

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
NW/S Avondale Road, 97' N of c/line of		
East Avenue	*	OFFICE OF ADMINISTRATIVE
(9202 Avondale Road)		
11 th Election District	*	HEARINGS FOR
6 th Council District		
	*	BALTIMORE COUNTY
Warren E. and Laurie A. Thomas		
Petitioners	*	CASE NO. 2012-0140-SPH

* * * * *

ORDER AND OPINION

This matter comes before the Administrative Law Judge as a Petition for Special Hearing filed by the legal owners of the property, Warren and Laurie Thomas (Petitioners). The Petitioners are requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit as a legal non-conforming use the rebuilding of a two apartment dwelling (damaged by fire in February 2011). The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing held for this case was Warren E. Thomas, Petitioner, and John Sullivan, the consultant who assisted the Petitioners. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other interested persons in attendance, and the file does not contain any letters of opposition or protest.

The ZAC comments were received and made a part of the file. There were no adverse ZAC comments received from any of the County reviewing agencies.

Testimony and evidence revealed that the subject property is 0.133 acres and is zoned DR 5.5. Mr. Thomas indicated he has owned the home since 1982, and he recalls that in 1993 Baltimore County approved the two-apartment dwelling. He indicated the County no longer

retained the record of this approval, and he suspected that his copy may have been destroyed in the 2011 fire. In addition, Petitioner presented a notarized letter from Earl J. and Theresa Hoopes (Exhibit 2), who live next door to the subject premises. In that letter, the neighbor (who is now 83 years old) indicates that the house at 9202 Avondale has been used as a two-apartment dwelling since it was built in 1949. Under the B.C.Z.R., a nonconforming structure can be rebuilt after a fire. B.C.Z.R. § 104.2. Here, I find as a matter of fact that the two-apartment use was in existence prior to the adoption of the 1955 County zoning regulations, and thus would qualify as a nonconforming structure. Provided it is restored within two years of the fire, and is not enlarged and does not contain more than two apartments, the dwelling at 9202 Avondale can be reconstructed.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 11th day of January, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit as a legal non-conforming use the rebuilding and operation of a two apartment dwelling (damaged by fire in February 2011), be and is hereby GRANTED.

The relief granted herein shall be conditioned upon the following:

1. The Petitioners may apply for their building permit and may be granted same upon receipt of this Order, however the Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioners will be required to return and be responsible for returning said property to its original condition.

JEB:dlw

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County