

R-87-250	<u>N/S Old Frederick Rd., 433' E c/1 Academy Rd.</u>	1st Elec. Dist.
11/17/86	Petition for Zoning Reclassification - filing fee \$100.00 - Anthony E. Evans	
11/17/86	Hearing set for 3/12/87, at 10:00 a.m., before County Board of Appeals	
4/14/87	Advertising and Posting - \$262.17	
4/23/87	Ordered that the requested Petition for Reclassification of the subject site from B.L. to B.R. is GRANTED and any appeal from this decision must be in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.	

IN THE MATTER OF : BEFORE
THE APPLICATION OF :
ANTHONY E. EVANS : COUNTY BOARD OF APPEALS
FOR ZONING RECLASSIFICATION :
FROM B.L. TO B.R. ON : OF
PROPERTY LOCATED ON THE :
N/s OLD FREDERICK ROAD, 433' : BALTIMORE COUNTY
E c/o ACADEMY ROAD :
1st ELECTION DISTRICT : CASE NO. R-87-250
1st COUNCILMANIC DISTRICT :
:

O P I N I O N

tained within the block in which this site is located is zoned B.R. The uses within this site are compatible with this zoning. For all these reasons, the witness testified that B.R. was the most appropriate zoning and the petition should therefore be granted.

In opposition to the petition, the Office of People's Counsel produced one witness, James G. Hoswell, a planner with Baltimore County. The sum and substance of Mr. Hoswell's testimony can be simply stated; that is, that either B.R. or B.L. is an appropriate zoning for this site. However, he stated that the B.L. designation adopted by the Council clearly is not in error.

As in all reclassification petitions, this Board is bound to review the petition pursuant to the mandate of Section 2-58.1 of the Baltimore County Code. This Section provides that, in order to grant the petition, the Board must find that the present classification is in error. Applying this standard to this case and upon consideration of all the testimony and exhibits before us, the Board does so find error and will therefore order that the petition be granted. As the basis for our decision, the Board takes note of the large tract of B.R. zoning adjacent to and surrounding this area. Further, the uses surrounding the site are, by and large, compatible with this designation. A review of both the photographs of the site and the zoning maps makes it clear that a B.L. designation is erroneous and that B.R. zoning is more appropriate.

In making this decision, the Board is cognizant of its recent opinion in the Henderson and Ott cases, numbered R-87-252 and R-87-253. In that opinion, the Board denied the petition for reclassification and, as one basis for its opinion, noted that the Council had specifically reviewed the request and had denied same. Although the Council also reviewed the request before us, a review of the numerous recommendations of the expert planners in this County is in order. In its report to the Board of Appeals, adopted January 29, 1987,

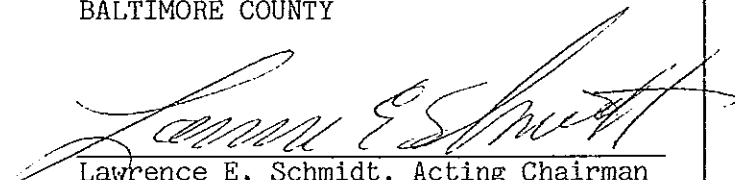
the Planning Board stated "it is therefore recommended that the Petitioner's request for B.R. zoning be granted." Additionally, in the report by the Director of Planning & Zoning to the Planning Board dated November 28, 1986, it is stated "either B.R. or B.L. zoning would be appropriate here." It is clear, based upon these reports, that the B.R. designation is an appropriate one and not to have been adopted was an error. The testimony and evidence presented before the Board in its hearing re-enforces this notion; therefore we will grant the petition for reclassification.

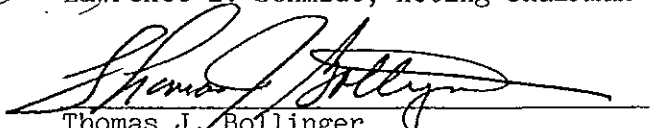
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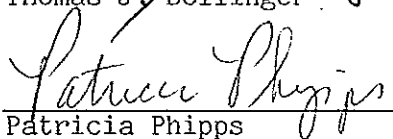
It is therefore this 23rd day of April, 1987 by the County Board of Appeals of Baltimore County ORDERED that the requested petition for reclassification of the subject site from B.L. to B.R. be and the same is GRANTED.

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

COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY


Lawrence E. Schmidt, Acting Chairman


Thomas J. Bollinger


Patricia Phipps



County Board of Appeals of Baltimore County

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

April 23, 1987

G. Warren Mix, Esquire
706 Washington Avenue
Towson, MD 21204

RE: Case No. R-87-250
Anthony E. Evans

Dear Mr. Mix:

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

Sincerely,

A handwritten signature in cursive script, reading "Kathi C. Weidenhammer".

Kathi C. Weidenhammer
Administrative Secretary

Encl.

cc: Mr. Anthony E. Evans
Mr. James Earl Kraft
Phyllis Cole Friedman, Esquire
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer
Margaret E. du Bois

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ZONING OFFICE