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

ERR-277

DECISION

Application:	Validation of Multi-Family Rental Housing License M-993
Applicant:	Juan Cruz Quispe
Opposition:	None
Hearing Date:	May 8, 2019
Hearing Examiner:	Joyce B. Nichols
Recommendation:	Approval

NATURE OF PROCEEDINGS

(1) ERR-277 is a request for validation of Prince George's County's Multi-Family Rental Housing License No. M-993, issued in error on December 1, 2015, Exhibit 4, for 2 multi-family dwelling units on approximately .344 acres of land, located in the R-55 (One-Family Detached Residential) Zone, located approximately 400 feet east of the intersection of Lindendale Drive and Baltimore Avenue (US 1), also identified as 8412 Lindendale Drive, Laurel, Maryland.

(2) No one appeared in opposition and the record was closed at the conclusion of the evidentiary hearing on May 8, 2019.

FINDINGS OF FACT

(1) The subject property is improved with two (2) detached residential structures, the larger of which was built in 1935 and the smaller existed as early as 1965 as seen on the aerial maps, Exhibits 6(a) and (b). The larger structure includes three (3) dwelling units that have been licensed as rental units since at least 1983. (Exhibit 7) This structure has recently been converted into a single-family dwelling and therefore there is no request to validate the three apartment licenses which were previously issued for this structure.

(2) The smaller structure includes two (2) dwelling units which have been licensed as rental units since at least 1983. (Exhibit 7) It is these two (2) multi family dwelling units that are being sought to be validated pursuant to Multi-Family Rental Housing License M-993.

(3) Multi-Family Housing Licenses may have been issued for the subject property prior to 1983 but they were unable to be located.

(4) Mr. Juan Quispe testified that prior to his 2017 purchase of the subject property (Exhibit 18), he lived in one of the five (5) rental units on the subject property for approximately 15 years. Mr. Quispe's son, Mr. Juan A. Cruz, testified that he lived in one of five (5) rental units with his family

since approximately 2002 and now lives in College Park.

(5) Mr. Quispe purchased the subject property containing five (5) dwelling units in October, 2017, in reliance on the County Multi-Family Rental Housing License M-993, assurances from the seller that the five (5) dwelling units were legal units, and from his own personal knowledge that since he began residing on the subject property approximately 17 years ago, there have been no issues arising regarding the legality of the five (5) rental units.

(6) The smaller structure is located on Lot 12 while a small portion of the larger structure crosses Lot 13 onto Lot 12. (Exhibit 9) The larger structure, which has existed since 1935, is nonconforming as to §27-118.01 of the Prince George's County Zoning Ordinance which prohibits more than one dwelling on a single lot.

(7) Additionally, the Zoning Ordinance prohibits the conversion of single family dwelling units to multi family dwelling units in the R-55 Zone except under certain circumstances, none of which are relevant to the instant Application. These conversions occurred at least 40 years ago, have been licensed by the County for at least 40 years as five (5) multi-family dwelling units, and the structures are therefore nonconforming.

(8) The Applicant testified that to his knowledge no fraud or misrepresentation occurred in the issue of M-993 in 2015 or in the previously issued five (5) unit multi-family rental licenses as far back as 1983.

(9) Mr. Quispe testified that there was no appeal or controversary regarding the issuance of M-993 in 2015 pending before any body.

(10) The Applicant has expended monies in purchasing the subject property in 2017 (Exhibit 18) and in maintaining and operating the two (2) rental dwelling units. (Exhibits 19(a)-(k) and 20(a)-(g))

(11) The subject property was developed and operated with five (5) rental dwelling units since at least 1983. The Applicant has converted the large structure back into a single family detached dwelling unit, thereby abandoning three (3) of the previously licensed dwelling units. At least one other property on Lindendale Drive is also developed with single family structures converted into multi-family dwelling units. The neighbors are aware of the continuing multi-family status of the subject property and no one appeared in opposition. The conversion of the larger structure back into a single-family home and the continued use of the smaller structure located to the rear of the lot as two (2) rental units which blend in with the surrounding properties, without altering the character of the neighborhood, would not be against public interest. Plenty of off street parking is provided.

LAW APPLICABLE

(1) A Use and Occupancy Permit or an Apartment License 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 any body;

(C) The applicant 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 subject property has been licensed by Prince George's County for five (5) rental units since at least 1983. (Exhibit 7) No fraud or misrepresentation was practiced in obtaining Multi-Family Rental License M-993. The Applicant has acted in good faith, expending funds or incurring obligations in reliance on this License. There is no evidence that there was any appeal or controversary regarding the issuance of Multi-Family Rental License M-993. The validation will not be against public interest as the instant Application merely validates a use that has existed on the subject property for at least 40 years and the Application is for only two (2) of the five (5) licensed units as the larger structure has been converted back into a single-family dwelling. §27-258

RECOMMENDATION

It is recommended that the District Council validate Multi-Family Rental License No. M-993 for the two (2) rental units located within the smaller structure located to the rear of Lot 12. The three (3) rental units located in the larger structure are deemed abandoned by the structure's reversion to its use as a single-family dwelling. Both structures and the use of the smaller structure as two (2) rental dwelling units shall be declared to be Certified Non-Conforming Structures and Uses. The Site Plan is Exhibit 9 and the Unit Location Plan is Exhibit 24.