

5610

Atops #12
Sec. 4-A
4-B
RA
7/6/02

1. Existing zoning is in error.
2. Change in the neighborhood justifies a reclassification.
3. Existing zoning precludes an economical use of the property

and ~~XXXXXX~~ under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for Apartment Houses

(s) August H. Koch
August H. Koch
(s) Catherine Koch
Catherine Koch Legal Owner
Address 7233 German Hill Road

(s) John E. Mudd
 John E. Mudd
 305 W. Chesapeake Avenue (4)
 Stengel & Askew, Attorneys at Law
 208 West Pennsylvania Ave.
 Address

True Copy Test: _____ John G. Rose
Zoning Commissioner of Baltimore County.

Zoning Commissioner of Baltimore County (over)

Zoning Commissioner of Baltimore County

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 13th day of November, 1962, that the above re-classification 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 a R-6 zone.

True Copy Test: John G. Rose
Zoning Commissioner of Baltimore County

AUGUST KOCH and
CATHERINE KOCH

ORDER

The appeal of George Fflugrad, the other appellant, is hereby dismissed for the reason that the record of the proceedings before the administrative agency have not been transmitted to this Court within the time required by Rule 27 of the Maryland Rules of Procedure.

John Grason Turnbull
JUDGE

the County Board of Appeals from
Please enter an appeal to the Order dated November 13, 1962
denying reclassification in the above entitled case.

John E. Mudd
305 W. Chesapeake Avenue
Towson 4, Maryland
Ve. 3-4111


Lewis E. Stengel
208 W. Chesapeake Avenue
Towson 4, Maryland
Va. 3-5400
Attorneys for Appellant

Swanwick, Boone & Co.
ATTORNEYS AT LAW
TOWSON, MD.

#5610

SUBJECT #5610. R-5 to R-4. Northside of German Hill Road
211.37 feet West of Beverly Road. Being property of
August Koch, Sr.
12th District

HEARING: Wednesday, July 18, 1962 (11:00 A.M.)

1. It is the understanding of the Planning staff that the subject property is surrounded on three sides by cemeteries. The Planning staff is in accord with the concept of the use of this property for apartment purposes.

George E. Gaverlis
Deputy Director of Planning

Civil Engineer

8713 OLD HARFORD ROAD

NORTHFIELD 5-7422
FOR NO. 10000 PITCH

PROPERTY OF THE U.S. GOVERNMENT

ALBERT N. ROSE AND SONS

beginning for the same in the bed of German Hill Road at a point distant 214.37 feet from
75 degrees 44 minutes west from the center of Beverly Road (20 feet wide) as shown on the
plat of Beverly Farm as filed among the Land Records of Baltimore County in Plat Book no. 6
folio 97, said point of beginning being also at the division line between lots no. 5 and 6
as shown on said plat, thence running with and binding on the southwestern outline of said
lot no. 5 and in the bed of said German Hill Road north 75 degrees 44 minutes west 74.96
feet to the westernmost outline of said lot no. 5, thence leaving said road and running with
and binding on said westernmost outline north 15 degrees 52 minutes east 450.66 feet to the
division line between said lot no. 3 and lot no. 38 as shown on said plat, thence running
with and binding on said division line south 87 degrees 19 minutes east 207.93 feet to the
division line between said lot no. 5 and lot no. 7 as shown on said plat, thence running
with and binding on said division line and the said division line between lot no. 5 and 6,
south 2 degrees 41 minutes west 471.13 feet to the place of beginning.

BEING all of Lot no. 5 as shown on the plat of Beverly Farms as filed among the Land Records of Baltimore County in Plat Book no. 4 folio 80.

True Copy Test:

John A. 74
Zoning Commissioner of Baltimore County

January 9, 1960

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

5620

District 12th Date of Posting June 28, 1962
 Posted for: "B-6" Zone 19 AA "B-4" Zone
 Petitioner: AVIUST H. & Catherine Kocha
 Location of property: M. S. German Hill Road 214, 27' N. Beverly Road, etc. see plat
 Location of Signs: One sign 22 feet; another 370 feet west of Beverly Road on the north side
of German Hill Road.
 Remarks: _____
 Posted by: OTHEL J. BROWN Date of return: June 29, 1962

True Copy Test:

Zoning Commissioner of Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 12th Date of Posting 9/2/63
 Posted for HEARING Tuesday Sept. 3 1963 11:10. 3:30 PM
 Petitioner: AUGUST H. Kohn et al.
 Location of property: NLS German Hill Ry. 214.37 West of
Beverly Rd.
 Location of Signs: On Apr. 15th from driveway - 2nd from J. Feb
on German Hill Rd. 100 yds. 25th from old HANE turning
down
 Remarks: Has a sign marking S. German 1.66 RD.
 Posted by Robert Lee Bull Date of return: 8/22/63

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TO: Messrs. Stonagl & Ashby,
207 W. Chesapeake Avenue,
Towson 2, Maryland

BILLED BY: Office of Planning & Zoning
119 County Office Bldg.,
Towson, Md. Maryland

REPORT TO ACCOUNT NO. <u>01-622</u>		DATE OF REPORT
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE	COST
—	Cost of appeal in the matter of reclassification of property August H. Book - No. 5610	\$70.00
	10-542 3379 • • • TEL—	70.00

IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

RE: PETITION FOR RECLASSIFICATION
from an R-6 Zone to an R-A Zone,
N/S German Hill Road 214.37'
West of Beverly Road
12th District
August H. Koch, et al
Petitioners

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 5610

OPINION

The present petition is for a reclassification from an R-6 Zone to an R-A Zone on a tract of land located on the north side of German Hill Road 214 feet west of Beverly Road in the Twelfth Election District of Baltimore County. The property consists of 2.21 acres with a frontage on German Hill Road of approximately 207 feet. The property then extends northerly to a depth of 450 feet on the west side and 491 feet on the eastern most portion. It is bounded on the east, north, and west sides by a cemetery use.

This particular property presents a rather unique problem in that its shape does not readily lend itself to R-6 development because of setbacks and layout of the streets necessary for that type of development. The petitioner proposes thirty-five (35) apartment units with three (3) buildings, a rental office located in the building nearest German Hill Road as shown on petitioners' exhibit No. 1 introduced into evidence at the hearing on this matter. There was ample testimony regarding utilities to convince the Board that no such problem was present.

George E. Gavrelis, Director of Planning for Baltimore County, testified to the effect that the proposed plan met with his department's approval in that the erection of the said apartments would not be detrimental, in his opinion, to the surrounding property.

This testimony was also elicited from Frederick P. Klaus, a recognized real estate expert, who felt that the road cost in relation to the number of units that could be erected under R-6 would be unnecessarily expensive.

The Board feels that an error was committed on the adoption of the map in leaving this small parcel of ground in a single family residence category because of its peculiar shape. This, of course, could not be foreseeable by the map's adoptors and would not be readily evident except under minute inspection. Therefore, this Board feels that the petitioners' proposal is logical and reasonable.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 5th day of March, 1965 by the County Board of Appeals, ORDERED 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

G. Mitchell Austin
G. Mitchell Austin, Chairman

W. Giles Parker
W. Giles Parker

John A. Slowik
John A. Slowik

HILLSHIRE IMPROVEMENT ASSOCIATION *
1228 Hillshire Road
Baltimore, Maryland 21222

GEORGE PFLUGRAD *
7703 Manchester Road
Baltimore, Maryland 21222

IN THE CIRCUIT COURT

FOR

BALTIMORE COUNTY

AT LAW

Plaintiffs
vs.
G. MITCHELL AUSTIN,
W. GILES PARKER, and
JOHN A. SLOWIK,
Constituting COUNTY BOARD
OF APPEALS OF BALTIMORE COUNTY

Defendants

ORDER FOR APPEAL

MR. CLERK:

Please note an Appeal on behalf of Hillshire Improvement Association and George Pflograd from the County Board of Appeals of Baltimore County to the Circuit Court for Baltimore County, in the matter of a Petition for reclassification from an "R-6" Zone to an "R-A" Zone, N/S German Hill Road, 214.37' West of Beverly Road, 12th District, August H. Koch, et al, Petitioners - #5610. This Appeal is from the decision of the County Board of Appeals of Baltimore County dated March 5, 1965 by virtue of which the reclassification petitioned for was granted.

FRIEDMAN & GOODMAN

James J. Doherty

Attorneys for Plaintiffs
12th Building - 8th Floor
303 E. Fayette Street
Baltimore, Maryland 21202
685-1763

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was mailed this 1st day of April, 1965, to John E. Mudd, Esquire, 22 W. Pennsylvania Avenue, Towson 4, Maryland, Attorney for the Petitioner, and to the County Board of Appeals of Baltimore County, County Office Building, Towson 4, Maryland.

James J. Doherty

HILLSHIRE IMPROVEMENT ASSOCIATION *
1228 Hillshire Road
Baltimore, Maryland 21222

GEORGE PFLUGRAD *
7703 Manchester Road
Baltimore, Maryland 21222

Plaintiffs

vs.

G. MITCHELL AUSTIN,
W. GILES PARKER, and
JOHN A. SLOWIK,
Constituting COUNTY BOARD
OF APPEALS OF BALTIMORE COUNTY

Defendants

IN THE CIRCUIT COURT

FOR

BALTIMORE COUNTY

AT LAW

PETITION FOR APPEAL

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Hillshire Improvement Association and George Pflograd, by Friedman & Goodman and James J. Doherty, their attorneys, filed pursuant to Chapter 1100, Sub-Title B, of the Maryland Rules of Procedure, 1961 Edition, respectfully represents unto your Honor:

1. That this Appeal is from the decision of the County Board of Appeals of Baltimore County dated March 5, 1965 in case #5610, which case involved a Petition for a reclassification from an "R-6" Zone to an "R-A" Zone of the property located on the north side of German Hill Road, 214.37' West of Beverly Road, 12th District, August H. Koch, et al, Petitioners.

2. That the Order of the County Board of Appeals which granted the reclassification petitioned for is arbitrary, capricious and illegal for the following reasons:

(a) That there was no testimony offered on behalf of Petitioner indicating any change in the neighborhood involved

in the said proceeding since the adoption by the County Council of Baltimore County of the land-use map covering such area.

(b) That the Board is in error in reaching its conclusion that an error was committed on the adoption of the land-use map by the County Council covering the area in question.

(c) That the testimony and other evidence offered on behalf of petitioner failed completely to demonstrate that an error had been made by the County Council when the said Council adopted the land-use map in question.

(d) That the opinion of the County Board of Appeals is based upon erroneous legal theories, viz., the said Board has substituted its judgment for the judgment of the County Council of Baltimore County in reaching the conclusions contained in its opinion contrary to the applicable provisions of law relating to the functions and jurisdiction of the said Board in reaching decisions on proceedings of the character involved herein.

(e) That the testimony of George E. Gavrelis, Director of Planning for Baltimore County and Frederick P. Klaus utterly failed to support the Board's conclusion that an error had been made by the County Council in zoning the property in question in a "R-6" Zone. Specifically, the Board is in error in its conclusion "that an error was committed on the adoption of the map in leaving this small parcel of ground in a single family residence category because of its peculiar shape. This, of course, could not be foreseeable by the map's adoptors and would not be readily evident except under minute inspection".

(f) A review of the entire evidence of record presented in this proceeding will lead to the inevitable conclusion that the County Board of Appeals has in this proceeding attempted to perform a legislative function which is completely beyond its authority as an administrative agency. Under the principles of law regulating this administrative agency the performance of such legislative function is clearly prohibited. Under the existing principles of law the legislative function attempted to be exercised in this proceeding was properly exercised by the County Council of Baltimore County and can be exercised by no other agency in the Baltimore County Government.

WHEREFORE, your Petitioner prays that this Honorable Court will pass an Order reversing the Order of the County Board of Appeals dated March 5, 1965 and directing the Zoning authorities of Baltimore County to refuse to rezone the tract in question from a "R-6" Zone to an "R-A" Zone.

AND AS IN DUTY BOUND, etc.

FRIEDMAN & GOODMAN

James J. Doherty

Attorneys for the Plaintiffs
12th Building - 8th floor
303 E. Fayette Street
Baltimore, Maryland 21202
685-1763

I HEREBY CERTIFY that a copy of the foregoing Petition for Appeal was mailed this 1st day of April, 1965, to John E. Mudd, Esquire, 22 W. Pennsylvania Avenue, Towson 4, Maryland, Attorney for the Petitioner, and to the County Board of Appeals of Baltimore County, County Office Building, Towson 4, Maryland.

James J. Doherty

CERTIFICATE OF POSTING JONAS DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 12th Date of Posting 12/27/63
Posted for: August H. Koch et al
Petitioner: Mr. George Pflograd, 214.37' West of Beverly Rd.
Location of sign: 12th floor, Towson Hill Rd and 2nd floor of 12th floor, Towson Hill Rd and 2nd floor of 12th floor, Towson Hill Rd
Number of signs: 12
Posted by: Robert J. Bull Date of return: 1/2/64

1 sign

OFFICE OF
The Community Press

DUNDALK, MD., June 27 1962

THIS IS TO CERTIFY, that the annexed advertisement of August H. Koch was inserted in THE COMMUNITY PRESS, a weekly newspaper published in Baltimore County, Maryland, once a week for successive weeks before the 26 day of June 1962; that is to say, the same was inserted in the issues of

6-27-62

ESTATE OF P. G. STROMBERG,

Stromberg Publications
Publisher.

By Betty Price

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 12941
DATE 7/18/62

TO: Messrs. Stengel & Ashew
206 W. Chesapeake Ave.
Towson 4, Md.

Billing Department of
Baltimore County

DEPOSIT TO ACCOUNT NO.	01622	TOTAL AMOUNT
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE	COST
1	Advertising and posting of property for August Koch	36.35
		36.35

IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland #5610

District 12th Date of Posting June 28, 1962
Posted for: "R-6" Zone 19. AN "B-1" Zone
Petitioner: August H. & Catherine Koch
Location of property: N. S. German Hill Road 214.37' W. Beverly Road, etc. see plat
Location of Signs: One sign 22 feet; another 370 feet west of Beverly Road on the north side of German Hill Road
Remarks:
Posted by: George R. Huppel Date of return: June 29, 1962
Signature

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland #5610

District 12th Date of Posting 6-28-62
Posted for: August H. & Catherine Koch
Petitioner: August H. & Catherine Koch
Location of property: N. S. German Hill Rd. 214.37' W. Beverly Road, etc. see plat
Location of Signs: One sign 22 feet; another 370 feet west of Beverly Road on the north side of German Hill Road
Remarks:
Posted by: George R. Huppel Date of return: 6-29-62
Signature

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

CERTIFICATE OF PUBLICATION

TOWSON, MD. June 29, 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., on the 29th day of July 1962, the said publication appearing on the 29th day of June 1962.

THE JEFFERSONIAN,
Franklin Manager.

Cost of Advertisement, \$

TELEPHONE VALLEY 3-3000	INVOICE BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE Division of Collection and Receipts COURT HOUSE TOWSON 4, MARYLAND	No. 11697 DATE 5/28/62
TO: Messrs. Stengel & Ashew 206 W. Penna. Ave. Towson 4, Md.	BILLED BY: Zoning Department of Baltimore County	
01622	DEPOSIT TO ACCOUNT NO.	TOTAL AMOUNT \$50.00
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE	COST
1	Petition for Reclassification & Special Exception for August Koch, Sr.	50.00
		50.00

IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

LOT N^o 28
ZONED R.C.

S 87° 10' E 207.93'

RECREATION AREA
AUGUST H. KOCH & WIFE 2495-128
LOT N^o 5
PLAT OF BEVERLY FARMS
PLAT BOOK NO. 4-80

PUBLIC GRASSLANDS
3 PLANTING

12 APARTMENTS

12 APARTMENTS

11 APARTMENTS
OFFICE
30' X 120'

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

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GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

GERMAN HILL ROAD

ZONING PLAT

PROPERTY OF
AUGUST H. KOCH & WIFE

72nd GERMAN HILL ROAD
DANEO, 22nd MO.

12th ELECTION DISTRICT DANEO CO. MO.
SCALE 1" = 20'

DEC 12, 1951

2.211 AC.
2.048 AC.
35 APPTS.
36 TRACTS

NET 2.048 AC. (GERMAN HILL)
NET 2.048 AC. (GERMAN HILL)
NET 2.048 AC. (GERMAN HILL)

NET 2.048 AC. (GERMAN HILL)
NET 2.048 AC. (GERMAN HILL)
NET 2.048 AC. (GERMAN HILL)

NET 2.048 AC. (GERMAN HILL)
NET 2.048 AC. (GERMAN HILL)
NET 2.048 AC. (GERMAN HILL)

#5610

MAPS

#12

SEC. 4A

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Trusted of Independent
Ruth Church of the Holy
Mother of Uniting
Help. ROM 233-128
CEMETERY
ZONED R.C.

Christ Evan.
Lutheran Church
233-315
CEMETERY
ZONED R.C.

LOT N^o 5

ANDERSON & DAHLIS JR.
PLAT BOOK NO. 14-80