

JAMES E. DYER
Chief of Permit and
Petition Processing

STANLEY C. MAGERSUPP
AND
POT SPRING COMMUNITY ASSOCIATION
VS
NATHAN H. KAUFMAN, et al
AND
FOXGROFT, INC.

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW
2999/7/375

#65-286R

MEMORANDUM

On November 26, 1963, the Zoning Commissioner of Baltimore County passed his Order by which certain property owned by Foxcroft, Inc., lying in the 8th District of Baltimore County, was reclassified from R-6 to R.A.

On December 26, 1963, Paul J. Feeley filed in the office of the Baltimore County Office of Planning and Zoning a paper writing (hereinafter referred to as the "Feeley Appeal"), containing the following language:

"Please enter an appeal from the decision of the Zoning Commissioner on behalf of the protestants in the above captioned case."

Very truly yours,
Paul J. Feeley

On December 27, 1963, the Zoning Commissioner received a paper writing (hereinafter referred to as "Fleischmann Appeal"), containing the following language:

"Please enter an appeal to the County Board of Appeals from the decision of the Zoning Commissioner, dated November 26, 1963 in the above captioned matter."

Arnold Fleischmann
Attorney for Protestants

On January 7, 1964, Foxcroft filed a petition to dismiss the Fleischmann Appeal upon the ground that it was filed more than thirty days after the final order of the Zoning Commissioner.

On January 7, 1964, the Fleischmann Appeal was returned to Mr. Fleischmann because it "was not filed x x x (within) 30 days from the date of the Commissioner's Order." No protest concerning this action was taken by Fleischmann and no appeal therefrom filed.

On January 17, 1964, 10 days after the filing of Foxcroft's petition to dismiss the Fleischmann Appeal and also 10 days after the return of that Appeal to Fleischmann by the Zoning Commissioner, Arnold Fleischmann addressed to the County Board of Appeals a paper writing bearing the heading "Entrance of Appearance" and reading as follows:

"Please enter my appearance on behalf of the Protestants (Appellants), Stanley C. Magersupp in the above captioned case."

Arnold Fleischmann

This was the first reference to a person of that name in these proceedings.

On February 13, 1964, Arnold Fleischmann addressed a letter to the County Board of Appeals in this language:

"The Appeal pending before this Board is in the nature of a class action having been filed on behalf of all the protestants who opposed the petition for reclassification before the Zoning Commissioner."

I am attorney of record for the protestants Stanley C. Magersupp acting on his own behalf as a resident of the area and on behalf of the Pot Springs Improvement Association of which he is an officer.

We are advised that some of the protestants are seeking a compromise with petitioner and may desire to dismiss this appeal. Mr. Magersupp and others do not consent to such a dismissal and have asked me to notify the Board of Appeals of their position.

Respectfully yours,

Arnold Fleischmann

On March 10, 1964, Paul J. Feeley wrote as follows to the Board of Appeals:

"Please dismiss the appeal filed by the undersigned on December 26, 1963 in the above captioned matter."

Very truly yours,

Paul J. Feeley

On April 2, 1964, the Board of Appeals dismissed the appeal from the Zoning Commissioner's action in reclassifying the property of Foxcroft and manifestly did so over the express objection of Mr. Fleischmann.

On April 25, 1964, an order for appeal bearing the heading of the present case was filed in this Court.

The present question arises on a motion by Foxcroft to dismiss the appeal because the parties to this appeal are without lawful authority to prosecute it.

Magersupp and Pot Spring concede that neither was specifically named as appellants in any timely appeal from the decision of the Zoning Commissioner. They assert, however, that they did have standing before the Board of Appeals and so have standing here (1) because the Feeley Appeal would enure to their benefit generally, and (2) because under the facts of this case the Feeley Appeal was expressly understood to be in protection of their interests.

Testimony was taken upon the question as to what interests were intended to be protected by the Feeley Appeal.

There was some minor conflict in the evidence upon the subject but I have no difficulty concluding that it was not the intent and purpose of Mr. Feeley to protect the interests of Pot Spring Community Association (assuming but not deciding that such an association can be a proper party to an appeal of this nature).

It was admitted by Mr. Magersupp that he had never been represented by Mr. Feeley and that he had not been in attendance at the hearing before the Zoning Commissioner.

Feeley stated that his purpose in filing the appeal was to protect the interests of himself and wife as residents of the Spring Lake Community, as well as the interest of the Spring Lake Improvement Association, if it chose to utilize his services. He repudiated expressly any intent or purpose to protect the interests of Magersupp or Pot Spring.

I find, accordingly, that there was no specific intent or purpose in the

Feeley Appeal to protect the interests of Magersupp or Pot Spring, or either of them.

I find further that the Feeley Appeal cannot and does not generally enure

to the benefit of Magersupp and Pot Spring, or either of them. I question whether an Appeal couched even in such general terms as "the protestants" could serve the office of permitting any or all members of the public to utilize it for their purposes. I question whether such a general Appeal could, in any case, extend beyond such person or persons as the evidence might establish were intended to be the aggrieved appellants. I am completely convinced that the Feeley Appeal cannot be utilized by the appellants, Magersupp and Pot Spring, under the facts of this case for the reasons: (1) as previously set forth, both of those appellants were expressly considered by the named appellant as not included in the appeal; and (2) such a course in the instant case would operate to deny to the timely appellant the fruits achieved by him by reason of a settlement of his grievances and at the same time would permit a tardy appellant to avoid the consequences of his own failure to make a timely appeal.

The Motion to Dismiss is granted.

W. ALBERT MENCHINE, Judge

October 9, 1964

The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND
TOWSON 4, MARYLAND

October 9, 1964

Arnold Fleischmann, Esq.
22 Light Street
Baltimore, Maryland 21202

Douglas G. Bottom, Esq.
Jefferson Building
Towson, Maryland 21204

E. Scott Moore, Esq.
County Office Building
Towson, Maryland 21204

RE: Stanley C. Magersupp, et al v.
Nathan Kaufman, et al, etc.
2999/7/375

Gentlemen:

Enclosed is copy of Memorandum, which I have today instructed the Clerk to enter in the above entitled matter.

Very truly yours,

W. ALBERT MENCHINE

WAM:gvj

Enclosure

CC - County Board of Appeals

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John R. Rose, Zoning Commissioner Date: April 5, 1965

FROM: Robert E. Davinella, Director

Office of Planning & Zoning

SUBJECT: Petition #65-286-R, R-6 to R.A. South side of Slade Avenue 999 feet Southwest of Reisterstown Road. Being the property of Everett and Elsie A. Homer.

3rd DISTRICT

HEARING: Monday, April 19, 1965 (10:00 A.M.)

The planning staff of the Office of Planning and Zoning has reviewed the subject petition and offers the following comments:

1. Uses and zoning surrounding the subject property are residential. The creation of a R.A. zone here would result in use potentials totally incompatible with neighboring development.
2. The proposed zoning is not in accordance with the Third District Master Plan or the proposed Compact to Redevelop.
3. Although changes in density have taken place near the subject property, adequate commercial zoning has been provided on Reisterstown Road. The changes thus do not justify the present request.
4. In view of the above considerations, we feel, from the planning aspect, that the reclassification would be spot zoning.

PETITION FOR RECLASSIFICATION

2nd DISTRICT

ZONING: From R-6 to R.A.

Location: South side of Slade Avenue 999 feet Southwest of Reisterstown Road.

DATE & TIME: MONDAY, APRIL 19, 1965 at 10:00 A.M.

PUBLIC HEARING: Room 109, 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:

Proposed Zoning: R-6

Proposed Zoning: R.A.

All that parcel of land in the Third District of Baltimore

beginning for the same on the southeast side of an avenue forty feet wide called Slade Avenue at the distance of nine hundred and ninety feet southerly from the intersection of the southeast side of Slade Avenue and the southwest side of Reisterstown Road, and running thence

thence south twenty-nine degrees five minutes west fifty-five feet to an iron pipe, thence south twenty-nine degrees five minutes west two hundred twenty-three and six-tenths feet to a stake, thence north forty-eight degrees three minutes thirty seconds east fifty-six and one-tenth feet to a stake, thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

thence north twenty-nine degrees five minutes west two hundred

TELEPHONE
823-3000

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

No. 30547

DATE 4/29/65

TO: The Standard, Inc.,
Frank C. Sacks, Esq.,
129 W. Saratoga Ave.,
Baltimore, Md. 21204

BILLED BY: Zoning Dept. of Balto. Co.

DEPOSIT TO ACCOUNT NO. 01-422		TOTAL AMOUNT
QUANTITY	COST	
Advertising and posting of property for Everett Hamer		\$6.00
No. 65-286-R		
PAID - Baltimore County, Md. - Office of Finance		
4-2865 2455 * 30547 TIP-		\$150
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.

TELEPHONE
823-3000

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

No. 2864

DATE 3/24/65

TO: The Standard, Inc.,
Frank C. Sacks, Esq.,
129 W. Saratoga Ave.,
Baltimore, Md. 21204

BILLED BY: Zoning Department of Balto. Co.

DEPOSIT TO ACCOUNT NO. 01-422		TOTAL AMOUNT
QUANTITY	COST	
Petition for Reclassification for Everett Hamer		\$6.00
No. 65-286-R		
PAID - Baltimore County, Md. - Office of Finance		
4-2865 2455 * 2864 TIP-		\$0.00
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.

TELEPHONE
823-3000

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 34547

DATE 5-5-66

TO: Frank Sacks, Esq.,
732 Equitable Bldg.,
Calvert & Fayette Sts.,
Baltimore, Md. 21202

BILLED BY: County Board of Appeals
(Zoning)

DEPOSIT TO ACCOUNT NO. 01-712		TOTAL AMOUNT
QUANTITY	COST	
Cost of certified documents - 465-286-R Everett Hamer, et al S/S Slade Ave. 9991 SW of Reisterstown Road 3rd District		\$7.00
PAID - Baltimore County, Md. - Office of Finance		
4-2865 2455 * 34547 TIP-		7.00
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.

TELEPHONE
823-3000

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

No. 30606

DATE 5/29/65

TO: Frank Sacks, Esq.,
732 Equitable Bldg.,
Baltimore, Maryland 21202

BILLED BY: Office of Planning & Zoning
119 County Office Bldg.,
Towson, Maryland 21204

DEPOSIT TO ACCOUNT NO. 01-422		TOTAL AMOUNT
QUANTITY	COST	
Cost of appeal - Hamer property		\$70.00
No. 65-286-R		
PAID - Baltimore County, Md. - Office of Finance		
4-2865 3666 * 30606 TIP-		70.00
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.

TELEPHONE
823-3000

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

No. 30632

DATE 5/24/65

TO: Frank Sacks, Esq.,
732 Equitable Bldg.,
Baltimore, Maryland 21202

BILLED BY: Office of Planning & Zoning
119 County Office Bldg.,
Towson, Maryland 21204

DEPOSIT TO ACCOUNT NO. 01-422		TOTAL AMOUNT
QUANTITY	COST	
Cost of posting property for appeal hearing		\$5.00
No. 65-286-R		
PAID - Baltimore County, Md. - Office of Finance		
4-2865 3666 * 30632 TIP-		5.00
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.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

65-286-R

District: 3RD
Posted for: Reclass. from R-6 to B-1
Petitioner: Everett Hamer
Location of property: 131 Slade Ave.
Location of Signs: on lawn 131 Slade Ave.
Remarks: J.S. Bosse
Posted by: J.S. Bosse
Date of Posting: April 3, 1965
Date of return: April 8, 1965

1 sign

ZONED: RESIDENTIAL APARTMENTS
USE: APARTMENTS

AVE. &

SLADE

990.0' to Reisterstown Rd.

560' 00" W 55.0'

23'

20'

40'

10'

56'

EXISTING
2 STY
Frame

ZONED: RESIDENTIAL - R-6
USE: RESIDENTIAL

N 29° 55' W 211.75'

CINDER

DRIVE

Screening - 4' High

EXISTING
1 STY Frame
U-131
408

PARKING
1 2 3 4 5 6

EXISTING
1.75
STY
Frame
12.2'

Screening - 4' High

S 29° 55' E

223.66'

ZONED: RESIDENTIAL - R-6
USE: RESIDENTIAL

56'

EXISTING
1 1/2 STY
Conc. Block

PRESNT ZONE - RESIDENTIAL - R-6
PRESNT USE - RESIDENTIAL
PROPOSED ZONE - BUSINESS LOCAL
PROPOSED USE - BEAUTY SALON

ELECTION DISTRICT - N° 3
AREA OF PROPERTY - 11,973.774' - 0.275 AC ±

#65-288R
MAP
#3
SEC. 2-C
NW-7-E
BL



DATE	REVISION	BY
2/18/65	Parking added	JCE
SURVEYED BY	DATE	
COMPUTED BY	DATE	
DRAWN BY	DATE	
CHECKED BY	DATE	
Dwg. No.		



L. ALAN EVANS
SURVEYORS & CIVIL ENGINEERS
4200 ELSRODE AVE. BALTIMORE, MD 21214
8 POPLAR STREET BALTIMORE, MD 21202
STATE OF MARYLAND REG NO 2027
DATE FEB. 8, 1965 SCALE 1" = 20'

