Petition for Zoning Re-Classificati	488 9 Wys see		
	1011		
To The Zoning Commissioner of Baltimore County:— Contract purchaser I, or we	T Indian		
I, or we	county and	······	
ing and being in the Ninth Election District of Baltimore re particularly described in the description attached her " and made a part hereof -	mH 8	It Is Ordered by	the Zoning Commissioner of Baltimore County this
	5EC.3-C		, that the above described property or area sh
	0-A 0 6	hereby reclassified, fr	om and after the date of this Order, from a
	2/17/60 Dist.		
	11		
the zoning status of the above described property be re-classified, pur more County, from an R-6 zone to an R-A	rone.	Pursuant to the	Zoning Commissioner advertisement, posting of property and public hearing or
s for Re-Classification. Error in original classification a	and change in	itoposiopolisotyc	composed the petitioner having failed to show
mstances and conditions since original zoning.	······································		nal zoning or that changes in the characte
		. had taken place	e warrant the requested change,
height of building: front 80 feet; depth 60 feet; height 2	20feet.		
d side set backs of building from street lines: front	feet.		
to be posted as prescribed by Zoning Regulations. we, agree to pay expenses of above re-classification, advertising, posting, etc.,	uron filing		the above re-classificationthe
re, agree to pay expenses of above re-classification, advertising, posting, etc., tion, and further agree to and are to be bound by the zoning regulations and re			he Zoning Commissioner of Baltimore County, this
County adopted appearant to the Zoning Law for Baltimore County	18		60., that the above petition be and the same is here ty or area be and the same is hereby continued as and
125 60 TONSON BILLDING COMPANY BY JACOB			ce) zone,
6 28 W. Tinna ave stor	wany md.		Oldsie St. C
Contra	ect Purchaser		Zoning Commissioner
Address C/o H. Anthony Muel Campbell Buildi Towson 4, Maryi	ing Land		
ERED By The Zoning Commissioner of Baltimore County, this 25th			
January 19 60, that the subject matter of this petition be advertised,		Approved	"nCRO
ing Law of Baltimore County," in a newspaper of general circulation throughou property be posted, and that the public hearing hereon be had in the office of			County Confidences
oner of Baltimore County, in the Reckord Building, in Towson, Baltimore Coun	inty, on the	Date	Ву
7th day of March 1960 at 10:00 o'ch	lockA.M.		•
3/7/60 Zoning Commissioner of Baltimor			
Zoning Commissioner of Haltimor			
Zoning Commissioner of Baltimor (over)	ore County		
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	Zoning Commissioner of Baltimore County
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errer in	the original zoning or that changes in the character of the neighborhood
.naq.tak	en place to warrant the requested change,
	the above re-classification should NOT be had:
It Is C	the above re-classification should NOT be had:
above desc	1959., that the above petition be and the same is hereby denied and that the ribed property or area be and the same is hereby continued as and to remain a.D. TR-52.
	Zoning Commissioner of Baltimore County
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This case was originally heard by this Board on March 16, 1961, and resulted in a ciental by the Board of the petitioner's request for reclassification to "R-A" (residential apartments) category.

Subsequent to an appeal being taken by the petitioners to the Circuit Court for Baltimore County, that Court on March 6, 1963, ordered the case remanded to the Baltimore County Board of Appeals "for the taking of additional and supplemental testimony with reference to the matters set forth in the Petition to Remand heretofore filed in this case, and for its further consideration and decision upon the basis of the said record...". The matters referred to in the petition for remand were the petitioner's request to present to this Board evidence dealing with the progress of construction of the Greater Baltimore Medical Center and the changes in the neighborhood resulting therefrom, and the testimony of a qualified land-planner with reference to the zoning pattern of the subject property in the surrounding neighborhood, and such other and further evidence as might be material to the peritioner's case.

It is evident that changes have occurred in the vicinity of the subject property since the November 14, 1955 adoption of the Ninth District and use map. Noteworthy among thate changes is the construction and opening of Stevenson Lane, a major boulevard from York Road to Charles Street Avenue. Mr. Edwin McDonough of the Rightof-Way Department of Baltimore County testified that these contracts, three in number, for the opening, widening, etc. of Stevenson Lane were awarded by Baltimore County in the years 1956 and 1957.

This Board is also impressed with the testimony of Mr. Bernard Willemain regarding the error which he believes was committed when the Ninth - strict land use map classified the subject property as "R-6". Mr. Willemain's testimony, which was extensive, shows that this property was originally recommended by the Planning Board to have been in a residential apartment category but that such recommendation was not adhered to by the adopting authorities. Mr. Willemain cited difficulties in developing the subject

site in its present category due to extensive and sharp topographical changes which would prevent its proper utilization.

- 2 -

The Board is of the opinion that the reclassification to residential apartment use should be granted to this tract of land for reasons above cited together with the fact that petitioner's plan of development would not materially increase population density nor affect adversely any of the conditions of traffic, health, safety, morals, or welfare.

ORDER

For the reasons set forth in the aforegoing Opinion, it is this of September, 1963 by the County Board of Appeals, CRDERED that the reclassification petitioned for, be and the same is hereby granted.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

NOTE: Mr. Steinbock did not sit at this hearing



The above-entitled cause having been tried in the Court o Appeals of Maryland and the decree of the Circuit Court for Baltimore County having been reversed, and the mandate of the Court of Appeals having directed the entry of an Order by this Court affirming the decision of the County Board of Appeals of Baltimore County dated September 17, 1963, it is thereupon this 27th day of August , 1964 by the Circuit Court for Baltimor County, pursuant to said mandate of the Court of Appeals of Maryland

ORDERED that the decree of this Court dated December 30, 1963 reversing the decision of the County Board of Appeals of Baltimore County entered September 17, 1963 is rescinded and the said decision of the County Board of Appeals of Baltimore County entered on said date is hereby affirmed.

RE: PETITION FOR RECLASSIFICATION BEFORE from an "R-6" Zone to an "R-A" Zone - N. S. Stevenson Lane COUNTY BOARD OF APPEALS 9th District son Building Co, Petitioner BALTIMORE COUNTY

. OPINION

This petition seeks a reclassification of a tract of land of approximately 6.15 acres on the north side of Stevenson Lone, 1160 feet west of York Road. The land fronts on Stevenson Lane for 764 feet and is bordered on the west side by an alley, on the north by the property of Sheppart-Pratt Hospitul and on the east by a County storm drain reservation. On the south side of Stevenson Lane apposite the subject property are six individual brick homes on "R-6" land. The petitioner proposes to build 5 apartment buildings of 18 units in each in each building.

It was stipulated by the petitioner that there have been no zoning changes in this area since the land use map was adopted in November of 1955. George E. Gavrelis, Deputy Director, of Flanning for Baltimore County, testified that in his opinion "R-6" zoning was correct at the time the land use map was adopted. He also stated that the subject property could be developed as "R-6" from a physical point of view.

Upon hearing the testimony in this case, the Board can only conclude that the petitioner has failed to meet the test for reclassification of this property from "R-6" to "R-A"; namely, to show an error in the original zoning or a change in the neighborhood. ORDER

For the reasons set forth in the foregoing Opinion, it is this 15th day of June, 1961 by the County Board of Appeals, ORDERED that the reclassification petitioned for, be and the same is hareby denied.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUN TY Nathan H. Kaufman, Jr.

Charles Steinbock, Jr.

G. Mitchell Austin

R3: PSTITION FOR RECLASSIFICATION : FROM AN Who-6" Zone to an "R-A" Zone - N. S. Stevenson Lame, 9th District - Touson Building Co., Petitiomer :

BEFORE COUNTY BOARD OF APPEALS

BALTIMORE COUNTY

No. 4889

............ OPINION

This potition seeks a reclassification of a tract of land of approximately 6.15 acres on the north side of Stevenson Lane, 1160 feet west of York Road. The land fronts on Stevenson Lane for 76k feet and is bordered on the west side by an alley, on the north by the property of Sheppard-Pratt Hospital and on the east by a County storm drain reservation. On the south side of Stevenson Lane opposite the subject property are six individual brick homes on "R-6" land. The potitioner buildings
proposes to build 5 apartment/of 18 units in each building.

It was stipulated by the potitioner that there have been no zoning changes in this area since the land use map was adopted in November 1955. George E. Gavrelis, Deputy Director of Planning for Baltimare County, testified that in his opinion "R-6" zoning was correct at the time the land use map was adopted. He also stated that the subject property could be devel jed as "R-6" from a physical point of view.

then hearing the testimony in this case, the Board can only conclude that the petitioner has failed to meet the test for reclassification of this property from "R-6" to "R-A"; namely, to show an error in the original zoning or a change in the meighborhood.

ORDER

For the reasons set forth in the aforegoing Opinion, it is this day of June. 1961 by the Company of the Company day of June, 1961 by the County Board of Appeals, CRDERED that the reclassification petitioned for, be and the same is hereby denied.

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

COUNTY HOARD OF APPEALS

1g (2) 3/15/60



IN THE MATTER OF THE PETITION FOR ZONING RECLASSIFICATION from an "R-6" Zone to an "R-A" Zone - N.S. Stevenson Lane 1160' W. York Road,

ZONING COMMISSIONER OF

Ninth District
Towson Building Co., Petitions BALTIMORE COUNTY

NOTICE OF APPEAL

MR. COMMISSIONED

Please note an Appeal from your Order dated March 8, 1960, in the above entitled matter, to the County Board of Appeals of Baltimore

I HEREBY CERTIFY that a copy of the foregoing Notice of Appeal was mailed by me this 15th day of March, 1960, to Charles C. W. Atwater, Esq., 1213 Fidelity Building, Baltimore I, Maryland, and to Paul J. Feeley, Esq., 103 W. Chesapeake Avenue, Towson 4, Maryland, Attorneys for the Protestants.

AND MUELLER CAMPBELL BUILDING TOWSON 4, MO.

OFFICE OF BLANNING

Inter-Office Corres condence

March 7, 1960

Wilsle H. Adems, Zening Commissione To Subject #4889 R-6 to R.A. NS of Stevenson Lane beginning 1160 feet W. of York kd. 6.14 acres Towson Building Comp. y

George E. Gavrelis

9th District 3/7/60 10:00 A.M.

The Office of Planning has reviewed the subject petition for exclassification from R-6 to R.A. zoning and has the following advisory comment to make:

- 1. This office is of the opinion that apratment zoning for the subject property would be an appropriate and reasonable land use and, therefore, we voice no objection by the proposed reclassification.
- Our concurrence with the proposed apartment reclassification is based on the following points:

 - a. An increasing knowledge of the need for making provision for more restal bouding axing in Battlemor County.
 b. Or general coperitories that operations county are in that they be or provision to the control of the control of the control of the control of the residential or control of the residential or control of the residential county of the county of the
- facilities to the extent of only half of those of typical owner-occupied housing.

 4. The relationship of the soldest treet to 5 eventue Large a 73 foot of the control o reclassification of the subject tract.

GEG:od

March 11, 1960

H. An hony Mueller, Esq. Campbell Building Towson 4, Marylani Dear Mr. Muellers

Thank you for your check in the amount of Fifteen Bollars (\$15.00) to cover additional advertising on the N/S Stevenson Lane 1160° W, York Hd.

Yours wary truly.

Wilsie H. Adams Zoning Commissioner of Baltimore County

PAID - Baltimers County, total - Office of Finance

BC: 3-1160 1872 · · TL-15.00 3-11-60 1872 . . TXL-

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMOKE COUNTY

Towson, Maryland # 4889 Date of Posting 2-1-60 Posted for: Wa R-6 3ans to an G- A 3one Presidence Descript Beaching to
Location of property All Microscop Secretary Longin at Sim Coat steps 1178 A , and the 1475, denother 1818 A white to Posted by Howard Stanford Date of return: 2 25 60

RODGERS PORCE COMMUNITY

trune. C.J. Menderson Present Present Porney Marbury Cytert,

Opinion by Prescott, J. Marbury, JJ. dissent.

Filed: July 24th, 1964.

This is a conting spread. The Towson building Company applied for a reclassification of a 6.14 acre tract of land on seconson Line near York Road in the Towner area of Ealtimore bursty, From R-6 (insisting) or semi-detached homes on lots not tent than 10,000 square fact), as it had been moned in the comproceeding coming of 1955, to R-A (Residential Apartment). The John Corporation, as contract purchaser, became an auditional and teant.

On June 15, 1961, the County Board of Appeals (Board) center the application, and the applicants appealed to the direct aget. In October 25, 1962, that court (Turnbull, J.) ordered the case remanded to the Board for additional testimony. Jone protestants filed a motion to strike the romand; after full hear ing, Judge Turnbull Jented the motion on March 6, 1963.

the found amount to the order of remend, took addition . tent'mony on July 25 and August 6, 1963, and granted the application on September 17, 1963. The protestants appealed; and the Circus. Court (Raine, J.), pursuant to an oral opinion delivered become 1 , 1963, reversed the Loard's decision and denied the applicati 2, stating "then everybody can see that the Court of Appeals will as colleants have appealed.

topellants suggest there are four questions presented in

the appeal, but in the view we take of the case, it may be de-I realized by membering the following opers: (1) Was the resent to the oard of appeals for the taking of additional evidence orre amous; and (2) Should the conclusions of the Board that the retoming was justified by error in the original zoning and by one got In the case later of the neighborhood, have been sustained by the

We proceed to a determination of the first question before stating the facts, for if it be decided against the appellants, it will be unnecessary to state, or consider, the testimony taken at the second mearing before the Loard.

court as at least fairly debatible?

iltimore County is a chartered county. Appeals to the Circuit Court from the Board are therefore controlled by Section 604 of the Charter of Sultimore County, Section 501.4 of its Zoning Regulations, and Code (1957), Article 25A, Section 5 (U) (which are almost identical in terms relative to appeals), and not by Code (1997), Article 668, Section 7 (n). Montgomery County v. E. tter, Md. 41%; Baltimore County v. Missouri Healty Inc., 219 Md. 155; Robertson v. County Board, 210 Md. 190. These sections, in pertinent part, provide that upon appeal the court shall "have the

nomes to affirm the decision of the Board or, if such d cision is

an accordance with law (italics ours), to sodify or reverse suc-

every before, on occasion, finds that he is eight, but for the become The cumation is not upon whether the first deciator of the

accirion with or without examining the case for rehearing an

the order passed to Judgo Jumbull, on Ostoler 20, 1967

in the sauftlanal testimony, and he stated the order wi

in conformity with goods (1907)] Art. 668, Sec. 7 n

extless complete that the order should not have been sagged without

contention they are correct. However, the error order hara-

the news of the protestants file is not on to stein out the

affording the expellent an opportunity to be heart. And in

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to less that he had carefully considered the regard tofore noise

possectantly as present to the count ony reasons in to say the or s

to pass the order "in conformity with Art. 660, Sec. 7 (n)," and

'to on anyonic to the direct doubt or this nature. 't,

fact, becomes our duty to determine shether the court had to

again they are right. We pointed out above the true sources of

right to remain under the actual sources of authority, for nearly

miss not have been passed, which they could have presented believe

Wir appelless also atmos that Dauge Thirstell had no power

he hearing on twin motion presented the protestants with a

somete one remaining the open to the loard for the pur-

Juntice my mouth."

.canon.

secondance with law," and the judge was warranted, under the provisions of law mentioned above, in remanding the case for the taking of additional testimony. (In making this ruling, we are not to be understood as holding that the courts, upon appeals, one required to review in detail and pass upon the technical admissibility of all the evidence offered before the Board. The instant case is unusual in that the Board refused to admit, or consider, the crucial matters upon which applicants' cause de-

The appellees contend that Robertson v. Board of Appeals, 210 Kd. 190, is controlling, and that Judge Turnbull had no aut orffy to remaind the case for further testimony. That case and the instant one are different. In Robertson, Judge Cammond, for the Court, specifically stated that Judge Woodward had execute als power in two ways: "first, he remanded to came without findin; an error of law, and second, he substituted his judgment on

the facts for that of the Board." In the instant case, the trial judge did not substitute his judgment for that of the Board on the facts, and he was correct, as we stated above, in finding an ern or

We now state the facts. The property here in question it a heavily wooded triangular parcel, located on the north side of Stevenson Larm, approximately 1000 feet west of York Road. It fronts 700 feet on Stevenson Lane (which runs east and west), and

northwesternmost to the southeasternmost point of the property. There is a small, high, level area consisting of somewhat less than one-third of the tract at the southwest corner, from witch plateau the land slopes very sharply, sometime exceeding 15 per cent to the northern and eastern borders.

weatern boundary of the property, which with Stevenson Lane

form the eight angle of the triangle, extends morth approximately

'60 feet. The rear of the property closes the triangle from the

'Immediately to the west of the property is a 10 foot allege erous from widen, at approximately the same grade as the platem. on the subject property, is built Section 11 of the Hodgers Porge development. This section of Rodgers Forge is "one long area of group nomen, divided into three groups of some 20 homes each," no backs of which face the subject property.

Directly adjoining the subject property on the north in a 800 acre tract known as the Sheppard Pratt property. This true to now the subject or extensive tospital development. In addition to the Support Pratt hospital itself, which has existed for some time, approximately 60 acres of the tract were sold in 1960 to the Greater Baltimore Medical Center, a ten million dollar project formed by the merger of the Mospital for the Women of diryland and Preabyterian Eye, Ear and Throat Charity Mospital.

Abuttl - the subject property on the court is flower on lane. In 1955 this was a small twelve to fifteen foot road; in

sound was "I. accordance with law." Throughout the first hearing, applicants' witness/ attorpted to discuss the proposed use (and its effect) of the some 60 acres of the Sheppard Pratt tract obtained by the Greater Haltimore Medical Center (Center), Which the appellants proffered to prove was a \$10,000,000 project with are ilcrets' plans and construction drawings and preliminary engineering completed, the sponsors were completely ready for financing (wit : the exception of \$750,000, which was expected to be obtained within two months), and the breaking of ground was imminent. Appellants also offered evidence of the "very well laid plans for the developmout of [the some 28 acres purchased by] . . the St. Joseph's Mospital . . . " In addition, appellants offered to prove that the county officials had demanded before beginning construction on a y apartments (and they had agreed to such demand) a 70 foot right of way over the subject property from Stevenson Lane on the south to the proposed hospital developments on the north.

The Court refused to consider evidence relative to the above projects because "we have nothing before us to show the building is under construction," "the Pourd cannot consider what is going to mappen on [the] Sheppard Pratt property," "maybe Sheppard Pratt his some plans laid out too, but we are not allowed to listen to then." Yes courd stated further that "any testimony with regards to projects In the future would have the same objection from counsel, and would

be mustained by the Board on the same objection, that such things test are to the future cannot have a bearing on the property at the present time." In other words, the Board felt that it was limited to a consideration of evidence of the situation existent at the tim of the nearing, and no potential, ever though imminent, future changes in that situation or future needs of the public could t

considered.

Our martous ductators do not sustain such a corclustor. of course, the comprehensive zoning map of 1955 was entitled to a pronumption of correctness, and the burden was upon the applicar to for reclassification to show an error in the map or a change of conditions in the neighborhood, or both, if they were to i suc ensful. But in order to anow a change in conditions, as was state by of the Judge Brune in Bonde v. County Board, 234 Md. 259, When quoting from Trustees of McDonough, etc. v. Saltimore County, 221 Md. 5 0, the Poard was entitled to consider (and therefore the applicant: for reclassification were entitled to present) projects that were "'remonably probable of fruition in the foreseeable future." And the same rule applies, we think, when an applicant attempts to prove an error in original zoning. The Board, at its first hearing, was too restrictive in not permitting the applicants to produce evidence of the hospital projects which were reasonably probable of fruition in the Commenciale Cuture: hence the Board's decision was not "in

mart a private drive. It was not connected to York Road on the cost on Pollogs Avenue on the west, and in fact, existed only in ". at an the row bounds westerly from the subject property. It was not built in front of the subject property until 1957-58; and in 1965, when the coming man was adopted, it had not been settled wanther Stevenson Lane would ever be extended to connect with York Some and Selliona Avenue.

it present swaves. Stevenson Lane is a fully payed foctytwo to farty-four foot bituminous concrete road with a seventy to and the Carl migratures are allows founteen form for the fitte in cash direction while cars are parked on both sides. I now extends from York Road, with its public transit facilities, on the east to Sellow Avenue and Charles Street on the west. As a rough of the wing the and agterator, watch occurred in 1961 and 1962, Stevensor Lung to you a maker twiffle actory known as a "connector" ar "collector" or "main feeder" road between York Road and Charles Street and Pellona Avenue. Stevenson Lane funnels traffic between times two matter north-south arteries away from the interior after to of regidential developments, and is xxxx "a major connection bet eco the center of Towson and Charles Street arterial traffic."

Opposite the west and of the muhicet property on the south aide of Stevenson Lane are some row houses and two school sites one elementary and one funior high. To the west about 1200 feet

before the comprehensive soning of 1959.

Starrager land shutting the subject property are five single-faully iomes, built before any of the group homes in the neig borhood. Minne homes, a part of the Rodgers Porge development is 110 befo -Stevenson Lane was developed, were constructed as part of an agreenment entered into by James Keelty, the developer of Redgers Ports. In complicantion of the withdrawal of objections by persons in the wear to the extension of a commercial use of property at Old Trail Hoad to which Keelty was interested. This fringe of individual nomes to one house deep, and several rows of group homes are built immediately benind (south of) those cottages, so that the single tile of cottages "stelps out" the group home development on the nouth side of Stevenson Lane, which is part of the overall group nome and unartment development of Rodgers Force. Bayond the eastern and of the subject property on the south side of Stevenson Lane inc two additional cottages filling out the steip of single family names.

To the east or the subject property on the nort side of Stevenson Land in a "ringer" of Sheupard Pratt Land: there is a a stream which is channeled into a 46 inch storm water nin . oth the cast and west aldes of the stream are apayily wooded with willow trees, and the stream lies in a deep valley be-

from the subject property are the Hodgers Porge apartments, built

tween the slope downward from the subject property and a hill on the east side going back up to nigh ground. On this ground to the east of the subject property are: the Support Pratt land, the two heavily wood-a mills, a driveway to a furn house on the Sheppard Pratt property, the atream and "severe drainage course," individual residence and after those barriers am older/exzzazz development known as Yorktowne. The land separating the subject property from Yorktowne has a minimum width of 10; feet and a maximum of 200 feet. The Yorktowne houses are wallt with their backs to the sure in between Yorktonne and the ansject property; and the Yorktowne nouse fronts all face a circular drive known as Yorktowne soud. Purcher east to York Road, which is a short distance away, are more single family The northwest corner of Stevenson Lane and York .coad in

used in an well (Knowlecturing-Restricted Jategory); and derose the struct to a gas station, waiten was removed by potition in 1950.

Two land use planners, both called by appellants, testified before the Board of Appeals as to the issues of original error and change of conditions. George E. Gavrelis, Deputy Director of Planming in maltimore County, who tentified at the first hearing before the Fourd, said in direct examination that in his opinion R-A zoning was proper zoning for the subject property. On spensexamination he testified that R-6 zoning was not an error in 1935. although it was "suspect" and "maybe" erroneous even them, especially in the light of hindsight. Bornard Willemain toutified for supel-

lants before the Board at the second hearing. He had spent five years as the Deputy Director of the Baltimore County Planning Commission and was the draftsman of the Baltsmore County Code. Retratified that "it is my considered opinion that the map adopted Towenber 14, 1995, zoning the subject property R-6 was in error In regard to that classification."

to gave as some of his reasons

(1) The subject property is in the most concentrated de volopment in the Townen area. There was, in 1955, no treat of ix or more agree still vacant within at least a two mile radius, q cept the subject property and the Sheppard Pratt complex. The County Commissioners erred in failing to take into account the 1 sed for additional apartments in this area and to make available for such use the suitable tracts, which were limited to the subject property and the Suppord Pratt complex.

(2) The Saltimore County zoning authorities failed to give proper consideration to the potential of the Sieppard Fratt property, which was bound to be developed much more intensively than R-20, which it was zoned in 1955, and to give proper weight to the fact that the subject property is more closely oriented to the Sheppa d Pratt property than to any other land in the area.

The County Planning Commission in 1955 took into account both the need for apartments in the area and the inevitable intaisive development of Sneppard Pratt by recommending R-A zoning for

a portion of the Sauppard Pratt tract; and the R-6 zoning for the subject property was recommended on the basis that the Sheppard Pract monling adequately mot the need for apartments. However, the County Commissioners, without any studies as to the need for apartments in the area and without any prior public amnouncement of their intention, removed the R-A classification of the land to the marts of the subject property and zoned the Sheppard Pratt complex 8-20, without making any adjustment in the R-6 zoning of the subject property. The R-20 houling for the extensive land to the north will who...; and the N-6 wonling of the subject property, based on such ter : months of the adjoining lands to the north was wrong: to manume as part of the comprehensive plan for greater Towson that 400 acres, virtually unoccupied, would remain unimproved, or witno more intensive use than existed in 1955 was "no plan at all," mit the failure to provide for any apartment use in the area boy-ind "Title 600" apartments at Rodgers Forge was clearly erroneous.

(3) In view of the topography of the subject property, the H-6 coming denied a reasonable economic use, especially in v. am of the group homes at the same elevation, the backs of whileh face the subject property issediately across the 16 foot alley to the went. The line dividing the more intense R-6 use from the R-6 scaling of the subject property was based merely on the existing Keelty ownership lines (which is, of course, permissible depending upon circumstances), and not upon proper noming considerations. A upon

it least as intensive as R-G should have been permitted to the nearest natural line, namely the stream barrier located in the valley between the subject property and the lands to the east. Mr. Willemain also thought that the Maryland and Pennsylvania Railroad tracks and trestle served in 1955 (they have since been removed) as "a natural boundary to some regards."

(4) The subject property is, and was, the only vacant land on the north side of Stevenson Lane between York Road and Charles Street, which could provide any rord connection between Stovenson Lane and the large tracts to the north. It was inevitable that the Greater Towson development, including the more intensive Sheppard Prutt development would have to have a connection -It. Stevenson Lane between York Road and Bellons Avenue. The unly mossible such connection w through the subject property. If fact, as a condition of the approval of any plan for the subject property, the Baltimore County Planning Department required the applicants, over their objection, to provide a 70 foot right-of-way at the east end of the subject property for access from Stevenson Lane to the Sheppard Pratt property, in order to connect with the hospital being constructed directly to the rear of the subject property.

(5) The subject property was particularly suited to satiscutes the good for anartments which should have been regarded by the zoners in 1955; the property is large enough to be built up as

a separate tract, ideally shielded from the surrounding area, and afte plans well for apartments -- 1.e., apartments cover a smaller area, fit well into the site, do not require extensive regrading, and preserve the trees.

The evidence before the Board relative to change in the neighborhood included the following. Both Mr. Cavrelis and Mr. Willeman agreed in their testimony that there were sufficient changes in conditions in the area since 1955 to warrant the rezoning. They stated these changes to be:

(1) The need for apartments in the area, especially garden apartments, waich was not forescen and provided for in 1955 by the soning authorities has in fact increased sharply and must be mat.

(2) The change in the character of Stevenson Lane, which under the circumstances in this case "perhaps more than any other land use consideration" could affect the character of the immediate neighborhood of the subject property has made Stevenson Lane into a logical separator between the subject property and the fringe of cottages stripping out the row house development on the south side of Stevenson Lane.

(3) The intensification of the land uses to the north, particularly the Greater Baltimore Medical Center. Ar. Gavrelia thought this was "the big factor that influences the judgment of myself and the Planning Staff in recommending the granting of applicants' request." He and the Staff know "that with good site

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planning to [R-4 analog] can blend darmonlounly with other byten of residential and non-residential land oces. We know that apartments tend to provider scal dumnuts than typical rise nouse for schools, utilities and so towns, we real, in relationship to Stevenson Lane, is it fount eigen of may * . . with a fairly close proximity to transit and limited on Your Mona (the subject property) supposes to see a Accountable and for appartment working Te. Willemain pointed our that the saleting development on these effect of the bublect project of constitutes "anly a small part of the most which it going to be department, and wedge was considered by their map [of 1955], and w. . . will have a direct construent the complete property sections the subject property to the emitted of contraction between the Rodgers Force Avelonant you (the laster) between scribed and the large shape or expect copert on the conth. In addition to the traffic actions. In my spinior, the mister many crty is oriented more inpur many to the development of the many of Pratt property, because of the tractic that must be based to cough it . . . as compared with the other properties . . . then to those that are already improved with other types of structures."

Mr. witherein added that he thought there had become intensification of the uses in the general neighborhood, (which was broader than morely Rudgers Porge itself since the subject property

and to be viewed as one of the last remaining vacant tracks stone tegleally located in the entire high density development area. ... to have been resoutings since 1955 adjacent to York Road, which f. thought) was "an integral part" of the neighborhood, and three establish that the 1955 zoning did not sufficiently provide for the development of this general area of the county.

There was abundant evidence to support the Sosri's findings that the reseming in the instant case would not "materi-.11. In wase uncolation density nor affect adversely any of the conditions or craffic, health, mafety, morain or welfare."

The protestants offered tut one witness, a real estate expert, who testified that in his opinion R-A moning for the any lest property would lesson the values of properties "in the bandinte vicinity," and have "a minor effect" upon the residen an persons Stevenson Dane. The applicants offered another real estate expert, who stated that such zoning for the subject property would have no effect upon property values to the surrounding properties.

after the wourd heard and considered the additional . "Hence adduced at the second hearing in conjunction with that bases at the first, it found that it was "evident that changes have occurred in the vicinity of the subject property since . . . 1994. Noteworthy among those changes in the construction and opening of Stevenson Lane, a major boulevard The Board also stated Mr. Willowin's testim by was "extensive," and the

war! win "impressed with the testimony of Mr. Willemain regardthe orear which he believes was committed when the Minth The reason mentioned in the footnote was only one of thosegiven . ". Willemin as to why there was error in the original coning. mand went on to joint out the difficulties in developing the subject site in its present category due to the sharp topographical changes, and found that applicants' plan of development "would not materially increase population density nor affect adversely any of the conditions of tractic, health, safety, morals or welfore." It to on him that the formal could have been more specific and defipite in it. Chadings of fact; however, it is certain that the heard found that there had been enanges in the neighborhood and error in the original coming sufficient to justify the reclassification (it

the after the that it is not the function of the courts to zone

ather findings clearly meet the test of being fairly debatoble, so

111 or mirrecovery to discuss them further). We have stated

During the course of its opinion, the Board erroneously stated that willess in had testified that the Plonning Board had originally recommended the audicet property for a-d coning. What he actually beautified to was that oroperty immediately to the morth had been considered to the most beautiful that the constant of the constant of

or remone, and the courts will not substitute their judgments or best of the experite of the souls, afficials. It is only there is no rous for reasonable debate or there the reconto devoid of substantial, supporting facts that the courts are Justicled in reversing a decision of the Board, or declaring it: cetions arbitrary or capricious. See Montgoes by Count Council Gerlageour, 211 Fi. 301, Temaink v. Hourd, 212 Md. J. and Mer E of her, Arr. v. McHanara, 202 Mt. the, for three of the many Maryland casual no holding. Therefore, we must apply these tests to the evidence produced before the Board in order to determine the care

After doing to, we are constrained to hold that there more autotantial, supporting facts precented to the Board, and 15m findings on changes in the neighborhood and error in the original soning were fairly detailable. We begin with a presumption that the removing was reasonable and valid. Metter v. County Commissioners. el. vd. 797. This presumption, though less et ong in instances of to cutting than in cases of original zoning, is a substantial one remained; to be accorded by the courts. Hissouri Realty v. Ramo; 216 $191,\ 1912.$ In the case at bar, the Deputy Director of Flannin and Me. Willemain who had previously served five years in that carrietty, both tentified to the public need for apartments in the steinity of the author: property. They both trought, for reasons

stated above (and we shall not repeat them here), that there had been sufficient changes in the neighborhood to Justify the re-" mulfication. We start of the Planning Department felt likewine, and there is no testimony to the contrary. We cannot say with the above tendimony of recognitied experts in the field of realist in the record, that the record is devote of sui tantial, amounting spets to justify the action of the Pours, if it chow, as it obviously dis, to accept the obtaions of these witheaner. bearefair hold that the evidence before the goard was sufficient or calci the question of change in the neighborhood fairly de-Gf. Robde v. County Beard, supra. Intende./ To role otherwise would be simply to substitute our job. ment for that of the Board.

We turn to the quention of error in the original contri-) . In other off with the same precumption of validity. The process bisector of Planning did not consider the H-6 coning of the subject property is 19% to be an error in original coning, although it was "guspect" and "maybe" erroneous then. Mr. Wille win stated test it was his "considered opinion" that the R-6 zoning me occor to the original coning, and gave his reasons for reach ng test conclusion (again we do not repeat them here). Although th above may constitute some conflict in the testimony relative to original soning, we are unable to conclude that this left the record surrem of substantial, supporting facts relative thereto. The

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local states that it was "impressed with the testimony of Mr. dillemain regarding the ereor" in original zoning, and if it declied to accept him opinion for the ceasons given by him, we cannot, under our previour holdings, reverse the Beard's action.

the absence of a showing that the acceptance of the opinion off. Rohde v. County Board, Supra. hold that the question of error in the original zoning was fairly lemtable.

What we have stated and held above, necessitates a reserval of the order passed below.

