

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
E/S Wilson Avenue @ SE Corner of		
Wilson Avenue & Woodside Avenue	*	ZONING COMMISSIONER
(8301 Wilson Avenue)		
4 th Election District	*	OF
6 th Council District		
	*	BALTIMORE COUNTY
Christopher James Malstrom		
Petitioner	*	Case No. 2010-0094 SPH

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter returns to this Zoning Commissioner on a Motion for Reconsideration requested by Peter Max Zimmerman, People’s Counsel for Baltimore County. The Motion was filed pursuant to Rule 4K of Appendix G of the Baltimore County Zoning Regulations (B.C.Z.R.). The grounds for the Motion involve a desired clarification of the waiver granted under Baltimore County Code Section 32-8-303 for second floor improvements made by the Petitioner to his home located in a 100-year floodplain. By his letter of January 7, 2010, Victor Fuentealba, counsel for the Petitioner, responded to Mr. Zimmerman pointing out that the Department of Public Works’ comments pertaining to public safety had been “discussed in detail at the hearing”.

This Commission believes that a Motion for Reconsideration should only be necessary when there has been substantive new facts, case law, or statute not available previously, which would clearly merit a modification of the previous decision. Such does not exist here. Essentially, People’s Counsel takes issue with the Zoning Commissioner’s determination of the facts and his legal analysis. Mr. Zimmerman alleges deficiencies in the Order and refers to what he considers insufficient and incorrect conclusions concerning the issues raised by the Director of Public Works. That, however, is not sufficient grounds to require a modification of this

Commission's Order. The facts and my conclusions of law were predicated upon a teaspoon of reality in as much as there were no changes made to the subject structure's footprint at ground level and the second floor improvements in no way contribute to any danger or changes to the 100-year floodplain. As these ordinances are in derogation of the common law right to use private property they should not be extended by implication to cases not clearly within the scope of the purpose and intent manifest in their language. *Aspen Hill Venture v. Montgomery Council*, 265 Md. 303 (1972).

IT IS THEREFORE ORDERED this 13th day of January, 2010, that the Motion for Reconsideration filed in this matter is DENIED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

____SIGNED_____
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County