

3/10/98

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
 S/S Linden Terrace, 500 ft.
 E of c/l York Road * ZONING COMMISSIONER
 10 Linden Terrace
 9th Election District * OF BALTIMORE COUNTY
 4th Councilmanic District
 William H. Mathews * Case No. 97-326-SPH
 Petitioner

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
 N/S Linden Terrace, 650 ft.
 E of c/l York Road * ZONING COMMISSIONER
 15 Linden Terrace
 9th Election District * OF BALTIMORE COUNTY
 4th Councilmanic District
 William H. Mathews * Case No. 97-327-SPH
 Petitioner

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
 N/S Burke Avenue, 340 ft.
 E of c/l York Road * ZONING COMMISSIONER
 10 Burke Avenue
 9th Election District * OF BALTIMORE COUNTY
 4th Councilmanic District
 William H. Mathews * Case No. 97-328-SPH
 Petitioner

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
 N/S Burke Avenue, 450 ft.
 E of c/l York Road * ZONING COMMISSIONER
 16 Burke Avenue
 9th Election District * OF BALTIMORE COUNTY
 4th Councilmanic District
 William H. Mathews * Case No. 97-329-SPH
 Petitioner

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
 NW cor. Aigburth and Willow
 Avenues * ZONING COMMISSIONER
 122 Willow Avenue
 9th Election District * OF BALTIMORE COUNTY
 4th Councilmanic District
 William H. Mathews * Case No. 97-330-SPH
 Petitioner

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before the Zoning Commissioner for a single public hearing to consider five separate lots of record, all owned by William H. Mathews and located in Towson. Each of the five properties is subject to

ORIGINAL FILED FOR FILING
 3/10/98
 [Signature]

a Petition for Special Hearing filed by Mr. Hunter Rowe, a Zoning Inspector, with the Office of Permits and Development Management. Under case No. 97-326-SPH, a Petition for Special Hearing has been filed for the property known as 10 Linden Terrace, alleging the illegal conversion of a single family dwelling thereon into seven apartments; wherein the lot area does not support such a use. Under case No. 97-327-SPH, regarding 15 Linden Terrace, an illegal conversion of a single family dwelling into 7 apartments is alleged; wherein the lot area does not support such a use. In case No. 97-328-SPH, regarding 10 Burke Avenue, an illegal conversion of a single family dwelling into three apartments is alleged, wherein the lot area does not support such a use. Under case No. 97-329-SPH, regarding 16 Burke Avenue, an illegal conversion of a single family dwelling into 3 apartments is alleged; wherein the lot area does not support such a use. Finally, under case No. 97-330-SPH, regarding 122 Willow Avenue, an illegal conversion of a single family dwelling into 3 apartments is alleged; wherein the lot area does not support such a use.

At the public hearing held for these matters, the Petitioner, Baltimore County Department of Permits and Development Management, was represented by Lee S. Thompson, Esquire, Assistant County Attorney. The property owner was represented by Michael Tanczyn, Esquire.

Testimony was received from Hunter Rowe, a Code Enforcement Officer, employed with Baltimore County since 1987. Mr. Rowe described each of the properties in general, as well as his inspection of same and findings. He also offered a series of photographs of the properties and rendered opinions, based upon his inspections, as to the current and past uses of the properties. In addition to Mr. Rowe's testimony, testimony was also received from a number of former/current residents of one or more of the properties at issue. Among those testifying was Whitney Dance a former

3/20/98
M. Thompson

resident of 10 Burke Avenue; Steve Bavett, who resided at 16 E. Burke Avenue; and Keith O'Brien, who has lived in the area for many years and formerly worked in the neighborhood delivering the Baltimore Sun newspaper. Mr. O'Brien testified about his recollections as to the number of apartment units at 10 Linden Terrace and 122 Willow Avenue. Also testifying was Paul J. Wynn, who has done maintenance on the dwelling at 122 Willow Avenue and the buildings at 10 Linden Terrace and 15 Linden Terrace. Also, testimony was received from Robert Derbyshire, who lives at 118 Willow Avenue, adjacent to the property at 122 Willow Avenue. Finally, a tape of a recorded interview with Mrs. Hilda Wilson was received and considered by this Zoning Commissioner. Mrs. Wilson is elderly and was a student at the former Towson Normal School (now Towson University) in the 1920s. She resided at 10 Linden Avenue and made statements about her recollections of the use of that premises. In addition to all of the testimony from the witnesses identified above, a significant volume of documentary evidence was offered which will be more specifically referred to in discussing each property. As importantly, certain stipulations were reached by and between the parties regarding the uses of the properties.

Turning first to the matters most easily resolved, a stipulation was entered by and between the parties regarding the property known as 10 Burke Avenue. That subject property is .138 acres in area, zoned D.R.16. It is improved with a residential dwelling (duplex unit) known as 10 Burke Avenue. The parties stipulated that only one residential unit is permitted in this dwelling. Moreover, it appears that the property has been previously used for three apartments. In fact, a photograph of the site was submitted (Petitioner's Exhibit 3C) which shows that the dwelling is served by three separate utility meters. However, in view of the parties' stipulation, the future permitted use of this property is not in dispute.

CROSS INDEXED FOR FILE
Case 3/20/98
By M. G. G. G.

The County's Petition for Special Hearing shall be granted and the use of the property hereafter is restricted to but a single unit. The property cannot be converted to a multi apartment use under any legal theory, either pursuant to Section 402 (conversion of dwellings) of the BCZR, as a nonconforming use (Section 101) or under any other regulation. The parties' stipulation resolves the issue for this property.

A similar result is reached as to 16 Burke Avenue. This property is immediately down the street from 10 Burke Avenue. The property is also zoned D.R.16, is .15 acres in area and is improved with a residential dwelling (duplex) structure. As was the case with 10 Burke Avenue, the parties also stipulated that only one residential unit is permitted on this property. Testimony and evidence presented was persuasive that the property has been used in the past for three apartments. A photograph was submitted (Petitioner's Exhibit 2C) indicating the existence of three electric utility meters. Pursuant to the parties' stipulation, it is found that the use of the property for anything other than a single residential unit is illegal and not permitted under any provision of the BCZR.

Turning next to the disputed cases, consideration is next given to the property at 10 Linden Terrace (Case No. 97-326-SPH). The lot known as 10 Linden Terrace is a rectangularly shaped lot, approximately .288 acres in area, zoned D.R.16. The property is improved with a 2-1/2 story frame dwelling. It was stipulated that the property presently contains six different apartment units. Photographs were submitted of the building, showing six separate utility meters (Petitioner's Exhibit 5E). Also, Mr. Rowe described the structure in some detail but indicated that he had not been inside of the property or visited same in the months immediately prior to hearing.

3/20/98
M. Rowe

Testimony regarding the history of this property was also offered by Mr. O'Brien. As noted above, he has lived in the neighborhood for many years, since approximately 1935. Prior to his retirement he delivered the Baltimore Sun newspaper for years to approximately 3,000 customers in the Towson area. He offered testimony regarding his deliveries to 6 apartments at 10 Linden Terrace while he was so employed from approximately 1935 to 1965. He indicated that he recalls putting newspapers on the porch of this building in that it was not allowed by the Sunpaper regulations to throw them into the yard.

Testimony was also offered about the history of 10 Linden Terrace by Mr. Mathews. He described the condition of the property when he purchased same in 1980 and his improvements and rehabilitation of the property.

The recorded interview of Ms. Hilda Wilson also related to 10 Linden Terrace. A review of her testimony indicates that her memory is less than concise as to the use of the dwelling. Although she recalls residing at that property in an apartment therein, her testimony was not detailed as to the exact number of units in the building. Testimony was also received regarding this property from Paul Wynn who had performed maintenance on the site since the mid 1970s.

Apparently, it is the Petitioner's theory that the six apartments which presently exist at 10 Linden Terrace are permitted as a nonconforming use. This assertion is contested by Baltimore County. Through counsel, the County asserts that only four units are permitted, pursuant to Section 402 of the BCZR (conversion table). Moreover, the County asserts that a nonconforming use designation cannot attach to this property and that there is insufficient evidence to support such a finding.

A nonconforming use is defined in Section 101 of the BCZR as "A legal use that does not conform to a use regulation for the zone in which it is

3/20/88
M. G. G. G.

located or to a special regulation applicable to such a use". Nonconforming uses are regulated by Section 104 of the BCZR. Section 104.1 provides that nonconforming uses may be permitted, pursuant to the requirements provided therein. Essentially, the nonconforming use designation is utilized to grandfather an otherwise illegal use. If the use existed prior to the time the property's zoning classification was adopted which prohibits the use, the use may continue.

In this case, I am not persuaded that competent evidence was offered to support a finding that 10 Linden Terrace is nonconforming for six apartments. Ms. Wilson's memory was understandably unclear and never established a precise number of apartment units. Mr. Mathews' recollection dates only to the mid 1970s; several years prior to the time he purchased the property in 1980. Likewise, Mr. Wynn has been familiar with the property only since the mid 1970s. For the nonconforming use designation to attach here, testimony need be offered as to the property's use as a 6 apartment unit since at least 1955, the date the comprehensive zoning regulations were enacted.

Mr. O'Brien's testimony must be considered, however, in the end, was rejected. Although I do not doubt the sincerity of the witness, his ability to recall a single building among 3,000 customers over a period of thirty years must be questioned. Moreover, his testimony was frequently contradictory, specifically regarding the dates he resided in the neighborhood. For all of these reasons, I decline to enter a finding that the property at 10 Linden Terrace is nonconforming. Thus, the Petition for Special Hearing in this case (No. 97-326-SPH) must be granted and the property's use must therefore be restricted to four units only.

The next property under consideration is 15 Linden Terrace (case No. 97-327-SPH). This property is .45 acres in area, zoned D.R.16. The

3/20/98
M. Wynn

property is improved with a single family dwelling. Mr. Mathews acquired this property in his sole name from other family members in October of 1992. By stipulation, the parties agreed that the structure contains seven apartment units. Through counsel, the County contends that only six units are permitted, pursuant to the density/area regulations. I agree with the County's position that only six units are permitted under the density/area regulations and the conversion table (Section 402). Moreover, I do not find that the property is nonconforming or is otherwise exempt from the density/area regulations. Thus, the Petition for Special Hearing shall be granted and the property's use limited to six units.

The final case for consideration relates to the property at 122 Willow Avenue (case No. 97-330-SPH). This property is .14 acres in area zoned D.R.5.5. Mr. Mathews acquired the property on September 30, 1974. A stipulation entered into by and between the parties was that the property is used for three apartments. The County contends that only one unit is allowed. The respondent avers that three units are permitted. His argument has two basis; that the property is nonconforming use and that such a finding has already been established. Specifically, the respondent argues that the consideration of this issue, at this time, is barred by res adjudicata.

Evidence presented was that in 1980, Mr. Mathews responded to a complaint filed with the Zoning Office of Baltimore County regarding the use of the property for three apartments. In his response to the complaint, Mr. Mathews submitted three affidavits which collectively stated that the building at 122 Willow Avenue had been used for three apartments since since 1941. Based upon the documentation, then Zoning Commissioner Hammond issued a conditional Order stating, in part, ". . . a rebuttable presumption has been raised indicating that a nonconforming use exists on

FILED
10/16/98
J. J. [Signature]

the subject property, subject, however, to be rebutted by testimony produced by others at a Special Hearing to determine the existence of a nonconforming use subsequent to posting and advertising the property for such purpose." Commissioner Hammond's conclusion was essentially updated by letter dated December 10, 1991 by John J. Sullivan, Jr., on behalf of Arnold Jablon, Director of Zoning Administration and Development Management. That letter affirmed that a nonconforming use had been conditionally approved for three apartments.

By its very terms, Commissioner Hammond's Order was a conditional finding only and thus not a final judgment on the matter at issue. As is well settled, res adjudicata attaches only when a final judgment has been entered. Thus, Commissioner Hammond's Order cannot be the basis for the conclusion that res adjudicata bars consideration of this issue.

However, as to the merits of the nonconforming use, I find the evidence presented by Mr. Mathews, in the case at bar, persuasive. In my judgment, the Petitioner here (i.e., Baltimore County) has failed to produce evidence sufficient to rebut the presumption of the existence of a nonconforming use found by Commissioner Hammond. Thus, the Petition for Special Hearing is denied for 122 Willow Avenue (Case No. 97-330-SPH) and the use of the property for three apartments is permitted as a nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of March, 1998 that, pursuant to the Petition for Special Hearing, under case No. 97-326-SPH, the property at 10 Linden Terrace may hereafter be used for not more than 4 apartments; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-327-SPH, the property at 15 Linden Terrace, may hereafter be used for not more than 6 apartments; and,


IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-328-SPH, the property at 10 Burke Avenue may hereafter be used for not more than 1 dwelling unit; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-329-SPH, the property at 16 Burke Avenue may hereafter be used for not more than 1 dwelling unit; and,

IT IS FURTHER ORDERED that the Petitions for Special Hearing are, therefore, granted in cases 97-326-SPH, 97-327-SPH, 97-328-SPH and 97-329-SPH; and

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing, under case No. 97-330-SPH, the property at 122 Willow Avenue is nonconforming and may hereafter be used for up to 3 apartments and that, as such, the Petition for Special Hearing be and is hereby DENIED.

Any appeal from this decision must be made in accordance with the applicable provisions of law.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mmn



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

March 19, 1998

Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204

Lee S. Thomson, Esquire
Asst. County Attorney
Office of Law
400 Washington Avenue
Towson, Maryland 21204

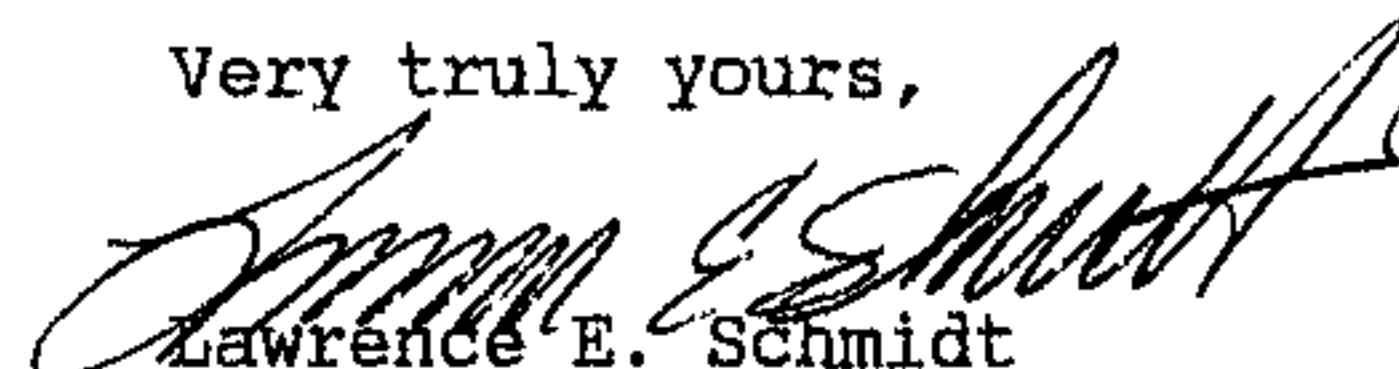
RE: Petitions for Special Hearing
Case Nos. 97-326-SPH, 97-327-SPH, 97-328-SPH, 97-329-SPH &
97-330-SPH
William H. Mathews/Legal Owner

Gentlemen:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing have been granted, in part and denied in part, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,


Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.

c: Lisa Keir, Aide to Councilman Riley

c: Mr. William H. Mathews
8 Linden Terrace
Baltimore, Maryland 21286

Petition for Special Hearing

Case #: 97-328-SFH

to the Zoning Commissioner of Baltimore County

for the property located at 10 Burke Avenue

which is presently zoned D.R. 16

This Petition shall be filed with the Office of Zoning Administration & Development Management.

Baltimore County hereby petitions for a Special Hearing under Sections 26-3 and 26-121(a) of the County Code and Section 500.6 of the Zoning Regulations of Baltimore County, for the Zoning Commissioner to conduct a hearing involving a violation or alleged violation or non-compliance with any zoning regulations or order issued by the Zoning Commissioner, Board of Appeals or Court, or for the proper interpretation thereof, more specifically:

Section number(s): 101 - "Dwelling"; "Family"; "Lot, Interior"; "Lot of Record"
102; 1B01.1A; 402

Nature of violation(s): Conversion of a single family dwelling into three (3) apartments, wherein, the lot area does not support such a use.

I do solemnly affirm that the contents stated above are correct to the best of my knowledge, information and belief.

2/5/97
Date

[Signature]
Office of Zoning Administration Representative

SUMMONS

ISSUED TO: William H. Mathews

ADDRESS: 8 Linden Terrace

Baltimore, Maryland 21286

To appear and testify in the matter of an alleged zoning violation or for the purpose of a proper interpretation of the zoning regulations or order of the Zoning Commissioner, Board of Appeals or Court.

Baltimore County Office Building
111 W. Chesapeake Avenue, Room 106

Hearing Date: March 19, 1997 Time: 2:00 ~~am~~ / pm Location: Towson, Maryland, 21204

[Signature]
Zoning Commissioner
James E. Schmidt

Please be advised that your failure to appear at the date, time and location stated above could result in your attachment.



Baltimore County
Department of Permits and
Development Management

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

CERTIFICATE OF POSTING

RE: Case No.: 97-328-SPH

Petitioner/Developer: _____

Date of Hearing/Closing: March 19, 1997
Wednesday

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 10 Burke Avenue

The sign(s) were posted on February 28, 1997
(Month, Day, Year)

Sincerely,

Hunter Rowe
(Signature of Sign Poster and Date)

Hunter Rowe
(Printed Name)

111 W. Chesapeake Ave
(Address)

TOWSON MD 21204
(City, State, Zip Code)

887-3373
(Telephone Number)

To: MAR. 17, 1997

Ms. Gwen S., B.C.Z.D.

From: W. H. MATHEWS
Box 5501, Towson, MD

For: Postponement of
MAR. 19. 97 Hearing

ZONING NOTICE

Case # : 97-328-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE : ROOM 106, COUNTY OFFICE BUILDING
TIME & DATE : WED. MARCH 19, 1997 AT 2:00 P.M.

SPECIAL HEARING
FOR A DETERMINATION TO SUPPORT THAT THE LOT AREA
CANNOT PERMIT THE CONVERSION OF A SINGLE FAMILY
DWELLING INTO

POSTPONED
PER GWEN S.

RETURN SIGN AND POST TO ROOM 106, COUNTY OFFICE BUILDING
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING
CALL 867-3301 THE DAY BEFORE THE SCHEDULED HEARING DATE
HEARINGS ARE HANDICAPPED ACCESSIBLE

ZONING COMMISSIONER
IN TOWSON, MD.

PLACE : ROOM 106, COUNTY OFFICE BUILDING
TIME & DATE : WED. MARCH 19, 1997 AT 2:00 P.M.

SPECIAL HEARING
FOR A DETERMINATION TO SUPPORT THAT THE LOT AREA
CANNOT PERMIT THE CONVERSION OF A SINGLE FAMILY
DWELLING INTO 7 APARTMENTS

POSTPONED
PER GWEN S.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING
CALL 867-3301 THE DAY BEFORE THE SCHEDULED HEARING DATE
HEARINGS ARE HANDICAPPED ACCESSIBLE

ZONING NOTICE

Case # : 97-330-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE : ROOM 106, COUNTY OFFICE BUILDING
TIME & DATE : WED. MARCH 19, 1997 AT 2:00 P.M.

SPECIAL HEARING
FOR A DETERMINATION TO SUPPORT THAT THE LOT AREA
CANNOT PERMIT THE CONVERSION OF A SINGLE FAMILY
DWELLING INTO 3 APARTMENTS

POSTPONED
PER GWEN S.

RETURN SIGN AND POST TO ROOM 106, COUNTY OFFICE BUILDING
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING
CALL 867-3301 THE DAY BEFORE THE SCHEDULED HEARING DATE
HEARINGS ARE HANDICAPPED ACCESSIBLE

*Posted 3/15/97
@ puryear*

Request for Zoning: Variance, Special Exception, or Special Hearing

10 Burke Ave

Date to be Posted: Anytime before but no later than 3-4-97

Format for Sign Printing, Black Letters on White Background:

ITEM 328

ZONING NOTICE

Case No.: 97-328-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: 111 W. CHESAPEAKE AVE, ROOM 106, COUNTY OFFICE BUILDING

DATE AND TIME: WEDNESDAY, MARCH 19, 1997 at 2:00 P.M.

REQUEST: SPECIAL HEARING FOR A DETERMINATION
TO SUPPORT THAT THE LOT AREA CANNOT
PERMIT THE CONVERSION OF A SINGLE
FAMILY DWELLING INTO 3 APARTMENTS.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

May 1, 1997

NOTICE OF REASSIGNMENT

VIOLATION HEARING

CASE NUMBER: 97-328-SPH


10 Burke Avenue

Legal Owner(s): William Mathews

Petitioner: Baltimore County/Permits and Development Management/Code
Enforcement

Special Hearing involving an alleged violation or non-compliance of
Sections 101 , 102.1; 1B01.1A; and 402 Baltimore County Zoning
Regulations; specifically, the conversion of a single family dwelling
into three apartments, wherein, the lot area does not support such use.

HEARING: THURSDAY, JUNE 26, 1997 at 9:00 a.m., 4th Floor Hearing Room
Courts Bldg., 401 Bosley Avenue.


ARNOLD JABLON
DIRECTOR

cc: William Mathews
Michael Tanczyn, Esq.
Code Enforcement/Law Office

PLEASE NOTE THAT THE ZONING SIGN ON THE PROPERTY MUST BE ALTERED TO
GIVE NOTICE OF THE ABOVE HEARING ON OR BEFORE JUNE 11, 1997 AND
CERTIFICATION OF SAME FILED WITH THIS OFFICE. PLEASE CONTACT THE SIGN
VENDOR USED FOR THE ORIGINAL POSTING.



RE: PETITIONS FOR SPECIAL HEARING
(VIOLATION HEARINGS)
10 Linden Terrace
15 Linden Terrace
10 Burke Avenue
16 Burke Avenue
122 Willow Avenue
9th Election District, 4th Councilmanic

Legal Owner(s): William Matthews
Petitioner: Baltimore County/Permits and
Development Management/Code Enforcement

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NOS. 97-326-SPH
* 97-327-SPH
* 97-328-SPH
* 97-329-SPH
* 97-330-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of March, 1997, a copy of the foregoing Entry of Appearance was mailed to William H. Mathews, 8 Linden Terrace, Baltimore, MD 21286, Legal Owner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

all
Z.P.F.

Gwen: Do Not Set IN ON A WEDNESDAY AND THAT IS THERE
LEE Franzen must be in district court DATE 3-14-97

47-1061

MAR 11 1997

Law Offices
MICHAEL P. TANCZYN, P.A.

Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 - (410) 296-8824
Fax: (410) 296-8827
Computer Fax: (410) 296-2848

3/10/97
TO BS
OK, but atty should
provide alternative
dates w/ reasonable
time

March 10, 1997

To AJ
JMS

Lawrence E. Schmidt, Zoning Commissioner
Old Courthouse, Room 113
400 Washington Avenue
Towson, MD 21204

Re: Cases Numbered SPH-97-326; SPH-97-327;
SPH-97-328; SPH-97-329; SPH-97-330

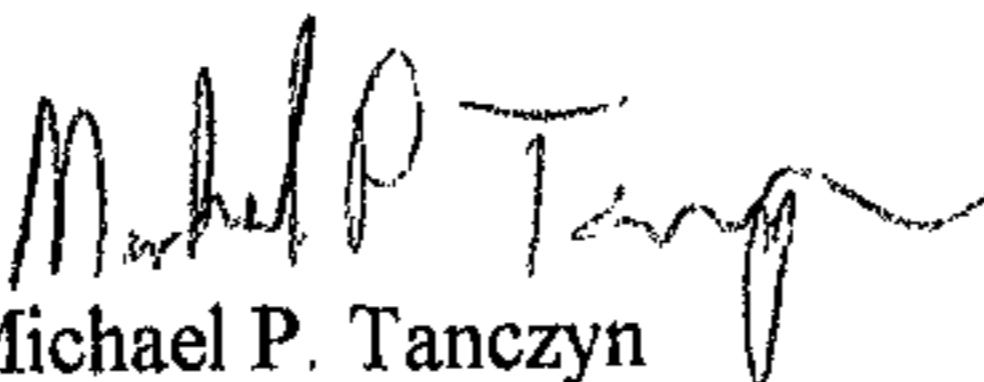
Dear Commissioner Schmidt:

I have just been retained by the property owner for the properties involved in the above cases for which the County has filed special hearing requests presently scheduled for hearing on March 19, 1997.

All of these involve residential structures which were built well before Zoning Regulations were enacted for Baltimore County in 1945. One of them has been the subject of two previous zoning hearing on alleged violations in 1980 and 1990 for 122 Willow Avenue, which I am told was successfully defended as a multi-apartment residential unit antedating zoning which is again under attack for the same issue.

The purpose of this letter is to request a continuance from the scheduled hearing to allow me adequate time to review the past history, assemble necessary witnesses to establish the historical usage of the properties as multi-family residential structures, and to work on several ancillary matters which may moot several of these properties if we have a little time to try to do some things. There have been no prior requests for continuance, and from the pictures shown me by my client the properties appear to be maintained in exemplary condition at present. I therefore request a continuance and ask that you advise us of your decision in that regard.

Very truly yours,


Michael P. Tanczyn

MPT/ed

cc: Mr. William Mathews

Item No: N/A

Type: RESIDENTIAL

Contract Purchaser: N/A

Critical Area: No

Election District: 9th

Councilmanic District: 4th

Existing Zoning: D.R-16

LEGAL OWNER: William H. Mathews; 8 LINDEN TERRACE; BALTO. MD 21286

AREA: 0.13 ACRES

ATTORNEY: LEE S. THOMPSON
BALTIMORE (COUNTY)

Proposed Zoning:

Determination to support that the lot AREA cannot permit the conversion of a single family dwelling into three (3) apartments

Location: 10 BURKE AVENUE
N/S Burke Ave
340' E of York



Deed Shows

6,370 ~~sq~~

Baltimore County
Department of Permits and Development Management
Bureau of Code Enforcement
111 West Chesapeake Avenue
Towson, Maryland 21204

CODE VIOLATION NOTICE

NAME: WILLIAM MATHEWS

DATE: 9/23/96

ADDRESS: 8 LINDEN TERR

CITY-ZIP: BALT MD. 21286

RE: Case No. _____

LOCATION: 10 Burke Ave
DISTRICT: 9

Dear Mr. Mathews:

In accordance with the Baltimore County Code, Article IV, Section 402. (d), an inspection was conducted of the above location, zoned DR16. This inspection revealed violation(s) according to the following code(s):

X Baltimore County Zoning Regulations (BCZR), Section 102.1. ; 1B01.1A; 402

_____ Building Code of Baltimore County, Maryland, Section 102.1.

_____ Livability Code, Baltimore County, Section 18-68.

_____ Other _____

The following correction(s) is/are required:

Under the present zoning, a lot size of 10550 sq ft is required to support 3 Apartments. Our records indicate this site to be 5915 sq. ft. Either reduce the number of Apts. to comply with section 402 (enclosed) or file for a special hearing, wherein a determination can be made as to whether the use is non-conforming

The above violation(s) must be corrected on or before 10/25/96 or further legal action will proceed, in which you may be subject to a civil penalty. Should you need further clarification, please contact

Hunter Rowe, Code Inspector, at (410) 887- 3373



LINDEN

BM-AS

BM

D.R. 16

TERRACE

E 4,500

LINDEN

D.R. 5.5

TOWSON MANOR

D.R. 10.5

BURMA

MARBURTH

ALLE

D.R. 16

10 Burke Ave
NE 9 A
9th Dist.

AIGBURTH

AIGBURTH GATEHOUSE

D.R. 5.5

AIGBURTH VALE

AVE.

PARKING AREA

COURT

SOCCER FIELD

TENNIS

ALLEY

BURKELEIGH RD

BURKESHIRE RD

ALLEY

NORMAL TERRACE

AND

York

HILLTOP

AVE.

AVENUE