74-76-RX
#28

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

74-76-RX

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, J. William & Martha R. Aston 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 re-classified, pursuant to the Zoning Law of Baltimore County, from an D.R. 3.5 zone to an D.R. 16 zone; for the following reasons:

Error by zoning the described property D.R. 3.5, which is improper and confiscatory.

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 offices

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

I, or we, agree to pay expenses of above re-classification 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.

Contract purchaser

Address

Hennessey, Fleury and Seibert

By: Lewis L. Fleury, Petitioner's Attorney

Address 407 W. Penna. Ave., Towson, Md. 21204
825-9200

J. Wm Aston
Martha R. Aston
Legal Owner
Address 9028 Belair Rd
Baltimore Md 21236

Protestant's Attorney

ORDERED By The Zoning Commissioner of Baltimore County, this 13th day of July, 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 Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 28th day of September, 1973, at 10:00 o'clock A.M.

S. E. DiNenna
Zoning Commissioner of Baltimore County.

10:00A
9/28/73

(over)

ORDER RECEIVED FOR FILING
DATE March 11, 1973
BY Stella P. ...
JUL 13 '73 PM

MAP NE 10-G
ELECTION DISTRICT 11
DATE 4-5-73
BY RT

J. WILLIAM ASTON #74-76-RX
SE/cor. of Belair Rd. and Darnell Drive
11th

#74-76-RX

OC

BALTIMORE COUNTY
ZONING ADVISORY COMMITTEE

PETITION AND SITE PLAN
EVALUATION COMMENTS

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

April 13, 1973

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

JOHN J. DILLON, JR.
Chairman

MEMBERS
BUREAU OF ENGINEERING
DEPARTMENT OF TRAFFIC ENGINEERING
STATE ROADS COMMISSION
BUREAU OF FIRE PREVENTION
HEALTH DEPARTMENT
PROJECT PLANNING
BUILDING DEPARTMENT
BOARD OF EDUCATION
ZONING ADMINISTRATION
INDUSTRIAL DEVELOPMENT

Lewis L. Fleury, Esquire
407 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Reclassification and Special Exception
J. William Aston, et ux - Petitioners
Item No. 28
Fifth Zoning Cycle

Dear Mr. Fleury:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the appropriateness of the requested zoning.

The subject property is located on the east side of Belair Road and the southeast corner of Darnell Drive, in the Eleventh District of Baltimore County. This property, which is currently zoned D.R. 3.5, is requesting a Reclassification to a D.R. 16 Zone for a depth of 200 feet from the edge of Belair Road. The subject properties are currently improved with two (2) dwellings, the first on the corner of Darnell and Belair is a one (1) story masonry structure that is well landscaped, and the second property next to that is a two (2) story colonial style dwelling constructed of brick. There is a one (1) car garage structure in the rear of the second property. The Petitioners propose to develop these properties as office uses with their primary access from Darnell Drive. However, a one-way drive is also proposed on the existing property at 9335 Belair Road (second property). Since Belair Road is a State road and the State Highway Administration will comment on this existing entrance. Curb and gutter currently exists along Belair Road with sidewalks at this location. The properties in the vicinity are improved with large residential dwellings of similar character and are well maintained. The property immediately to the south is improved with a public school for Baltimore County. The structure at the rear of the property

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Lewis L. Fleury, Esquire
April 13, 1973
Page Two

that I designated as a garage, apparently is either being used as a small dwelling or a playhouse of some sort. At any rate, it should be clarified. There is no curb and gutter existing along Darnell Drive, and Darnell Drive is improved with very attractive brick and frame dwellings.

This petition for Reclassification and Special Exception is accepted for filing on the date of the enclosed filing certificate. However, any revisions or corrections to petitions, descriptions, or plats, as may have been requested by this Committee, shall be submitted to this office prior to Friday, June 1, 1973 in order to allow time for final Committee review and advertising. Failure to comply may result in this petition not being scheduled for a hearing. Notice of the hearing date and time, which will be between September 1, 1973 and October 15, 1973, will be forwarded to you well in advance of the date and time.

Very truly yours,

John J. Dillon Jr.
JOHN J. DILLON, JR.
Chairman
Zoning Advisory Committee

JJD:gc
Enclosure

cc: Eugene F. Raphel
E. F. Rapgel & Associates
201 Courtland Avenue
Towson, Maryland 21204

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

Bureau of Engineering
ELLSWORTH N. DIVER, P. E., CHIEF

April 17, 1973

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

Re: Item #28 (April to October 1973 - Cycle V)
Property Owner: J. William and Martha Aston
Belair Road and Darnell Drive
Present Zoning: D.R. 3.5
Proposed Zoning: Reclass. to D.R. 16 and a Special Exception for offices
District: 11th No. Acres: 0.665 acres

Dear Mr. DiNenna:

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.

Highways:

Belair Road is a State Road; therefore, all improvements, intersections and entrances on this road will be subject to State Highway Administration requirements.

Darnell Drive, an existing road, shall ultimately be improved as a 30-foot curb and gutter street on a 50-foot right-of-way.

Storm Drains:

In accordance with the drainage policy for this type development, the Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall.

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.

Belair Road is a State Road. Therefore, drainage requirements as they affect the road come under the jurisdiction of the State Highway Administration.

Sediment Control:

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

Item #28 (April to October 1973 - Cycle V)
Property Owner: J. William and Martha Aston
Page 2
April 17, 1973

Water and Sanitary Sewer:

Public water and sanitary sewer are available to serve this site.

Very truly yours,

Ellsworth N. Diver
ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:PMK:ss

M-NW Key Sheet
NE 10 G Topo

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204

DEPARTMENT OF TRAFFIC ENGINEERING
EUGENE J. CLIFFORD, P.E. DIRECTOR
WM. T. MELZER DEPUTY TRAFFIC ENGINEER

April 27, 1973

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

Re: Item 28 - Cycle Zoning V - April to Oct. 1973
Property Owner: J. William & Martha Aston
Belair Road and Darnell Drive
Reclass. to DR 16, S.E. for offices
District 11

Dear Mr. DiNenna:

The subject petition is not of sufficient size to create any major traffic problems in itself. However, continued development of office land along Belair Road can only compound capacity problems now existing.

Very truly yours,

C. Richard Moore
C. Richard Moore
Assistant Traffic Engineer

CRM:nc

Maryland Department of Transportation
State Highway Administration

Harry R. Hughes, Secretary
James J. O'Donnell, Acting Administrator

April 12, 1973

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

Att: Mr. John J. Dillon

Re: Reclassification April, 1973
Property Owner: J. William and Martha Aston
Location: Belair Road & Darnell Drive (Route 1)
Present Zoning: D.R. 3.5
Proposed Zoning: Reclass to D.R. 16 and a special exception for offices-District 11
No. Acres: 0.665

Dear Mr. DiNenna:

The subject plan indicates proposed commercial access from a State highway to a corner property. Policy requires that a developer of a corner property improve a substandard intersection. The standard radius at a corner is 30 ft. Although the plan scales 15 ft. an inspection at the site revealed that the radius is 5' at best.

Traffic generated to the site will be mainly oriented to Darnall Drive, therefore, it is our opinion that the corner should be improved with new curb on a 30' radius return. The entrance adjacent to Darnall Drive will not be needed and could be eliminated. These improvements would greatly contribut toward traffic safety and ease of movement at the intersection.

The existing entrance at the south property line is acceptable with the provision of directional signs.

The 1972 average daily traffic on this section of Belair Road is ... 30,000 vehicles.

Very truly yours,

Charles Lee, Chief
Development Engineering Section
John E. Meyers
by: John E. Meyers
Asst. Development Engineer

CL:JEM:bk

P.O. Box 717 / 300 West Preston Street, Baltimore, Maryland 21203

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 be had; and it further appearing that by reason of.....

a Special Exception for a.....should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this.....day of..... ....., 197 .., that the herein described property or area should be and the same is hereby reclassified; from a.....zone to a.....zone, and/or a Special Exception for a.....should be and the same is granted, from and after the date of this order.

Zoning Commissioner of Baltimore County

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

the above re-classification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this.....day of....., 197 .., that the above re-classification 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.....zone; and/or the Special Exception for.....be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

WILLIAM J. FROMM
DIRECTOR

S. ERIC DINENNA
ZONING COMMISSIONER

May 23, 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 #28, V Zoning Cycle, April to October 1973, are as follows:

Property Owner: J. William and Martha Aston
Location: SEC Belair Road and Darnell Drive
Present Zoning: D.R.3.5
Proposed Zoning: Reclassification to D.R.16; Special Exception for offices
District: 11
No. Acres: 1.665

The driveway adjacent to Darnell Drive should be closed since it will not be needed. The rear of the property has a few large trees, where the parking area is proposed and if at all possible the trees should remain.

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 105 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204
AREA CODE 301 PLANNING 494-3211 ZONING 494-3351

Baltimore County Fire Department

J. Austin Deitz
Chief

Towson, Maryland 21204
825-7310

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Jac Dillon

Attention: Mr. ~~S. Eric DiNenna~~, Chairman
Zoning Advisory Committee

Re: Property Owner: J. William ANd Martha Aston

Location: Belair Road and Darnell Drive

Item No. # 28 Reclassification Zoning Agenda Tuesday, April 10, 1973

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable 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 ____ 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.
(x) 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.
( ) 6. Site plans are approved as drawn.
( ) 7. The Fire Prevention Bureau has no comments at this time.

Reviewer: L. Roy Marbourg
Planning Group
Special Inspection Division

Noted and Approved: Paul H. Reincke
Deputy Chief
Fire Prevention Bureau

mls
4/25/72

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF HEALTH

JEFFERSON BUILDING
TOWSON, MARYLAND 21204

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

April 9, 1973

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

Dear Mr. DiNenna:

Comments on reclassification, Zoning Advisory Committee Meeting, April 4, 1973, are as follows:

Property Owner: J. William and Martha Aston
Location: Belair Road and Darnell Drive
Present Zoning: D.R. 3.5
Proposed Zoning: Reclass to D.R. 16 and a Special Exception for offices
District: 11
No. Acres: 0.665

Since metropolitan water and sewer are available, no health hazard is anticipated.

Very truly yours,

Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

HVB:mns

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND 21204

Date: April 12, 1973

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

Z.A.C. Meeting of:

Re: Item 28
Property Owner: J. William and Martha Aston
Location: Belair Road and Darnell Drive
Present Zoning: D.R. 3.5
Proposed Zoning: Reclass to D.R. 16 and a Special Exception for offices

District: 11
No. Acres: 0.665 acres

Dear Mr. DiNenna:

No adverse effect on student population with either zoning.

Very truly yours,

W. Nick Petrovich
Field Representative

WNP/ml

H. EMBLIE PARKS, PRESIDENT
EUGENE D. HESS, VICE-PRESIDENT
MRS. ROBERT L. BERNEY
MARCUS M. BOTSARIS
JOSEPH N. McDONAH
ALVIN LORECK
JOSHUA N. WHEELER, SUPERINTENDENT
T. BAYARD WILLIAMS, JR.
RICHARD W. TRACEY, JR.
MRS. RICHARD K. MICHELS

LLF/mfj
10/14/76
7447
1 & 3

ERNST H. HAHNEFELD, et al	*	IN THE CIRCUIT COURT
Appellants	*	FOR BALTIMORE COUNTY
VS.	*	IN BANC
J. WILLIAM ASTON, et ux	*	Misc. Docket 10 Folio 158 File 5814
Appellees	*	

* * * * * * * * *

MOTION TO DISMISS APPEAL

J. William Aston and Martha R. Aston, his wife, landowners and original Applicants in this proceeding, by Lewis L. Fleury, their attorney, respectfully move this Honorable Court to dismiss the Appeal pending before the Circuit Court for Baltimore County, sitting in Banc and for reasons, say that the reclassification of the subject property to DR 16, as prayed in this proceeding, has been enacted by Baltimore County Council Bill No. 112-76, issue no. 5-46, rendering moot the issues raised in this Appeal.

Lewis L. Fleury, 825-9200
Attorney for Movants
424 Woodbine Avenue
Towson, Maryland 21204

ORDER

UPON THE AFOREGOING Motion, it is this 18th day of October, 1976, by the Circuit Court for Baltimore County,

ORDERED, that the Appeal to the Circuit Court for Baltimore County sitting in Banc from the Ruling of Judge Kenneth C. Proctor in the above proceeding is hereby dismissed.

JUDGE

FILED OCT 19 1976

I HEREBY CERTIFY that on this 14th day of October, 1976, a copy of the aforegoing Motion to Dismiss Appeal was mailed to: Gerard V. Caldwell, Esquire, 7701 Belair Road, Baltimore, Maryland, 21236, attorney for Protestants; and to John W. Hessian, III, Esquire, Peoples' Zoning Counsel for Baltimore County, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland, 21204.

Lewis L. Fleury

ERNST H. HAHNEFELD, et al,	:	IN THE CIRCUIT COURT
Appellants	:	FOR BALTIMORE COUNTY
vs.	:	AT LAW
J. WILLIAM ASTON, et ux,	:	Misc. Docket No. 10 Folio No. 158
Appellees	:	File No. 5814

* * * * * * * * *

ORDER

The undersigned having heard the Appeal in the above captioned case on April 27, 1976, and having reversed the Order of the County Board of Appeals at the conclusion of such hearing - reasons for such reversal being stated in an oral Opinion - Order to be signed; and

The Petitioners (Appellees) in the above captioned case having filed a Reservation of Question for Consideration by the Court in Banc, it is this 3rd day of May, 1976, by the undersigned Circuit Administrative Judge:

ORDERED that Judge Frank E. Cicone, Judge H. Kemp MacDaniel, and Judge Marvin J. Land be and they hereby are designated as the Court in Banc to hear the question presented by the reservation referred to above; and it is further

ORDERED that Judge Frank E. Cicone be and he hereby is designated as Chairman of the panel.

KENNETH C. PROCTOR
CIRCUIT ADMINISTRATIVE JUDGE FOR THE
THIRD JUDICIAL CIRCUIT OF MARYLAND

Rec'd 5-4-76
10:20 AM

APR 01 1977

RE: PETITION FOR RECLASSIFICATION from D.R. 3.5 to D.R. 16 zone and PETITION FOR SPECIAL EXCEPTION for Offices SE corner of Belair Road and Darnell Drive
11th District

J. WILLIAM ASTON, et ux, Petitioners
MARTHA R. ASTON

ERNST H. HAHNEFELD
JAMES MAY
DANIEL SZETELAV
THELMA PATSWELL

Appellants

: IN THE
: CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: MISC. LAW DOCKET: 10
: CASE NO: 5814
: FOLIO : 158

: :

TRIAL DATE: Tuesday, April 27, 1976

BEFORE: HONORABLE KENNETH C. PROCTOR, JUDGE

* * * * *

* * * * *

APPEARANCES:

LEWIS L. FLEURY, Esquire,
407 West Pennsylvania Avenue
Towson, Maryland 21204,
On behalf of Petitioners.

GERARD V. CALDWELL, Esquire,
7701 Belair Road
Baltimore, Maryland 21236,
On behalf of Appellants

* * * * *

Reported by
Paul A. McNickle
Official Court Reporter
In the Circuit Court for Baltimore County
Towson, Maryland 21204

FILED MAY 19 1976

OPINION

This is a Petition for a Reclassification of a parcel of land, located on Belair Road from the existing D.R. 3.5 zone to D.R. 16 zone, and a request for a special exception for office use. The Zoning Commissioner denied the application on the basis of the decision by this Court in Miscellaneous Law No. 5064, involving a petition by Lawrence H. Kahl and Marie J. Kahl, his wife. The Kahl property is located on the opposite side of Belair Road, roughly 400 feet from the subject property. Each property is surrounded by residential zoning, with the one exception that adjoining the property involved in this petition is a former public school which is still publicly owned property, and, therefore, is not zoned. It cannot be used for anything other than a public use without going through the zoning process.

The residential land surrounding this property is either D.R. 3.5 or D.R. 5.5. The closest D.R. 16 on the south is approximately 1200 feet away. The closest D.R. 16 on the north is approximately 500 feet away. There is a small pocket of zoning on the south side of the Perry Hall School property zoned B.L., which originally was a non-conforming use and which was changed from a non-conforming commercial use to a zoned commercial use sometime in the 1960's.

There is no difference between the Kahl application and this petition. I held in Kahl that to grant the application

would constitute invalid spot zoning, and, in my judgment, rezoning this property would also constitute invalid spot zoning.

Accordingly, it is my judgment that the decision of the County Board of Appeals, which reversed the Zoning Commissioner and granted the reclassification in question, was unlawful.

Contention is made by the Applicant in this case that there was error in the map. That is the sole basis for his request to have the property reclassified. The alleged error is a substantial increase in traffic along Belair Road, and the environmental problems of noise and fumes resulting from the traffic. This does not constitute error. These factors were known by the County zoning authorities who recommended against this reclassification. They were all known by the County Council at the time of the adoption of the last comprehensive zoning map. It may very well be that when a new comprehensive zoning map is adopted, the classification should be changed in some respect. However, it should be done as a result of comprehensive zoning, not as a result of this application.

As authority for this decision, I cite the cases of Shadynook Improvement Association v. Molloy, 232 Md. 265 at 271, and Hewitt v. Baltimore County, 220 Md. 48, at 57-58.

Dictated in open court: April 27, 1976
Revised : May 18, 1976

JUDGE

RE: PETITION FOR RECLASSIFICATION from D.R. 3.5 to D.R. 16 zone, and SPECIAL EXCEPTION for Offices SE corner of Belair Road and Darnell Drive
11th District

J. William Aston, et ux
Petitioners

: BEFORE
: COUNTY BOARD OF APPEALS
: OF
: BALTIMORE COUNTY
: No. 74-76-RX

: : : : : : :

OPINION

This case arises from a petition filed by J. William Aston and Martha R. Aston for the rezoning of property owned by them on the southeast corner of Belair Road and Darnell Drive, in the Perry Hall area of Baltimore County. The property is now improved by two dwellings and is zoned D.R. 3.5, and the petition requests a change to D.R. 16, with a special exception for office use in the existing buildings.

The Astons have lived on the subject property since the 1950s, and the property has been zoned for residential use during that entire period, and was zoned as D.R. 3.5 on the maps adopted in 1971, its status apparently not being an issue considered by the County Council at that time. The total area of the property is .66 acres. One of the houses was formerly used by Aston as his office in the real estate business, and the other as an insurance agency. Next door, to the south, is a piece of publicly owned property formerly used as an elementary school but no longer needed for that purpose by the Department of Education, and is apparently to be disposed of, and is presently occupied by the Perry Hall Committee of the Bicentennial Commission. Mr. Aston's present real estate office is three blocks down Belair Road and has become too small for his business.

Mr. Aston testified that there is a need for office space in the Perry Hall area, that he gets many inquiries for offices in his real estate business, and that he would be agreeable to any restrictions as to screening, lighting, etc. which might be required. He does not wish to change the exterior appearance of the two homes and has sufficient land to meet all County requirements for parking space. About one block north of the Aston property both sides of Belair Road are zoned either D.R. 16 for office use or B.L. (Business, Local) for a substantial distance in the direction of Belair. Immediately south of the abandoned public school property is a B.L. zone, and a bit more than

one block south of this B.L. zone there is either business or apartment zoning, with office and retail use extending almost the entire distance to the Baltimore County Beltway. Mr. Aston testified that in his opinion, as a real estate man, none of this property along Belair Road on either side was suitable for residential use under present conditions, and that there is presently a petition with the Planning Board for B.L. zoning, filed by a large number of the residents along Belair Road in the area in connection with the new maps presently to be adopted.

There was testimony by Mr. Eugene F. Raphel, a qualified engineer and land surveyor, that he had prepared the plat for this petition and amended the same to satisfy the State Highway Administration as to entrances and exits, and that the plat as submitted met all the requirements of the Baltimore County zoning recommendations as to parking, setbacks, etc.

The next witness was Mr. Ormsby S. Moore, a qualified realtor, who lives near Darnell Drive three blocks east of the subject property, and is particularly experienced with land uses in this particular area. He gave many reasons for expressing his opinion that the present zoning is in error; that it was in error in March of 1971 at the time of the map adoption; and that the proper zoning should be either D.R. 16 or B.L. for office use. He stated that the homes still occupied on Belair Road were all there in 1945 at the time of the original zoning, and that business use and the increase in traffic has multiplied to the extent that it is no longer a proper place to live or raise a family. He stated that in his opinion the office use of these buildings would have absolutely no effect on neighboring residences as to their value or otherwise. He also felt that the suggested use would improve the traffic safety factor. He indicated that research showed that the last new home built on Belair Road was in March of 1959, and he testified that the petition met all the requirements of the special exception provisions of the Code (Section 502.1).

A number of neighbors who reside in the immediate vicinity testified that they were in favor of the petition as presented and felt that there would be no adverse effect upon their own properties. In addition to this, Mrs. Marie Allinson, who has been in the real estate business for fifteen years, mainly in the Perry Hall-Kingsville area,

opined that the proposed use of the subject property "would have no effect at all" on the value of nearby properties. The same thing was testified to by Mr. George Naylor, who has been an auctioneer and real estate broker since 1920, primarily in the subject area. He pointed out that the present commercial uses, as extensive as they are, have had no effect on property values or homes in the vicinity. The same thing was testified to by Mr. Frank W. Soltis, who is a real estate broker in the neighborhood, and stated, in addition, that there had been a positive impact caused by an increase of traffic; that he felt that commercial uses on Belair Road had been more beneficial than homes, and that they had been better kept up, and that there had been no harm done to any home owner in the Perry Hall area by office conversions.

Mr. Jack Daft, a distinguished planning consultant and landscape architect of the firm of Daft McCune Walker, Inc., said that he had made a study of the petition and zoning maps, and expressed his opinion that the current 3.5 zoning is incorrect and most inappropriate for this property. He said that the same situation existed in March of 1971 and proper consideration was not given to the facts, or perhaps were unknown to the County Council, thereby being evidence of error in the present zoning. He also testified that the proper classification should be D.R. 16, with a special exception for offices, as it would be impractical to use a tract of about two-thirds of an acre for apartments, and further confirmed other testimony that there has been no recent family home construction facing on Belair Road for fifteen or more years. Mr. Daft also stated that from a planning viewpoint there was really no alternative to the present application and he compared the surrounding area with Liberty and Reisterstown Roads, which have "vast apartment developments". However, Mr. Daft was forced to concede, on cross-examination by the People's Counsel, that planning is not an exact science, with which this Board is in thorough agreement.

Another witness for the Petitioner was Dr. D. Mark Eny, a widely known and highly qualified environmental engineer, whose testimony in this case was limited to his investigation of "noise pollution" on Belair Road, and in particular at the subject site. He testified at length as to the State of Maryland guidelines under Article 43, Section 828 of the Code, and as to the Federally approved guidelines for

noise levels. He had run tests at the property and used sound analyzers and a computer to determine the "mean noise value at 74 decibels", and stated that the maximum allowed in stated areas has been set at 55. His testimony was extremely interesting to the whole Board, and his investigation very thorough. There is a traffic count of approximately thirty-four thousand vehicles per day on Belair Road, of which approximately ten percent are trucks, and this has consistently increased since 1971. It was his opinion, based on these facts, that under any approved guidelines this particular location was clearly unacceptable for residential use.

The Protestants' case consisted entirely of the testimony of five persons who lived in the neighborhood, and that of the President of the Perry Hall Improvement Association (to which incidentally Mr. Aston belongs), which Association apparently is opposed to any rezoning in this immediate area. Even most of these protestants were forced to admit that traffic has increased appreciably in the last two years, and that there have been many zoning changes in the area while they were living there, either by the comprehensive map adoption, and somewhat less by petition.

In addition to these witnesses there was testimony by Mr. Norman Gerber, Chief Community Planner for the Baltimore County Planning Staff, who felt that the present zoning was proper at this time. However, he testified on cross-examination that the existence of nearby B.L. and D.R. 16 zoning would have caused similar impact, if any, as would the reclassification of the subject property. He testified, of course, that Mr. Aston could use the property for a real estate office under the present zoning if he resided there.

Under all the facts, and after looking at all the exhibits in the within case, and physically viewing the property, the Board is of the opinion, and so finds as a fact, that the original zoning was in error, and that there have been great changes in the character of the neighborhood since the last comprehensive map was adopted; and therefore the petition for rezoning to D.R. 16 will be granted, together with a special exception for office use, subject to certain restrictions which will appear in the Order attached hereto.

ORDER

For the reasons set forth in the aforegoing Opinion, it is this 25th day of November, 1975, by the County Board of Appeals ORDERED, that the reclassification petitioned for be and the same is hereby GRANTED to D.R. 16; and it is

FURTHER ORDERED, that the Special Exception for office use petitioned for be and the same is hereby GRANTED, subject to the following conditions and restrictions:

1. The present structures may only be remodeled for office use on condition that the external appearance of the two existing structures on the property be subject to no substantial change;

2. Approval of a site plan by the State Highway Administration, Department of Public Works and the office of Planning and Zoning, which site plan shall include adequate screening between the subject property and any adjoining residential properties.

Any appeal from this decision must be in accordance with Rules B-1 to B-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert L. Gilland, Vice Chairman

W. Giles Parker

William T. Hackett

RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION SE/corner of Belair Road and Darnell Drive - 11th District J. William Aston, et ux - Petitioners NO. 74-76-RX (Item No. 28)	:	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
::: ::: :::	:	::: ::: :::

The Petitioners request a Reclassification from a D. R. 3. 5 Zone to a D. R. 16 Zone and a Special Exception for offices on a parcel of property containing 0.665 acres of land, more or less, located on the southeast corner of Belair Road and Darnell Drive, in the Eleventh Election District of Baltimore County.

The subject property's description, general locality, traffic patterns, intended use, etc., were presented as testimony at the hearing.

The subject property is part of a strip of land along the Belair Road corridor and is zoned D. R. 3. 5. The remaining portions, in this vicinity, are zoned commercial, public, or for use as offices.

The Zoning Commissioner, at this point, refers to Case No. 72-299-RX, which the Deputy Zoning Commissioner granted a Reclassification from a D. R. 3. 5 Zone to a D. R. 16 Zone on August 30, 1972. Said property is located across Belair Road, to the north of the subject property, some several hundred yards. This Order was affirmed by the Baltimore County Board of Appeals on May 23, 1973. Subsequently, after timely appeal by the Protestants, this case was heard before Judge Kenneth C. Proctor, Circuit Court for Baltimore County, Miscellaneous Case No. 5064, Docket 9, Folio 309.

Judge Proctor, in his Opinion, referred to the decision of the Maryland Court of Appeals in the case of Huff v. Board of Zoning Appeals, which stated, "If it is an arbitrary and unreasonable devotion of the small area to a use inconsistent with the uses to which the rest of the district is restricted and

ORDER RECEIVED FOR FILING
DATE March 11, 1974
BY [illegible]

made for the sole benefit of the private interests of the owner, it is invalid." Judge Proctor's decision was that the Reclassification would constitute "spot zoning" and is, therefore, invalid.

In the judgment of the Zoning Commissioner, the requested Reclassification and Special Exception would constitute "spot zoning". The burden of proving error or that there has been a substantial change in the character of the neighborhood is borne by the Petitioners. In the instant case, this burden has not been met.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 11th day of March, 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. 3. 5 Zone, and, by necessity, the Special Exception is hereby DENIED.

Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING
DATE March 11, 1974
BY [illegible]

MEMORANDUM IN SUPPORT OF PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTIONS

Zoning of the instant property by the County Council was error. That because of the high volume of traffic on Belair Road the property is not fit for use as residential property and said error is therefore confiscatory and not in keeping with the uses and zoning along the Belair Road. Reasonable and proper use of said property is for offices.

LAW OFFICES OF
HENNESSEY,
FLEURY AND DAUSCH
407 W. PENNSYLVANIA
AVENUE
TOWSON, MD. 21204

E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OFFICE: 825-3908 RESIDENCE: 721-4342

March 29, 1973

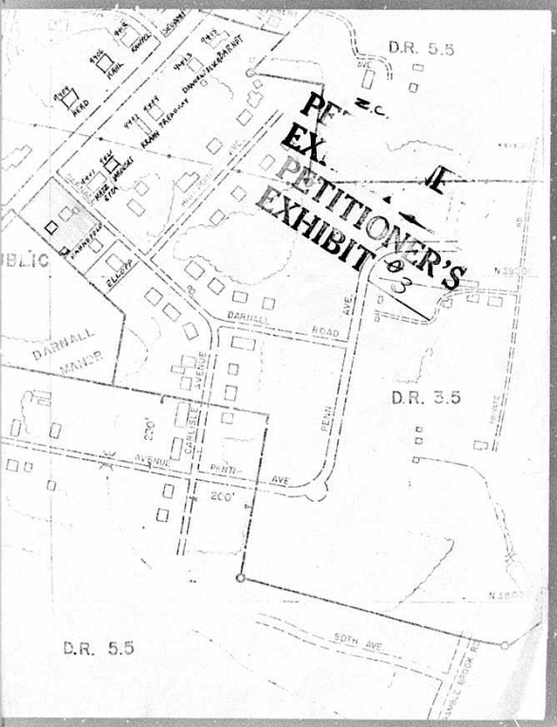
DESCRIPTION TO ACCOMPANY PETITION FOR
RECLASSIFICATION OF PROPERTY OF
WILLIAM ASTON AND WIFE
BEL AIR ROAD AND DARNELL DRIVE
BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at the intersection formed by the southeast right of way line of Bel Air Road and the southwest side of Darnell Drive, running thence and binding on the southeast right of way line of Bel Air Road S48°30' W 145.00', thence leaving the southeast right of way line of Bel Air Road S41°30' E 200.00', running thence N48°30' E 145.00' to intersect the southwestern right of way line of Darnell Drive, running thence and binding on the southwest right of way line of Darnell Drive N41°30' W 200.00' to the place of beginning.

CONTAINING 0.665 acres of land more or less.

BEING all of the land of William Aston and wife.

Eugene F. Raphel
Registered Professional
Land Surveyor #2246



Z.C. Protestants

Name	Address	Aston Exemption & Special Exception
[illegible]	4206 Penn Ave	Balt. Md. 21236
[illegible]	9406 Pinedale Cir.	Balt. Md 21236
Jarvis R. Myers	4111 Pinedale Drive	Balt. Md 21236
[illegible]	4111 Pinedale Dr.	Balt. Md 21236
H. D. Andrews	9404 Pinedale Circle	Balto Md 21236
Dorothy Lang	9409 Dana Vista Rd	Balto. Md 21236
[illegible]	9407 Dana Vista Rd.	Balto. Md. 21236
[illegible]	9213 Darnell Rd.	Balto. Md 21236
Harry Adler	9408 Dana Vista Rd	Balto. Md 21236
Lois Mann	9412 Dana Vista Rd.	Balto. Md. 21236
[illegible]	9213 Darnell Rd	Balt. Md. 21236
[illegible]	9411 Dana Vista Rd	Balt. Md. 21236
[illegible]	9205 Darnell Road	Parkville Md 21234
[illegible]	9320 Belair Rd	Parkville Md 21234
[illegible]	9408 Dana Vista Rd	Balto Md 21236
[illegible]	[illegible] Rd	Balto Md 21236

LAW OFFICES
Hennessey, Fleury and Seibert
THOMAS L. HENNESSEY
LEWIS L. FLEURY
EDWARD F. SEIBERT
DAVID D. MEHRILL
JOHN P. ROWLAND
407 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204
AREA CODE 301 823-7710
825-8200

March 25, 1974

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

Re: Petition for Reclassification
and Special Exception
SE. corner of Belair Road and
Darnell Drive - 11th District
J. William Aston, et ux-
Petitioners
No: 74-76-RX (Item No. 28)

Dear Mr. Commissioner:

Enclosed is our Appeal from your Order entered March 11, 1974 in the above matter, along with our check in the amount of $70.00 for the appeal fee.

Please transmit the record to the Board of Appeals and advise.

Very truly yours,

Lewis L. Fleury

LLF/blz
encl.

cc: Mr. J. William Aston

MAR 28 '74 PM
ZONING DEPARTMENT
By

March 11, 1974

Lewis L. Fleury, Esquire
407 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Reclassification
and Special Exception
SE/corner of Belair Road and
Darnell Drive - 11th District
J. William Aston, et ux -
Petitioners
NO. 74-76-RX (Item No. 28)

Dear Mr. Fleury:

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: Gerald V. Caldwell, Esquire
7701 Belair Road
Baltimore, Maryland 21236

RE: PETITION FOR RECLASSIFICATION from D.R. 3.5 to D.R. 16 zone, and SPECIAL EXCEPTION for Offices SE corner of Belair Road and Darnell Drive 11th District

J. William Aston, et ux Petitioners

Ernest H. Hahnefeld, et al Protestants - Appellants

Zoning File No. 74-76-RX

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Misc. Docket No. 10

Folio No. 158

File No. 5814

: : : : : : : :

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Robert L. Gilland, W. Giles Parker and William T. Hackett, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

No. 74-76-RX

Apr.	13, 1973	Comments of Baltimore County Zoning Advisory Committee - filed
		Comments of Baltimore County Planning Board - filed
July	13	Petition of J. William Aston, et ux for reclassification from D.R. 3.5 zone to D.R. 16 zone, and special exception for offices, on property located on the southeast corner of Belair Road and Darnell Drive, 11th District - filed
"	13	Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for September 28, 1973 at 10 a.m.
Sept.	6	Certificate of Publication in newspaper - filed
"	6	Certificate of Posting of property -filed
"	28	At 10 a.m. hearing held on petition by Zoning Commissioner - case held sub curia

Mar.	11, 1974	Order of Zoning Commissioner denying petition for reclassification and special exception
"	28	Order of Appeal to County Board of Appeals from Order of Zoning Commissioner
July	8, 1975	Hearing on appeal before County Board of Appeals
Nov.	4	Continued hearing on appeal before County Board of Appeals - case held sub curia
"	25	Order of County Board of Appeals granting reclassification and special exception, subject to restrictions
Dec.	19	Order for Appeal filed in the Circuit Court for Baltimore County
"	19	Petition to accompany Order for Appeal filed in Circuit Court for Baltimore County
"	23	Certificate of Notice sent to all interested parties
Jan.	14, 1976	Petition to extend time for filing of transcript to February 19, 1976
Feb.	17	Transcript of testimony filed - 1 volume
		Petitioner's Exhibit No. 1 (a) - 9333 Belair Road - residence (b) - 9335 Belair Road - white stucco house
		" " " 2 (a thru j) - Photos of neighboring property taken in June 1974
		" " " 3 (a thru k) - Photos of neighboring properties with similar use, taken June 1974
		" " " 4 - Plat of proposed use of property, prepared by Mr. Raphel, 3/26/73
		" " " 5 - Plat of proposed use of property amended by Mr. Raphel, at request of St. Rds. Comm. 9/73
		" " " 6 - List of neighbors in favor of granting request 7/8/75
		" " " 7 - Official 200 scale map - location Perry Hall NE - 10G
		" " " 8 - Official 1000 scale map 3/24/71, Overlea 4-C
		" " " 9 - Zoning file in case #74-76-RX
		" " " 10 - Report of Planning Board to Zoning Commissioner for Cycle V, 7/19/73
		" " " 11 - Official 1000 scale map, Overlea 4-C, marked and color coded by witness, Mr. Jack Daft (closet C.B. of A.)

		Petitioner's Exhibit No. 12 (a thru e) - Photos of other homes reclassified with SE for offices (by Mr. Daft)
		" " " 13 (a thru d) - Photos of subject site by Mr. Daft, and vicinity
		" " " 14 - Plat of proposed use of subject property, Scheme 1, using existing houses (in closet C.B. of A.)
		" " " 15 - Plat of proposed use of subject property, Scheme 2, using new structure in place of existing homes (closet, C.B. of A.)
		" " " 16 - Graph of noise levels provided by HUD, pages 9 and 10
		" " " 17 - Letter from Mr. Hahnefeld dated 9/25/73
		" " " 18 - List of parties in favor of petition
		Protestants' Exhibit A - Copy of Rule 10.03.45
		" " B - Copy of request for B.L. zoning in 1976, Item W-59
		" " C1 - thru 8 Photos
		" " D - Letter dated 9/27/73 signed by Mr. Hahnefeld
		" " E1 - Affidavit from Board of Governors, Perry Hall Improvement Assn.
		E2 & E3 Statement of resolution from Perry Hall Improvement Assn
		" " F - List of parties present and protesting change
Feb.	19, 1976	Record of proceedings filed in the Circuit Court for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, as are also the use district maps, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations, together with the zoning use district maps at the hearing on this petition, or whenever directed to do so by this Court.

Respectfully submitted,

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

cc: Fleury, Esq.
Caldwell, Esq.
Hessian, Esq.

RE: PETITION FOR RECLASSIFICATION from D.R. 3.5 to D.R. 16 zone, and PETITION FOR SPECIAL EXCEPTION for Offices SE corner of Belair Road and Darnell Drive 11th District Zoning Case No.: 74-76-RX J. William Aston, et ux, Petitioners Ernest H. Hahnefeld, et al, Protestants-Appellants

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Misc. Docket No. _____

Folio No. _____

File No. _____

: : : : : : : :

ORDER FOR APPEAL

Mr. Clerk:

Please note an appeal to the Circuit Court for Baltimore County from the Order of the County Board of Appeals of Baltimore County dated November 25, 1975, in the above entitled case on behalf of:

Ernest H. Hahnefeld
4209 Darnell Road
Baltimore, Maryland 21236
and
James May
Pinedale Drive
Baltimore, Maryland 21236
and
Daniel Zeitsiev
4209 Darnell Road
Baltimore, Maryland 21236
and
Thelma Patzwell
4213 Darnell Road
Baltimore, Maryland 21236

all parties herein aggrieved by the said decision and Order.

Gerard V. Caldwell
7701 Belair Road
Baltimore, Maryland 21236
Attorney for Appellants
Northfield 8-7742

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was left with the County Board of Appeals for Baltimore County, Court House, Towson, Maryland, prior to the filing thereof, and that a copy thereof was mailed this 12 day of December, 1975, to Lewis L. Fleury, Esquire, 407 West Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioners.

Rec'd 12-19-75 11:45 a.m.

PETITIONER'S EXHIBIT 2

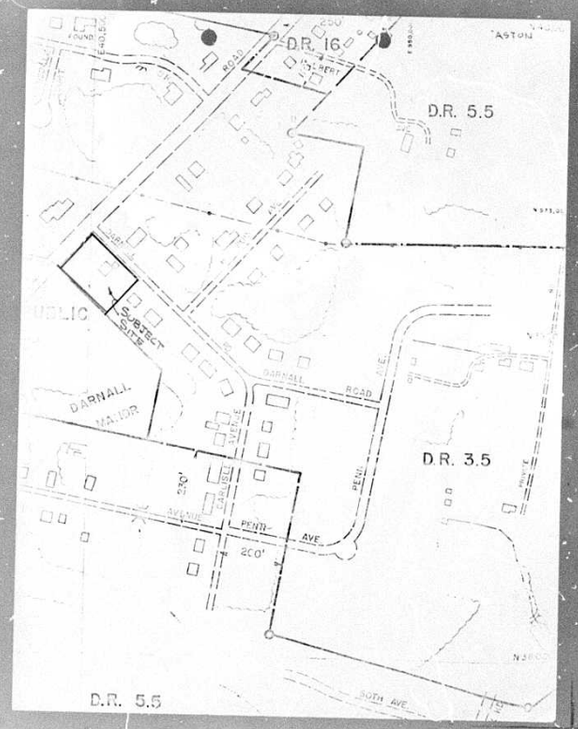
September 25, 1973

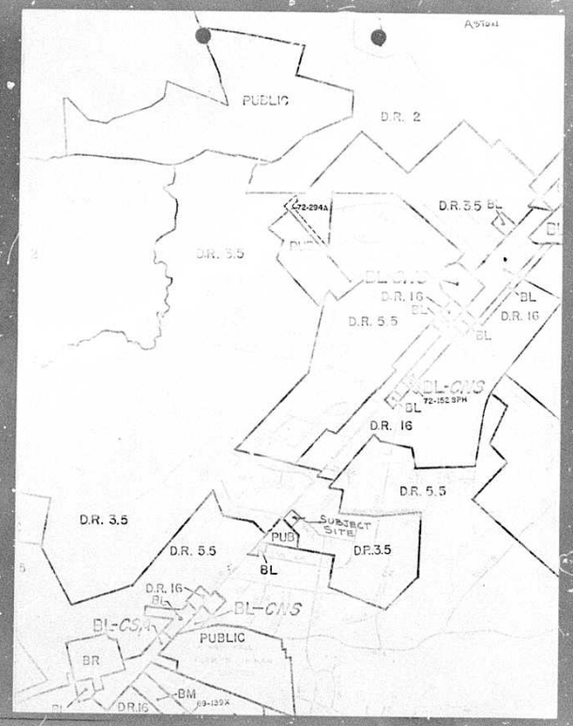
To Whom It May Concern:

This is to advise you that I, Ernest H. Hahnefeld, whose property is in the rear of Mr. Aston's property at 9333 and 9335 Belair Road, have no objections to having Mr. Aston having his property zoned DR16 with a special exception for offices, with no change in use of building

Very truly yours,

Ernest H. Hahnefeld
Ernest H. Hahnefeld





LLF/blz
73-185F
3/25/74
1 & 2

RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION SE. corner of Belair Road and Darnell Drive - 11th District J. William Aston, et ux - Petitioners NO. 74-76-RX (Item No. 28)

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

: : : : : : : : : : : : : : : :

NOTICE OF APPEAL

ZONING COMMISSIONER,
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

MR. COMMISSIONER:

Please enter an Appeal to the Baltimore County Board of Appeals from the Order of the Zoning Commissioner of Baltimore County entered on March 11, 1974, by which the reclassification and special exception requested were denied.

HENNESSEY, FLEURY AND SEIBERT

BY: L. L. Fleury
Lewis L. Fleury
407 West Pennsylvania Avenue
Towson, Maryland 21204
825-9200

MAIL CERTIFICATION

I HEREBY CERTIFY, that on this 26th day of March, 1974, a copy of the aforegoing Notice of Appeal was mailed to Gerald V. Caldwell, Esquire, 7701 Belair Road, Baltimore, Maryland 21206.

L. L. Fleury
Lewis L. Fleury

LAW OFFICES OF HENNESSEY, FLEURY AND DAUSCH 407 W. PENNSYLVANIA AVENUE TOWSON, MD. 21204

MAR 1974 PM
Acct.
Rec'd
Rel.
Entd.
Chkd.
ZONING DEPARTMENT
By

B. Anderson

74-76RX

ERNEST H. DARNELL, et al,	:	IN THE CIRCUIT COURT
Appellants	:	FOR BALTIMORE COUNTY
vs.	:	AT LAW
J. WILLIAM ASTON, et ux,	:	Misc. Docket No. 10 Folio No. 153 File No. 5514
Appellees	:	

::::::::::::

ORDER

The undersigned having heard the Appeal in the above captioned case on April 27, 1976, and having reversed the Order of the County Board of Appeals at the conclusion of such hearing - reasons for such reversal being stated in an oral Opinion - Order to be signed; and

The Petitioners (Appellees) in the above captioned case having filed a Reservation of Question for Consideration by the Court in Banc, it is this 3rd day of May, 1976, by the undersigned Circuit Administrative Judge:

ORDERED that Judge Frank S. Cicone, Judge H. Kemp MacDaniel, and Judge Marvin J. Land be and they hereby are designated as the Court in Banc to hear the question presented by the reservation referred to above; and it is further

ORDERED that Judge Frank S. Cicone be and he hereby is designated as Chairman of the panel.

KENNETH C. PROCTOR
CIRCUIT ADMINISTRATIVE JUDGE FOR THE
THIRD JUDICIAL CIRCUIT OF MARYLAND

Rec'd 5-4-76
10:20 AM

PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION
11th DISTRICT
ZONING: From D.R. 5.5 to D.R. 16 Zone. Petition for Special Exception for Offices.
LOCATION: Southeast corner of Belair Road and Darnell Drive.
DATE & TIME: FRIDAY, SEPTEMBER 28, 1973 at 10:00 A.M.
PUBLIC HEARING: Room 106, 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:
Present Zoning: D.R. 5.5
Proposed Zoning: D.R. 16
Petition for Special Exception for Offices.
All that parcel of land in the Eleventh District of Baltimore County
BEGINNING for the same at the intersection formed by the southeast right of way line of Belair Road and the southwest side of Darnell Drive, running thence and binding on the southeast right of way line of Bel Air Road S66°30'W 148.00', thence leaving the southeast right of way line of Bel Air Road S61°30' E 200.00', running thence N28°30' E 148.00' to intersect the southwestern right of way line of Darnell Drive, running thence and binding on the southwest right of way line of Darnell Drive N61°30' W 200.00' to the place of beginning.
CONTAINING 0.680 acres of land more or less.
Being the property of J. William and Martha B. Aston, as shown on plat plan filed with the Zoning Department.
Hearing Date: Friday, September 28, 1973 at 10:00 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Md.
BY ORDER OF
S. ERIC DINENNA
ZONING COMMISSIONER OF
BALTIMORE COUNTY
Sept. 6.

74-76-RX

ORIGINAL

OFFICE OF
THE ESSEX TIMES

ESSEX, MD. 21221 September 10 - 1973

THIS IS TO CERTIFY, that the annexed advertisement of
S. Eric Dinenna
Zoning Commissioner of Baltimore County

was inserted in THE ESSEX TIMES, a weekly newspaper published in Baltimore County, Maryland, once a week for one ~~XXXXXXXXX~~ weeks before the 10 day of Sept. 1973 that is to say, the same was inserted in the issue of September 6, 1973.

STROMBERG PUBLICATIONS, Inc.

By Ruth Morgan

74-76-RX

CERTIFICATE OF PUBLICATION

TOWSON, MD., September 6, 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 in each of one times successive weeks before the 6th day of September, 1973, the first publication appearing on the 6th day of September 1973.

THE JEFFERSONIAN,
L. Leake Stockbridge
Manager.

Cost of Advertisement, $

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

#74-76 RX

District 11th Date of Posting Sept. 6-73
Posted for: Hearing Fri. Sept. 28, 1973 @ 10:00 AM
Petitioner: J. William Aston
Location of property: S.E. Cor. of Belair Rd & Darnell Dr.
Location of Signs: 4 Signs Posted on Belair Rd. 2 on Front of 9335 and 1 on Rear of 9335
Remarks:
Posted by Mel H. Hess Signature Date of return: Sept. 13-73

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received* this 30th day of March 1973, Item # .

S. Eric DiNenna
Zoning Commissioner

Petitioner Aston Submitted by
Petitioner's Attorney Fleury Reviewed by JRB

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

Appeal

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

#74-76-RX

District 11th Date of Posting 4-18-74
Posted for:
Petitioner: J. William Aston
Location of property: S.E. Cor. of Belair Rd & Darnell Drive
Location of Signs: 2 Signs, one on Belair Rd. one on Darnell Drive
Remarks:
Posted by Mel H. Hess Signature Date of return: 4-18-74

Appeal

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

#74-76-RX

District 11th Date of Posting July 12-74
Posted for: Aston - #74-76-RX
Petitioner:
Location of property: Rt. View up on Property Rd
Location of Signs: Signs Both on Belair Rd
Remarks:
Posted by Mel H. Hess Signature Date of return: 7/12/74

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 8347

DATE May 3, 1973 ACCOUNT 01-662
AMOUNT $50.00
DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER
Messrs. Hennessey, Fleury & Seibert
407 W. Penna. Ave.
Towson, Md. 21204
Petition for Reclassification and Special Exception for J. Wm. Aston
5 0.0 0 MSC

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 13190

DATE April 3, 1974 ACCOUNT 01-662
AMOUNT $70.00
DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER
Lewis L. Fleury, Esquire
Cost of Filing of an Appeal on Case No. 74-76-RX
SE/corner of Belair Road and Darnell Drive - 11th District
J. William Aston, et ux - Petitioners
7 0.0 0 MSC

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 15347

DATE February 18, 1976 ACCOUNT 01.712
AMOUNT $24.00
John W. Hessian, III, Esq.
People's Counsel, County Off. Bldg.
Towson, Md. 21204
DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER
Cost of Certified Copies in Case No. 74-76-RX
J. William Aston, et ux
2 4.0 0 MSC

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 12491

DATE Oct. 24, 1973 ACCOUNT 01-662
AMOUNT $124.57
DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER
Messrs. Hennessey, Fleury and Seibert
407 W. Penna. Ave.
Towson, Md. 21204
Advertising and posting of property for J. Wm. Aston #74-76-RX
1 2 4.5 7 MSC

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 15063

DATE June 14, 1974 ACCOUNT 01-662
AMOUNT $10.00
DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER
Lewis L. Fleury, Esquire
Cost of Posting Property of J. William Aston, et ux, for an Appeal Hearing
SE/corner of Belair Road and Darnell Drive - 11th Election District
Case No. 74-76-RX
1 0.0 0 MSC

(Z.C) Petitioner's Exhibit 1

72-229-RX

#72-229-RX
#14

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

[illegible]

Zoning Commissioner of Baltimore County

ANSWER TO ORDER OF APPEAL TO CIRCUIT COURT FOR BALTIMORE COUNTY, AND CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND BOARD OF APPEALS OF BALTIMORE COUNTY

County Board of Appeals of Baltimore County

RE: PETITION FOR RECLASSIFICATION from D.R. 3.5 to D.R. 16 zone; and SPECIAL EXCEPTION for Offices N/S of Belair Road 225' South of Fitzdale Drive, 11th District — IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Lawrence H. Kahl, et ux, Petitioners

Zoning File No. 72-229-RX

Harry E. Reppold, et al, Protestants-Appellants

TO THE HONORABLE, THE JUDGE OF SAID COURT:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

No. 72-229-RX

Feb. 29, 1972	Petition of Lawrence H. Kahl, et ux, for reclassification from D.R. 3.5 to D.R. 16, and special exception for offices, on property located on the northwest side of Belair Road 225' S. of Fitzdale Drive, 11th District – Filed
"	Order of Zoning Commissioner directing advertisement and posting of property – date of hearing set for April 3, 1972 at 2:00 p.m.
Mar. 14	Certificate of Publication of property – Filed
"	" Posting
	Baltimore County Zoning Advisory Committee comments – Filed
	" Planning Board comments and map – Filed
Apr. 3	At 2 p.m. hearing held on petition by Deputy Zoning Commissioner
Aug. 30	Order of Deputy Zoning Commissioner granting reclassification and special exception, subject to conditions
Sept. 22	Order of Appeal to County Board of Appeals from Order of Deputy Zoning Commissioner

Lawrence H. Kahl, et ux (H.E. Reppold) – File No. 72-229-RX

Jan. 16, 1973	Hearing on appeal before County Board of Appeals
May 22	Order of County Board of Appeals granting reclassification and special exception
June 20	Order for Appeal filed in the Circuit Court for Baltimore County by Gerard V. Caldwell, Esq., Attorney for Protestants-Appellants
" 21	Certificate of Notice sent to all interested parties
July 3	Petition to accompany Order for Appeal filed in the Circuit Court for Baltimore County
" 23	Petition for extending time for filing transcript for additional thirty days through August 20, 1973
Aug. 15	Transcript of testimony – Filed
Aug. 16	Record of proceedings filed in the Circuit Court for Baltimore County

Respectfully submitted,

County Board of Appeals of Baltimore County

ORDER FOR APPEAL BY LAWRENCE H. KAHL AND MARIE J. KAHL, PETITIONERS

Mr. Clerk:

Please enter an appeal in proper person on behalf of Lawrence H. Kahl and Marie J. Kahl, Petitioners and Appellees, to the Court of Special Appeals from the Decision and Order entered in this action, dated September 11, 1973, by the Circuit Court for Baltimore County, which Decision and Order reversed the Order of the County Board of Appeals dated May 23, 1973.

Lawrence H. Kahl

Marie J. Kahl

PETITION FOR EXTENDING TIME FOR FILING TRANSCRIPT

Harry E. Reppold, et al, Protestants-Appellants, by their attorney, Gerard V. Caldwell, respectfully represent unto your Honor:

1. That an appeal was filed in the above-entitled case on June 20th, 1973.

2. That the Petitioners' attorney has been advised by C. L. Perkins, Court Reporter, that he would be unable to have the transcript ready within the thirty (30) days from the Order of Appeal.

WHEREFORE your Petitioner prays that:

(a) That he be allowed an additional thirty (30) days in which to file the transcript of the above-entitled case with the Clerk of the Circuit Court for Baltimore County.

(b) That he have such further and other relief as the nature of his cause may require.

Gerard V. Caldwell, Attorney for Petitioners

O R D E R

It is Ordered this ___ day of ______, 1973, by the Circuit Court for Baltimore County that the Petitioners, Harry E. Reppold et al, be allowed an additional thirty (30) days through August 20th, 1973, to file the transcript of the above-entitled case with the Clerk of the Circuit Court for Baltimore County.

JAN -9 1974

HARRY E. REPPOLD, ET AL vs. JOHN A. SLOWIK, WALTER A. REITER, JR., and JOHN A. MILLER, constituting the COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY — IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW, MISC. CASE NO. 5064, DOCKET 9, FOLIO 309

OPINION

The property involved in the application for rezoning filed in this case is a lot with a frontage of 75 feet on Belair Road and a depth of 163 feet. It is improved by a one and a half story dwelling with an attached garage. It is presently zoned D.R. 3.5, as is a fairly substantial surrounding area including both sides of Belair Road. Several hundred feet to the northeast and to the southwest from the subject property, the zoning is D.R. 16.

Petitioners acquired this property as their home in October, 1970. The only contention made by Petitioners before the Deputy Zoning Commissioner and the County Board of Appeals was that the County Council, in adopting the new comprehensive zoning map for the area on March 24, 1971, committed error. Petitioners, prior to the adoption of such map, had asked the Planning Board to recommend a change in zoning from D.R. 3.5 to D.R. 16 which request had been refused.

The requested rezoning and special exception for the construction of an office building were granted by the Deputy Zoning Commissioner on August 30, 1972. On appeal to the County Board of Appeals, the Order of the Zoning Commissioner was affirmed on May 23, 1973. However, the Board did not impose conditions on the grant of the special exception, although the Deputy Zoning Commissioner had attempted to impose several conditions in such grant.

The general rule is that a duly adopted comprehensive zoning map is presumptively valid, and the burden upon one seeking a change in the zoning provided by such a map is to show strong proof that there was error in the adoption of the map is a heavy one. Hewitt v. Baltimore County, Maryland, 220 Md. 48, 57; Miller v. Abrahams, 239 Md. 263, 272. The claim was made in this case that there were changes in the area of any substance since the adoption of the map on March 24, 1971. The basis on which the County Board of Appeals found error was that, "The subject location is not suitable for residential purposes, and to deprive the owner of any alternative reasonable use of a property certainly constitutes error in comprehensive rezoning."

The Court of Appeals has held that spot zoning can be valid or invalid. In Hewitt v. Baltimore County, Maryland (supra 57-58), the Court of Appeals said:

> "This Court has had occasion in a number of cases to consider the validity of a zoning classification of a relatively small tract which differs from that of a much larger tract of adjacent land. The problem is commonly discussed as one of 'spot zoning'. That term has probably acquired some popular connotation of invalidity. If, however, the term is used in a descriptive sense, 'spot zoning' may be valid or invalid, depending upon the circumstances of each particular case. Huff v. Board of Zoning Appeals, supra; Baylis v. City of Baltimore, 219 Md. 164, 148 A.2d 429. As we said in the Huff case: 'When a zoning ordinance or an amendment puts a small area in a zone different from that of the surrounding area, we have what may be called 'spot zoning', using the term in a descriptive sense. Such zoning may be invalid or valid. If it is an arbitrary and unreasonable devotion of the small area to a use inconsistent with the uses to which the rest of the district is restricted and made for the sole benefit of the private interests of the owner, it is invalid. ... Cassel v. City of Baltimore, 195 Md. 348, 355. On the other hand, if the zoning of the small parcel is in accord and in harmony with the comprehensive zoning plan and is done for the public good — that is, to serve one or more of the purposes of the enabling statute, and so bears a substantial relationship to the public health, safety, morals and general welfare, it is valid. Offutt v. Board of Zoning Appeals, 204 Md. 551, 561; Temmink v. Bd. of Zoning Appeals, 212 Md. 6; Ellicott v. ... City of Baltimore, 180 Md. 176, 183; Cassel v. City of Baltimore, supra. The text writers and the Courts of other jurisdictions state the rule as the Maryland cases have stated it.'"

-4-

See also Bishop v. Shifflett, 253 Md. 155, 165.

It is my judgment that the rezoning of a parcel of land containing less than a quarter acre of land approximately in the middle of a fairly substantial area zoned in the same classification as the subject property is invalid.

"The Courts may not substitute their judgment for that of the Board when the Board's decision is supported by substantial evidence and the issue before the Board was fairly debatable." Bishop v. Shifflett (supra 163). However, where this is not so or where the Board has acted illegally, the Court will declare the administrative action invalid. Bishop v. Shifflett (supra 163).

In this case, the decision of the Board was not only unlawful but also, considering the facts and circumstances, arbitrary and capricious.

The Court will sign an Order reversing the Order of the Board.

JUDGE

September 11, 1973.

[illegible]

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 1101-B(d) of the Maryland Rules of Procedure, John A. Slowik, Walter A. Reiter, Jr. and John A. Miller, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it, namely ... [illegible]

[illegible] ADVISORY COMMITTEE

[illegible]

APR 01 1977

COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

No. 72-229-RX

OPINION

[illegible]

Map 4-C on March 24, 1971. (See zoning map, Petitioner's Exhibit No. 1). He further contends that the requested Special Exception for office use should be granted, as such use will satisfy the prerequisite requirements of Section 502.1 of the Zoning Regulations. Section 502.1 of the Zoning Regulations states:

[illegible]

ORDER

[illegible] ORDERED by the County Board of Appeals of Baltimore County that the reclassification [illegible] be and the same is hereby GRANTED.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of the Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

[illegible signatures]

RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION — N/S of Belair Road, 225' S of Pinedale Drive - 11th District — Lawrence H. Kahl - Petitioner — NO. 72-229-RX (Item No. 14)	:	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

This Petition represents a request for a Reclassification from a D.R. 3.5 Zone to a D.R. 16 Zone, and a Special Exception for Office Use.

The property is located on the north side of Belair Road, two hundred and twenty-five (225) feet south of Pinedale Drive, and consists of twenty-six hundredths (.26) of an acre, more or less.

Mrs. Marie I. Kahl, owner of the subject property, testified in her own behalf. She and her husband are joint property owners and have lived in this home for approximately [illegible] and one-half years. They felt that since the road frontage in the general area is a mixture of residential and commercial, the proper use of their property would be office, i.e., attorneys, certified public accountants, and/or doctors. She indicated that she planned to stay in the area and would retain ownership of the subject property as an investment. [illegible]

[illegible]

ORDER

[illegible] ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 50th day of [illegible] 1972, that the herein described property or area should be and the same is hereby [illegible] and a Special Exception for Office Use be GRANTED [illegible]

[illegible signature]
Deputy Zoning Commissioner of Baltimore County

MEMORANDUM

The requested zoning should be granted because:

Error in classification. Property is unusable in 3.5 classification and 3.5 classification is confiscatory since because commercial use is made of property in the area and DR 3.5 is thus not [illegible] reasonable use of property, except because DR 16 with the requested special exception allows a reasonable use of the said property. Error in zoning maps.

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.

[illegible]

Re: [illegible] Zoning Commissioner
Attention: Mr. Myers

FROM: Fire Prevention Bureau

Property Owner: Lawrence H. Kahl, et al

LOCATION: N/S Belair Road, 225' S/W Pinedale Drive

Item No. [illegible]

[illegible]

Fire Prevention Bureau

NOTE: Above comments indicated with a check apply.

Gerard V. Caldwell
ATTORNEY AT LAW
[illegible] BELAIR ROAD
BALTIMORE, MD [illegible]

September 19, 1972

Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Petition for Reclassification and Special Exception
NW/S of Belair Road, 225' S of Pinedale Drive - 11th District
Lawrence H. Kahl - Petitioner
No. 72-229-RX (Item No. 14)

Dear Sir:

Enclosed find check in the amount of $70.00 made payable to Baltimore County, Maryland to cover costs of appealing the above-captioned case. This appeal is made on behalf of the following:

Harry K. Rappold
9410 Pinedale Circle
Baltimore, Maryland 21236

William Youngmans
9408 Pinedale Circle
Baltimore, Maryland 21236

Robert W. Grubbs, Jr.
9406 Pinedale Circle
Baltimore, Maryland 21236

Richard N. Andrews
9404 Pinedale Circle
Baltimore, Maryland 21236

Mr. & Mrs. James Myers
[illegible] Pinedale Drive
Baltimore, Maryland 21236

Page - 2 - September 19, 1972

Thank you for your attention to this matter.

Very truly yours,

Gerard V. Caldwell

GVC:tro
Enc.

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF TRAFFIC ENGINEERING
JEFFERSON BUILDING
TOWSON, MARYLAND 21204
INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna
Attn: Oliver L. Myers

Date: November 7, 1971

FROM: C. Richard Moore

SUBJECT: Item 14 - Cycle Zoning II
Property Owner: Lawrence H. Kahl, et al
Belair Road s/w of Pinedale Drive
Reclass. to D.R. 16, spec. ex. for offices

Although the [illegible] to the subject site, any left turns from Belair [illegible] the site can be expected to create problems.

C. Richard Moore
Assistant Traffic Engineer

CRM:nr

STATE HIGHWAY ADMINISTRATION
[illegible] PRESTON STREET
BALTIMORE, MD 21201

October 28, 1971

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

Att: Mr. O. L. Myers

Re: Baltimore County Reclassification Cycle for the period of Oct. '71 to April '72
Item 14
Property Owner: LAWRENCE H. KAHL, et al
Location: NWS Belair Road (Route 1) 225' SW of Pinedale Drive
Present Zoning: D.R. 3.5
Proposed Zoning: Reclass to D.R. 16, Spec. Ex. for offices
Dist. 11th Section Northeastern
No. Acres: 0.258

Dear Mr. DiNenna:

The minimum width for a two-way commercial entrance is 25' rather than 24' as indicated on the subject plan.

There is poor stopping sight distance at the frontage on Belair Road, due to trees and utility poles along the road to the north.

The entrance will be subject to State Highway Administration approval and permit.

Very truly yours,

Charles Lee, Chief
Development Engineering Section

by: [illegible] A. Meyers
Asst. Development Engineer

JAN - 3 1974

APR 01 1977

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. S. Eric DiNenna, Zoning Commissioner
Date: January 6, 1972

FROM: Richard B. Williams, Project Planning Division

SUBJECT: Zoning Advisory Agenda Item #14

Baltimore County 8 classification Cycle for the period of October '71 to April '72
Lawrence H. Kahl, et al
W/W/S Belair Rd.
225' S/W of Pinedale Drive

This office has reviewed the subject site plan and has the following comments:

This property is too small to cycle to the DR-16 zoning placement.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: [illegible] Date: October 21, 1971

FROM: [illegible]

SUBJECT: Item 14 - Zoning Advisory Committee Meeting, October 19, 1971

14. Property Owner: Lawrence H. Kahl, et al
Location: W/S Belair Rd., 225' S/W of Pinedale Dr.
Present Zoning: [illegible]
Proposed Zoning: [illegible]
District: 11
Sector: Northeastern
No. Acres: 0.258

Metropolitan water and sewer are available to the site.

Air Pollution Comments: The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

Water and Sewer Section
BUREAU OF ENVIRONMENTAL HEALTH

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

[illegible]

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

Mr. Lawrence H. Kahl
9406 Belair Road
Baltimore, Maryland 21236

RE: Type of Hearing: Reclass. to D.R. 16, Spec. Ex. for offices
Location: W/S Belair Rd., 225' SW of Pinedale Dr.
Petitioner: Lawrence H. Kahl, et al
11th District
Item 14

Dear Sir:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

The subject property is located on the west side of Belair Road just south of Pinedale Avenue. It is currently improved with a 1½ story brick dwelling with attached garage, and is located in a development of similar type dwellings, all of which are in excellent repair. There is curb and gutter existing at this location.

BUREAU OF ENGINEERING:

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.

Highways:

Belair Road (U.S. 1) is a State road; therefore, all improvements, intersections and entrances on this road will be subject to the State Highway Administration requirements.

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. Lawrence H. Kahl
Page 2
Item 14

As stated before, Belair Road (U.S. 1) is a State road. Therefore, drainage requirements as they affect the road are under the jurisdiction of the State Highway Administration.

Sediment Control:

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

Water and Sanitary Sewer:

Public water and sanitary sewerage are available to serve this site from the existing facilities in Belair Road.

PROJECT PLANNING DIVISION:

This office has reviewed the subject site plan and has the following comments:

This property is too small to conform to the DR-16 zoning requirements.

BOARD OF EDUCATION:

Acreage too small to have an effect on student population.

FIRE BUREAU:

Fire hydrants for the proposed site (are required and) shall be in accordance with Baltimore County Standards.

The hydrants shall be located at intervals of 300 feet along an approved road.

[illegible]

DEPT. OF TRAFFIC ENGINEERING:

[illegible]

Mr. Lawrence H. Kahl
Page 3
Item 14

STATE HIGHWAY ADMINISTRATION:

The minimum width for a two-way commercial entrance is 25' rather than 24' as indicated on the subject plan.

There is poor stopping sight distance at the frontage on Belair Road, due to trees and utility poles along the road to the north.

The entrance will be subject to State Highway Administration approval and permit.

HEALTH DEPARTMENT:

Metropolitan water and sewer are available to the site.

Air Pollution Comments: The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

ZONING ADMINISTRATION DIVISION:

There is a parcel of land zoned B.L. approximately 300' to the north of this site which has not been developed and does not create a true zoning situation.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing, date and time, which will be held not less than 30, nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

[illegible], Chairman

Enc.

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
P.O. BOX 6828, TOWSON, MD. 21204

Description to Accompany Zoning Application for Reclassification from DR 5.5 Zone to DR 16 Zone with Special Exception for Offices

August [illegible], 1971

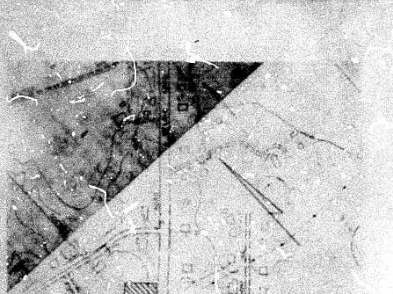
Beginning for the same at a point on the northwesterly Right-of-Way Line of Belair Road 66 feet wide, said point being distant [illegible] feet southwesterly along said Right-of-Way Line from the [illegible] of Pinedale Drive 50 feet wide, and running thence binding along the said northwesterly Right-of-Way Line of Belair Road South 42° 29' 10" West 75.00 feet thence leaving said Right-of-Way Line running for the three following courses and distances North 47° 30' 50" West [illegible] feet thence North 42° 29' 10" East 75.00 feet and thence South 47° 30' 50" East 150.00 feet to the place of beginning.

Containing 0.258 acres of land more or less.

Being all of Lot [illegible] Block "B" as shown on a plat entitled "Plat of Section [illegible]" dated [illegible] and recorded among the Plat Records of Baltimore County in Liber G.L.B. [illegible] folio [illegible].

Subject to a [illegible] foot building [illegible] along the frontage of the herein described lot, as shown on the above mentioned plat.

JAN - 9 1974



TIMES NEWSPAPERS

[illegible]

March 9, 1972.

CERTIFICATE OF PUBLICATION

[illegible]

THE JEFFERSONIAN,

Manager

Mr. Lawrence H. Kahl
9406 Belair Road
Baltimore, Maryland 21236

Item 14

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 24th day of January 1972.

S. ERIC DiNENNA,
Zoning Commissioner

Petitioner: Lawrence H. Kahl, et al

Petitioner's Attorney ______ Reviewed by: [signature] Chairman of Advisory Committee

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

#72-229-RX

District: 11th
Date of Posting: 12-5-72

Posted for:
Petitioner: Lawrence H. Kahl
Location of property: N/W Side of Belair Rd. 225' S of Pinedale Drive
Location of Signs: 2 Signs Posted in Front of House at 9406 Belair Rd.

Remarks:
Posted by: [signature]
Date of return: 12-14-72

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

#72-229-RX

District: 11th
Date of Posting: 3-16-72

Posted for: Hearing Mon. Apr. 3, 1972 @ 1:00 P.M.
Petitioner: Lawrence H. Kahl
Location of property: N/W/S Belair Rd. 225' S. of Pinedale Dr.
Location of Signs: 2 Signs Posted @ 9406 Belair Rd.

Remarks:
Posted by: [signature]
Date of return: 3-23-72

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
[illegible]										
[illegible]										

INVOICE

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
COURT HOUSE
TOWSON, MARYLAND 21204

No. 74062
DATE 6/15/73

To: Gerard V. Caldwell, Esquire
7701 Belair Road
Baltimore, Md. 21236

County Board of Appeals (Zoning)

01.712

Cost of certified documents:	Case No. 72-229-RX, Lawrence H. Kahl, et ux, NW/S of Belair Road 225' S. of Pinedale Drive, 11th District	$30.00

TOTAL AMOUNT $30.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO: OFFICE OF FINANCE, REVENUE DIVISION, TOWSON, MARYLAND 21204

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 8238

DATE: March 28, 1973 ACCOUNT: 01-662

AMOUNT: $30.00

Gerard V. Caldwell, Esquire
Posting of an Appeal on Case No. 72-229-RX
W/S of Belair Road 225' S of Pinedale Drive
11th District
Lawrence H. Kahl, et al - Petitioners

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 5033

[illegible]

Lawrence H. Kahl, et al - Petitioners

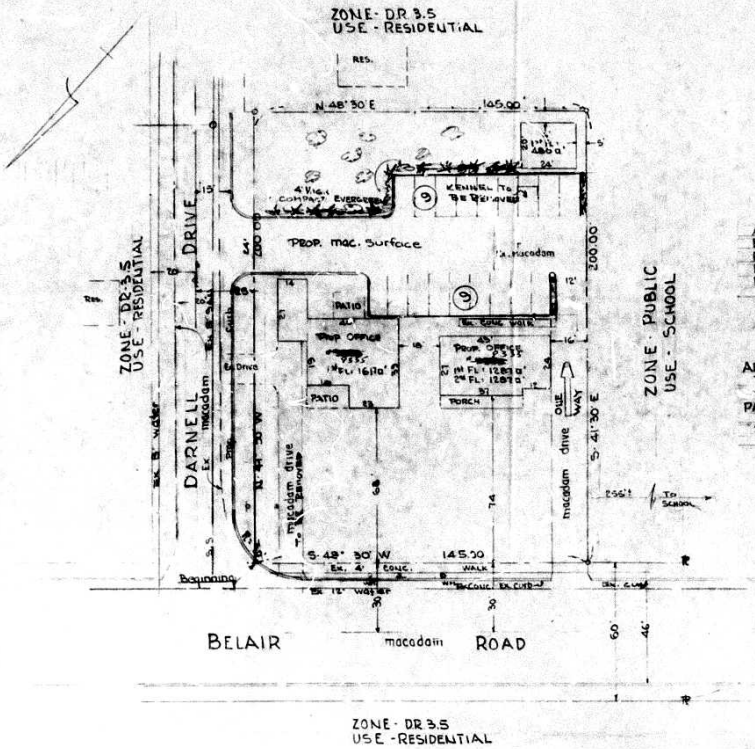
BALTIMORE COUNTY, MARYLAND

[illegible]

BALTIMORE COUNTY, MARYLAND

[illegible]

APR 0 1 1977



GENERAL NOTES

AREA OF PROPERTY : 0.665 Ac±
EXISTING ZONE DR 3.5
PROPOSED ZONE DR 16 - SP. EX. OFFICE
EXISTING USE RESIDENTIAL
PROPOSE USE OFFICE

PARKING DATA

AREA OF BUILDINGS -
TOTAL 1st FLS. : 3384 □'
TOTAL 2nd FLS. : 1281 □'
PARKING RATIO
1st FL. @ 1 SPACE / 300 □' : 12
2nd FL @ " / 500 □' : 3
TOTAL REQUIRED : 15 SPACES
TOTAL PROVIDED : 18 SPACES

NOTE
NO ALTERATIONS TO OUTSIDE OF OF EXISTING STRUCTURES

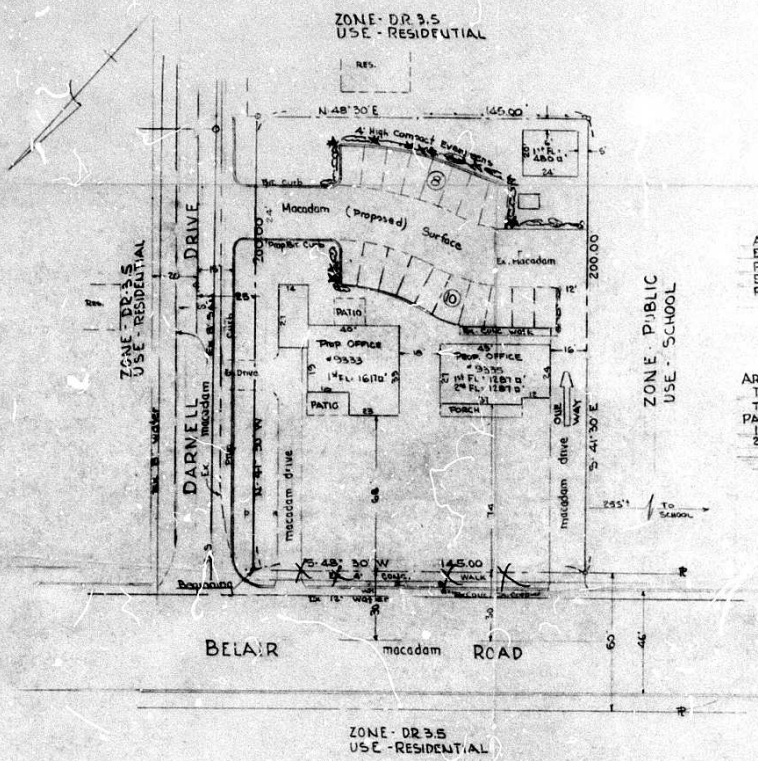
PLAT TO ACCOMPANY ZONING PETITION
#9333 - 9335 BELAIR RD.
11th ELECTION DIST. BALTO CO.
SCALE 1" = 30' 3-26-73

74-76-R

B. [illegible] & ASSOC.
REGISTERED PROFESSIONAL LAND SURVEYORS
201 CORTLAND AVENUE
TOWSON, MARYLAND 21204

AMENDED - SEPT. 73

1518



GENERAL NOTES

AREA OF PROPERTY : 0.665 Ac.
EXISTING ZONE DR 3.5
PROPOSED ZONE DR 16 - SP EX. OFFICE
EXISTING USE RESIDENTIAL
PROPOSE USE OFFICE

PARKING DATA

AREA OF BUILDINGS :
TOTAL 1st FLS. : 3384 □'
TOTAL 2nd FLS. : 1287 □'
PARKING RATIO
1st FL @ 1 SPACE / 300 □' : 12
2nd FL @ 1 " 500 □' : 3
TOTAL REQUIRED : 15 SPACES
TOTAL PROVIDED : 18 SPACES

NOTE
NO ALTERATIONS TO OUTSIDE OF OF EXISTING STRUCTURES

MAP 4
NE 10 G
ELECTION 11
DISTRICT
D. TOT. 4-4-73
TYPE
REFERENCE
BY
FINAL
BY

PLAT TO ACCOMPANY ZONING PETITION

#9333 - 9335 BELAIR RD.
11th ELECTION DIST. BALTO CO.
SCALE 1" = 30' 3-26-73

B. P. HARHEL & ASSOC.
REGISTERED PROFESSIONAL LAND SURVEYORS
201 CLEVELAND AVENUE
TOWSON, MARYLAND 21204

1518