

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(940 Elm Ridge Avenue)</b>		
13 <sup>th</sup> Election District	*	OFFICE OF
1 <sup>st</sup> Councilmanic District		
Mark A. & Mary E. Orlando Llewellyn	*	ADMINISTRATIVE HEARINGS
Petitioners	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2014-0202-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Lawrence E. Schmidt, Esquire with Smith, Gildea & Schmidt, LLC, on behalf of Mark A. and Mary E. Orlando Llewellyn, (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve the nonconforming use and area of the property for two residential apartments pursuant to B.C.Z.R. §104.1.

Appearing at the public hearing in support of the requests was Mark A. Llewellyn, John Cavey and Ed Ostrowski. Lawrence E. Schmidt, Esquire with Smith, Gildea & Schmidt, LLC appeared and represented the Petitioners. There were no Protestants in attendance at the hearing. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. The only substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP) dated May 7, 2014, indicating that agency did not oppose the request as long as Petitioners followed all rental registration regulations. Mr. Llewellyn stated that the dwelling has been inspected, and a copy of the rental housing license was admitted as Exhibit 8.

The subject property is 2300 square feet and is zoned DR 10.5. The property is improved with a row home (or townhouse, in modern parlance). The house was constructed in 1948, at which time it was zoned “D”, which permitted as of right two family units in a single dwelling, categorized as “dwelling, group house.” In 1955, the B.C.Z.R. redefined “dwelling, group house” to provide that it was for one family only. Accordingly, the property became nonconforming upon the adoption of the 1955 Regulations.

In this case, John Cavey (who is 67 years old) testified that he was born in and still resides at 911 Elm Ridge Avenue, across the street from the subject property. Mr. Cavey stated that the houses in the neighborhood were constructed as two apartment units with separate entrances inside a vestibule. He stated that the subject property has always been used as a two apartment dwelling, and has been so used continuously and without interruption. Ed Ostrowski, who has lived at 909 Elm Ridge Avenue since 1986, provided similar testimony.

In these circumstances, the Petitioners have established that a lawful nonconforming use exists at the subject property, and the petition for special hearing will be granted.

THEREFORE, IT IS ORDERED this 4th day of June 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R), to approve the nonconforming use and area of the property for two residential apartments pursuant to B.C.Z.R. §104.1, be and is hereby GRANTED.

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