

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(17160 Wesley Chapel Road)		
10 th Election District	*	OFFICE OF
3 rd Council District		
Benjamin M. and Elizabeth C. Standish	*	ADMINISTRATIVE HEARINGS
and Michael J. Siwinski,		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners		
	*	Case No. 2019-0357-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 Benjamin M. and Elizabeth C. Standish and Michael J. Siwinski, legal owners (“Petitioners”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) for an in-law apartment to be located in a proposed accessory structure. A site plan was marked and admitted as Petitioners’ Exhibit 1.

Benjamin M. Standish and Michael J. Siwinski 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 BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”).

SPECIAL HEARING

Mr. Standish testified that he is Mr. Siwinski’s son-in-law. He and his wife, along with Mr. Siwinski have purchased this lot off of Wesley Chapel Road for the purpose of building a principal residence for the Standish family and this accessory apartment for Mr. Siwinski. Petitioners submitted a My Neighborhood map of the property and surrounding lots, most of which

have already been built on. This was admitted as Petitioners' Exhibit 2. Mr. Standish testified that he has spoken with the adjoining property owner, Richard Dyer, and that Mr. Dyer does not oppose this request. Mr. Dyer was at the hearing and confirmed this. Petitioners also submitted a floor plan of the proposed 763 square foot "in-law" residence and it was admitted as Petitioners' Exhibit 3. Both Messrs. Standish and Siwinski acknowledged that they understood that this accessory residence must at all times conform with BCZR Section 400.4.B, as noted in the DOP comments. This is confirmed by the Declaration of Understanding that they have signed before a Notary. They further acknowledged that they will be bound to comply with the DEPS comments since the property will be well and septic.

Based on the record evidence I find that the Petitioners are entitled to the Special Hearing relief they have requested, and that the relief can be granted within the spirit and intent of the BCZR and without harming the public health, safety and general welfare.

THEREFORE, IT IS ORDERED this 6th day of **November, 2019** by this Administrative Law Judge, that the Petition for Special Hearing for an in-law apartment to be located in a proposed accessory structure, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. The Declaration of Understanding is hereby incorporated in this Order and will be filed along with this Order in the Land Records of Baltimore County.
3. Petitioners will comply with all ZAC comments (DEPS & DOP), which will also be attached and incorporated into this Order.

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

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:sln/dlw

DECLARATION OF UNDERSTANDING

THIS DECLARATION OF UNDERSTANDING (hereinafter referred to as "Declaration") is made on this 10th day of June 2019, by and between Benjamin Standish, Elizabeth Standish, and Michael Siwinski (hereinafter referred to as the "Declarant") and the Department of Permits, Approvals and Inspections (hereinafter referred to as "PAI").

Recitals

- A. The Declarant(s) who is/are also the owner(s) of this property has/have filed an application for a use permit and special hearing to:
Construct a new primary dwelling of approximately 2000 square feet, and a new accessory building of approximately 800 square feet to house an in-law apartment. The in-law apartment will include a kitchen, full bathroom, bedroom, and main living area.
The property being located at: 17160 Wesley Chapel Road, Monkton, MD 21111.
and is more particularly described by metes and bounds in Exhibit A (The Property) and Exhibit B (The use permit or hearing plans) attached hereto and made a part hereof.
The property is zoned RC 2, which is the particular zone in which the property is located.
- B. PAI (or) The Administrative Law Judge has approved the Declaration request to create an Accessory Apartment complete with dedicated bathing and cooking facilities, located on this owner-occupied property. The accessory apartment will be the housing for: Michael Siwinski (father). The other residents of the property are: Benjamin Standish (primary dwelling, son in-law), Elizabeth Standish (primary dwelling, daughter), Hannah Standish (primary dwelling, granddaughter), and Grace Standish (primary dwelling, granddaughter). The use permit must be renewed with PAI every two years by filing a renewal on a PAI approved form, to be dated from the month of the initial approval.

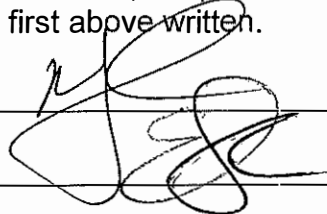
C. As a condition of approval of the Declarant(s) request, Bill No. 49-11 requires the filing of this Declaration among the Land Records of Baltimore County, to provide notice to any future owners, subsequent bona fide purchasers or users of the Property that no part of any improvements or addition on the Property may be used for separate living quarters and that all such improvements shall only be used as a single-family residence, unless otherwise approved by and at the discretion of PIA.

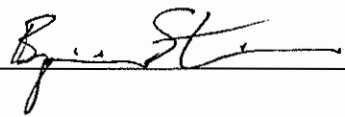
NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the Declarant(s) and PIA hereby declare as follows:

1. Any and all improvements now existing or to be constructed on the Property shall be used only as a single-family residence. No such improvements or additions shall ever be used as a separate living quarter or second residential unit. The kitchen for the Accessory Apartment will be constructed as part of the Property and shall be accessory to the principal use of the Property as a single-family residence. The Accessory Apartment shall house only the immediate family member(s) listed in this Declaration and it is not to be used as an independent residential unit, nor is it to be used for compensation, and it shall not be used by any other person or for any other reason. The use permit and this Declaration are subject to the order, conditions or restrictions of any required zoning hearing. The hearing order is to be made part of this Declaration when it is recorded in Land Records.
2. Once the Accessory Apartment is no longer occupied by the persons named in this Declaration or if the property is sold, or the use permit has not been renewed within the 2 year temporary use permit time limit, the use permit shall terminate, and any proposed changes in occupancy to the Accessory Apartment by the property owner or subsequent purchaser shall require a new request for a use permit.
3. Upon use permit termination:
 - A. In the Accessory Apartment in the accessory building requires removal of the kitchen and possibly other residential elements, at the discretion of PIA.
 - B. The Declarant(s) upon termination of the use permit will provide written notification to PIA for the closing of the Department file.
4. The covenants, conditions, and restrictions stated above shall run with and bind the Property and shall be enforceable by Baltimore County, MD and by the owners of all or any portion of the Property.
5. Enforcement of the Covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of the covenants, either to restrain the violation or to recover damages.

IN WITNESS WHEREOF, the parties hereto have duly executed this Declaration under seal on the date first above written.

WITNESS:





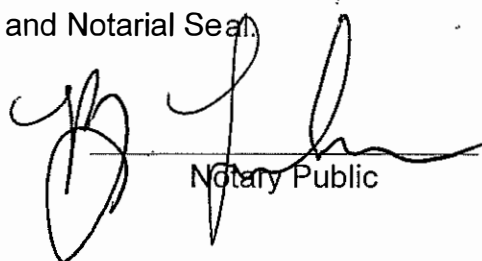
State of Maryland, County of Baltimore to wit:

I HEREBY CERTIFY that on this day of 2019, before the Subscriber, a Notary Public of State of Maryland, personally appeared June 11th.

The declarant(s) herein, who is/are also the owner(s) of this property, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument, and who acknowledged that he/she/they executed for the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, have hereunto set my hand and Notarial Seal.

My Commission Expires:



Notary Public

BECCA LANAHAN
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
My Commission Expires 05-13-2023

The Declaration of Understanding for the Accessory Apartment at:

17160 Wesley Chapel Road

Address of property

is approved: _____

Michael Mallinoff, Director-PAI

_____ Date

EXHIBIT A

BEING KNOWN AND DESIGNATED as Lot 1 as shown on Plat of Final Subdivision Plat, Plat Two of Two Haussner Property, which Plat is recorded among the Plat Records of Baltimore County in Plat Book 78, folio Pages 349 through 350.

The improvements thereon being known as No. 17160 Wesley Chapel Road.

BEING THE SAME lot of ground which by Deed dated May 6th, 2019, and recorded among the Land Records of Baltimore County in Liber 41408, folio 00439, was granted and conveyed by The Haussner Family Limited Partnership, unto Benjamin M. Standish, Elizabeth C. Standish, his wife, and Michael J. Siwinski, his father-in-law, the joint tenants and Grantors herein.

EXHIBIT B

SITE PLAN

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