Petition for Zoning Re-Classification

60

To The Zoning Commissioner of Baltimore County:-

00

I. or we ... The A. A. Dwar Co. ... legal owner of the property situate

All has seven of hed in the Fourth Statist of Balticers G. My. heginning for the sees at point 100 foot South of Mecodems Band on a private right-Greyn (said right-Greyn being 1700 feet, more or less, East of Berymans Lamb) thomes the following courses and datasenses South 55 degrees 21 minutes Lami 200 feet, Berth 100 feet, Berth 1

hereby petition that the assuing status of the above described property be re-classified, pursuant to the
Zoning Law of Baltimore County, from an
Reasons for Re-Classification
Size and height of building frontfeet; depthfeet; heightfeet.
Front and side set backs of building from street lines: front
Property to be posted as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above re-classification, advertising posting, etc., upon filling

saltamore County solopted pursuant to the Zoning Law for Baltamore County

The AA Djer Stone Co. - Sum to O Dyer

ORDERED By The Zoning Commissioner of Baltimore County, this 23rd 1957 that the subject matter of this petition be advertised, as required by the "Zoning Law of Baltimore County," in a new-paper of general circulation throughout Baltimore County, that properly be posted, and that the public bearing hereon be had in the office of the Zoung Commissioner of Baltimore County in the Reckord Bldg. in Towson, Baltimore County on 19 57 at 1 websek P. M

Zoning Commissioner of Baltimore County

25.

The Circuit Court for Baltimore County THIRD JUDICIAL CIRCUIT OF MARYLAND

JOHN E. RAINE JR.

December 5, 1958

Re: A. A. Dyer vs. County Board of Appeals

I have talked with some of my more learned brethren of the Bonch and Bar, particularly Judge Menchine and John Turnbull.

I think my Order of Remand was correct, and there is no statutory provision for striking it cut, even if it were erroneous. I believe that this Supplemental Opinion is self-explanatory, and will prevent this case from leading to any difficulties in the handling of appeals to your Board.

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 Raltimore 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

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and continued the testimony before the Deputy Zening Commissions: wouldn't justify reclassification of the subject property. There have been no changes since the adoption of the comprehensive goning plan as approved January 18. 1957. therefore.

the above re-classification should NOT be had above described property or area be and the same is hereby continued as and to remain an ... 8-40. Doputy Zening Commission (residence) asjoner of Baltimore County

MICRO FILMED

Approved County Commissioners of Baltimore County

President

47.96 -

December 12, 1957

DECETVED of Smilkin, Hennian, Martin & Taylor, Attorneys for the A. A. Dyer Company, petitioner, the sun of Mity (\$50.00) Dollars, being cost of appeal to the County Bourd of A reals from the decision of the Deputy Zoning Commissioner desping the reclassification of property on property situate 300 south of Micodomus Road, on private right-of-way 3700 feet east of Berrymans Lame, 4th District of Baltimore County.

Zoning Commissioner

01.622

DEC 1 3 1957 COMPTROLLER'S OFFICE A BILL 170

AN ACT, to approve Zoning Reclassification No. 1296 , dated June 11th and to smend the official Zoning Map of Baltimore County, pursuant to

Section 34-3 of the Code of Public Local Laws of Baltimore County, 1958

SECTION 1. Be it enacted by the County Council of Baltimore County, Maryland, that Zoning Reclassification No. 1296 , dated June 11th reclassifying the property of The A. A. Dyer Company

to MeH from Palo

be and the same is hereby approved, said property being situate in the Flection District of Baltimore County and nore particularly

described as follows. All that parcel of land in the Fourth instruct of Baltimore County on the west idea of lorth Newt Expressions, beginning 650 south afr map leading off of Microsems Found; three Southerly as in Interfaces, south afr map leading off of Microsems Found; three Southerly as in Microsems, there is no state of the Southerland of the Southerland of Microsems, there is no state of the Southerland of the Southerland of the Southerland being that portion of the Deep Poporty outlined in Fred on Pottinicaria Buildin So. 72, which is a timed berto and made a part beyond, is mostly reclassified from microsems on the Southerland of the Southerla

"TION 2. And be it further enacted, that the official Zoning Map of Raltimore County is hereby amended in accordance with the reclassification described in Section 1 hereof, and the Zoring 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 is hereby declared to be an emergency measure affecting the public health, safety or welfare, and, having been passed by the affirmative vote of five (5) members of the County Council the same shall take effect from the date of its enactment.

918159

DY-R COMPANY

COUNTY BOARD CZ APPEALS

IN THE CIRCUIT COURT FOR BALTIMONE COUNTY MISCELLANEOUS

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SUPPLEMENTAL CPINION

Pursuant to the statutory provisions this Court, after hearing argument of counsel, remanded the case to the County Hourd of Appeals for further hearing, a Memorandum Opinion being filed at that time.

The County Board of Appeals has informally requested clarification of the Chimion and the Order for Samuel. The Court does not intend that its action in this case shall be interpreted in such a way as to permit applicants for reclassification in all cases to offer evidence comparing one location with another, and seeking to show that an area in one part of the county was reclassified in a given manner, and therefore all similar properties throughout the county should be classified or reclassified in the same manner.

The Court's ruling in this case is specifically confined to the facts of this case, where we are dealing with property immediately adjacent to a stone quarry. A quarry area, unlike group housing areas, is sui generis. The location of quarries in fixed by nature. They are, in a sense, unique and this aspect of the matter justifies unique treatment by the soning authorities and by the

John E. Raine

December 5, 1958

Nov. 8, 1958

IN THE CIRCUIT COURT VS FOR BALTIMORE COUNTY COUNTY BOARD OF APPELLS M1-cl. No. 1937

..........

MEMORANDUM OPINION

This is a petition for a soning reclassification of seventeen acres of the Petitioner's property at a location where the petitioner has a nonconforming use for the quarrying of stone. The potitioner seeks a reclassification from an B-40 some to an M-H injustrial zone so that he can use the subject property for the production of "black-top". The petitioner proposes to have tar brought to the property and there mixed with stone from his quarry to produce the material used extensively in modern road construction This is economically proferable to taking tar and stone to the site of road construction and mixing it on the scene. It is conceded that since this are: was somed B-60 there has been no change in the character of the meighborhood and reclassification can only be granted if the original roning was erromous

The petitioner sought to offer evidence that other quarries in the inty had been goined "M-H" but the Board refused to consider evidence that was proffered regarding the soning of other quarry locations. The Court feels that the Board's action was erroneous. If the petitioner could show that in other locations substantially similar to the petitioner's property the properties were placed in an "H-H" category by the soming authorities that evidence would be relevant on the question as to the existence of erro when the same somer treated the patitioner's property differently. The County Board of Appeals should have allowed the petitioner to demonstrate that there was no basis for the different treatment of the different quarry locations. The Court will therefore Order that the case be remanded to the County Board of Appeals for further proceedings. As indicated to counsel,

the Court would prefer to limit the scope of the further proceedings, but does not have the power to do so under Section 532 H of Title 30 of the Baltimore County Code (see Board of Zoning Appeals vs. Bailey, 216 Md. page 536 at page 560).

IT IS THEREFORE this 6th day of November, 1958 ONDERED that the above entitled case is hereby remanded to the County Found of Appeals for further /

JOHA E. RAINE W'

MINUTES OF THE TWENTY - SEVENTH MEETING 152 BALTIMORE COUNTY COUNCIL HELD NOVEMBER 3, 1959 County Council - Property is good R-40

The meeting was called to order at 2:05 P.M. by the Chairman and there was a ent of silent prayer. The following Counci, van were present:

> Joseph M. Dignan, Jr. Dorothy N. Boone Robert R. Gill J. Cavendish Darrell Dale Anderson
> Joseph L. Schield
> W. Brooks Bradley

Second District Third District Fourth District Fifth District Sixth District Seventh District

The meeting was held in Room 301 with an audience of approximately one hundred person: present.

At the request of Mrs. Boone, the Chairman recognized that the fifth grade class from Woodmore Elementary School was present at the meeting with their teacher, Miss Marlene Barrell

Mr. Bradley, accorded by Mr. Darrell, then moved that the rules of procedure be suspended in order that the Council might hear the County Executive's budget message. A motion was carried, whereupon the Chairman recognized Mr. Christian Br. Kahl, County Executive of Baltimore County, and kir. Kahl read to the Council kin 1960 budget Mr. Chairman County Executive of Baltimore County, and kir. Kahl read to the County County Executive of Baltimore County accorded by Mr. Darrelly and that the Council catend the Kahl's address, Mr. Bradley, accorded by Mr. Darrelly and that the Council catend the compilinates to Mr. Athle on the preparation and presentation of Mr. Budget message. The motion was carried

Enrollment of Bills

The Chairman advised the Council that the following Bills, which had been passed by the Council had been signed by the Executive. He certified and delivered to the Secretary Bills No. 130, 131, 132, 133, 134 and 135.

Introduction of Bills

Bill No. 155, introduced by Mr. Dignan, entitled AN ACT, to add section 18-30. 38 to the Baltimore County Code, 1958, title "Motor Vehicles and Traffice", Article III, "Stopping, Standing, or Parking", which heading "Parking Poshibited in Specified Places", to prabbit any person from parking a whiches at 12, time on the south side of Kittenhouse Avenue from Washington Boulevard to a point three hundred feet west thereof.

Bill No. 156, introduced by Mrs. Booms, entitled AN ACT, to add section 19-6 1 to title "Olfenses - Miscellaneous" of the Baltimore Gousty Grac. 1958, said new section to follow immediately after section 19-6 beread, to regulate the use of Gertain plantic bags in-

BILL NO. 150 was called, whereupon Mr. Bradley again requested that the partment of Planning and Zoning give its comments on Bill No. 150. Mr. Gavrelis was recognized by the Chairman and stated that the Department of Planning had made no rec sation on this reclassification at the hearing before the Zoning Commissioner. He said that the area is a mixture of residential and commercial uses and it was his understanding that the reclassification was to establish a beauty shop with proper off street parking. Bill No. 150 was thereupon passed by the following roll call vote

> Aye - Mrs. Boone and Messrs. Gill, Darrell, Anderson, Schield and Bradley Nay - None

Abstain - Mr. Dignan

BILL NO. 151 was called and passed by the following roll call vote:

Aye - Mrs. Boone and Messrs. Dignan, Gill, Darrell, Anderson, Schield and Bradley Nay - None

BILL NO. 152 was called, whereupon Mrs. Boone requested that the Department of Planning and Zoning give a report on Bill No. 152 Mr. Malcolm Bill. Director of the Bill No. Department of Planning and Zoning was recognized by the Chairman and explained that Bill No. 52 concerned a reclassification of properly, which reclassification and originally been denied. by the Zoning Commissioner. He started further that the reclassification had been agreeded to a County Board of Appeals which had also denied the reaoning and that on appeal to time. Irrent Court of Baltimore County, the matter had been remanded to the Board of Appeals for unther consideration. Mr. Dill is said that it was the intent of the owners of the property with which the construction of an apphalt plant to adjoin the property of the said that it is constructed to the property with the property of t sy the Zoning Commissioner. He stated further that the reclassification had been appealed to hat the Council might hear a representative of those persons who were present at the meet-ag and opposed to the reclassification. The motion was seconded by Mr. Bradley and sarried. Whereupon the Chairman recognized Mr. Joseph J. Holischek of 607 Church Rond, Affaire when you taked that he represented several residents of developments in the area.

If the first the several resident is the several resident of developments in the immediate area and indicated to the Council be type of house built the several resident makes or instance of houses and the approximate distance from the rezoning. Mr. Holicheck stated that it was the opinion of the persons he represented hat the granting of the reclassification would constitute spot zoning. After some further iscussion, Mrs. Boone moved that Bill No. 152 be tabled. The motion was seconded by Mr.

BILL No. 154 was called and passed by the following roll call vote;

Aye - Mrs. Boone and Messrs. Dignan, Gill, Darrell, Anderson, Schield and Bradley Nay - None

nded for household use, or for packaging articles, other than foodstuffs, for household use, and to provide the penalty for the violation thereof

Bill No. 157, intr-duced by Mr. Darrell, entitled AN ACT, to add section 18-30-40 to the Baltimore County Gode, 1958, title "Motor Vehicles and Traffic". Article III, "Stopping, Standing, or Parking", sub-heading "Parking Provibled in Specificel Places", to probibit any person from parking a vehicle at any time on the cast side of Oxford Road from Hatherleigh Road to Stevenson Lane, a distance of one block

Bill No. 158, introduced by Mr. Darrell, entitled AN ACT, to add section 18-30.41 to the Baltimore County Code. 1958, title "Motor Vehicles and Traffic", Article III, "Stopping, Standing, or Parking", sub-heading "Parking Prohibited in Specified Places", to prohibit and person from parking a vehicle at any time on the east side of Loch Rayen Boulevard from the rth curb line of Joppa Road northward to Loch Bend Drive. a distance of approximately two

Bill No. 159, introduced by Mr. Anderson, entitled AN ACT, to add section 18-30. 37 to the Baltimore County Gode, 1958, tutle "Motor Vehicles and Traffic". Article III, "Stopping, Standing, or Parking", sub-heading "Parking Prohibited in Specified Places", to prohi bit any person from parking a vehicle at an, time on the east side of Ridge Road from Philadelphia Road north to a point 200 feet north thereof.

Bill No. 160. introduced by Mr. Anderson, entitled AN ACT, to add Section 2-5.1 to title "Administration" of the Baltimore County Gode 1998, to establish an Industrial Development Commission for Baltimore County and to deline its powers and duties.

Bill No. 161, introduced by Mr. Anderson, entitled AN ACT, to add section 19-2, 2 to the Baltimore County Code 1938, title "Offenses - Miscellaneous" to prohibit disorderly conduct on land of another in Baltimore County.

Bill No. 162, introduced by Mr. Schield, entitled AN ACT, to approve Zoning Re classification No. 4757-RX, dated October 7, 1959, and to amend the official Zoning Map of Baltimore County, pursuant to Section 34-1 of the Co. I Public Local Laws of Baltimore County, 1958 edition

Bill No 163, in:roduced by Mr. Bradley, entitled AN ACT, to add Section 18-30. 36 to the Baltimare County Code 1958, title "Motor Vehicles and Traific", Article III, "Stopping, Standing, or Parking «så-heeding Parking Probibited in Specified Places", to probibit any person from parking a vehicle from 800 A, M, to 500 P, M, and s, whool day on the West side of Bayard Avenue from Martel! Avenue to Dundalk Senior High School property, a distance of inproximately one and a half blocks

Bill No. 164, introduced by Mr. Bradley, entitled AN ACT, to add section 18, 30, 35 to the Baltimore County Code 1958, ittle "Motor Vehicles and Traffic", Article III, "Stopping, Standing, or Parking", sub-heading, "Parking Prohibited in Specified Places", to prohibit any person from parking a vehicle at any time on either side of Midland Road to Sollers Point and a distance of approximately 3/4 of a mile.

Call of Silis For Final Reading and Yote

Collection

Bild, NO. 139 was called, whereupon Mr. Dignas spoke against Bill No. 139. Mr.

Bradley also spoke against Bill No. 139. Whereupon Bill No. 139 failed by the following roll

RE: PATITION FOR RECLASSIFICATION :
FROM AN "2-ho" ZONE TO A "M-H"
ZONE = Property 300 feet S. :
Nicodomus Road on Private R/W
2700 feet S. Resymman Lagg -

Nay - Mrs. Boone and Messrs. Dignan, Gill, Darrell, Anderson. Schield and Bradley

Mr. Johason Bowle, County Solicitor, was present at the meeting and was recog-nited by the Chairman. Mr. Bowle pointed out that fill inc. 139 had contained an error in des-cription and suggested that the Council make some other disposition of the bill since the bill as introduced was incorrect. Bucyenpea Mr. Bradley, seconded by Mr. Darrell, moved that the 139 be reconsidered. The motion carried. Mr. Dignan then moved that Bill No. 139 be tabled. The motion was seconded by Mr. Darrell and carried

BILL NO. 140 was called and passed by the following roll call vote:

Aye - Mrs. Boone and Mesers. Dignan, Gill, Darrell, Anderson, Schield and Bradley Nav - None

BILL NO. 141 was called and passed by the following roll call vote.

Aye - Mrs. Boone and Messrs. Dignan, Gill, Darrell, Anderson, Schield and Bradley

BILL NO. 142 was called and Mr. Bradley spoke and stated that he would like to have the views of the Department of Planning and Zoning on Bill No. 142. Mr. Gill also requested that the Department of Planning and Zoning report on Bill No. 142. Mr. Goorge Gav. quested than one oupgramment of Finning and zoning report on Bill No. 142. Mr. George Gaz-relia. Depuly Director of Planning, was then recognized by the Chairman and he stated that Bill No. 142 concerns the reclassification of two parcels of land south of the Lutherville Ele-mentary Education R-0 to h-2. In response to questions by the various Councillome, Mr. manner, Education R-0 to h-2. In response to questions by the various Councillome, Mr. Gaves is stated that the subject properly was adjoined by other commerct. souling and apart-ment zoning but that the property on the west side of York Road at this point was primarily residential to a point 500 feet north of Belona Avenue on Tork Road. He also stated that restential to a point row test north or restons. Avenue on York Road. He also stated that it mediang average for a read and further stated that at the original hearing before the Zoning Gommissioner, the Department of Pisaning and Zoning did not recommend the soning of Be-i, but felt that R-A would be more appropriate if there was to be any reclassification at all. In response to a question by Mr. Gill, Mr. Gavrells stated that there had been no protestants at the meeting. Mr. Gill then spoke in favor of Bill No. 142, whereupon Bill No. 142 was passed by the following roll call vote

> Aye - Mrs. Boone and Messrs. Gill, Darrell, Anderson and Schield Nay - Messrs. Digran and Bradley

BILL NO. 14) was called and Mr. Bradley spoke and asked the Chairman if Bill No. Sill. NO. 143 was called and Mr. Bradley spoke and asked the Charman if Sill No. 14 provided for a regular Board of Physicians to take care of physician suminations for the Posice and Fire Bureaus. The Charman then called on Mr. Johanon Bowle, who was present at the meeting, and in relyly for Mr. Bowler stated that the primary purpose of Bill No 143 was to provide for medical examinations as the Board of Physicians with the provided for medical examinations as the Board of Physicians with the provided for medical examinations as the Board of Physicians was the stated that the primary state of the provided for medical examinations as the Board of Physicians was the provided for medical examinations. had hereofore conducted such examinations had been abolished by the adoption of the Charter. He also stated that the bill provided that the County Administrative Officer would arrange for payment of the examining physicians. After further discussion, Bill No. 143 was passed by the following roll call vote: -3Aye - Mrs. Boone and Messrs. Dignan, Gill, Darrell, Anderson, Schield and Bradley

BILL NO. 144 was called and passed by the following roll call vote:

Aye - Mrs. Boone and Messrs. Dignan, Gill, Darrell, Anderson, Schield and Bradley

BILL NO, 145 was called and passed by the following roll call vote:

Aye - Mrs. Boone and Messrs. Dignan, Gill, Darrell, Anderson, Schield and Bradley

BILL NO, 146 was called, whereupon Mr. Schield stated that the soning reclassifi-cation contemplated in Bill No. 146 concerned the extension of an existing commercial zoning for tavers as a consequence of the state of the sta Whereupon Bill No. 146 was passed by the following roll call vote

> Aye - Mrs. Boone and Messrs. Gill, Darrell, Anderson and Schield Nay - None Abstain - Mr. Dignan

BILL NO, 147 was called and Mr. Schield spoke in favor of this bill. Whereupon Bill No. 147 was passed by the following roll call vote: Aye - Mrs. Boone and Messrs. Gill, Darrell, Anderson. Schield, Dignan

and Bradley Nay - None

BILL NO. 148 was called and Mr. Schield spoke in favor of this bill. Whereupon Bill No. 148 was passed by the following roll call vote

Aye - Mrs. Boone and Messrs. Dignan, Gill. Darrell, Anderson, Schield and Bradley Nay - None

BILL NO. 149 was called, whereupon Mr. Bradley requested that the Department of Planning Dill. 100, 147 was assess, who evapon mer, around proceedings of the nature of the Planning comment on Bill No. 149 with a special attention to the nature of the community of the proceeding was again recognized by the Chair and stated that Bill No. 149 contemplated the exclassication of property on the North ride of Middle River Road and Compass He further stated that the immediate neighborhood was made up of commercial and residential zoning and that the Department of Planning and Zoning had made no recommendations at the time of the hearing before the Zoning Commissioner, other than to request that site plans be submitted. Bull No. 149 was thereupon passed by the following roll call vote:

> Aye - Mrs. Boone and Messrs. Gill, Darrell, Anderson, Schield and Bradley Nay - None Abstain - Mr. Dignan

The petitioner's own witness testified that there has been no change in the residential character of the existing neighborhood and the Board finds no error in the original zoning. Concequently, upon motion of the protestants and upon the petitioner's case alone, and without the necessity for hearing testimony from the protestants present we deny this reclassification.

ORDER

For the reasons set forth in the aforegoing Opinion it is this 15 A day of May, 1958, by the County Board of Appeals CREERED that the aforesaid petition for reclassification from an "B-LO" Zone to an "M-H" Zone, be and the same is hereby denied.

PLEASE enter an Appeal to the Board of Appeals for Reltimore County from the Order of John G. Rose, Deput Zoning Commissioner of

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BEF ORE

TESTE W ADAMS

ZONTING COMMISSIONS

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BALTIMORE COUNTY

Baltimore County, State of Maryland, passed in the above-captioned cause on December 4, 1957, and transmit all papers and records incident thereto to said Board of Appeals of Baltimore County.

ORDER FOR APPEAL

IN THE MATTER OF
PETITION OF THE A. A. DYER COMPANY
FOR RE-CLASSIFICATION FROM
"R-40" MESIDEME ZOME TO "M-H"
INDUSTRIAL ZOME OF PROPERTY
SITUACE 300 FERT SOUTH OF
MICORDINS ROAD OF PRIVATE
RIGHT-0-4NY 3700 FERT EAST
OF BERNYAUN SLAME, RESITERSTON,
IN THE FORTH MEANT
ALTHOME COUNTY, MARILAND,
1:

MP COMMISSIONED

SMALEIM, MESSIAM, MARTIN & TAYLOR

to consider in this case the morit or lack of morit of the zoning of

reclassification or (2) whether the original zoning at this particular

other quarry locations. We are concerned only with (1) whether there has been a substantial change in the neighborhood to justify the

unless his business can be modernised by the addition of this heavy Much testimony was proffered by the pesitioner for

..........

OPINION

Zons to an "M-H" Zons 17.7 acros of h. . 300 acrs tract located south

of Nicodemus Road and east of Berrymans Lane. The purpose of the

requested reclassification is to allow the 17.7 acres, which is

immediately adjacent to a quarry operated by the petitioner, to be

used in conjunction with black-topping operations. The petitions: claims that he is unable to remain competitive in the quarry business

The petitioner herein seeks to reclassify an *8-40*

The Board is of the opinion that it has no jurisdiction

BSFORE

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

No. 4296

the purpose of showing that the "M-H" soming was given to other quarry operators this ughout the County, and that because such soming was not afforded him, he was discriminated against. Such testimony was alleged on to be for the purpose of showing an error in the original soning.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

No. 4296

OPINION

On May 15, 1958, based on the testimony then before it, the Board denied reclassification of the above property on the basis there was no error in the original moning. Whether or not there had been a change in the neighborhood was not at issue. In deciding that there had been no error in the original zoning, the loard relied heavily on the testimony of Mr. Bruce A. Watts, an associate planner of Baltimore County, who stated that Heavy Manufacturing had never been contemplated for the subject property and the failure of the Office of Planning to provide for such was not an oversight. We quote from Page 52 of the transcript of Mr. Watts' testimony on March 27, 1958:

O. (By Mr. Tabler)

But in any event, the fact that on your present map, this is not indicated or want't recommended as a heavy industrial area, was in no way a mis-tak as far as the Flanning Commission was con-cerned, was it? med, was 1t?

A. The proposed map, as presented to the Flanning Board, by the staff of the Office of Flanning did not recovered that area to be zoned indus-trial.

Mr. Watts went on to say on Page 55, of the transscript, that he had discussed this particular reclassification with Mr. Dill just prior to the hearing and that (on Page 55) the property

-2should not be goned Manufacturing Heavy, We quote:

- Q. What is the position of the Office of Planning now?
- A. We feel, that the Regulations, as set up, are not able to hands this case as I is being speaked, and the second of the second
- Mr. Watts was then informed that it was impossible to limit the heavy industrial zoning to the quarry use alone and, in response to the questioning by the Board, testified as follows:
 - We feel any zoning at this particular location, heavy industrial, which is being acked for, should only be for the quarry use and not heavy industrial.

 - Q. Knowing we can't do it, what is your position!
- A. We would recommend it isn't zened then. I am speaking for myself, as my interpretation of our understanding at that dis-

Subsequent to the Board's refusal of the reclassication the Petitioner appealed to the Circuit Court for Baltimore County. On November 6, 1958, the Court remanded the case to the Board for further proceedings on the question of error in the original zoning, directing the Board to receive certain evidence which the Board had previously refused to admit relating to similar operations by other principals

The matter was responed by the Board on February 25, 1959 and additional testimony was taken on that date and on two days thereafter in March and April. On March 19, 1955, Mr. Malcolm H. Dill,

Director of the Office of Planning, under examination by a Board member, reversed the position of the Office of Planning as previously given by Mr. Watts and stated that the failure to allow Heavy Manufacturing at the subject location was an error caused by the unfamiliarity of his office with the subject location at the time of the original hearing. An extract of his testimony on March 19 is as follows:

98. AGENT No. Bill, lot me ask you a question. I as a little tendesed not con thing. Based on your ask that the tendesed not con thing. Based on your control of the tendesed not control of the tendesed not the sea at the time for, Matte tentified, and it was also sere detailed when the may was adopted, and it was also sere detailed when the was about the tendesed not be to the tendesed not the tendesed not be to the tendesed not the

A. I think that if we had known the relationship, known I think that if we had known the relationship, known the specific use of the quarry as it is now and I govern as it was then, for read materials as clather as the specific constant of the specific

MR. AGNEW: with that answer, you mean you would have granted some industrial zoning based on the detailed study, and is it not true that the zoning on the map adopted was in error?

A. I think that could be said.

Based on the additional testinony which the Board had taken subsequent to the Court's remand of the case, the Board has no hestitancy in reversing the original position and granting this reclassification,

subject, however, to certain safeguards to the adjacent property owners. At the Board's suggestion the petitioner has conferred with the Office of Planning and a plan (included in the record as Petitioner's Exhibit No. 22) has been devised whereby a rectangular piece of property 750' x 900' is recommended for reclassification. Of this parcel, after the mocessary 300° setbacks from adjacent residential property, only a small portion will be of Manufacturing Heavy utility.

The Board, therefore, grants the reclassification as indicated on Petitioner's Exhibit No. 22 in the record.

ORDER

For the reasons set forth in the aforegoing Opinion, it is this // 5 day of June, 1959, by the County Board of Appeals of Baltimore County, ORDERED that, that portion of the Dyor property outlined in "red" on Petitioner's Exhibit No. 22, which is attached herete and made a part thereof, is hereby reclassified from an "R-40" Zone to an "N-H" (manufacturing heavy) Zone.

Any appeal from this decision must be in accordance with Rule No. 1101 (b) of the Rules of Practice and Procedure of the Court of Appeals of Maryland.

COUNTY BOARD OF APPEALS OF BALTIMONE COUNTY

SMALKIN HESSIAN MARTIN & TAYLOR

-

December 11, 1957

Mr. Wilsie H. Adams Zoning Commissioner of Baltimore County County Office Building

Re: Petition for Re-classification The A. A. Dyer Company File #9662

Dear Mr. Adams:

We are enclosing an Order for Appeal to the Board of We are enclosing an Order for Appeal to the source of Appeals for Baltimore County from the Order of John G. Rose, Deputy Zoning Commissioner of Baltimore County, passed in the above-captioned cause on December 4, 1857, together with our check, made payable to the order of Baltimore County, Maryland in the amount of \$50 00, in payment of the required filling. cost for said Appeal.

Thanking you for your courteous cooperation herein and with kind personal regards, we are,

Yours very truly.

SHALKIN, HESSTAN, MARTIN & TAYLOR Her

H. Richard Smalkin

UPC-41 Enclosure

LAW OFFICES SMALKIN HESSIAN, MARTIN & TAYLOR

February 28, 1958

Zoning Department of Baltimore County County Office Building 111 West Chesapeake Avenue on 4. Maryland

Re: Petition for Reclassification from an "R-40" Zone to an "H-H" Zone - Prop. 300' S. Nicodemus Road on private R/W 3700' E. Berrymans Lane, The A. A. Dyer Company, Tetitioner

Pursuant to the suggestion made by John C. Some Deputy Counts Commissioner, during the original basing on the above patter lower than the original basing on the above patter which reclassification is being requested, being 17.0 acres of land, more or less, and also showing the set-back from all adjoining property lines as well as the location of the quarry.

Yours very truly,

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland #4296 Date of Posting _11-13-57

Parties for Leap 1/4-412 Jane At leve 127-4 Janes.
Partition John J. Style, UK.
Level as a program of John College with his is proported. A/W. Sirry 3.200 ft lived of Biscongon was found of the lived by the lived of the li Posted for: Gay of- 40 Bane to an on- H Bane

Posted by Hongy R. Hummen Date of return: 11/14/57

NOTICE OF CONING PETITION FOR RECLASSIFICATION - 4th DISTRICT

Persons to position filed with the Zoning Commissions of Bultimere County for those or reclassification from a Rabi to a R.H. Zone of the property between the Zoning Commissioner of Bultimer County, with relative to the Zoning County of Bultimer of Bultimer County, vill hold a public hearing in Econ 108, County Office Bultimer, 117: Chappende Zerom Forence, Buryland and December County of the Bultimer, 117: Chappende Zerom County of the Bultimer County of the School County of the Bultimer County of the School Coun

On Wednesday, November 27, 1957

at 1:00 P. N.

to determine whether or not the following mentioned and described property should be changed or reclassified as aforesaid for Manufacturing Meany to dite

All that pured of land in the Fourth Matr... of Baltimore County, beginning for the case at a point 300 feet South of Macdone Road on a private right-of-way (cald Might-of-way being 100 feet, sure or less, sure or less, cald Might-of-way being 100 feet, sure or less, sure or less, cald feet of the sure of less, sure or less, sure of less, sure or less, sure of les

3700'

EXCELVED of H. Richard Smalkin, attorney for petitioner, A. A. Dyer Co., the sum of Thirty-five Dollars (\$35.00), being cost of petition, advertising and posting property nitrate on the South side of Nicodenus Road, East of Berrymans Lane, Fourth District of Baltimore County.

Wednesday, November 27, 1957 at 1:00 P. H.

01.622-435.00

R: PATITION FOR RECLASSIFICATION FROM AN "R-Ago" ZONE TO A "M-H" ZONE - Property 500 feet 5. Nicodomus Road on Private RV

OF BALTDICKE COUNTY No. 4296

.......... OPINION

The petitioner herein seeks to reclassify an "B-40" Zons to an "N-H" Zone 17.7 acres of his 300 acre tract located south of Nicodesus Road and sast of Berrymans Lame. The purpose of the requested reclassification is to allow the 17.7 acres, which is immediately adjacent to a quarry operated by the potitioner, to be used in contunction with black-topping operations. The petitions claims that he is unable to remain competitive in the quarry business unless his business can be modernized by the addition of this heavy

Much testinory was proffered by the potitioner for the purpose of showing that the "M-H" soming was given to other quarry operators the ughout the County, and that because such soming was not afforded him, he was discriminated again,t. Such testinony was alleged to be for the purpose of showing an error in the original soning.

The Board is of the opinion that it has no jurisdiction to consider in this case the morit or lack of morit of the soning of other quarry locations. He are concerned only with (1) whether there has been a substantial change in the neighborhood to justify the reclassification or (2) whether the original soning at this particular location was in error.

Buy for the some @ a Don't 300 Sof Nicodemun of to on a pot of (soul B/w long 3700' I E of Benymons La) there the following course volution 856-21' E 200; 830.19'N 352' So. 09'W 646, 756.4'W 1010; \$ 460 46 € 1000; & 56° 21' & 750' to pland My ownete.

the 27th

The petitioner's own witness testified that there has been no change in the residential character of the existing neighborhood and the Board finds no error inthe original soning. Consequently, upon motion of the protestants a upon the potitioner's case alone, and without the necessity for hearing testimony from the protestants present we deny

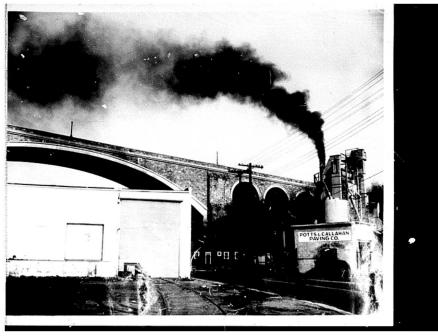
ORDER

__ day of May, 1958, by the County Board of Appeals ORDERED that the aforesaid petition for reclassification from an "B-10" Zone to an "H-H" Zone, he and the same is her by denied.

OF BALTIMORE COUNTY

Petition for Zoning Re-Classification 42.26	and it appearing that by reason of
10 The Zoning Commissioner of Baltimore County:	
I, or we, The A. A. Dyer Co	
All that purch of had in the Fourth District of Baltimer Sourty, beginning Sec. 10 for the sace at a point 300 feet South of Ricodomus Road on a privary, beginning Sec. 10 feet South of Ricodomus Road on a privary beginning Sec. 10 feet South of Sec. 10 feet South Sec. 10 feet So	the above reclassification should be lad.
	It Is Ordered by the Zoning Commissioner of Baltimore County thisday of
	hereby reclassified, from and after the date of this Order, from azone
hereby petition that the applications of the second	to azette.
hereby petition that the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Haltimore County, from an R-HJ once to an Allthough	
Beyons for Ra Classification	
Revons for Re-Classification:	
	Zoning Constissioner of Baltimore County
	Pursuant to the advertisement, posting of property and public hearing on the above petition
***************************************	compressions control of the testimony before the Deputy Zoning Commissions
***************************************	wouldn't justify reclassification of the subject property. There have been no
Size and height of building: front	
Size and height of building: front	wouldn't justify reclassification of the subject property. There have been no
Size and height of building: front	wouldn't justify reclassification of the subject property. There has been no changes since the adoption of the comprehensive gening plan as approved defeary
Size and height of building front. for ; depth. for ; height . for ; height	wouldn't juvily reclassification of the subject property. There has been no changes nine the adoption of the comprehensive scaling plan as approved Jassery 18, 1971, therefore,
Size and height of building: front	wouldn't justify reclassification of the subject property. There has been no changes since the adoption of the comprehensive scaling plan as approved lateury 18, 1957, therefore,
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Size and height of building from	wouldn't justify reclassification of the comprehensive scaling plan as approved-lassury 18, 1957, therefore,
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Silve and height of building: front	wouldn't justify reclassification of the subject property. There how been no changes nines the adoption of the comprehensive scaling plan as approved laterry 18, 1977, therefore, the above re-invalidation about NOT to had, the hadren re-invalidation about NOT to had, the property of the hadron of the hadron of the property of the hadron
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Silve and height of building: front	wouldn't justify reclassification of the subject property. There hole been no changes since the adoption of the comprehensive scaling plan as approved distancy 138, 1977, there fore, the above reclassification should NNT be ball. B. is Ordered by the Property transmissions of ladinous country. The Ball Brown of Property is provided by the property of the state of the same is hereby desired and that the above described property or area be said the same is hereby continged as and to remain all 28-260. (198160-1985)
Silve and height of building from the feet; depth	wouldn't justify reclassification of the subject property. There had been no changes nines the adoption of the comprehensive scaling plans as approved-fadaury 18, 1957, therefore, the above reclassification about NOT be had. Donaty In to Ordered by the Panday Commissioner of Indiamer County, this Hill day of Boosthy. 19.57, that the above principle was in hereby desired and that the above described property or area be and the same in hereby desired and that the above described property or area be and the same in hereby continged as and to remain and 19-107. [193061000] Donaty Zening Commissioner of Haltimore County MICROFILMED

this reclassification.



PHOTOGRAPH RY HAROLD S. SPICER NOV 27 1957

