RE: PETITION FOR RECLASSIFICATION from an "R-A" Zone to a "B-L" Zone E/S York Road, 22' south of Suss ex 9th District

BEFORE

COUNTY BOARD OF APPEALS OF

BALTIMORE COUNTY

No. 5568-RX

R PRITSCH

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' \times 140' in

.

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 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

Muller, Raphel & Associates, Inc., 201-203 McGurdy Avenue, Towson h, Md.

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April 2, 1962

ZONING DESCRIPTION THOMAS E. FRITSCH. ET AL

BEGINNING for the wave on the east side of York Road at a point distant 22.78 feet from the intersection formed by the east side of York Road and south side of Sussex Road, said point of beginning being also at the end of the third or N 70° the west 110 feet line of that lot or parcel of land which by deed dated April 21, 1959 recorded among the Land Records of Baltimore County in Liber WJR 3516 folio 368 was conveyed by Ruth M. Carroll to Thomas E. Pritsch and Eleanor K. Pritach his stater, wanted theree and himing on the east side of York Road and on the fourth line of the aforesaid deed Carroll to Fritsch \$19- 47' west 30.00 feet, then e leaving the east gide of York Road and running thence and binding on the first line of the aforesaid deed Carroll to Fritsch and passing through the center of the partition wall dividing the house on the lot described from the house to the South 700 13' east 160.00 feet to the westernmost side of a right-of-way 10 feet wide, running thence and hinding on the westernmost side of the right-of-way 10 feet wide and on the second line of the afcresaid deed Carroll to Fritsch N 190 47' East 30.00 feet, thence leaving the westernmost side of the right-of-way 10 feet wide and running and binding on the third line of the aforesaid deed Carroll to Fritsch N 70°13 West 1h0.00 feet to

The improvements thereon being known as 7313 York Road.

Being the same lot of ground which by deed dated April 21,1959 and recorded among the Land Records of Baltimore County in Liber WJR 3516 folio 358 was conveyed by Ruth M. Carroll to Thomas E. Frisch and Eleanor K. Frisch,

Muller, Raphel & Associates

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

ORDER

For the reasons set forth in the aforegoing Opinion, it is this day of June, 1963 by the County Board of Appeals, OR DERED that the reclassification netitioned for, he 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

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THOMAS E. FRITSON, et al. IN THE CIRCUIT COURT FOR BALTIMORE COUNTY MATHAN H. KAUPHAN, JR. GHARLES SIZINBOOK, JR. G. HITCHELL AUSTIN Constituting the Board of Appeals of Baltimore Count AT LAW

> REMORANDUM OPDITOR AND ORDER OF COURT

This case involves an appeal from the County Board of Appeals of 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 R. Pettech and his states or K. Fritsch, legal owners of the property in question. They requested a reclassification from an R.-A. Tone (Residence, Apartments) to a B.-L. Zone (Business, Local) and for a special exception to maintain living quarters in a commercial building. The reclassi doction had been denied by the Zoning Commissioner of Baltimore County under date of June 15, 1962.

The property in question is situate on the east stor of the York on Stevenson Lane and Sussex Road in the Rinth Election District of Baltimore County, Karyland. The improvements on the presents consist of an end row house known as Ho. 7313 Tork Road. The lot has a frontage of thirty (30) feet on the east side of Tork Road with an even depth of on hundred forty (1h0) 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 soning map for this area of the Ninth Election District of Beltimore County was adopted by the County Commissioners of Reltimore County on Povember 14, 1955. The Petitioners sequired title to the subject property in the year 1958 at which time it was classified in an 2.-6 Zone (Residential, one and two-family). The properties insediately adjacent on the south, namely Nos. 7311 and 7309 York Road, were in the same soming classification. On July 29, 1959, the Petitioners, along with the owners of 'be properties at 7311 and 7309, obtained a replaceification from an Re-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 spartments

above, 7311 being occupied by Consolidated Masonry Company and 7309 by Hicks-Tate. Inc., an engineering and contracting fire. The remainder of the land on the south side of York Road between No. 7309 and Stevenson Land was noned connercial (B.-L.) on the noning map. No. 7307 is now excepted as a gift shop known as Yorktowne Bruse and Raye Beauty Salan. No. 7305 is presently used by Clark-Appler-Locbler as an optical business. The remaining buildings going south toward Stevenson Lane and formerly known as 7303-73014 and 7301 have been conclished, 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 apartmen and offices. All of the remaining land on the cast side of York Road between Sussex Road and Burks Avenue, a distance of approximately four thousand one hundred (b,100) feet, is somed residential, occupied by single family residences and a phurch. There are no compurcial uses on the east side of Tork Road between No. 7307 York Road and Surke tvenue. Moreover, there have been no reclassifications for commercial use in this area since the adoption of the Minth District soning map on Morember 14, 1955.

After the subject property was resented for office and apartmen use in 1959, it was completely converted by the Potitioners. The two (2) properties adjoining on the Jouth 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. Hos. 7311 and 7309, however, are presently occupied.

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

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

RE: PETITION FOR RECLASSIFICATION FROM AN "R-A" ZONE TO A "B-L" E. S. York Road 22 S. Sissex REFORK Road, 9th District - Thos.E. Fritsch and Eleanor M. Fritsch, ZONANG COMMISSIONER BALTTMORE COUNTY No. 5568-RY

The putitioner in the above matter seeks to have property reclassified from an "R-A" Zone to a "B-L" Zone on the east wide of North Road 22 feet south of Sussey Road, in the Winth District of Halti-

The present moning 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 soning and the increased amount of parking created by "Business Local" soning would be most detrimental.

For the shove reasons the reclassification should not be had.

It is this 14th day of June, 1962, by the Zoning Commissioner of Baltimore County, OFDERED 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 an

Zoning Commissione

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#55LERX AND/OR SPECIAL EXCEPTION TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 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 re-classified, SEC.3-C to the Zoning Law of Baltimore County, from an----... B L

PETITION FOR ZONING RE-CLASSIFICATION

__zone: for the following reasons BL-X That since the adoption of the Zoning Map in 1955 and since the ch 5/10/02 in zoning in 1959, there has been such a change in the use of and constru of properties in the 7300 Block York Road as to entitle and justify the owners of the change in zoning requested.

See Attached Description

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5/28/62

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 re-classification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore

	Mondo C. Strulach 4
Contract purchaser	Elsanor N. Fritacl 7313 York Road Legal Owner &
ddress	Address Towson 4. Maryland
Herry & Kaufman	***************************************

Petitioner's Attorney 220 E. Lexington Street Baltimore 2, Haryland GRDERED by The Zoning Commissioner of Baltimore County, this 3rd da

of April 196 ... ? 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 Ballimere County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore

County, on the _____dot 28th _____day of ___ May_ 196.2 at 2:00 clock 3.54

-1-

stod. It is uncontradicted that there have been no reclassification from residential to commercial use on either the east or west sides of York Road for a distance of at leastfive (5) or six (6) city blocks, to the north and south of the subject property since the adoption of the Kinth District

The Potitioners contend that there was error in the soming map in that Sussax Road was not made the boundary line between the commercial and residential soning. They also contend that the construction of the Cities Service gasoline station at the corner of Stevenson Lane and York Road, the on of the fromlages 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 testinony was offered on their behalf as to error in original soming. The only witness tentifying in this regard was Mr. Cavrelis the stated that he felt that the present soming is manifestly a reasonable for the property. At pages 78-79 of the transcript of testinomy, he sons in support of his position. These reasons were as follows:

"For this reason. That the moning, as now applied to this property, accomplishes, I bollews, those ends: It not up use potentials for the subject property, which is intermediate between the conservals sening, not immediately contingens, but residence even to the ends to be only, and the single-family residence even to the red to the contingens, but residence even to the red to the contingens, but residence even to the red to the contingens, the transitional feature, a buffering device, if you will not be transitional feature, a buffering device, if you will not the recommendations which the Finning Source and the staff now make in similar instances, on compensative using supe.

The Court is of the opinion that the Petitioners failed to meet th ten placed upon them in overcoming the strong presumption of the ness of the original soning. At was said by the Court of Appeals in Pahl v. County Bd. of Appeals, 237-Hd. 294 at page 297:

"The appellants on this uppeal contend that the applicants in seeking realantification did not neet the heavy barden of proof required of them to estimite the congression proof required of them to estimite the congression resemble of the corrections. We specify the strong presemption of the corrections of original is elevant to expenditure to the corrections of original sounds and of comprehensive resoning, and that to mutain a piscensell change therefore, there must be strong evidence of mintain in the original souling or in the corrections or resoning or the congression of t

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At pages 297-298, the Court continued:

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"Fig. 1 rest ton almost of Jones' testinony are similar
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"The claim that twere is a need for additional apartments in this area (which is disputed) falls to show raphthing some than that as fall uses not the more profitable twan sin 16-use, than that as fall use to the some profitable than sin 16-use, the some fall than the sound that it is not to see fall that a property enser can make a greater profit by developing in one classification than in another does not in and of itself deprive him of the reasonable use of his land in the constitutional sense. Devall v. panald of Joseph County September 15-18.

See also MacDonald v. County Board, 238 Md. 549 p. 555; Miller v.

Abrahams, 320 September Term 1964 decided June 23, 1965.

The Court is also of the coinion that the question of a change in the character of the neighborhood presented a reasonably debatable question, and it is not the function of the Court to some or resons or to substitute its judgment for that of the expertise of the soning authority. See Lutherville Assn. v. Wingard, 239 Md. 163 pp. 167-168.

For the reasons stated, the Order of the County Board of Appeals of Baltimore County dated June 6, 1963, be and the same is hereby affirmed.

/s/ Walter M. Jenifer Walter M. Jenifer JUDGE

Dated: August 3, 1965.

TELEPHONE

BALTOIORE COUNTY, MAROLAND No. 12875 OFFICE OF FINANCE DATE 7/6/62

court House TOWSON 4, MARYLAND

Harry D. Kaufman, Esq. 220 E. Laxington St., Baltimore 2, Hd.

Office of Planning & Zoning 119 County Office Bldg., Townen h. Mc BILLED

County Board of Appeals

DEPOSIT TO A	CCOUNT NO. 01.622	TOTAL AMOUNT
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMIT/ANCE	COST
-	Appeal to County Board of Appeals No.5568-I	\$70.00
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IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND MAIL TODIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

BALLMORE COUNTY, MATELAND OFFICE OF FINANCE Division of Calletins and Receipts COUNT HOUSE	No. 17417
	OFFICE OF FINANCE Division of Collection and Receipts

BILLED

	220 E. Lexington Street	(Zaning)
	Baltimore 2, Maryland	
DEPOSIT TO	ACCOUNT NO. 01.712	TOTAL
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IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND MAIL TODIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND PLEASE RETURNUPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

BALTIMORE COUNTY, MARYLAND

NTER-OFFICE CORRESPONDENCE

TO Mr. John G. Rose, Zoning Commissioner Date May 18, 1962

FROM Mr. George E. Gavrelis, Deputy Director

SUBJECT #5568-FX. R-4 to B-L; and Special Exception for Living Quarters in a Commercial Building, Eastside of York Road 22 feet South of Sursex Road. Bring property of Thomas Fritsch.

9th District

Monday, May 28, 1962 (2:00 P.M.) SEARING:

The staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from apartment to commercial country together with a special exception for living quarters in a commercial building. It has the following seriory comment to make with respect to pertinant planning factory comment to make with respect to pertinant planning factors. rcial

Apartment sening exists on either ride of the subject property with Bed soning extraing to the rear and across the street of adjacent properties. This is a clear case of spot soning.



TELEPHONE

To:

BALTIMORE COUNTY, MARYAND

OFFICE OF FINANCE

Division of Collection and Receipt COURT HOUSE TOWSON 4, MARYLAND

Harry D. Eaufman, Esq. 220 E. Lexington Street Baltimore 2, Nd.

BILLED Zoning Department of Baltimore County

No. 12830

DATE /1/62

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	0.1 pg 2-31 a a a HT	5.00
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PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

TELEPHONE

BALTIMORE COUNTY, MARYOND OFFICE OF FINANCE

No. 11567 DATE 1/3/62

Pivision of Collection and Receip COURT HOUSE TOWSON 4, MARYLAND

To: Thomas E. Fritsch 7313 York Read Towson b, Md.

Billinore County

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MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, M PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

CERCIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland #5568 District. 9 th Date of Posting 5-11-62 Date of Porting 5 11-6.

Posted for Carlo And And South Asset Super Supe Remarks: Posted by Hary Signature

HARRY D. KAUFMAN ATTORNEY-AT-LAW
220 EAST LEXINGTON STREET
FIRST FLOOR
BALTIMORE 2, MD.

June 29, 1962 1

JUL -1 '62 1 -

Date of return: 5-/2-62

Mr. John G. Rose, Zoning Commissioner County Office Building 111 W. Chesapeake Tvenue Towson 4, Md.

Dear Mr. Rose:

Enclosed herewith you will find my check in the amount of \$70.00 in payment of costs of appeal in the matter of Thomas E. Fritsca, et al.

Very truly yours, Herry D. Kaufman

HDK 'McG

PETITION FOR ZONING RECLASSIFI-CATION AND APPECIAL EXCEPTION THE DISTRICT

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CERTIFICATE OF PUBLICATION

TOWSON, MD Hay 11, 1962 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., SHEANCOLLER ..., 19.62, the tors publication day of May appearing on the 12th day of May 1962

THE JEFFERSONIAN, Track Merchen

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Cost of Advertisement, \$_____

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

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