

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(21434 York Road)</b>		
7 <sup>th</sup> Election District	*	OFFICE OF
3 <sup>rd</sup> Council District		
DWK Services, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
<b>Petitioner</b>		
	*	<b>Case No. 2019-0209-SPH</b>

\* \* \* \* \*

**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 DWK Services, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to confirm the continued use of a non-conforming residential structure built in the 1800’s with two (2) apartments with that use dating back to prior to 1955 on a property with non-conforming area, setbacks and parking, and; continued use of two apartments in a single family home. A site plan was marked and admitted as Petitioner’s Exhibit 1.

Margaret Stenner, Steve Zemanek, David Kondner and surveyor Bruce Doak appeared in support of the petition. Francis Borgerding, Jr., Esq. represented Petitioner. Two neighbors attended the hearing to express concerns regarding parking at the site. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the County reviewing agencies.

The subject property is 0.221 acres in size and zoned RC-5. The property is located in the Maryland Line community and is improved with a dwelling constructed in 1878. Margaret Stenner testified her father purchased the home in or about 1941, at which time the dwelling had no bathrooms, heat, etc. She stated her parents began to make improvements in the 1950’s, and that

she, her husband and newborn lived in the upstairs apartment her parents created at that time. After her father's death Ms. Stenner purchased the home in 1988 and completed significant renovations to the property. She sold the home in 1992, and testified the dwelling had two apartments for the entire time she lived in or owned the property.

Petitioner presented testimony and affidavits from individuals who owned the property from 1992 to the present, each of whom described the two apartments in the home. In these circumstances I believe Petitioner has presented ample evidence confirming that the two apartment use predated the adoption of the BCZR, and the petition will therefore be granted.

THEREFORE, IT IS ORDERED this 11<sup>th</sup> day of **April, 2019** by this Administrative Law Judge, that the Petition for Special Hearing to confirm the continued use of a non-conforming residential structure built in the 1800's with two (2) apartments with that use dating back to prior to 1955 on a property with non-conforming area, setbacks and parking, and; continued use of two apartments in a single family home, 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 its 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. The lawful nonconforming use approved herein shall consist of two (2) apartments, one on top of the other in the first and second floors of the dwelling. The basement area of the dwelling shall not be occupied by or rented to a tenant, and is not considered part of the non-conforming use approved above.
3. Petitioner shall within 60 days of the date hereof stripe three (3) parking spaces at the rear of the property and shall create two (2) additional parking spaces adjacent to the wood deck as shown on the revised site plan admitted as Petitioner's Exhibit 1. The newly created spaces may be paved or covered with stone or gravel.
4. Within 60 days of the date hereof Petitioner shall provide striping and signage as shown on the revised site plan to inform tenants and their guests no parking shall be permitted in the cross-hatched area which is adjacent to the parking spaces used by the owners/guests at 21432 York Road.

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