

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(4948 Tulip Avenue)		
13th Election District	*	OFFICE OF
1 st Council District		
Gordon Kelly	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
Petitioner		
	*	Case No. 2020-0223-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Special Hearing filed by Gordon Kelly. The Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to approve an accessory structure with footprint square footage larger than the principle structure.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”). They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order. There were no protestants or interested parties at the hearing.

The petitioner is the property owner, Gordon Kelly. His son-in-law, Ryan Brown, appeared on the petitioner’s behalf and presented the case since he had prepared the site plan. The subject property is approximately 7,500 sq. ft. and is zoned DR 2. It is within the Relay Historic District. A cease and desist code citation was issued because construction had started without the required permits and without the required review by the Baltimore County Landmarks Preservation

Committee (LPC). Mr. Brown explained that they had hired a construction company to erect the proposed structure and that they had assumed this firm had obtained all necessary permits and approvals. Mr. Brown further explained that the extended Kelly and Brown families live in the principal residence and that they need this accessory storage structure. The undersigned questioned Mr. Brown about each of the five separate design conditions required by the LPC, and he affirmed that they would comply with each. He also acknowledged that they would be prohibited from ever using the structure for residential or commercial purposes.

Based on the record evidence I find that, given compliance with the conditions required by the LPC, that the special hearing relief can be granted within the spirit and intent of the BCZR and without harming the public health, safety, or welfare.

THEREFORE, IT IS ORDERED this 7th day of **January, 2021** by this Administrative Law Judge, that the Petition for Special Hearing seeking relief from the BCZR § 500.7 to approve an accessory structure with footprint square footage larger than principle structure be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is are hereby made aware that proceeding at this time is at his 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.
- Petitioner must comply with the five enumerate design conditions of the Landmarks Preservation Committee, a copy of which are attached hereto and make a part thereof.
- The accessory structure shall not have separate utilities or water and septic service and shall not be used for residential or commercial purposes.

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

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

PMM/dlm