

IN RE: <b>PETITION FOR SPECIAL EXCEPTION*</b>		BEFORE THE
(203 Conewood Avenue)		
4 <sup>th</sup> Election District	*	OFFICE OF
2 <sup>nd</sup> Council District		
Eileen Katz and Edward Katz	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
	*	FOR BALTIMORE COUNTY
<b>Petitioners</b>	*	<b>Case No. 2020-0190-X</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Exception filed on behalf of Eileen Katz and Edward Katz (“Petitioners”). The Special Exception is requested pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 1B01.1.C.1 to allow a professional person’s office (private practice mental health office) in a Density Residential zone.

Due to ongoing COVID-19 restrictions, 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 Petitioners’ Exhibit 2 A and B.

A ZAC comment was received from the Department of Plan (“DOP”) dated August 9, 2021, they did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order. The Petitioner, Eileen R. Katz attended the hearing. There were no protestants or interested citizens who attended the hearing.

**FINDINGS OF FACT**

The site is approximately 10,241 square feet and zoned DR 3.5. It is on a residential street in Reisterstown. Ms. Katz explained that she is a licensed therapist and intends to have in-person appointments with between five and ten persons per week at her home. She explained that she

has a driveway for her clients' parking, and that in any event there is also ample street parking. Finally, she stressed that no physical changes to her residence are proposed. The therapy sessions will take place in one of the existing rooms.

#### SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Based on the exhibits and testimony detailed above, I find that the special exception relief should be granted. Specifically, I find that Ms. Katz's proposed home therapy office will have no adverse impacts on the neighboring properties. Further, Ms. Katz is providing a valuable service in these stressful times.

THEREFORE, IT IS ORDERED this **26th** day of **October 2021**, by this Administrative Law Judge, that the Petition for Special Exception pursuant to BCZR § 1B01.1.C.1 to allow a professional person's office (private practice mental health office) in a Density Residential zone is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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 its 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.

- No freestanding signage will be permitted and all proposed signage must comply with BCZR § 450.

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