

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(101 N. Symington Avenue)		
1 st Election District	*	OFFICE OF
1 st Council District		
	*	ADMINISTRATIVE HEARINGS
Joshua Willet		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2017-0164-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Joshua Willet, legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing nonconforming two family apartment.

Joshua Willet and professional engineer Rick Richardson appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP).

The subject property is 0.10 acres in size and zoned DR 5.5. The property is improved with an end-of-group row home constructed in 1938. The home has two individual living units (one on top of another), which Mr. Richardson noted have existed since the home was constructed. Apparently other homes on this street also have 2 living units.

In support of that contention Petitioner submitted photographs of the property showing matching and original construction materials used in both units. Ex. 2. There are also separate gas and electric utility meters for each of the apartments. Finally, Petitioner provided an affidavit from the prior owner stating the home has been used as a two apartment unit since 1969. Ex. 4. In these

circumstances, I believe Petitioner has established a lawful nonconforming use for the two apartment dwelling. The relevant date in determining the existence of a nonconforming use in this case is 1970, at which time the County Council enacted Bill No. 100-1970. That law eliminated certain archaic definitions of “duplex” and “semi-detached” dwellings, and specified the circumstances under which a dwelling may be “converted” to multi-family use. B.C.Z.R. §402.1.

THEREFORE, IT IS ORDERED this **13th** day of **February, 2017** by this Administrative Law Judge, that the Petition for Special Hearing to permit an existing nonconforming two-family apartment, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must comply with the ZAC comment of the DOP which is attached hereto.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln