

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
NE/S Beechwood Avenue, 152' SE of c/line		
Summit Avenue	*	ZONING COMMISSIONER
(8 North Beechwood Avenue)		
1 st Election District	*	OF
1 st Council District		
	*	BALTIMORE COUNTY
Peter R. Myers, et ux		
Petitioners	*	Case No. 2010-0166-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Peter R. Myers, and his wife, Theresa B. Myers. The Petitioners request a special hearing, through their attorney, Douglas L. Burgess, Esquire of Nolan, Plumhoff and Williams, Chtd., pursuant to Section 402.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to confirm and continue the prior permitted conversion of a single-family home to a two (2) apartment duplex. In the alternative, Petitioners request, the approval of a non-conforming use to continue a two (2) apartment duplex in a single-family home. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Peter and Theresa Myers, property owners, John T. and Kathy Benzing¹, parents/tenants of the subject property, as well as Thomas A. Church, P.E., the professional engineer and zoning consultant, with Development Engineering Consultants, Inc., who prepared the site plan for this property. The Petitioners were represented by Douglas L. Burgess, Esquire. There were no Protestants or

¹ The State Department of Assessments and Taxation (SDAT) records disclose that the Benzing’s were the prior owners of the subject property since 1975.

other interested persons present nor were there any adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies.

It should be noted that this matter had its origin as a result of the denial of a building renovation permit for the dwelling that was undergoing extensive interior and exterior renovations. Since that initial denial, the permit has since been re-submitted and permitted and approved and is not an issue herein. Notwithstanding the same, the Petitioners have elected to pursue special hearing relief to acknowledge the application of Section 402 of the B.C.Z.R. to the renovation project so as to have a permanent zoning record that confirms the legally permissible conversion of an existing single-family dwelling to a two apartment dwelling.

Testimony and evidence disclosed that the subject property is a rectangular shaped parcel (130' wide x 281' deep) located on the east side of Beechwood Avenue, just north of Frederick Road in the Catonsville area of the County. The property contains a gross area of 35,887 square feet (0.82 acres), more or less, and is zoned D.R.2. The property is improved with a three-story frame dwelling built in 1900 that at the present time is being used as two (2) apartments. Petitioners and Theresa Myers's family stated that the first, second and third floor of the existing dwelling had in the past, since 1941, been used as separate apartments.² A series of photographs (Exhibits 3 through 5) were collectively marked and accepted into evidence and show five (5) parking spaces in the rear yard, an existing 21' x 40' detached two-car garage, separate entrances to separate apartments, and the proffer was that each had a separate kitchen, bathroom, living and bedroom area. Each apartment had a separate BGE meter and connection.

Section 402.1 of the B.C.Z.R. is the controlling regulation involving conversions of a one-family dwelling to a two-family duplex. That section (chart) requires a lot width of 125 feet

² See Petitioners' Exhibit 6, a memorandum that tends to support a multi-family use by Ms. Dorothy Noble and Kirby Spencer of the Old Catonsville Neighborhood Association (OCNA).

at the front building line, side yard setbacks of 20 feet with a sum of 50 feet for both and a lot area of 25,000 square feet, thus allowing as a matter of right a two-apartment use in the D.R.2 zone if these minimum dimensions are met. The footnote to B.C.Z.R. Section 402.1 defined a *duplex* prior to 1970 as a two-family detached dwelling with one housekeeping unit over the other. Petitioner's undisputed evidence and the testimony of their expert Thomas A Church establishes that the property meets and exceeds all the provisions contained in Section 402.1. Therefore, Mr. Church concluded that he sees no reason why a confirmation of this permitted conversion of a single-family dwelling into a two apartment duplex should not be granted by virtue of this special hearing and a permanent record made of it in the records of the zoning office. Messrs. Church and Burgess also indicated that the kitchen and stove that had existed on the third floor had been removed and the Petitioners alternative requested relief of a non-conforming use is being withdrawn as moot and I accept their withdrawal.

Considering all of the testimony and evidence presented at the public hearing, I am persuaded that the Petitioners have met their burden in this case. In my judgment, the credible and reliable testimony offered is persuasive to a find that the property meets the dimensional requirements of B.C.Z.R. Section 402.1.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the existing two-apartment dwelling use shall be approved.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17th day of February 2010, that the Petition for Special Hearing, pursuant to Section 402.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to confirm and continue the prior permitted

conversion of a single-family home, known as 8 Beechwood Avenue, as a two (2) apartment residential duplex, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, and

IT IS FURTHER ORDERED that the portion of the Petition for Special Hearing, filed in the alternative, for confirmation of *a non-conforming use* in order to continue the use of the property for a two (2) apartment duplex in a single-family home, be and is hereby DISMISSED as MOOT.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:dlw

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