

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County—

I, or we, Walter A. Emma legal owner, of the property situate

on the NE side of Stemmer's Run Road and described as follows:
 BEGINNING at a point on the NE side of Stemmer's Run Road
 distant 493 ft. more or less from the center line of Eastern Avenue
 Boulevard and running thence South 19 degrees 38 minutes East 298.0
 ft; thence North 57 degrees 46 minutes East 400.0 ft; thence North
 23 degrees 19 minutes West 275.0 ft; thence South 61 degrees West
 381 ft. to place of beginning.
 Saving and excepting therefrom that portion zoned B.L.

herby petition that the zoning status of the above described property be reclassified, pursuant to the
 Zoning Law of Baltimore County, from an Residential Local
 Reasons for Re-Classification: A narrow strip along the North 57 degrees
 46 minutes East 400.0 foot line is presently zoned Business Local;
 the rest of the tract is zoned residential. An extension of the
 business local use is requested for the purpose of erecting a food
 store or market and to provide for off-street parking for customers.
 Size and height of building: front 136 feet; depth 125 feet; height 25 feet.
 Front and side set backs of building from street lines: front 215 feet; side 107 feet.
 Property to be posted as provided by Zoning Regulations.

I, or we, agree to pay expense 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.

Walter A. Emma
Walter A. Emma
 Legal Owner

Address: 316 St. Georges Road
 Baltimore 21, Maryland

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of
 September, 1957, 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 held in the office of the
 Zoning Commissioner of Baltimore County at Room 100 County Office Building, Baltimore County, on
 the 14th day of October, 1957, at 1 o'clock P. M.

Zoning Commissioner of Baltimore County
 (over) 1-SIGN (154)

Department of Public Works BUREAU OF LAND DEVELOPMENT Inter Office Correspondence

From: GEORGE H. LEWIS, October 11, 1957
 To: MIRIAM H. ADAMS
 Subject: Zoning Petition #1257
 Re-classification - R-1 to R-2
 1/2 side Stemmer's Run Road 493' fr Eastern Avenue Blvd
 District 15

This office has the following comment on the referenced
 petition:

- 1) Stemmer's Run Road must be widened to provide
 a 35' street on a 60' right of way.

George H. Lewis
 GEORGE H. LEWIS
 Chief - Permit Section

CR:LE

CC: Mr. Stirling (Planning)

Pursuant to the advertisement, posting of property, and public hearing on the above petition
 and it appearing that by reason of:

the above re-classification should be had.
 It is Ordered by the Zoning Commissioner of Baltimore County this _____ day of
 _____, 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 _____ zone
 to _____ zone.

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition
 this property being directly across the street from the
 schools would create traffic hazardous to the pupils attending both the Kenwood
 Senior High School and the Stemmer's Run Junior High School. The area between
 the properties commercially zoned, fronting on Eastern Boulevard, and the new
 residential development of Middlesex, are definitely properly zoned for residential
 use. For the above reasons it is the opinion of the Zoning Commissioner that the
 granting of the reclassification would be detrimental to the health, safety and
 the general welfare of the community, therefore,
 the above reclassification should NOT be had.
 It is Ordered by the Zoning Commissioner of Baltimore County, this 21st day of
 October, 1957, that the above petition be and the same is hereby denied and that the
 above described property or area be and the same is hereby continued as and to remain a B-6
 (residential) zone.

William H. Cohen
 Zoning Commissioner of Baltimore County

Approved: _____
 County Commissioners of Baltimore County
 Date: _____ By: _____ President

RE: PETITION FOR RECLASSIFICATION
 FROM AN R-1 Zone to a B-1
 Zone - NE side Stemmer's Run
 Road 493' fr Eastern Avenue Blvd
 Anna M. Emma, Walter J.
 Emma - Petitioners
 BEFORE
 COUNTY BOARD OF APPEALS
 OF BALTIMORE COUNTY
 No. 1257

OPINION

The Petitioner seeks to have the above captioned property, which
 fronts approximately 323 feet on Stemmer's Run Road with a depth of about
 100 feet and being 493 feet northwest of the intersection of said road
 with the centerline of Eastern Boulevard, reclassified from an R-1 Zone to
 a B-1 Zone. The purpose of reclassification as shown by the testimony
 is to allow the erection of an 15,000 square foot supermarket of the
 type expected to gross in the neighborhood of \$60,000 per week.

There is no evidence in the case sufficient to overcome the presumption
 in favor of the correctness of the original zoning. Further, the present
 map was adopted in 1945 and, aside from strip reclassification along
 Eastern Boulevard and a small spot of commercial on the opposite side of
 Stemmer's Run Road and about 500 yards from the subject property which is
 presently used as a community delicatessen, the neighborhood has remained
 residential. Moreover, new residential development, such as Middlesex,
 has occurred. We, therefore, feel there is insufficient change in the
 neighborhood to justify the reclassification.

In addition to the absence of the above two factors, which have been
 constantly held necessary to overcome the presumption in favor of the
 present validity of original zoning and thus allow reclassification, we
 find in the traffic situation an even more serious deterrent to the
 granting of the subject petition.

The property involved fronts on Stemmer's Run Road which carries very
 heavy traffic and which is paved to a width of only 27 feet according to
 the records of the Zoning Department. Directly across this narrow road
 lies Stemmer's Run Junior High School and its accompanying recreational
 facilities.

It is therefore felt that a commercial use of the type herein sought
 would create a substantial traffic hazard and endanger the safety of the
 numerous children using the school facilities.

CORRE

For the reasons set forth in the foregoing opinion, it is this 6th
 day of March, 1958, by the County Board of Appeals, ORDERED that the
 aforesaid petition for reclassification, be and the same is hereby denied.

COUNTY BOARD OF APPEALS
 OF BALTIMORE COUNTY

Carl P. Smith
Frederick K. Goff
James J. Goff

October 8, 1957

Mr. James O. Springer
 Attorney-at-Law
 Equitable Building
 Baltimore 2, Maryland

Dear Mr. Springer:

Upon receipt of the invoice from the Office of Central
 Services, we wish to notify you that there is a balance of Two
 Dollars (\$2.00) due to cover cost of advertising and posting
 property situate on the Northeast side of Stemmer's Run Road
 and Eastern Avenue, Walter Emma, petitioner.

We please have your check payable to the Treasurer
 of Baltimore County, Maryland, for the same.

Very truly yours,

William H. Cohen
 Zoning Commissioner
 of Baltimore County

October 11, 1957

\$2.00

RECEIVED of M. J. Cohen, the sum of Two Dollars
 (\$2.00) to cover cost of advertising the property situate
 on the Northeast side of Stemmer's Run Road and Eastern
 Avenue, Walter Emma, petitioner.

Thank you.

Zoning Commissioner
 of Baltimore County

td

61622-22.00
 RECEIVED
 OCT 11 1957
 COMPTROLLER'S OFFICE
John D.

September 24, 1957

\$35.00

RECEIVED of M. J. Cohen for petitioner Walter
 Emma, the sum of Thirty-Five (\$35.00) dollars, being
 cost of petition, posting and advertising property
 situate - Northeast side of Stemmer's Run Road and
 Eastern Avenue - 15th District of Baltimore County.
 Thank you.

Zoning Commissioner
 of Baltimore County

RECEIVED

Monday, October 14, 1957
 at 1:00 P.M.
 Room 103
 County Office Building
 111 W. Chesapeake Avenue
 Towson, Maryland

RECEIVED
 SEP 25 1957
 COMPTROLLER'S OFFICE
 BY John

James V. Springer
Notified

01622-22.00

October 26, 1957

\$0.00

RECEIVED of James O. Springer, Attorney for Walter J. Emaia and Anna M. Emaia, Petitioners the sum of Fifty (\$50.00) Dollars, being cost of appeal to the County Board of Appeals from the decision of the Zoning Commissioner denying the reclassification of property on the northeast side of Stemmers Run Road 4938' from Eastern Boulevard, 15th District.

Zoning Commissioner

RECEIVED
OCT 28 1957
COMPTROLLER'S OFFICE

April 21, 1958

\$0.00

RECEIVED of Maguire & Brennan, Attorneys for petitioners, the sum of Eight (\$8.00) Dollars, being cost of certified copies of papers filed in the matter of reclassification of property of Walter J. Emaia, and wife, northeast side of Stemmers Run Road, 4938' from Eastern Avenue, 15th District.

Zoning Commissioner

RECEIVED
OCT 21 1958
COMPTROLLER'S OFFICE

01622

SCRIMGER & HAZELIS
ATTORNEYS AT LAW
EDUCABLE BUILDING
BALTIMORE 2, MARYLAND

JAMES O. SCRIMGER
HOMER HAZELIS

BARBERS 7-7581
HOLBROOK 2-3550

October 28th, 1957

Zoning Department of Baltimore County
County Office Building
Towson, Maryland

Re: Petition for Reclassification
from an "R-6" Zone to a "B-1"
Zone - N.E. Side Stemmers Run
Road 4938 from Eastern Boulevard
Walter J. Emaia & Anna M. Emaia,
Petitioners

Please enter an appeal from the order passed
in the above matter on the 21st day of October, 1957, by the
Zoning Commissioner of Baltimore County to the Board of Zoning
Appeals.

James O. Springer
Attorney for Petitioners

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

4257

District 15th Date of Posting 10-3-57
Posted for: Walter J. Emaia & Anna M. Emaia
Petitioner: Walter J. Emaia & Anna M. Emaia
Location of property: N.E. Side of Stemmers Run Rd. & Eastern Avenue
Location of Sign: Northeast side of Stemmers Run Rd. 160 ft. North
of Eastern Avenue
Remarks: None
Posted by: George H. Young Date of return: 10-4-57

WALTER J. EMAIA and
ANNA M. EMAIA, his wife
VS
THE BOARD OF APPEALS
CHASLES O. TRIMMER, et al.
Constituting the County
Board of Appeals
KING. 1909

ALLEGATIONS OF FACTS

This is an appeal from an Order dated March 6, 1958, wherein the County Board of Appeals denied a petition for a reclassification from R-6 to Business-Local. The property is situated on the northeast side of Stemmers Run Road 4938 feet northwest of Eastern Avenue. The proposed use of the property for which the reclassification is sought was for a large super-market. The Court considered the record and heard argument of counsel for the petitioners. On May 23, 1958 an Order was passed appointing Spiro T. Agnew as a Referee for the hearing of additional testimony on the question of the traffic problem, particularly as it affected the public schools in the area. The additional testimony and the Referee's findings and conclusions were filed with the Court on August 27, 1958.

This Court cannot substitute its judgment for that of the administrative body. It is clear that there is credible evidence to support the conclusion that a traffic hazard would result from the location of the proposed super-market. Where such a question is fairly debatable the Court must affirm the decision of the Board. Since the Court takes this view of the case, having heard the matter on an ex parte basis, it is unnecessary to consider the petition to intervene and the Order passed thereon by Judge Gorman. The Court feels, however, that some brief comment should be made regarding this matter. The argument on appeal

was heard and the matter held and adjourned for several days, after which the Order was signed referring the case to Mr. Agnew. It was in this period, while the case was being held and adjourned by one Judge, that another Judge considered the petition to intervene and signed the Order permitting the intervention. Neither Mr. Agnew nor this Court were ever notified that the petition to intervene had been filed, and since the Court did not reexamine the original file which prepared the Order naming the case to two Referees, the first information that this Court had regarding the intervention was on October 6, 1958 by letter from counsel for the intervenors, at which time the Court had considered the testimony and report of the Referee and had decided the case. Press of other business had prevented the Court from perusing this memorandum, stating the Court's decision, until today.

In the event of a reversal of this Court by the Court of Appeals, it would seem only fair that the case be remanded with leave to the intervenors to present additional evidence.

JUDGE

October 21, 1958

WALTER J. EMAIA et al.
VS
CHASLES O. TRIMMER, et al.
Constituting the County
Board of Appeals
KING. 1909

ORDER OF COURT

Upon the hearing of the above matter it appears to the Court that testimony is necessary for the proper disposition of the matter. Therefore, pursuant to the provisions of Title 30, Section 532 h of the Code of Public Local Laws of Baltimore County, it is this 23rd day of May, 1958 ORDERED that Spiro T. Agnew be, and he is hereby appointed a Referee to take evidence on the following matters:

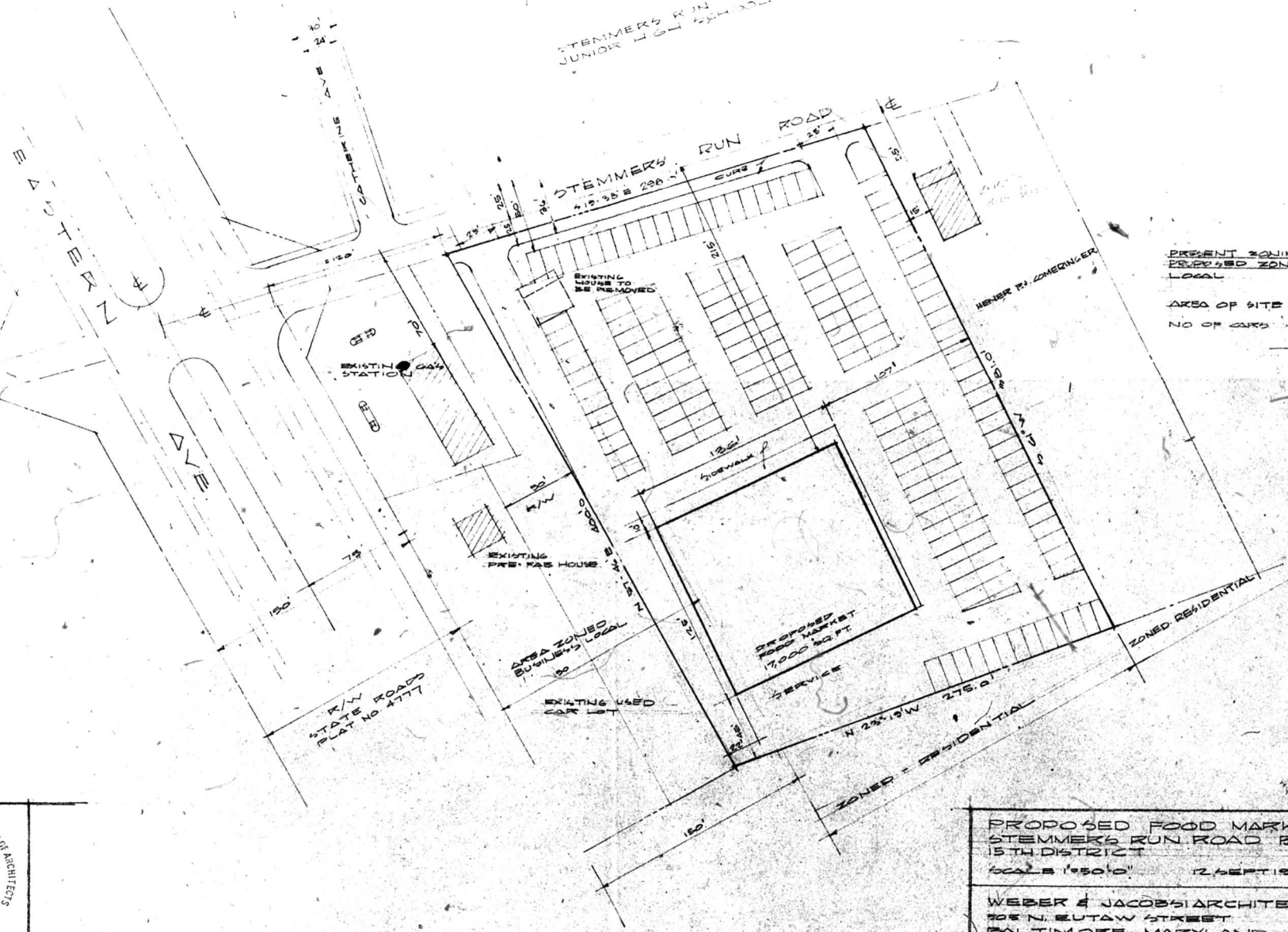
- I. The physical characteristics of Stemmers Run Road between Harlyn Avenue and Eastern Blvd. and the nature and extent of the traffic flow or load thereon.
- II. The population of the Stemmers Run Junior High School, their hours of attendance at said school for academic and extra-curricular work, and the nature and time of their transportation to and from the school.
- III. The question of whether there has been any commercial reclassification on Eastern Boulevard in the vicinity of its intersection with Stemmers Run Road of a depth greater than one hundred fifty feet, said depth being contiguous to a through highway.

The Referee herein designated is ORDERED to report said evidence to this Court with his findings of fact and conclusions of law, all of which will constitute a part of the proceedings upon which the determination of this Court shall be made.

John E. Malone, Jr. Judge



STEMMER'S RUN
JUNIOR HIGH SCHOOL



PRESENT ZONING - RESIDENTIAL
PROPOSED ZONING - BUSINESS
LOCAL
AREA OF SITE 103,670 sq. ft.
NO OF CARS 164



PROPOSED FOOD MARKET
STEMMER'S RUN ROAD BALTO. CO.
15TH DISTRICT
SCALE 1"=50'-0" 12 SEPT 1957
WEBER & JACOBI ARCHITECTS
205 N. EUTAW STREET
BALTIMORE, MARYLAND
1 OF 1

