

3422

RE: PETITION TO REOPEN HEARING
BEFORE ZONING COMMISSIONER
COUNTY BOARD OF APPEALS
PROPERTY - East Side of York
Road, 140 West W. S. Cedar
Ave., 2nd District
Inter-City Land Co., Petitioner

BEFORE
COUNTY BOARD OF APPEALS

OPINION

This is a petition for the reopening of a hearing which resulted in the denial of the petitioner's request for a reclassification 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 held the case sub curia until, by his Order dated November 20, 1956, he denied 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. Linsey, president of the Towson High School PTA.

It is the petitioner's contention that he was denied the basic right of cross-examination of Sutton and Linsey, thereby depriving him of a fair and impartial hearing, and so he seeks 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 correspondence. 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 a case related to such complaint constitutes additional evidence unlawfully received and thereby forms a valid basis for reopening 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 this instance.

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

ORDER

For reasons set forth in the aforesaid Opinion it is this 21st day of March, 1957, by the County Board of Appeals ORDERED that the petition to re-open the hearing in the above matter, be and the same is hereby denied.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles F. Smith
Spencer J. Rogers

NOTE: Mr. Nathan H. Kaufman, did not sit in the above case.

LAW OFFICES
J. ELMER WEISHEIT, JR.
SECOND NATIONAL BANK BUILDING
TOWSON 4, MARYLAND

VALLEY 2-1011

February 6, 1957

Mr. Willis H. Adams
Zoning Commissioner
of Baltimore County
Baltimore County Office Building
Towson 4, Maryland

Re: Petition for Reclassification #3922

Dear Mr. Adams:

Enclosed herewith is a self explanatory Appeal from your final decision dated February 1, 1957 re the above. Inasmuch as this has been reduced to a legal opinion I assume there is no fee involved in filing this formal appeal from your decision and please advise me to the contrary if this is not true.

Very truly yours,

John H. Smith
J. Elmer Weisheit, Jr.

JH/mcy

Enclosure (1)

INTER-CITY LAND COMPANY
303 WASHINGTON AVE., TOWSON 4, MD.
Tel. Valley 3-3000

3922

WILLIAM H. ADAMS
ZONING COMMISSIONER
OF BALTIMORE COUNTY
COUNTY OFFICE BUILDING
TOWSON 4, MARYLAND

Writings and Zoning Department
of Baltimore County
303 WASHINGTON AVE., TOWSON 4, MARYLAND
Telephone Valley 3-3000 (Towson 4) (Building 1)

February 4, 1957

Mr. J. Elmer Weisheit, Jr.
Attorney-at-Law
Towson 4, Maryland

Dear Mr. Weisheit:

In reply to your petition received in his office December 19th, 1956, requesting the reopening of the petition of the Inter-City Land Company, #3922, located on the South-east side of York Road, Northeast of Cedar Avenue.

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

Very truly yours,

Willis H. Adams
Willis H. Adams
Zoning Commissioner
of Baltimore County

WHEAT

IN THE MATTER OF THE
PETITION FOR ZONING RECLASSIFICATION OF
INTER-CITY LAND COMPANY,
a body corporate of the State of Maryland,
BEFORE
WILLIS H. ADAMS
ZONING COMMISSIONER OF
BALTIMORE COUNTY
Petition #3922

PETITION

NM 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-4 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 pertinent 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 germane to the issues involved.

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 curia and his formal decision rendered at a later date.

4. That examination of the public records of these proceedings reveals 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 its 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.

5. Similarly, a letter dated November 2, 1956, signed by Mr. U. T. Linsey, 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.

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 affected 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 hearing set, after proper advertising and notice, in compliance with law, affording your Petitioner an opportunity to cross-examine the protestants, Messrs. F. E. Sutton and U. T. Linsey, who have made themselves parties, both individually and as agent, to this proceeding in the manner aforesaid.

J. ELMER WEISHEIT, JR.
ATTORNEY-AT-LAW
TOWSON, MARYLAND

J. ELMER WEISHEIT, JR.
ATTORNEY-AT-LAW
TOWSON, MARYLAND

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2. That the Zoning Commissioner of Baltimore County rescind and void 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 case may require, AND AS IN DUTY BOUND, ETC.

INTER-CITY LAND COMPANY

By *William Barnes Hall*
William Barnes Hall
President

John H. Smith
J. Elmer Weisheit, Jr.
Attorney for Petitioner

J. ELMER WEISHEIT, JR.
ATTORNEY-AT-LAW
TOWSON, MARYLAND

District 9-2
 Posted for: W. B. Zone to an R. A. Zone Date of Posting: 8-29-50
 Petitioner: Anti-Op. Party Members
 Location of property: St. S. & 4th St. N. W. 414 1/2 N. E. of Cedar Ave. etc.
see map
 Location of signs: on sign board of W. B. Zone on N. W. corner of
Cedar St. & 4th St. N. W. 414 1/2 N. E. of Cedar Avenue on the board
removed
 Posted by: Blaise R. Johnson Date of return: 8-30-50

