

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

ERR-261

DECISION

Application:	Validation of Electrical Permit 481353-1996-00
Applicants:	Siamack Bahrami and Azar Dashti LivingTrust
Opposition:	None
Hearing Dates:	October 26, 2016 and February 15, 2017
Hearing Examiner:	Joyce B. Nichols
Recommendation:	Approval

NATURE OF PROCEEDINGS

- (1) ERR-261 is a request for validation of Prince George's County Electrical Permit 481353-1996-00 issued in error for a three (3) unit apartment building located in the M-U-I (Mixed Use-In fill) Zone, and identified as 4216 Knox Road, College Park, Maryland.
- (2) No one appeared in opposition and the record was kept open for affidavits, upon receipt of which the record was closed February 20, 2017.

FINDINGS OF FACT

- (1) The subject two-story brick structure was constructed on the subject property in 1953 and contained two (2) dwelling units and a basement.
- (2) The City of College Park issued Use and Occupancy Permits for three (3) dwelling units from at a minimum, 1969-2014. (Exhibits 5(a)-(tt))
- (3) The Applicants purchased the subject property in July, 1993 and transferred the subject property into this living trust in November, 1996. (Exhibits 9 and 10) The City of College Park Property Maintenance Report dated April 1, 2015 ordered the Applicants to obtain a valid Prince George's County Use and Occupancy Permit for the subject property. (Exhibit 20(c))
- (4) Electrical Permit 481353-1996-00, to individually meter the three (3) dwelling units on the subject property, was finalized on October 23, 2001. (Exhibits 22(a)-(f), 30(a)-(c))
- (5) The Applicants provided photos of the exterior of the subject property depicting the individual electrical metering of the three (3) dwelling units. (Exhibits 36(a)-(c))

(6) The subject property contains 5200 square feet, yielding a density of 25.2 du/acre, which exceeds the 12 du/acre density of the R-18 (Multi Family Medium Density Residential) Zone which was the zoning of the subject property when the structure was built. (Exhibit 23)

(7) The subject structure also exceeds the maximum bedroom percentages as all three units are two bedroom units. The original 2 apartments are legally permitted per the Central US 1 Corridor DDOZ (Development District Overlay Zone) but the third unit remains illegal. (Exhibit 23)

(8) The subject property provides only two (2) off street parking spaces and three (3) are required. (Exhibit 23)

LAW APPLICABLE

(1) A Building Permit may be validated as issued in error in accordance with §27-258 of the Zoning Ordinance. §27-258 states in pertinent part:

(a) **Authorization.**

(1) A building, use and occupancy, or absent a use and occupancy permit, a valid apartment license, or sign permit issued in error may be validated by the District Council in accordance with this Section.

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(g) **Criteria for approval.**

(1) The District Council shall only approve the application if:

(A) No fraud or misrepresentation had been practiced in obtaining the permit;

(B) If, at the time of the permit's issuance, no appeal or controversy regarding its issuance was pending before anybody;

(C) The Applicants has acted in good faith, expending funds or incurring obligations in reliance on the permit; and

(D) The validation will not be against the public interest.

(h) **Status as a nonconforming use.**

(1) Any building, structure, or use for which a permit issued in error has been validated by the Council shall be deemed a nonconforming building or structure, or a certified nonconforming use, unless otherwise specified by the Council when it validates the permit. The nonconforming building or structure, or certified nonconforming use, shall be subject to all of the provisions of Division 6 of this Part.

CONCLUSIONS OF LAW

(1) The instant Application is filed in accordance with §27-258 of the Zoning Ordinance. The City of College Park has licensed the subject property for 3 dwelling units since 1969. The Applicants have applied for Use and Occupancy Permit 24979-2015-00, but due to the illegal status of the subject property this Use and Occupancy Permit cannot be issued. (Exhibits 5 and 6) Mr. Cameron Bahrami, Esquire, nephew of the Applicants and property manager of the subject property testified that to the best of his knowledge no fraud or misrepresentation was practiced in obtaining Electrical Permit 481353-1996-00, which created separate utility metering for each of the three (3) dwelling units. The Applicants have acted in good faith, expending funds or incurring obligations in reliance of this Electrical Permit. (Exhibits 11-19) The validation will not be against public interest as the instant Application merely validates a use that has existed on the subject property for almost 45 years. §27-258

RECOMMENDATION

It is recommended that the District Council validate Electrical Permit 481353-1996-00. The use of the subject structure as a three (3) dwelling unit apartment building with related parking shall be declared to be a Certified Non-Conforming Use. The Site and Unit Location Plan is Exhibit 7.