

STEWART NICHOLS, INC.

NO. 64-92-R

W/S Rolling Road & S/S Johnnycake Road

1st District

Reclassification from R-20 to R-A

Feb. 10, 1964 Petition filed
 May 23 Reclassification DENIED by D.Z.C.
 June 4 Appealed to C. B. of A.
 Oct. 7, 1965 Reclassification DENIED by the Board
 (Baldwin, Parker and Alderman)
 Nov. 4 Order for Appeal filed in Circuit Court (File #3391)
 Jan. 5, 1967 Dismissed - Order of Plaintiff's attorney filed

DENIED

RE: PETITION FOR RECLASSIFICATION :
 from R-20 zone to an R-A zone,
 W/S Rolling Road and
 S/S Johnnycake Road,
 First District
 Stewart Nichols,
 Petitioner

BEFORE
 COUNTY BOARD OF APPEALS
 OF
 BALTIMORE COUNTY
 No. 64-92-R

OPINION

The petitioner in this case seeks a reclassification of a seventeen (17) acre tract of land from R-20 to R-A on the south side of Johnnycake Road and the west side of Rolling Road in the First District of Baltimore County. The petitioner proposes to erect garden-type apartments if the reclassification is granted. The subject tract is an irregular shaped place of land having frontage on the south side of Johnnycake Road and the west side of Rolling Road. The four corners of the intersection of Johnnycake and Rolling Roads are zoned Business-Local. The land across Johnnycake Road, between Johnnycake and I 70 N., is zoned R-20 and is presently undeveloped. West of the property is a very sizable area of land zoned R-20 and is presently developed in accordance with its zoning. South of the property the land is zoned R-20 and is only sparsely developed. East of the property across Rolling Road there is a strip of R-20 zoning, then a substantial area of R-10 zoning which is being developed as a single residence cottage development.

The petitioner cites as reasons for the granting of the rezoning here the fact that the soil condition is such that individual septic tanks would not be workable and that in order to sewer the property by public sewer, the cost would be excessive for an R-20 development.

James Wolff, an expert witness appearing on behalf of the petitioner, testified that there had been a problem with capacity in the dead end interceptor, however, due to major road construction in the area, enough property had been released from the drainage area of the dead end interceptor to make the sewerability of this property possible and that now there would be no problem with the capacity of either sewer or water in the event the property is reclassified.

An expert land planner appearing on behalf of the petitioner testified that the present availability of sewer makes the subject tract more responsive to intensive residential uses and that, in his opinion, he did not think R-20 zoning is proper for that portion of the tract that can now be sewered by public facilities. He also stated that he felt the map was in error in that due to the availability of sewer it should be zoned for a more intensified residential use.

Stewart Nichols - No. 64-92-R

The protestors produced testimony disputing the cost of extending sewer lines to the property and the Board is unable to find, from the witnesses, that the cost of extending utilities to the property would be so excessive as to render the land undevelopable under its present R-20 zoning. Several protestors testified in opposition to the requested apartment zoning stating that, in their opinion, it would change the character of the area in that it would be a totally different type of development from the single cottage development that is predominant in the area.

Malcolm Hill, a recognized expert in the field of land and city planning, and former Director of Planning for Baltimore County, testified that, in his opinion, the zoning of this tract is proper and that there was no error made by the County Council in adopting the recommendations of the Planning staff to zone the subject tract R-20. He testified that the Western Area Planning Report cited R-20 as a reserve zone in some cases but that this is not true regarding R-20 zones. He further stated that the subject property does not meet any of the criteria of the Planning staff (which was set forth on page 22 of the Western Area Planning Report) for apartment locations. He also stated that there had not been, in his opinion, sufficient change in the character of the neighborhood since November of 1962 (the time of the adoption of the Western Area Map) to justify the rezoning here.

The Board feels that the petitioner has failed to meet the burden of proving any error in the comprehensive zoning map adopted by the County Council in 1962, nor has he proven sufficient change in the character of the neighborhood to justify the reclassification sought here.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 7th day of October, 1965 by the County Board of Appeals, ORDERED that the reclassification petitioned for, be and the same is hereby DENIED.

Stewart Nichols - No. 64-92-R

Any appeal from this decision must be in accordance with Chapter 1108, Article 8 of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Nichols, Chairman

W. Giles Parker

E. Bruce Alderman

STEWART-NICHOLS, INC.
Plaintiff

vs.
 WILLIAM S. BALDWIN,
 S. GILES PARKER and
 E. BRUCE ALDERMAN,
 being and constituting
 COUNTY BOARD OF APPEALS
 OF BALTIMORE COUNTY

Defendants
 • • • • •

IN THE
 CIRCUIT COURT
 FOR
 BALTIMORE COUNTY
 AT LAW
 Misc. Docket No. 8
 Folio No. 22
 File No. 3391

ORDER OF DISMISSAL

Mr. Clerk:
 Please dismiss the Petition of Appeal filed in the above captioned case.

ROBERT G. RICKS
 Attorney for Petitioner

I hereby certify that a copy of the foregoing Order of Dismissal was mailed this 5th day of January, 1966 to Thomas P. Neuberger, 1414 Woodliff Avenue, Baltimore, Md. 21228, Attorney for Intervenor, and to the County Board of Appeals of Baltimore County, County Office Building, Towson, Maryland.

ROBERT G. RICKS
 Attorney for Petitioner

STEWART-NICHOLS, INC.
Plaintiff

vs.
 WILLIAM S. BALDWIN
 and
 W. GILES PARKER,
 and
 E. BRUCE ALDERMAN,
 being and constituting
 COUNTY BOARD OF APPEALS
 OF BALTIMORE COUNTY

Defendants

NOTICE OF APPEAL

Mr. Clerk:
 Please note an appeal by Stewart-Nichols, Inc., by Eugene G. Ricks, its Attorney, from the action, decision and order of the County Board of Appeals dated October 7, 1965 in the matter of the Petition of the Appellant for reclassification from a R-20 zone to a R-A zone being Petition No. 64-92-R.

Eugene G. Ricks
 Attorney for Stewart-Nichols, Inc.
 Masonic Building
 Towson, Maryland 21204
 823-5485

I hereby certify that a copy of the foregoing Notice of Appeal was mailed this 4th day of November, 1965 to the County Board of Appeals of Baltimore County, County Office Building, Towson, Maryland 21204.

Eugene G. Ricks
 Attorney for Appellant,
 Stewart-Nichols, Inc.

LAW OFFICES
MICHAEL PAUL SMITH

June 4, 1964

Zoning Commissioner of Baltimore County
 County Office Building
 Towson, Maryland 21204

Re: Petition for Reclassification R-20
 Zone to an R-A zone W/S Rolling
 Road - 1st District Stewart Nichols
 Inc., Petitioner, No. 64-92-R

Dear Sir:

Please enter an appeal from the order of Edward D. Hardesty, Deputy Zoning Commissioner of Baltimore County, dated the 25th day of May, 1964, denying the reclassification in the above captioned case.

Enclosed herewith is check in the amount of \$75.00 to cover the costs of the appeal.

Very truly yours,

Eugene G. Ricks
 Attorney for Stewart Nichols, Inc.,
 Petitioner and Appellant

sgs/s

cc: Edward D. Hardesty, Deputy Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

RE: PETITION FOR RECLASSIFICATION
 R-20 Zone to an R-A Zone
 W/S Rolling Road & S/S Johnny-
 cake Road, 1st District
 Stewart Nichols Inc.-Petitioner

BEFORE THE
 DEPUTY ZONING COMMISSIONER
 OF
 BALTIMORE COUNTY
 No. 64-92-R

The petitioner's property consists of some 17 acres located on the West side of Rolling Road at its intersection with Johnnycake Road. There are two other rather large tracts of undeveloped land surrounding the petitioner's property on the west and south. It appeared from the testimony that at least some of the officers in the petitioner's corporation have interest in these undeveloped tracts.

If the zoning were granted, the petitioner would build 264 garden type apartment units, and the rentals would range from \$115.00 to \$160.00 per month per unit plus utilities. Situated between the petitioner's property and the Trinity Evangelical Church property on the south is a small residential tract on which is a home owned by Charles Rottman.

There are some homes on the north side of the petitioner's property. The new interstate highway to be known as I-70 N. is proposed for construction in the near future and when completed will be at some points several hundred feet from the petitioner's property.

The petitioner came his request for R-A zoning for the subject tract on the theory that the excessive cost in bringing in sewerage and the proximity of I-70 N. render his property unfit for development in its present R-20 zoning classification. With respect to the contention that the new highway will adversely affect an R-20 development, it is difficult for the Deputy Zoning Commissioner to follow this line of reasoning because to do so would mean that every major highway or major artery would increase the zoning. It is common knowledge there are many fine residential areas bordering on the very edges of those so called major highways or major arteries. The Baltimore County history is an excellent example. It is likewise interesting to note if the requested R-A zoning were granted for the subject tract, the large tract of land immediately to the west would be developed in the present R-20 zoning classification. If the tract to the west can be developed as R-20, it is difficult to understand why the subject tract cannot be developed as R-20. With respect to the sewerage situation, no convincing reasons were given as to why sewerage cannot be extended to the subject tract.

George Gervais, Acting Director of the Planning and Zoning Department of Baltimore County, testified in opposition to the requested R-A zoning. It was his feeling the subject tract does not meet the criteria for R-A zoning. He also testified the Planning Office was aware of the proposed construction of I-70 N. when the original zoning map was adopted, and he felt then as he felt at the time of the hearing of this case that the R-20 zoning was logical and appropriate.

Several protestors, including Mr. Rottman, testified in opposition to the requested zoning because they felt that to grant R-A zoning in this instance would constitute spot zoning and would also create a traffic hazard on Johnnycake and Rolling Roads.

TELEPHONE
823-3000

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE

Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 21594

DATE 2/12/64

TO: **Stewart Nichols, Inc.**
7226 Norton Road
Baltimore 7, Md.

BILLED BY: **Zoning Department of
Baltimore County**

01.622

DEPOSIT TO ACCOUNT NO.		TOTAL AMOUNT
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE	COST
	Petition for Reclassification	\$0.00
	PAID—Baltimore County, Md. — Office of Finance	
2-10-64 143 *	21594* TYP—	50.00
2-10-64 143 *	21594* TYP—	50.00

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.

TELEPHONE
823-3000

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE

Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 23275

DATE 6/2/64

TO: **Eugene G. Ricks, Esq.,**
Jefferson Building
Towson 4, Maryland

BILLED BY: **Office of Planning & Zoning**
119 County Office Bldg.,
Towson 4, Md.

01.622

DEPOSIT TO ACCOUNT NO.		TOTAL AMOUNT
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE	COST
	Cost of appeal - Stewart Nichols, Inc.,	\$70.00
	No. 64-92-R	
	1 sign	5.00
	PAID—Baltimore County, Md. — Office of Finance	
6-5-64 5066 *	23275 TYP—	75.00
6-5-64 5066 *	23275 TYP—	75.00

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.

TELEPHONE
823-3000

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE

Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 34536

DATE 12/2/65

TO: **Eugene G. Ricks, Esq.**
Masonic Building
Towson, Md. 21204

BILLED BY: **County Board of Appeals**
(Zoning)

01.712

DEPOSIT TO ACCOUNT NO.		TOTAL AMOUNT
QUANTITY	DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE	COST
	Cost of Certified Documents - No. 64-92-R	\$ 6.00
	Stewart Nichols, Inc.	
	W/S Rolling Road &	
	S/S Johnnycake Road	
	1st District	
	PAID—Baltimore County, Md. — Office of Finance	
12-2-65 5449 *	34536 TYP—	6.00

4

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.

