

R-86-336

SE/cor. of Golden Ring Rd. and McDaniel Ave.

15th Elec. Dist.

2/26/86

Petition for Reclassification - filing fee \$100.00 - Joe C. Robertson, et al

2/26/86

Hearing set for 3/11/86, at 10:00 a.m.

3/11/86

Advertising and Posting - \$389.45

11/5/86

Ordered by the County Board of Appeals that the B.L. zoning requested for the southeast corner of Golden Ring Road and McDaniel Ave. is DENIED and any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

|                                |   |                         |
|--------------------------------|---|-------------------------|
| IN THE MATTER OF               | : | BEFORE                  |
| THE APPLICATION OF             | : |                         |
| <u>JOE C. ROBERTSON, ET AL</u> | : | COUNTY BOARD OF APPEALS |
| FOR ZONING RECLASSIFICATION    | : |                         |
| FROM D.R.5.5 and M.L. TO B.L.  | : | OF                      |
| SE CORNER GOLDEN RING ROAD     | : |                         |
| & McDANIEL AVENUE              | : | BALTIMORE COUNTY        |
| 15th DISTRICT                  | : |                         |
|                                | : | CASE NO. R-86-336       |
|                                | : |                         |

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O P I N I O N

This case comes before the Board on a petition for reclassification of property located at the southeast corner of Golden Ring Road and McDaniel Avenue from D.R.5.5 and M.L. to B.L.

The subject property is in a residential enclave of seven dwellings surrounded by commercial and high density zoning, as well as major arterial roads whose use has seen an increased volume of truck traffic serving commercial developments in compliance with existing zoning regulations.

Counsel for the Petitioners reviewed the history of the area from its original farm use to the present. Petitioner, Mr. Joseph Robertson, testified at length in regard to the rural aspect of the area prior to the construction of the Baltimore Beltway, and subsequent commercial use of land parcels in the proximity of his property. It was also noted that half of the property owners in the immediate area were interrelated and had been longtime residents enjoying the amenities of a rather quiet, attractive, well-maintained community.

Co-Petitioner in this case was Mr. James Duke, elderly neighbor of Mr. Robertson, whose physical handicap prevented his appearance.

Testimony by Mrs. Janice Robertson, sister-in-law of the Petitioner, confirmed previous testimony that industrial development adjacent to her property has had a very detrimental impact on the quality of her family's health,

comfort and well-being. Heavy truck traffic and noise, coupled with dust and dirt have placed a strain on her family's daily living. The warehouse construction adjacent to her home has reduced her property value to the extent that she cannot sell her residence at a price that would warrant relocation elsewhere.

Petitioner also presented the expert witness of Mr. Frederick Klaus, planner and real estate appraiser, whose familiarity with the location and representation of various area developers extends back to the original farm owner.

Mr. Klaus testified on plans to widen and improve Golden Ring Road to better serve the increased traffic on this thoroughfare connecting interstate highways and traffic from a complex of warehouses, a U.S. Post Office, and a mobile home dealer located across the street from subject property.

Immediately adjacent to subject property a U.S. Post Office building has been recently completed in an M.L. zone. A small strip of this post office parcel was sold to the Petitioner in 1986 to satisfy his needs for a driveway, and thus is included in this petition for reclassification to B.L. As often customary with U.S. Government land purchases, knowledge of the land purchase was not made known to Mr. Robertson until the day of final settlement, and was cited as an example of unforeseen commercial development.

Mr. Klaus seriously questioned the variety of zoning in the area as approved in 1984. He testified that sections of D.R.5.5 and D.R.16 caused him great concern, especially the D.R.5.5 and D.R.16 zoning in an area that is primarily commercial. The proximity of D.R.16 zoning to highway cloverleafs and in the area of high tension power lines seemed to indicate a miscalculation of the future projections for this location. Mr. Klaus offered reasons why in two years the zoning classification has undergone such radical changes. Nowhere

in Baltimore County is Mr. Klaus aware of a land area where highway cloverleafs left a small residential enclave zoned D.R.5.5 in a highly intense commercial use.

Mr. Klaus reviewed various photographs presented in exhibit by the Petitioner which substantially established the impact of commercial-industrial activity in the Golden Ring Road environs. As a professional real estate appraiser, he further substantiated the viewpoint of the Petitioner and supporting witnesses that residential property owners in this "island enclave" have suffered financial loss under existing zoning regulations.

People's Counsel presented only one witness, Mr. James Hoswell, Planner, Baltimore County. Testimony made by Mr. Hoswell pointedly emphasized that the commercial zoning was in place in 1984 when the County Council reviewed the zoning situation at this location, and decided that zoning remain as it then existed.

Mr. Hoswell further testified that the subject property should be dealt with in a comprehensive rezoning classification of the total residential enclave, rather than in an appeal for a reclassification for four of the total of seven residential properties. Such a decision would be paramount to granting commercial strip zoning "within" a residential neighborhood. Opportunity for request for reclassification, he stated, will begin in August of 1987.

Counsel for the Petitioner summarized that the County Council was in error in its zoning classification because it failed to take into consideration trends and projects in their review of the area in 1984. Referring to Boyce v. Sembly, 25 Md. App., 43, Mr. Hennegan cited that the existing highway patterns and the present commercial development and trends they offered for the future should

have been ample evidence that the continuing D.R.5.5 zoning of subject's property would be detrimental and in error.

People's Counsel in summary declared that the zoning map has been developed exactly as it was originally planned, with no evidence that all facts were not considered by the Council. To the contrary, Counsel pointed to the merit of the Council's consideration of the high voltage transmission lines and their impact and the logic of separate zoning they applied to specific locations in the area. People's Counsel further argued that the Petitioner in this case has not been adversely affected, but in fact, has used the present zoning to his own benefit through the location of his own business enterprise on his property. Furthermore, it was emphasized that the construction of two houses in the subject location gave indication of a viable and growing residential use, and convincing evidence that the County Council was not in error in its deliberations in 1984.

After consideration of all the testimony and evidence received this day, the board is of the opinion that the Petitioner's evidence arguing that an error was made in a rezoning classification in 1984 has not been substantiated as stipulated in Boyce v. Sembly, nor in the opinion of the members of this Board, as applied to facts presented at this hearing, and thereby denies this petition. Of primary consideration, the request for a partial reclassification within a residential enclave would in itself be detrimental to neighboring residents.

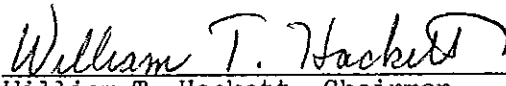
However, this Board does acknowledge that recent economic changes and land uses now evident or projected for this area in the proximity of a residential enclave in a heavily commercialized location, warrants special consideration in future comprehensive rezoning deliberations to protect or assure individual property values of residents.

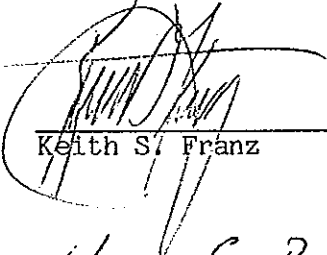
O R D E R

For reasons set forth in the foregoing Opinion, it is this 5th day of November, 1986, by the County Board of Appeals, ORDERED that the B.L. zoning requested for the southeast corner of Golden Ring Road and McDaniel Avenue be and the same is hereby DENIED.

Any appeal from this decision must be in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

  
\_\_\_\_\_  
William T. Hackett, Chairman

  
\_\_\_\_\_  
Keith S. Franz

  
\_\_\_\_\_  
Harry E. Buchheister, Jr.



County Board of Appeals of Baltimore County

Room 200 Court House  
Towson, Maryland 21204  
(301) 494-3180

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ZONING OFFICE

November 5, 1986

John O. Hennegan, Esquire  
809 Eastern Avenue  
Baltimore, MD 21221

RE: Case No. R-86-336  
Joe C. Robertson, et al

Dear Mr. Hennegan:

Enclosed is a copy of the Opinion and Order passed today  
by the County Board of Appeals in the subject matter.

Sincerely,

*Kathi C. Weidenhammer*  
Kathi C. Weidenhammer  
Administrative Secretary

Encl.

cc: Robert J. Romadka, Esquire  
Mr. & Mrs. Joe C. Robertson  
Mr. & Mrs. James L. Duke  
Mr. James E. Kraft  
Mr. & Mrs. Angelo Ambrosetti  
Phyllis Cole Friedman, Esquire  
Norman E. Gerber  
James G. Hoswell  
Arnold Jablon  
Jean M. H. Jung  
James E. Dyer  
Margaret E. du Bois