

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

WE, KEVIN & MARY P. LYNCH, legal owner 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 DR 5.5 zone to an B-1 zone; for the following reasons:

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:

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: Paul J. Feeley
Address: 201 Courtland Avenue
Petitioner's Attorney: James B. Byrnes, III
Protestant's Attorney: None

ORDERED By The Zoning Commissioner of Baltimore County, this 25th day of October, 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 24th day of March, 1975, at 11:00 o'clock A. M.

(over)

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE



PETITION AND SITE PLAN EVALUATION COMMENTS

Paul J. Feeley, Esq.
201 Courtland Avenue
Towson, Md. 21204
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 25th day of October 1974.

James B. Byrnes, III
Chairman,
Zoning Advisory
Committee

Petitioner: Kevin & Mary P. Lynch

Petitioner's Attorney: Paul J. Feeley
cc: E. P. Raphael & Associates
201 Courtland Avenue
Towson, Md. 21204

Reviewed by James B. Byrnes, III
Chairman,
Zoning Advisory
Committee

Item 31 - 8th Zoning Cycle

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

October 25, 1974

Paul J. Feeley, Esq.
201 Courtland Avenue
Towson, Maryland 21204

RE: Reclassification Petition
Item 31 - 8th Zoning Cycle
Kevin & Mary P. Lynch - Petitioners

Dear Mr. Feeley:

The Zoning Plans 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 of the property. The following comments are a result of this review and inspection.

The subject property is located at the northwest corner of Essex and Franklin Avenues, in the 15th Election District of Baltimore County, and is presently improved with a one-story frame residence. The properties to the east and south of the subject site are similarly improved. The Essex Pleasure Club abuts the property to the west.

The petitioners are requesting a Reclassification from the existing DR 5.5 zone to a Business Local zone, and propose to utilize the existing structure for retail purposes with access from Franklin Avenue. Off street parking is indicated for 8 vehicles.

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

Baltimore County Fire Department

J. Austin Dietz
Chief



Towson, Maryland 21204

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

Attention: Mr. Jack Dillon, Chairman
Zoning Advisory Committee

Re: Property Owner: Kevin & Mary P. Lynch

Location: NW/4 of Franklin Ave. & Essex Ave.

Item No. 31

Zoning Agenda Cycle #8 - October 1, 1974

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 100 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.

- () 4. EXCEEDS the maximum allowed by the Fire Department.
- () 5. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.
- () 6. 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", 1973 Edition prior to occupancy.

- () 7. Site plans are approved as drawn.
- () 8. The Fire Prevention Bureau has no comments at this time.

Revised: 10/23/74 Noted and Approved: Paul J. Feeley
Planning Group Deputy Chief
Special Inspection Division Fire Prevention Bureau

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

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

October 23, 1974

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

Re: Item #31 (Cycle VIII - October 1974 - April 1975)
Property Owner: Kevin & Mary P. Lynch
N/W corner of Franklin & Essex Avenues
Existing Zoning: D.R. 5.5
Proposed Zoning: B-1
No. of Acres: 0.161 District: 45h

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:

Essex Avenue is an existing County road which has been terminated by the construction of the Southeast Expressway to the north of this site. Additional highway improvements will not be required for this road.

Access is shown from Franklin Avenue which is a private road. Should it be necessary to improve Franklin Avenue as a public road in the future, a minimum 30-foot curved paving cross-section on a 50-foot right-of-way would be required.

Storm Drains:

Provisions for the accommodation of storm drainage have not been shown on the plans; however, surface improvements resulting in increased storm water run-off, particularly the paving of parking areas, grading thereof or other surface improvements, may necessitate the petitioner to provide facilities for this drainage.

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.

Sediment Control:

Drainage studies and sediment control drawings will be necessary to be reviewed and approved prior to the recording of any record plat or the issuance of any grading or building permits.

Item #31 (Cycle VIII - October 1974 - April 1975)
Property Owner: Kevin & Mary P. Lynch
Page 2
October 23, 1974

Water and Sanitary Sewer:

The subject property is presently served by existing sewer and water connections.

Very truly yours,

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

END:RAM:RUC:iss

1-2W Key Sheet
7 W 30 Pos. Sheet
NE 2M Topo
SO Tax Map

Paul J. Feeley, Esq.
Re: Item 31 - 8th Zoning Cycle
October 25, 1974

Page 2

been requested by this Committee, shall be submitted to this office prior to December 1, 1975, 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 forwarded to you well in advance of the date and time.

Very truly yours,

James B. Byrnes, III
JAMES B. BYRNES, III
Chairman,
Zoning Plans Advisory Committee

JBB:JD

Enclosure

cc: E. P. Raphael & Associates
201 Courtland Avenue
Towson, Maryland 21204

Pursuant to the advertisement, posting of property, and public hearing on the above Petition and it appearing that by reason of substantial changes in the character of the neighborhood and the health, safety, and general welfare of the community not being adversely affected.

the above Reclassification should be had.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 27th day of March, 1975, that the herein described property or area should be and the same is hereby reclassified from a D.R. 5.5 Zone to a B.L. Zone, from and after the date of this Order, subject to the approval of a site plan by the Department of Public Works and the Office of Planning and Zoning.

John L. Wimbley
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 1975, 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 D. FROMM
DIRECTOR
S. ERIC DINENNA
ZONING COMMISSIONER



November 6, 1974

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 #31, Zoning Cycle VIII, October, 1974 are as follows:

Property Owner: Kevin and Mary P. Lynch
Location: NW/4 of Franklin Ave and Essex Avenue
Existing Zoning: D.R. 5.5
Proposed Zoning: B.L.
No. of Acres: 0.61
District: 15th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

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 and Development Planning

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
SUITE 301 JEFFERSON BUILDING 105 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204
AREA CODE 301 PLANNING 494-3311 ZONING 494-3351

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204



DEPARTMENT OF TRAFFIC ENGINEERING

EUGENE J. CLIFFORD, P.E.
DIRECTOR

WM. T. MILLER
DEPUTY TRAFFIC ENGINEER

October 28, 1974

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

Re: Item 31 - Cycle Zoning 8 - October 1974 through April 1975

Property Owner - Kevin & Mary P. Lynch
NW corner of Franklin & Essex Avenues
B.L.
District 15

Dear Mr. DiNenna:

The subject petition is requesting a change from D.R. 5.5 to B.L. of 0.61 acres. This site in itself is of insufficient size to generate a large number of trips. Should this be part of a larger commercial development, then traffic problems can be anticipated.

Very truly yours,

C. Richard Moore
C. Richard Moore
Assistant Traffic Engineer

CRM/rmg

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

October 14, 1974

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

Dear Mr. DiNenna:

Comments on Item 31, Zoning Reclassification, Cycle 8, are as follows:

Property Owner: Kevin & Mary P. Lynch
Location: NW/4 of Franklin Ave. & Essex Ave.
Existing Zoning: DR 5.5
Proposed Zoning: BL
No. of Acres: 0.61
District: 15th

Metropolitan water and sewer are available.

Food Protection Comments: If a food service facility is proposed, complete plans and specifications must be submitted to the Division of Food Protection, Baltimore County Department of Health, for review and approval.

Air Pollution Comments: The building or buildings on this site may be subject to a permit to construct and a permit to operate any and all fuel burning and processing equipment. Additional information may be obtained from the Division of Air Pollution and Industrial Hygiene, Baltimore County Department of Health.

Very truly yours,

Thomas H. Devlin
Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

HVB/ncw

CC--L.A. Schuppert
W.L. Phillips

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: October 9, 1974

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

Z.A.C. Meeting of: October 1, 1974 (Cycle #8)

Re: Item 31
Property Owner: Kevin & Mary P. Lynch
Location: NW/4 of Franklin Avenue & Essex Avenue
Present Zoning: D.R. 5.5
Proposed Zoning: B.L.

District: 15th
No. Acres: 0.61

Dear Mr. DiNenna:

No adverse effect on student population.

Very truly yours,

W. Nick Petrovich
W. Nick Petrovich,
Field Representative.

H. EMBLE PARKS, PRESIDENT
EUGENE C. HESS, VICE-PRESIDENT
MRS. ROBERT L. BERNY

MARCUS M. STOKES
JOSEPH H. WOODMAN
ALVIN LORICK
JOSHUA R. WHEELER, SUPERINTENDENT

T. BAYARD WILLIAMS, JR.
RICHARD W. TRACY, V.M.D.
MRS. RICHARD A. WUENICEL

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204
January 7, 1977

John W. Hession, III, Esq.
People's Counsel
County Office Building
Towson, Md. 21204

Re: Kevin Lynch, et ux
File No. 75-222-R

Dear Mr. Hession:

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,

Muriel E. Buddemeier
Muriel E. Buddemeier

Encl.

cc: Paul J. Feeley, Esq.
Mr. Clyde L. Lew
Mr. S. E. DiNenna
Mr. Norman Gerber
Mr. James Howell
Board of Education

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

OFFICE: 825-3308

September 30, 1974

RESIDENCE: 771-4592

DESCRIPTION TO ACCOMPANY PETITION FOR RECLASSIFICATION PROPERTY OF KEVIN LYNCH AND WIFE

Beginning for the same at a point formed by the north side of Franklin Avenue (50' wide) with the west side of Essex Avenue (50' wide) running thence and binding on the west side of Essex Avenue N6°14'W 48.4' thence leaving the west side of Essex Avenue S83°46'W 145' to the east side of an alley (10' wide) running thence and binding on the east side of said alley S6°14'E 48.4' to the north side of Franklin Avenue running thence and binding on the north side of Franklin Avenue N83°46'E 145' to the place of beginning.

Containing 0.16 Acres of land more or less.
Being the land of Kevin Lynch and wife.



E. F. Raphael
E. F. Raphael
Reg. Prof. Land Surveyor
No. 2246

March 27, 1975

Paul J. Feeley, Esquire
209 Courtland Avenue
Towson, Maryland 21204

RE: Petition for Reclassification
NW corner of Essex and Franklin
Avenues - 15th Election District
Kevin Lynch, et ux - Petitioners
NO. 75-222-R (Item No. 31)

Dear Mr. Feeley:

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

Very truly yours,

S. Eric DiNenna
S. ERIC DINENNA
Zoning Commissioner

SED/eri

Attachments

cc: Mr. Clyde L. Lew, Field Engineer
The C & P Telephone Company
of Maryland
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: PETITION FOR RECLASSIFICATION : BEFORE
from D.R. 5.5 to B.L. zone : COUNTY BOARD OF APPEALS
NW corner of Essex and Franklin Aves. : 15th District : OF
Kevin Lynch, et ux : BALTIMORE COUNTY
Petitioners : No. 75 - 222 - R

OPINION

This case comes before the Board on an appeal by the People's Counsel from an Order of the Zoning Commissioner, dated March 27, 1975, granting a reclassification from D.R. 5.5 to a B.L. zone.

The subject property is located on the northwest corner of Essex and Franklin Avenues, in the 15th Election District.

Testimony on behalf of the Petitioner portrayed to this Board the fact that the Petitioner had owned the subject property for twenty years, and for the last nineteen years had rented to the same tenant. It was indicated that the houses to the north were moved in order to construct the now existing Expressway, which is approximately fifty feet from the subject property. Additionally, the construction of the Expressway is substantially above the topography of the subject property, creating a gulley-like situation. This additionally compounded the close proximity of various commercial uses to the west, and in particular the "Pleasure Club", which is adjacent to the subject property, and is apparently on around the clock operation.

The opposition to this petition was led by Norman E. Gerber, the Acting Director of Planning, who recommended retention of the existing zoning. Other neighborhood witnesses indicated their objection to additional traffic, related parking problems, extension of the commercial zoning, and the lack of need for additional commercial zoning.

Without reviewing the evidence further in detail, but based upon all of the evidence presented, the Board is of the opinion that there has been a substantial change in the character of the neighborhood, and therefore the requested petition should be granted.

Kevin Lynch, et ux - No. 75-222-R 2.

However, since the hearing of the case, the County Council has adopted the new comprehensive zoning maps, which retains the existing zoning and in effect renders the Opinion of this Board moot.

ORDER

For the reasons set forth in the foregoing Opinion, the County Board of Appeals, this 7th day of January, 1977, is compelled to deny the requested reclassification.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert L. Gilland, Vice Chairman

John A. Miller

William T. Hackett

KEVIN LYNCH, et ux * COUNTY BOARD OF APPEALS
Reclassification of * Case No. 75-222-R
Northwest corner of Essex
and Franklin Avenues *

MOTION TO DISMISS APPEAL

The Petitioners, by Paul J. Feeley, their attorney, move this Honorable Board to dismiss the Appeal heretofore filed in the above captioned case for the following reasons:

1. That on the date of the hearing before the Zoning Commissioner in the above captioned matter there were no persons who appeared as protestants at that hearing.
2. That the Peoples' Counsel did not personally appear at the hearing before the Zoning Commissioner in the above captioned matter.
3. The Peoples' Counsel is not an aggrieved person pursuant to Section 22-27 of the Baltimore County Code as to allow him to file an Appeal from the decision of the Zoning Commissioner to this Honorable Board.

4. Section 524.1 (3)(a) setting forth the powers and duties of the Peoples' Counsel is unconstitutional in that it allows the Peoples' Counsel to decide when he deems the public interest to be involved in an arbitrary and capricious manner.

WHEREFORE, your Petitioners pray that this Honorable Board may dismiss the Appeal filed in the captioned case.

Paul J. Feeley, Attorney
for Petitioners

LAW OFFICE
PAUL J. FEELEY
200 COVINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 284-1004

LAW OFFICE
PAUL J. FEELEY
200 COVINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 284-1004

MEMORANDA TO ACCOMPANY

MOTION TO DISMISS

By statute and by case law we have held for a long period of time that only a person or persons "aggrieved" by a zoning decision has a right to Appeal that decision.

One of the relatively older decisions of the Court of Appeals along this line was in the case of Horwood Heights Improvement Association vs. Mayor and City Council, 195 MD1 wherein our Court of Appeals held that an improvement association was not a "person aggrieved" merely based on the ground that it represented tax payers and property owners near the property in question. The Court went on to say that "In order to be aggrieved a person must have a specific personal and legal interest in the subject matter of the zoning decision, and be specifically and adversely affected thereby."

The more recent case of Brynarski v. Montgomery County Board of Appeals, 247 MD137. The Court again reiterates, "For a person to be aggrieved by an adverse decision and thus entitled to Appeal in a zoning case, the decision must not only affect a matter in which the protestant has specific interest of property rights but his interest therein must be such that he is personally and specifically affected in a way different from that suffered by the public generally." When the Baltimore County Charter was amended to become Section 524.1 (b) to create the office of Peoples' Counsel it was stated that the Peoples' Counsel shall represent the interest of the public in general in zoning matters. Section 524.1 (3) (a) states that the Peoples' Counsel may have the right

-2-

of Appeal as an aggrieved party pursuant to the provisions of Section 604 of this Charter. Section 604 specifically refers to Appeals from the Board of Appeals to the Circuit Court and not to the right of Appeal from the Zoning Commissioner to the Board of Appeals as set forth in Section 22-28 of the Baltimore County Code. It would seem that by calling particular attention to the aggrieved person pursuant to Section 604 the Charter would be limiting the right of Appeal to an Appeal from the Board of Appeals to the Circuit Court or else it could have specifically stated that this right of Appeal as an aggrieved person would also be available pursuant to Section 22-27 of the Baltimore County Code which sets forth the Appeal provisions of a decision from the Zoning Commissioner to the County Board of Appeals.

During the one-year period from April 1, 1975 to April 1, 1976 the Peoples' Counsel has entered his appearance before the Zoning Commissioner in three hundred cases. Of these cases he has actually appeared at eighteen hearings and subsequently Appealed from the decision in five of those cases; but Peoples' Counsel has also Appealed twenty-two cases where he was not even present at the Commissioner's hearing, as was the case in this specific Appeal before this Board.

He has therefore filed Appeals in twenty-two cases from among two hundred eighty-two cases in which he did not even attend the hearing. For him to decide so many of these cases where there has been not one voice of protest raised from the public in general that he could best represent the interest of that public in general by filing an Appeal is certainly an arbitrary and capricious decision on his part.

Respectfully submitted,

Paul J. Feeley

IN THE MATTER OF THE * BEFORE THE ZONING
PETITION FOR RE-CLASSIFICATION * COMMISSIONER
FROM D. R. 5.5 to B. L. * OF
FILED BY KEVIN LYNCH AND * BALTIMORE COUNTY
WIFE FOR PROPERTY *
202 North Essex Avenue in the *
ESSEX AREA OF BALTIMORE COUNTY *

MEMORANDA IN SUPPORT OF PETITION FOR RE-CLASSIFICATION

The subject property is at the northwest corner of Essex Avenue and Franklin Avenue in the Essex area of Baltimore County and is known as 202 North Essex Avenue. The lot fronts 48' on Essex Avenue with an even depth of 145' to a 10' alley. The improvements on the lot consists of a one story bungalow presently being used as a residence.

The request for re-classification comes as a result of several changes which had taken place in the neighborhood, in the last couple of years which rendered the continued use as a residence obsolete.

The property adjacent to the subject property in the rear is now being used as the "Essex Pleasure Club." This club is open 24 hours a day and provides relaxation in the form of shooting pool and playing ping-pong and other various activities for members of the community. Directly across Franklin Avenue is a commercial operation known as the Essex Lumber Yard. This lumber yard is a regular commercial lumber operation and it covers

an area of approximately 6 times the size of the subject property.

The most recent change affecting the use of the subject property is the construction of the "Windless Freeway" directly to the north of the subject property. As a result of the construction of the freeway, it was necessary to remove one of the three homes which were located in this block of Essex Avenue, which includes the home on the subject property. The residence which was removed as a result of the construction of the freeway was located on the lot just 48' north of the subject property.

There have been several variances granted during the past two years in the immediate neighborhood dealing with non-residential uses of various properties.

The Petitioners plan to utilize the re-classification for the operation of a beauty parlor for the residence of the community.

Respectfully submitted,

Paul J. Feeley
Attorney for Petitioners

LAW OFFICE
PAUL J. FEELEY
200 COVINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 284-1004

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 154 Date of Posting: 3-6-75
Posted for: Henry M. Muehl 1475 R. 11th Rd.
Petitioner: Henry M. Muehl
Location of property: 202 North Essex Ave. & Franklin Ave.
Location of Signs: 2 Signs Posted 1 on Essex Ave. 1 on Franklin Ave.
Remarks: Muehl H. Muehl
Posted by: Muehl H. Muehl Date of return: 3-12-75

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 154 Date of Posting: 4/24/75
Posted for: Henry M. Muehl
Petitioner: Henry M. Muehl
Location of property: 202 North Essex Ave. & Franklin Ave.
Location of Signs: 1 Sign Posted 24 Franklin Ave.
Remarks: Muehl H. Muehl
Posted by: Muehl H. Muehl Date of return: 5/1/75

RE: PETITION FOR RECLASSIFICATION FROM D.R. 5.5 to B.L. zone NW corner of Essex and Franklin Avenues, 15th District

BEFORE: COUNTY BOARD OF APPEALS

OF: BALTIMORE COUNTY

No. 75-222-R

OPINION

This case comes before the Board on an appeal by the People's Counsel from an Order of the Zoning Commissioner, dated March 27, 1975, granting a reclassification from D.R. 5.5 to a B.L. zone.

The subject property is located on the northwest corner of Essex and Franklin Avenues, in the 15th Election District.

Testimony on behalf of the Petitioner portrayed to this Board the fact that the Petitioner had owned the subject property for twenty years, and for the last nine years had rented to the same tenant. It was indicated that the houses to the north were moved in order to construct the new existing Expressway, which is approximately fifty feet from the subject property. Additionally, the construction of the Expressway is substantially above the topography of the subject property, creating a gulley-like situation. This additionally compounded the close proximity of various commercial uses to the west, and in particular the "Pleasure Club", which is adjacent to the subject property, and is apparently an around the clock operation.

The opposition to this petition was led by Norman E. Gerber, the Acting Director of Planning, who recommended retention of the existing zoning. Other neighborhood witnesses indicated their objection to additional traffic, related parking problems, extension of the commercial zoning, and the lack of need for additional commercial zoning.

Without reviewing the evidence further in detail, but based upon all of the evidence presented, the Board is of the opinion that there has been a substantial change in the character of the neighborhood, and therefore the requested petition should be granted.

Kevin Lynch, et ux - No. 75-222-R

However, since the hearing of the case, the County Council has adopted the new comprehensive zoning maps, which retains the existing zoning and in effect renders the Opinion of this Board moot.

ORDER

For the reasons set forth in the foregoing Opinion, the County Board of Appeals, this 7th day of January, 1977, is compelled to deny the requested reclassification.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert L. Gillard, Vice Chairman

John A. Miller

William T. Hackett

RE: PETITION FOR RECLASSIFICATION FROM D.R. 5.5 to B.L. zone Northwest corner of Essex Avenue and Franklin Avenue, 15th District

BEFORE THE: ZONING COMMISSIONER

FOR: BALTIMORE COUNTY

No. 75-222-R (Item No. 31)

ORDER FOR APPEAL

Mr. Commissioner:

Please note an Appeal from your decision in the case of Kevin and Mary P. Lynch to the County Board of Appeals and forward all papers in connection therewith to said Board for hearing.



JOHN W. HESSIAN, III
People's Counsel

CHARLES E. KOUNTZ, JR.
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-3212

I HEREBY CERTIFY That a copy of the foregoing Order for Appeal was mailed this 24th day of April, 1975 to Paul J. Feeley, Esquire, 209 Courtland Avenue, Towson, Maryland 21204, Attorney for Petitioner.

JOHN W. HESSIAN, III

RE: PETITION FOR RECLASSIFICATION FROM D.R. 5.5 to B.L. zone Northwest corner of Essex Avenue and Franklin Avenue, 15th District

BEFORE THE: ZONING COMMISSIONER

FOR: BALTIMORE COUNTY

No. 75-222-R

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 22.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

Charles E. Kountz, Jr.
Deputy People's Counsel

JOHN W. HESSIAN, III
People's Counsel
County Office Building
Towson, Maryland 21204
494-3212

I HEREBY CERTIFY That a copy of the foregoing Order was mailed this 24th day of March, 1975 to Paul J. Feeley, Esquire, 209 Courtland Avenue, Towson, Maryland 21204, Attorney for Petitioner.

JOHN W. HESSIAN, III



I WILL NOT ATTEND.



BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received * this 30 day of Sept 1975. Item #

Eric O'Hanna,
Zoning Commissioner

Petitioner Kevin + Mary Lynch Submitted by MR. FEELEY
Petitioner's Attorney MR. FEELEY Reviewed by NBC

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

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <u>NBC</u>			Revised Plans: Change in outline or description: Yes _____ No _____							
Previous case:			Map # _____							

PETITION FOR RECLASSIFICATION FROM D.R. 5.5 to B.L. zone. LOCATION: Northwest corner of Essex Avenue and Franklin Avenue. DATE & TIME: MONDAY, MARCH 24, 1975 at 11:00 A.M. PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Md. The Zoning Commissioner of Baltimore County, by authority of the Board of Appeals and the Board of Zoning Appeals, will hold a public hearing. Petition Dated: 7/9/75. Proposed Zoning: B.L. All that parcel of land in the Fifteenth District of Baltimore County beginning for the same at a point located by the north side of Franklin Ave. (50' wide) with the west side of Essex Avenue (50' wide) running thence and ending on the west side of Essex Avenue at a 64' x 64' corner leaving the west side of Essex Avenue 180' W. 140' to the east side of an alley 130' wide running thence and ending on the north side of Franklin Avenue running thence and ending on the north side of Franklin Avenue 140' to the place of beginning. Containing 18 Acres of land more or less. Being the property of Kevin and Mary P. Lynch, as shown on plat plan filed with the Zoning Department.

HEARING DATE: Monday, March 24, 1975 at 11:00 A.M. Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Md.

BY ORDER OF: S. ERIC O'HANNA, ZONING COMMISSIONER OF BALTIMORE COUNTY Mar. 6, 1975 (381)

CERTIFICATE OF PUBLICATION

OFFICE OF

Essex Times

800 Eastern Blvd
Essex, Md. 21221

March 6 1975

THIS IS TO CERTIFY, that the annexed advertisement of PETITION - NORTHWEST CORNER OF ESSEX AVENUE was inserted in **ESSEX TIMES** a weekly newspaper published in Baltimore County, Maryland, once a week for one successive weeks before the 24th. day of March 1975; that is to say, the same was inserted in the issues of March 6, 1975

Stromberg Publications, Inc.

Publisher.

By A. Carron

CERTIFICATE OF PUBLICATION

TOWSON, MD. March 6, 1975

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 a week for one successive weeks before the 24th day of March 1975, the first publication appearing on the 6th day of March 1975.

THE JEFFERSONIAN

Cost of Advertisement, \$.....

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

No. 17148

DATE Nov. 20, 1974 ACCOUNT 01-662

AMOUNT \$20.00

DISTRIBUTION
 WHITE - CASHIER
 Paul J. Feeley, Esq.
 209 Courtland Ave.
 Baltimore, Md. 21204
 Petition for Reclassification for Kevin Lynch
 289.6 0.00 21 500 CMC

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

No. 17964

DATE March 21, 1975 ACCOUNT 01-662

AMOUNT \$131.03

DISTRIBUTION
 WHITE - CASHIER
 Paul J. Feeley, Esq.
 209 Courtland Ave.
 Towson, Md. 21204
 Advertising and posting of property for Kevin Lynch
 175-1222-2 0.50 24 13103 MC

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

No. 20204

DATE April 17, 1975 ACCOUNT 01-662

AMOUNT \$75.00

DISTRIBUTION
 WHITE - CASHIER
 John W. Hessian, III, Esquire
 Cost of Filing of an Appeal and Posting of Property on
 Case No. 75-222-R (Item No. 31)
 NW Corner of Essex Avenue and Franklin Avenue - 15th
 Election District
 Kevin Lynch, et ux - Petitioners

