

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(2036 Tred Avon Road)		
15 th Election District	*	OFFICE OF
7 th Council District		
Thomas & Erin Neimiller	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
	*	FOR BALTIMORE COUNTY
Petitioners		
	*	Case No. 2019-0504-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 Thomas and Erin Neimiller, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 400.4.B of the Baltimore County Zoning Regulations (“BCZR”) to approve accessory (in-law) apartment and Use Permit within a detached accessory building. A site plan marked and admitted as Petitioners’ Exhibit 1.

Petitioners 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 Environmental Protection and Sustainability (“DEPS”) and the Department of Planning (“DOP”). Neither agency opposed the request.

The subject property is 15,511 square feet in size and is zoned DR 3.5. The Neimillers previously filed a Petition (Case No. 2019-0200-SPH) seeking to use this accessory building as a “home occupation” in connection with their construction business. That relief was denied by the Administrative Law Judge upon a finding that the proposed use did not meet the definition of a home occupation use under the BCZR. Mr. Neimiller testified that the building has therefore remained vacant and that they would now like to use it as an “in-law” apartment to house one of

their adult sons. He further explained that his 88 year old mother is in failing health and she will be moving up from Florida early in the New Year to stay with them so that they can help care for her. She would then also live in the accessory apartment. The Neimillers submitted photos of two other free standing “in-law” apartments that are currently in use on their block. (Petitioners’ Exhibits 3 and 4). They also submitted letters from three immediate neighbors who state they have no objection to the requested relief. (Petitioners’ Exhibits 5, 6 and 7).

Based on the testimony and record evidence I find that the proposed use of this accessory building as an “in-law” apartment for the use of the Neimillers’ family is within the spirit and intent of the BCZR, will not be detrimental to the general public’s health, safety or welfare, and will not cause any additional impacts to the environment.

THEREFORE, IT IS ORDERED this 16th day of **December, 2019** by this Administrative Law Judge, that the Petition for Special Hearing to approve accessory (in-law) apartment and Use Permit within a detached accessory building, 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. Prior to issuance of Permits, Petitioners must comply with ZAC comments submitted by the DEPS and the DOP, copies of which are attached hereto and made a part hereof.
3. Prior to issuance of Permits a Declaration of Understanding in conformance with BCZR Sec. 400.4.A.1 shall be executed by Petitioners. This Declaration of Understanding shall be filed, along with a copy of this Order, in the land records of Baltimore County.

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