

PETITION FOR ZONING RECLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Otto K. Schultze and Edward R. Schultze, individually and jointly, legal owners 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 as D.R. 5.5 zone to an B.R. zone, for the following reasons:

1. That the present zoning classification is in error.
2. That present restriction on the existing nonconforming use constitute a severe hardship.
3. That the inability to extend said nonconforming use beyond the permitted 25%, constitutes a severe hardship and is discriminatory.
4. That present zoning classification constitutes condemnation without due process of law.
5. And for further reasons stated in the annexed brief.

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 contractor's equipment storage yard.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above reclassification 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.

Edward R. Schultze Otto K. Schultze
Legal Owner Legal Owner
Address: 1901 Towson Avenue Address: 1903 Towson Avenue
Baltimore, Md. 21222 Baltimore, Md. 21222
Joseph Pickus Protestant's Attorney
Address: 1127 Munsey Building 21202
Baltimore, Md. 21202

ORDERED BY THE Zoning Commissioner of Baltimore County, this 30th day of March, 1973, 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 Commission of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, Maryland, on the 11th day of October, 1973, at 11:00 o'clock.

George William Stephens, Jr.
Zoning Commissioner of Baltimore County.

(over)

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
ENGINEERS
P.O. BOX #6826, TOWSON, MD. 21204

Description to accompany Zoning
Petition from D.R. 5.5 to B.R.
with Special Exception for
Contractor's Equipment Storage Yard.
Containing 1.06 Acres more or less.
Schultze Bros. Property.

March 29, 1972

Beginning for the same in the center of Towson Road, 40 feet wide, at a point distant, northerly, 76 feet more or less, from the center line of Jackson Road, running thence in the center of said Towson Road, binding on the existing zoning line between Zones D.R.-16 and D.R.-5.5, North 4° 00' East 110.00 feet, thence leaving Towson Road, and binding on a part of said zoning line, South 87° 00' East 418.33 feet, thence South 4° 15' West 109.76 feet, thence North 87° 00' West 418.11 feet to the place of beginning.

Containing 1.06 Acres more or less.



RE: PETITION FOR RECLASSIFICATION : BEFORE THE
AND SPECIAL EXCEPTION : ZONING COMMISSIONER
E/S of Towson Road, 70' N of
Jackson Road - 12th District : OF
Otto K. Schultze, et al - Petitioners :
NO. 73-73-RX (Item No. 30) : BALTIMORE COUNTY

The Petitioners request a Reclassification from a D.R. 5.5 Zone to a

B.R. Zone and a Special Exception for a Contractor's Equipment Storage Yard for a parcel of land located on the east side of Towson Road, seventy-six (76) feet north of Jackson Road, in the Twelfth District of Baltimore County.

Said property contains 1.06 acres of land, more or less.

Evidence on behalf of the Petitioners indicated that the property has enjoyed a non-conforming use for a Contractor's Equipment Storage Yard and that the Petitioners now want to enlarge the operation, which necessitates the Reclassification. The Petitioners are in the business of pile driving for piers, et cetera, and this business has been located at this site since 1932.

There was testimony from several laymen with reference to a need for this type of use at this location.

Without reviewing the evidence further in detail but based on all the evidence presented at the hearing, in the judgment of the Zoning Commissioner, the Comprehensive Zoning Map as adopted on March 24, 1971, was not in error in classifying the subject property D.R. 5.5 zoning.

The burden of proving error on the Comprehensive Zoning Map is borne by the Petitioners. This burden has not been met.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 30th day of March, 1973, that the Reclassification 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 D.R. 5.5 Zone, and by necessity, the Special Exception for a Contractor's Equipment Storage Yard be and the same is hereby DENIED.

George William Stephens, Jr.
Zoning Commissioner of Baltimore County

IN THE MATTER OF * FOR
OTTO K. SCHULTZE and * ZONING RECLASSIFICATION
EDWARD R. SCHULTZE, * AND
Individually and trading as * SPECIAL EXCEPTION
SCHULTZE BROS.
1901-02 Towson Avenue
Baltimore, Maryland 21222

BRIEF IN SUPPORT OF PETITION FOR ZONING RECLASSIFICATION

TO THE HONORABLE, THE ZONING COMMISSIONER OF BALTIMORE COUNTY, MARYLAND:

Now come the above Petitioners, by their Attorneys, Caplan and Pickus, and in support of their Petition for Zoning Reclassification and Special Exception, state as follows:

That your Petitioners constitute the second generation of their family to own the property which is the subject of these proceedings. The property was originally acquired by the Petitioners' parents by deed dated January 28, 1929. Your Petitioners subsequently acquired title to this property from their now deceased mother on or about June 17, 1956. A search of the title on this property in the Land Records of Baltimore County back to the year 1883 indicates that the land is unrestricted insofar as use is concerned by previous title holders or developers.

The Petitioners were born and raised on this land, and in 1932 started their present pile driving business. They have operated this business on their property from that date to the present without interruption. As a result of this background, your Petitioners acquired a non-conforming use when zoning regulations were adopted by Baltimore County, by operation of law. They, of course, lived on their property and operated their business therefrom long before there was anything else in the immediate neighborhood. Subse-

Caplan and Pickus
ATTORNEYS AT LAW
1127 Munsey Building
Baltimore, Maryland 21202
(410) 528-0000

Caplan and Pickus
ATTORNEYS AT LAW
1127 Munsey Building
Baltimore, Maryland 21202
(410) 528-0000

quent development of their particular locality has resulted in residential zoning. After forty years of operation, they are now at the position that old buildings must be replaced with new, and their business generally modernized. However, as a result of present restrictions on the modification and expansion of nonconforming uses, they cannot so modernize their business without a violation of the zoning regulations. Although the spirit of the zoning laws would appear to give sufficient construction to the expansion of nonconforming uses, we respectfully argue that this constitutes a deprivation of the right of the Petitioners to reasonably use their property. (Marino v. City of Baltimore 215 Md 206)

Moreover, zoning cannot be used as a substitute for eminent domain proceedings so as to defeat the constitutional requirement for payment of just compensation. (M. L. E. Eminent Domain, Sec. 27) Because of present circumstances, your Petitioners are confronted with an urgent and unnecessary hardship on them and the use of their property. They are not requesting that a change be made in order to enhance the monetary value of their property, but only to allow them to continue uses that have existed since prior to 1932. Accordingly, they are confronted with practical difficulties and unique circumstances resulting in a severe and unnecessary hardship. We therefore submit that the applicable zoning restriction when applied to the subject property in the setting of its environment, is so unreasonable as to constitute an arbitrary and capricious interference with their basic right of private ownership. (Park v. Lexington 216 Md 271)

If a reclassification and special exception are considered by the Zoning Commissioner, one might come in and argue that this would constitute spot zoning. In answer to such a claim, we need only refer to a case decided in 1941 and entitled Chayt v. Maryland Jockey Club, 179 Md 330, -2-

who in the Maryland Jockey Club which was the then owner of the Pimlico Race Track, owned a piece of property adjoining the race track prior to 1929, and at a time when no zoning restrictions were imposed. The property was used as a parking lot by the Jockey Club. After zoning regulations were passed, the Jockey Club continued to operate the parking lot by virtue of a nonconforming use. Thereafter an ordinance was passed changing the classification of the property from residential to first commercial. The rationale of the court in interpreting this matter was stated as follows:

"Where other properties for the most part were classified as a residential use district, but the property of the Jockey Club was subject to a nonconforming use, a subsequent ordinance classifying the Jockey Club's property as a first commercial use was not subject to the objection of illegal spot zoning, since the effect of a nonconforming use was the same as though the Jockey Club's property had been originally classified as a first commercial use district."

The above cited case would appear to closely resemble the situation that your Petitioners are faced with. Furthermore, your Petitioners have not used their property in the past so as to injuriously affect the health, comfort, safety and general welfare of all persons in the community. They further warrant that in the event of any changes in the classification, they will continue to so use their property and operate their business. It would seem to be manifestly unfair that people that have owned property since 1929 and operated a business continuously since 1932, should be prevented from continuing such reasonable uses by restrictions on nonconforming uses and the denial of a zoning reclassification and special exception, especially so where no one has ever been hurt by such uses in the past, or is it contemplated that anyone in the community will be hurt by continued operations. As a matter of fact, your Petitioners have performed services for many of the large industrial companies in the Dundalk, Edgemere and Sparrows Point area for many, many years.

A reclassification to business roadside with a special exception for storage would be in order as same:

1. Will not be detrimental to the health, safety or general welfare of the locality involved.
2. Will not create congestion in the roads, streets or alleys therein.
3. Will not create a potential hazard for fire, panic or other dangers.
4. Will not overcrowd the land and cause undue concentration of population.
5. Will not interfere with schools, parks, order, sewage, transportation or other public conveniences or requirements.
6. And will not interfere with adequate lighting and air.

Your Petitioners further warrant that in the event such changes are permitted, they will comply with all regulations and requirements of the Zoning Commission and Planning Office of Baltimore County, Maryland. Whereas, a denial of this request would appear to be in the unique situation of your Petitioners, condemnation without due process of law. This would result from a string construction of the law on nonconforming uses.

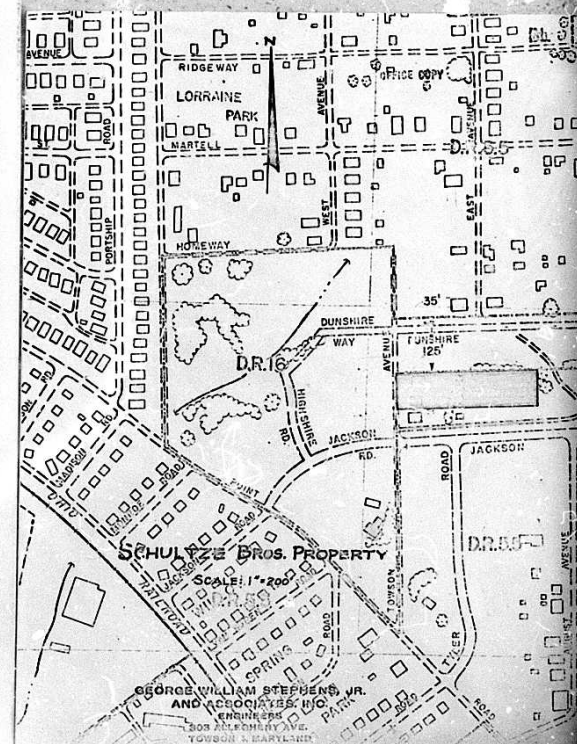
And for such other and further reasons as may be stated.

WHEREFORE, your Petitioners respectfully pray this Honorable Commission for the passage of an Order reclassifying their property from a residential zone to that of business roadside with a special exception for storage, etc.

AND AS IN DUTY BOUND, etc.

Joseph Pickus
Attorney for Petitioners
1127 Munsey Building
Baltimore, Maryland 21202

Caplan and Pickus
ATTORNEYS AT LAW
1127 Munsey Building
Baltimore, Maryland 21202
(410) 528-0000





PETITION AND SITE PLAN EVALUATION COMMENTS

BALTIMORE COUNTY, MARYLAND JEFFERSON BUILDING TOWSON, MARYLAND 21204



DEPARTMENT OF TRAFFIC ENGINEERING EUGENE J. CLIFFORD, P.E. Wm. T. MELSER DIRECTOR DEPUTY TRAFFIC ENGINEER

April 28, 1972

Mr. Oliver L. Myers
Chairman
Zoning Advisory Committee
County Office Building
Towson, Maryland 21204

Re: Cycle Zoning III
Item 30 - ZAC - 4-4-72
Property Owner: Schultz Brothers
Towson Road N. of Jackson Road
Racine, to BR; Special exception for
contractors yard - District 12

Dear Mr. Myers:

The subject petition is requesting a change from DR 5.5 to BR.
This should increase the trip density from 50 to 500 trips per day.

The existing streets in this area can not handle commercial traffic.
Should the property be used as a contractor's yard, the trip density would
be less than commercial zoning. However, due to the streets, there will
be some difficulty gaining access to the property.

Very truly yours,

E. J. Clifford
E. J. Clifford
Assistant Traffic Engineer

CRN:mr

Baltimore County, Maryland Department Of Public Works COUNTY OFFICE BUILDING TOWSON, MARYLAND 21204

Division of Engineering
ELLSWORTH H. DYER, P. E. CHIEF

April 19, 1972

Re: Item #30 (Cycle April - October 1972)
Property Owner: Schultz Brothers
S/S Towson Rd., 70' N. of Jackson Rd.
Present Zoning: D.R. 5.5
Proposed Zoning: Reclassification to B.R.;
Special Exception for
Contractors Yard
District: 12th No. Acres: 1.06 acres

Dear Mr. Myers:

The following comments are furnished in regard to the plat submitted to
this office for review by the Zoning Advisory Committee in connection with the
subject item.

General:

Those properties identified as "Ex. Use - Vacant" are in process as
Dunshire Garden Apartments, Public Works Agreement #126505, record plat
O.T.G. 33-88.

Highways:

Towson Road has been approved for improvement to minor residential
standards as a 30-foot curb and gutter cross-section on a 50-foot right-of-way.

Highway improvements to this site, including curb and gutter, sidewalk and
entrances in accordance with the standards of the Baltimore County Department
of Public Works, will be required in connection with any grading or building
permit application.

Storm Drains:

The Petitioner must provide necessary drainage facilities (temporary or
permanent) to prevent creating any nuisances or damages to adjacent properties,
especially by the concentration of surface waters. Correction of any problem
which may result, due to improper grading or improper installation of drainage
facilities, would be the full responsibility of the Petitioner.

Mr. Oliver L. Myers, Chairman
Zoning Advisory Committee
Page 2
April 19, 1972

F-SE Key Sheet
SE 1 S Topo Sheet
1:SE 19 Position Sheet
103 Tax Map

Re: Item #30 (Cycle - April - October 1972)

Storm Drains: (Cont'd)

There is an existing 18-inch storm drain in Towson Road adjacent to the
property to be developed. Since supplementary storm drain facilities are not
necessary, the Petitioner is required to make application for a storm drain
connection permit from the Department of Permits and Licenses. The permit
allows the Petitioner to make a connection to the existing County storm drain
system.

Sanitary drainage facilities serving only areas within the site do not
require construction under a County contract. Such facilities are considered
private and therefore conform to the County Plumbing and Building Codes.

Sediment Control:

Development of this property through stripping, grading and stabilization
could result in a sediment pollution problem, damaging private and public
holdings below this property. Sediment control is required by State law. A
grading permit is, therefore, necessary for all grading, including the stripping of
top soil.

Water:

Public water will be available to serve this property when the proposed
8-inch public water main extension in Towson Road, as required in conjunction
with Dunshire Garden Apartments is constructed.

Public water will be required before any building permits could be
approved.

Service within the site from the public system must be in accordance
with the Baltimore County Building, Plumbing and Fire Prevention Codes. The
service connection to the meter shall be in accordance with the standards
of the Baltimore County Department of Public Works.

Sanitary Sewer:

Public sanitary sewerage will be available to serve this property when the
proposed 8-inch public sanitary sewer extension in Towson Road, as required
in conjunction with Dunshire Garden Apartments is constructed.

Public sanitary sewerage will be required before any building permits could
be approved.

The Petitioner is entirely responsible for the construction of his onsite
private sanitary sewerage, which must conform with the Baltimore County Plumbing
Code.

Very truly yours,

Ellsworth H. Dyer
ELLSWORTH H. DYER, P.E.
Chief, Bureau of Engineering

END:EAN:JMK:iss

Baltimore County Fire Department



J. Austin Deitz
Chief

Towson, Maryland 21204
873-7310

April 17, 1972

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204
ATT: Mr. Oliver L. Myers, Chairman
Zoning Advisory Committee

RE: Property Owner: Schultz Brothers

Location: E/S Towson Road, 70' N of Jackson Road

Item No. 30 Zoning Agenda April 4, 1972

Gentlemen:

Pursuant to your request, the referenced property have been surveyed by
this Bureau and the comments below marked with an "m" are amicable and
required to be corrected or incorporated into the final plans for the
property.

- (1) Fire hydrants for the referenced property are required
and shall be located at intervals of 100 feet along
an approved road in accordance with Baltimore County
Standards as published by the Department of Public Works.
- (2) A second means of vehicle access is required for the site.
- (3) The vehicle dead-end condition shown at _____
EXCEEDS the maximum allowed by the Fire Department.
- (4) The site shall be made to comply with all applicable parts
of the Fire Prevention Code prior to occupancy or beginning
of operations.
- (5) The buildings and structures existing or proposed on the
site shall comply with all applicable requirements of the
National Fire Protection Association Standard No. 101
"The Life Safety Code", 1970 Edition prior to occupancy.
Site plans are approved as drawn.
- (6) The Fire Prevention Bureau has no comments at this time.

Reviewed: *E. J. Clifford* Noted and Approved: *John H. Reincke*
Planning Group Deputy Chief
Special Inspection Division Fire Prevention Bureau

mb 4/17/72

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF HEALTH



JEFFERSON BUILDING
TOWSON, MARYLAND 21204

April 19, 1972

DONALD J. ROOF, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

Mr. Oliver L. Myers, Chairman
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Bldg.
Towson, Maryland 21204

Dear Mr. Myers:

Comments on Item 30, Zoning Advisory Committee Meeting,
April 6, 1972, are as follows:

Property Owner: Schultz Brothers
Location: E/S Towson Road, 70' N of Jackson Road
Present Zoning: D.R. 5.5
Proposed Zoning: Reclassification to B.R.; Special
Exception for contractors yard.
District: 12
No. Acres: 1.06

This property is served by private water supply and
private sewage disposal system.

Complete soil evaluation must be conducted prior to
issuance of permit for proposed sewage disposal system shown on
plot plans.

Very truly yours,

John H. Reincke
John H. Reincke
Sanitarian II
Water and Sewer Section
Division of Sanitary Engineering
BUREAU OF ENVIRONMENTAL SERVICES

JS:mn

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

GEORGE E. GAVRELIS
Director
Jefferson Building
Suite 201
Towson, Md. 21204
484-2111



S. ERIC DINENHA
Zoning Consultant
County Office Building
111 W. Chapespoke Ave.
Towson, Md. 21204
484-2301

May 8, 1972

Mr. Oliver L. Myers, Chairman
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. Myers:

Comments on Item 30, Zoning Advisory Committee Meeting, April 4, 1972, are as follows:

Property Owner: Schultz Brothers
Location: E/S Towson Road, 70' N of Jackson Road
Present Zoning: D.R. 5.5
Proposed Zoning: Reclassification to B.R.; Special Exception for Contractors Yard,
District: 12
No. Acres: 1.06 acres.

The access to this property is not adequate to handle the use that could be permitted under
the proposed zoning.

Very truly yours,

Richard S. Williams
Richard S. Williams
Planner II
Project Planning Division
Office of Planning and Zoning

BOARD OF EDUCATION OF BALTIMORE COUNTY

ITEM #30

TOWSON, MARYLAND 21204

Property Owner: Schultz Bros.

District: 12

Present Zoning: DR 5.5

Proposed Zoning: BR with S.S. for contractors yard

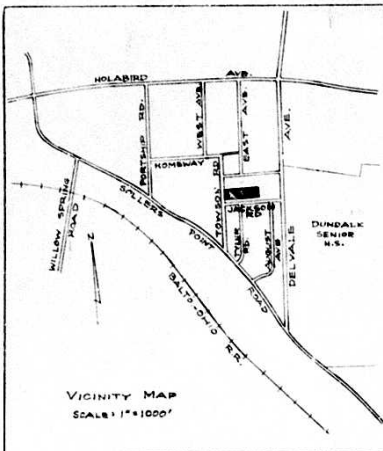
No. Acres: 1.06

No adverse effect on student population

H. EMILIE PARKS, President
EUGENE C. HESS, Vice President
MRS. ROBERT L. BERNY

MRS. JOHN H. CROCKER
JOSEPH H. WOODMAN
ALVIN LOBECK
JOSHUA R. WHITLER, Superintendent

T. BARBAR WILLIAMS, JR.
EDWARD H. TRACY, M.D.
MRS. RICHARD E. WUERTFL



ROAD

EX. ZONING - D.R. 16

EX. USE - VACANT

S. 87°00'E. 418.33'

EX. ZONING - D.R. 55

EX. USE - DWELLINGS, OFFICE AND EQUIPMENT STORAGE AREA

Sundry Pile Driving Equipment Storage Yard

EX. ZONING - D.R. 16

EX. USE - VACANT

TOWSON

JACKSON

ROAD

EX. USE - DWELLINGS

GENERAL NOTES

AREA OF PROPERTY TO BE RE-ZONED 1.06 ACRES

PAVING
TO BE OF A DUSTFREE MATERIAL AND PROPERLY DRAINED

SCREENING
SCREENING SHOWN HEREON TO BE MINIMUM 4' HIGH ARBORVITAE
AROUND PARKING AREA.

PARKING
OFFICE (FLOOR AREA = 1250 SQ. FT.) 1 SPACE/200 SQ. FT. = 5 SPACES
SPACES REQUIRED = 5 SPACES
SPACES PROVIDED = 5 SPACES

UTILITIES
WATER TO BE EXTENDED NORTHERLY TO PROPERTY
SANITARY - PROPOSED SEPTIC SYSTEM AS SHOWN

PLAT TO ACCOMPANY ZONING PETITION
FOR

RE-ZONING FROM D.R. 5.5 TO B.R.

WITH

SPECIAL EXCEPTION FOR CONTRACTORS STORAGE YARD

BALTIMORE CO., MD.
SCALE: 1" = 30'

ELECT. DIST. N° 12
MARCH 29, 1972

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
303 ALLEGHENY AVE.
TOWSON 4, MARYLAND

MAP	4A
SECTION	SE 9-6
ELECTOR	
DISTRICT	12
DATE	4-5-72
TITLE	
REASON	4/6
BY	M/L
FINAL	
BY	