

STATE ROADS COMMISSION OF MARYLAND IN THE CIRCUIT COURT
Acting for and on behalf of the
State of Maryland
vs
TOWSON, MARYLAND
April 16, 1962
STEBBINS ANDERSON, INC., a/c &c
JOSEPH STAUBACH &
MARIE M. STAUBACH, his wife &
BALTIMORE COUNTY, MARYLAND

BEFORE: THE HON. W. ALBERT MENCHINE
and a Jury
APPEARANCES:
CARL LEHMANN, ESQUIRE,
In Behalf of the Plaintiff
WALTER M. JENIFER, ESQUIRE, & CLINTON P.
FITTS, ESQUIRE,
In Behalf of the Defendants
Reported by:
Bernard Danker
Official Court Reporter
In The Circuit Court For Baltimore County
Towson 4, Maryland

B. H. WATERBURY
a witness called to testify in behalf of the Defendant,
was duly sworn and testified as follows:
CROSS EXAMINATION
BY MR. LEHMANN: (EXTRACT OF TESTIMONY)
Q Have you ever had any experience with divided
votes on the Board of Zoning Appeals?
A I have never had any experience with an
absolute standoff, no.
Q Well, this is a standoff?
A Such as was testified to.
Q And you still contend that there is a reason-
able probability of rezoning even though there is a standoff?
A I think there is.
THE COURT: Let me speak to counsel a moment.
(Whereupon counsel approached the bench and then subsequently
returned to their respective trial counsel tables)
THE COURT: Mr. Danker, will you read the
last question.
(The reporter read back the last question and answer)
A I had not quite finished the answer to the

question.
THE COURT: In the light of this fact, The
Court believes that this inquiry raises an issue that is
exclusively an issue of law for the Court, that is to say,
under the facts and circumstances conceded here to exist,
the Court believes that a question of law is involved, and
it is the function of the Court, of course, to resolve and
to declare what the law is. Accordingly, the members of the
Jury are instructed that in the light of the circumstances
that there was a grant of a reclassification by the
Zoning Commissioner from which an appeal was taken that
produced a divided decision by the Appeal Board, one of
its members favoring a reversal of the Zoning Commissioner
and the second of its members favoring an affirmation of the
Zoning Commissioner, the third member of the Board not
making a decision, The Court instructs the members of the jury
that under such circumstances, (the divided opinion of the
Zoning Board operates in law as an affirmation of the Zoning
Commissioner's action in granting the reclassification, and,
accordingly, for the purposes of this case, the property should
be regarded as actually zoned Manufacturing Light under

the zoning regulations, and that the property owner is
entitled to have the property considered by the members of the
Jury as Manufacturing Light.

JENIFER AND JENIFER
ATTORNEYS AT LAW
JENIFER BUILDING 3
TOWSON 4, MARYLAND
May 10, 1962
Mr. John G. Rose, Zoning Commissioner
County Office Building
Towson 4, Maryland
Re: Petition for Reclassification
From an "M-1" Zone
to a "M-1L" Zone - S. S.
Northern Central Railroad
and S. S. Padonia Road,
8th District - Stebbins-
Anderson Co., Inc.,
Petitioner - File No. 4740
Dear Mr. Rose:
You formerly entered your Order reclassifying the
above property from a "M-1" Zone to a "M-1L" Zone. Your
decision was appealed by one or more clients represented
by Mr. Lawrence E. Ensor. The Appeal was heard before the
Full Board. Mr. Ensor concurred in your Order, but Mr.
Steinbock dissented. Mr. Hubers took leave of absence without
expressing his opinion and resigned himself from office without
further action.
This split decision created a nebulous state of
affairs in the eyes of some. I have long felt that an evenly
divided Appeal Board necessarily results in an affirmation
of the action of the lower Court or appropriate County Board.
I now find that my views are shared by the Judges of the
Circuit Court for Baltimore County. Judge John G. Turnbull
recently expressed this thought in the case involving land
of the Manor Manufacturing Company. With particular
reference to the subject property, Judge Menchine clearly
expressed this doctrine in his instructions to a Jury in a
condemnation case to the effect that this property is
definitely "M-1L." I enclose the official Court Reporter's
transcript of this part of Judge Menchine's findings with
respect to the present "M-1L" Zone.

Mr. John G. Rose, Zoning Commissioner
May 10, 1962
In view of the legal ruling of Judge Menchine,
the divided opinion of the County Board of Appeals operated
as an affirmation of your Order dated October 29, 1959,
reclassifying the property as "M-1L" and it should be no
designated without the necessity of any further Orders or
action on your part.
Very truly yours,
Clinton P. Fitts

JENIFER AND JENIFER
ATTORNEYS AT LAW
JENIFER BUILDING 3
TOWSON 4, MARYLAND
October 5, 1961
Mr. Nathan H. Kaufman, Jr., Chairman
County Board of Appeals
County Office Building
111 West Chesapeake Avenue
Towson 4, Maryland
Dear Mr. Kaufman:
I have your letter of September 29th about the
appeal of Stebbins-Anderson Co., Inc. with respect to its
petition for reclassification from a "M-1" to a "M-1L" zone
of its property on the East side of Northern Central Railroad
and the "outh side of Padonia Road in the Eighth District of
Baltimore County, Maryland.
It would take several pages to explain the techni-
calities of the legal involvements created by the refusal of
Mr. Daniel W. Hubers to concur in either the opinion of Mr.
Agnew or Mr. Steinbock. It is sufficient to say that my client
finally obtained an Order for a rehearing on appeal.
At the time the original appeal was heard, the State
of the property. Since that time, the condemnation proceedings
has actually been filed and is now pending. Because of this
situation, my client has been unable to use the property but
it is very definitely interested in the "M-1L" classification
because the "M-1L" classification would result in a total
classification of the use of the land.
If the Board feels that this matter should be disposed
of at this time, I am perfectly willing to proceed with the
appeal. It is immaterial whether the appeal is heard first
or whether the condemnation case is disposed of first. I will
abide by your decision.
Very truly yours,
Clinton P. Fitts
cc. Mr. Lawrence E. Ensor
rec'd. 10/6/61
@ 8:50 AM.

October 13, 1961
Clinton P. Fitts, Esq.
Jenifer Building
Towson 4, Maryland
Re: Stebbins-Anderson Co., 8/5 Northern
Central 4, & 8/5 Padonia Rd.
8th Dist.
Dear Mr. Fitts:
Replying to your letter of October 5th, relative to the
appeal of Stebbins Anderson Company.
It has been the general practice of the Board where con-
demnation proceedings are being carried on, that a condemnation case be
disposed of prior to the hearing of appeal for reclassification;
therefore, I should like to ask that such time the condemnation is
disposed of, that you advise the Board if you desire the Board to
schedule a hearing for the above subject.
Yours very truly,
Nathan H. Kaufman, Jr.
Chairman
Mr. Lawrence Ensor, Esq.
and
J. G. Turnbull
JCL

PETITION FOR REHEARING

FOURTH: That on February 11, 1960, an Opinion was filed by the said Spiro T. Agnew, Esq. recommending the reclassification but the said Charles Steinbock, Jr., Esq. filed an Opinion on the same date recommending that said Petition should be denied; that the said Daniel W. Hubers failed to file an Opinion of any nature whatsoever; that your Petitioner attempted to force the said Daniel W. Hubers

SIXTH: That your Petitioner is now informed that the said Charles Steinbock, Jr., Esq. has been replaced and the said Daniel W. Hubers is about to be replaced as members of the County Board of Appeals of Baltimore County: that

Clinton P. Pitts
ATTORNEY FOR PETITIONER

ORDER OF BOARD

I hereby certify that I have this 7th day of April, 1960, mailed a copy of the within and above Petition and Order unto Lawrence E. Ensor, Esq., Campbell Building, Towson 4, Maryland, Attorney for the only known Protestants

Clinton P. Pitts
ATTORNEY FOR PETITIONER

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"The very purpose of creating this type of Zone in the Zoning Regulations that were adopted last March was to provide the flexibility necessary to meet the requirements of the new type of industry previously referred to as wanting a prepossessing environment in keeping with the attractive nature

Deputy Zoning Commissioner
of Baltimore County

Yours very truly

cc: Lawrence E. Engr. Esq.

OPINION

Both applicant and protestants recognize the doctrine of the McKinney case wherein the Court of Appeals has indicated that the Board, a creature of statute, has no power to render its proceedings or its findings null and void. The Board's action in this case was lawful terminated, except in the case of fraud, surprise, mistake or incompetence. The point at issue here is whether the Board's proceedings in the instant case have been in fact terminated, and it is our opinion that the failure to act of one member of the Board, after he had heard the case, leaves the proceedings not resolved to the fullest possible extent. The Board's previous action, therefore, has not completely terminated the case, and the Court of Appeals finding in the McKinney case would be inapplicable.

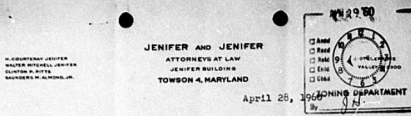
ORDER

For the reasons set forth in the foregoing Opinion it is this 12th day of May, 1960, by the County Board of Appeals ~~ORDERED~~ that the petition to reopen be and the same is hereby granted.

It is further ORDERED that this case may be scheduled for re-hearing de novo at any time after June 16, 1960.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Open 7 days
N. Mitchell Austin
Newman N Kaufman



County Board of Appeals of Baltimore County
County Office Building
Towson 14, Maryland
Attention: Mr. Spiro T. Agnew, Chairman

Re: Petition for reclassification from an "M-1" Zone to a "M-1" Zone - E. S. Northern Central Railroad and S. S. Padonia Road - 6th District - Stebbins-Anderson Co., Inc. Petitioner

Gentlemen:

As a result of a misunderstanding, the hearing which I thought was to take place on April 28, 1960, was not in fact conducted. Mr. Agnew, counsel for the petitioners, and I were both requested to express our theories in letters concerning the right of the Board to reopen zoning matters.

The facts are briefly as follows:

On December 3, 1959, the hearing on appeal by the petitioners was held by the full County Board of Appeals of Baltimore County, to wit: Messrs. Agnew, Steinbeck and Hubers, all of whom were present throughout the entire hearing.

Through no fault of the Petitioner or the undersigned, Mr. Hubers failed to perform his duty in that he never prepared his Opinion concerning the merits of the case nor has he ever concurred in the opinions filed by the two other members of the Board. He, in fact, has absented himself from the State of Maryland and thus evaded service of a Petition for a Writ of Mandamus, and finally resigned as a member of your Board.

For the reason that the two remaining members of the Board filed opposing Opinions, the effect of (to quote from the Opinion of Mr. Agnew) "non-definitive action".

The pertinent Maryland case on the right of a Board to reconsider its decisions seems to be Zoning Appeals Board v. McKinney, 174 Md. 551. On page 560, it is stated: "It may be conceded without discussion that the Board has the right to correct errors in its decisions caused by fraud, surprise, mistake or inadvertence which any agency exercising judicial functions must have, so adequately perform its duties". At the top of page 560, it is stated with respect to the petitioners: "The Board reversed the decision that it could do so finally dispose of the application and the only thing that could have been done which was not done was the transmission of a blue slip--- to the parties in interest". At the bottom of

County Board of Appeals of Baltimore County
April 28, 1960

the same page, it is stated: "When the Board of Appeals is considered a quasi-judicial tribunal, the general rule is that such a Board is not vested with power to reopen and rehear a proceeding which has once been terminated. At least in the absence of mistake in the prior proceedings". (All emphasis by underlining has been supplied by the writer).

Without further quoting verbatim from the McKinney opinion, it is pointed out that on page 560 it is clearly mentioned that the power to reopen a case should not be hedged about with technicalities. If, in the meantime, no rights have arisen which would be injured, great damage can be done by a hard and fast rule denying permission to rehear in order to correct matters which were not done but which were capable of practical correction without prejudice to the rights of the parties.

It is not suggested that Mr. Hubers was guilty of fraud in failing to file an Opinion, but if it were not fraud, it certainly was mistake or inadvertence. Since this mistake or inadvertence was caused by a member of the Board and not by your petitioner, it is respectfully suggested that the Board should correct the error so that the constitutional rights of the Petitioner are protected without further expense and delay.

It is also suggested that because of the "non-definitive action" of the Board that the matter has not been "finally disposed of" or "terminated".

The McKinney case denied the rehearing because the matter had been terminated and finally disposed of and because there was no fraud, surprise, mistake or inadvertence. By inference, it must be assumed that the Board can reopen and rehear this case because there is no final determination and there certainly exists mistake or inadvertence on the part of a Board member in failing to perform his duties.

Persons constitutional matters and rights of the Petitioner have been denied by the taking of a portion of this property for road purposes. Less than five acres (as required for an "M-1" zone) remain on either side of the land to be taken and consequently the petitioner cannot use its land for any purpose whatsoever which amounts to a taking without due process of law because of the decision the case one way or the other, the Petitioner can soon sell the remaining portion of the land for use under the "M-1" classification, or if the Board reverses the Deputy Zoning Commissioner, it can then insist that one hundred per cent. consequential damages be paid by the County because of the total loss of use of the remaining parcel.

position. A careful reading of this case indicates that this is not the situation at all, in fact, at page 562, holds:

"The Board is wholly a creature of statute, it has no powers, rights or duties save those conferred by statute and such as are implicit in its granted powers, and its nature and character precludes the hypothesis that the Legislature intended that it should have the power to engage in litigation involving the legality or propriety of its decisions."

"Apart from legislative authority, it would seem clear that the Board has no more right to appeal from its own decisions to the Baltimore City Court, or from the decisions of that court to the Court of Appeals, than a Justice of the peace, or such an agency as the State Industrial Accident Commission, would have to appeal from judgments of a court reversing their decisions."

We submit that the County Board of Appeals has no more power than the statute gives it. It follows that after the case was finally determined by the Board, it is subject to review by the Circuit Court for Baltimore County and from that Court upon appeal to the Court of Appeals of Maryland.

The Petitioner finds itself in the position of not being able to obtain a review by the Circuit Court, and hence wishes to have a new County Board of Appeals hear the case "de novo". There is nothing in the statute or anything in the law that your Petitioners are able to find which would permit this to be done.

We submit it would be dangerous procedure, and more particularly, when it is asked that the case be heard before an entirely new Board.

We also submit that the McKinney case, page 564, paragraph 2, only goes so far as to indicate "that the Board has the right to correct errors in its decisions caused by fraud, surprise, mistake or inadvertence, which any agency exercising judicial functions must have, so adequately perform its duties."

There is nothing in the Petition, and there was nothing in the case itself, which would indicate there was any fraud, surprise, mistake or inadvertence. The cold facts are that the Board just did not agree, and the Petitioner was unable to obtain the concurrence of two members of the Board, and so it now seeks a back-door method of getting a second trial by a rehearing before an entirely new Board with the exception of one member.

County Board of Appeals of Baltimore County
April 28, 1960

Because of the reasons outlined above, it is respectfully suggested that the Board does have the power to rehear this case and should do so with all speed possible in order to save the taxpayers of Baltimore County a very large sum of money because of the payment for land for which the County has no use.

Very truly yours,

Clinton F. Pitts
Clinton F. Pitts

OFF:JS

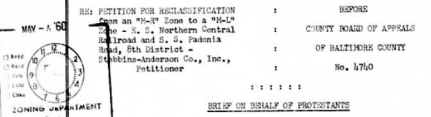
Spire T. Agnew, Esquire, Chairman
County Board of Appeals
County Office Building
111 West Chesapeake Avenue
Towson 14, Maryland

Re: Property of Stebbins-Anderson Co., Inc. on S. S. Northern Central Railroad and S. S. Padonia Road, 6th District - No. 14/0

Dear Mr. Agnew:

Supplementing the memorandum which I left with you in the above case, I would like to point out the following:

1. That the M-1 zone was evidently placed there to protect the residents of the neighborhood, and that an M-1 zone does permit such additional rights and privileges.
2. That the residential character of the neighborhood has increased in the past few years, to the extent that Padonia Road is entirely developed with residences.
3. It is a known fact that the County is serving notice on the public of their intention to put in a new Padonia Road, and since these plans call for splitting this property in two, it occurs to me that there is even more reason for it to retain its present status, which is in conformity with a residential neighborhood.
4. They are asking you to permit an M-1 zone in an area of ground which would be bound on the south by the new highway, and on the north by residences which face on the old Padonia Road. This business area is not tied up or related to other business areas, but is located in the heart of a small residential area.
5. And finally, it seems to me that your Board should take judicial note that you are being asked to rescind this property in the face of proceedings which are about to be instituted for its condemnation, and that any change should certainly await the determination of what is being taken and how it will affect the neighborhood. The rescinding may also have the effect of permitting the property owners to ask Baltimore County for additional money for their land, saying in effect it is not M-1, but in a sense has been some M-1, and is therefore worth more money.



His PETITION FOR RECLASSIFICATION from an "M-1" Zone to a "M-1" Zone - E. S. Northern Central Railroad and S. S. Padonia Road, 6th District - Stebbins-Anderson Co., Inc., Petitioner

THE PROTESTANTS RESPECTFULLY SUBMIT THAT THE RELIEF PRAYED FOR IN THE PETITION OF STEBBINS-ANDERSON CO., INC. SHOULD NOT BE GRANTED, AND THAT THE COUNTY BOARD OF APPEALS IS WITHOUT AUTHORITY TO REHEAR DE NOVO THE PETITION FOR RECLASSIFICATION, FOR THE FOLLOWING REASONS:

1. That the case was heard before the full Board then sitting in zoning appeals, consisting of Spiro T. Agnew, Charles Steinbeck, Jr. and Daniel W. Hubers. The testimony was taken, and after arguments of counsel, the case was submitted.

One member of the Board, Spiro T. Agnew, recommended the reclassification; Charles Steinbeck, Jr., another member, ruled in favor of the Protestants; and Daniel W. Hubers, the other member, failed or in effect refused to file an opinion.

It is therefore clear that the Petitioner failed to obtain a quorum of the Board, and since it is required that two members of a Board shall constitute a quorum, the Petitioner did not receive the necessary quorum in order to obtain the approval of the rezoning. See Paragraph 501.2, page 70, Baltimore County Zoning Regulations.

Attention is called to this section, which states "All decisions of the Board shall be concurred in by at least two members thereof."

An appeal is a matter of right. See Paragraph 500.10, page 69, Baltimore County Zoning Regulations.

It follows that in order to change the zoning in this case from an "M-1" Zone to a "M-1" Zone, that the Petitioner must secure the approval of at least two members of the Board, and since it failed to do so, the zoning should remain in its original status of an "M-1" zone.

2. Counsel for the Petitioner has indicated that the case of Zoning Appeals Board v. McKinney, 174 Md. 551, might be some authority for his

Under the circumstances, the relief prayed for in the Petition should not be granted, and the Petitioner should be required to wait like any other applicant for eighteen months and then re-apply.

Respectfully submitted,

Lawrence J. Grier
Lawrence J. Grier
Attorney for Protestants

LAWRENCE J. GRIER
ATTORNEY AT LAW
CAPITOL BUILDING
TOWSON 4, MD.
VALLEY ROAD

Spire T. Agnew, Esquire, Chairman
December 10, 1959
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6. The change in the zoning from residential to M-1 was done without the knowledge of the local residents, and by a real estate broker upon the condition that he would secure the rezoning as a condition of the sale. No notice was ever put on the property.
7. We also respectfully submit that an inspection of the present Padonia Road will clearly demonstrate that it is not practical to put a plant of this character in the place they are suggesting, and therefore, it is important that the land be left in an M-1 status so that the zoning authorities can protect the local residents against further encroachment.

Respectfully,
Lawrence J. Grier
Attorney for Protestants

LEJ:mip

DEF 150
JONING DEPARTMENT
#4790
MHP
#8
SEC. 1-D
ML

PETITION NO. 4790

RE: PETITION FOR RECLASSIFICATION
FROM AN "M.R." ZONE TO AN "M.L." ZONE - S. S. NORTHERN CENTRAL
RAILROAD AND S. S. PADONIA ROAD,
8th DISTRICT - STEBBINS-
ANDERSON COMPANY, INC.
THE COUNTY BOARD OF APPEALS
PETITIONER

MEMORANDUM

FACTS: This property was acquired by Stebbins-Anderson under option dated November 5, 1955, to be exercised upon proper zoning for use by that Company of that portion of its activities which was and is now conducted on the East Susquehanna Avenue property.

After the Land Use Map was adopted for the Eighth District and this particular property was classified "M.R.", and after having been advised that the functions conducted on the East Susquehanna Avenue property could be carried on under an "M.R." classification, settlement for the property was made and the deed was executed on October 25, 1957.

During that period of time, the Maryland-Pennsylvania Railroad served the Susquehanna Avenue yard of Stebbins-Anderson, but it was anticipated that there would be a change in circumstances created by the discontinuance of this Railroad.

The operations of Stebbins-Anderson Company, Inc. conducted on the East Susquehanna Avenue property are as follows: A lumber mill for the manufacture of various types of wood moldings and the assembling of window frames and doors; the inside storage of lumber and building supplies, and the outside storage of the same items. There also exists a garage for the service and maintenance of approximately twenty-five trucks, consisting of one short, single axle tractor-trailer, several straight trucks of various sizes and several

small panel trucks. It is admitted that there is also an underground storage tank for fuel oil and also several fuel oil delivery trucks at the Susquehanna Avenue yard, but the sworn testimony of Mr. Edelen indicated that this phase of the business would not be removed to the Padonia Road property and it was conceded at the hearing that a special permit would be required for this particular usage.

Mr. Dill testified that this property was definitely to be bisected by the easternmost spur of what is to be known as the Padonia Road Interchange of the Baltimore-Harrisburg Expressway. He further testified that the new road would be approximately 40 feet above the present elevation of the westerly extremity of the property in question and at least 6 feet to the eastern extremity. He further testified that the present Padonia Road would definitely dead end at the several properties to the West of the Railroad tracks but would probably terminate at the Railroad.

This site now contains 9.64 acres, more or less, but it was admitted by all engineers that the bisecting of the property by the new road would leave 3 acres or less to the North of the new road and approximately 2 acres to the South thereof, most of which would be a flood plain.

Mr. Dill further testified that the property to the West of the Railroad South of Padonia Road was zoned "M.L." and that to the North of said property on the same side of the Railroad there existed "M.R." which included the Campbell Quarry operations and a large electric transformer station. He also testified that the houses on the North side of Padonia Road East of the railroad tracks backed up against land zoned as "M.L.". This particular property in question backs up against the houses situate on the South side of Padonia Road, is triangular in shape, is involved

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in a flood plain and is zoned "M.R."

REASONS FOR REQUESTING RECLASSIFICATION FROM "M.R."

TO "M.L.": There is no question about the fact that Stebbins-Anderson could carry on its woodworking enterprises and its inside storage of builders' supplies in a warehouse in an "M.R." zone, but there is a serious question as to whether the property could be used for outside storage of builders' supplies and whether the Company could properly maintain service and store its fleet of trucks in an "M.R." zone. It is not good business judgment or good zoning practice to attempt these enterprises at the cost of more than \$100,000.00 to find out at a later date that a violation might exist, wherefore the original petition was filed in order to clarify the matter and obtain proper zoning.

Since the bisecting of the property by the new road has become a matter of fact (on paper with Federal, State and County approval and due public notice issued), we find that the remaining parcels of land do not meet the requirements of an "M.R." zone with particular reference to Section 250.2 which require that such a tract must comprise at least five acres. Mr. Dill, himself, testified that the one tract contained less than 3 acres and that the other triangular tract over on the other side of this road which extends 40 feet in the air had approximately 2 acres.

Assuming that Mr. Dill was correct in his statement that a "tract" need not be in one ownership and that, therefore, "M.R." usage could be conducted on the 3 acre parcel, it becomes ridiculous, if not impossible, to attempt to comply by reason of the relatively large area of land required in order to provide for the required setbacks.

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ARGUMENTS: In order to justify the granting of this petition, the Board must find:

1. An error in original zoning; or
2. A change in conditions or circumstances; and
3. That the change in zoning would not be detrimental to the health, safety or general welfare of the locality involved.

With respect to the error in the original zoning, the Board is respectfully reminded of Mr. Dill's remark that as a general policy "M.L." zones are placed next to a railroad. We find that "M.L." is immediately across the Northern Central Railroad from the subject property and that "M.L." also exists back of the houses on the North side of Padonia Road. It does not seem constitutionally proper to deprive the owner of the subject tract situate to the South of Padonia Road of the same benefits afforded the owner to the North thereof or to the owners of the West of the railroad. Why should three corners of an intersection be zoned "M.L." with an "M.R." zoning in the fourth quadrant when similar circumstances exist? It is respectfully suggested that this constitutes an error in the original zoning.

It is not difficult to clearly visualize the second requirement - a change in conditions or circumstances. The owner of this property has suffered a serious detriment resulting from the fact that its 9.64 acre parcel of land has been bisected and that more than 4 acres thereof have been taken for public use. That, itself, is a change, but when it is coupled with the fact that the contemplated road will be built on top of an earthen embankment 30 feet to 40 feet in the air, it can easily be seen that there is a serious change not only with respect to this lot but also with respect to the residential properties to the North of

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of the subject tract. The owners of these properties now look down upon a weed grown, swampy field. They will, by reason of the road, look onto an earthen embankment several times the height of their own houses and on top of this embankment will be high speed traffic consisting of the major portion of the trucks going to and from the Campbell Quarries.

It is also urged upon the Board a novel point of argument that does not appear in any case or decision read by the undersigned. At the time of the preparation of the Land Use Map affecting this area, two railroads served Central Baltimore County - the Maryland-Pennsylvania Railroad on which the present Stebbins-Anderson property is located, and the Northern Central Railroad, on which the subject property is located. It is felt that the authorities very properly provided various areas on both railroads for development under the "M.L." zoning and it is also felt that the needs for such zones were anticipated. When the Maryland - Pennsylvania Railroad ceased operations, the "M.L." zones along that line were completely useless for any businesses requiring railroad deliveries. This necessarily throws an additional burden upon available "M.L." sites along the Northern Central Railroad. This additional burden has caused a "freeze" of available sites and, therefore, results in a change of circumstances and conditions along the Northern Central Railroad.

To grant the requested change would not be detrimental to the health, safety or general welfare of the locality involved because the present "M.R." zone permits all of the functions which are allowed in an "M.L." zone which could in any manner be considered detrimental to the health, safety and general welfare of the locality involved. The protestants

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laid great stress on the traffic to be created by the Petitioner and also the fire hazard to be created by its lumber storage. It is perfectly obvious that a bottling plant or cold storage plant or laundry or warehouses involving sales and storage are permitted in an "M.R." zone and would necessarily involve a heavy flow of traffic. There was no possible argument presented to indicate that the change to an "M.L." zone would in any way increase this potential traffic. It is also suggested that the manufacture, compounding, assembling or treatment of merchandise from canvas, cellophane, cloth, cork, feathers, felt, fiber, hair, paper, tobacco, wax and wood is permitted in an "M.R." zone. The items above mentioned are equally as flammable as the storage of lumber and, in fact, some of the items mentioned are actually volatile.

CONCLUSION: With respect to the use of land adjacent to railroads and the obvious intentions of the authorities in creating an "M.R." zone, the Court of Appeals of Maryland had this to say in the case of Huff vs. Board of Zoning Appeals of Baltimore County 214 Md. 54:

"The very purpose of creating this type of zone in the Zoning Regulations that were adopted last March was to provide the flexibility necessary to meet the requirements of the new type of industry previously referred to as wanting a prepossessing environment in keeping with the attractive nature of the factory building and its setting. Many such industries do not need or desire access to railroad. It is, therefore, difficult to anticipate and designate on the Zoning Map in advance all or more than a few such sites in locations that meet the particular needs of certain industries, hence the provision that makes possible the petitioning for M-R Zone."

This wording clearly indicates that the "M.R." zone was designed for locations not already depreciated by the existence of a railroad and also indicates the possibility

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of error on the original zoning map by pointing out the difficulty to anticipate and designate on the Map more than a few such sites to meet the particular needs of certain industries. This, of course, is accentuated by the closing of the Maryland and Pennsylvania Railroad.

The Court of Appeals further said in the case of Congressional School of Aeronautics Inc. vs. State Roads Commission 218 Md. 236 that a zoning ordinance which permanently so restricts the use of property that it cannot be used for any reasonable purpose goes beyond permissible regulation and must be regarded as a taking of property without compensation. The Court further said that to deny to the owner the use of his land amounted to confiscation in violation of the constitutional provision. It is argued that the remaining parcels of land are too small in area to qualify as a five acre "M.R." zone tract and cannot logically be used for dwellings because dwellings are prohibited in an "M.R." zone and because no person would build anything except a horrible shack detrimental to the neighborhood. It is pointed out that the rear yards of the houses to the North bind upon this property, that the other side is bound by a railroad and that the South side abuts the high embankment above mentioned. The triangular lot to the South is in a flood plain and requires extensive engineering to make any of the land available. No water or sewerage could be provided for at the southerly site.

Since the property cannot be used for residential purposes and since it cannot qualify as an "M.R." zone, it obviously deprives the owner of the reasonable use and enjoyment of his property unless an "M.L." classification is granted. This same theory of constitutional right is

- 7 -

fully discussed in the recent case of Adler vs. Mayor and City Council reported in the Daily Record on December 8, 1959.

It is, therefore, urged that the County Board of Appeals sustain the Order passed by the Deputy Zoning Commissioner on October 29, 1959.

Respectfully submitted,

Clinton F. Pitts
CLINTON F. PITTS
ATTORNEY FOR PETITIONER

March 10, 1960

County Board of Appeals
of Baltimore County
11 West Chesapeake Avenue
Towson 4, Maryland

Gentlemen:

I enclose Petition for Extension of Time for Filing an Appeal in the Stebbins-Anderson - Padonia Road matter. It is required that you receive three days' notice of the intention to request the extension of time. Judge Menchins has set the time for the signing of the Order at nine-thirty A.M. on March 16, 1960. If you feel that the extension should not be granted, you, of course, will be heard.

I am obviously in a quandry. Possibly Mr. Hubers will agree to concur with one of the Opinions already filed in this case. It also seems possible that the Board, as it is now constituted, would consent to a rehearing, but this unfortunately presents the problem of expense to my client for the services of my expert witness. Your Board will be advised of whatever legal action my client decides to pursue.

Very truly yours,

Clinton P. Pitts

CCP:PS
CCL:PS

STEBBINS-ANDERSON COMPANY, Inc.,
A body corporate,
York Road
Towson 4, Maryland



VS.
SPIRO T. AGNEW,
CHARLES STEINBOCK, JR.,
DANIEL W. HUBERS,
Constituting the County
Board of Appeals of
Baltimore County

PETITION FOR EXTENSION OF TIME
FOR FILING OF AN APPEAL UNDER
MAINTAINED RULE OF PROCEDURE
1101 & 2.

TO THE HONORABLE THE JUDGE OF SAID COURT:

The Petition of Stebbins-Anderson Company, Inc., a body corporate, by Clinton P. Pitts, its Attorney, respectfully represents:

FIRST: That after hearing on Petition of Stebbins-Anderson Company, Inc., a parcel of land situate on the East side of the Northern Central Railroad and the South side of Padonia Road in the Eighth Election District of Baltimore County, State of Maryland, was reclassified from "H.R." Zone to an "H.L." Zone by Order of the Deputy Zoning Commissioner of Baltimore County passed on or about October 29, 1959.

SECOND: That Carvel T. Crum, August C. Kira, Moscov Dukes, Russell Cooper, James E. Ryan, A. J. Hannibal, Jr., Raymond Stutts, John P. Bell, William Farnes, Jr. and G. Silwood Hacer feeling aggrieved by said reclassification filed an Appeal to the County Board of Appeals from the above mentioned Order of the Deputy Zoning Commissioner.

THIRD: That on or about December 3, 1959, at one-thirty P.M., the hearing on the Appeal filed by the above named protestants was heard by the Full County Board of Appeals of Baltimore County, to wit: Spiro T. Agnew, Charles Steinbock, Jr. and Daniel W. Hubers, all of whom were present

throughout the entire hearing on appeal.

FOURTH: That on February 11, 1960, an Opinion was filed by Charles Steinbock, Jr., one of the members of the County Board of Appeals of Baltimore County, which stated with respect to the Petition for rehearing filed by the said Stebbins-Anderson Company, Inc. as follows:

"For the above reasons I believe this Petition should be denied."

that on the same day, February 11, 1960, Spiro T. Agnew, Chairman of the County Board of Appeals of Baltimore County filed his Opinion, in which he stated as follows:

"--- the reclassification should be granted."

that the written Opinion filed by the said Spiro T. Agnew further stated as follows:

"Finally, because this case was decided by only two members of the Board, and since two members are not in agreement, the effect of the Board's non-definitive action after a de novo hearing must be left for the Court to interpret."

that the said Daniel W. Hubers, the remaining member of the County Board of Appeals of Baltimore County, has not filed an Opinion nor has he concurred in the Opinions of either the said Charles Steinbock, Jr. or the said Spiro T. Agnew.

FIFTH: That your Petitioner is informed and verily believes that it is entitled to a final determination of its Petition for the reclassification of the above mentioned parcel of land from an "H.R." to an "H.L." Zone, and it is further advised that the answers to several pertinent questions have not yet been determined or established in law in Baltimore County, to wit:

4. Does the Order passed by the Deputy Zoning Commissioner on October 29, 1959, granting the reclassification of this property from an "H.R." to an "H.L." Zone remain in full force and effect when, after hearing de novo, the County

Board of Appeals of Baltimore County has been unable to or has refused to concur in an Opinion by at least two members thereof as prescribed in the Baltimore County zoning regulations? 4. Has any decision or opinion of the County Board of Appeals of Baltimore County been rendered from which your Petitioner has a right of appeal in view of the fact that no decision of said Board has been considered in by at least two members thereof?

SIXTH: That since your Petitioner is informed and verily believes that its legal rights must be determined by the Circuit Court for Baltimore County, and fearing that the statutory time for appeal might expire (if in fact an appeal is necessary and proper) before final adjudication of the rights of your Petitioner can be determined by the Circuit Court for Baltimore County, it is respectfully suggested that the time for filing an Order of Appeal should be extended as provided in Maryland Rule of Procedure 1101 d. 2.

WHEREFORE, your Petitioner prays:

1. That the rights of your Petitioner be preserved by the passage of an Order extending the time for filing its Order of Appeal (if in fact an appeal is necessary and proper) in re: "Reclassification from an "H.R." Zone to an "H.L." Zone - E. S. Northern Central Railroad and S. S. Padonia Road, 8th Dist., Stebbins-Anderson Co. Inc., Petitioner", File No. 4740.

2. That your Petitioner may have such other and further relief as the nature of its cause may require.

AID AS IN DUTY BOUND etc.

Clinton P. Pitts
ATTORNEY FOR PETITIONER
Jenifer and Jenifer
11 West Chesapeake Avenue
Towson 4, Maryland
V-300

- 4 -

TAKE NOTICE: County Board of Appeals of Baltimore County
County Office Building
11 West Chesapeake Avenue
Towson 4, Maryland
Lawrence S. Ennor, Esq.,
Attorney for Protestants
on Appeal before the County Board of Appeals of Baltimore County
Campbell Building
Towson 4, Maryland

Notice is hereby given that the above Petition or application to extend the time for filing an Order for Appeal has been this day filed with the Clerk of the Circuit Court for Baltimore County and that the Order entered thereat shall be presented to Court for its consideration on the 16th day of March, 1960, at 9:30 o'clock A.M. in the Court of the Honorable W. Albert Menchins - - - Judge.

Clinton P. Pitts
ATTORNEY FOR PETITIONER

I hereby certify, that on this 10th day of March, 1960, copy of the foregoing Petition and unassented Order of Court and the notice of presentation of said Order of Court for consideration by the Court as called upon the following:

County Board of Appeals of Baltimore County
County Office Building
11 West Chesapeake Avenue
Towson 4, Maryland
Lawrence S. Ennor, Esq.,
Attorney for Protestants on Appeal
before the County Board of Appeals
of Baltimore County
Campbell Building
Towson 4, Maryland.

Clinton P. Pitts
ATTORNEY FOR PETITIONER

ORDER OF COURT

Upon the foregoing Petition, it is ORDERED this day of March, 1960, by the Circuit Court for Baltimore County that the Petitioner, Stebbins-Anderson Company, Inc., be and it is hereby granted an extension of sixty days from the date of this Order for the filing of its Order for Appeal from the final determination of the County Board of Appeals of Baltimore County in re: the reclassification from an "H.R." Zone to an "H.L." Zone - E. S. Northern Central Railroad and S. S. Padonia Road, 8th Dist., Stebbins-Anderson Co. Inc., Petitioner, File No. 4740.

JUDGE

Mr. Clerk:

Please file.

Clinton P. Pitts
ATTORNEY FOR PETITIONER

RE PETITION FOR RECLASSIFICATION
From an "H.R." Zone to "H.L."
Zone - E. S. Northern Central
Railroad and S. S. Padonia Road,
8th District - Stebbins-Anderson
Co., Inc., Petitioner
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 4740

OPINION

The land for which this reclassification is requested consists of 9.44 acres, presently classified as Manufacturing Restricted, lying to the east of the Northern Central Railroad and south of Padonia Road. The Petitioner proposes to use same as a lumber mill and a yard for the storage and maintenance of its trucks. The class of material will be in by rail and out by truck. Each of what the Petitioner's operation entails is already permitted under the existing "M-R" category. "M-R" is required by significant portions of the contemplated operation.

Mr. Nicholas H. Dill, Director of the Office of Planning and Zoning, testified that construction was slated to begin in 1960 of the Padonia Road interchange of the Baltimore-Washington Expressway. This interchange will connect York Road with the Expressway, crossing over the railroad, and will bisect the subject property. The interchange will land run under consideration, leaving about 4 acres on the north side and about 2 acres to the south of the interchange. The new road will cross this property at elevation from 25 to 40 feet. Thereby effectively dividing and isolating the 3 acre tract from the 2 acre tract. Federal, State and County approval of the interchange location has already been obtained and the instant property owner has been notified that a taking is imminent.

Mr. Dill testified in this case, as he has in others, that the requirement of Section 250.2 that a tract must comprise at least 5 acres to be classified "M-R" does not in his opinion necessarily mean 5 acres under single ownership. He feels that as long as contiguous "M-R" properties exceed 5 acres in area, the requirements of Section 250.2 are met, even if no individual owner's holding amount to 5 acres.

I have never agreed with this interpretation because it imposes an insupportable burden upon a small property owner whose "M-R" by the "buried branch" of the Expressway, who very rightly do not consider individual problems when developing the overall plan for an area. That burden would be the burden of using his 2 or 3 acres in conjunction with the adjoining "M-R" land of his neighbors or not using it at all. Property

rights are secured under our Constitution. They are rights, not privileges to be curtailed or modified at the whim of administrators. To be valid a restriction upon property rights must bear a substantial relationship to the police power of the State, exercised for the general protection of its citizens.

Now, remembering that "M-R" zoning prohibits dwellings and further, prohibits more than 25% of the land area of one owner being covered by buildings, and further, requires 50 feet setbacks in all directions, what use can the owner of a half acre lot make of his property in an "M-R" zone. The answer is, none. His property has been just as effectively confiscated by the County as if they took it at gun point.

To extend this thinking to the instant case, what reasonable economic use can be made of the Petitioner's "M-R" property, after it is divided into 2 and 3 acre tracts, unusable together because of the elevation problem, by the interchange. Again, the answer is, none. The area restrictions inherent in "M-R" zoning is made for 5 acre and larger tracts. To apply them to a 3 acre tract leaves no room to conduct a business, thereby denying the owner the effective use of his land.

Moreover, to refuse the reclassification would, in my opinion, place upon the condemning authority the duty of compensating this property owner for all 9.44 acres, which will be rendered totally useless by the interchange if allowed to remain in the manufacturing restricted classification.

Petitioner's counsel duly points up the law in quoting the Court of Appeals in the recent case of Congressional School of Aeronautics, Inc. vs. State Roads Commission - 230 Md. 236, wherein the Court stated that it was not possible for any reasonable private use of property that it cannot be used for any reasonable purpose, goes beyond permissible regulation and must be regarded as a taking of the property without compensation.

To restore the utility of this property for the purpose for which it was acquired and for which it could have been used prior to the confiscation resulting from the interchange, the reclassification should be granted.

Finally, because this case was decided by only two members of this Board, and those two members are not in agreement, the effect of the Board's non-definitive action after a de novo hearing must be left for the Court to interpret.

Dated: 3/1/60

John F. Bock
Sprenger & Bock
County Board of Appeals
of Baltimore County

#4746

RE: PETITION FOR RECLASSIFICATION
FROM AN "M-2" ZONE TO AN "M-1"
ZONE - E. S. Northern Central
Railroad and S. S. Padonia
Road, 8th District -
Stebbins-Anderson Co., Inc.,
Petitioner

REPORT

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

No. 1760

OPINION

The petition herein applies for a reclassification of its property, consisting of approximately 1.1 acres lying to the east of the Northern Central Branch of the Pennsylvania Railroad and to the south of the dwelling along Padonia Road. The petitioner proposes to use this site for a lumber yard and developing plant if the requested reclassification is granted.

Because of a planned elevated thoroughfare running from the York Road to Harrisburg Expressway along the southern border of the subject property, all access would have to be from Padonia Road. The Stebbins-Anderson Company, the petitioner, operates approximately 25 trucks which would make deliveries to and from the proposed plant. In addition, approximately 500 carsloads per year of lumber and building materials would arrive by railroad on a siding which is located in the plans for the development of this tract.

Residents of homes along Padonia Road testified that the roadbed is from 14 to 16 feet wide and that there are no sidewalks or curbs. They also stated that the road was used by school buses. There was testimony to the effect that the existence of a lumber yard to the rear of the homes on Padonia Road would create a fire hazard.

Mr. Malcolm H. Bill, Director of Planning for Baltimore County, testified that he knew of no changes in the neighborhood and he also stated that the subject property could possibly be used in its present "M-2" classification.

To justify reclassification, it must be shown that the original zoning is in error or that there has been a substantial change in the neighborhood. The neighborhood has not changed other than the construction of several new homes along Padonia Road. The petitioner has failed to prove any error in the present zoning and seeks the reclassification solely to permit a specific use of the property. The Board feels that the specific use sought would definitely create a traffic hazard on a narrow county road and possibly also present a fire hazard. The Board is also aware of the fact that some of the uses permitted under the "M-2" classification might cause an equally dangerous traffic situation. However, we feel the present "M-2" classification should be retained in order to secure and maintain effective control over the location, type and arrangement of industrial uses. In this area.

For the above reasons I believe this petition should be denied.

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.

Date: February 18, 1960

Charles Stebbins, Jr.,
Member of County Board of
Appeals of Baltimore County

RE: PETITION FOR RECLASSIFICATION
FROM AN "M-2" ZONE TO AN "M-1"
ZONE - E. S. Northern Central
Railroad and S. S. Padonia Road,
8th District - Stebbins-Anderson
Company, Inc., Petitioner

REPORT

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

No. 1760

The above petition is for reclassification of property of Stebbins-Anderson Company, Inc., on the east side of the Northern Central Railroad and the south side of Padonia Road, in the Eighth District of Baltimore County.

All the property south of Beaver Dam Road and Cockeysville Road, east of the Harrisburg Expressway and west of the Northern Central Railroad, is mainly "Manufacturing Light" and "Manufacturing Heavy" to "Industrial" Road.

Between the east side of the Northern Central Railroad and the west side of York Road going north, there are residential properties on various dead end streets running off York Road. On Padonia Road a strip of "M-2" extends from York Road to the Northern Central Railroad.

Evidently it was decided to use the "Manufacturing Restricted" Zone as a buffer zone between the "M-2" Zone and the "M-1" Zone. This system takes a strip north of Padonia Road bordering on the Northern Central Railroad "M-2" and a similar strip south of Padonia Road bordering on the Northern Central Railroad "M-2". This happened because the residential belt south of Padonia Road was narrower than the residential belt north of Padonia Road, thereby not permitting both a strip of "M-2" and a strip of "M-1" in the southern portion.

In an effort to afford a residential section a minimum of protection an attempt was made to buffer the vast industrial area to the west of the Northern Central Railroad with "M-2". In doing this the normal pattern of "M-2" along both sides of the Northern Central Railroad was disrupted.

MUFF vs. BOARD OF ZONING APPEALS OF BALTIMORE COUNTY
231 Md. at page 51 the Court in referring to an "M-2"
Zone (Manufacturing Restricted) had this to say:

"The very purpose of creating this type of Zone in the Zoning Regulations that were adopted last March was to provide the flexibility necessary to meet the requirements of the new type of industry previously referred to as wanting a preprocessing environment in keeping with the attractive nature

of the factory building and its setting. Many such industries do not need or desire access to railroad. It is, therefore, difficult to anticipate and designate on the Zoning Map in advance all or more than a few such sites in locations that meet the particular needs of certain industries, hence the provision that makes possible the petitioning for M-2 Zone."

Designation of an "M-2" Zone on the subject property was contrary to the general welfare of Baltimore County as a whole and a proper industrial pattern was partially impaired. In the present instance anticipating and designating an "M-2" Zone on the Zoning Map for the Eighth District on December 20, 1955 by the County Commissioners of Baltimore County was in error and the proper zone should have been "M-1".

For the above reasons the reclassification should be granted.

It is this 29th day of October, 1959, by the Deputy Zoning Commissioner of Baltimore County, ORDERED 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 "M-2" (Manufacturing Restricted) Zone to an "M-1" (Manufacturing Light) Zone.

Deputy Zoning Commissioner
of Baltimore County

RE: PETITION FOR RECLASSIFICATION
FROM "M-2" ZONE TO A "M-1"
ZONE - E. S. Northern Central
Railroad and S. S. Padonia
Road, 8th District -
Stebbins-Anderson Co., Inc.,
Petitioner

REPORT

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

No. 1760

OPINION

A petition has been filed by the applicant with this Board requesting a re-hearing of the case and assigning as its reason the fact that the Board's previous Order is non-definitive. The petitioner contends that the split decision by two members of the Board, when coupled with the third member's failure to reach a finding, leaves the Board's action incomplete.

Both applicant and protestants recognize the doctrine of the McKinney case wherein the Court of Appeals has indicated that the Board, a creature of statute, has no power to reopen its proceedings once lawfully terminated, except in the case of fraud, surprise, mistake or inadvertence. The point at issue here is whether the Board's proceedings in the instant case have been in fact terminated, and it is our opinion that the failure to act of one member of the Board, after he had heard the case, leaves the proceedings not resolved to the fullest possible extent. The Board's previous action, therefore, has not completely terminated the case, and the Court of Appeals finding in the McKinney case would be inapplicable.

ORDER

For the reasons set forth in the foregoing Opinion it is this 12th day of May, 1960, by the County Board of Appeals ORDERED that the petition to reopen be and the same is hereby granted.

It is further ORDERED that this case may be scheduled for re-hearing de novo at any time after June 16, 1960.

COURT BOARD OF APPEALS
OF BALTIMORE COUNTY

James J. Gyles
Michael Austin
M. H. H. H. H.

November 6, 1959

Mr. John G. Rose
Deputy Zoning Commissioner
County Office Building
Towson 4, Maryland

Re: Petition for Reclassification
From an "M-2" Zone to an "M-1"
Zone - E. S. Northern Central
Railroad and S. S. Padonia Road
8th District - Stebbins-Anderson
Company, Inc., Petitioner
No. 1760

Dear Mr. Rose:

You will please enter an Appeal from your Order passed in the above entitled case, dated October 29, 1959, on behalf of Garvel L. Crum, August C. Kirm, Woodrow Dykes, Russell Cooper, James E. Hogen, A. W. Manthall, Jr., Raymond Stutts, John P. Bell, William Parks, Jr. and G. E. Woodner, to the County Board of Appeals.

Attorney for Protestants
Campbell Building
Towson 4, Maryland
Valley 3-0250



October 29, 1959

Clinton P. Pitts, Esq.,
Jennifer Building
Towson 4, Maryland

Re: Petition for Reclassification from
an "M-2" Zone to an "M-1" Zone -
E. S. Northern Central Railroad and
S. S. Padonia Road, 8th District -
Stebbins-Anderson Co., Inc.,
Petitioner

Dear Mr. Pitts:

I have today passed my Order granting the reclassification, in the above matter, from an "M-2" Zone to an "M-1" Zone.

A copy of said Order is attached hereto.

Very truly yours

Deputy Zoning Commissioner

October 29, 1959

Lawrence E. Ennor, Esq.,
Campbell Building
Towson 4, Maryland

Re: Petition for Reclassification
From an "M-1" Zone to an "M-1a" Zone -
E. S. Northern Central Railroad and
S. S. Padonia Road, 8th District -
Stebbins-Anderson Co., Inc.,
Petitioner

Dear Mr. Ennor:

I have today passed an Order granting the
reclassification, in the above matter, from an "M-1" Zone to
an "M-1a" Zone, for reasons stated in the attached copy of said
Order.

Very truly yours

Deputy Zoning Commissioner

RE: PETITION FOR RECLASSIFICATION : BEFORE
From an "M-1" Zone to an "M-1a" : COUNTY BOARD OF APPEALS
Zone - E. S. Northern Central :
Railroad and S. S. Padonia :
Road, 8th District - : OF BALTIMORE COUNTY
Stebbins-Anderson Co., Inc. :
Petitioner : NO. 4740

PETITION FOR REHEARING

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The Petition of Stebbins-Anderson Company, Inc., a
body corporate, by Clinton F. Pitts, its Attorney, respectfully
represents:

FIRST: That after hearing on the above mentioned
Petition for Reclassification, the Deputy Zoning Commissioner
of Baltimore County passed an Order on or about October 29,
1959, granting the reclassification from an "M-1" Zone to a
"M-1a" Zone.

SECOND: That an Appeal from the Order of the Deputy
Zoning Commissioner of Baltimore County was entered by Carvel
L. Crum et al., Protestants, to the County Board of Appeals
of Baltimore County.

THIRD: That on or about December 3, 1959, at one-
thirty P.M., the hearing on the Appeal filed by the above
mentioned Protestants was heard by the full County Board of
Appeals of Baltimore County, to wit: Spiro T. Agnew, Charles
Steinbock, Jr. and Daniel W. Hubers, all of whom were present
throughout the entire hearing on appeal.

FOURTH: That on February 11, 1960, an Opinion was
filed by the said Spiro T. Agnew, Esq. recommending the
reclassification but the said Charles Steinbock, Jr., Esq.
filed an Opinion on the same date recommending that said
Petition should be denied; that the said Daniel W. Hubers
failed to file an Opinion of any nature whatsoever; that
your Petitioner attempted to force the said Daniel W. Hubers

- 2 -

to fulfill his ministerial duties by filing a Petition for
a Writ of Mandamus in the Circuit Court for Baltimore
County, but the efforts of your Petitioner to obtain final
determination of its Petition have been thwarted by the
resignation of the said Daniel W. Hubers from the County
Board of Appeals of Baltimore County.

FIFTH: That in an effort to obtain the final deter-
mination of the Petition for Reclassification, your Petitioner
has attempted to protect its rights by obtaining an Order of
the Circuit Court for Baltimore County granting it an extension
of sixty days from March 21, 1960, for the filing of an Order
of Appeal in this cause of action (if, in fact, an Appeal is
necessary and proper); that your Petitioner has considered
seeking a Declaratory Decree or Declaratory Judgment from the
Circuit Court to answer the question presented in the
Opinion filed by the said Spiro T. Agnew, Esq. to wit:

"...the effect of the Board's non-
definitive action after a de novo
hearing must be left for the Court
to interpret."

that your Petitioner is informed, verily believes and, therefore,
avows that the Court could not properly consider a Motion or
Petition for a Declaratory Decree or a Declaratory Judgment
where there exists an adequate remedy at law; that your
Petitioner has not exhausted all adequate remedies at law
because it has not yet requested a rehearing in the above
entitled cause of action for the reason that it felt that
such a request would have been denied as long as the personnel
of the County Board of Appeals of Baltimore County remained
the same.

SIXTH: That your Petitioner is now informed that
the said Charles Steinbock, Jr., Esq. has been replaced and
the said Daniel W. Hubers is about to be replaced as members
of the County Board of Appeals of Baltimore County; that

your Petitioner believes that it is entitled to a final deter-
mination of its rights by the County Board of Appeals of
Baltimore County and through no fault of its own, it has been
denied said rights.

WHEREFORE, your Petitioner prays that the County
Board of Appeals of Baltimore County rehear de novo the
"Petition for Reclassification from an "M-1" Zone to a
"M-1a" Zone - E. S. Northern Central Railroad and S. S. Padonia
Road, 8th District - Stebbins-Anderson Co., Inc., Petitioner,
No. 4740".

Clinton F. Pitts
ATTORNEY FOR PETITIONER

ORDER OF BOARD

Upon the foregoing Petition, it is ORDERED this
day of April, 1960, that the hearing will be conducted by
the County Board of Appeals of Baltimore County in the Hearing
Room of the County Office Building, Chesapeake Avenue,
Towson 4, Maryland, at 9:30 A.M., on the 11th day of April,
1960, to determine whether or not said Board shall rehear
de novo the Petition for Reclassification filed herein by
Stebbins-Anderson Company, Inc.

Agnew T. Agnew
Spiro T. Agnew
Charles Steinbock, Jr.
Daniel W. Hubers

I hereby certify that I have this 7th day of April,
1960, mailed a copy of the within and above Petition
and Order unto Lawrence E. Ennor, Esq., Campbell Building,
Towson 4, Maryland, Attorney for the only known Protestants.

Clinton F. Pitts
ATTORNEY FOR PETITIONER

RE: PETITION FOR RECLASSIFICATION :
FROM AN "M-1" ZONE TO AN "M-1a" :
ZONE - E. S. Northern Central :
Railroad and S. S. Padonia Road, :
8th District - Stebbins-Anderson :
Company, Inc., Petitioner :
OF BALTIMORE COUNTY :
No. 4740

The above petition is for reclassification of property
of Stebbins-Anderson Company, Inc., in the east side of the Northern
Central Railroad and the south side of Padonia Road, in the Eighth Dis-
trict of Baltimore County.

All the property south of Beaver Dam Road and Cockeysville
Road, east of the Herring Avenue and west of the Northern Central
Railroad, is mainly "Manufacturing Light" and "Manufacturing Heavy" to
Timonium Road.

Between the east side of the Northern Central Railroad
and the west side of York Road going north, there are residential prop-
erties on various dead streets running off York Road. On Padonia
Road a strip of "M-1a" extends from York Road to the Northern Central
Railroad.

Evidently it was decided to use the "Manufacturing
Restricted" Zone as a buffer zone between the "M-1" Zone and the "M-1a"
Zone. This system makes a strip north of Padonia Road bordering on the
Northern Central Railroad "M-1" and a similar strip south of Padonia
Road bordering on the Northern Central Railroad "M-1a". This happened
because the residential belt north of Padonia Road was narrower than
the residential belt south of Padonia Road, thereby not permitting
both a strip of "M-1" and a strip of "M-1a" in the southern portion.

In an effort to afford a residential section a minimum
of protection an attempt was made to buffer the west industrial area to
the west of the Northern Central Railroad with "M-1". In doing this
the normal pattern of "M-1a" along both sides of the Northern Central
Railroad was disrupted.

UPON vs. BOARD OF ZONING APPEALS OF BALTIMORE COUNTY
21st Mt. at page 54 the Court in referring to an "M-1a"
Zone (Manufacturing Restricted) had this to say:

"The very purpose of creating this type of Zone
in the zoning legislation that was adopted last
March was to provide the flexibility necessary to
meet the requirements of the new type of industry
previously referred to as wanting a prepossessing
environment as keeping with the attractive nature

of the factory building and its setting. Many such
industries do not need or desire access to railroad.
It is, therefore, difficult to anticipate and design-
able on the zoning map in advance all or more than
a few such sites in locations that meet the particular
needs of certain industries; hence the provision that
where possible the petitioners for "M-1" Zone."

Designation of an "M-1a" Zone on the subject property was
contrary to the general welfare of Baltimore County as a whole and a
proper industrial pattern was partially impaired. In the present instance
anticipating and designating an "M-1a" Zone on the zoning map for the
Eighth District on December 20, 1955 by the County Commissioners of
Baltimore County was in error and the proper one should have been "M-1".

For the above reasons the reclassification should be
granted.

It is this day of October, 1959, by the
Deputy Zoning Commissioner of Baltimore County, ORDERED 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 "M-1" (Manufacturing
Restricted) Zone to an "M-1a" (Manufacturing Light) Zone.

Deputy Zoning Commissioner
of Baltimore County

LAWRENCE E. ENNOR
ATTORNEY AT LAW
CAMPBELL BUILDING
TOWSON 4, MD.

Spiro T. Agnew, Esquire, Chairman
December 10, 1959
Page -2-

6. The change in the zoning from residential to M-1, was done
without the knowledge of the local residents, and by a real estate
broker upon the condition that he would secure the rezoning as a
condition of the sale. No notice was ever put on the property.

7. We also respectfully submit that an inspection of the present
Padonia Road will clearly demonstrate that it is not practical to put
a plant of this character in the place they are suggesting, and there-
fore, it is important that the land be left in or M-1a status so that
the zoning authorities can protect the local residents against further
encroachment.

Respectfully,

Attorney for Protestants

LEERY

November 12, 1959

Lawrence E. Ennor, Esq.,
Campbell Building
Towson 4, Maryland

Re: Property of Stebbins-Anderson Co.,
Inc. on E. S. Northern Central
Railroad and S. S. Padonia Road,
Eighth District

Dear Mr. Ennor:

The hearing on the appeal filed by you on behalf
of the protestants from the decision of the Deputy Zoning Commissioner
granting the reclassification, in the above matter, has been scheduled
for Thursday, December 3, 1959 at 1:00 P.M.

Due to the necessity for posting property, cancellation
less than 15 days prior to hearing date will not be granted except in
cases of extreme emergency.

Very truly yours

Secretary

OFFICE OF PLANNING

Inter-Office Correspondence

From: Malcolm H. Hill
To: Board of Appeals
Subject: Case of Stebbins Anderson Co., Inc. (Exhibit A)
Relative Stebbins Anderson Case

I am transmitting herewith an exact copy of the subject map which can be made a part of your files.

BH/4c

May 12, 1960

Lawrence E. Ennor, Esq.,
Campbell Building
Towson 4, Maryland

Re: Reclassification of property
of Stebbins-Anderson Co., E. S.
Northern Central Railroad and
S. S. Padonia Road, 8th Dist.

Dear Mr. Ennor:

Attached is copy of Opinion and Order passed by
the Board of Appeals today in the above matter.

Very truly yours

Secretary

May 12, 1960

Messrs. Jennifer & Jennifer,
Jennifer Building
Towson 4, Maryland

Att. Clinton P. Pitts, Esq.,

Re: Reclassification of property
of Stebbins-Anderson Co.,
E. S. Northern Central Railroad and S. S.
Padonia Road, 8th District

Dear Mr. Pitts:

Attached is copy of Opinion and Order of
Board passed today in the above matter.

Very truly yours

Secretary

February 11, 1960

Lawrence E. Ennor, Esq.,
Campbell Building
Towson 4, Maryland

Re: Reclassification of property
of Stebbins-Anderson, Inc.,
on E. S. Northern Central
Railroad and S. S. Padonia
Road, 8th Dist.

Dear Mr. Ennor:

Attached are two opinions of the Board
of Appeals rendered today in the above matter.

Very truly yours

Secretary

February 11, 1960

Messrs. Jennifer & Jennifer,
Jennifer Building
Towson 4, Maryland

Att. Clinton P. Pitts, Esq.,

Re: Reclassification from an "M-1"
Zone to a "M-2" Zone - E. S.
Northern Central Railroad and
S. S. Padonia Road, 8th Dist.,
Stebbins-Anderson Co., Inc.,
Petitioner

Dear Mr. Pitts:

Attached are two opinions filed by the Board of
Appeals in the above matter.

Very truly yours

Secretary

RE PETITION FOR RECLASSIFICATION
from an "M-1" Zone to "M-2"
Zone - E. S. Northern Central
Railroad and S. S. Padonia Road,
8th District - Stebbins-Anderson
Co., Inc., Petitioner

REPORT

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

No. 4760

OPINION

The land for which this reclassification is requested consists
of 9.60 acres, presently classified as manufacturing restricted, lying
to the east of the Northern Central Railroad and south of Padonia Road.
The petitioner proposes to use same as a lumber mill and a yard for
the storage and maintenance of the trucks. The flow of material will
be in by rail and out by truck. Much of what the petitioner's operation
entails is already provided under the existing "M-1" category. However,
"M-1" is requested by significant portions of the contemplated operation

Mr. Malcolm H. Hill, Director of the Office of Planning and
Zoning, testified that construction was slated to begin in 1960 of the
Padonia Road interchange of the Baltimore-Towson Expressway. This
interchange will connect Towson Road with the Expressway, crossing over
the railroad, and will bisect the subject property. The interchange will
require the taking by the State Roads Commission of about 4 acres of the
land now under consideration, leaving about 5 acres on the north side
and about 5 acres to the south of the interchange. The new road will
cross this property at elevations from 25 to 30 feet. Thereby effectively
dividing and isolating the 5 acre tract from the 5 acre tract. Federal,
State and County approval of the interchange location has already been
obtained and the instant property owner has been notified that a taking
is imminent.

Mr. Hill testified in this case, as he has in others, that
the requirement of Section 250.3 that a tract must comprise at least
5 acres to be classified "M-1", does not in his opinion necessarily mean
5 acres under single ownership. He feels that so long as contiguous "M-1"
properties exceed 5 acres in area, the requirements of Section 250.3 are
met, even if an individual owner's holding amounts to 5 acres.

I have never agreed with this interpretation because it
imposes an intolerable burden upon a small property owner named "M-1"
by the "beyond doubt" of the majority, who very rightly do not consider
individual problems when determining the overall plan for an area. That
burden would be the burden of using his 5 or 3 acres in conjunction with
the adjoining "M-1" land of his neighbors or not using it at all. Property

It is further ORDERED that this case may be scheduled
for re-hearing de novo at any time after June 16, 1960.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

APPEAL HEARING 8th Dist.

Date of hearing: December 3, 1959 at 1:30 p.m.
E. S. Northern Central Railroad and S. S. Padonia Road
Property of Stebbins-Anderson Co., Inc.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 8th Date of Posting: 9-3-58
Posted for: 10-3-58 to 10-11-58
Petitioner: Stebbins-Anderson Co., Inc.
Location of property: 10-3-58 to 10-11-58
Location of Sign: 10-3-58 to 10-11-58
Remarks: 10-3-58 to 10-11-58
Posted by: 10-3-58 to 10-11-58

JENIFER AND JENIFER

ATTORNEYS AT LAW

JANICE BUILDING

TOWSON 4, MARYLAND

May 10, 1962

Mr. John G. Rose, Zoning Commissioner
County Office Building
Towson 4, Maryland

Re: Petition for Reclassification from an "M-1" Zone to a "M-2" Zone - R. S. Northern Central Railroad and S. S. Padonia Road, 5th District - Shelmira-Anderson Co., Inc.
Petitioner - File No. 4740

Dear Mr. Rose:

You formerly entered your Order reclassifying the above property from a "M-1" Zone to a "M-2" Zone. Your decision was appealed by one or more clients represented by Mr. Lawrence E. Zmora. The Appeal was heard before the full Board. Mr. Agnew concurred in your Order, but Mr. Steinhock dissented. Mr. Ruben took leave of absence without expressing his Opinion and resigned himself from office without further action.

This split decision created a nebulous state of affairs in the eyes of some. I have long felt that an evenly divided Appellate Court necessarily results in an affirmation of the action of the lower Court or appropriate County Board. I now find that my views are shared by the Judges of the Circuit Court for Baltimore County. Judge John G. Harbottle recently expressed this thought in the case involving land of the Manor Manufacturing Company. With particular reference to the subject property, Judge Menchinski clearly expressed this doctrine in his instructions to a Jury in a condemnation case to the effect that this property is definitely "M-1". I enclose the official Court Reporter's transcript of this part of Judge Menchinski's findings with respect to the present "M-1" Zone.

Mr. John G. Rose, Zoning Commissioner
May 10, 1962

In view of the legal ruling of Judge Menchinski, the divided opinion of the County Board of Appeals operated as an affirmation of your Order dated October 29, 1959, as reclassifying the property as "M-1" and it should be so designated without the necessity of any further Orders or action on your part.

Very truly yours,

Clinton P. Pitts
Clinton P. Pitts

CPV:JS
Encl.

Re: PETITION FOR RECLASSIFICATION FROM "M-1" ZONE TO A "M-2" ZONE - R. S. Northern Central Railroad and S. S. Padonia Road, 5th District - Shelmira-Anderson Co., Inc.
Petitioner
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
Re. 4740

OPINION

A petition has been filed by the applicant with this Board requesting a re-hearing of the case and assigning as its reason the fact that the Board's previous Order is non-definitive. The petitioner contends that the split decision by two members of the Board, when coupled with the third member's failure to reach a finding, leaves the Board's action incomplete.

Both applicant and protestants recognize the doctrine of the Helmsley case wherein the Court of Appeals has indicated that the Board, a creature of statute, has no power to reopen its proceedings once lawfully terminated, except in the case of fraud, surprise, mistake or inadvertence. The point at issue here is whether the Board's proceedings in the instant case have been in fact terminated, and it is our opinion that the failure to ask of one member of the Board, after he had heard the case, leaves the proceedings not resolved to the fullest possible extent. The Board's previous action, therefore, has not completely terminated the case, and the Court of Appeals finding in the Helmsley case would be inapplicable.

ORDER

For the reasons set forth in the foregoing Opinion it is this _____ day of May, 1960, by the County Board of Appeals ORDERED that the petition to reopen be and the same is hereby granted.

rights are secured under our Constitution. They are rights, not privileges to be curtailed or modified at the whim of administrators. To be valid a restriction upon property rights must bear a substantial relationship to the police power of the State, exercised for the general protection of its citizens.

Now, remembering that "M-2" zoning prohibits dwellings and further, prohibits more than 25% of the land area of any owner being covered by buildings, and further, requires 50 feet set-backs in all directions, what use can the owner of a half acre lot make of his property in an "M-2" zone. The answer is, none. His property has been just as effectively confiscated by the County as if they took it at gun point.

To extend this thinking to the instant case, what reasonable economic use can be made of the petitioner's "M-2" property, after it is divided into a 2 and 3 acre tract, unusable together because of the elevation problem, by the inter-ridge. Again, the answer is, none. The area restrictions inherent in "M-2" zoning is made for 5 acre and larger tracts. To apply them to a 3 acre tract leaves no room to conduct a business, thereby denying the owner the effective use of his land.

However, to refuse the reclassification would, in my opinion, place upon the condemning authorities the duty of compensating this property owner for all 7.64 acres, which will be rendered totally unusable by the inter-ridge if allowed to remain in the manufacturing restricted classification.

Petitioner's counsel ably points up the law in quoting the Court of Appeals in the recent case of *Comptrol School of Aeronautics, Inc. vs. State Board of Zoning - 178 Ct. 735*, wherein the Court stated that a zoning ordinance which purports to restrict the use of property that it cannot be used for any reasonable purpose, goes beyond permissible regulation and must be regarded as a taking of the property without compensation.

To restore the ability of this property for the purposes for which it was acquired and for which it could have been used prior to the condemnation resulting from the inter-ridge, the reclassification should be granted.

Finally, because this case was decided by only two members of this Board, and these two members are not in agreement, the effect of the Board's non-definitive action after a de novo hearing must be left for the Court to interpret.

Date:

Spire S. Agnew, Chairman
County Board of Appeals
of Baltimore County

STATE BOARD OF COMMISSIONERS OF MARYLAND
Acting for and on behalf of the
State of Maryland
vs.
TOWSON, MARYLAND
JENNIFER AND JENNIFER, INC., et al. / e / o
JENNIFER STAUDACH
MARTHA W. STAUDACH, his wife
BALTIMORE COUNTY, MARYLAND

BEFORE: THE HON. W. ALBERT MENCHINSKI
and a Jury

APPEARANCES:

CARL LEHMANN, ESQUIRE,
In Behalf of the Plaintiff
WALTER W. JENIFER, ESQUIRE, & CLINTON P.
PITTS, ESQUIRE,
In Behalf of the Defendants

Reported by:

Bernard Dekker
Official Court Reporter
In The Circuit Court For Baltimore County
Towson 4, Maryland

R. H. WATERSBURY
a witness called to testify in behalf of the Defendant,
was duly sworn and testified as follows:
CROSS EXAMINATION
BY MR. LEHMANN: (EXTRACT OF TESTIMONY)
Q Have you ever had any experience with divided votes on the Board of Zoning Appeals?
A I have never had any experience with an absolute standoff, no.
Q Well, this is a standoff?
A Such as was testified to.
Q And you still contend that there is a reasonable probability of rezoning even though there is a standoff?
A I think there is.
THE COURT: Let me speak to counsel a moment.
[Counsel on counsel approached the bench and then subsequently returned to their respective trial counsel tables]
THE COURT: Mr. Dekker, will you read the last question.
[The reporter read back the last question and answer]
A I had not quite finished the answer to the

question.
THE COURT: In the light of this fact, The Court believes that this inquiry raises an issue that is exclusively an issue of law for the Court, that is to say, under the facts and circumstances conceded here to exist, the Court believes that a question of law is involved, and it is the function of the Court, of course, to resolve and to declare what the law is. Accordingly, the members of the Jury are instructed that in the light of the circumstance that there was a pret of a reclassification by the Zoning Commissioner from which an appeal was taken that produced a divided decision by the Appeal Board, one of its members favoring a reversal of the Zoning Commissioner and the second of its members favoring an affirmation of the Zoning Commissioner, the third member of the Board not making a decision, The Court instructs the members of the Jury that under such circumstances, the divided opinion of the Zoning Board operates in law as an affirmation of the Zoning Commissioner's action in rezoning the reclassification, and accordingly, for the purposes of this case, the property should be considered as actually zoned Manufacturing Light under

the zoning regulations, and that the property owner is entitled to have the property considered by the members of the Jury as Manufacturing Light.
.....
the zoning regulations, and that the property owner is entitled to have the property considered by the members of the Jury as Manufacturing Light.

November 10, 1959

\$50.00

RECEIVED of Lawrence E. Enser, Attorney for Carrel L. Crum, et al, protestants, the sum of Fifty (\$50.00) Dollars being cost of appeal from the decision of the Deputy Zoning Commissioner granting reclassification of property of Stebbins-Anderson Company, Inc., on the east side of the Northern Central Railroad and south side of Padonia Road, 8th District.

Zoning Commissioner
PMD - Baltimore County, Md. - Office of Finance

11-10-59 4088 * * * * * 5000
11-10-59 4088 * * * * * 5000

November 12, 1959

COUNTY BOARD OF APPEALS

Assignments for Thursday, December 3, 1959 at 10:00 a. m. and 1:30 p. m.

#1759-RX Petition of Claude & Louise Walter for reclassification and special exemption for Trailer Park on Lincoln Avenue 140' north of Linwood Avenue, in the 15th District. Reclassification and special exception granted by Zoning Commissioner - Petitioners and protestant not represented at hearing before Zoning Commissioner

#1740 Petition of Stebbins-Anderson Co., Inc. for reclassification of property on the east side of the Northern Central Railroad and south side of Padonia Road, 8th District, from an "M-1" Zone to a "P-1" Zone - Reclassification granted by Deputy Zoning Commissioner - Petitioner and protestants represented by counsel.

For Mr. Enser
Mr. Steinbock
Mr. Hubers
Mr. Perkins
Solicitor
Planning

LAWRENCE E. ENSER
ATTORNEY AT LAW
COURT HOUSE
TOWSON 4, MD.
MAY 1959

September 21, 1959

Mr. John O. Rose
Deputy Zoning Commissioner
County Office Building
Towson 4, Maryland

Re: Petition No. 1740

Dear Mr. Rose:

Confirming our conversation of today, I represent a group of protestants who are opposed to the granting of the Petition for reclassification from Manufacturing Restricted to Manufacturing Light of 2.0 acres of land on Padonia Road, filed by Stebbins-Anderson Company, Inc., for the following reasons:

1. The present Padonia Road is hazardous and inadequate, because the Zoning Commissioner has recognized the inadequacy of this road in previous applications.
2. Because the location of a lumber yard in close proximity to residents and homes there would be a potential fire hazard.
3. Because there is no substantial change in the neighborhood, which would warrant the reclassification of the property.

4. And because Baltimore County, in cooperation with the Federal and State Government, has determined to relocate Padonia Road in such a manner that it will divide the proposed property and create a non-access highway, and for that reason the Governmental Agencies would be paying out monies needlessly and wastefully to the detriment of the taxpayers of Baltimore County.

Yours very truly,
Lawrence E. Enser

LEE:mp

BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS
BUREAU OF PUBLIC SERVICES
Inter-Office Correspondence

From George R. Lewis September 24, 1959
To Mr. N. Adams
Subject Zoning Petition #1740
Proposed Stebbins-Anderson Site
Padonia Rd. & N.C. Rd.
8th District

The attached plan shows the proposed realignment of Padonia Road as it affects the referenced site.

It is suggested that any rezoning of property be subject to the condition of this area which is contemplated to be acquired by Baltimore County for road improvements.

George R. Lewis
George R. Lewis
Chief - Permit Section
Division of Land Development

CHL:rb

cc: Mr. Stirling

Mr. Lewis has
Plot Plan
9/18

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

COUNTY OFFICE BUILDING
151 W. CALVERT ST.
TOWSON 4, MARYLAND
WM 3-1000

WILLIAM H. BELL
DIRECTOR
WILLIAM H. BELL
DEPUTY COMMISSIONER

October 15, 1959

Clinton P. Pitts, Esq.
Senior Building
Towson 4, Maryland

Re: S/S Northern Central R.R. & S/S Padonia Rd. 8th Dist. Stebbins-Anderson Co., Inc.

Dear Mr. Pitts:

The hearing concerning the above subject will be concluded on Friday, October 23, 1959 at 11:00 A.M. At this time, only arguments of the respective Attorneys will be heard.

Yours very truly,

John O. Rose
Deputy Zoning Commissioner

JOB:BC

Clinton P. Pitts, Esquire
Junior Building
Towson 4, Maryland

Re: S/S Northern Central R.R. & S/S Padonia Rd. Stebbins-Anderson Co., Inc. 8th District

Dear Mr. Pitts:

The hearing concerning the S/S Northern Central R.R. & S/S Padonia Road on Monday, September 14, 1959, will be concluded on Wednesday, October 23, 1959. At this time, only arguments of the respective Attorneys will be heard.

Yours very truly,
John O. Rose
John O. Rose
Deputy Zoning Commissioner

JOB:BC

CC: Lawrence E. Enser, Esq.



PETITIONER'S SIGNATURE
PETITIONER'S ADDRESS
RECEIVED BUREAU OF PLATS
CHECK RECEIVED
COPIES OF PETITION
A. PRINTED AS TO FOR THIS 17th DAY OF OCTOBER, 1959
BY John O. Rose

LAWRENCE E. ENSOR
ATTORNEY AT LAW
CAPITOL BUILDING
TOWSON 4, MD.
VALLEY 7-0820

October 1, 1959

Mr. John G. Rose
Deputy Zoning Commissioner
County Office Building
Towson 4, Maryland

Re: Petition No. 4760 of
Stebbins Anderson Company for
rezone of 2.0 acres, Padonia Road,
from M.H. zone to M.L. zone

Dear Mr. Rose:

I am writing to report to you that I have had a conference with Mr. Clinton P. Pitts, attorney for the Petitioner in the above case. I have also had a conference with Mr. G. L. O'Connell, representative of the community, who informs me that the community is still very much opposed to the granting of this reclassification.

It is their contention that the zoning in the first place to Manufacturing restricted is erroneous, in that the property should have remained residential. They are further opposed to it for the following reasons:

1. Because there have been no changes in this area since the adoption of the Land Use Map, which would warrant a change in the zoning.

2. That Padonia Road is a hazardous and narrow road, without any sidewalks, and the operation of lumber trucks over it would be a great hazard and a menace to the community.

3. That the location of a lumber yard in close proximity to many residences would be a potential fire hazard.

4. That the neighborhood is residential, that it has been recognized as such for many years, and its character should be preserved as far as it is possible.

They also wish to call your attention to the announced relocation of Padonia Road. That public announcements have been made to this effect in the newspapers since the application has been filed, and an inquiry from Mr. Bill, Director of Planning, indicates that monies are now in the budget for the purchase of rights-of-ways, which would include a part of the land, the subject of this petition.

LAWRENCE E. ENSOR
ATTORNEY AT LAW
CAPITOL BUILDING
TOWSON 4, MD.
VALLEY 7-0820

Mr. John G. Rose
Deputy Zoning Commissioner
October 1, 1959
Page -2-

We wish to point out that to allow Stebbins Anderson to locate its plant there, that within a few months the County would be compelled to purchase not only the right-of-way, but perhaps be compelled to spend large sums of money for damages to their building. We respectfully ask you to call the attention of the proper authorities to this condition in the belief that if land is to be acquired for the road that something should be done along this line at once in order to prevent the County from spending unnecessary monies.

We also feel that in fairness to Stebbins Anderson Company, that the County should let them know where they stand with relation to the road.

Yours very truly,

Lawrence E. Ensor

LEE:mp

4740

NOTICE OF PENDING PETITION FOR
RECLASSIFICATION - SEE DISCUSSION

Pursuant to petition filed with the Zoning Commissioner of Baltimore County for change or reclassification from M.H. zone to M.L. zone of the property hereinafter described, the Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Room 106, County Office Building, 111 N. Chesapeake Avenue, Towson, Maryland:

On Monday, September 14, 1959

at 2:00 P.M.

to determine whether or not the following mentioned and described property should be changed or reclassified as aforesaid for Manufacturing Light to wit:

All that parcel of land in the Eighth District of Baltimore County on the westerly side of the Northern Central Railroad at a point South 21 degrees 50 minutes East 235 feet, more or less, from the southerly side of Padonia Road; and running West 6 degrees 15 minutes East 666-7/100 feet to a point; thence South 5 degrees 26 minutes West 1211-7/100 feet to a point on the easterly side of said Railroad; thence lying along the easterly side of said railroad right of way 1140 feet, more or less, to the place of beginning; containing 7-04/100 acres, more or less as shown on plat plan filed with the Zoning Department, being property of Stebbins Anderson Company Inc.,

BY ORDER OF
JENNIFER A. JENIFER
ZONING COMMISSIONER
OF BALTIMORE COUNTY

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

COUNTY OFFICE BUILDING
111 N. CHESAPEAKE AVE.
TOWSON 4, MARYLAND
14-2-5000

NOTICE OF HEARING

Stebbins Anderson Co.
Towson 4, Md.

Re: 1/4 Northern Central RR. & 3/4 Padonia Rd.
Stebbins Anderson Co., Inc., Petitioner
8th District

TIME: 2:00 P.M.

DATE: Monday, September 14, 1959

PLACE: Room 106 - County Office Building, 111 N. Chesapeake Avenue

--- TOWSON 4, MARYLAND ---

Zoning Commissioner
of Baltimore County

RECEIVED BY: _____
Date: August 24, 1959

RECEIVED BY: Jennifer A. Jenifer, attorney

LOCATION OF PROPERTY: 1/4 Northern Central RR. & 3/4 Padonia Rd.

AMOUNT: \$43.00

0622 4300

JENNIFER AND JENNIFER
ATTORNEYS AT LAW
JENNIFER BUILDING
TOWSON 4, MARYLAND

TELEPHONE
VALLEY 7-0820

October 9, 1959

Mr. John G. Rose
Deputy Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson 4, Maryland

Re: E/3 Northern Central
R.R. & 3/4 Padonia Road
Stebbins-Anderson Company,
Inc. - 8th District
M.H. Zone to M.L. Zone

Dear Mr. Rose:

After your hearing of the above matter on Monday, September 14, 1959, it was agreed that the protestants and the petitioner would attempt to work out their differences and report back to you in two weeks.

Instead of discussing the matter with my client, the protestants engaged the services of Mr. Lawrence E. Ensor, Attorney. He and I discussed the matter, but he has recently written me that our positions are irreconcilable. Under the circumstances, he suggested that we ask for a further hearing in connection with the above matter. Please establish a date at your convenience and be prepared to advise us at that time of our rules of conduct. I personally believe that the hearing is over and all that remains is a reasonable time for argument on the merits, but I will, of course, abide by your decision in this regard.

Sincerely yours,

Clinton P. Pitts
Clinton P. Pitts

OPP:JS
cc Mr. Lawrence E. Ensor

October 15, 1959

Clinton P. Pitts, Esquire
Jenifer Building
Towson 4, Maryland

Re: E/3 Northern Central R.R. &
3/4 Padonia Rd.
Stebbins-Anderson Co. Inc.
8th District

Dear Mr. Pitts:

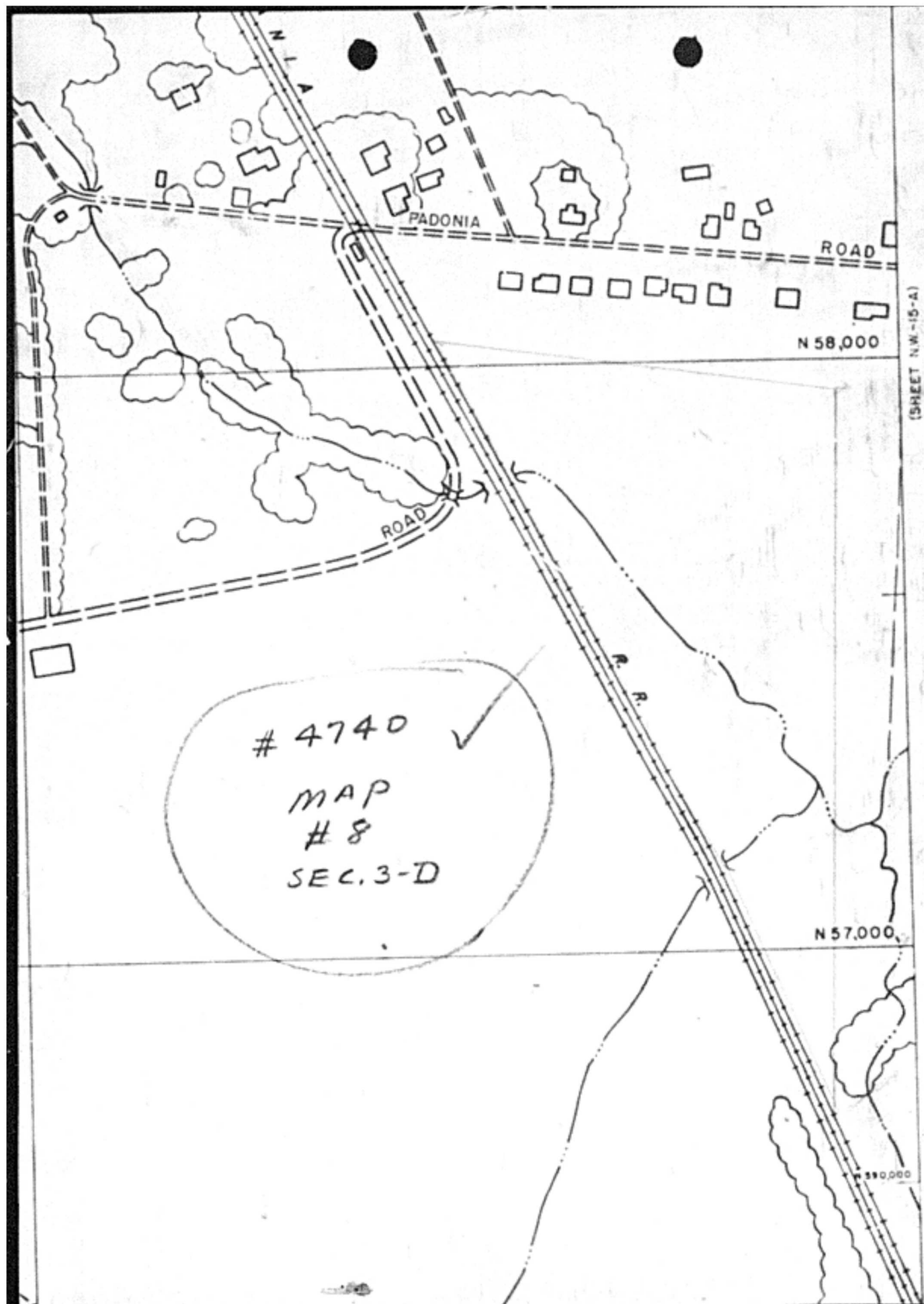
The hearing concerning the E/3 Northern Central R.R. & 3/4 Padonia Road on Monday, September 14, 1959, will be concluded on Wednesday, October 21, 1959.

At this time, only arguments of the respective Attorneys will be heard.

Yours very truly,

John G. Rose
Deputy Zoning Commissioner

JGR:BC
CC: Lawrence E. Ensor, Esq.



4740 ✓
MAP
8
SEC. 3-D

(SHEET NW-15-A)



PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

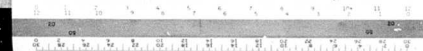
REVISIONS		SCALE 1" = 200'	DATE OF PHOTOGRAPHY APRIL 1953
BY	DATE		

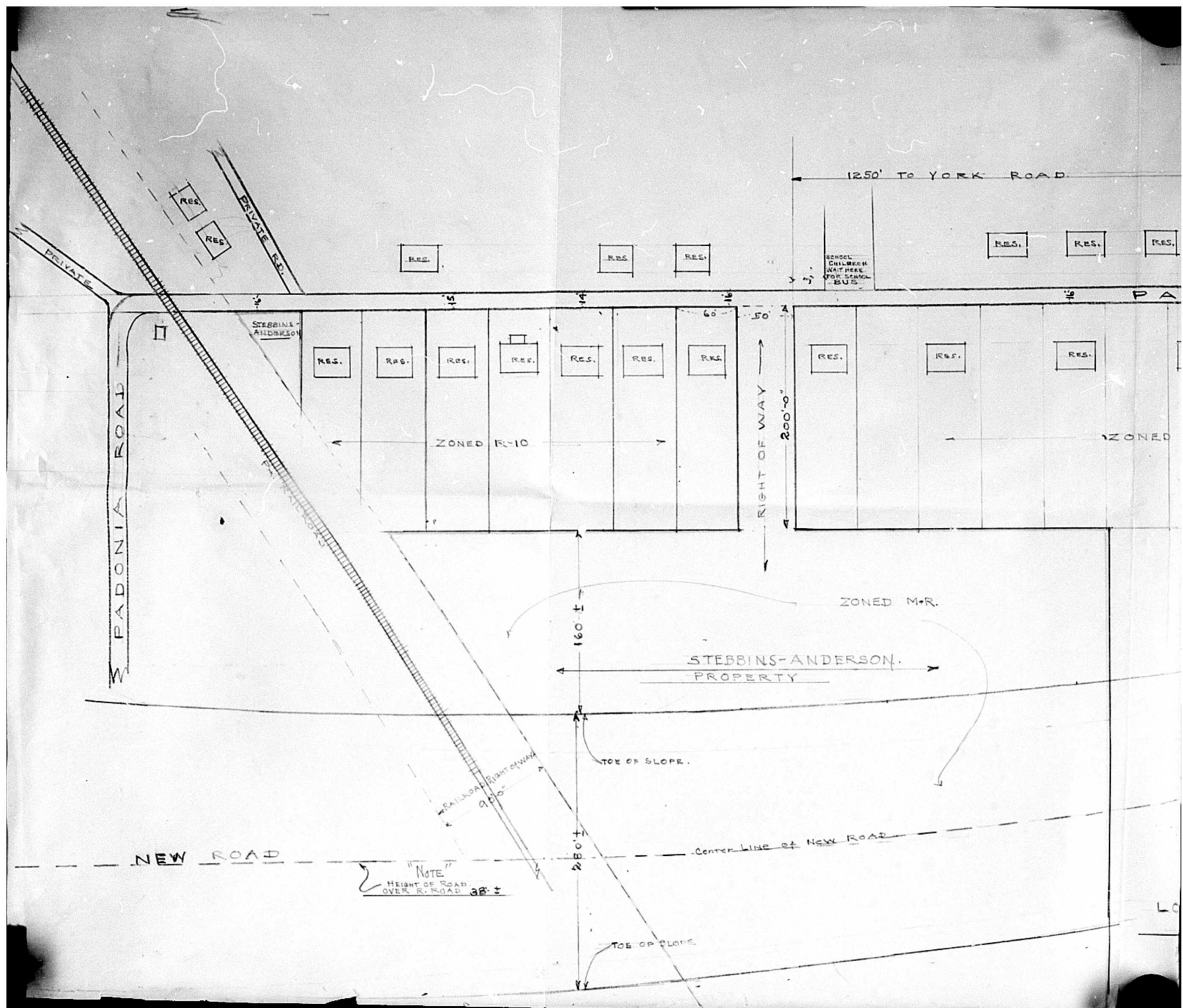
ML LOCATION
PADONIA

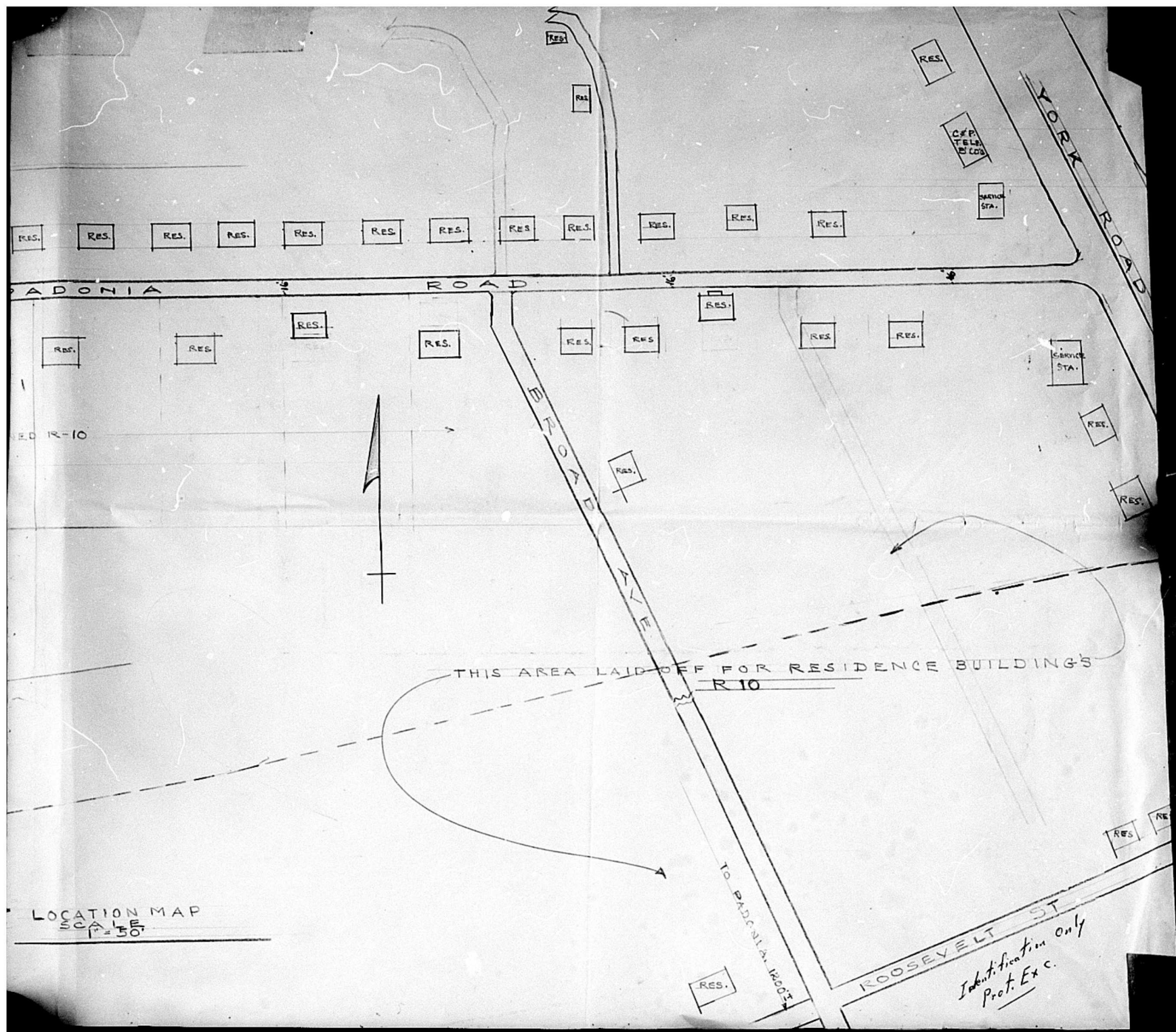
SHEET
N. W.
15-B

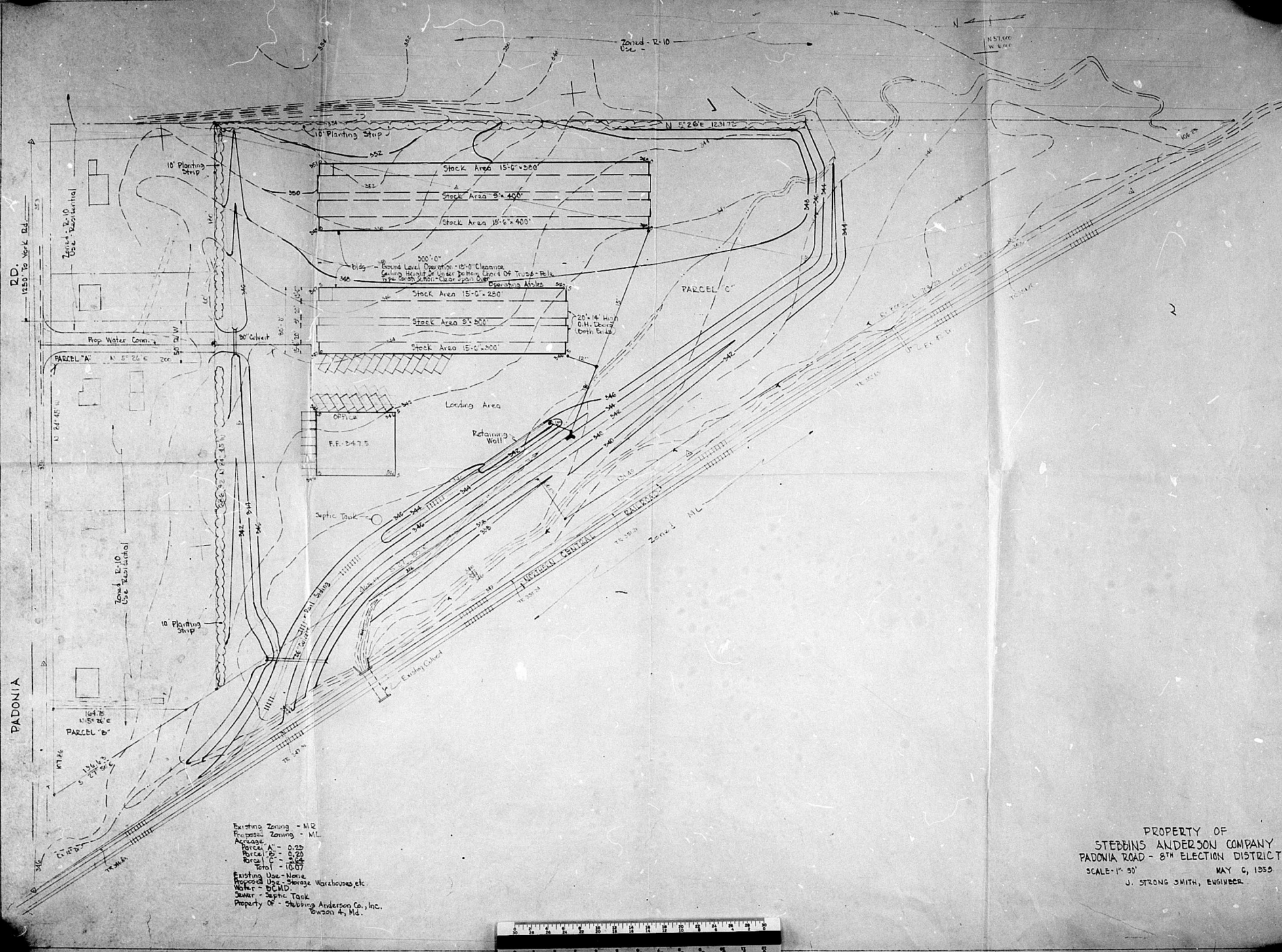
PHOTOGRAMMETRIC
BALTIMORE COUNTY METR

Topography Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION-PHILADELPHIA, PA.









PROPERTY OF
STEBBINS ANDERSON COMPANY
PADONIA ROAD - 8TH ELECTION DISTRICT
SCALE - 1" = 30' MAY 6, 1959
J. STRONG SMITH, ENGINEER