

IN THE MATTER OF
THE APPLICATION OF
JEANNETTE R. AND WILLIAM F. CLARK
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE NEC INTERSECTION
TAYLOR AVE AND CHESTNUT AVE
(2900 TAYLOR AVENUE
9TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 01-025-SPH

* * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County arising from an appeal of the decision of the Zoning Commissioner dated September 7, 2000 in which a Special Hearing request for the property located at 2900 Taylor Avenue for approval of a 2-unit apartment as a nonconforming use was denied. The matter was heard by the Board on May 22, 2002. Roger Elliott, Esquire, appeared on behalf of the Petitioners, and Ruth Baisden, representing the Greater Parkville Community Council, appeared *pro se* on behalf of the Protestants.

After opening arguments, the Board heard from Jeannette Clark, the property owner. She testified that the property which is the subject of the Special Hearing request consists of .2066 acre, split-zoned R.O. and D.R. 5.5. The property is an improved 2-1/2 story framed house with a one-story block garage in the rear. Mrs. Clark testified that the property was purchased by her and her husband in 1968 and that they have been the owners since that time. She related that the property at purchase had a tenant on the second floor but that the first floor was vacant, her explanation being that the resident on that floor had recently died. She further described various items in the house, including a

description of two kitchens in which there were separate cast iron sinks, stoves, and other accoutrements appropriate to a kitchen, and that it was here opinion that these items dated back to the 1940s.

An affidavit from Tennie Glass was presented, in which the Affiant swore that her husband, Eugene Glass, had worked for the previous owner of the subject property, which she described as a two-family dwelling. The affidavit related that her husband had worked on the property from 1944 through 1968 when the two-family house was sold to the Petitioners. Apparently, Mr. Glass worked at the property for Mr. and Mrs. Clark until he passed away some time later.

Ms. Baisden testified on behalf of the Protestants. After presenting to the Board the appropriate Rule 8 papers authorizing her to speak on behalf of the Greater Parkville Community Council ("Council"), she related that it was the position of the Council that the property was a single-family residence. She believed that there had not been use of the property uninterruptedly as a nonconforming use and that the Council believed that the Petition for Special Hearing should be denied.

In closing argument, counsel drew the Board's attention to the fact that the two sets of plumbing and stoves in the kitchens certainly showed that the premises were set up as two separate residences, and that, based upon the testimony and the affidavit presented, the nonconforming use should be granted.

Nonconforming uses are regulated by § 104 of the *Baltimore County Zoning Regulations* (BCZR) and are specifically defined in § 101 of those regulations as a "legal use that does not conform to a use regulation for the zone in which it is located or to a

special regulation applicable to such a use....” Pursuant to § 104.1 of the BCZR, a nonconforming use is allowed to continue even though it is not in compliance with the current zoning regulations, provided that any material change in the character of the nonconforming use or abandonment or discontinuance of such nonconforming use for a period of one year or more, shall terminate the validity of the use. As a nonconforming use is inconsistent with the land use pattern established by zoning regulations, the nonconforming user is required under the applicable court decisions to prove the essential elements of his or her right to continue the nonconformity. Therefore, a nonconforming user must prove that his or her use existed prior to the enactment of the underlying restricted ordinance, and will not be sustained where evidence in support of the prior use is insufficient or contradictory. *Kastendike v. Baltimore Association for Retarded Children*, 267 Md. 389; 297 A.2d 745. The underlying zoning at this location has been in effect since 1955. Therefore, the use must have been legal as of 1955 and continued without material change, discontinuance, or abandonment for a period of one year or more since that time.

Based upon the testimony presented in support of the Petition for Special Hearing, the Board unanimously finds that the burden of proof which rests upon the property owner pursuant to the requirements set forth in § 104 and the applicable case law have not been met. Although there is certainly some evidence and testimony that the premises may have been set up to include multiple apartments, the burden has not been met to establish that the use of the property for multiple dwellings has continued uninterruptedly

and without discontinuance or abandonment since 1955. Therefore, the Petitioners' request is denied.

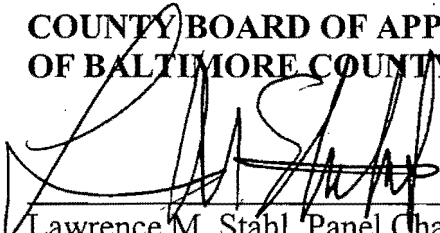
ORDER

THEREFORE, IT IS THIS 31st day of October, 2002 by
the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing for the property located at 2900 Taylor Avenue for approval of a 2-unit apartment as a nonconforming use be and the same is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

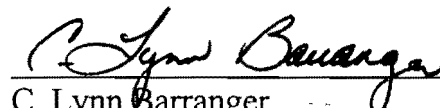
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence M. Stahl, Panel Chairman



Charles L. Marks

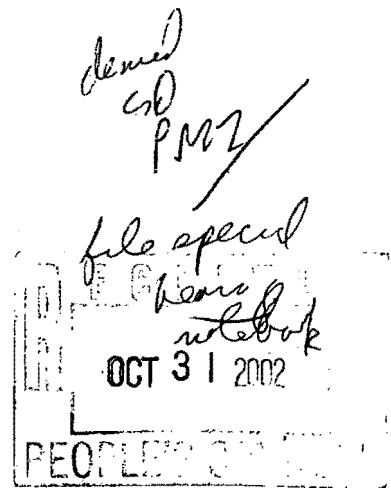


C. Lynn Barranger



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182



October 31, 2002

Roger L. Elliott, Esquire
One Willow Avenue
Towson, MD 21286-5227

RE: *In the Matter of: Jeannette R. and William F. Clark*
- Legal Owners /Petitioners /Case No. 01-025-SPH

Dear Mr. Elliott:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, with a **photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco /tr
Kathleen C. Bianco
Administrator

Enclosure

c: William F. and Jeannette R. Clark
Alexander Ratych /APR Associates, Inc.
Alice & John Baker, Jr.
Ruth Baisden /Parkville Park Comm Assn
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Rebecca Daniels, CIE /PDM
Arnold Jablon, Director /PDM



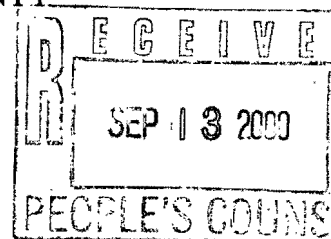
9/7/00

IN RE: PETITION FOR SPECIAL HEARING
NEC intersection of Taylor Avenue
and Chestnut Avenue
9th Election District
6th Councilmanic District
(2900 Taylor Avenue)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 01-025-SPH

William F. & Jeannette R. Clark
Petitioners

* * * * *



FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, William and Jeannette Clark. The special hearing request is for property located at 2900 Taylor Avenue, which property is split-zoned RO and DR 5.5. The special hearing request is from Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for approval of a 2 unit apartment as a non-conforming use.

Appearing at the hearing on behalf of the special hearing request were William and Jeannette Clark, the property owners. Mr. Alexander Ratych, professional engineer, also attended the hearing. Appearing in opposition to the Petitioners' request were Ruth Baisden, Alice Baker and John Baker.

Testimony and evidence indicated that the property, which is the subject of this special hearing request, consists of 0.2066 acres, more or less, split-zoned RO and DR 5.5. The subject property is improved with a 2 ½ story frame dwelling wherein there currently exists 2 apartment units. To the rear of the property exists a one-story block garage wherein 6 garage units are offered for rent. The subject property is located on the northeast corner of the intersection of Taylor Avenue and Chestnut Avenue in Parkville.

Mr. and Mrs. Clark testified that they purchased the subject property in 1968 and have owned the property since that time. Their testimony was clear that from 1968 until the present time there have always been 2 separate apartments within the 2 ½ story dwelling. Their testimony revealed

ORDER RECEIVED FOR FILING

Date 9/7/00

By R. Jameson

that they purchased the property in that fashion. In addition to the testimony presented at the hearing, the Petitioners offered an affidavit by a Mrs. Tennie Glass. The affidavit indicated that the property was a two-family dwelling in 1944 and remained that way up until the time it was purchased by Mr. and Mrs. Clark.

Appearing in opposition to the Petitioners' request were Ruth Baisden, Alice Baker and John Baker. The cumulative testimony of the Protestants was that the owners of the property have failed to properly maintain the site for the past few years. In addition, the Protestants object to the rental of the 6 garages located to the rear of the 2 ½ story frame dwelling. Apparently, these garages are being used by the Petitioners as storage facilities for local businesses. The Protestants testified that the tenants who have occupied the apartments in the 2 ½ story frame dwelling have been unruly. The property has not been kept up and is an eyesore to the community.

Furthermore, a letter was introduced into evidence by Mr. Joseph Kreis, who has indicated in his letter that the 2 ½ story house was used as a single family residential dwelling in the past.

It should also be noted that the subject property, which is the subject of this special hearing request, was before Commissioner Schmidt in Case No. 99-147-SPH. In that case, Commissioner Schmidt granted approval for a non-conforming use for a duplex dwelling located at 7801 and 7803 Chestnut Avenue. Commissioner Schmidt also ruled in his Order that the 2 ½ story frame dwelling house, that is the subject of the hearing before me, was being used as a single-family residential dwelling, and pursuant to his Order mandated that it only be used as a single family dwelling in the future. Furthermore, Commissioner Schmidt ruled that the one-story block of garages located to the rear of the 2 ½ story frame dwelling be used only as an accessory garage to the 2 ½ story frame single family dwelling. In essence, he required that the couple of businesses who rent the garage units along Chestnut Avenue cease and desist and that only the persons living in the 2 ½ story frame dwelling at 2900 Taylor Avenue use the garage.

As to the special hearing request to prove that the subject property has been used as a 2 apartment dwelling since prior to 1955, I find that the testimony and evidence offered at the hearing was insufficient to convince me that the property does in fact enjoy a legal non-conforming use. Therefore, the special hearing request to approve 2 separate apartments within the dwelling be and is hereby denied. The Petitioners must convert the subject dwelling back to a single-family residence.

Furthermore, and probably more importantly, I find that Commissioner Schmidt's Order dated February 11, 1999, in Case No. 99-147-SPH, must be enforced. Therein, Commissioner Schmidt ruled that the 2 ½ story dwelling, which is the subject of my hearing, was used as a single family dwelling and would have to be used as a single family dwelling in the future. That was Restriction No. 3 of his Order and such language was contained within the body of the Order itself. He further ruled that the group of garages located in the rear yard of the dwelling must be used as an accessory building to the dwelling and cannot be rented to local businesses, as is the practice of these property owners even at the time of the hearing before me. There was no request to modify Commissioner Schmidt's decision, nor was an appeal filed of his Order. Therefore, Commissioner Schmidt's Order stands today and the subject dwelling located at 2900 Taylor Avenue must be converted immediately to a single family residential dwelling and the garage located in the rear yard utilized as an accessory building to that dwelling.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 7th day of September, 2000, that having considered the testimony and evidence offered at the hearing, as well as the language contained in Commissioner Schmidt's Order dated February 11, 1999, I find that the special hearing request to approve the subject property as a 2 apartment dwelling, be and is hereby DENIED.

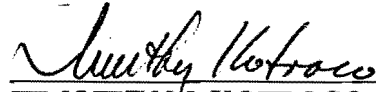
ORDER RECEIVED FOR FILING

Date 9/7/00

By M. J. Gannon

IT IS FURTHER ORDERED, that the subject structure located at 2900 Taylor Avenue must be converted to a single-family residential dwelling and the garage unit located in the rear yard be used as an accessory building to the dwelling.

IT IS FURTHER ORDERED, that any appeal of this decision must be filed within thirty (30) days from the date of this Order.



TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

ORDER RECEIVED FOR FILING

Date 9/7/00
By J.P. [signature]



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 2900 Taylor Avenue
which is presently zoned R.O and DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

a two unit apartment

dwelling.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

William F. Clark

Name - Type or Print

Signature

Jeannette R. Clark

Name - Type or Print

Signature

209 Hampton Street 908-272-3150
Address Telephone No.

Cranford, New Jersey 07016
City State Zip Code

Representative to be Contacted:

Alex Ratych, APR Associates, Inc.

Name

7427 Harford Road 410-444-4312
Address Telephone No.

Baltimore, Maryland 21234
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By BR Date 7/19/00

Case No. 00-025-SPH



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 29, 2000

William F. & Jeannette R. Clark
209 Hampton Street
Cranford, NJ 07016

Dear Mr. & Mrs. Clark:

RE: Case Number: 01-025-SPH, 2900 Taylor Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 19, 2000.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
CJZ

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: gdz

Enclosures

C: Alex Ratych, APR Associates, Inc., 7427 Harford Rd., Baltimore 21234
People's Counsel



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: August 8, 2000

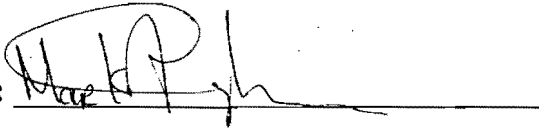
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 01- 025

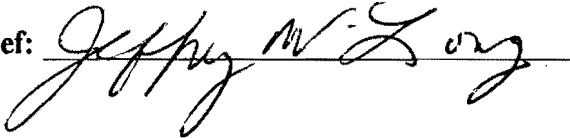
The Office of Planning has reviewed the above referenced case and has no comments to offer.

For any further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:



Section Chief:



AFK/JL:MAC

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

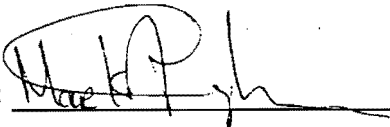
DATE: August 8, 2000

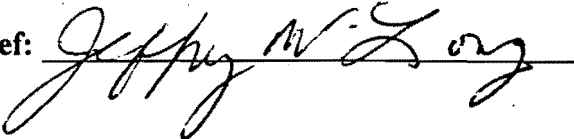
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 01- 025**

The Office of Planning has reviewed the above referenced case and has no comments to offer.

For any further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:  _____

Section Chief:  _____

AFK/JL:MAC



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: 7.31.00

Ms. Ronnay Jackson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 025 32

Dear Ms. Jackson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

August 8, 2000

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: RAY LEE, INC. - 024
WILLIAM F. CLARK AND JEANNETTE R. CLARK - 025
DORIS MENGES HARDESTY - 027

Location: DISTRIBUTION MEETING OF July 31, 2000

Item No.: See Below

Dear Ms. Stephens:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1994 edition prior to occupancy.

REVIEWER: LIEUTENANT HERB TAYLOR, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

RE: PETITION FOR SPECIAL HEARING
2900 Taylor Avenue, NE cor intersection
Taylor & Chestnut Aves.
9th Election District, 6th Councilmanic

Legal Owner: William F. & Jeannette R. Clark
Petitioner(s)

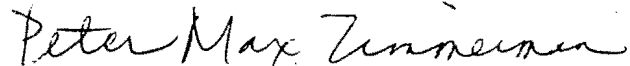
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-25-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of August, 2000 a copy of the foregoing Entry of Appearance was mailed to Alexander P. Ratych, APR Associates, Inc., 7427 Harford Road, Baltimore, MD 21234, representative for Petitioners.



PETER MAX ZIMMERMAN



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

May 23, 2002

NOTICE OF DELIBERATION

IN THE MATTER OF:

Jeannette R. and William F. Clark
Case No. 01-025-SPH

Having concluded this matter on 5/22/02, deliberation has been scheduled for the following date and time:

DATE AND TIME : THURSDAY, JUNE 20, 2002 at 9:00 a.m.
LOCATION : Hearing Room 48, Basement, Old Courthouse

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners : Roger L. Elliott, Esquire
Appellants /Protestants : William F. and Jeannette R. Clark
Alexander Ratych /APR Associates, Inc.

Alice & John Baker, Jr.
Ruth Baisden /Parkville Park Comm Assn

People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Rebecca Daniels, CIE /PDM
Arnold Jablon, Director /PDM

FYI copy to: C.L.B.



PM2

**LAW OFFICES
OF
ROGER L. ELLIOTT**

Maurice L. Elliott, (Retired)

Roger L. Elliott

Direct Line:

(410) 821-9049

ONE WILLOW AVENUE
TOWSON, MARYLAND 21286-5227

Phone: (410) 821-1530

Fax: (410) 821-0345

Of Counsel:

Paul R. Cwach

John E. Simms, Jr.

Alan H. Stocksdale

Robert L. Stocksdale

February 4, 2002

County Board of Appeals
Of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204
ATTN: Kathleen C. Bianco/Administrator

Via Regular Mail and Fax to: 410 887-3182

RE: Zoning Appeal

In the Matter of Jeannette R. Clark and William F. Clark

Hearing Date : February 7, 2002 at 10:00 a.m.

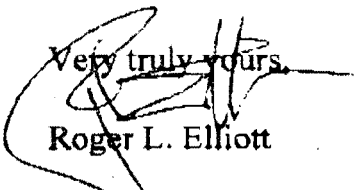
Case No.: 01-025-SPH

POSTPONEMENT REQUEST

Dear Ms. Bianco:

I must respectfully request a postponement of the above captioned matter scheduled for Wednesday, February 7, 2002 as my client, William F. Clark, has been called to active duty with the New Jersey National Guard. I have attached hereto a copy of his Orders from the Headquarters of the New Jersey National Guard along with his letter to me dated February 2, 2002 indicating that he expects to be on duty through the middle of March, 2002. Please reset the matter and notify us promptly of the new date and time. Please also call me to verify that you have received this Postponement Request.

Very truly yours,


Roger L. Elliott

Cc: Mr. and Mrs. William F. Clark
Mr. Alexander Ratych/APR Associates, Inc.
People's Counsel of Baltimore County, MS #2010
Ms. Ruth Baisden
Mr. and Mrs. John Baker, Jr.

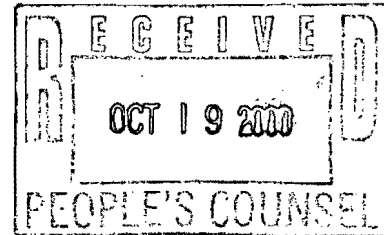


Baltimore County
Department of Permits and
Development Management

CD
Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708
? PM

October 19, 2000

Ms. Ruth Baisden
Parkville Park Community Association
7706 Oak Avenue
Baltimore, MD 21234



Dear Ms. Baisden:

WM. CLARK
RE: Case No. 01-025-SPH, 2900 Taylor Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on October 6, 2000 by Roger L. Elliott, Esquire, on behalf of William F. and Jeannette R. Clark. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Arnold Jablon
Arnold Jablon
Director

AJ:scj

C: Roger L. Elliott, Esquire, One Willow Avenue, Towson, MD 21286-5227
Jeannette & William Clark, 209 Hampton Street, Cranford, NJ 07016
Alice & John Baker, Jr., 2307 Ellen Avenue, Baltimore, MD 21234
People's Counsel



APPEAL

Petition for Special Hearing
2900 Taylor Avenue
NEC intersection Taylor Avenue and Chestnut Avenue
9th Election District – 6th Councilmanic District
Jeannette R. Clark & William F. Clark - Legal Owner
Case Number: 01-025-SPH

Petition for Special Hearing (filed 7/19/00)

Description of Property

Notice of Zoning Hearing (dated 8/7/00)

Certification of Publication (8/22/00 – The Jeffersonian)

Certificate of Posting (8/20/00 – Patrick O'Keefe)

Entry of Appearance by People's Counsel (dated 8/1/00)

Petitioner(s) Sign-In Sheet

Protestant(s) Sign-In Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibits:

- 1 Plat to Accompany Petition for Special Hearing (dated 6/15/00)

Misc. (Not Marked as Exhibits):

- Letter from Joseph Kreis to "To Whom It May Concern" (no date)
- Affidavit from Tennie Glass (no date)
- Letter from Rockie Venegas to Zoning Commissioner (no date)
- Letter from Mrs. K.H. Edel, Customer Account Representative, BGE to Ms. Jeanette Clark (dated 11/16/99)
- Letter, with attachments, from Jeanette Clark to Mr. Timothy Kotroco, Hearing Officer (dated 9/7/00)

Deputy Zoning Commissioner's Order dated 9/7/00 (DENIED)

Notice of Appeal received on 10/6/00 from Roger L. Elliott, Esquire, on behalf of William F. & Jeannette R. Clark

C: Roger L. Elliott, Esquire, One Willow Avenue, Towson, MD 21286-5227
Jeannette & William Clark, 209 Hampton Street, Cranford, NJ 07016
Ruth Baisden, Parkville Park Community Association, 7706 Oak Avenue,
Baltimore, MD 21234
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

IN RE: PETITION FOR SPECIAL HEARING
NE/Corner Taylor and Chestnut Avenues
(2900 Taylor Avenue, and
7801-03 Chestnut Avenue)
9th Election District
6th Councilmanic District

William F. Clark, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 99-147-SPH
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, William F. and Jeannette R. Clark. The Petitioners request a special hearing to approve the duplex dwelling known as 7801-7803 Chestnut Avenue, as legal and nonconforming, and a lot line adjustment between the properties known as 7801-7803 Chestnut Avenue and 2900 Taylor Avenue. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitioners was Alexander P. Ratych, Registered Land Surveyor who prepared the site plan of this property. Appearing as interested parties were Ruth Baisden and John Fulcher, nearby residents of the area. No one appeared in opposition to the request.

Testimony and evidence presented revealed that the subject property is an "L"-shaped lot consisting of a gross area of 0.350 acres, more or less, split zoned R.O. and D.R.5:5, with frontage on both Taylor Avenue and Chestnut Avenue in Parkville. Although the property is but one parcel, it is apparently referenced in the deed for same as two lots. As noted above, the Petitioners seek approval to alter the internal property line that delineates the two lots. The property is actually improved with three structures, one of which is a two and one-half story frame structure known as 2900 Taylor Avenue, which is used as a single family dwelling. That structure is located immediately adjacent to the northeast corner of Taylor Avenue and Chestnut Avenue. The second structure is a one-story block garage located to the rear of the single family dwelling described above and serves as an

IN RE: PETITION FOR SPECIAL HEARING
NE/Corner Taylor and Chestnut Avenues
(2900 Taylor Avenue, and
7801-03 Chestnut Avenue)
9th Election District
6th Councilmanic District

William F. Clark, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 99-147-SPH
*

* * * * *

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Baltimore County
Zoning Commissioner

March 16, 2000

up pmz
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401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

Mr. & Mrs. William F. Clark
209 Hampton Street
Cranford, New Jersey 07016

RE: PETITION FOR SPECIAL HEARING
(2900 Taylor Avenue and 7801-7803 Chestnut Avenue)
Case No. 99-147-SPH

MAR 21

Dear Mr. & Mrs. Clark:

This letter is to follow-up my most recent telephone conversation with Mrs. Clark concerning the above-captioned matter and to respond to your letter dated January 15, 2000 concerning the property known as 2900 Taylor Avenue.

As explained in previous telephone conversations, and in my letter of July 26, 1999, the Petition for Special Hearing you filed in the above-captioned matter did not request a nonconforming status for the dwelling on the property known as 2900 Taylor Avenue. It only sought approval of the duplex dwelling, known as 7801-7803 Chestnut Avenue, as a nonconforming use, and, a lot line adjustment between that property and the property known as 2900 Taylor Avenue. Moreover, I have reviewed the documentation contained in the case file and listened to the taped recording of the hearing and no where is the status of the subject dwelling raised as an issue. Thus, from a procedural standpoint, I cannot amend the decision rendered in the above-captioned matter to include a nonconforming use status for the subject dwelling.

If you wish to proceed in this regard and are able to establish that the dwelling has contained two apartments for the requisite period of time in order to qualify for a nonconforming status, it will be necessary for you to file a new Petition for Special Hearing. The property can then be duly advertised and posted with notice of the requested relief, as required, and a hearing reconvened to determine that issue.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Alexander P. Ratych, APR Associates, Inc.
7427 Harford Road, Baltimore, Md. 21234
Ms. Ruth Baisden, 7706 Oak Avenue, Parkville, Md. 21234
Mr. John Fulcher, 7805 Chestnut Avenue, Baltimore, Md. 21234
People's Counsel; Case File

Census 2000

For You, For Baltimore County

Census 2000





Baltimore County
Zoning Commissioner

March 16, 2000

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401 Bosley Avenue
Towson, Maryland 21204
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Mr. & Mrs. William F. Clark
209 Hampton Street
Cranford, New Jersey 07016

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(2900 Taylor Avenue and 7801-7803 Chestnut Avenue)
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For You, For Baltimore County

Census 2000



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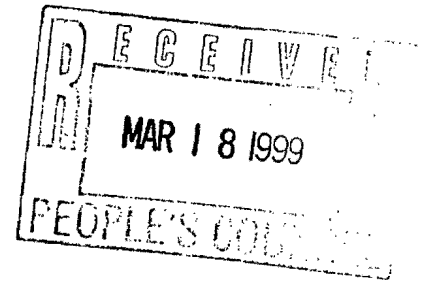


Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

March 12, 1999

Mrs. Jeanette R. Clark
209 Hampton Street
Cranford, New Jersey 07016



RE: PETITION FOR SPECIAL HEARING
2900 Taylor Avenue and 7801-7803 Chestnut Avenue
William F. Clark, et ux - Petitioners
Case No. 99-147-SPH

Dear Mrs. Clark:

This is to acknowledge receipt of your letter, dated February 16, 1999, and the attachments thereto.

By way of background, a hearing was held on November 24, 1998 to consider a Petition for Special Hearing for your property, collectively known as 7801-7803 Chestnut Avenue and 2900 Taylor Avenue. Specifically, you requested approval of the property at 7801-7803 Chestnut Avenue as a nonconforming duplex building, and a lot line adjustment between that property and the property known as 2900 Taylor Avenue. Although you did not appear at that hearing, Alexander P. Ratych, Registered Land Surveyor, appeared and testified on your behalf. The Petition was granted with restrictions, pursuant to my Opinion and Order dated February 10, 1999. Thereafter, you contacted me by phone and advised that you disputed my determination that the building known as 2900 Taylor Avenue should continue to be used as a single family dwelling. During our conversation, I requested that you submit information regarding the historic use of that building.

I have reviewed the information submitted with your letter. Included with your letter was a copy of a Contract of Sale, dated June 2, 1967 when you and your husband apparently purchased the property at 2900 Taylor Avenue. The contract sets out the purchase price, the inclusions as part of the transfer, (i.e., storm doors, light fixtures, curtain rods, etc.) and less other pertinent information relative to your acquisition; however, it does not indicate the use of the property as two dwelling units. You also included a copy of the tax bill from 1996. I have reviewed that document and it likewise does not indicate the use of the building at 2900 Taylor Avenue, other than to state that it is not your principal residence.

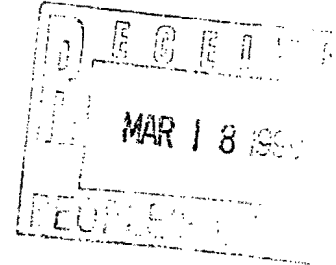




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Office of Planning

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March 12, 1999



Mrs. Jeanette R. Clark
209 Hampton Street
Cranford, New Jersey 07016

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2900 Taylor Avenue and 7801-7803 Chestnut Avenue
William F. Clark, et ux – Petitioners
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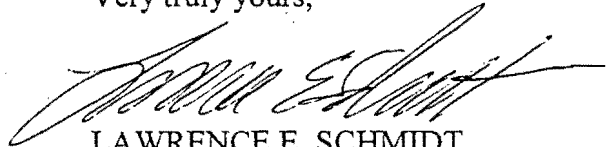
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Mrs. Jeanette Clark
March 12, 1999
Page 2

Based upon the information submitted, I am unable to amend my Order at this time. However, if you have additional documentation relative to the historic use of this property as a two family dwelling, please forward same to me. If you would like to discuss this matter further, please do not hesitate to call me.

Very truly yours,



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Alexander P. Ratych, APR Associates, Inc.
7427 Harford Road, Baltimore, Md. 21234

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✓ People's Counsel; Case File

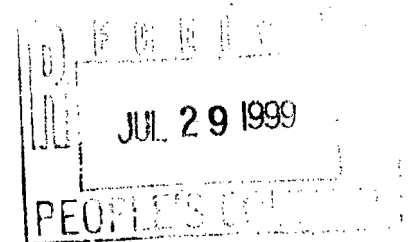


Baltimore County
Zoning Commissioner

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July 26, 1999

Mr. & Mrs. William F. Clark
209 Hampton Street
Cranford, New Jersey 07016



RE: PETITION FOR SPECIAL HEARING
NE/Corner Taylor Avenue and Chestnut Avenue
(2900 Taylor Avenue and 7801-7803 Chestnut Avenue)
9th Election District - 6th Councilmanic District
William F. Clark, et ux - Petitioners
Case No. 99-147-SPH

Dear Mr. & Mrs. Clark:

This letter is to follow-up my telephone conversation with Mrs. Clark on July 20, 1999 concerning the above-captioned matter and your request for consideration of the property at 2900 Taylor Avenue. As I advised during that conversation, the Petition for Special Hearing under consideration in the above-referenced case requested two-fold relief; to wit, that nonconforming use status be established for the property located at 7801-7803 Chestnut Avenue, and, 2) that a lot line adjustment between the parcel containing 7801-7803 Chestnut Avenue and the property known as 2900 Taylor Avenue be approved. It is important to note that those two requests were the only issues before me and approval was granted for same by my Order dated February 11, 1999.

As that Order reflects, neither of you were present at that hearing but were represented in the person of Alexander P. Ratych, Registered Land Surveyor. Also appearing were Ruth Baisden and John Fulcher, nearby residents. As my Opinion further indicates, testimony and evidence was offered to me that the property known as 2900 Taylor Avenue was used as a single family dwelling. Quite candidly, I do not recall the source of that testimony; however, it is contained within my written Findings of Fact and Conclusions of Law. Subsequent to the issuance of that opinion, you requested an amendment of that Order to recognize that the property known as 2900 Taylor Avenue is a two-family dwelling. You have also submitted various documents in support of this request.

Unfortunately, I am unable to grant your request at this time. First, from a procedural standpoint, you have not formerly requested, through a Petition for Special Hearing, any designation of 2900 Taylor Avenue as a nonconforming use. As I explained, the

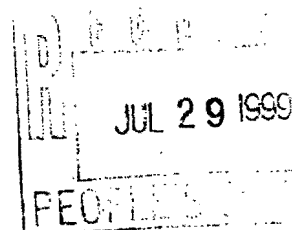


Baltimore County
Zoning Commissioner

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July 26, 1999

Mr. & Mrs. William F. Clark
209 Hampton Street
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RE: PETITION FOR SPECIAL HEARING
NE/Corner Taylor Avenue and Chestnut Avenue
(2900 Taylor Avenue and 7801-7803 Chestnut Avenue)
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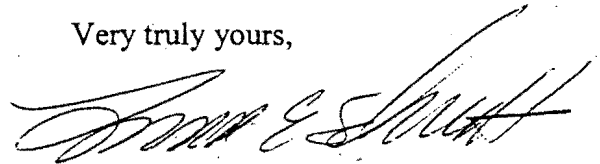
Mr. & Mrs. William F. Clark (Case No. 99-147-SPH)
July 26, 1999
Page 2

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Secondly, and as significantly, the information which you have provided does not establish in fact that the property at 2900 Taylor Avenue is a nonconforming use. You have forwarded a copy of a tax bill and appraisal which indicate that the building has been used as two apartments for some time. However, the Baltimore County Zoning Regulations (B.C.Z.R.) require that proof be offered that the use was established and continued without interruption since prior to 1955. The information that you submitted does not establish that continuous use.

I trust that the above addresses your concerns. If you are able to establish that the property is nonconforming and that two apartments have existed for the requisite period of time, it is suggested that you file a new Petition for Special Hearing. The property can be duly advertised and posted with notice of the request as required and a hearing reconvened to determine that issue.

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Zoning Commissioner
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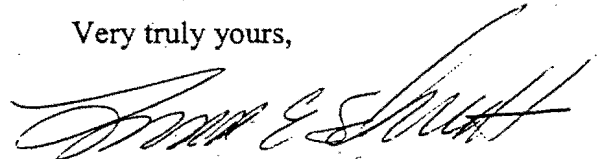
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