

LEON A. CRANE

NO. 5747

W/S Scotts Level Road, 1110' from Millford Mill Road - 2nd District
Reclassification from R-6 to R-A

January 27, 1963 Order of Zoning Commissioner granting reclassification
February 28, Order of Appeal to Board of Appeals
February 4, 1964 Order of Board granting reclassification
March 2, 1964 Order for Appeal filed in Circuit Court
June 22, 1964 Board reversed in Circuit Court
July 17, 1964 Intervenor's Motion for Re-Argument and Order of Court filed
Nov. 5, 1964 Appeal Dismissed in Circuit Court (Judge Raine)
Dec. 2, 1964 Order for Appeal to Court of Appeals filed
Oct. 14, 1965 Circuit Court affirmed and appeal dismissed

GRANTED

RE: PETITION FOR RECLASSIFICATION
from an "R-6" Zone to an "R-A" Zone,
W/S Scotts Level Road, 1110' from
Millford Mill Road
Second District
Leon A. Crane, Petitioner

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 5747

OPINION

This is a petition to reclassify 35.55 acres of land, more or less, lying on the west side of Scotts Level Road approximately 1110 feet north of Millford Mill Road, having a frontage on Scotts Level Road for a distance of approximately 560 feet northwesterly therefrom on Scotts Level Road in the Second District of Baltimore County, from an "R-6" Zone to an "R-A" Zone.

The property has a depth of 2337 feet in a straight line from Scotts Level Road to its northernmost boundary. The southern boundary is rather irregular and ragged, and for approximately one-half its distance abuts the property of the Millford Mill Swimming Club. The remaining one-half of the southern boundary abuts two properties known as Gringo and Frey properties.

The easternmost boundary of the property fronts on the newly constructed portion of Scotts Level Road which has been widened and improved from the northerly extremity of this property southerly to the intersection of Scotts Level and Millford Mill Roads.

Scotts Level Road, at this location, is parallel to and contiguous to the Baltimore County Beltway except for an intervening grass plot or unimproved area owned by the State of Maryland as a part of the right-of-way of the Baltimore County Beltway.

The northerly boundary of the subject property is contiguous to a number of properties located on a dirt road known as Hickory Avenue or Lane which extends in a westerly direction from Scotts Level Road.

The westerly boundary abuts unimproved land with a ravine type topography and is heavily wooded.

It is the unanimous opinion of the Board of Appeals that the zoning map adopted for this area on November 15, 1962 placing the subject property in an "R-6" classification was in error. The record clearly demonstrates that nine building permits were issued on the Millford Mill Swimming Club property between December 2, 1949 and March 24, 1961. All of these improvements were completed prior to the adoption of the zoning map on November 15, 1962. They include a bath house, dance pavilion, a shelter, a second bath house, an indoor pool, bath house addition, two swimming pools and a fence. In addition to the above there was another building of the outside ice

cream type stand as well as a picnic pavilion and tables.

As would be expected in a development of this character, there are loud speakers throughout the picnic area which is immediately contiguous to the southern boundary of the property in question. There is also a repair shop for the equipment used on this property which is contiguous to the southern boundary of the subject property.

In reviewing the original zoning map for this area dating back to 1945, the property on this map was indicated as a pond, subsequently listed as a picnic ground and recreation area, and still later as a day camp for children. There was no evidence placed before the Board to indicate that the County Council had any additional knowledge of the nature and extent of the uses that were being made of this property at the time the land use map was adopted allowing the property to remain as a non-conforming use. It was clear that the Planning Board was not aware of the extent of the use on the contiguous swimming pool property at the time they recommended "R-6" zoning for the subject tract. Whether the Council did or did not have any additional information, it is the opinion of the Board that the proper consideration was not given to the effect that the Millford Mill Swimming Club had on adjoining undeveloped properties to the north.

Further, the Board is of the opinion that proper consideration as to the character and use of properties surrounding the subject property was not given. The Gringo and Frey properties abutting to half the southern boundary is unimproved except for a few run-down dilapidated buildings which have a more deterring effect than if there were no improvements at all.

The homes on the northern boundary of the property, located on Hickory Avenue or Lane, are little more than what are commonly known as "shacks", some having outside privies and being in a general state of disrepair. The junk yard atmosphere created by these properties again would have a deterring effect on the development of the subject property.

The Millford Mill Swimming Club has a normal closing hour of 10 P. M., 11 P. M. on Saturdays, with a possibility of even later closing for private parties. As many as 9625 people have attended various activities during a single week during the summer months, with a high of 2435 people on a single day during the summer months. Such activities could hardly be described as being conducive to residential development of the contiguous land to the north for either individual or semi-detached homes.

The fact that the land to the south and to the west has been developed in individual cottage residences does not, in itself, make the subject property suitable for "R-6" development. These homes are separated from the major activities of the swimming club by a parking area and a wooded area. These properties front toward Millford Mill Road and either face other single family residences, unimproved properties, or the Millford Mill Senior High School on the south side of Millford Mill Road. Further, these individual

homes are completely out of sight of the submarginal properties on Hickory Lane.

The Board has always felt that the primary reason for the placement of the "R-A" Zone in conjunction with commercially used or commercially zoned strip areas was to create a buffer strip between the commercial and cottage residential uses and to protect residential development from further encroachment from the commercial uses or commercial zoning. Certainly no one can deny that the Millford Mill Swimming Club today is a commercial establishment whether it is zoned for such uses or whether it is being used under a nonconforming classification. If one were to apply for a commercial recreation enterprise including a dance hall, etc. regulations, as they exist at the present time, would require "R-A" zoning. Therefore, the reclassification of the subject tract from "R-6" to "R-A" seems quite appropriate.

Furthermore, such reclassification cannot, in the Board's opinion, have any adverse effect on any of the surrounding properties. In fact, it would have the opposite effect on both the submarginal properties contiguous to the north and to the south. Certainly the erection of garden-type apartments would not have an adverse effect on the Millford Mill Swimming Club, and the wooded ravine type property to the west would certainly act as a buffer between the subject property and the residential developments further to the west.

The property is located on an adequate road leading from the subject property to Millford Mill Road and thence to the Baltimore County Beltway. The property is also located favorably with regard to shopping areas and schools of all types.

Testimony from Dr. Walter Worthington Ewell, an expert in the field of traffic, was that there would be no traffic congestion or traffic hazard due to the reclassification of the subject property.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 4th day of February, 1964 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

Chairman

Chairman

Note: Mr. Steinbock did not sit at this hearing.

RE: PETITION FOR RECLASSIFICATION
from "R-6" Zone to "R-A" Zone,
W/S Scotts Level Road, 1110' from
Millford Mill Road - 2nd District
Leon A. Crane, Petitioner

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 5747

On March 21, 1963 a hearing was held on the petition of Leon A. Crane asking that the Board set aside the appeal of Mr. Harry S. Swartzwelder, Jr. filed with the Zoning Commissioner of Baltimore County on February 28, 1963 - Zoning Petition No. 5747.

After hearing arguments from Mr. Eugene G. Ricks, representing the petitioner, and Mr. Swartzwelder, it is the unanimous opinion of the Board that under Section 500.10 Mr. Swartzwelder did have a right to file his appeal; that the argument presented by Mr. Ricks is one requiring a legal decision, a decision which is beyond the scope of this Board.

Acting in the same manner that it has since its inception as the County Board of Appeals, the Board accepts Mr. Swartzwelder's appeal as being timely and rejects the petition of Mr. Leon A. Crane.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Chairman

Chairman

Chairman

DATE: March 24, 1963

HARRY DUBAY,
MICHAEL HENNINGER, JR.,
HELEN ALKIN and
MYRIAS RICE

Petitioners

vs.

WILLIAM H. KATZMAN, JR.,
G. MITCHELL MURPHY and
CHARLES STEINBOCK, JR.,
Constituting the
County Board of Appeals
of Baltimore County

Defendants

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
Misc. No.

ORDER FOR APPEAL

Mr. Clerk:

Please set an appeal on behalf of Harry Dubay, Michael Henninger, Jr., Helen Alkin and Myrias Rice, 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, located on the west side of Scotts Level Road, 1110 feet from Millford Mill Road in the Second Election District. This appeal is from the decision of Petition No. 5747, of the County Board of Appeals of Baltimore County, dated February 4, 1964, granting the request for reclassification. This appeal is filed pursuant to the provisions of Maryland Rules 22 and 24.

Harry S. Swartzwelder, Jr.
1700 Ramsey Building
Baltimore 3, Maryland
777-4000
Attorney for Petitioners

I HEREBY CERTIFY that on this 24th day of March, 1964,
I mailed a copy of the foregoing Petition to Walter L. Reid,
Esquire, W. Lee Harrison, Esquire and to the County Board
of Appeals of Baltimore County.

Harry S. Swartzwelder, Jr.

HARRY S. SWARTZWELDER, JR.
ATTORNEY AT LAW

February 28, 1963

Office of Planning and Zoning
for Baltimore County
County Office Building
Towson 4, Maryland

Attention: Mrs. Harris

RE: Petition No. 5747
Leon Crane, Petitioner
West side of Scotts Level Road
1,110' from Millford Mill Road
Reclassification R6-RA

Dear Mrs. Harris:

Please enter an appeal to the Board of Appeals for Baltimore County from the decision of the Zoning Commissioner rendered in the above designated case.

Yours very truly,

Harry S. Swartzwelder, Jr.
Harry S. Swartzwelder, Jr.

HSS/cep

SMITH AND HARRISON
March 1, 1963

Board of Zoning Appeals for Baltimore County
County Office Building
Towson 4, Maryland

Re: Reclassification Petition No. 5747, Property of
Leon A. Crane

Gentlemen:
This is to advise you that an appeal has been taken in the above case by one Harry S. Swartzlander, Jr., who was not a party to these proceedings before the Zoning Commission.

It is apparent that this notification of appeal is done for the purpose of harassment and delay to our client, Mr. Crane, who will suffer irreparable harm and damages if there is any delay in getting an early hearing date on this appeal.

Your cooperation in setting this down for a hearing as early as possible is respectfully requested.

Very truly yours,
SMITH AND HARRISON

Eugene G. Nick
Eugene G. Nick

EGR:9

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Soto, Zoning Commissioner Date: JANUARY 11, 1963
FROM: Mrs. Stephen B. Gattavola, Deputy Director
SUBJECT: 5747, R-6 to R-4, Westside of Scotts Level Road 1110' East of North of Milford Mill Road, Being property of Leon Crane.
2nd District
HEARING: Monday, January 21, 1963 (2:00 P.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from R-6 to R-4 zoning and has the following advisory comment to make with respect to pertinent planning factors:

1. The subject property is located on the westerly side of Scotts Level Road approximately halfway between Old Court and Milford Mill Roads. Although the property has excellent visual contact with the Beltway, it has no access to the Beltway other than by means of its interchange at Reisterstown Road, Liberty Road, and ultimately by means of the Reisterstown Expressway via the proposed interchange at Milford Mill Road. The latter interchange has no construction date set. The property, therefore, has no real contact with major community thoroughfares in the area.

The Western Planning Area Map sought to establish apartment zoning on or close to such major traffic routes as Security Boulevard, Windsor Boulevard, Liberty Road, and Clark Boulevard. The Planning Staff and the Planning Board were of the opinion that close proximity to these major roads was an essential factor in determining suitable locations for apartments in the Western Planning Area. Moreover the apartment areas established on the Western Planning Area Map were closely related to sources of employment and community service facilities and shopping. Such is not the case with the subject petition.

RE: PETITION FOR RECLASSIFICATION
FROM "R-6" Zone to "R-4" Zone
W. of Scotts Level Road, 1110'
From Milford Mill Road, 2nd
Dist., Leon A. Crane, Petitioner,
vs.
BEFORE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
No. 5747

The petitioner, in the above matter, requested the County Council to amend the subject property Reisterstown Apartment, but the request was not heard.

From testimony given and after a visual inspection of the property made in order to confirm such testimony the commission's opinion is that the choice of this site for apartments is excellent.

The only concrete reason given for not allowing the zoning was that Scotts Level Road is used by students from various communities to and from Milford Mill Senior High School.

That portion of Scotts Level Road that connects Milford Mill Road and the subject property is as good as any in Baltimore County.

If houses or apartments are built on the thirty-five acre tract and the undeveloped land to the north, this problem of students using Scotts Level Road will not improve unless the road is not improved is improved and not unless sidewalks are constructed on Scotts Level Road.

A copy of this Order will be sent to Albert J. Kallmuck, Director of Public Works and Mr. William D. Sartorius, Superintendent of the Baltimore County Board of Education.

For the above reasons the reclassification should be granted.

It is this 22nd day of January, 1963, by the Zoning Commissioner of Baltimore County, ORDERED that the herein described property or area should be and the same is hereby reclassified from an "R-6" Zone to an "R-4" Zone, from and after the date of this Order, subject, however, to approval of the site plan for the development of said property by the Bureau of Public Services, for the development of said property by the Bureau of Public Services, Baltimore County Health Department and any other of Planning and Zoning.

John G. Soto
Zoning Commissioner of Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: 1-2-63
Posted for: *Leon A. Crane*
Petitioner: *Leon A. Crane*
Location of property: *W. of Scotts Level Road, 1110' East of North of Milford Mill Road, 2nd Dist.*
Location of Sign: *1150' East of North of Milford Mill Road, 2nd Dist.*
Remarks: *See above*
Posted by: *Harry S. Swartzlander, Jr.* Date of return: 1-2-63

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

TO: Harry S. Swartzlander, Jr., Esq.
3700 Windsor Avenue
Baltimore 7, Maryland

REPORT TO ACCOUNT NO. 01.712

QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT
	Cost of Certified Documents - No. 5747 Leon A. Crane W. of Scotts Level Road, 1110' East of North of Milford Mill Road, 2nd Dist.	\$4.00
3-266 1 2 5 8	20815* TIP-	6.00
3-266 1 2 5 8	20815* TIP-	6.00

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.

PETITION FOR ZONING RE-CLASSIFICATION
AND/OR SPECIAL EXCEPTION
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Leon A. Crane, legal owner 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 re-classified, pursuant to the Zoning Law of Baltimore County, from an R-6 zone to an R-4 zone, for the following reasons: because of error in the adoption of the Western area planning map in zoning this property R-6.

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 apartments.

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 County.

Contract purchaser
Address: 1800 N. Charles Street
Baltimore 1, Maryland

Address: Jefferson Building, Towson 4, Md.

ORDERED BY The Zoning Commissioner of Baltimore County, this 13th day of September, 1963, 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 100, County Office Building in Towson, Baltimore County, on the 21st day of January, 1963, at 2:00 o'clock P. M.

John G. Soto
Zoning Commissioner of Baltimore County

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

TO: *Leon A. Crane*
1800 N. Charles Street
Baltimore 1, Md.

REPORT TO ACCOUNT NO. 01.622

QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT
	Advertising and posting of your property on Scotts Level Road	57.00
3-266 1 2 5 8	20815* TIP-	7.00

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.

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

TO: *Crane & Crane*
1800 N. Charles St.
Baltimore 1, Md.

REPORT TO ACCOUNT NO. 01.622

QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT
	Petition for Reclassification for property on Scotts Level Road	50.00
3-266 1 2 5 8	20815* TIP-	5.00

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.

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

TO: *Harry S. Swartzlander, Jr., Esq.*
3700 Windsor Avenue
Baltimore 7, Md.

REPORT TO ACCOUNT NO. 01.622

QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT
	Cost of appeal in matter of petition of Leon Crane No. 5747	\$70.00
3-266 1 2 5 8	20815* TIP-	7.00

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.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: July 3, 1963
Posted for: *R-6 To R-4 Zone*
Petitioner: *Leon A. Crane*
Location of property: *W. of Scotts Level Rd. 1110' N. of Milford Mill Rd.*
Location of Sign: *1936 E. N. Milford Mill Rd. 1110' N. of Scotts Level Rd.*
Remarks: *J. S. Swartzlander*
Posted by: *J. S. Swartzlander* Date of return: *July 11, 1963*

THE JEFFERSONIAN.
Land & Timber
 Manager

RE: PETITION FOR RECLASSIFICATION
from an "R-6" Zone to an "R-A" Zone,
W. S. South Level Road, 1110' from
Milford Mill Road,
Second District
Leon A. Crane, Petitioner

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 5747

OPINION

This is a petition to reclassify 35.55 acres of land, more or less, lying on the west side of South Level Road approximately 1110 feet north of Milford Mill Road, having a frontage on South Level Road for a distance of approximately 560 feet northerly therefrom on South Level Road in the Second District of Baltimore County, from an "R-6" Zone to an "R-A" Zone.

The property has a depth of 233' feet in a straight line from South Level Road to its northern most boundary. The southern boundary is not irregular and ragged, and for approximately one-half its distance abuts the property of the Milford Mill Swimming Club. The remaining one-half of the southern boundary abuts two properties known as Grinage and Frey properties.

The eastern most boundary of the property fronts on the newly constructed portion of South Level Road which has been widened and improved from the northerly extremity of this property westerly to the intersection of South Level and Milford Mill Roads.

South Level Road, at this location, is parallel to and contiguous to the Baltimore County Beltway except for an intervening grass plot or unimproved area owned by the State of Maryland as a part of the right-of-way of the Baltimore County Beltway.

The northerly boundary of the subject property is contiguous in a number of places to a dirt road known as Hickory Avenue or Lane which extends in a westerly direction from South Level Road.

The westerly boundary abuts unimproved land with a ravine type topography and is heavily wooded.

It is the unanimous opinion of the Board of Appeals that the zoning map adopted for this area on November 15, 1962 placing the subject property in an "R-6" classification was in error. The record clearly demonstrates that said building permits were issued on the Milford Mill Swimming Club property between December 2, 1949 and March 24, 1951. All of these "movements" were completed prior to the adoption of the March 24, 1951. All of these "movements" were completed prior to the adoption of the zoning map on November 15, 1962. They include a bath house, vintage pavilion, a skating pond, a second bath house, an indoor pool, and in addition, two swimming pools and a tennis court. In addition to the above there was another building of the outdoor ice

cream type "beach" as well as a picnic pavilion and tables.

As would be expected in a development of this character, there were no picnic breakers throughout the picnic area which is immediately contiguous to the southern boundary of the property in question. There is also a repair shop for the equipment used on this property which is contiguous to the southern boundary of the subject property.

In reviewing the original zoning map for this area dating back to 1945, the property on this map was indicated as a pond, subsequently listed as a picnic ground and recreation area, and still later as a day camp for children. There was no evidence placed before the Board to indicate that the County Council had any additional knowledge of the nature and extent of the uses that were being made of this property at the time the land use map was adopted allowing the property to remain as a non-conforming use. It was clear that the Planning Board was not aware of the extent of the use on the contiguous swimming pool property at the time they recommended "R-6" zoning for the subject tract. Whether the Council did or did not have any additional information, it is the opinion of the Board that the proper consideration was not given to the effect that the Milford Mill Swimming Club had on adjoining undeveloped properties to the north.

Further, the Board is of the opinion that proper consideration as to the character and use of properties surrounding the subject property was not given. The character and use of properties surrounding the subject property is unimproved except for a few run-down dilapidated buildings which have a more disturbing effect than if there were no improvements at all.

The homes on the northern boundary of the property, located on Hickory Avenue or Lane, are little more than what are commonly known as "shacks", some having outside privies and being in a general state of disrepair. The junk yard atmosphere created by these properties again would have a deterring effect on the development of the subject property.

The Milford Mill Swimming Club has a normal closing hour of 10 P. M., 11 P. M. on Saturdays, with a possibility of even later closing for private parties. As many as 9625 people have attended various activities during a single week during the summer months, with a high of 2455 people on a single day during the summer months. Such activities could hardly be described as being conducive to residential development of the contiguous land to the north for either individual or semi-detached homes.

The fact that the land to the south and to the west has been developed in individual cottage residences does not, in itself, make the subject property suitable for "R-6" development. These homes are separated from the major activities of the swimming club by a parking area and a wooded area. These properties front toward Milford Mill Road and either face other single family residences, unimproved properties, or the Milford Mill Senior High School on the south side of Milford Mill Road. Further, these individual

And there was expert testimony that R-6 development would not be feasible in view of the character of the surrounding properties. On the other hand, Mr. Dill of the County Planning Department testified that there was nothing to indicate that it would be impractical to develop the property as R-6. The evidence in this case is no stronger than that in the Greenblatt case. There the owners urged that it would be economical or profitable to them and, as a practical matter, more feasible to sell the land for R-20 use. This testimony was held to be legally insufficient to obtain a finding of error. The evidence in this case is no stronger than in Shadybrook, where various factors such as shape, topography, the need for a fence along a railway line, and the use of a one-way road were held not to deprive the owner of the reasonable use of his land when it remained in an R-6 classification. If Mr. Matter before the zoning authorities is fairly debatable then the Courts should not substitute their judgment for that of the zoning authorities, but if there was nothing debatable in Shadybrook and Greenblatt there is nothing debatable here, and the action of the Board must be reversed. It is somewhat difficult to reconcile the case of Isbelle vs. Oriol Realty, Inc., 196 September Term 1963, Daily Record No. 19, 1964, with the Shadybrook and Greenblatt cases. In Isbelle there was evidence of a change in conditions, in that there had been a material increase in sewage facilities. The Court of Appeals did pay heed to the desirability of an apartment development as

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homes are completely out of sight of the subject properties on Hickory Lane.

The Board has always felt that the primary reason for the placement of the "R-6" Zone in conjunction with commercially used or commercially zoned strip areas was to create a buffer strip between the commercial and cottage residential uses and to protect residential development from further encroachment from the commercial use or commercial zoning. Certainly no one can deny that the Milford Mill Swimming Club today is a commercial establishment whether it is zoned for such use or whether it is being used under a nonconforming classification. If one were to apply for a commercial recreation enterprise including a dance hall, the regulations, as they exist at the present time, would require "B-M" zoning. Therefore, the reclassification of the subject tract from "R-6" to "R-A" seems quite appropriate.

Furthermore, such reclassification cannot, in the Board's opinion, have any adverse effect on any of the surrounding properties. In fact, it would have the opposite effect on both the submarginal properties contiguous to the north and to the south. Certainly the erection of garden-type apartments would not have an adverse effect on the Milford Mill Swimming Club, and the wooded ravine type property to the west would certainly act as a buffer between the subject property and the residential developments further to the west.

The property is located on an adequate road leading from the subject property to Milford Mill Road and thence to the Baltimore County Beltway. The property is also located favorably with regard to shopping areas and schools of all types.

Testimony from Dr. Walter Worthington Exell, an expert in the field of traffic, was that there would be no traffic congestion or traffic hazard due to the reclassification of the subject property.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 4th day of February, 1964 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

William A. McGowan
CHAIRMAN

H. Mitchell Austin

Note: Mr. Steinbock did not sit at this hearing.

a buffer zone between commercial and residential areas. However, the highly commercialized area at Taylor Avenue and Lomb Avenue Boulevard is not comparable to the commercialization of the Milford Mill swimming pool. In Isbelle the Court of Appeals seems to hold that the zoning resulted from an original error, because the zoning authorities failed to anticipate the development trend toward high-rise apartments. If this is original error in a legal sense, the case seems in conflict with Shadybrook. However, this Court is persuaded that Shadybrook and Greenblatt are controlling and require a reversal.

June 28, 1964

PETITION FOR RECLASSIFICATION
ZONING: From R-6 to R-A
LOCATION: West side of
South Level Road, 1110' from
Milford Mill Road, 1110' from
the North side of Milford Mill Road,
Second District
DATE & TIME: MONDAY,
JANUARY 20, 1964, 9:00 P.M.
PUBLIC HEARING: Room
100, County Office Building, 111
W. Chesapeake Avenue, Towson,
Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing.

Concerning all that parcel of land in the Second District of Baltimore County.

BEGINNING for the same at a point on the southeast corner of South Level Road and point of intersection of the line of the lot line of that tract first described in a deed from Wm. A. McGowan to Andrew B. Lilly dated June 8, 1973 and recorded among the Land Records of Baltimore County Maryland, Book 14, Page 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

OFFICE OF
THE BALTIMORE COUNTEAN

THE COMMUNITY NEWS
Baltimore, Md.
THE HERALD-EXCER
Catonville, Md.

No. 1 Newburg Avenue CATONVILLE, MD.

January 7, 1963.

THIS IS TO CERTIFY, that the annexed advertisement of John G. Rose, Zoning Commissioner of Baltimore County

was inserted in THE BALTIMORE COUNTEAN, a group of three weekly newspapers published in Baltimore County, Maryland, once a week for One Week, beginning before the 7th day of January, 1963, that is to say the same was inserted in the issues of

January 4, 1963.

THE BALTIMORE COUNTEAN

By *Paul J. Morgan*
Editor and Manager

HEMPT DUNST et al. IN THE CIRCUIT COURT
VS
ALTAIR H. ELLIOTT, JR. et al. FOR BALTIMORE COUNTY
VS
LEON A. CRANE (Intervenor) HON. JC. ELLIOTT
MEMORANDUM
On February 4, 1964 the Board of Appeals granted a reclassification from R-6 to R-A of thirty-five acres lying on the west side of South Level Road in Baltimore County. When the County Council finally adopted the Second District Land Use Map on November 15, 1962 the subject property was placed in the R-6 zoning category. This is an appeal by the proponent from the action of the Board in granting the reclassification.
The well established rule in Maryland is that "there is a strong presumption of the correctness of original zoning and of comprehensive rezoning, and that to sustain a piece-meal change therefrom there must be strong evidence of mistake in the original zoning, or in the comprehensive rezoning, or else of a substantial change in conditions". Shadybrook Improvement Association vs. Baltimore, 232 Md. 265, Greenblatt vs. Towson Heights Properties Corp., No. 20 September Term, 1963, decided May 6, 1964. In this case there is no contention that there has

*Entirely
Refiled
11/20/64*

By ORDER OF
JOHN G. ROSE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Jan. 4.

BALTIMORE COUNTY BOARD OF EDUCATION

SCOTT LEVEL ACCESS
Present Zone "R-6"
Present Use: Residential (Undeveloped)

M. G. Byrne
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Cypress Branch
Present Zone "R-6"
Present Use: Residential (Undeveloped)

ATWSON PROPERTIES
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Green House
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Parsons Farm
Present Zone "R-6"
Present Use: Residential (Undeveloped)

W. T. GEORGE
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Existing Swimming Pool
Munroe Mill Swimming Pool

GENERAL NOTES

1. GROSS ACREAGE OF TRACT	35.55 AC
2. GROSS NUMBER OF APTS. ALLOWED (35.55 x 110)	500
3. NET ACREAGE OF TRACT	31.30 AC ±
4. NET NUMBER OF APTS. ALLOWED (31.30 x 115)	564
5. NUMBER OF APT. UNITS SHOWN	598
6. REQUIRED NUMBER OF PARKING UNITS (9' x 20')	598
7. PROPOSED NUMBER OF PARKING UNITS (9' x 20')	599
8. EXISTING USE	RESIDENTIAL
9. PROPOSED USE	RESIDENTIAL (APARTMENTS)
10. PRESENT ZONING	R-6
11. PROPOSED ZONING	RA
12. AREA OF TYPICAL BLDG.	9625 Sq. Ft.
13. TOTAL AREA OF BLDGS.	246,000 Sq. Ft.

PLAN TO ACCOMPANY PETITION FOR REZONING
OF PROPERTY VICINITY
SCOTT LEVEL AND OLD COURT ROADS
BALTIMORE COUNTY, MARYLAND
DATE: DEC. 18, 1961
Scale 1" = 100'

DEVELOPER:
LA-SALLE CONSTRUCTION CO.
1800 N. CHARLES ST.
BALTIMORE 18, MD.



John C. [Signature]



WEST

EAST

SOUTH

NORTH

CHRISTOPHER HIGH
Present Zone "R-6"
Present Use: Residential (Undeveloped)

To Future Extensions
of Rolling Road

Baltimore County Board of Education

Scotts Level Access
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Charles Brown
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Wm G. Bunker
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Atwood Property
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Good Emswiler
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Thomas Furr
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Wm. T. G. Wags
Present Zone "R-6"
Present Use: Residential (Undeveloped)

Existing Swimming Club
Murfreesboro Swimming Club

GENERAL NOTES

1. GROSS ACREAGE OF TRACT	35.55 AC
2. GROSS NUMBER OF APTS. ALLOWED (35.55 x 110)	568
3. NET ACREAGE OF TRACT	31.36 AC ±
4. NET NUMBER OF APTS. ALLOWED (31.36 x 110)	564
5. NUMBER OF LOT UNITS SHOWN	568
6. REQUIRED NUMBER OF PARKING UNITS (9' x 20')	568
7. PROPOSED NUMBER OF PARKING UNITS (9' x 20')	599
8. EXISTING USE	RESIDENTIAL
9. PROPOSED USE	RESIDENTIAL (APARTMENTS)
10. PRESENT ZONING	R-6
11. PROPOSED ZONING	R-4
12. AREA OF TYPICAL BLDG.	962.5 Sq. Ft.
13. TOTAL AREA OF BLDGS.	264,000 Sq. Ft.

SENT TO ACCOMPANY PETITION FOR REZONING
OF PROPERTY VICINITY
SCOTTS LEVEL AND OLD COURT ROADS
BALTIMORE DISTRICT NR2
BALTIMORE COUNTY, MARYLAND
SCALE 1"=100'

Revised Nov. 2, 1968
Revised Dec. 27, 1968

DEVELOPER:
LA-SALLE CONSTRUCTION CO.
1800 N. CHARLES ST.
BALTIMORE 18, MD.



5747-

CRAIN FILE