

73099-1
1/4c
9/17/73

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Stephen G. Heaver and Doris A. Heaver, legal owner(s) 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 for a Variance from Section 1.1 B.1, 2C.6 and V.B.2, to permit a side yard of ten (10) feet in lieu of the required twenty-five (25) feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

- 1.) Strict compliance with the Regulations would cause the Petitioners Practical difficulty and unreasonable hardship.
- 2.) That the requested variance will in no way be harmful to public health safety or welfare, and, in fact, the requested variance and building will be beneficial to the public health, safety and welfare of the community.

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

I, or we, agree to pay expenses of above Special Hearing 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.

Stephen G. Heaver
Contract Purchaser
Doris A. Heaver
Legal Owner

Address 1391 York Road
Lutherville, Maryland 21093

James D. Nolan
Petitioner's Attorney
Address 204 West Pennsylvania Avenue
Towson, Maryland 21204
823-7800

ORDERED By the Zoning Commissioner of Baltimore County, this 15th day of February, 1974, 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 18th day of March, 1974, at 10:00 o'clock.

James D. Nolan
Zoning Commissioner of Baltimore County.

(over)

ZONING DESCRIPTION

1402 YORK ROAD

DR 5.5 TO DR 16

WITH SPECIAL EXCEPTION FOR OFFICE BUILDING

BEGINNING for the same on the westernmost side of York Road (66 feet wide) at a point distant 395.52 feet measured southwesterly from the point formed by the intersection of the westernmost side of said York Road with the southernmost side of Westbury Road (50 feet wide) said point being at the beginning of the first line of the first Parcel of that tract of land which by deed dated March 22, 1972 and recorded among the Land Records of Baltimore County in Liber 5256 folio 703 etc. was conveyed by Eastern Gunite Company to Stephen G. Heaver and wife, thence running with and binding on said first line and the westernmost side of said York Road north 16 degrees 15 minutes west 195.52 feet to the end of said line, thence leaving said Road and running with and binding on the second, third and fourth lines of said deed the three following courses and distances east 75 degrees 45 minutes west 210.00 feet, south 14 degrees 15 minutes east 58.36 feet and south 75 degrees 30 minutes east 285.15 feet to the place of beginning.

CONTAINING 0.729 acres of land more or less.

BEING the first Parcel of that tract of land which by deed dated March 22, 1972 and recorded among the Land Records of Baltimore County in Liber 5256 folio 703 etc. was conveyed by Eastern Gunite Company to Stephen G. Heaver and wife.

September 14, 1973

73099-1
1/4c
9/17/73

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Stephen G. Heaver and Doris A. Heaver, legal owner(s) 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 for a Special Hearing Under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a use permit for the use of land in a residential zone for a parking area to serve an office building on a contiguous part of the same tract, all as shown on the zoning plats and descriptions filed herewith, the said use permit being in the interest of the public and in conformity with the letter and spirit of the Regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing 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.

Stephen G. Heaver
Contract Purchaser
Doris A. Heaver
Legal Owner

Address 1391 York Road
Lutherville, Maryland 21093

James D. Nolan
Petitioner's Attorney
Address 204 West Pennsylvania Avenue
Towson, Maryland 21204
823-7800

ORDERED By the Zoning Commissioner of Baltimore County this 15th day of February, 1974, 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 18th day of March, 1974, at 10:00 o'clock.

James D. Nolan
Zoning Commissioner of Baltimore County.

(over)

ZONING DESCRIPTION

USE PERMIT FOR PARKING

IN A RESIDENTIAL ZONE

BEGINNING for the same on the southernmost side of Westbury Road (50 feet wide) at a point distant 250 feet measured southwesterly from the point formed by the intersection of the southernmost side of said Westbury Road with the westernmost side of York Road (66 feet wide) said point of beginning being also at the beginning of the first line of the second Parcel of that tract of land which by deed dated March 22, 1972 and recorded among the Land Records of Baltimore County in Liber 5256 folio 703 etc. was conveyed by Eastern Gunite Company to Stephen G. Heaver and wife, thence running with and binding on said first line and on the southernmost side of said Westbury Road westerly by a line curving to the north with a radius of 212.43 feet for a distance of 64.72 feet, thence leaving said Road and running with and binding on the second, third and fourth lines of said deed the three following courses and distances south 16 degrees 42 minutes west 204.15 feet, south 75 degrees 30 minutes east 185.39 feet and north 14 degrees 15 minutes west 258.18 feet to the place of beginning.

CONTAINING 0.420 acres of land more or less.

BEING the second Parcel of that tract of land which by deed dated March 22, 1972 and recorded among the Land Records of Baltimore County in Liber 5256 folio 703 etc. was conveyed by Eastern Gunite Company to Stephen G. Heaver and wife.

September 14, 1973

POINTS OF ERROR COMMITTED BY THE

BALTIMORE COUNTY COUNCIL IN

CLASSIFYING THE SUBJECT PROPERTY

D.R. 5.5

The Petitioner states that the Baltimore County Council committed at the very least the following errors, and very probably additional errors in classifying the subject property D.R. 5.5.

1.) That this York Road property directly across the street from a very large office complex is no longer appropriate for occupation as a residence; it is, however, an excellent site for an office building of moderate size to accommodate professional and general office needs in the Towson/Lutherville areas.

2.) That it was erroneous for the County Council to leave this property and other properties in this same York Road block in a D.R. 3.5 zone, since such zoning has already lead to the gradual deterioration of these properties as they shift from owner occupied and maintained home s to marginal residential rental properties.

3.) That it was error for the County Council to fail to put moderate depth D.R. 16 zoning on these properties in order to offer the option of controlled office uses via the special exception device; particularly is this so since in Case No. 74-60-RX, which involved this same property and a neighboring tract, such moderate depth D.R. 16 zoning and a request for a special exception for offices received Planning Board endorsement.

4.) For such other and further errors as shall be disclosed during the preparation of this case, which errors shall be brought out at the time of the hearing hereon.

-1-

CHANGES IN THE NEIGHBORHOOD

- 1.) That the general character of this area along York Road has become more commercial and non-residential in character since the Council last mapped this area, rendering the requested D.R. 16 zoning even more appropriate at the present time.
- 2.) For such other and further changes as shall be disclosed by a minute study of this area, which changes shall be brought out at the time of the hearing hereon.

Respectfully submitted,

James D. Nolan
James D. Nolan
Attorney for the Petitioners

JDN:ak

3-18-74 Hearing #106 County Office Building

Ray Allen

PROTESTANT'S
EXHIBIT

ADDRESS
1306 Mallory Dr.
3 Lynn Court
1 Lynn Court
40 Oldridge Rd.
13 Westbury Rd.
1318 Mallory Drive
1316 Mallory Drive
4 Westbury Rd.
4 Lynn Ct.
1311 Mallory Dr.
137 Westbury Rd.
138 Westbury Rd.
1405 Warwick Dr.
16 CAVAN DRIVE
33 Dublin Drive
15 Dublin Drive
151 Westbury Rd.
131 Westbury Rd.
1310 Mallory Drive
37 Oldridge Rd.
131 Dublin Dr.
135 Dublin Drive
134 Dublin Dr.
133 Westbury Rd.
121 Westbury Rd.
3 Mallory Court 2105

October 23, 1975

James and Lloyd Amy
1311 Mallory Drive
Lutherville, Md. 21093

Re: Case #74-202-EXASPH
Stephen G. Heaver, et al

Dear Mr. and Mrs. Amy:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Elmhurst, Adm. Secretary

Encl.

cc: Dorothy and Arthur Polansky
C. W. Strickland
James D. Nolan, Esquire
Mr. Raymond A. Allen
Mr. David H. Hinkley
Mr. Edward J. Wilt
John W. Hensley, Esquire
Mr. S. E. DiNanno
Mr. W. D. Fromm
Mr. J. Howell
Board of Education

JAN 05 1976

RE: PETITION FOR RECLASSIFICATION : BEFORE
from D.R. 5.5 to D.R. 16, :
SPECIAL EXCEPTION FOR OFFICES : COUNTY BOARD OF APPEALS
and Office Building, and : OF
VARIANCE from Section 1801.2.C.6 :
(V.B.2) of the Baltimore County :
Zoning Regulations, and a : BALTIMORE COUNTY
USE PERMIT for Parking in a : No. 74-202-RXASPH
Residential Zone :
W/S of York Road 395.52' :
S. of Westbury Road :
9th District :
Stephen G. Heaver, et ux :
Petitioners :
Sloane Land Co., :
Contract Purchaser :

OPINION

This case comes before the Board on appeal from an Order of the Zoning Commissioner of Baltimore County, dated August 14, 1974, granting a reclassification from D.R. 5.5 to D.R. 16 zoning, with a special exception for an office building, a variance from Section 1801.2.C.6 (V.B.2) of the Baltimore County Zoning Regulations to permit a side yard setback of 10 feet in lieu of the required 25 feet, and a use permit for parking in a residential zone.

The subject property is located on the west side of York Road approximately 395 feet south of Westbury Road, in the Ninth Election District of Baltimore County. The subject property is also located approximately two blocks north of the interchange of York Road and the Baltimore County Beltway.

The reclassification from D.R. 5.5 to D.R. 16, the special exception for an office building, and the variance for side yard setback will just pertain to Parcel "A", as set out on Petitioner's Exhibit #3. The use permit for parking in a residential zone will pertain to Parcel "B", as set out on Petitioner's Exhibit #3.

Testimony presented on behalf of the Petitioner indicated that the Sloane Land Company, the Contract Purchaser and a subsidiary of the Meyerhoff Companies, is to construct an office building on Parcel "A", which is approximately 0.729 acres. The office building will consist of three (3) stories, totaling approximately 27,000 square feet. The building, which was designed by Mr. Lawrence A. Menefee, Jr., an architect who also testified on behalf of the Petitioner, will be a triangularly shaped, modern, three sided

Stephen G. Heaver - #74-202-RXASPH

glass office building, approximately forty feet in height.

Mr. Samuel Trivas, Vice President of the Meyerhoff Company (Contract Purchaser), testified that the Meyerhoff Company will utilize two of the floors, and will lease the other floor to a compatible tenant. Mr. Trivas also made mention to Parcel "B", which is approximately 0.620 acres, that the use permit for off-street parking in a residential zone would be necessary due to the limited size of Parcel "A".

Mr. David W. Dallas, Jr., a Civil Engineer, presented evidence on behalf of the Petitioner that the subject property is served by all public utilities.

Mr. C. Richard Moore, Assistant Director of the Department of Traffic Engineering for Baltimore County, testified that rezoning of the property would add approximately 100 to 300 trips per day to roads which now carry a heavy volume of traffic. Mr. Moore also testified that if the reclassification is granted, no access to Westbury Road should be permitted.

Many of the residents who live to the north, south and west of the subject property, which was zoned D.R. 5.5, testified that if the subject tract is granted the requested reclassification, these neighborhood streets will become hazardous due to the increase of traffic and that their homes will decline in value.

Augustine J. Muller testified on behalf of the Protestants that the reclassification from D.R. 5.5 to D.R. 16 should not be done piecemeal by this petition, but some should be considered comprehensively. Further, he stated that the granting of the special permit for parking would be harmful to the residential character of the neighborhood. The Board agrees with Mr. Muller.

It is the opinion of the Board that the Petitioner did not produce sufficient evidence of error and/or change to warrant the requested reclassification, nor did they

Stephen G. Heaver - #74-202-RXASPH

satisfy the requirements contained in Section 502.1 of the Baltimore County Zoning Regulations with respect to the request for a special exception.

Therefore, after reviewing all of the testimony and evidence, the Petitioner's request will be denied in toto.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 23rd day of October, 1975, by the County Board of Appeals, ORDERED that the reclassification, special exception, variance and use permit petitioned for, be and the same is hereby DENIED.

Any appeal from this decision must be in accordance with Rules 5-1 to 5-12 of Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Heaver, Jr., Chairman

John A. Miller

Robert L. Gilland

RE: PETITION FOR RECLASSIFICATION, VARIANCE, AND SPECIAL HEARING : BEFORE THE
W/S of York Road, 395.52' S : BOARD OF APPEALS
of Westbury Road, 9th Election : OF
District : BALTIMORE COUNTY
Stephen G. Heaver, et ux - Petitioners :
NO. 74-202-RXASPH (Item No. 19) :

ORDER OF APPEAL

Mr. Clerk:

Please note an Appeal in the above-entitled matter from a decision of the Zoning Commissioner of Baltimore County dated August 14, 1974, granting Petitioner's request for reclassification of his property with special exception for an office building and a variance. Said Appeal is being taken by the following-named aggrieved parties:

Jane and Lloyd Amy
1511 Malbay Drive
Lutherville, Maryland 21093

Dorothy and Arthur Pokorny
4 Lyn Court
Lutherville, Maryland 21093

C.W. Strodtman
5 Westbury Road
Lutherville, Maryland 21093



Anne Kay Kramer
Counsel for Appellants
Wiltonwood Road
Stevenson, Maryland 21153
496-2069

I HEREBY CERTIFY that a copy of the foregoing Order of Appeal was mailed this 7th day of September, 1974 to James D. Nolan, Esq., 204 West Pennsylvania Avenue, Towson, Maryland 21204, Counsel for Petitioner.

Anne Kay Kramer
Counsel for Appellants

Rec'd 9/30/74

The Orchard Hills Community Association
150 Westbury Road
Lutherville, Maryland 21093

March 18, 1975

Mr. Francis G. Barrett, Chairman
Baltimore County Council
County Office Building
200 N. Charles Street
Towson, Maryland 21204

Reference: Issue # C-97
File # 1359

Dear Mr. Barrett and Members of the County Council:

The Orchard Hills Community Association represents a community of some 210 homes, located on the south side of Seminary Avenue and extending South to the Baltimore Beltway. We are immediately adjacent to the area indicated on the proposed zoning map issue number C-97.

Our association has worked closely with the County planning staff over the past many years. This is particularly evident by our continued support of the Planning Board's recommendation for medium density residential zoning, the R-6, in this area during the past two years of public hearings on the new zoning maps. It was therefore, quite a surprise to find Issue C-97 added to the log of issues to be discussed at this hearing. No issue less at the previous Planning Board or County Council hearings reflected a live issue in this area.

The character of the land indicated in Issue C-97, is residential in nature, as can be seen in the attached photograph, looking southwest along York Road from just opposite the intersection of Westbury Road. The properties shown contain homes that are well set back from York Road and are provided with considerable dense screening, which effectively shields them from the traffic on York Road.

A change in zoning of this area to DR 16, would definitely have a detrimental effect on the adjacent community!

Increased traffic from apartment or office buildings in the area would have little overall effect on York Road, since experts have recently testified at zoning hearings, that York Road is at saturation level now. However, the addition of traffic from this high density zoning, would cause an extensive increase of traffic through our community, thus endangering our children. In our association alone, there are more than 300 children that either walk to school, walk to the school bus stops, or remain at home playing.

A further hardship would be the overflow of parking from these apartments, or offices, into our community, thus depriving existing residents of parking near their homes. As you well know, existing county parking space regulations for office buildings satisfy only about one half of the actual parking spaces needed.

Further, although the streets in our community are supposed to accommodate passage of two cars in motion, with cars parked on both sides of the road, in actuality, as can be seen in the attached photograph, there are only a scant few inches separating cars passing with cars parked on both sides. In our opinion, this creates a real traffic hazard in our area.

It is obvious that the installation of apartments, or office buildings in this area, would have the effect of decreasing the value of many adjacent homes, while allowing a handsome profit for the few people whose properties were rezoned DR16. Would you like to have someone build an office building, or an apartment next to your single family home?

Over the past 11 years, the planning staff, the Zoning Commissioner, the Board of Appeals and the Circuit Court, have upheld our position that this area is residential in nature. Specifically, cases 4987-B, 64-91-B, and 69-213-RXPM, were denied by the Board of Appeals and in addition, the latter two, were further appealed to the Circuit Court where the denials were upheld.

I would like to quote briefly from the Board of Appeals opinion on the 1969 petition for RA special exception for office buildings:

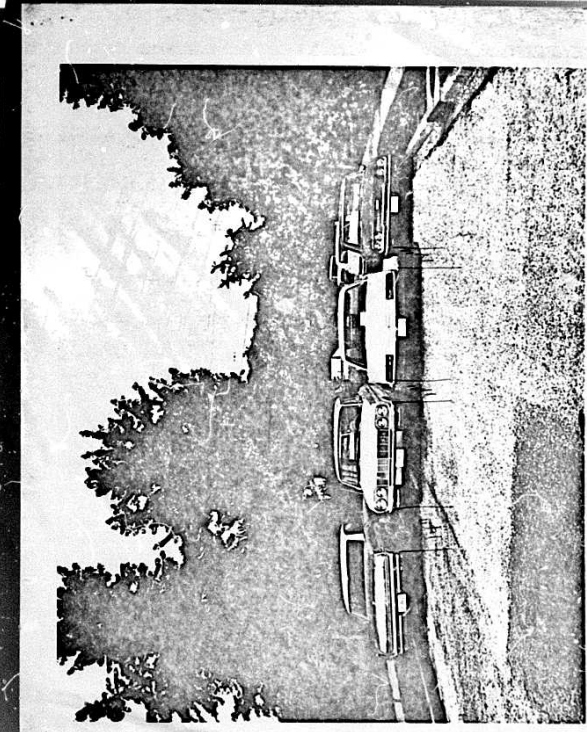
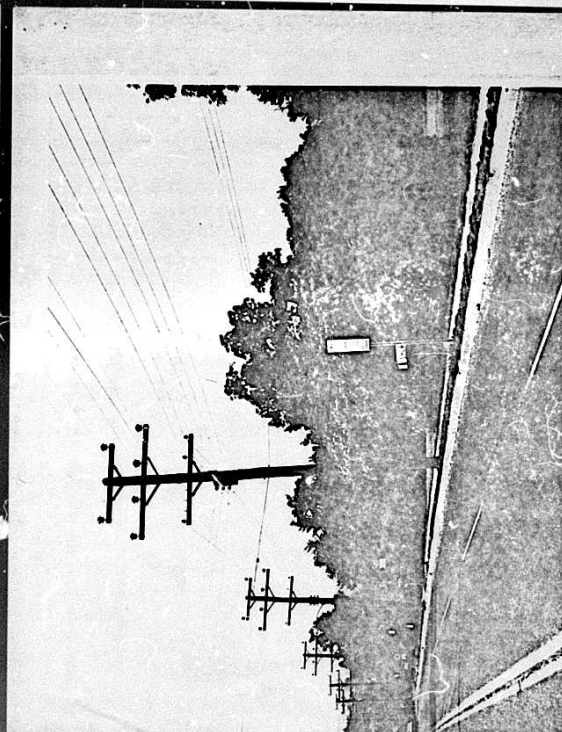
"However, a line separating residential from commercial zoning must be drawn somewhere and we feel that it is proper in this case to draw this line at Westbury Road. to grant the petition would constitute an unwarranted intrusion of office uses into the existing residential zone."

In view of the aforementioned reasons, we urge you to reconsider your proposed rezoning to DR16 and respectfully request that you follow the planning boards recommendation of DR 5.5 zoning in this area.

Sincerely,

David H. Hinkley, President

cc: Mr. Francis X. Bessie, Councilman, District 1
Mr. Gary Huddles, Councilman, District 2
Mr. G. Walter Tyrie, Jr., Councilman, District 3
Mr. Webster C. Davis, Councilman, District 4
Mr. Harry J. Buntzfelder, District 5
Mr. Wallace A. Williams, Councilman, District 5



**PETITION FOR ZONING RE-CLASSIFICATION
AND/OR SPECIAL EXCEPTION**

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Stephen G. Heaver and Doris A. Heaver, legal owner(s) 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 D.R. 5.5 zone to an D.R. 16 zone, for the following reasons:

- 1.) In classifying the subject property D.R. 5.5, the Baltimore County Council committed errors as set out on the attached exhibit which is incorporated by reference herein; and
- 2.) Since this property was placed in a D.R. 5.5 classification by the Council, the neighborhood has changed substantially in character as set out in the attached exhibit, which is incorporated by reference herein.

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 and medical, general and other professional offices in an office building in a D.R. 16 zone.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above reclassification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract purchaser Stephen G. Heaver
Address Doris A. Heaver Legal Owner
1301 York Road
Lutherville, Maryland 21093

Protestant's Attorney
James D. Nolan
204 West Pennsylvania Ave.
Towson, Maryland 21204
Telephone: 823-7800

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day of February, 1974, 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 18th day of March, 1974, at 10:00 o'clock.

Stephen G. Heaver
Zoning Commissioner of Baltimore County.

(over)

RE: PETITION FOR RECLASSIFICATION, SPECIAL EXCEPTION, VARIANCE, AND SPECIAL HEARING
W/S of York Road, 395.52' S of Westbury Road - 9th Election District
Stephen G. Heaver, et ux - Petitioners
NO. 74-202-RXASPH (Item No. 19)
BALTIMORE COUNTY

This matter comes before the Zoning Commissioner as a result of a Petition filed by Stephen G. and Doris A. Heaver, requesting a Reclassification from a D.R. 5.5 Zone to a D.R. 16 Zone; a Special Exception for an office building and offices; a Variance from Section 1B01.2C.6. (V.D.2.), to permit a side yard setback of 10 feet in lieu of the required 25 feet, for a parcel of property containing 0.729 acres of land, more or less, and herein known as Parcel "A", and a Special Hearing for a use permit for off-street parking in a residential zone, for a parcel of property containing 0.620 acres of land, more or less, and herein known as Parcel "B". The subject property is located on the west side of York Road, 395.52 feet south of Westbury Road, in the Ninth Election District of Baltimore County.

Evidence presented, on behalf of the Petitioners, indicated that Sloane Land Company, the Contract Purchaser and a subsidiary of Myerhoff Companies, intends to construct an office building. The office building would consist of three levels, totaling 27,000 square feet. There would be no ingress onto Westbury Road. The use permit for off-street parking would be necessary due to the limited size of Parcel "A".

Expert testimony indicated that the D.R. 16 Zone would serve as a transition area between the York Road traffic and the residential area lying to the west and that the proposed use would be more desirable than a commercial strip.

Residents of the area, in protest of the subject Petition, were fearful of the increase of traffic along York Road and, even more so, that, if the subject Petition were granted, adjoining properties would become commercial. The Baltimore County Planning Board, under Item No. 19, recommended D.R. 16 zoning, with a Special Exception for office use, for this tract of land, and are inalterably opposed to commercial zoning along this portion of York Road.

Without reviewing the evidence further in detail but based on all the evidence presented at the hearing, in the judgment of the Zoning Commissioner, the requested Reclassification should be granted. The proposed use would be compatible, not only with the commercial oriented York Road but also the residential area lying to the west. The prerequisites of Section 502.1 of the Baltimore County Zoning Regulations have been met, and, therefore, the Special Exception for an office building and offices should be granted. Further, strict compliance with the Baltimore County Zoning Regulations would result in practical difficulty and unreasonable hardship upon the Petitioner and, as the granting of the requested Variance does not adversely affect the health, safety, and general welfare of the community, the Variance should be granted. All of the above mentioned requests are for Parcel "A".

The Special Hearing for off-street parking in a residential zone would not change the basic zoning classification of this property but would grant the parking of automobiles incidental to the office tenancy. As the prerequisites of Section 409.4 have been met, a use permit for off-street parking in a residential zone should be granted for Parcel "B".

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 14th day of August, 1974, that Parcel "A" should be and

the same is hereby reclassified from a D.R. 5.5 Zone to a D.R. 16 Zone; a Special Exception for an office building and offices should be and the same is GRANTED; and a Variance from Section 1B01.2C.6. (V.B.2), to permit a side yard setback of 10 feet in lieu of the required 25 feet, should be and the same is GRANTED, and a Special Hearing for a use permit for off-street parking in a residential zone should be and the same is GRANTED on Parcel "B", from and after the date of this Order, subject to the following restrictions:

1. No ingress or egress shall be afforded from either Parcel "A" or Parcel "B" onto Westbury Road.
2. Approval of a site plan by the State Highway Administration, the Department of Public Works, and the Office of Planning and Zoning.

Stephen G. Heaver
Zoning Commissioner of Baltimore County

October 4, 1974

September 27, 1974

August 14, 1974

James D. Nolan, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Reclassification, Special Exception, Variance, and Special Hearing
W/S of York Road, 395.52' S of Westbury Road - 9th Election District
Stephen G. Heaver, et ux - Petitioners
NO. 74-202-RXASPH (Item No. 19)

Dear Mr. Nolan:

Please be advised that an appeal has been filed by Mrs. Anne Kay Kramer, on behalf of Jane and Lloyd Amy, Dorothy and Arthur Pokorny, and C. W. Stradtman, Protestants, from the decision rendered by the Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the Baltimore County Board of Appeals.

Very truly yours,

/s/
S. ERIC DI NENNA
Zoning Commissioner

SED/srl

Mr. David H. Hinkley
156 Westbury Road
Lutherville, Maryland 21093

RE: Petition for Reclassification, Special Exception, Variance, and Special Hearing
W/S of York Road, 395.52' S of Westbury Road - 9th Election District
Stephen G. Heaver, et ux - Petitioners
NO. 74-202-RXASPH (Item No. 19)

Dear Mr. Hinkley:

Please be advised that an appeal has been filed by Mrs. Anne Kay Kramer, on behalf of Jane and Lloyd Amy, Dorothy and Arthur Pokorny, and C. W. Stradtman, Protestants, from the decision rendered by the Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the Baltimore County Board of Appeals.

Very truly yours,

/s/
S. ERIC DI NENNA
Zoning Commissioner

SED/srl

James D. Nolan, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Reclassification, Special Exception, Variance, and Special Hearing
W/S of York Road, 395.52' S of Westbury Road - 9th Election District
Stephen G. Heaver, et ux - Petitioners
NO. 74-202-RXASPH (Item No. 19)

Dear Mr. Nolan:

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

Very truly yours,

/s/
S. ERIC DI NENNA
Zoning Commissioner

SED/aw

Attachments

cc: Mr. Raymond A. Allen
1309 Warwick Drive
Lutherville, Maryland 21093

Mr. David H. Hinkley
156 Westbury Road
Lutherville, Maryland 21093

**BALTIMORE COUNTY
ZONING ADVISORY COMMITTEE**



PETITION AND SITE PLAN

EVALUATION COMMENTS

December 20, 1974

Addendum to Case No. 74-202-RXASPH (Item No. 19) - Stephen G. Heaver, et ux

W/S of York Road, 395.52' S
of Westbury Road - 9th Election
District

Petitioners' Exhibit 2 - Rendering of the Front of the Proposed Office Building

Petitioners' Exhibit 3 - Rendering of the South Side of the Proposed Office Building, dated March 8, 1974

Petitioners' Exhibit 4 - Rendering of the Rear of the Proposed Office Building, dated March 8, 1974

October 3, 1974

Case No. 74-202-RXASPH (Item No. 19) - Stephen G. Heaver, et ux

W/S of York Road, 395.52' S
of Westbury Road - 9th Election
District

Petition for Reclassification, Special Exception, Variance, and Special Hearing

Brief in Support of Petition for Reclassification, from James D. Nolan, Esquire

Descriptions of Property

Plat of Subject Property, revised January 4, 1974 (See Petitioners' Exhibit 1)

20' Scale Location Plan

1000' Scale Location Plan

Zoning Advisory Committee Comments, dated November 29, 1973, With Attached Revised Comments from the Bureau of Engineering, Department of Public Works, dated February 19, 1974

Certificates of Publication

Certificate of Posting (Two (2) Signs)

Petitioners' Exhibit 1 - Plat of Subject Property, revised January 4, 1974

Protestants' Exhibit A - Plat of Subject Property, revised March 7, 1969 Eastern Unite Company - Petitioner, 69-215-RXSPH

Protestants' Exhibit B - Aerial Photograph Taken in Early 60's

Protestants' Exhibit C - Protestants' Signed Petition

Protestants' Exhibit D - Opinion and Order of Case No. 69-215-RX, from the County Board of Appeals, dated December 15, 1969

Protestants' Exhibit E - Opinion and Order of Case No. 69-215-RX, from the County Board of Appeals, dated October 29, 1969

Protestants' Exhibit F - Opinion and Order of Case No. 69-215-RX, from the Circuit Court for Baltimore County, dated May 26, 1970

Protestants' Exhibit G - Letter from David H. Hinkley, President, Orchard Hills Community Association, dated March 10, 1971, with Attached Copies of Photographs

Case No. 74-202-RXASPH (Item No. 19)

Page 2
October 3, 1974

Protestants' Exhibit H - Aerial Photograph

Letter from James D. Nolan, Esquire, to Mr. Raymond Allen, President, Orchard Hills Improvement Association, dated March 24, 1974

Order of the Zoning Commissioner, dated August 14, 1974 - GRANTED

Order of Appeal from Anne Kay Kramer, Counsel for Protestants, received September 13, 1974

James D. Nolan, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

Counsel for Petitioners

Mrs. Anne Kay Kramer
Wilkeswood Road
Sevenson, Maryland 21153

Counsel for Protestants

Mr. Raymond A. Allen
1309 Warwick Drive
Lutherville, Maryland 21093

Protestant

Mr. David H. Hinkley
156 Westbury Road
Lutherville, Maryland 21093

Protestant

PROTESTANT'S
EXHIBIT 2

RE: PETITION FOR RECLASSIFICATION
AND SPECIAL EXCEPTION FOR OFFICES
ON W. York Road, 395.52' S
of Westbury Road - 9th District
Hansfield, Baltimore

BEFORE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

No. 49-17-RX

OPINION

This is a petition for reclassification of property at the southwest corner of York and Westbury Roads, in the Ninth District of Baltimore County, and a special exception for office use.

The petitioners in this instance seek to reclassify her property based mainly on the construction of a gasoline service station at the northeast corner of York and Westbury Roads. Further, she cites the Super Market just north and across from her property on the east side and states that additional stores are under construction adjacent to the Super Market.

The Board does not feel that an error was made by the County's Commission of Baltimore County in placing his property in an "R-1" classification at the time the map was adopted on November 11, 1955. Westbury Road is the logical separation between commercial and residential lands, and if we are to follow this through one step further, it is the opinion of the Board that the land to the south of Westbury Road should at this time continue to remain in an industrial home classification. To grant a reclassification of this property would be the cutting wedge to unjustified zoning changes in a very fine residential area.

It is further felt by the Board that York Road is a natural divider between commercial and residential areas and it is felt that this shopping center on one side of a major thoroughfare does not necessarily relocate property on the opposite side of the thoroughfare to like zoning.

ORDER

For reasons set forth in the foregoing Opinion, it is this day of December, 1974, by the County Board of Appeals, ORDERED that the aforesaid petition for reclassification and special exception, be and the same is hereby denied.

Any appeal from this decision must be in accordance with Rule 1101 of the Rules of Procedure and Practice of the Court of Appeals of Maryland.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

David H. Hinkley
James D. Nolan

November 29, 1973

James D. Nolan, Esq.,
204 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Reclassification Petition
Item 19 - 6th Zoning Cycle
Stephen G. Heaver and Doris A.
Heaver - Petitioners

Dear Mr. Nolan:

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 west side of York Road, 392.52 feet southwest of Westbury Road, in the 9th District of Baltimore County. This property was the subject of a petition in the 5th Zoning Cycle (Item 18, Case No. 74-60-RX), which was subsequently withdrawn.

This proposal has been significantly modified from the previous submittal. The petition currently at hand is requesting a Reclassification from a D.R. 5.5 to a D.R. 16 zone, with a Special Exception for a two-story office building with basement, as well as an off street parking in a D.R. 5.5 zone.

There is no proposed access to Westbury Road from the intended parking area at the rear of the

James D. Nolan, Esq.
Re: Item 19 - 6th Zoning Cycle
November 29, 1973

property. The only access would be via a 30 foot entrance.

This petition for Reclassification 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 Monday, December 17, 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 March 1, 1974 and April 15, 1974 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:JLD

Enclosure

cc: David M. Dallas, Jr.,
8713 Old Harbor Road
Baltimore, Md. 21234

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

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

October 15, 1973

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

Re: Item #19 (October 1973-April 1974 - Cycle VI)
Property Owners: Stephen G. and Doris A. Heaver
Parcel A: W/S of York Rd., 392.52' S/W of Westbury Rd.
Parcel B: S/S of Westbury Rd., 250' W. of York Rd.
Existing Zoning: D.R. 5.5
Proposed Zoning: Parcel A: D.R. 16
Parcel B: D.R. 5.5
No. of Acres: 1.349 Acres District: 9th

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.

General:

York Road is a State Road; therefore, all improvements, intersections, entrances and drainage requirements as they affect the road come under the jurisdiction of the Maryland Highway Administration. Any utility construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State in addition to those of Baltimore County.

Westbury Road is an existing residential road improved through the frontage of this site.

All public improvements necessary to the existing or proposed use, with the exception of public storm drains are available. Principle effect of the proposed use on the property of others will be the increase rate and quantity of run-off to adjacent improved properties.

This property drains southwesterly 800 feet overlaid to Otbridge Road. The existing drainage system in Otbridge Road is shown on Baltimore County Drawing "H-147-3".

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.

Very truly yours,
Ellsworth H. Diver
ELLSWORTH H. DIVER, P.E.
Chief, Bureau of Engineering

ENCLOSURE
3-02 May Spec
NW 12A Topo

Maryland Department of Transportation
State Highway Administration

Harry R. Hughes
Secretary
Bernard M. Evans
Administrator

October 9, 1973

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

Attention: Mr. John J. Dillon

RE: Baltimore County
Sixth Zoning Cycle, Oct. 1973
Property Owner: Stephen G. & Doris A. Heaver
Location: Parcel A: W/S of York Road (Site 15) 392.52 ft S. W. of Westbury Road Parcel B: S/S of Westbury Road, 250 ft. W. of York Road
Existing Zoning: D.R. 5.5
Proposed Zoning: Parcel A: D.R. 16 Parcel B: D.R. 5.5
No. of Acres: 1.349 Acres District: 9th

Dear Mr. DiNenna:

The five foot distance from the south property line, of the subject site, to the proposed entrance must be exclusive of the three foot curb depression transition. There is an inlet in the area of the proposed entrance that must be relocated.

The entrance would be subject to approval and permit from the State Highway Administration.

The 1972 average daily traffic count on this section of York Road is 28,300 vehicles.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering Access Permits
Charles Lee
BY: J. E. Meyers

RE: PETITION FOR RECLASSIFICATION :
from an R-10 zone to an R-A zone,
SPECIAL EXCEPTION for an
Office Building, and a
SPECIAL HEARING for Off-
Street Parking in a Residential Zone
W/S York Road 395.52' S. of
Westbury Road,
9th District
Eastern Gunite Company,
Petitioner

BEFORE
COUNTY BOARD OF APPEALS
BALTIMORE COUNTY
EXHIBIT E
No. 69-215-RX
SPH

OPINION

The petitioner in this case seeks a reclassification of its property from an R-10 to an R-A zone, a special exception to permit the construction of a three story Office Building, and a permit to allow off-street parking in a residential zone. The property is situated on the west side of the York Road, approximately 395 feet south of Westbury Road, in the Ninth Election District of Baltimore County.

The petitioner, Eastern Gunite Company, is an engineering firm now located in Pennsylvania, specializing in water reconstruction work. The firm does business over the entire East Coast of the United States, and now desires to locate its offices on the subject property.

The zoning and land uses surrounding the subject property are as follows: Easterly, across the York Road, the zoning is R-6 and improved with a building known as the Baptist Book Store, while the southern tip of the subject property is opposite B-L zoning on which is presently being constructed a large multi-storied office building. The zoning to the north and south of the subject property, along the west side of the York Road, is R-10 and the lots are improved with single family residences. To the west of the subject property lies the R-6 development known as Devonshire Forest, which is a very well laid out development of houses in roughly the \$25,000 to \$30,000 price range.

The petitioner's property is divided into three parcels as shown on Petitioner's Exhibit No. 1. Parcel A consists of .729 acres, and the request is for a reclassification from R-10 to an R-A zone and a special exception for the office use. Parcel B consists of .356 acres and the request is for an off-street parking permit in the R-10 residential zone; Parcel C consists of .264 acres and the request is for an off-street parking permit in the R-6

Eastern Gunite Company - #69-215-RX-SPH

residential zone. The proposed parking lot to be used in conjunction with the office building is located to the rear or west of the proposed office building, and has ingress and egress from both York Road and Westbury Road. The petitioner produced numerous witnesses, including expert witnesses, who testified that the granting of the special exception for the office use would not in any way violate Section 502.1 of the Baltimore County Zoning Regulations. In view of the Board's decision to deny the reclassification requested it will not be necessary in this Opinion for the Board to recite the testimony of the witnesses regarding the special exception.

An expert real estate witness, testifying on behalf of the petitioner, testified to a number of changes in zoning along the York Road since the adoption of the map in 1955. However, the only two reclassifications along the York Road from the Baltimore County Beltway north to Seminary Avenue are Case #4959, which was the reclassification of the Mandel tract on the east side of the York Road on which is presently being constructed an office building, and Case #67-74-RXA, which is the Stratos property which was reclassified from an R-6 to an R-A zone on December 5, 1967. This property, however, is not at all similar to the subject property in that the Stratos property is situated immediately on the ramp leading from the York Road to the Baltimore County Beltway.

The petition was opposed by George E. Gavrellis, Director of Planning for Baltimore County, who noted that similar requests had been denied for the property situated at the corner of Westbury Road, which is one lot removed from the subject property. Mr. Gavrellis did state that on one over-lay prepared by the Planning Staff in connection with the preparation of new maps for the area, there had been proposed R-A zoning for the subject tract, but that this proposal was tentative only and not in any way final. Mr. Gavrellis also stated that his opinion with regard to R-A zoning on the subject property might be different if the entire area were being studied for purposes of adopting a new map, but he opposes this petition on an individual basis, citing the Mandel tract at the corner of York and Westbury Roads on which reclassification has been denied on two different

Eastern Gunite Company - #69-215-RX-SPH

occasions. In case #4959-RX, the Board of Appeals denied a request to reclassify the Mandel property to R-A with a special exception for an office building. In case #64-31-R, decided March 5, 1965, the Board of Appeals again denied a request for reclassification of the Mandel property from R-10 to B-L (Business Local). The Board in the last paragraph of its Opinion in this case stated:

"The Board takes into consideration that this same property was the subject of Petition No. 4957-RX which was a request for reclassification from an R-10 Zone to an R-A Zone, with special exception for office use, said petition having been denied by this Board (as differently constituted) on December 15, 1960. The Board is well aware that this property is not the most desirable R-10 property due to its location on a major, heavily traveled, highway and its proximity to commercial uses. However, a line separating residential from commercial zoning must be drawn somewhere and we feel that it is proper in this case to draw this line at Westbury Road giving substantial weight to the previous Board's decision regarding this property. This line may appear to the petitioner in this case to be harsh. However, the Board feels that the fears of the protesters in that the granting of this petition would require the rezoning of other similarly situated properties to the south are somewhat justified."

In view of the two previous decisions on property almost adjacent to the subject property, the Board feels that it would be acting in a highly arbitrary manner if it were to reverse itself and grant the requested reclassification in this case. The Board feels compelled to follow the previous decisions regarding these particular properties, and that to grant the petition would constitute an unwarranted intrusion of office uses into the existing residential zone.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 29th day of October, 1969 by the County Board of Appeals, ORDERED that the reclassification, special exception, and permit for Off-street Parking in a Residential Zone petitioned for, be and the same are hereby DENIED.

Eastern Gunite Company - #69-215-RX-SPH

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Baldwin, Chairman

W. Giles Parker

John A. Slawik

Baltimore County Fire Department

J Austin Deitz
Chief

Towson, Maryland 21204
873-7310



Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204
Attention: Mr. Jack Dillon, Chairman
Zoning Advisory Committee

Re: Property Owner: Stephen G. & Doris A. Heaver
Parcel A: W/S of York Road, 392.52 ft. S/W of Westbury Road
Location: Parcel B: S/S of Westbury Rd., 250 ft. W of York Road
Item No. 17 Zoning Agenda Tuesday, October 2, 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.
- (X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 300 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 _____ is not the maximum allowed by the Fire Department.
 - () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.
 - () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "The Life Safety Code", 1970 Edition prior to occupancy.
 - () 6. Site plans are approved as drawn.
 - () 7. The Fire Prevention Bureau has no comments at this time.

Reviewer: William S. Baldwin Noted and Approved:
Planning Group Deputy Chief
Special Inspection Division Fire Prevention Bureau

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204

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



October 25, 1973

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

Re: Item 19 - October 1973 to April 1974 Cycle Zoning VI
Property Owner: Stephen G. Heaver
West side of York Road, 395.52 feet southwest of Westbury Road
D.R. 16, special exception for offices and office building. Variance from Section 1801.2.C and V.8.2 for side yard, special hearing for off-street parking in a residential zone
District 9

Dear Mr. DiNenna:

The subject petition is requesting a change from DR 5.5 to DR 16 of 2 acres. This should increase the trip density from 100 to 300 trips per day. This in itself should create no major problem to traffic on York Road. However, there should be some difficulty entering or exiting this site due to the traffic on York Road.

Very truly yours,
Richard Moore
Assistant Traffic Engineer

CRH/pk

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF HEALTH



JEFFERSON BUILDING
TOWSON, MARYLAND 21204

October 19, 1973

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

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, October 2, 1973, are as follows:

Property Owner: Stephen G. & Doris A. Heaver
Location: Parcel A: W/S York Rd., 392.52' S of Westbury Rd.
Parcel B: S/S Westbury Rd., 250' W of York Rd.
Present Zoning: D.R. 5.5
Proposed Zoning: Parcel A: D.R. 16
Parcel B: D.R. 5.5
No. Acres: 1.349
District: 9

Metropolitan water and sewer must be extended to serve the site.

Very truly yours,
Thomas H. Devlin
Director
BUREAU OF ENVIRONMENTAL SERVICES

HVB:mnp

WILLIAM D. PROHL
DIRECTOR
S. ERIC DINENNA
SENIOR, CORP/PERSONNEL



November 16, 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 #19, VI Zoning Cycle, October 1973, to April 1974, are as follows:

Property Owner: Stephen G. & Doris A. Heaver
Location: Parcel A: W/S of York Road, 392.52 ft. S/W of Westbury Road
Parcel B: S/S of Westbury Road, 250 ft. W of York Road
Existing Zoning: D.R. 5.5
Proposed Zoning: Parcel A: D.R. 16 Parcel B: D.R. 5.5
No. of Acres: 1.349 Acres
District 9

This plan has been reviewed and there are no site-planning factors requiring comment.

Very truly yours,
John L. Wimbley
John L. Wimbley
Planning Specialist II
Project & Development Planning Division

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
SUITE 301 JEFFERSON BUILDING 105 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204
AREA CODE 301 PLANNING 684-2511 ZONING 684-3301

EASTERN CRANES COMPANY
VS
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
DAVID FRANKLIN, et al

PROTESTANT'S
EXHIBIT

MEMORANDUM OPINION
AND ORDER OF COURT

This case involves an appeal from the County Board of Appeals of Baltimore County, which by its Order dated October 29, 1969, denied the reclassification of the property in this proceeding from an R-10 to an R-A zone, a special exception to permit the construction of a three-story office building and a permit to allow offstreet parking in a residential zone. The property is situated on the West side of the York Road approximately 395 feet South of Westbury Road in the Ninth Election District of Baltimore County. The Deputy Zoning Commissioner of Baltimore County by an Order dated April 14, 1969, denied the reclassification requested because the Petitioner did not prove error in the map; secondly, previous requests for commercial reclassification were denied for property at the corner of Westbury Road and York Road immediately North of subject property, and; thirdly, insufficient change to warrant reclassification. The County Board of Appeals also denied the reclassification requested because it felt that two previous decisions on property one lot removed from the subject property to the North had been denied and they would be acting in

a highly arbitrary matter to grant the requested reclassification in this case. They felt compelled to follow the previous decisions and to grant this petition would constitute an unwarranted intrusion of office use into the existing residential zone. It is to be noted that the Board did not base its opinion on change in character in the neighborhood or error in the map, but only on their two previous decisions as to the almost adjacent property.

The Petitioner in the application for reclassification is Eastern Crane Company, an engineering firm now located in Pennsylvania who specializes in water reconstruction work. They desire to construct a three-story office building and utilize two floors of the building for their company purposes. They intend to employ 50 to 60 employees and possibly rent out the additional floor space of one floor to other persons. The zoning and land use surrounding the subject property are as follows: Easterly on York Road and across from the subject property the zoning is R-6 and improved with a building known as the Baptist Book Store while the Southern tip of the subject property is opposite R-1 zoning (on the East side of York Road) and which is presently occupied by a large office building. The zoning to the North and South of the subject property along the West side of York Road is R-10 and the lots are improved with single family residences. To the West of the subject property lies the R-6 development known as Devonshire Forest consisting of homes in the \$25,000 to \$40,000 price range.

The Petitioner's property is divided into three parcels as shown on Petitioner's Exhibit Number One, Parcel A consists of .729 acres, and the request is for a reclassification from R-10

to a R-A zone and a special exception for the office use; Parcel B consists of .356 acres and the request is for an offstreet parking permit in the R-10 residential zone; Parcel C consists of .266 acres and the request is for an offstreet parking permit in the R-6 residential zone. The proposed parking lot is to be used in conjunction with the office building located to the rear or West of the proposed office building and has ingress and egress from both York Road and Westbury Road.

The Court is cognizant of the general proposition that there is a strong presumption of correctness of original zoning or comprehensive zoning and that to sustain a plea of change therefrom, there must be proof of mistake in the map or a substantial change in the character of the neighborhood. See: Tumich v. Bd. of Zoning Appeals, 205 Md. 489; Kron v. Board of Zoning Appeals, 209 Md. 420; Nease v. Mandel, 224 Md. 121; Robert Corp. v. Board of Zoning, 236 Md. 106; Macdonald v. County Board, 238 Md. 549; and Miller v. Abraham, 239 Md. 263. The Court is also aware that this general rule does not mean however, that zoning, once established, is static and eternal. This was observed in the case of Bliss v. Realty, Inc. v. Board, 216 Md. 442.

The Court is confronted once again with familiar names in the folklore of zoning; namely, George E. Gavrelis, Director of Planning for Baltimore County and Frederick Klaus who testified as an expert in this matter. The testimony of Mr. Gavrelis stated that his opinion with regard to R-A zoning on the subject property might be different if the entire area was being studied for purposes of adopting a new map, but he opposes this petition

on an individual basis citing the Monfield Tract at the corner of York and Westbury Roads on which reclassification has been denied on two previous occasions as previously indicated. Mr. Frederick Klaus cites many changes in zoning since the adoption of the map in November 1955, all of which are North of Seminary Avenue with the exception of the Strathis property which was reclassified from R-6 to R-A and granted by the Board of Appeals on December 5, 1967, and the Mandel property finally zoned on November 29, 1961, which is East of subject property across York Road. All other reclassifications are North of Seminary Avenue and some distance from the subject property. Incidentally, the Strathis property is restricted to the present building and cannot be further developed for office buildings.

Thus, the only reclassification on York Road since the adoption of a map in 1955, South of Seminary Avenue and North of the Beltway, is the Strathis on the East end Mandel on the West. It seems the application for reclassification is premature in light of the fact that studies are being made by the Planning Department of a new map for the Ninth Election District of Baltimore County.

It is not the province of this Court, moreover, to resolve the various conflicts in the evidence before the Board if there was, in fact, any evidence of a substantial nature supporting and justifying the Board's action. In Motherhead v. Bd. of Comm'rs, 240 Md. 345 (decided November 18, 1953), The Court in quoting from Judge Hammond's opinion in Corrd v. Oak Hill Forge,

232 Md. 274 P. 283 stated at pages 371-372 as follows:

"...the courts have exercised restraint so as not to substitute their judgments for that of the agency and not to choose between equally permissible inferences or make independent determinations of fact, because to do so would be exercising a non-judicial role. Rather, they have attempted to decide whether a reasonable mind could reasonably have reached the result the agency reached upon a fair consideration of the fact picture painted by the entire record.

"In the case dealing with consideration of the weight of the evidence, the matter seems to have come down to whether, all that was before the agency considered, its action was clearly erroneous, or to use the phrase which has become standard in Maryland zoning cases, not fairly debatable."

See also the following cases: Plummer v. Hallie, 241 Md. 224 (decided Feb. 2, 1966); Dall v. The Johns Corp., 242 Md. 16 (decided March 15, 1966); Monnie View Club v. Glass, 242 Md. 14 (decided March 22, 1966); Rich Tilling v. Blue, 242 Md. 14 (decided March 29, 1966); Board v. Faye, 242 Md. 351 (decided April 26, 1966); and Vogel v. McCosh, 242 Md. 371 (decided April 28, 1966).

This Court is constrained to hold that a reasonable mind could reasonably have reached, upon a fair consideration of the entire record, the same conclusion as that of the Board, and hence its action was not arbitrary or capricious or illegal, but, on the other hand, was fairly debatable. Having determined this, the Court has fulfilled and exhausted its limited judicial function in reviewing a zoning appeal.

For the reasons stated and in conformity with the foregoing opinion, it is this 22nd day of May, 1970, by the Circuit Court for Baltimore County ORDERED that the Order of the County Board

of Appeals of Baltimore County dated October 29, 1969, be and the same is hereby affirmed.

John M. Maguire
JUDGE

BOARD OF EDUCATION
OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: October 18, 1973

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

Z.A.C. Meeting of: "Cycle 6"

Re: Item
Property Owner: Stephen G. & Doris A. Heaver
Location: Parcel A: W/S of York Rd, 392.52 ft S.W. of Westbury Rd
Parcel B: S/S of Westbury Rd, 250 ft. W. of York Rd
D.R. 5-5
Present Zoning: Parcel A: D.R. 16
Proposed Zoning: Parcel B: D.R. 5-5
Parcel C: D.R. 5-5

District: 9th
No. Acres: 1.309

Dear Mr. DiMenna:

Would have no adverse effect on student population if developed residentially since schools servicing this area are able to absorb the small yield generated by this small amount of land; and, an office building would have no effect on student population.

WNP/ml

Very truly yours,
W. Nick Petrovich
Field Representative

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

Re: Item #19 (October 1973) - April 1974 - Cycle VI
Baltimore County, Maryland

February 19, 1974

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

Re: Item #19 (October 1973) - April 1974 - Cycle VI
Property Owners: Stephen G. & Doris A. Heaver
Parcel A: 1/3 of York Rd, 392.52 ft S.W. of Westbury Rd.
Parcel B: S/S of Westbury Rd, 250 ft. W. of York Rd.
Existing Zoning: D.R. 5-5
Proposed Zoning: Parcel A: D.R. 16
Parcel B: D.R. 5-5
No. of Acres: 1.309 Acres District: 9th

Dear Mr. DiMenna:

The following comments are furnished relative to the plat (revised thru January 4, 1974) submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

These comments supplement our comments of October 15, 1973.

Stony Dreiner

The Petitioner has proposed a storm drainage system from the sewer, approximately 280' West of York Road, to York Road. York Road is a State Road under the jurisdiction of the State Highway Administration. This office knows of no drainage system existing in York Road at the termination of the proposed drain shown. If construction to a suitable outfall is proposed within York Road a great deal more than is shown here would need to be known before this office could ever recognize the possibility. What outfall is proposed? Is it natural to this drainage or would it constitute a diversion? Is the proposed outfall adequate? Is the proposal physically possible relative to grades? Is the proposal physically possible relative to other utilities or facilities between this site and the proposed outfall? Will the State Highway Administration approve the proposal within their right-of-way or will additional right-of-way be required through offsite properties?

If this neighborhood is to be used for a higher intensity use than exists or has been planned, then a drainage system should be built in the appropriate location of the area between Orbridge Road and the properties above this site in right-of-way to serve such change. The amount of the existing system below Orbridge Road which may require it to support a change in the intensity of land use in this neighborhood is not known and would be subject to study.

Very truly yours,
William H. Dyer, Jr.
Chief, Bureau of Engineering



PROTESTANT'S
EXHIBIT 3

10/2/80
202 R/A
JH



ZONING DATA

1. EXISTING ZONING
PARCEL ABB R-10
PARCEL C R-10
2. PROPOSED ZONING
PARCEL ABB R-10
PARCEL C R-10
3. AVERAGE TOTAL 1.245 AC
PARCEL A 0.204 AC
PARCEL B 0.956 AC
4. PARKING REQUIREMENT
1st Floor 3200 / 500 = 6.4 SPACES
2nd Floor 3200 / 500 = 6.4 SPACES
TOTAL 12.8 SPACES
5. PARKING REQUIRED
100 SPACES
6. ALL UTILITIES AVAILABLE

SECTION 4024 USE PLANNING DATA

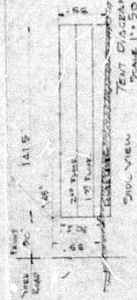
- A. THE LAND ADJACENT THE SHARED HIGHWAY USE
- B. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- C. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- D. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- E. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- F. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- G. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- H. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- I. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- J. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- K. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- L. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- M. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- N. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- O. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- P. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- Q. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- R. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- S. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- T. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- U. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- V. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- W. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- X. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- Y. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE
- Z. THE PROPOSED USES OF THE LAND ADJACENT THE SHARED HIGHWAY USE

WESTBURY ROAD
DATE TO WEST SIDE YARD
200 TO WEST SIDE YARD

TYPICAL LIGHT STANDARD
15' SCALE

RECEIVED PLANS

OFFICE OF THE DIRECTOR 7/18/83



2-C PROTESTANT'S EXHIBIT A

ZONING PLAT
EASTERN GUNITE COMPANY

PLAT A - CYN-W-P, PENNSYLVANIA 17004
DEVELOPER: EASTERN GUNITE COMPANY, 22 WEST ROAD, SUITE 100, 2004
3RD ELECTION DISTRICT
SCALE 1" = 50'



David W. Duller
DAVID W. DULLER, R.
L.P.E. DESIGNER
NO. 103





PROTESTANT'S
EXHIBIT #

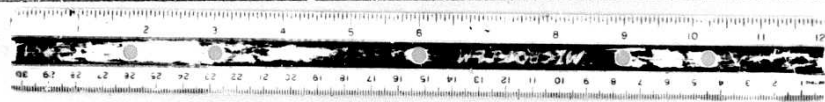
PETITIONER'S
EXHIBIT #3



SOUTH SIDE ELEVATION
SCALE: 1/8" = 1'-0"

PROPOSED OFFICE BLDG.
1402 YORK ROAD
BALTIMORE COUNTY, MD.
MENEFFEE & ASSOCIATES LTD.
ARCHITECTS A.I.A.
2323 N. CALVERT ST.
BALTIMORE, MD.
MARCH 8, 1974

74-202-RKASPH



PETITIONER'S
EXHIBIT 4



REAR ELEVATION
SCALE: 1/8" = 1'-0"

PROPOSED OFFICE BLDG.
1402 YORK ROAD
BALTIMORE COUNTY, MD.
MENEFEE & ASSOCIATES LTD.
ARCHITECTS A.I.A.
2525 N. CALVERT ST.
BALTIMORE, MD.
MARCH 8, 1974

74-522-RX454

