IN RE: **PETITION FOR SPECIAL HEARING**   *   BEFORE THE
    (19 Hanover Road)
    4th Election District   *   OFFICE OF
    3rd Councilmanic District
    John D. and Laura D. Heim   *   ADMINISTRATIVE HEARINGS
    Petitioners
    *   FOR BALTIMORE COUNTY

    *   **Case No. 2014-0157-SPH**

    *   *   *   *   *   *   *   *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Lawrence E. Schmidt, Esq., on behalf of John D. and Laura D. Heim, ("Petitioners"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows: (1) to approve the non-conforming use of the property for three residential apartments (§ 104.1); (2) to permit the reconstruction of a building on the footprint of a building damaged/destroyed by casualty (§ 104.2), and (3) for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Appearing at the public hearing in support of the requests was John D. Heim. Jason Vettori, Esquire with Smith, Gildea & Schmidt, LLC, appeared and represented the Petitioners. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance at the hearing. There were no adverse Zoning Advisory Committee (ZAC) comments received.

The subject property is 0.50± acres in size and is zoned BM (Business, Major). Despite having commercial zoning, the property is used as a residence with three separate apartment units having exterior entrances. Nearly a year ago, the structure was damaged by fire, and the

Petitioners would like to rebuild on the same footprint. Baltimore County officials would not issue permits until the Petitioners obtained special hearing relief establishing the property and residential use (apartments) as nonconforming under B.C.Z.R. § 104.

The Petitioners submitted an historical summary showing the structure was constructed in approximately 1865, and is known as the "Reister Russell House." The property is shown on the Maryland Historical Trust Inventory, but it is not on the landmarks list. Petitioners' Exhibit 3. Petitioners also submitted letters from several neighbors - - some of whom have lived in the area for over 45 years - - attesting to the fact that the subject property has always been used residentially and "rented as three apartments." Petitioners' Exhibit 4. In addition, in a 2010 zoning case involving the construction of a garage on the property, former Deputy Zoning Commissioner Bostwick found that the "three-story home has three apartments." Petitioners' Exhibit 5 (Case No. 2010-0155-A).

Pursuant to the advertisement, posting of the property, and the public hearing, I find that Petitioners' Special Hearing requests should be granted.

THEREFORE, IT IS ORDERED this **10**th day of March 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R): (1) to approve the non-conforming use of the property for three residential apartments (§ 104.1); and (2) to permit the reconstruction of a building on the footprint of a building damaged/destroyed by casualty (§ 104.2), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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

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

Order.

       _____Signed_____
       JOHN E. BEVERUNGEN
       Administrative Law Judge
       for Baltimore County

JEB/dlw