

IN THE MATTER OF THE APPLICATION OF FRANK V. PERSEGHIN FOR A SPECIAL HEARING OF PROPERTY LOCATED ON THE SOUTH SIDE OF BALTIMORE AVENUE, 265 WEST OF THE CENTERLINE OF WILLOW SPRING ROAD (223 BALTIMORE AVENUE) 12TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MILTON KARCEWSKI, PETITIONER (FORMERLY FRANK C. PERSEGHIN, PERSONAL REPRESENTATIVE OF THE ESTATE OF NAPOLEON PERSEGHIN) CASE NO. 89-408-SPH

OPINION

This is an appeal from the decision of the Deputy Zoning Commissioner dated August 2, 1989 wherein a request for approval of a nonconforming use of two, two-apartment dwellings on the subject property was denied in part and granted in part. At the zoning hearing, the Petitioner was Frank V. Perseghin, Personal Representative of the Estate of Napoleon Perseghin. The appeal to this Board was filed by the Petitioner and during its pendency, the subject property was sold to Mr. Milton Karczewski. This Board has received correspondence from Counsel for Mr. Perseghin and also Counsel for the Estate, advising that Mr. Karczewski is the present property owner. The Board accepts Mr. Karczewski as present Petitioner in these proceedings.

A hearing was held before this Board on March 2, 1990. Testimony was given by the Petitioner in proper person and by Maurice H. Hedges, President of St. Helena Improvement Association. Neither party was represented by Counsel. Previous Counsel for the original Petitioner struck his appearance in these proceedings by letter to the Board dated October 10, 1989.

The subject property is located on the south side of Baltimore Avenue, west of Willow Spring Road and is designated as 223 Baltimore Avenue in the Dundalk area of Baltimore County, Maryland. It is zoned D.R.5.5 and is improved by two dwellings, one on the front of the property and the other in the rear. Each of the dwelling contains two apartments. Both dwellings were built by the original owner, Napoleon Perseghin, prior to the adoption of Zoning Regulations by this County in 1945. The front dwelling was built in 1926, the rear dwelling in 1931.

Frank V. Perseghin Case No. 89-408-SPH

Mr. Karczewski testified that he purchased the property from the Estate of Napoleon Perseghin in 1989 following the decision of the Deputy Zoning Commissioner wherein the front dwelling was granted a nonconforming use and the rear dwelling was denied. He informed the Board that he was familiar with the property for several years prior to the purchase and was aware of the Deputy Zoning Commissioner's decision of August 2, 1989 at the time he settled on the property. His testimony before the Board repeated those factual findings contained in the decision of the Deputy Zoning Commissioner. He was aware that the rear two-apartment dwelling had been occupied and used continually until approximately 1982 when Napoleon Perseghin, then owner, ceased renting it out, apparently because of his age, health and the tenants taking advantage of him. Testimony further indicated that the rear dwelling unit has been vacant since Mr. Perseghin's death in 1985 and is presently boarded up. Photographs were offered into evidence which clearly indicate the present non-use of the rear dwelling.

As to the front two-apartment dwelling, Mr. Karczewski stated that it has been continuously occupied and used as an apartment dwelling unit. The downstairs apartment was occupied by Mr. Perseghin until his death in 1985 and was thereafter rented out by his children until it was sold to Mr. Karczewski. The upstairs apartment was continuously rented to a single individual and is presently occupied.

Mr. Maurice Hedges, President of St. Helena Improvement Association testified at the hearing. His concerns were directed more towards the condition of the property than to the issue of nonconforming use requested by Mr. Karczewski. He was pleased to see that the property had been sold and was hopeful that it would be improved and renovated for the benefit of the entire community. His testimony supported the testimony of the Petitioner concerning the continual use and occupancy of the front dwelling and the non-use of the rear dwelling.

Frank V. Perseghin Case No. 89-408-SPH

It is clear from the testimony presented that the dwelling on the front portion of the property has been continuously occupied and used without discontinuation and that a nonconforming use should be granted. The dwelling on the rear portion of the property has not, however, been occupied continuously as an apartment dwelling. Testimony established that the elder Mr. Perseghin stopped renting the rear dwelling sometime in 1982 and that since then, the dwelling has remained vacant and is presently boarded up. Under these factual circumstances, the Board finds that the nonconforming use of the rear apartment dwelling has been abandoned and discontinued and that the right of nonconforming use is terminated pursuant to Section 104.1 of the Baltimore County Zoning Regulations (BCZR). This Section is controlling in these proceedings and reads as follows:

"A nonconforming use (as defined in Section 101 may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (BCZR, 1955; Bill No. 18, 1976)"

Accordingly, the request for a nonconforming use for the rear apartment dwelling must be denied. Petitioner is advised that the effect of this Board's Opinion is that the rear apartment dwelling on the property is not in conformance with the present Zoning Regulations of Baltimore County and, as such, is subject to the issuance of a zoning violation by the property County authorities. Petitioner may desire to explore the feasibility of subdividing the property into two separate lots to permit a single family dwelling, pursuant to Section 1802.3C1 BCZR, or convert the rear building to an accessory building.

Frank V. Perseghin Case No. 89-408-SPH

ORDER

For the reasons stated above, it is this 15th day of March, 1990, by the County Board of Appeals of Baltimore County, ORDERED that the Petition for Special Hearing to approve a nonconforming use of the two-apartment dwelling located on the front portion of the subject property is GRANTED, and the request to approve the nonconforming use of the two-apartment dwelling located on the rear portion of the subject property is DENIED.

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

William T. Hackett, Chairman
Lawrence E. Schmidt
Michael B. Soper

IN RE: PETITION FOR SPECIAL HEARING OF S/S Baltimore Avenue, 265 West of the C/L of Willow Spring Rd. (223 Baltimore Avenue) 12th Election District 7th Councilmanic District

BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

Frank V. Perseghin Petitioner Case No. 89-408-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the nonconforming use of two, two-apartment dwellings on the subject property, as more particularly described in Petitioner's Exhibit 1.

The Petitioner, Frank V. Perseghin, Personal Representative of his father's estate, owner of the subject property, appeared, testified, and was represented by Newton A. Williams, Esquire. Also appearing on behalf of the Petition was Joseph A. Perseghin, Petitioner's brother; Frances Mae Zivkovich, Petitioner's daughter; and Richard A. Matthal. Maurice H. Hedges, President, St. Helena Improvement Association, did not appear but submitted a letter with pictures for inclusion in the case file as an interested party. There were no Protestants.

Testimony indicated that the subject property, known as 223 Baltimore Avenue, consists of 12,000 sq.ft. zoned D.R. 5.5, and is improved with two dwellings as depicted on Petitioner's Exhibit 1. Testimony presented indicated that the dwelling on the front of the property, designated as a one and one-half story stucco building, was built in 1926. The home to the rear of the property was built in 1931. Both properties were developed by Petitioner's father. Testimony indicated that the rear dwelling was constructed as a two apartment dwelling which was occupied continuously and without interruption as such until approximately

1982. At that time, the property was vacant and has remained vacant to this date. Testimony indicated that Petitioner's father, who passed away in 1985 at 98 years of age, lived in the dwelling on the front portion of the property prior to his death. The elder Mr. Perseghin ceased renting the rear two-apartment dwelling in 1982 at the urging of his family due to the fact that the tenants were taking advantage of him.

Testimony indicated the dwelling on the front of the property was continuously occupied and used as a two-apartment dwelling until the death of the elder Mr. Perseghin in 1985. The downstairs was occupied by Mr. Perseghin with the upstairs apartment rented out for over 20 years to the same individual. After the death of Mr. Perseghin, his children fixed up his apartment and rented it out continuously until they decided to renovate for purposes of selling the property.

On behalf of the St. Helena Improvement Association, Mr. Hedges, by letter dated April 12, 1989, expressed concerns regarding the condition of the subject property. However, no evidence was presented by the Association regarding the validity or non-validity of the nonconforming use requested by Petitioner.

Zoning came officially to Baltimore County on January 2, 1945, when, pursuant to previous authorization by the General Assembly, the County Commissioners adopted a comprehensive set of zoning regulations.

The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Maryland, 1939, ch. 715). At the next biennial session of the General Assembly, this authorization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations

(Laws of Md., 1943, ch. 877). The first regulations were adopted and took effect on January 2, 1945. See *Kehl v. Cons. Gas Elec. Light, and Pwr. Co.*, 191 Md. 249, 254, 60 A.2d 754 (1948); *Calhoun v. County Board of Appeals*, 262 Md. 265, 277 A.2d 589 (1971).

Section II of those regulations created seven zones, four being residential, one commercial, and two industrial. See *McKemy v. Baltimore County, Md.*, 39 Md. App. 257, 385 A.2d 96 (1978).

Those original regulations provided for nonconforming uses. The statute read as follows:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such nonconforming use to a conforming use, or any attempt to change from such nonconforming use to a different nonconforming use or any discontinuance of such nonconforming use for a period of one year, or in case a nonconforming structure shall be damaged by fire or otherwise to the extent of seventy-five (75%) percent of its value, the right to continue to resume such nonconforming use shall terminate, provided, however, that any such lawful nonconforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original nonconforming use." Section XI, 1945, B.C.Z.R.

Baltimore County adopted a new set of comprehensive zoning regulations on March 30, 1955. The issue of nonconforming uses are dealt with in Section 104 of those regulations. The Section then read:

"104.1 - A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel

or land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

Section 104.1 was changed to its current language on March 15, 1976 by Bill No. 18-76. The current effective regulation reads as follows:

"A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (B.C.Z.R., 1955; Bill No. 18, 1976)"

On August 4, 1980, the current language found in Section 104.2 was added to the B.C.Z.R. by Bill No. 167-80. This regulation placed an exception upon the general nonconforming rule for Special Exception office buildings. Said provision is applicable to the factual situation at hand.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

It is clear from the testimony and evidence presented that the two, two apartment dwellings existed on the property prior to the zoning regulations taking effect in January, 1945.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property and/or a discontinuation of use. A determination must be made as to whether or not the change is a different use, and therefore, breaks the

ORDER RECEIVED FOR FILING Date 3/15/90 By Robert J. Schuman

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ORDER RECEIVED FOR FILING Date 3/15/90 By Robert J. Schuman

continued nature of the non-conforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered non-conforming. See *McKemy v. Baltimore County, Md.*, 39 Md. App. 257, 385 A2d. 96 (1978).

The testimony and evidence presented clearly showed there was no change in use of the two dwellings as two, two-apartment dwelling units until 1982, at which time the dwelling to the rear of the subject property was vacated and has since remained vacant. It is equally clear that the dwelling on the front portion of the property has been continuously used as a two apartment dwelling.

After due consideration of the testimony and evidence presented, it is clear that the dwelling on the front portion of the property has been occupied continuously and without interruption as a two-apartment dwelling, and as such, a nonconforming use should be granted. It is equally clear, however, that the dwelling to the rear of the property has not been occupied continuously and uninterruptedly since approximately 1982, and therefore, must be denied. The intent of the nonconforming statute is to, at some point in time, terminate, or expire the nonconforming use so that the property can be brought into conformance with the current zoning regulations. Petitioners may have an avenue to continue using the rear dwelling on the subject property as a single family dwelling by pursuing the feasibility of subdividing the property into two lots, pursuant to Section 1802.3.C1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and/or convert the rear building to an accessory building.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the

relief requested in the Petition for Special Hearing should be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 22nd day of August, 1989 that the Petition for Special Hearing to approve the nonconforming use of the two-apartment dwelling on the front portion of the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a nonconforming use of the two apartment dwelling on the rear portion of the property, as depicted in Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that Petitioners shall pursue one of the following three alternatives regarding the rear dwelling within ninety (90) days of the date of this Order:

- 1) Have the structure removed;
- 2) File a Petition for Special Hearing to approve a resubdivision of the subject property and use same as two separate single family dwellings, if compliance with all zoning regulations cannot be met without seeking variances;
- 3) File a Petition for Special Hearing to permit the use of the rear property as an accessory structure, requesting the necessary variances.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-408-SPH

The undersigned, 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 Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the existing dwellings, which contain 4 apartments (2 in each dwelling) as a legal nonconforming use (s)

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

I, or we, agree to pay expenses of the 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.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: _____
(Type or Print Name)

Signature: _____
(Type or Print Name)

Address: _____
City and State: _____

Attorney for Petitioner:
Nolan, Plimhoff & Williams, Chartered
Nolan, Plimhoff & Williams, Chartered
Suite 1105, Hampton Plaza
300 Joppa Road
Towson, Maryland 21204
City and State: _____
Attorney's Telephone No.: 823-7800

Legal Owner(s):
Mr. Frank V. Perseghin PARE PET
(Type or Print Name)
Signature: _____
(Type or Print Name)

Address: 1908 Midland Road
City and State: Baltimore, Maryland 21222

Name, address and phone number of legal owner, contract purchaser or representative to be contacted: _____
Address: _____
Phone No.: _____

ORDERED By The Zoning Commissioner of Baltimore County, this 22nd day of August, 1989, 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 108, County Office Building in Towson, Baltimore County, on the 14th day of April, 1989, at 2:00 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

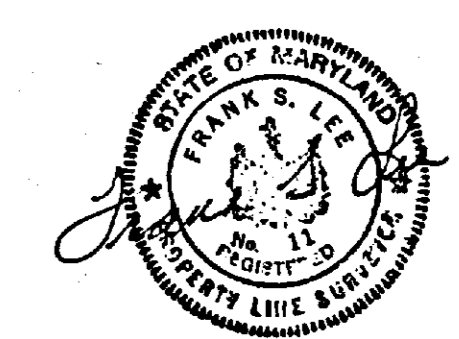
FRANK S. LEE
Registered Land Surveyor
1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

December 16, 1988

No. 223 Baltimore Avenue
Lots 286, 287, 288 and 289, St. Helena, 1/80
12th District Baltimore County, Maryland

Beginning for the same on the south side of Baltimore Avenue at the distance of 250 feet measured westerly along the south side of Baltimore Avenue from the west side of Willow Spring Road, and being known as lots 286, 287, 288 and 289 plat of St. Helena, said plat being recorded among the land records of Baltimore County in Plat Book 1 folio 80.

Containing 12,000 square feet of land more or less.



ORDER RECEIVED FOR FILING
Date 8/22/89
By [Signature]

ORDER RECEIVED FOR FILING
Date 8/22/89
By [Signature]

ORDER RECEIVED FOR FILING
Date 8/22/89
By [Signature]

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 12th
Date of Posting: 9/12/89
Case No.: 89-408-SPH

Posted for: Appeal
Petitioner: Frank V. Perseghin
Location of property: 415 Baltimore Ave., 245' W/ Willow Spring Rd.
223 Baltimore Ave.
Location of Sign: Facing Baltimore Ave., approx. 15' E. Woodway
Property of P.S. Haines

Number of Signs: 1

August 31, 1989

HAND DELIVERED
The Honorable Ann M. Nastarowicz, Esquire
Deputy Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Commissioner Nastarowicz:

RE: Appeal of Petition for Special Hearing
in the Perseghin Case, 223 Baltimore Avenue
Case No.: 89-408-SPH

Please enter an Appeal herein from each and every part of your Findings of Fact and Conclusions of Law dated August 2, 1989 in this case, to the County Board of Appeals.

Our attorney's check in the amount of One Hundred Twenty-Five Dollars (\$125.00) is enclosed to cover this Appeal.

It will be appreciated if you and your staff will immediately notify us if there is anything further that needs to be done to perfect this Appeal.

Sincerely yours,
Frank B. Perseghin
Personal Representative of the
Estate of Napoleon Perseghin

cc: Baltimore County Board of Appeals
People's Counsel
Mr. Maurice H. Hedges, President
St. Helena Improvement Association
Nolan, Plimhoff & Williams, Chartered
Bayard T. Williams, Esquire

P.S. - A second Twenty-Five Dollar (\$25.00) check to cover the cost of the new Board appeal sign is enclosed.

CERTIFICATE OF PUBLICATION
OFFICE OF
Dundalk Eagle

4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222
March 23, 1989

THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hrgs. - Case 89-408-SPH - P.O. #10842 - REQ. #M27093 - 86 lines was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for one week before the 24th day of March 1989; that is to say, the same was inserted in the issues of March 23, 1989

Kimbel Publication, Inc.
per Publisher.
By K.C. Dike

HAND DELIVERED
The Honorable Ann M. Nastarowicz, Esquire
Deputy Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Commissioner Nastarowicz:

RE: Appeal of Petition for Special Hearing
in the Perseghin Case, 223 Baltimore Avenue
Case No.: 89-408-SPH

Please enter an Appeal herein from each and every part of your Findings of Fact and Conclusions of Law dated August 2, 1989 in this case, to the County Board of Appeals.

Our attorney's check in the amount of One Hundred Twenty-Five Dollars (\$125.00) is enclosed to cover this Appeal.

It will be appreciated if you and your staff will immediately notify us if there is anything further that needs to be done to perfect this Appeal.

Sincerely yours,
Frank B. Perseghin
Personal Representative of the
Estate of Napoleon Perseghin

CERTIFICATE OF PUBLICATION

TOWSON, MD. March 24, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on March 25, 1989.

THE JEFFERSONIAN

PO 10843
Co. Ma 7097
PAC 39.40

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 12th
Date of Posting: 9/23/89
Case No.: 89-408-SPH

Posted for: Special Hearing
Petitioner: Frank V. Perseghin
Location of property: 415 Baltimore Ave., 245' W/ Willow Spring Rd.
223 Baltimore Ave.
Location of Sign: Facing Baltimore Ave., approx. 15' E. Woodway
Property of P.S. Haines

Number of Signs: 1

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 077438
Date: 9-25-89
Account: R-01-CR-000
Amount: \$125.00
Received by: NOLAN, PLIMHOFF & WILLIAMS
Paid by: FRANK V. PERSEGHIN - PETITIONER
\$ 125.00 ***** 150001 ***** 0661F

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21284
(301) 887-3333

J. Robert Haines
Zoning Commissioner

August 2, 1989

Newton A. Williams, Esquire
Nolan, Plumbhoff & Williams
300 E. Joppa Road, Suite 1105
Townson, Maryland 21284

RE: PETITION FOR SPECIAL HEARING
S/3 Baltimore Avenue, 265' W of the c/l of Willow Spring Road
12th Election District - 7th Councilmanic District
Frank V. Perseghin - Petitioner
Case No. 89-408-SPH

Dear Mr. Williams:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in part and denied in part in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

J. Robert Haines

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjjs

cc: Mr. Maurice H. Hedges, President
St. Helena Improvement Association
210 Maple Avenue, Baltimore, Md. 21222

People's Counsel

File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21284
(301) 887-3333

J. Robert Haines
Zoning Commissioner

September 1, 1989

Newton A. Williams, Esquire
Nolan, Plumbhoff & Williams
Court Towers, Suite 700
210 West Pennsylvania Avenue
Townson, Maryland 21284

RE: Petition for Special Hearing
S/3 Baltimore Avenue, 265' W of the c/l of Willow Spring Road
12th Election District - 7th Councilmanic District
Frank V. Perseghin - Petitioner
Case No. 89-408-SPH

Dear Mr. Williams:

Pursuant to our telephone conversation on August 31, 1989, please be advised that there will be no modification of the Order issued in the above-referenced matter at this time as requested in your letter dated August 30, 1989. A discussion with Mr. Dyer of this office indicates that it has not been this office's practice to allow buildings which were found not to be nonconforming uses to continue in violation of the zoning regulations without a hearing. Practically, what may have occurred on a number of occasions, is that the matter was not pursued.

If you should have any further questions, please do not hesitate to contact me. Thank you for your assistance and cooperation in this matter.

Very truly yours,

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjjs

cc: James E. Dyer
Case File

NEWTON A. WILLIAMS
WILLIAM M. HERRICK, JR.
THOMAS J. BENNER
WILLIAM F. ENGLEHART, JR.
STEPHEN J. NOLAN
ROBERT L. HANLEY, JR.
ROBERT S. GUSMANOW
STEPHEN M. SCHENNING
DOUGLAS L. SURGES
ROBERT E. CAHILL, JR.
LOUIS G. CLOSE, III
THOMAS K. ALDERMAN
KEVA L. KOSTUN
*ALSO ADMITTED IN D.C.

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARLESTOWN
SUITE 700, COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
(301) 823-7800
TELEFAX (301) 296-2765

J. EARLE PLUMHOFF
BARRISTER
JAMES D. NOLAN
RETIRED, 1980
OF COUNSEL
RALPH E. DEITZ
9026 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 822-2121

August 30, 1989

RECEIVED
AUG 30 1989

ZONING OFFICE

HAND DELIVERED SAME DATE

The Honorable Ann M. Nastarowicz
Deputy Zoning Commissioner
County Office Building
Townson, Maryland 21204

Dear Commissioner Nastarowicz:

RE: Requested Partial Revision of Order
in the Perseghin Case-223 Baltimore Avenue
Case No.: 89-408-SPH

As you will recall, by several phone conversations with you, and with Mr. Dyer of your staff, we have respectfully taken issue with certain aspects of your Findings of Fact and Conclusions of Law and Order of August 2, 1989.

First of all, from talking with a former Zoning Commissioner, it is my understanding that in the past an interpretation has been made if the kitchens were not removed from apartments, even if they were vacant, thereby by mere vacancy they did not become nonconforming. However, if you are not persuaded by this argument, at the very least, we would respectfully ask that you modify your Order before the Appeal period expires at 4:30 p.m. on Friday, September 1, 1989, as to the requirement that the building must be torn down or variances sought to let it remain as an accessory building.

Once again we would respectfully submit, and I have asked Mr. Dyer for his experience, that even if, for the sake of argument, the apartment use has been lost, the building itself is also separately nonconforming, and we understand in the past the practice has been to allow such buildings to be used for any other lawful use without a hearing, treating the building location and set backs as nonconforming.

Commissioner Nastarowicz
Page Three
August 30, 1989

Thanking you and your staff for your continued interest in this very difficult matter, and ready to consult with you at any time before Friday, September 1st, I am-

Respectfully

Newton A. Williams
Newton A. Williams

NAW/psk

cc: Mr. James E. Dyer, Zoning Supervisor
Ms. Kate Milton
Zoning Commissioner's Office
Bayard T. Williams, Esquire
Mr. and Mrs. Frank B. Perseghin

NEWTON A. WILLIAMS
WILLIAM M. HERRICK, JR.
THOMAS J. BENNER
WILLIAM F. ENGLEHART, JR.
STEPHEN J. NOLAN
ROBERT L. HANLEY, JR.
ROBERT S. GUSMANOW
STEPHEN M. SCHENNING
DOUGLAS L. SURGES
ROBERT E. CAHILL, JR.
LOUIS G. CLOSE, III
THOMAS K. ALDERMAN
KEVA L. KOSTUN
*ALSO ADMITTED IN D.C.
*ADMITTED TO TEXAS BAR ONLY

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARLESTOWN
SUITE 1105, HAMPTON PLAZA
300 EAST JOPPA ROAD
TOWSON, MARYLAND 21204-3095
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TELEFAX (301) 296-2765

J. EARLE PLUMHOFF
BARRISTER
JAMES D. NOLAN
RETIRED, 1980
OF COUNSEL
RALPH E. DEITZ
9026 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 822-2121

May 3, 1989

The Honorable Ann Nastarowicz, Esquire
Deputy Zoning Commissioner
Zoning Commissioner's Office
County Office Building
Townson, Maryland 21204

Dear Commissioner Nastarowicz:

RE: The Perseghin Property
Cleveland Avenue, Petition for Special Hearing
Case No.: 89-408-SPH

First of all, on behalf of my clients, we would like to thank you for the very careful and thorough Hearing which was held on Friday, April 14, 1989.

As I told you during the course of the Hearing, I was somewhat surprised by some of the testimony, since I was not aware that the rear apartment building had been unrented for a period of some years, since the death of Napoleon Perseghin, and indeed before that.

However, I would like to point out the following, that Section 104.1 of the Zoning Regulations speaks in terms of an abandonment or discontinuance of such nonconforming use for a period of one (1) year or more, and I believe that abandonment or discontinuance must be judged on a case by case basis. In this case I would first of all point out that the rear building remained and remains today set up for two (2) separate apartments as it has always been since it was built in the early 1930's or late 1920's.

Secondly, while indeed it has been vacant, it has been vacant for a good reason, namely that the tenants had become a problem to the landlord, who was very advanced in years, and that the apartments have not been reconverted to a single dwelling or any other use.

Commissioner Nastarowicz
Page Two
May 3, 1989

If we were dealing with a single family dwelling, it is not at all unusual for a year or more, even several years at a time go unoccupied for a year or more, even several years at a time in special circumstances such as this one. Yet in the case of a single family dwelling no one would claim that the homeowner had abandoned or discontinued the use of the dwelling, but rather only that it had been suspended for a good reason.

In this case the use of the rear building had been at first suspended by the family due to the fact that the tenants were suspended by the family due to their aged father who was then in his taking advantage of their aged father who was then in his nineties. After his death, in recent years, there are things to do in connection with the estate, and I am sure that they had no intent whatsoever to either abandon or discontinue the use of the rear building, but rather the lack of tenants should be viewed as a suspension.

As I told you at the time of the Hearing, I had found several cases that were encouraging on this point, and I have sent for my Silber's file, and I am attempting to locate these cases. We would respectfully ask that you not rule on the rear building, until we have had an opportunity to explore this further.

Respectfully submitted,

Newton A. Williams
Newton A. Williams,
Attorney for Frank V. Perseghin,
et. al.

NAW/psk

cc: Mr. Frank V. Perseghin

Commissioner Nastarowicz
Page Two
August 30, 1989

Of course, the Perseghins or any purchaser's have the option of coming in and applying for variances to render the building conforming, and it is my understanding that the building according to the site plan sits two (2) feet off the rear property line (while as an accessory building it would be required to sit back six (6) inches further), and since the alley is only five (5) feet to the center, there is a seven (7) foot set back from the center rather than the required fifteen (15) feet.

Very frankly, unless Mr. Richards, Mr. Dyer or others with long experience can remember specific cases, I cannot give you specific case numbers, but I have been reliably told that this is the policy which has prevailed in the past.

Finally, I am reliably informed by a former Commissioner, that Judge Murphy has decided that in a voluntary Special Hearing Case, that the property owner cannot be required to tear down the building, which seems sensible. I am seeking further details as to the nature and citation of this case.

However, in closing, we would respectfully submit that it seems very sensible, and indeed, appropriate to treat the apartment use as a divisible use from the building itself as to set backs, etc.

Accordingly we would respectfully request that you modify your Findings of Fact and Conclusions of Law, to at the very least, allow the building to remain as a nonconforming use, and to be used for lawful purposes as an accessory structure. In this regard, you will recall that the proof in this case revealed that there is already a single car garage in the building, and the balance could be used for storage, garden supplies, and other appropriate storage uses for the two (2) apartments in the main structure.

As for the third alternative offered, the filing of a Petition for Special Hearing to approve a resubdivision, I would ask that you, and perhaps Kate Milton of your staff review it, since it appears that it would be very difficult to meet the various width, area and set back requirements to subdivide this lot into two (2) separate, two (2) family dwellings.

Case # 89-408 SPH
Item # 323

The petitioner requests a special hearing to establish the non-conforming use for two dwellings on the parcel of land each containing two apartments. In reference to this request, staff provides the following comments:

Current Planning:

If the use is found to be non-conforming, a condition should be included in the Commissioner's decision indicating that no additional development may occur on lots 286 to 289. Additional landscaping is desirable.

Area Planner:

NO COMMENT

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21284
494-3333

J. Robert Haines
Zoning Commissioner

Date: 4-3-89

Mr. Frank V. Perseghin
1908 Midland Road
Baltimore, Maryland 21222

RE: Petition for Special Hearing
CASE NUMBER: 89-408-SPH
S/3 Baltimore Avenue,
223 Baltimore Avenue
12th Election District - 7th Councilmanic
12th Election District - 7th Councilmanic
Petitioner(s): Frank V. Perseghin
HEARING SCHEDULED: FRIDAY, APRIL 14, 1989 at 2:45 p.m.

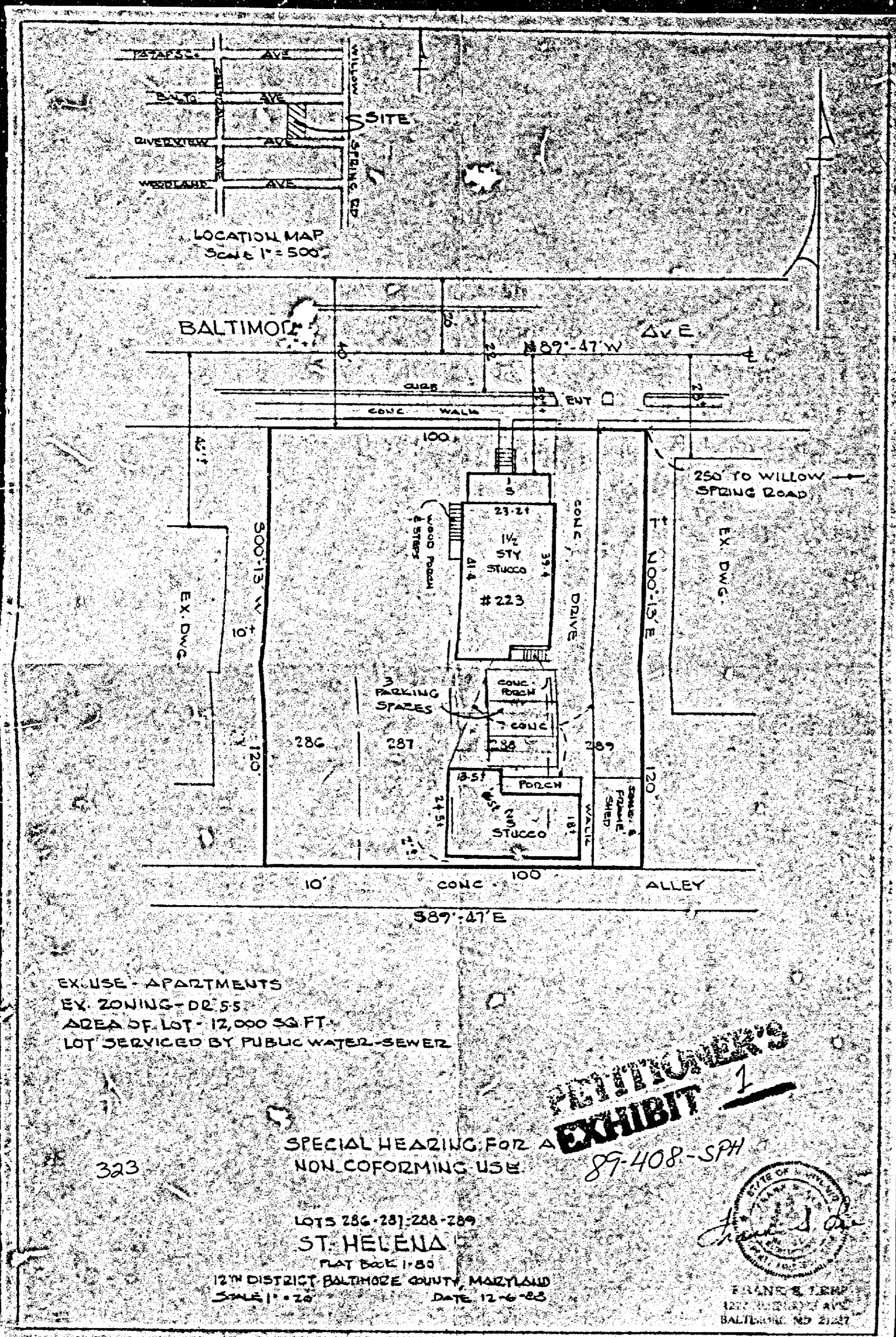
Dear Mr. Perseghin:

Please be advised that \$97.46 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Townson, Maryland 21284 fifteen (15) minutes before the hearing.

BALTIMORE COUNTY, MARYLAND No. 067611
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE: 4/14/89 ACCOUNT: R-01615-000
AMOUNT: \$97.46
RECEIVED FROM: Perseghin



Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Town, Maryland 21204
494-3233

J. Robert Haines
Zoning Commissioner

March 7, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
CASE NUMBER: 89-408-SPH
5/5 Baltimore Avenue, 265' W of Willow Spring Road
223 Baltimore Avenue
12th Election District - 7th Councilmanic District
12th Election District - 7th Councilmanic District
Petitioner(s): Frank V. Perseggin
HEARING SCHEDULED: FRIDAY, MARCH 14, 1989 2:45 p.m.

Special Hearings Approval of the existing dwellings, which contain 4 apartments (2 in each dwelling) as a legal nonconforming use(s).

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
Zoning Commissioner of Baltimore County

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 204-3180
October 9, 1989

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 21(a). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 21(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-408-SPH FRANK V. PERSEGGIN
5/5 Baltimore Avenue, 265' W of the c/l of Willow Spring Road (223 Baltimore Avenue)
12th Election District
7th Councilmanic District
SPH - nonconforming use - 2 apartment dwellings
8/2/89 - D.Z.C.'s Order GRANTING front portion DENYING rear portion

ASSIGNED FOR: FRIDAY, MARCH 2, 1990 AT 1:00 P.M.

cc: Mr. Frank V. Perseggin Appellant
Maurice H. Hedges, Pres.
St. Helena Improvement Assoc.
Newton A. Williams, Esquire Counsel for the Appellant
Mr. Joseph A. Perseggin
Frances Mae Zikovich
Mr. Richard A. Matthal
People's Council for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann W. Mastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LindaLee M. Kuzsalski
Legal Secretary

*withdrew appearance 10/20/89
(to stay on cc. for info. only)*

out per Shirley Hines 10/19/89



St. Helena Improvement Association
210 MAPLE AVENUE
DUNDALK, MARYLAND 21222

RECEIVED
APR 13 1989

Baltimore County
Office of Zoning Hearings
ATTN: Commissioner J. Robert Haines
Towson, Maryland 21204

ZONING OFFICE

Dear Sirs:

Let me thank you in advance for accepting this statement in my absence in reference to the request for zoning 89-408-SPH, 223 Baltimore Ave. Also for your consideration are included pictures depicting the said property. Please Note: Unfortunately these were taken on a cloudy day! Just last week and they provide an outline of the condition of the property.

As President of this Community Association, this property is part of the deplorable condition along the 200 Block of Baltimore Ave. an area of which this Organization has had many meetings about and at the same time has had several articles in our local newspaper, The Dundalk Eagle.

If you were to consider approving the request and grant permission for (1) four apartments within these two buildings, this Association does hope that you will also consider the following points of ultimate concern:

May we suggest that a thorough inspection by County Building Inspectors, Sanitation, Health Departments along with Fire Inspectors that this property meets all required County Building Codes, before access is permitted to move in.

This Association has and always will be concerned with the Social and Health Environment of the Community. In the past, any and all County Agencies have given us full cooperation, whenever a call was made. We Community is optimum perfect, but if we can all strive to reach for such a goal, then one day we can say that, we are almost there, then the residents will live, we hope in harmony.

May I point out that most of the homes within this community go head to head after the turn of the century, and now to bring these living quarters up to date, it takes a lot of useful consideration on the part of the property owners, some of which are unfortunately not shared with the improve- ments, but for those that desire to make gains on such endeavors, it should be understood that these property investments, must meet or exceed present day standards. It is our duty as leaders within a community to see that all live in BALTIMORE.

In conclusion, may I encourage that your decision, will be in motion a property that is an improvement and a compliment to our community.

Respectfully I remain,
Dundalk Eagle
President

256 St. Helena Ave.
Dundalk, MD 21222
284-0355

cc: Councilman Hon. Dale T. Vels

ATTEND THE ST. HELENA IMPROVEMENT ASSOCIATION MEETING MAY 28, 1985

Location:
St. Timothy's
Evangelical Lutheran Church
(In the School Building, Second Floor)
Willow Spring Road & Dundalk Avenue

Time: 7:30 P.M.

Guest Speaker
Mr. William Beans
Housing Rehabilitation Coordinator for Baltimore County

Learn important information about:
Maryland Laws on Home Improvements
and
Precautions on Signing Contracts!

Always Look For This and Additional Activities in the Dundalk Eagle



Baltimore County
Office of County Board of Appeals
Towson, Maryland 21204

March 2, 1990

Dear Sirs:

Enclosed are additional photos, (unfortunately not professional) for your acceptance in consideration of the building under appeal, rear of 223 Baltimore Ave. #89-408-SPH.

On behalf of the community, I feel that it is imperative that I take an interest in the well being of each resident. That their living environment is a safe sound dwelling.

I choose not to repeat many of the points of which were stated in my letter of April 12, 1989, that would be redundant, however this community continues to show improvements and as each resident puts forth their earnest energy and personal finances, I feel that some day we may be near a model type of a community.

Taking this opportunity to thank you in advance for your very kind consideration and sound judgment in this case, I remain:

Respectfully,
Maurice H. Hedges
President
St. Helena Imp. Assn

256 St. Helena Ave.
Dundalk, MD 21222
284-0355

cc: Councilman Hon. Dale T. Vels

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 21, 1989

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 21284

Newton A. Williams, Esquire Suite 1105, Hampton Plaza 300 East Joppa Road Towson, MD 21204

RE: Item No. 323, Case No. 89-408-SPH Petitioner: Frank V. Perseghin Petition for Special Hearing

Dear Mr. Williams:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following 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.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINTARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours, James E. Dyer, Chairman, Zoning Plans Advisory Committee

cc: Mr. Frank V. Perseghin 1908 Midland Road Baltimore, MD 21222

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this 8th day of February, 1989.

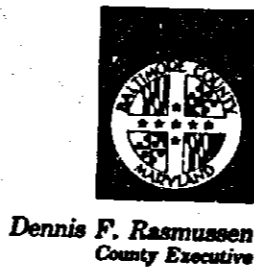
J. Robert Haines, Zoning Commissioner

Petitioner: Frank V. Perseghin Received by: James T. Dyer, Chairman, Zoning Plans Advisory Committee

Baltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204 494-3554

March 1, 1989

Mr. J. Robert Haines, Zoning Commissioner, County Office Building, Towson, MD 21204



Dear Mr. Haines, The Bureau of Traffic Engineering has no comments for items number 290, 297, 298, 309, 310, 311, 315, 317, 319, 320, 321, & 322.

Very truly yours, Michael S. Flanigan, Traffic Engineer Assoc. II

MSF/lab

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500

February 14, 1989

J. Robert Haines, Zoning Commissioner, Office of Planning & Zoning, Baltimore County Office Building, Towson, Maryland 21204

Re: Property Owner: Frank V. Perseghin

Location: S/S of Baltimore Avenue, 265' W of the centerline of Willow Spring Road

Item No.: 323 Zoning Agenda Meeting of February 7, 1989

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 or 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 exceeds 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 operation.
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 "Life Safety Code," 1976 edition prior to occupancy.
6. Site plans are approved, as drawn.
7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] Planning/Group Special Inspection Division

/s/

County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 261-3180 October 9, 1989

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-408-SPH: FRANK V. PERSEGHIN S/S Baltimore Avenue, 265' W of the c/l of Willow Spring Road (223 Baltimore Avenue) 12th Election District 7th Councilmanic District

SPH - nonconforming use - 2 apartment dwellings 8/2/89 - D.Z.C.'s Order GRANTING front portion DENYING rear portion

ASSIGNED FOR: FRIDAY, MARCH 2, 1990 at 1:00 p.m.

- cc: Mr. Frank V. Perseghin Appellant
Maurice H. Hedges, Pres. St. Helena Improvement Assoc.
Newton A. Williams, Esquire Counsel for Petitioner/Appellant
Mr. Joseph A. Perseghin
Frances Mae Zivkovich
Mr. Richard A. Matthal
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr. - Zoning Docket Clerk - Zoning
Arnold Jablon, County Attorney
Linda Lee M. Kuzmaul Legal Secretary

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

Table with columns for NAME and ADDRESS. Includes signatures of Newton Williams, Joseph A. Perseghin, Frank V. Perseghin, Frances Mae Zivkovich, and Richard A. Matthal.

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS CHARTERED SUITE 700, COURT TOWERS 210 WEST PENNSYLVANIA AVE SUITE 400 TOWSON, MARYLAND 21204-5340

August 30, 1989 RECEIVED AUG 30 1989 ZONING OFFICE

The Honorable Ann M. Nastarowicz Deputy Zoning Commissioner County Office Building Towson, Maryland 21204

Dear Commissioner Nastarowicz: RE: Requested Partial Revision of Order in the Perseghin Case-223 Baltimore Avenue Case No.: 89-408-SPH FILE

As you will recall, by several phone conversations with you, and with Mr. Dyer of your staff, we have respectfully taken issue with certain aspects of your Findings of Fact and Conclusions of Law and Order of August 2, 1989. First of all, from talking with a former Zoning Commissioner, it is my understanding that in the past an interpretation has been made in the past that the building use has been lost, the building itself is also separately nonconforming.

Commissioner Nastarowicz Page Three August 30, 1989

Of course, the Perseghins or any purchaser's have the option of coming in and applying for variances to render the building conforming, and it is my understanding that the building according to the site plan sits two (2) feet off the rear property line (while as an accessory building it would be required to sit back six (6) inches further), and since the alley is only five (5) feet to the center, there is a seven (7) foot set back from the center rather than the required fifteen (15) feet.

Very frankly, unless Mr. Richards, Mr. Dyer or others with long experience can remember specific cases, I cannot give you specific case numbers, but I have been reliably told that this is the policy which has prevailed in the past.

Finally, I am reliably informed by a former Commissioner, that Judge Murphy has decided that in a voluntary Special Hearing Case, that the property owner cannot be required to tear down the building, which seems sensible. I am seeking further details as to the nature and citation of this case.

However, in closing, we would respectfully submit that it seems very sensible, and indeed, appropriate to limit the apartment use as a divisible use from the building itself as to set backs, etc.

Accordingly we would respectfully request that you modify your Findings of Fact and Conclusions of Law, to at the very least, allow the building to remain as a nonconforming use, and to be used for lawful purposes as an accessory structure. In this regard, you will recall that the proof in this case revealed that there is already a single car garage in the building, and the balance could be used for storage, garden supplies, and other appropriate storage uses for the two (2) apartments in the main structure.

As for the third alternative offered, the filing of a Petition for Special Hearing to approve a resubdivision, I would ask that you, and perhaps Kate Milton of your staff review it, since it appears that it would be very difficult to meet the various width area and set back requirements to subdivide this lot into two (2) separate, two (2) family dwellings.

Commissioner Nastarowicz Page Three August 30, 1989

Thanking you and your staff for your continued interest in this very difficult matter, and ready to consult with you at any time before Friday, September 1st, I am-

Respectfully Newton A. Williams, Newton A. Williams

NAM/psk cc: Mr. James E. Dyer, Zoning Supervisor Ms. Kate Milton, Zoning Commissioner's Office Bayard T. Williams, Esquire Mr. and Mrs. Frank B. Perseghin

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

September 7, 1989



Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

Dennis F. Rasmussen
County Executive

RE: Petition for Special Hearing
S/S Baltimore Avenue, 265' W of the c/l of Willow Spring Road
(223 Baltimore Avenue)
12th Election District, 7th Councilmanic District
FRANK V. PERSEGHIN - Petitioner
Case No. 89-408-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on September 1, 1989 by Frank V. Perseghin, Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,
J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Frank V. Perseghin, 1908 Midland Road, Baltimore, MD 21222

Maurice H. Hedges, President - St. Helena Improvement Association
210 Maple Avenue, Dundalk, MD 21222

Newton A. Williams - Nolan, Plumhoff & Williams, Suite 1105
300 East Joppa Road, Towson, Maryland 21204

Joseph A. Perseghin, 8300 Bear Creek Drive, Baltimore, MD 21222

Frances Mae Zivkovich, 829 Middlesex Road, Baltimore, MD 21221

Richard A. Matthai, 1907 Robinwood Road, Baltimore, MD 21222

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

HAND DELIVERED

The Honorable Ann M. Nastarowicz, Esquire
Deputy Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Commissioner Nastarowicz:

RE: Appeal of Petition for Special Hearing
in the Perseghin Case, 223 Baltimore Avenue
Case No.: 89-408-SPH

Please enter an appeal herein from each and every part of your Findings of Fact and Conclusions of Law dated August 2, 1989 in this case, to the County Board of Appeals.

Our attorney's check in the amount of One Hundred Twenty-Five Dollars (\$125.00) is enclosed to cover this Appeal.

It will be appreciated if you and your staff will immediately notify us if there is anything further that needs to be done to perfect this Appeal.

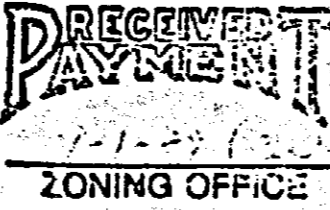
Sincerely yours,

Frank V. Perseghin

FRANK V. PERSEGHIN
Personal Representative of the
Estate of Napoleon Perseghin

cc: Baltimore County Board of Appeals
People's Counsel
Mr. Maurice H. Hedges, President
St. Helena Improvement Association
Nolan, Plumhoff & Williams, Chartered
Bayard T. Williams, Esquire

p.s. - A second Twenty-Five Dollar (\$25.00) check to cover the cost of the new Board appeal sign is enclosed.



August 31, 1989

NEWTON A. WILLIAMS
WILLIAM M. HERRON, JR.
THOMAS J. HANLEY
WILLIAM F. EUGENHART, JR.
STEPHEN J. HOLLAN
ROBERT E. CASHILL, SR.
ROBERT S. GLUSHAKOW
STEPHEN M. SCHENNING
DOUGLAS L. BURGESS
ROBERT E. CASHILL, JR.
LOUIS G. CLOSE, III
S. BRUCE JONES
THOMAS A. ALDERMAN
KEPA L. KOSTUN
*ALSO ADMITTED IN D.C.
*ALSO ADMITTED IN NEW JERSEY

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
DO: 883-1800
TELEFAX: DO: 889-2765

J. EARLE PLUMHOFF
1890-1988
JAMES D. HOLLAN
METREX, 1980
OF COUNSEL
RALPH E. CRITZ
9026 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
DO: 882-0217
WRITER'S DIRECT DIAL 823

October 18, 1989

Honorable William T. Hackett
Chairman, Baltimore County
Board of Appeals
3rd Floor, County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 89-408-SPH
Frank V. Perseghin, Personal Representative
S/S Baltimore Avenue, 265' W of the c/l
of Willow Spring Road (223 Baltimore Avenue)
12th Election District
7th Councilmanic District

Dear Chairman Hackett:

We have just received the Board's notice of October 9, 1989, advising that this case has been set for Friday, March 2, 1990, at 1:00 p.m.

While I appreciate being kept informed, the Petitioner, Mr. Frank V. Perseghin, Personal Representative, noted this appeal in proper person.

Furthermore, at the present time, the property has been sold and settlement is expected in the very near future.

I am informed that the property has been purchased by a Mr. Milton Karczewski, but unfortunately, I do not have an address for Mr. Karczewski. By a copy of this letter to Mr. Perseghin, I am asking that he keep the Board informed and also, to pass along the notice of assignment to the purchaser.

Upon receipt of this material, the purchaser can then make a decision whether or not he wishes to pursue the appeal or

69 OCT 20 AM 11:49

RECEIVED
COUNTY BOARD OF APPEALS

Honorable William T. Hackett
Chairman, Baltimore County
Board of Appeals
October 18, 1989
Page Two

Other appropriate relief, as outlined in the Deputy Zoning Commissioner's Order of August 2, 1989.

It will thus be greatly appreciated if you will note that my personal appearance, and our firm's appearance have been struck from the case, but we will be glad to be kept on the mailing list as a matter of information.

Thanking you and your staff for your kind attention to this letter, I am,

Respectfully,

Newton A. Williams

Newton A. Williams

NAW:med

c.c.s. Mr. and Mrs. Frank V. Perseghin
1908 Midland Road
Baltimore, Maryland 21222
(with enclosure)

T. Bayard Williams, Jr., Esquire
Suite 202, 1301 Merritt Boulevard
Baltimore, Maryland 21222

Mr. Frank Lee
1277 Neighbors Avenue
Baltimore, Maryland 21237

People's Counsel for Baltimore County
3rd Floor, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

March 15, 1990

Mr. Frank V. Perseghin
1908 Midland Road
Baltimore, Maryland 21222

Re: Case No. 89-408-SPH
(Frank V. Perseghin)

Dear Mr. Perseghin:

Enclosed please find a copy of the final Opinion and Order issued by the County Board of Appeals this date in the subject matter.

Sincerely,

Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. Maurice H. Hedges, President
St. Helena Impr. Assoc.
Newton A. Williams, Esquire
Mr. Joseph A. Perseghin
Ms. Frances Mae Zivkovich
Mr. Richard A. Matthai
F. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

Law Offices
T. Bayard Williams, Jr.

202 Polaris Federal Building - 1301 Merritt Boulevard
Dundalk, Maryland 21222

November 8, 1989

Baltimore County Board of Appeals
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case Number 89-408-SPH
Frank V. Perseghin, Personal Representative
S/S Baltimore Avenue, 265' W of the c/l
of Willow Spring Rd. (223 Baltimore Ave.)
12th Election District
7th Councilmanic District

Gentlemen:

I have in my hands a copy of a letter to Mr. William T. Hackett, your Chairman, dated October 18, 1989 concerning the above mentioned appeal.

I represent Mr. Frank V. Perseghin, Personal Representative of the Estate of Napoleon Perseghin who owned the property at 223 Baltimore Avenue.

For your information the property has been sold to Mr. Milton Karczewski who resides at 6749 Graceland Avenue, Baltimore, Maryland 21224.

Please keep Mr. Karczewski advised as to this appeal, since the Estate of Mr. Perseghin really has no further interest in the matter.

Very truly yours,

T. Bayard Williams, Jr.

T. Bayard Williams, Jr.

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TBW/pac