

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(2116 Merritt Blvd.)		
12 th Election District	*	OFFICE OF
7 th Councilmanic District		
Bradley Mudd	*	ADMINISTRATIVE HEARINGS
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0169-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Bruce E. Doak, from Bruce E. Doak Consulting, LLC on behalf of Bradley Mudd, (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an in-law apartment in an existing detached accessory building (formerly a garage).

Appearing at the public hearing in support of the requests was Bradley Mudd, James Mudd and Bruce E. Doak, from Bruce E. Doak Consulting, LLC, the firm that prepared the plan. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance at the hearing. The only substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP) dated March 25, 2014, indicating that agency did not oppose the request.

The subject property is 6,864 square feet and is zoned DR 5.5. The Petitioner’s father lives in a detached garage in the rear of the property, which has been converted into an “in law apartment.” Since it is in a detached structure, Special Hearing relief is required under the B.C.Z.R. The DOP comment indicated that the adjoining neighbors support the Petition, and two neighbors attended the hearing and indicated they were supportive of the request.

The County Council enacted legislation several years ago allowing in law apartments under certain circumstances. The requirements are set forth in B.C.Z.R. §400.4, and the Petitioner has complied with this regulation, provided he obtains the needed license and permit, and files among the land records the declaration required by law. The detached apartment shall not be considered a second dwelling on the lot however, contrary to note 8 on the Plan. If and when it is no longer occupied by Petitioner's family member(s), all amenities must be removed and it shall revert to being only a garage without living quarters. To reflect this requirement and Petitioner's understanding of same, the site plan was amended by Mr. Doak at the hearing to confirm that the site is improved with one single family dwelling and one detached accessory in law apartment. See Exhibit 1, note 8.

The final issue concerns whether the Petitioner is exempt from the use permit requirement, given that this garage structure has been used as an in law apartment for nearly 10 years, before the adoption of Bill No. 49-2011, which allowed such apartments. Section 2 of that Bill provides that the owner of an accessory apartment lawfully in existence before 2011 shall obtain a use permit on or before October 12, 2012. As such, the Petitioner will need to obtain a use permit from the Department of Permits, Approvals & Inspections (PAI), and renew such permit every two years as provided in B.C.Z.R. §400.4.C.2.

Pursuant to the advertisement, posting of the property, and the public hearing, I find that Petitioner's Special Hearing request should be granted.

THEREFORE, IT IS ORDERED this 10th day of April 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 an in-law apartment in an existing detached accessory building (formerly a garage), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- Petitioner must comply with all requirements of BCZR § 400.4

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln