

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

ERR-248

DECISION

Application:	Validation of Multi-Family Rental Housing License M-0426
Applicant:	Barbara England T/A BJ Folston & Associates, LLC
Opposition:	None
Hearing Dates:	June 9, July 22 and September 23, 2015
Hearing Examiner:	Joyce B. Nichols
Recommendation:	Approval

NATURE OF PROCEEDINGS

- (1) ERR-248 is a request for validation of Prince George's County's Multi-Family Rental Housing License No. M-0426, issued in error on May 14, 2015 (Exhibit 11(g)) for eight (8) apartment units, on approximately 14,389 square feet of land, located in the R-10 (Multi-Family High Density Residential) Zone, also identified as 3601 Maywood Lane, Suitland, Maryland.
- (2) No one appeared in opposition and at the close of the evidentiary hearing the record was kept open for several documents, upon receipt of which the record was closed October 7, 2015.

FINDINGS OF FACT

- (1) The instant eight (8) unit apartment building was constructed in 1953 on the subject property located in the R-18 (Multi-Family Medium Density Residential) Zone. (Exhibit 2)
- (2) The subject property was placed in the R-10 Zone on September 30, 2008 by the adoption of the Branch Avenue Corridor Sector Plan and Sectional Map Amendment. (Exhibit 2)
- (3) A Use and Occupancy Permit (6514 U) was issued in 1963 for the subject building containing three (3) one (1) bedroom units and five (5) two (2) bedroom units. (Exhibit 2)
- (4) The apartment building is in compliance with the maximum density of the R-10 Zone (48 d.u.a.) as it is developed with a d.u.a. of 24.22 dwelling units. (Exhibit 2)
- (5) The subject property is developed with three (3) one (1) bedroom units (37.5%) and five (5) two (2) bedroom units (62.5%). The R-10 Zone permits a maximum of 50% two (2) bedroom units. (Bedroom percentages were adopted 10/1/68) (Exhibit 2)

(6) Prior to 1964 the minimum net lot area required was 1,800 square feet per dwelling unit and the instant building was in compliance. However, in 1964 the minimum net lot area required was increased to 2,000 square feet per dwelling unit thus permitting a maximum of seven (7) dwelling units on the subject property.

(7) At the time of construction in 1953, eight (8) off street parking spaces were required, but were not provided, on the subject property. Currently eight (8) parking spaces are provided on Terrace Drive and on Maywood Lane. (Exhibit 13)

(8) The 2001 rental license (M-0426), the 1963 Use and Occupancy Permit (6514 U), and all subsequent rental licenses to date are for eight (8) dwelling units.

(9) The Applicant has expended monies in purchasing the subject property in 2003 (Exhibit 9) and in maintaining the subject structure and operating the rental units. (Exhibits 21, 22 and 23)

(10) The Applicant testified that to her knowledge, no fraud or misrepresentation was practiced in obtaining Multi-Family Rental License No. M-0426, and that no controversy regarding its issuance is pending before any legal body.

(11) The subject property was developed and operated as an eight (8) unit apartment building since 1953. It has been operated continuously in this capacity since then, blending in with the surrounding properties and not altering the character of the neighborhood. (Exhibits 18 and 23)

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.

* * * * *

(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 Apartments have been licensed by Prince George's County for eight (8) units since at least 1953. (Exhibit 2) No fraud or misrepresentation was practiced in obtaining Multi-Family Rental License M-0426. 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 controversy regarding the issuance of the Multi-Family Rental License. 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 70 years. §27-258

RECOMMENDATION

It is recommended that the District Council validate Multi-Family Rental License No. M-0426. The eight (8) dwelling unit apartment building on the subject property shall be declared to be a Certified Non-Conforming Use. The Site and Unit Location Plans are Exhibits 13 and 15.