zoning Commissioner, dated February L, 1957, a photostatic copy of which is attached hereto and incorporated herein as a part hereof, and does appeal said decision to the Board of Zoning Appeals of Baltimore County.

Sentember 7, 1956

RECEIVED of William Barnes Hall, President of the Inter City Land Company, petitioner, the sum of Three (\$3.00) dollars, being cost of additional sign of the property located on the East side of York Road and the West side of Cedar Avenue, Ninth District of Baltimore

01.623-43.00



## Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County:-

All that parcel of Lord in the Hills District of Salisson Commyon the Sections I the Parcel of Lord in the Hills District of Salisson Commyon the Sections I the Parcel of Lord in the Hills Of Test Services of Codes Avenue Sections I the Sections Sale of Lord Codes (18,72) themes Sections I to Party Lord on the Sections Sale of Test Section (18,72) themes Section I of Section Codes (18,72) themes Section I of Section I sect

hereby petition that the zoning status of the above described property be re-classified, purusant to the Zoning Law of Baltimore County, from an Ba6 - - - - zone to an Rada - - - - zone

Reasons for Re-Classification: Property was classified "C" Residence prior to arbitrary reclassification to R.6 on April 1, 1956.

... Also, property on West side of York Road across from instant property has recently been reclassified B.I. Most reasonable use of the property is for apartment house construction. 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.

INTER CITY IAID COUNTY.

By William Barres Hall, Fresident

Legal Owner

Address 7214 Old Harford Road, Balto. 14, 14.

ORDERED By The Zoning Commissioner of Baltimore County this 10 th day of August 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 hereon be had in the office of the Zonine Commissioner of Baltimore County, in the Reckerd Building, in Towson, Baltimore County, on the 10th .....day of Soutember

> Zoning Commissioner of Baltimore County F. Ted /18/86

> > AUG 3 0 1956

## CERTIFICATE OF PUBLICATION

TOWSON, MD., August 24 THIS IS TO CERITFY, That the annexed advertisement was published in THE UNION NEWS, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of \_\_two.\_\_ successive weeks before the \_\_10th ..... day of \_\_\_\_augus t

The UNION NEWS W. Terwick Houser

Pursuant to the advertisement, posting of property, and public hearing on the above nd it appearing that by reason of ... It Is Ordered by the Zoning Commissioner of Baltimore County this.... \_19\_\_\_, that the above described property or area should be and the same is hereby reclassified, from and after the date of this Order, from a Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that becomes that the changes in the character of the neighborhood since the adoption of the new Ninth District Map do not warrant the requested

It Is Ordered by the Zoning Commissioner of Baltimore County, this. 28th.

Novemenr. ......19.56., that the above petition be and the same is hereby denied and that the

above described property or area he and the same is hereby continued as and to remain a n "Re6" Otilia N. adan

the above re-classification should SOT be had-

County Commissioners of Baltimore County

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland #3922 Date of Posting 8-29-56 Posted for: an A-63 and to an B-A 3 and Petitioner: Loute aly Land Commence retioner Loute ally Land Company of 196 of adas art etc. See Jan 18. My 416 ft 196 of adas art etc. Location of Signs: Del sept 400 fl M. of you haf on Marked select. Delta fifty granted sept my from the back and seems on the back.

Aumat 21, 1956

\$35,00

RECEIVED of J. Elmer Weisheit, Jr., attorney for petitioner, Inter City Land Company, the sum of Thirtyfive (\$35.00) dollars, being cost of petition for Reclassification, advertising and posting the property on the Southeast side of York Road, beginning h10 feet Northeast of Cedar Avenue, Ninth District of Baltimore

An additional sign is required, therefore a balance of Three (\$3.00) dollars is due. May we please have your check payable to the County Commissioners of Baltimore

Zoning Commissioner of Baltimore County

Monday, September 10, 1956 at 3:00 P. M. Room 108 County Office Building 111 W. Chesapeake Avenue Towson, Maryland

COMPTROLLER'S OFFICE

11.622 - 110.00 01.603-425.00

