

**IN RE: PETITIONS FOR SPECIAL HEARING \*  
AND SPECIAL EXCEPTION**  
(14 West Seminary Avenue) \*  
8<sup>th</sup> Election District \*  
3<sup>rd</sup> Council District \*  
Megan Avery \*  
*Legal Owner* \*  
Petitioner \*

BEFORE THE  
OFFICE OF  
ADMINISTRATIVE HEARINGS  
FOR BALTIMORE COUNTY  
**Case No. 2018-0144-SPHX**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Special Exception filed on behalf of Megan Avery, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to determine if a Chartered Financial Consultant meets the definition of a “professional person” as that term is used in the B.C.Z.R.. A Petition for Special Exception was filed to permit an office of a professional person which does not occupy more than 25% within the professional person’s primary residence.

Megan Avery and surveyor Bruce Doak attended the public hearing in support of the requests. There were no protestants or interested citizens in attendance. The Petition was advertised as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and Department of Planning (DOP). Neither agency opposed the requests.

The subject property is approximately 10,000 sq. ft. in size and is split-zoned DR 5.5 & BL-AS. The property is improved with a single-family dwelling which was in poor condition when Petitioner purchased the property last year. Photos submitted at the hearing suggest a business has

been operated at the property in the past, and a large portion of the front and rear of the site is paved.

### SPECIAL HEARING

The petition for special hearing seeks a determination that a financial consultant constitutes a “professional person” as that term is used in the B.C.Z.R. Under the regulations certain “professional persons” may maintain an office within their residence provided it does not, among other things, occupy more than 25% of the floor area thereof. In Case No. 2015-0149-SPHX, the undersigned considered an analogous case and determined a financial adviser (unlike a realtor, *see* Case No. 2000-0184-X) qualified as a professional person under B.C.Z.R. §1B01.C.12. I believe a similar finding is appropriate in this case. Ms. Avery is a Chartered Financial Consultant (ChFC) and also holds Series 6 & 7 securities licenses. These credentials require a great deal of course work and training, and I believe they qualify Petitioner as a “professional person” under the Regulations.

### SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272, (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Doak opined Petitioner satisfied the requirements for special exception relief under B.C.Z.R. §502.1 and no evidence to the contrary was presented. I also take comfort in the fact that

Eric Rockel (on behalf of the Lutherville Community Association) and the adjoining neighbors support the requests. Exhibits 7A-C. As such the petition for special exception will be granted.

THEREFORE, IT IS ORDERED this 28<sup>th</sup> day of **February 2018**, by this Administrative Law Judge, that the Petition for Special Hearing to determine if a Chartered Financial Consultant meets the definition of a “professional person,” be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Special Exception to permit an office of a professional person which does not occupy more than 25% within the professional person’s primary residence, be and is hereby GRANTED.

The relief granted herein shall be subject to 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 her 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 submit for approval by Baltimore County a landscape plan for the site.
3. The special exception granted herein shall be deemed rescinded at such time as Petitioner shall sell or transfer the subject property and/or cease to use the property as her principal residence.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB/sln