

IN THE MATTER OF
BALTIMORE COUNTY, MARYLAND;
- Petitioner
WILLIAM JEFFREY NICELY;
- Legal Owner

12216 AND 12222 Eastern Avenue
6th COUNCILMANIC DISTRICT

RE: ZONING MAP CORRECTION

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* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. M.C. 12-01

ORDER

The above entitled matter came on for hearing before this Board on December 7, 2011 on an Amended Petition for Zoning Map Correction filed by Michael E. Field, County Attorney, and Nancy C. West, Assistant County Attorney, Petitioners, on behalf of Baltimore County, Maryland.

A public hearing was held on December 7, 2011. Public Deliberation was held at the conclusion of the hearing.

Nancy C. West, Assistant County Attorney represented Baltimore County. Deborah C. Dopkin, Esquire, represented the Legal Owner, namely, William Jeffrey Nicely. Peter Max Zimmerman, People's Counsel for Baltimore County also participated.

William Jeffrey Nicely ("Nicely") is the fee simple owner of three adjacent parcels of land, namely, (a) Parcel 496 at 12216 Eastern Avenue that consists of 1.10 acres; (b) Parcel 318 at 12222 Eastern Avenue that consists of 1.03 acres; and (c) Parcel 551 at 12230 Eastern Avenue that consists of 0.853 acres. All three parcels are located on the west side of Eastern Avenue, 300 feet north of Reed Road in the Chase section of Baltimore County, Maryland 21220. ("the Property"). A deed of Parcels 496 and 318 is recorded in the Land Records for Baltimore County at Liber 24093, Folios 80 and 84. A deed of Parcel 551 is recorded in the Land Records for Baltimore County at Liber 23151, Folio 544.

Map Correction / Case No.: M.C. 12-01 / 12216 and 12222 Eastern Avenue

The Property is presently split zoned DR-5.5 (Density, Residential) BM (Business, Major) and BL (Business, Local).

As part of and pursuant to Baltimore County's 2008 Comprehensive Zoning Map Process ("CZMP"), Nicely initiated a request, namely, CZMP Issue No. 6-033 ("Issue"), on Parcels 496 and 318, collectively, to rezone 0.1 acre that was classified as BL (Business, Local) and 1.9 acres that were classified as D.R. 5.5, to the BL zone.

At the time he filed his Issue, Nicely indicated that the total acreage for both Parcel 496 and Parcel 318 of the Property was 2.0 acres. The Department of Planning staff utilized the tax map in Baltimore County's GIS database to map the 2.0 acres, which represented the requested change to the BL zoning classification.

On August 26, 2008 the Baltimore County Council adopted BM zoning for the 2.0 acre associated with Parcels 496 and 318 of the Property as reflected in the Baltimore County 2008 CZMP Final Log of Issues.

In July 2010, Nicely engaged a licensed surveyor, namely Hopkins Engineering, to investigate and accurately identify the limits of the Property. According to the sealed survey, the total area for Parcels 496 and 318 was not included in the 6-033 CZMP Issue. A 0.49 acre of Parcel 496 was omitted from the 6-033 CZMP Issue, which resulted in a portion of the parcel not having the BM zoning classification applied to the entire parcel. On June 22, 2011, the tax map in Baltimore County's GIS database was corrected, according to the above referenced survey.

As certified in letters dated October 21, 2011 and December 6, 2011, respectively, from Andrea Van Arsdale, Director of the Department of Planning, to Deborah C. Dopkin, Attorney-at-Law for Nicely, a technical drafting error on the part of the Department of Planning staff

occurred during the 2008 CZMP that resulted in an inaccurate reclassification of the Property. Accordingly, the County Council's duly enacted zoning classification on the Property was not properly transferred to the County zoning maps.

As a condition precedent to the filing of this Amended Petition, the Department of Planning has notified the County Council of its intention to correct this technical drafting error. Copies of letters dated October 21, 2011 and December 6, 2011, respectively, from Andrea Van Arsdale, Director of the Department of Planning to the Honorable Cathy Bevins.

The Board has given due consideration to the Petition, the Certification, exhibits presented at the time of the hearing, as well as the testimony presented in this case by Qui Zhao, of the Baltimore County Department of Planning.

The Board finds that the present split zoning of DR-5.5 and BM on the property known as Parcel 496 at 12216 Eastern Avenue and Parcel 318 at 1222 Eastern Avenue is incorrect. In addition, the current split zoning of DR-5.5, BM and BL on Parcel 551 known as 12230 Eastern Avenue is also incorrect.

IT IS THEREFORE, this 13th day of December, 2011 by the Board of Appeals of Baltimore County

ORDERED that the present zoning of Parcel 496 at 12216 Eastern Avenue and Parcel 318 at 12222 Eastern Avenue be re-zoned from split zoning of DR-5.5 (Density, Residential) and BM (Business, Major) to BM (Business, Major) in accordance with the legislative intent of the County Council; and it is further

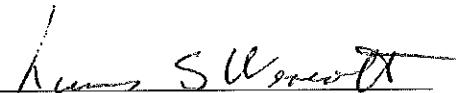
ORDERED that Parcel 551 at 12230 Eastern Avenue be reclassified from its current split zoning of DR-5.5 (Density, Residential) BM (Business, Major) and BL (Business, Light) to DR-5.5 (Density, Residential) and BL (Business, Light) in accordance with the legislative intent of the

the County Council; and it is further


ORDERED that the Department of Planning make the necessary change and correction as set out herein, on the latest Comprehensive Zoning Map for Baltimore County with regard to the subject property.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.


**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Chairman



Andrew M. Belt



David L. Thurston