

RE: PETITION FOR RECLASSIFICATION
from an "R-A" Zone to a "B-L" Zone
E/S York Road, 22' south of Sussex
Road - 9th District
Thomas E. Fritsch, et al
Petitioners

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 5568-RX

OPINION

The petitioner herein seeks a reclassification of a group home which is zoned "R-A" and is presently being used as a residence by the petitioner with an additional apartment being rented out. The property is located at 7313 York Road and is 30' x 140' in area.

The properties at 7311 and 7309 York Road are both zoned "R-A", the properties at 7307 and 7305 are zoned "B-L". The properties formerly known as 7303, 7301 and 7301-A have heretofore been torn down, and there is now a gasoline service station on these lots. It is the contention of the petitioner that sufficient change has occurred in the neighborhood to warrant the reclassification of the subject property.

Mr. George E. Gavrelis, Deputy Director of Planning for Baltimore County, testified that the zoning classifications on the east side of York Road for some 4100 feet to the north and approximately the same distance to the north on the west side of York Road, are residential. There have been no reclassifications from "Residential" to "Commercial" on either side of York Road, for a distance of at least five to six city blocks to the north or to the south, since the adoption of the Ninth District zoning map on November 14, 1955.

The petitioner lays great stress on the commercial zoning that exists on all four corners of Stevenson Road and York Road, and further states the extension of the buildings at 7305 and 7307 York Road have changed the character of the subject property. The petitioner's property was reclassified in 1959 from "R-6" to "R-A", with a special exception for office use, the same classification that now exists on the properties adjacent to the subject property on the south; namely, 7311 and 7309. Immediately contiguous to the property on the north is "R-6" property and when one crosses Sussex Road in a northerly direction, one finds nothing but "R-6" properties.

It is the unanimous opinion of the Board of Appeals that the zoning classification of the subject property as it exists at the present time is a correct one. The three "R-A" properties, 7309, 7311 and 7313 York Road, provide an excellent transition between the "B-L" properties to the south and the "R-6" to the north. It is quite plain in examining

the Ninth District map that Hatherleigh Road on the south and Sussex Road on the north have been correctly used as lines of demarcation between residential and commercial zones.

ORDER

For the reasons set forth in the foregoing Opinion, it is this day of June, 1963 by the County Board of Appeals, ORDERED that the reclassification petitioned for, be and the same is hereby denied.

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

CHAIRMAN

H. Mitchell Austin

RE: PETITION FOR RECLASSIFICATION
from an "R-A" Zone to a "B-L" Zone
E/S York Road 22' S. Sussex
Road, 9th District - Thomas E.
Fritsch and Eleanor K. Fritsch,
Petitioners

BEFORE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
No. 5568-RX

The petitioner in the above matter seeks to have property reclassified from an "R-A" Zone to a "B-L" Zone on the east side of York Road 22 feet south of Sussex Road, in the Ninth District of Baltimore County.

The present zoning of the property is not in error. To change this property to a zone which is other than residential in character would be detrimental to the safety, health and the general welfare of the locality involved.

The parking facilities are a bare minimum even for the present zoning and the increased amount of parking created by "Business Local" zoning would be most detrimental.

For the above reasons the reclassification should not be had.

It is this 14th day of June, 1962, by the Zoning Commissioner of Baltimore County, ORDERED that the above reclassification be and the same is hereby denied and that the above described property or area be and the same is hereby continued as and to remain an "R-A" Zone.

H. Mitchell Austin
Zoning Commissioner
of Baltimore County.

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

1/64 we, THOMAS E. FRITSCH and Eleanor K. Fritsch, legal owners of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an R-A zone to an B-L zone; for the following reasons:

That since the adoption of the Zoning Map in 1955 and since the change in zoning in 1959, there has been such a change in the use of and construction of properties in the 7300 Block York Road as to entitle and justify the owners of the change in zoning requested.

See Attached Description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for Living Quarters in a Commercial Building

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above reclassification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract purchaser
Address: 7313 York Road Legal Owner's
TOWSON 4, MARYLAND

Protestant's Attorney
Address: Baltimore 2, Maryland

ORDERED by The Zoning Commissioner of Baltimore County, this 1st day of April, 1962, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 28th day of May, 1962, at 2:00 o'clock P.M.



(over)

THOMAS E. FRITSCH, et al.
vs.
MADAM R. KIRWAN, JR.
CHARLES STANBRO, JR.
O. MITCHELL AUSTIN
Constituting the Board of
Appeals of Baltimore County

MEMORANDUM OPINION AND ORDER OF COURT

This case involves an appeal from the County Board of Appeals of Baltimore County (hereinafter referred to as the Board) which by its order dated June 6, 1963, denied the reclassification of the property described in these proceedings. The Applicants are Thomas E. Fritsch and his sister, Eleanor K. Fritsch, legal owners of the property in question. They requested a reclassification from an R-A Zone (Residence, Apartments) to a B-L Zone (Business, Local) and for a special exception to maintain living quarters in a commercial building. The reclassification had been denied by the Zoning Commissioner of Baltimore County under date of June 14, 1962.

The property in question is situate on the east side of the York Road between Stevenson Lane and Sussex Road in the Ninth Election District of Baltimore County, Maryland. The improvements on the property consist of an end row house known as No. 7313 York Road. The lot has a frontage of thirty (30) feet on the east side of York Road with an even depth of one hundred forty (140) feet and borders in the rear along a ten (10) foot alley running between Stevenson Lane on the south and Sussex Road on the north.

The comprehensive zoning map for this area of the Ninth Election District of Baltimore County was adopted by the County Commissioners of Baltimore County on November 14, 1955. The Petitioners acquired title to the subject property in the year 1959 at which time it was classified in an R-6 Zone (Residential, one and two-family). The properties immediately adjacent on the south, namely Nos. 7311 and 7309 York Road, were in the same zoning classification. On July 29, 1959, the Petitioners, along with the owners of the properties at 7311 and 7309, obtained a reclassification from an R-6 Zone to an R-A Zone with a special exception for office use. The properties at 7311 and 7309 York Road are presently occupied as offices with apartments

above, 7311 being occupied by Consolidated Masonry Company and 7309 by Hicks-Tate, Inc., an engineering and contracting firm. The remainder of the land on the south side of York Road between No. 7309 and Stevenson Lane was zoned commercial (B-L) on the zoning map. No. 7307 is now occupied as a gift shop known as Yorktown House and Rays Beauty Salon. No. 7305 is presently used by Clark-Appier-Lechler as an optical business. The remaining buildings going south toward Stevenson Lane and formerly known as 7303-7301A and 7301 have been demolished, and the commercial property is now used as a Cities Service filling station. North of the subject property, at the corner of Sussex and York Roads, is a building now used for apartments and offices. All of the remaining land on the east side of York Road between Sussex Road and Burke Avenue, a distance of approximately four thousand one hundred (4,100) feet, is zoned residential, occupied by single family residences and a church. There are no commercial uses on the east side of York Road between No. 7307 York Road and Burke Avenue. Moreover, there have been no reclassifications for commercial use in this area since the adoption of the Ninth District zoning map on November 14, 1955.

After the subject property was rezoned for office and apartment use in 1959, it was completely converted by the Petitioners. The two (2) properties adjoining on the south were likewise converted, and the front building line was extended closer to York Road. The Petitioners did not extend the front of their building and have had difficulty in obtaining office tenants. Nos. 7311 and 7309, however, are presently occupied.

The only witnesses testifying on behalf of the Petitioners were themselves. Three (3) residential property owners in the neighborhood were present to protest at the hearing before the Board. Only one of them, namely Dr. James Milton Blanton, testified. He resides in a dwelling in the R-6 Zone immediately east of the ten (10) foot alley bordering the rear of the Petitioners' property. His dwelling faces on Sussex Road, and the rear of his property is directly across this alley from the subject property. George E. Gavrelis, Deputy Director of Planning for Baltimore County, testified, having been called by the Board.

The Petitioners claim error in the original zoning and a change in the character of the neighborhood in order to justify the reclassification

requested. It is uncontested that there have been no reclassifications from residential to commercial on either the east or west sides of York Road for a distance of at least five (5) or six (6) city blocks, to the north and south of the subject property since the adoption of the Ninth District zoning map.

The Petitioners contend that there was error in the zoning map in that Sussex Road was not made the boundary line between the commercial and residential zoning. They also contend that the construction of the Cities Service gasoline station at the corner of Stevenson Lane and York Road, the extension of the frontages of the buildings at 7311 to 7305 York Road inclusive have changed the character of the block in which their property is situate. The Board did not agree with the contention of the Applicants on either score. No testimony was offered on their behalf as to error in original zoning. The only witness testifying in this regard was Mr. Gavrelis who stated that he felt that the present zoning is manifestly a reasonable use for the property. At pages 78-79 of the transcript of testimony, he gave his reasons in support of his position. These reasons were as follows:

"For this reason. That the zoning, as now applied to this property, accomplishes, I believe, three ends: (1) it sets up a potential for the subject property, which is intermediate between the commercial zoning, not immediately contiguous, but several properties removed to the south, and the single-family residence area to the north. And as such, it accomplishes a transitional feature, a buffering device, if you will use this term, which is in accordance with the planning policy and the recommendations which the Planning Board and the staff now make in similar instances, on comprehensive zoning maps.

"In other words, the present zoning, R-A, with a special exception, is consistent with an over-all plan for this area, and it sets up a buffering or transitional feature, which is most logical and most consistent with the pattern of land usage which occurs.

"If you will again note the zoning map as it applies to this general area, we have active commercial uses in Towson which are severed or translated by apartment zones to the south. The apartment zoning here, in Stevenson and Sussex, accomplishes the same end and is part of the plan."

The Court is of the opinion that the Petitioners failed to meet the heavy burden placed upon them in overcoming the strong presumption of the correctness of the original zoning. As was said by the Court of Appeals in Publ. Y. County Bd. of Appeals, 237 Md. 294 at page 297:

SUSSEX ROAD

STEVENSON LANE

10' ALLEY

R6

R6

R6
BL

EX. OFFICE & APT.

N19°47'E 30'

2 P.S.

2 P.S.

EX. DWG. # 7513

EX. OFFICES

PROP. SERVICE STATION

115'

R6

55'

RA

S70°13'E

81'

22.78'

S19°47'W 30'

EX. C&G

E YORK ROAD

R6

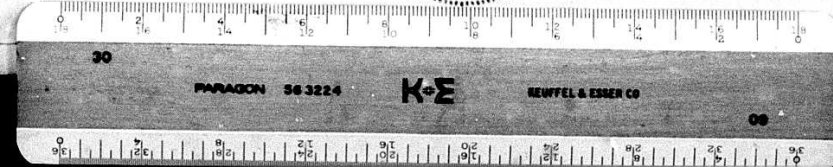
BL

AREA OF PROP. - 0.096 Ac.
EXIST. USE OF PROP. - DWELLING
PROP. USE OF PROP. - BEAUTY SHOP & APT.
EXIST. ZONING OF PROP. - RA
PROP. ZONING OF PROP. - BL &
SP. EXCEP. FOR LIVING QUARTERS IN COMMERCIAL BLDG.

MULLER, RAPHEL & ASSOCIATES, INC.
REG. ENGINEERS & SURVEYORS
201 COURTLAND AVE.
TOWSON 4, MARYLAND



PLAT TO ACCOMPANY ZONING PETITION
9TH ELECT. DIST. BALTO. CO., MD.
SCALE: 1" = 30' MAR 27, 1962



4702 x 4