

J. WALTER SMITH, et al
NW corner Rich & Alexander Avenues
Reclassification from R-6 zone to B-L zone

June 13, 1963 Petition filed
Sept. 25 Reclassification GRANTED by D.Z.C. Hardy
Oct. 24 Order of Appeal to County Board of Appeals
Aug. 31, 1964 Reclassification DENIED by the Board
Sept. 29 Order for Appeal filed in Circuit Court
Dec. 22 REMANDED to the Board by Judge Barrett
June 17, 1965 Remanded hearing held before the Board
Aug. 23 Court File (#4977) and additional record of proceeding filed in the Circuit Court
Mar. 1, 1966 Dismissed by appellants

DENIED

County Council of Baltimore County
County Office Building, Catonsville 4, Maryland

September 14, 1964

COUNCILMEN
First District
FREDERICK L. GUNTERMAN
Second District
JERRY SPENCER FUNNEY
Third District
J. WALTER SMITH
Fourth District
MANUEL A. BROWN, JR.
Fifth District
DALE ANDERSON
Sixth District
JOHN A. SCOWLES
Seventh District
WALLACE A. WILLIAMS
Secretary
A. BRUCE ALDERMAN

Mr. E. Scott Moore
County Solicitor
County Office Building
Towson 4, Maryland

Dear Mr. Moore:

On August 31st the County Board of Appeals passed its opinion and order on petition No. 63-75 denying a reclassification from R-6 to B-L for a small piece of property improved by a residential dwelling on the northwest corner of Rich and Alexander Avenues in the First Election District, as requested by the petitioner, Mr. J. Walter Smith.

The Zoning Commissioner had granted the reclassification but his decision was appealed by the Catonsville Civic League through Mr. Eugene E. Ward, 106 Alexander Avenue. In spite of the fact that the reclassification was an appeal, the building was removed as a place of business and actually used as such. Apparently the renovation to a business establishment was done without a permit.

Now that the County Board of Appeals has reversed the Zoning Commissioner and the property definitely has not been reclassified, I am requesting that your office see that this order is immediately enforced and all business activities stop in the dwelling on this property.

Please advise at once what action is being taken.

Sincerely,

Frederick L. Gunterman
Councilman, First District

F.L.G. ask
cc: Mr. William Forrest
County Board of Appeals
Mr. John G. Ross
Mr. Walter Rasmussen
Mr. Charles B. Wheeler
Mr. Eugene E. Ward

ERNEST J. HESSE and
AURELY L. HESSE
VS
G. MITCHELL AUSTIN, W. GILES
PARKER and WILLIAM S. BALDWIN
Constituting the County Board
of Appeals of Baltimore County

ORDER

The above case came on before the Court on the applicant's Order for Appeal from the decision of the County Board of Appeals of Baltimore County. The opinion of the Board which has been filed in this case stated, among other things: "The Office of Planning and Zoning has filed a report in this case stating that 'the intent of the zoning map here was to recognize and affirm the residential character along this portion of Baltimore National Pike. The Planning staff does not believe that the map was in error with respect to extending commercial zoning westerly from Alexander Avenue'."

While it is obvious that the Board considered the report of the Office of Planning and Zoning, an examination of the record of the hearing before the Board discloses that the report was not introduced into evidence nor was any mention made of the report in the course of the testimony taken at the hearing.

It is the opinion of this Court that this situation constitutes an error of law and the Court therefore orders the case to be remanded to the Board for the introduction of the report of the Office of Planning and Zoning into the record of this case, with the right of the parties to cross-examine the author of the report and to offer such evidence concerning the report as the Board deems right and proper.

December 22, 1964

Lester L. Barrett, Judge

L. ALAN EVANS
SURVEYORS AND
CIVIL ENGINEERS
4200 ELBRODE AVENUE - BALTIMORE 14, MARYLAND - HAMILTON 6-2144
BRANCH - 4 POPLAR STREET - CAMBRIDGE, MARYLAND - AC 8-1810
May 14, 1963
DESCRIPTION OF NO. 6100 RICH AVENUE

BEGINNING for the same at the corner formed by the intersection of the north side of Rich Avenue, 40 feet wide, as laid out and shown on the Plat of Douglas Park, recorded among the Land Records of Baltimore County in Plat "Book No. U.P.C. 7 folio 170, out with the west side of Alexander Avenue, 40 feet wide, as laid out and shown on said plat, said place of beginning also being situated at the beginning of the land which by deed dated January 21, 1953 and recorded among the Land Records of Baltimore County in Lib D.L.R. No. 2240 folio 438 was conveyed by August W. Schaepte to J. Walter Smith and thence leaving said place of beginning and running and binding on said north side of Rich Avenue and on the first line of the aforementioned deed, referring all courses to said deed North 82 degrees 30 minutes West 92.00 feet, thence leaving said north side of Rich Avenue and running and binding on the second line of the aforementioned deed North 15 degrees 40 minutes East 169.27 feet to the division line between lot No. 43 and 94 as shown on said plat, thence running and binding on the westernmost outline of lot No. 94 North 07 degrees 33 minutes East 50.54 feet to the division line between lots No. 93 and 94 as shown on said plat, thence running and binding on said division line between lots No. 93 and 94 South 74 degrees 02 minutes East 99.40 feet to said west side of Alexander Avenue and in part along the fourth or last line of the aforementioned deed South 15 degrees 58 minutes West 206.15 feet to the place of beginning.



RE: PETITION FOR RECLASSIFICATION
from "R-6" Zone to a "B-L" Zone,
NW corner Rich Avenue and
Alexander Avenue,
First District
J. Walter Smith, et al,
Petitioners
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 63-75

OPINION

This is a petition for reclassification from an "R-6" Zone to a "B-L" Zone of a small piece of property improved by a residential building on the northwest corner of Rich and Alexander Avenues, and separated from U. S. Route 40 West by a triangular tract of land also zoned "R-6".

The petitioner testified that he wished to use this property as his own office as a builder, and that he had some idea of using it for a showroom for appliance sales or other business purposes in the future. He has already remodeled the property, apparently for office use, under a building permit obtained for alteration purposes as residential property. The sole reason given in the petition for the application is "error in the original map".

There is a gas station on the other side of Alexander Avenue to the west of this property, but the balance of the entire area to the south of Route 40 consists of residential property and has been for over forty years an area of owner occupied homes most of which make up an established negro community which has been the subject of erosion by reclassification for at least the last twelve years.

The protestants were all home owners and residents of the neighborhood who stated that if the present application was granted it would amount to a further encroachment on this community of people who have great difficulty in finding any other similar available homes if and when forced to move by creeping commercialism. Some of the protestants had lived in this area for as long as thirty-five years. Also protesting was the Catonsville Civic League represented by Mrs. Burnett Lindsay its President.

The Office of Planning and Zoning has filed a report in this case stating that "the intent of the zoning map here was to recognize and affirm the residential character along this portion of Baltimore National Pike. The Planning staff does not believe that the map was in error with respect to extending commercial zoning westerly from Alexander Avenue."

Testimony presented by the petitioner indicated that there was nothing to prevent the proper use of the property for residential purposes and the reasons stated by the witnesses to support their theory of error in the original zoning were unconvincing.

PETITION FOR ZONING RE-CLASSIFICATION
AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, J. Walter Smith and
I, we, Joanne G. Smith, 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 reclassified, pursuant to the Zoning Law of Baltimore County, from an "R-6" zone to a "B-L" zone; and (2) for the following reasons:

Error in original map.

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:

Property is to be posted and advertised as prescribed by Zoning Regulations. I do not agree to pay expenses of above reclassification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and am to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Ernest J. Hesse
Contract purchaser
Address: 2910 Cedar Circle Drive, (28)
Ernest J. Hesse
A. Owen Hennegan, Jr. Petitioner's Attorney
Address: 406 Jefferson Building (4)
VAlley 5-7500
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 proper; 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 20th day of September, 1963, at 2:00 o'clock.

Pa. M. JUN 13 1963
OFFICE OF PLANNING & ZONING
J. Walter Smith
Petitioner
J. Walter Smith
Legal Owner
Address: 2340 Pennsylvania Ave., (17)
(2) 3316 Dorchester Road, (15)
Protestant's Attorney



to the Board, namely, that the property was too close to a clover-leaf and because of traffic from the nearby filling station. The fact that the owner has already remodeled the property at his own risk is not persuasive and to reclassify this tract thereby opening it to any and all approved uses under "B-L" zoning, the Board feels would be a grave error at this time.

The Order of the Zoning Commissioner will, therefore, be reversed and the reclassification denied.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 31st day of August, 1964 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

Walter Smith

Walter Smith

Walter Smith

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of the petition, land suitable for residential use

the above Reclassification should be had, and in further appearing that by reason of

a Special Exception for the above described property should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 25th day of September, 1963, that the herein described property or area should be and the same is hereby reclassified; from an "R-6" zone to a "B-L" zone, and/or a Special Exception for the above described property should be granted, from and after the date of this order, subject to approval of the site plan by the Bureau of Public Services, State Roads Commission, and the Office of Planning and Zoning.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of

the above reclassification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 13th day of September, 1963, that the above reclassification be and the same is hereby DENIED and the above described property or area be and the same is hereby continued as to remain an "R-6" zone, and/or the Special Exception for the above described property should be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

#63-75

TO: Mr. John G. Rose, Zoning Commissioner Date: September 13, 1961

FROM: MRS. E. G. GAYLES, Property Director

SUBJECT: #63-75, R-6 to R-4. Northeast corner of Rick and
Alexander Avenues. Being property of J. Walter Smith.

1st District

HEARING: Monday, September 23, 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. It has the following advisory comment to make with respect to pertinent planning factors:

1. The intent of the Zoning Map here was to recognize and affirm the residential character along this portion of Baltimore National Pike. The Planning staff does not believe that the map was in error with respect to extending

TELEPHONE VALLEY 8-3000		INVOICE	
BALTIMORE COUNTY, MARYLAND		No. 20136	
OFFICE OF FINANCE		DATE 7/28/63	
Division of Collection and Receipts			
COURT HOUSE			
TOWSON 4, MARYLAND			
TO: Ernest J. Hansen J. L. Jean Hansen Jefferson Building Towson 4, Md.		BILLED TO: Housing Department of Baltimore County	
DEPOSIT TO ACCOUNT NO. 01682			
DEBITED UPPER SECTION AND RETURN WITH YOUR REMITTANCE		NO. 10000	
QUANTITY		COPY	
Advertising and posting of property for J. Walter Smith 63-75-a		55-53	
PAID — Baltimore County, Md. — Office of Finance			
7-2463 + 147 * * * 111 -		5553	
3			
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			

LEPHONE LAT 9-3000	INVOICE BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE <i>Division of Collection and Receipts</i> COURT HOUSE TOWSON 4, MARYLAND	NO. 17853 DATE 6/13/43
TO: J. Owen Hennegan, Jr., Esq. Jefferson Building Towson 4, Md.	BILL TO Zoning Department of Baltimore County	
QUANTITY 01.622	DETAILS OFFER SECTION AND RETURN WITH YOUR REMITTANCE	UNIT PRICE \$5.00
Petition for Reclassification for J. Walter Smith		50.00
PAID - Baltimore County, Md. - Office of Finance		
6-1463 C S A • • • • • RL -		600

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

**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.**

ZONED: R-G
USE: RESIDENTIAL

#63-75

WESTERN
AREA
SEC. 2-B

ZONED: B-R WITH SPECIAL EXC
USE: SERVICE STATION

Ex.
Service
Station

P A R K

W.D. 7/10

ZONED: R-G
USE: RESIDENTIAL

DOUGLAS

RICH

AVE.

ALEXANDER
(Gravel)

Concrete

Median

(New Edmondson Boulevard)

Edmondson Avenue Extended

Paving
Strip



Notes:

Election District: N-1
Area of Property: 0.46 Ac.
Existing Use of Property: Residential
Proposed Use of Property: Construction Office
Present Zoning: R-G
Proposed Zoning: B-L
Area of 1st Floor: 800.50
Area of Parking Space: 200 sq. ft.
N° Parking Spaces: 7

DATE	REVISION	BY
3/21/63	Changed Adj. Zoning	LA
7/15/63	Widening line to Alexander	LA
SURVEYED BY DATE		
COMPUTED BY DATE		
DRAWN BY DATE		
CHECKED BY DATE		
J.C.H. 5/1/63		
Dwg. No. 1420		



L. ALAN EVANS
SURVEYORS & CIVIL ENGINEERS
4200 ELSRODE AVE. - PHONE HA 8-2144
BALTIMORE 14, MARYLAND
— branch office —
8 POPLAR STREET - PHONE AC 8-3350
CAMBRIDGE, MARYLAND
STATE OF MARYLAND REG. NO. 2827
DATE: 5/13/63 SCALE: 1" = 50'
L. Alan Evans

