

74-70-RA #25 PETITION FOR ZONING RE-CLASSIFICATION ANY/OR SPECIAL EXCEPTION VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:
N. B. and M. C.

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 an R.R. 5.5 Zone to an D.R. 16 Zone; for the following reasons: Error in original zoning and a change in the neighborhood since the DR 5.5 classification was imposed on the 7.73 acre tract; (2) A variance to permit 25 ft. front yard and 35 ft. side yard setbacks instead of the 75 ft. required by Section 1802.2C of Council Bill No. 110 for reasons of hardship.

see attached description

Property is to be posted and advertised as prescribed by Zoning Regulations. 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 bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract purchaser: N. B. Mangione, et al. Legal Owner: N. B. Mangione, et al. Address: 7112 Darlington Drive, Baltimore, Maryland 21234

Protestant's Attorney: S. M. Almond, Jr. Address: 407 Mercantile-Townson Building, Towson, Md. 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 13th day of July, 1975, 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 106, County Office Building in Towson, Baltimore County, on the 20th day of September, 1975, at 11:00 o'clock.

(over)

SAUNDERS M. ALMOND, JR.
ATTORNEY AT LAW
407 MERCANTILE-TOWNSON BUILDING
TOWSON, MARYLAND 21204

July 23, 1975

Mr. Walter A. Reiter, Jr., Chairman
County Board of Appeals
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 74-70-RA
N. B. Mangione, et al

Dear Mr. Reiter:

Please be informed that the property on Darlington Drive which is the subject matter of the above entitled proceeding has been deeded to Baltimore County for park purposes.

It will, therefore, be appreciated if you will dismiss the above entitled proceeding and withdraw Mr. and Mrs. Mangione's Petition for Reclassification.

Sincerely yours,

SMA:BSM

RE: PETITION FOR RECLASSIFICATION : BEFORE
from D.R. 5.5 to D.R. 16 zone, and : COUNTY BOARD OF APPEALS
VARIANCE from Sec. 1802.2C of the : OF
Baltimore County Zoning Regulations :
NW/4 of Darlington Drive 104 feet : BALTIMORE COUNTY
East of the centerline of Wycliffe Road :
9th District :
N. B. Mangione, et al : No. 74 - 70 - RA
Petitioners :

ORDER OF DISMISSAL

Petition of N. B. Mangione, et al for reclassification from D.R. 5.5 to D.R. 16 zone, and Variance from Section 1802.2C of the Baltimore County Zoning Regulations, on property located on the northwest side of Darlington Drive 104 feet east of the centerline of Wycliffe Road, in the 9th Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a letter of dismissal of appeal filed July 25, 1975 (a copy of which is attached hereto and made a part hereof) from the attorney representing the Petitioners-Appellants in the above entitled matter;

WHEREAS, the said attorney for the said Petitioners-Appellants requests that the appeal filed on behalf of said Petitioners be dismissed and withdrawn as of July 25, 1975;

IT IS HEREBY ORDERED, this 29th day of July, 1975, that said appeal be and the same is Dismissed.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Reiter, Jr., Chairman
Robert L. Gifford
John A. Miller

RE: PETITION FOR RECLASSIFICATION AND VARIANCES : BEFORE THE
NW/4 of Darlington Drive, 104' E : ZONING COMMISSIONER
of the centerline of Wycliffe Road : OF
9th District : BALTIMORE COUNTY
N. B. Mangione, et al - :
Petitioners :
NO. 74-70-RA (Item No. 25) :

The Petitioners request a Reclassification from a D.R. 5.5 Zone to a D.R. 16 Zone and Variances to permit a 25 foot front yard setback and a 35 foot side yard setback in lieu of the required 75 feet, for a parcel of property containing 7.73 acres of land, more or less. The subject property is located on the northwest side of Darlington Drive, 104 feet east of the centerline of Wycliffe Road, in the Ninth Election District of Baltimore County.

Evidence on behalf of the Petitioners indicated that the subject property is to be developed into garden-type apartments. Their contention was that the Baltimore County Council, in its adoption of the Comprehensive Zoning Map on March 24, 1974, erred in classifying the subject property D.R. 5.5. They felt that it would not be economically feasible to develop the property in its present classification. Evidence also indicated that water and sewer are available to the property.

Expert testimony, on behalf of the Petitioners, cited several zoning changes in recent years in this vicinity, all of which, in the Zoning Commissioner's opinion, were insignificant with relation to the subject Petition.

Residents of the area, in protest of the subject petition, indicated that, although water and sewer are available to the property, homes are encountering various problems, such as, sewer backups, etc. They cited traffic that could be generated from the subject property onto nearby substandard, residential streets. Further testimony indicated that the area is comprised of

single family dwellings, and it is felt that the subject property should remain in its present density.

Without reviewing the evidence further in detail but based on all the evidence presented at the hearing, in the judgement of the Zoning Commissioner, the Petitioners have failed to show error in the original zoning map or such substantial changes in the character of the neighborhood to justify the granting of this Petition.

As to error, the zoning map reflects that this vicinity is zoned medium density, D.R. 5.5. It is, therefore, obvious that it was the intention of the Baltimore County Council to keep the subject property at its present classification.

As to substantial changes in the character of the neighborhood, the Petitioners pointed out several instances of Petitions that had been granted. In most instances, these were requests for Special Exceptions and Variances. It is well founded in law that the granting of a Special Exception and/or a Variance cannot be considered as evidence showing a substantial change in the character of the neighborhood.

The Comprehensive Zoning Map, as adopted on March 24, 1971, is presumed to be correct. The burden of proving error and/or substantial changes in the character of the neighborhood is borne by the Petitioners. In both instances, this burden has not been met.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 2nd day of February, 1974, that the Reclassification be and the same is hereby DENIED and that the subject property be and the same is hereby continued as and to remain a D.R. 5.5 Zone, and, by necessity, the Variances are hereby DENIED.

Zoning Commissioner of Baltimore County

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March 12, 1973

PETITIONERS' BRIEF

The Petitioners request a reclassification of the 7.73 acres of land on the north side of Darlington Drive, in Baltimore County, Maryland, from a D.R. 5.5 classification to a D.R. 16 classification for the following reasons:

(1) There was an error in the original zoning in not designating the 7.73 acres described above as D.R. 16. The land is bounded on the easternmost and on the westernmost boundaries by land actively used as BL. The use to the east is a swimming club, or pool, and the use to the west is a shopping center with the land between the 7.73 acres parcel and the shopping center actually D.R. 5.5, but with zoning authority for parking for the benefit of the shopping center.

The land to the northwest, and, in fact a part of this 7.73 acre parcel is low and contains a stream bed. The filling and improvement of such land would not be economically feasible for development as individual homes or group homes, and proof of this statement is borne out by the fact that the land has remained undeveloped for so long a period despite the availability of metropolitan sewer and water.

The development of this parcel of 7.73 acres of land would do much to improve the area, which is now spoiled by persons dumping trash, and litter from trespassers. The ever present motor bike now tears over the raw land and creates a nuisance for the neighbors to the south.

(2) There are many changes in the area since the zoning of D.R. 5.5 has been placed on the land such as commercial development, new roads in the area, new sewer line placed in Darlington Drive and Tennis Barns are proposed for the vacant property adjoining the 7.73 acre parcel to the northwest.

Respectfully submitted,
S. M. Almond, Jr., Attorney

July 29, 1975

SAUNDERS M. ALMOND, JR., Esq.
407 Mercantile-Townson Building
Towson, Maryland 21204

Re: File No. 74-70-RA
N. B. Mangione, et al

Dear Mr. Almond:

Enclosed herewith is copy of Order of Dismissal passed today by the Baltimore County Board of Appeals in the above entitled case.

Very truly yours,

Muriel E. Buddenmeier

Encl.

cc: John W. Howland, III, Esq.
Mr. S. E. DiNorena
Mr. W. D. Freeman
Mr. James Howell
Board of Education

DESCRIPTION OF 7.73 ACRES
OF LAND MORE OR LESS
DARLINGTON DRIVE

BEING all of that land which by Deed, dated March 28, 1967 and recorded among the Land Records of Baltimore County in Liber 4738 Page 561 was conveyed by the Inter-City Land Company unto Nicholas B. Mangione

BEGINNING at a point in the northwest side of Darlington Drive, 105 feet east of the centerline of Wycliffe Road said point being the same point of beginning as that of the aforementioned land; thence leaving said point and binding on the northwest side of Darlington Drive the following five courses and distances:

- By a curve to the left said curve having a radius of 479.17 feet for a distance of 130.50 feet
- South 01°-51'-00" West - 169.50 feet
- By a curve to the right said curve having a radius of 380.77 feet for an arc distance of 265.16 feet
- South 41°-49'-00" West - 180.08 feet
- By a curve to the right said curve having a radius of 909.57 feet for an arc distance of 543.60 feet; thence leaving Darlington Drive and binding in part on the eastern most outline of Parcel No. 1 of Plat 35/72
- North 14°-00'-30" West - 251.77 feet to a point on the North side of a proposed drainage and utility easement; thence
- North 62°-43'-00" East - 210.32 feet; thence
- By a curve to the left said curve having a radius of 277.49 feet for an arc distance of 106.55 feet; thence
- North 40°-43'-00" East - 121.26 feet; thence by a curve to the left said curve having a radius of 530.57 feet for an arc distance of 293.31 feet; thence
- North 72°-43'-00" East - 259.02 feet; thence binding on the east line of an unmentioned deed
- South 75°-47'-00" East - 248.27 feet to the point of beginning

CONTAINING 7.73 Acres of land, more or less

SUBJECT to any and all assessments of record

This description is for zoning purposes only and is not intended to conveyance of land

2-27-75
P.N. 594

John W. Howland, III, Esq.

PETITION FOR RECLASSIFICATION * BEFORE THE COUNTY
AND VARIANCES * BOARD OF APPEALS
NW/3 of Darlington Drive *
Nicholas B. Mangione and *
Mary C. Mangione, his wife * NO. 74-70-RA

CLOSING ARGUMENT IN SUPPORT OF PETITION

The Answer of the Petitioner to the Response of People's Counsel for Baltimore County says:

I. The Petitioner is not relying on the same facts, because from 1961, when the prior petition to rezone was filed, until 1973, when the present petition to rezone was filed, much had transpired. The Perring Parkway was completed, the shopping center to the south was built, the Tennis Barns were permitted under a Special Exception and the subject property remained undeveloped. Some of the above developments were anticipated but completed since 1961.

II & III. The County Council intervened between the 1961 and 1973 Petitions with comprehensive rezoning of the entire county. This, with the changes and the passage of time, takes the matter out of the cases cited under III of the Response of People's Counsel as to res judicata.

IV. The Petitioner is claiming no hardship caused by a storm drain reservation previously granted.

V. The Petitioner relied upon error in the comprehensive rezoning, and the Court of Appeals in the Pallace case, 239 Md 549, p. 557, stated that the Board of Zoning Appeals, now the County Board of Appeals could have lawfully found in favor of the Petitioner upon the facts presented, but that the issue was fairly debatable.

Respectfully submitted,

Saunders M. Almond, Jr.

March 21, 1975.
SMA:BSM

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I HEREBY CERTIFY That a copy of the foregoing Closing

Argument in Support of Petition was mailed to: John W. Hessian, III,
102 West Pennsylvania Avenue, Towson, Maryland 21204, People's Counsel
for Baltimore County, this 21st day of March, 1975.

Saunders M. Almond, Jr.

PETITION FOR RECLASSIFICATION * BEFORE THE COUNTY
AND VARIANCES * BOARD OF APPEALS
NW/3 of Darlington Drive *
Nicholas B. Mangione and *
Mary C. Mangione, his wife * NO. 74-70-RA

RESPONSE TO THE ARGUMENT IN SUPPORT OF PETITION

The response of the People's Counsel for Baltimore County to the Memorandum in support of the Petition will be brief and in outline form.

I. A previous Petition, based upon substantially the same facts, was decided ultimately by the Maryland Court of Appeals in the Case of Pallace v. Inter-City Land Company, 239 Md. 549, (1965). The Petitioner herein presented no evidence of conditions which arose subsequent to that decision.

II. The property was the subject of a submission to the County Council of Baltimore County during the comprehensive rezoning procedure conducted in 1971. It appears as issue "93" on the logs of the Council proceedings. The Council was aware of the storm drain reservation--see letter of Richard C. Murray, Esquire to County Council of Baltimore County, 18, January, 1971, second paragraph. This letter appears as part of exhibit "C" of Protestants.

III. The foregoing, the previous appealed case and the submission to the County Council bring this matter squarely within the property of Whittle v. Board of Zoning Appeals, 211 Md. 36, 125 A.2d 41, and Woodlawn Tree Citizens Association, Inc., et al v. Board of County Commissioners for Prince George's County, et al, 241 Md. 187, 216 A.2d 149.

Rec'd 3/17/75
11:30 pm

IV. As shown on Protestant's Exhibit B, on May 17, 1965, the Petitioner entered into an agreement with Baltimore County, Maryland, whereunder for a valuable consideration represented by the release by Baltimore County to the Petitioner, et al, of certain reservations for his or their own uses and purposes, the County was given a storm drain reservation 10 feet in width across Petitioner's property to the southwest of the subject property. The location and size of that reservation, agreeable to the Petitioner, was designed so that it would travel to the northeast through the property of the Petitioner here under consideration. Thus the Petitioner, for a valuable consideration, agreed to the installation of the reservation on the southeast side of the stream and to the location ultimately through the property here under consideration. He thus has no right to now complain of economic hardship caused by a procedure to which he for a valuable consideration previously agreed.

The Petitioner has, therefore, in this record adduced no ground upon which the reclassification that he seeks might be granted.

Respectfully submitted,
John W. Hessian, III
John W. Hessian, III

I HEREBY CERTIFY That a copy of the foregoing Response to the Argument in Support of Petition was this 17th day of March, 1975, mailed to Saunders M. Almond, Jr., Esquire, Mercantile-Towson Building, Towson, Maryland, 21204, Attorney for Petitioner.

March 17, 1975
JWH:c

February 28, 1974

Case No. 74-70-RA (Item No. 25) - N. B. Mangione, et al

NW/3 of Darlington Drive, 104' E of the
centerline of Wycliffe Road - 9th District

Petition for Reclassification and Variance

Brief in Support of Petition for Reclassification from S. M. Almond, Jr.,
Esquire, dated March 12, 1973

Description of Property

Revised Plat. dated May 31, 1973

200' Scale Location Plan

Zoning Advisory Committee Comments, dated May 5, 1973

Baltimore County Planning Board Comments and Accompanying Map

Certificate of Posting (Two (2) Signs)

Certificates of Publication

Protestants' Exhibit A - Photograph

Order of the Zoning Commissioner, dated February 7, 1974 - DENIED

Letter of Appeal from Saunders M. Almond, Jr., Esquire, on Behalf of
the Petitioners, received February 15, 1974

Saunders M. Almond, Jr., Esquire
407 Mercantile-Towson Building
Towson, Maryland 21204

Counsel for Petitioners

John W. Hessian, III, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

Counsel for Protestants

RE: PETITION FOR RECLASSIFICATION * BEFORE THE
AND VARIANCES * ZONING COMMISSIONER
NW/3 of Darlington Drive, 104' E *
of the centerline of Wycliffe Road - *
9th District * OF
N. B. Mangione, et al - *
Petitioners * BALTIMORE COUNTY
NO. 74-70-RA (Item No. 25) *

Please enter an Appeal from the Order of the Zoning
Commissioner dated February 7, 1974 in the above entitled matter
to the County Board of Appeals of Baltimore County.

Saunders M. Almond, Jr.
Saunders M. Almond, Jr.,
Attorney for Petitioners

cc: Mr. John W. Hessian, III
102 West Pennsylvania Avenue
Towson, Maryland 21204



February 7, 1974

S. M. Almond, Jr., Esquire
Janifer Building
Towson, Maryland 21204

RE: Petition for Reclassification
and Variances
NW/3 of Darlington Drive,
104' E of the centerline of
Wycliffe Road - 9th District
N. B. Mangione, et al -
Petitioners

Dear Mr. Almond:

I have this date passed my Order in the above captioned
matter. Copy of said Order is attached.

Very truly yours,

S. ERIC DI NENNA
Zoning Commissioner

SED/sw

Attachments

cc: John W. Hessian, III, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

Appeal
CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9th Date of Posting Feb 7-74
Posted for: N.B. Mangione
Petitioner: N.B. Mangione
Location of property: NW/3 of Darlington Dr. 104' E of centerline of Wycliffe Rd.
Location of Signs: 1 sign at NW/3 of Darlington Dr. 104' E of centerline of Wycliffe Rd.
Remarks: None
Posted by: Eric Di Nenna Date of return: 3-17-74

ARGUMENT IN SUPPORT OF PETITION

The Petitioners request a Reclassification from a D.R.5.5 Zone to a D.R. 16 Zone and Variances to permit a 25 foot front yard setback and a 35 foot side yard setback in lieu of the required 75 feet, for a parcel of property containing 7.73 acres of land, more or less. The subject property is located on the northwest side of Darlington Drive, 104 feet east of the centerline of Wycliffe Road, in the Ninth Election District of Baltimore County.

Witnesses for the Petitioners described the property as low lying land between the "paper" street Darlington Drive and the Herring Run stream bed to the northwest, and 600 feet at the southernmost end and 500 feet at the northernmost end from Perring Parkway. On the northwest side of Herring Run were two existing "Tennis Barns" and a third was proposed, and approved by the State Water Resources authority as well as Mrs. Warfield for Baltimore County Department of Public Works for a building permit.

The Petitioners do not contend that there have been many changes in the area since the Comprehensive Zoning Map was adopted by the County Council in March of 1971, but the Petitioners do contend that there was error in not reclassifying the property D.R.16 at the time the Comprehensive Zoning Map was adopted. Since the D.R.16 reclassification is neither incompatible nor inconsistent with the D.R. 5.5 areas in the residential district of Harford Park surrounding the 7.73 acres which is the subject of this proceeding, "In these circumstances, the questions of mistake and change are not controlling." See

Judge Horney's decision in Costello v. Sieling, 223 MD 24 (End of third

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page 29 in 223 MD 24, quoted above. This statement of law is further supported by Judge Hammond's decision quoted in the same paragraph on page 29 in that case. Judge Barnes, a lecturer on zoning in Jack Dillon's Towson State course, states in Pallace v. Inter City Land Company, 239 MD 549, at page 559, as follows: "If the issues are 'fairly debatable' it cannot be held by the courts that the action of the Board is arbitrary, unreasonable or capricious. In my opinion this is the true test and not whether there has been a 'mistake in original zoning' or 'a substantial change in physical conditions in the neighborhood' as the exclusive test to determine the validity of the re-zoning of land by the Board or the refusal of the Board to rezone."

The history of the subject property owned by the developer, William Barnes Hall and his Inter City Land Company, from April 1920 until 1967 when the Petitioners bought, must be considered.

In 1961 William Barnes Hall sought to reclassify the subject property because it was not economically feasible to develop it as single homes. This ended in The Court of Appeals in the Pallace decision. Then in December 1970, and January 1971, the Petitioners and their attorney sought reclassification through the Baltimore County Council since it was not economically feasible to develop the subject property as D.R.5.5. In September 1973, the Petitioners again started this Petition for Zoning Reclassification.

The property has water and sewer, and it it couldn't make it as D.R.5.5 in the "Soaring Sixties", what chance has it in the economic atmosphere of the post-Watergate years. Being next to a stream today as a developer truly puts a great burden on the land owner, with the federal, state and County authorities adding to the already extensive list of costs.

The subject property makes a good transitional parcel between

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paragraph, page 29).

The Petitioners further contend that the refusal of the County Council and/or the Zoning Commissioner to reclassify the property to D.R.16 deprives them of all reasonable beneficial use of the property, which constitutes an unconstitutional taking of the property. See Frankel v. City of Baltimore 223 Md. 97, City of Baltimore v. Cohn 204 Md. 523 and England v. Mayor and Council of Rockville, 230 Md. 43.

One of the Petitioners, Nicholas B. Mangione, testified that he was an experienced developer in residential and commercial properties in Baltimore County, Baltimore City, Anne Arundel County and Harford County. That he purchased adjoining property on which the shopping center is operated to the south off Oakleigh Road in the early 1960's and contracted to purchase the subject property about 1965, taking a deed in 1967.

Mr. Mangione further testified that the original cost of the land, plus preparation of the land, which includes extension of roads, curb, gutter, water, sewer, storm drain and possible fill, would put the cost of the land for the 32 homes which could be constructed there to \$8,000.00 to \$10,000.00. The selling price of the 32 homes he could get on the property, comparable to those in the area would be \$30,000.00 to \$35,000.00, and that the high cost of land, together with the stream to the rear and other conditions, would make it economically unfeasible to develop for individual homes. Semi-detached homes would have the same considerations.

The Court of Appeals has not required exact cost testimony to support the economic unfeasibility test in many cases, and says those figures can be developed by cross-examination, and/or "there was

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the single family homes and the Tennis Barns, which the home owners think are "horrendous". There are apartments, Wellington Gates, and town houses, Dutch Village, just to the south.

We respectfully submit that the Petitioners are deprived of all reasonable use of the subject property by the existing classification, and are therefore entitled to D.R.16 zoning with the necessary variances applied for in the Petition. The Petitioners also submit that the Comprehensive Zoning Map was in error since the property was zoned D.R.5.5 instead of D.R.16.

March 11, 1975.
SMA:BSM

Saunders M. Almond, Jr.

Copy to Jack Horney

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no testimony to the contrary". See England v. Mayor and Council of Rockville 230 MD. 43.

Augustine J. Muller, a civil engineer and land developer, former Zoning Commissioner of Baltimore County, County Commissioner and member of the County Council, testified on behalf of the Petitioners. He stated that the proposed use would be beneficial to the area and neighbors because of traffic, storm drainage, and development of the subject property. The subject 7.73 acre parcel was the only parcel of a large tract developed by William Barnes Hall from the 1920's to 1960's to be left vacant and it was Mr. Muller's opinion that it was impractical to develop as D.R.5.5. This is borne out in the case of Pallace v. Inter City Land Company, 239 MD 549.

Mr. Muller also stated that the storm drains in the subject property should help the area to drain, as well as the sewage system.

Mr. Mangione, Mr. Muller and all other witnesses testified that the land was now a nuisance, because of trash dumped upon it, trespassers including the motor bikes, lack of storm drainage, etc. The development could only be a great improvement for the area.

Mr. Richard Moore, a Baltimore County Traffic Engineer, surprised himself by stating that the development of the land for D.R.16 use, with the improvement of Darlington Drive would be a boon to the traffic movement in the area, and beneficial to all.

The Protestants generally testified that they wanted single homes, their property values would deteriorate, traffic would be disrupted or that kids had no place to play. There was no community group and seven individual home owners only testified. The Protestants' evidence, the Pallace case, showed 700 to 800 homes to be in Harford Park.

The photographs put into evidence pointed up the necessity

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for the Board members to visit the property. They also showed that all end houses faced the streets leading into Darlington Drive -- not Darlington Drive and not the proposed 128 units.

James G. Howsoll, nicknamed "Hos" who plays the guitar and sings, testified as an assistant to Norman E. Gerber, Planner, of the Department of Planning and Zoning. He verified that the Department recommended D.R.5.5 for the subject property due to the concept of the neighborhood and the stream. He stated the subject property "may be in the flood plain" or that after consultation with his new group it "appeared" to be in the flood plain.

Mr. Howsoll also stated that his "new group" was not responsible for determination of the flood plain relating to property to be zoned or for which permits were requested. Also, he admitted no statement was made under comments on the application for zoning of the subject property.

Alexander P. Ratych, Land Surveyor, who has worked for William Barnes Hall since the early 1960's, also testified for the Petitioners. He stated that he had made a grading study in connection with the 100 year flood plain on the subject property and the land across the stream where the Tennis Barns of the Perring Racquet Club are built with a third proposed and near approval.

The study showed the subject property could be built with possible flooding during a 100 year flood from several inches at the parking lot to 2-1/2 to 3 feet at the stream edge, as more particularly shown on Petitioners' Exhibit No. 2.

The many beneficial results to be derived from the reclassification of the subject property from D.R.5.5 to D.R.16 should be considered under the Costello v. Sieling ruling by Judge Horney at

BALTIMORE COUNTY
ZONING ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204

DEPARTMENT OF TRAFFIC ENGINEERING
EUGENE J. CLIFFORD, P.E. Director
Wm. T. MILLER Deputy Traffic Engineer

April 27, 1973

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 25 - Cycle Zoning V - April to Oct. 1973
Property Owner: N.B. & M.C. Mangione
Darlington Drive opp. Wycliffe, Canterbury, Linwood
Creighton & Glencoe Roads - Reclass to DR 16, variances
from Section 1802.2C - front & side yards Dist. 9

Dear Mr. DiNenna:

The subject petition is requesting a change from DR 5.5 to DR 16 of 7.73 acres.

It should increase the trip density from 400 to 900 trips per day. Should Darlington Drive be constructed from the Oakleigh Shopping Center to Wycliffe Road and connected to all intersecting streets, no major traffic problems are anticipated.

Very truly yours,
C. Richard Moore
Assistant Traffic Engineer

CRM:nc

mls
4/16/73

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: March 26, 1973

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 180
Property Owner: N.B. and M.C. Mangione
Location: NW/4 of Darlington Drive, 104' E. of Wycliffe Road
Present Zoning: D.R. 16
Proposed Zoning: Reclassification to D.R. 16 and Variance from Section 1802.2C to permit 25' front yard and 35' side yard setbacks instead of required 75'

Z.A.C. Meeting of: March 27, 1973

District: 9
No. Acres: 7.73 acres

Dear Mr. DiNenna:

SEE ATTACHED SHEET.
No bearing on student population.

Very truly yours,
W. Nick Petrovich
Field Representative

WNP/ml

MARCUS M. BOTTS
JOSEPH N. MCGUIRE
ALVIN LORICK
JOSHUA R. WHEELER, SUPERVISOR

ORIGINAL

THE TOWSON TIMES

TOWSON, MD. 21204

September 3 - 1973

THIS IS TO CERTIFY, that the annexed advertisement of S. Eric DiNenna, Zoning Commissioner of Baltimore County was inserted in THE TOWSON TIMES, a weekly newspaper published in Baltimore County, Maryland, once a week for one successive weeks before the 3rd day of September 1973 that is to say, the same was inserted in the issue of August 30, 1973.

STROMBERG PUBLICATIONS, Inc.

By Ruth Morgan

COMMENTS

School Situation:	Sept. 20, 1972	Capacity	Over/Under
School	Enrollment		
Villa Cresta Elementary	893	1035	-142
Dumbarton Junior	1176	1190	-14
Parkville Senior	2007	1990	+97

School	Sept. 19 73	Sept. 19 74	Sept. 19 75	Sept. 19 76	Sept. 19 77
Villa Cresta Elementary	869	811	835	809	806
Dumbarton Junior	1180	1170	1190	1195	1210
Parkville Senior	1910	1200	1905	1880	1810

School	Status	Capacity	Estimated To Open
None			

School	Year	Estimated To Open
None		

Possible Student:	Elementary	Junior High	Senior High
Present Zoning:	22	14	10
Proposed Zoning:	11	4	2

Comments concerning effect on school housing matters:

No adverse effect on student population.

WILLIAM D. FROMM
DIRECTOR
S. ERIC DINENNA
ZONING COMMISSIONER



May 17, 1973

Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #25, V Zoning Cycle, April to October 1973, are as follows:

Property Owner: N.B. and M.C. Mangione
Location: NW/4 of Darlington Drive, opposite Wycliffe, Canterbury, Linwood Creighton, and Glencoe Roads
Present Zoning: D.R. 16
Proposed Zoning: Reclassification to D.R. 16; Variances from Section 1802.2C - front and side yards
District: 9
No. Acres: 7.73

The site plan must be revised to show correct density calculations.

The driveways to the property should be opposite the public street.

The site if developed must comply with Section 504 of the Zoning Regulations, (Comprehensive Manual of Development Policies).

Very truly yours,

John L. Wimbley
John L. Wimbley
Planning Specialist II
Project Planning Division
Office of Planning and Zoning

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
SUITE 301 JEFFERSON BUILDING 128 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204
AREA CODE 301 PLANNING 484-3311 ZONING 484-3351

CERTIFICATE OF PUBLICATION

TOWSON, MD. AUGUST 30, 1973

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once a week for one successive weeks before the 30th day of September, 1973, the first publication appearing on the 30th day of August 1973.

THE JEFFERSONIAN
S. L. Leach, Jr., Manager

Cost of Advertisement \$.....

4. R. Almond, Jr. Esq.
Attorney at Law
Towson, Maryland 21204

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing
this 13th day of April 1973

S. Eric DiNenna
Zoning Commissioner

Petitioner: N.B. and M.C. Mangione
Petitioner's Attorney: S. R. Almond, Jr.
Case No. 74-70-RA

Reviewed by: John L. Wimbley
Zoning Advisory Committee

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 14724
DATE April 17, 1974 ACCOUNT 01-662
AMOUNT \$10.00
DISTRIBUTION: WHITE - CASHIER, SAUNDERS M. ALMOND, JR., Esquire; YELLOW - CUSTOMER
Cost of Filing of an Appeal for N.B. Mangione, et al, for an Appeal Hearing NW/4 of Darlington Drive, 104' E. of the centerline of Wycliffe Road - 9th District 28
Case No. 74-70-RA

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 12410
DATE Sept. 17, 1973 ACCOUNT 01-664
AMOUNT \$155.57
DISTRIBUTION: WHITE - CASHIER, Commercial Contractors Inc., 7112 Darlington Drive, Baltimore, Md. 21234; YELLOW - CUSTOMER
Advertising and posting of property for N.B. Mangione, et al
7112-70-RA 155.57

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

474-76 RA

District: 9th Date of Posting: Aug. 30, 1973
Posted for: Hearing, Thru, Apr. 22, 1973 @ 1:00 P.M.
Fetitioner: N.B. Mangione
Location of property: NW/4 of Darlington Dr. 104' E. of Centerline of Wycliffe Rd.
Location of Signs: 2 Road End of Almond Rd. and 2 Road End of Wycliffe
Remarks: M.C. Mangione
Posted by: M.C. Mangione Date of return: 9/1/73

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, GA										
Reviewed by: [Signature]										
Revised Plans: Change in outline or description										
Previous case: No										
Map # 32										

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received this 13 day of

March 1972. Item #

S. Eric DiNenna
Zoning Commissioner

Petitioner: N.B. Mangione Submitted by: S.M. Almond
Petitioner's Attorney: S.M. Almond Reviewed by: [Signature]

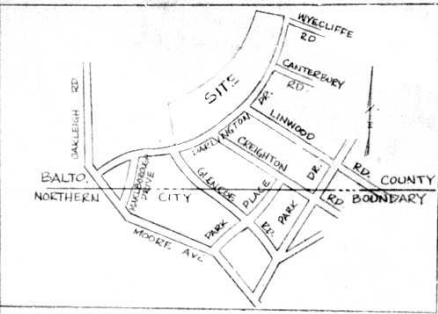
* This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 8345
DATE May 3, 1973 ACCOUNT 01-662
AMOUNT \$50.00
DISTRIBUTION: WHITE - CASHIER, SAUNDERS M. ALMOND, JR., Esq.; YELLOW - CUSTOMER
Cost of Filing of an Appeal for N.B. Mangione, et al NW/4 of Darlington Drive, 104' E. of the centerline of Wycliffe Road - 9th District 28
Case No. 74-70-RA

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 13103
DATE February 21, 1974 ACCOUNT 01-662
AMOUNT \$70.00
DISTRIBUTION: WHITE - CASHIER, SAUNDERS M. ALMOND, JR., Esq.; YELLOW - CUSTOMER
Cost of Filing of an Appeal for N.B. Mangione, et al NW/4 of Darlington Drive, 104' E. of the centerline of Wycliffe Road - 9th District 28
Case No. 74-70-RA

AUG 71





LOCATION MAP
SCALE - 1"=500'

OAKLEIGH SHOPPING CENTER
RRG - 30/72

EX. ZONING
BL. CSA

PUBLIC

EX. ZONING
DR 5.5

EX. ZONING
DR 5.5

EX. ZONING
DR 5.5

EX. ZONING
B.L.
HARFORD PARK - SEC. A
LOT 6

BUILDING DATA:
BLDG'S - A through J - 42.0' x 90.0'
BLDG. K - 42.0' x 82.0'

PLAT TO ACCOMPANY ZONING PETITION
NICHOLAS MANGIONE PROPERTY
DARLINGTON DRIVE
9TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND
SCALE: 1"=50'
FEBRUARY 24, 1973

SMITH, TEACHER & ASSOCIATES
10324 S. DOLFIELD ROAD
OWINGS MILLS, MD., 21117
365-2100



As Plat



SITE DATA:
EXISTING ZONING - DR. 5.5
EXISTING USE - VACANT
PROPOSED ZONING - DR. 16 WITH VARIANCE*
PROPOSED USE - APARTMENTS
TRACT AREA - 7.73 ACRES + (0.90 AC. STREET)
PROPOSED NO. DENSITY UNITS - 125 (125-2 BR + 6-1 BR)
PERMITTED NO. DENSITY UNITS - 7.73 x 16 + 0.90 x 55 = 128
PARKING SPACES REQ'D - 125 x 1.53 = 196
PARKING SPACES PROVIDED - 197
SCREENING OF PARKING - 4' HIGH COMPACT SCREEN PLANTING
LOCAL OPEN SPACE REQ'D - 7.73 (0.15) = 1.16 ACRES
LOCAL OPEN SPACE PROVIDED - 2.10 ACRES IN DRAINAGE EASEMENTS
1.05 ACRES SUPPLIED FROM OTHER LAND.
3.15 ACRES TOTAL
9.0 x 180 - AVAILABLE
PARKING SPACES - AVAILABLE
PUBLIC WATER AND SEWER - AVAILABLE

* VARIANCE TO PERMIT 25' FRONT YARD AND 35' SIDE YARD SETBACKS INSTEAD OF 75' REQUIRED BY SECTION 1202.2 C OF COUNCIL BILL NO. 100

BALTO. COUNTY DRAWING REFERENCES:
STORM DRAINS - # 65-1258 (4)
SANITARY SEWER - # 46-254 (2)
HIGHWAY - # 65-1255 (5)

WYELIFE ROAD

CANTERBURY RD.

LINWOOD RD

DARLINGTON DRIVE

GLENCOE ROAD

EX. ZONING
DR 5.5

EX. ZONING
DR 5.5

EX. ZONING
DR 5.5

EX. ZONING
DR 5.5

EX. ZONING
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DR 5.5

EX. ZONING
DR 5.5

