

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**OFFICE OF THE ZONING HEARING EXAMINER**

**ERR-001-2026**

**DECISION**

Application:	Validation of Permit Issued in Error
Applicant:	Eucharía Ogu
Opposition:	None
Hearing Dates:	May 06, 2026
Decision Date:	June 26, 2026
Hearing Examiner:	Maurene Epps McNeil
Recommendation:	Approval with Conditions

**NATURE OF PROCEEDINGS**

(1) ERR-001-2026 is a request for validation of Permit No. 41406-2018-RGW issued in error for the construction of a fence on August 30, 2018, and Permit No.31752-2020-RGU issued in error for the construction of a two-story rear addition on May 13, 2021, on property located at 6313 Joyce Drive, Temple Hills, Maryland. (Exhibits 4 and 3, respectively)

(2) The subject property is owned by the Applicant and her husband, Mr. Ignatius Ogu. It is approximately 14,162 square feet (approximately 0.33 acres) in size and located in the RSF-95 (Residential, Single-Family-95) Zone. Prior to the Countywide Map Amendment the property was zoned R-80 (One-Family Detached Residential).

(3) No one appeared in opposition to the request at the initial hearing held by this Examiner.

(4) At the close of the hearing the record was left open for the Applicant to submit a revised Site Plan and an explanation as to why the request is being heard under the prior Zoning Ordinance. Both items were received on May 12, 2026, and the record was closed at that time.<sup>1</sup> Although Applicant chose to have the request reviewed under the provisions of the prior 2019 Edition of the Zoning Ordinance, pursuant to Section 27-1704 of the current Edition, the justification decision was provided after the hearing had begun. (Exhibit 27) As the prior law required the hearing to be advertised in a newspaper of record and included a provision that the District Council make findings that were deleted from the current Edition, the request will be reviewed under the current provisions of the Zoning Ordinance.

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<sup>1</sup> The record consists of 27 Exhibits and one Transcript of the hearing held by this Examiner.

## FINDINGS OF FACT

### Subject property

(1) The existing assisted living facility<sup>2</sup> is located on a corner lot at the intersection of Joyce Drive and Brinkley Road. (Exhibit 26) It is identified as Lot 15, Block A in the John-Lynn subdivision, recorded in Liber 35247 Folio 216 in the Land Records for Prince George's County, Maryland. Per the Applicant, the surrounding neighborhood consists of single-family detached dwellings – a “fairly peaceful, quiet residential area.” (Exhibits 17 and 20; T. 15)

### Applicant's request

(2) Applicant has operated a Congregate Living Facility (doing business as the Mike William Assisted Living Facility, LLC)<sup>3</sup> for up to eight (8) residents in a dwelling she acquired on May 24, 2018, located on a corner lot at 6313 Joyce Drive, Camp Springs, Maryland. The facility began operation pursuant to a Use and Occupancy Permit from the Department of Permitting, Inspections and Enforcement (“DPIE”) for said use. (Exhibit 5). Shortly thereafter, Applicant recognized a need to fence the property for the safety of her residents and received a permit to build a six-foot-tall sight-tight, vinyl privacy fence around the yard; the height of the fence in the side yard closest to Brinkley Road is the portion at issue in this application. (Exhibits 3, 10, 17 and 24; T.2-22, 29, and 33).

(3) A few years later, Applicant decided to expand the footprint of the building by adding a 2,640-square-foot addition that would allow her to increase the number of residents to sixteen (16). DPIE issued a new permit for the addition, and a revised permit was approved addressed a planned basement due to elevation. DPIE rescinded the permit because it incorrectly stated that the use was for a Congregate Living Facility for more than 8 residents, and the expansion in the number of residents required approval of a Special Exception, which the Applicant does not have. (Exhibit 25) Applicant removed that language from the permit. (Exhibit 26)

(4) The Applicant hired Exterior Comfort LLC to construct the fence and paid them between \$13,000- \$14,000 for labor and material. (T. 34-35) DC Design Group, was hired to build the addition. Mr. Comedy noted that his partner, James Stryker Sessions, was the architect of record for the project. (T. 50). However, Mr. Comedy was involved with the application filings and discussions with representatives of County government. He testified, in pertinent part, as follows:

[i]nitially, with any client, we meet with them to determine what their needs are. And then... after we get the program, which we develop to tell them what kind of needs they have, you know, how many rooms, how many residents they want to be able to facilitate. Then we look at what the zoning will allow, and then we form a schematic design plan, and then we take that all the way through to permits.... [I]t's a real tedious

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<sup>2</sup> The permits at issue may have referred to the use on site as a congregate living facility, as this term was used in the Edition of the Zoning Ordinance in effect at the time of issuance for a facility of this size.

<sup>3</sup> The Mike-William Assisted Living Facility, LLC has been issued a Certificate in Good Standing that allows it to conduct business within the State of Maryland. (Exhibit 19)

process. We pick out everything from doors, to hardware, to windows, to flooring types, all kinds of finishes, and then we submit those plans to DPIE for plan review and... subsequently to obtain a building permit....

[There's two elements to this permit issued in error. One has to do with the fence line. That fence was already installed.... When I started this project.] The fence and the ramp were both installed....

So, we submitted everything into DPIE for a building permit application number. And then... there [were] subsequent reviews on that. And initially, all of the plan reviewers, with the exception of Park and Planning, had signed off and approved. The client paid her filing fees, which are pretty substantial... because it was a [considered] commercial use....

[All of the reviewers] knew it was going to need a special exception. We were going to need that prior to occupying the facility, expanding the number of residents from 8 to 20....

So initially, we were frustrated because we had everyone else's sign-off, structural, mechanical, electrical, plumbing. Everyone had signed off and had been signed off for a while. And we couldn't get any movement from Park and Planning. So, I contacted the Park and Planning Office. Actually, let me correct that. I contacted someone in, her name was Nicole Reese. I contacted her because I was trying to get some movement on this permit issue that seemed to be lagging for quite some time. Ms. Reese had suggested that we have a meeting with every one of the reviewers, and she was going to put that meeting together. And we subsequently had that meeting on August 19 with several members... And, and the original case number for that, that the building permit was applied for at the time, was 17707-2020. That was the original building permit application that was submitted for the increase in occupancy from the 8 beds to the 20 beds...

[At the meeting on August 19, 2020] there [were] several folks from Park and Planning... There were people from Site Road.... Every one of the departments that did plan review, was a part of the meeting...

Okay. We discussed why that there was a hold-up, and we had all agreed that we needed a special exception. However, upon the recommendation of the Park and Planning staff, they suggested that we cancel the application that was the 17707-2020, and apply for a new application. And if we did it that way, removing all associated names for assisted living facility, that they would go ahead and approve it, and she would not lose some of the fees that she had already paid. And knowing that we were going to still have to go get a special exception and any other improvements or recommendations that would be made during the special exception, we would have to adhere to at that time...

[After the meeting]... we revised the drawings to a new permit number, which was the 37152-2020, and we removed all references to a, that referenced assisted living on all of the drawings. And we just, as we were directed to, stated it as a residential addition....

(T.51-57)

(5) At this point, People's Zoning Counsel objected, and after discussion it was clarified that what was approved was to build a residential structure addition... not to build a residential structure so that [Applicant] can use it for a special exception... later. (T. 59-60) Applicant was asked to submit another application and the first permit #17707-20220 was cancelled. (Exhibit 25) Mr. Comedy also "removed all indications

of an assisted living facility off of the drawings and resubmitted everything... and within about a week had [the] permits issued.” (T. 61) Mr. Comedy admitted that the building did not meet the setback requirements regardless of its intended use, and the setbacks were never raised by any of the agencies:

MR.COMEDY: No, we, at that point, we didn't have many discussions with Park and Planning about any of the setbacks. That, it never came up in any of the plan reviews. They, after we took off all references to assisted living, it took them a day to approve it. We never discussed setbacks, or any landscaping requirements, or anything of that nature. I knew there were several that we had to adhere to moving forward down the road, but at that time we didn't have any discussions about that.

MR. HERMAN: Did DPIE, or anybody else, interpose during the time that it was under review for an assisted living expansion anything about the setbacks?

MR. COMEDY: No, not at all.

MR. HERMAN: So regardless of that, they were approving it, notwithstanding the fact that even for the proposed commercial use, long-term proposed commercial use, it would not meet the appropriate setback, is that correct?

MR. COMEDY: Yes....

(T.66)

(6) Upon cross-examination Mr. Comedy stated he checked the Zoning Ordinance to see if a special exception would be required for the expansion of the number of residents but could not recall whether he checked the requirements for setbacks. (T. 68-70)

(7) On January 13, 2026, a supervisor with the Maryland-National Capital Park and Planning Commission ultimately determined that the permits had been issued in error:

It has come to my attention that the above-mentioned permits may have been erroneously recommended for approval by the Maryland-National Capital Park and Planning Commission. The permits were subsequently issued by The Department of Permitting Inspections and Enforcement to operate a congregate living facility. The property was previously in the R-80 Zone and is currently in the RSF-95 Zone and is located at 6313 Joyce Dr., Temple Hills.

The property came into R-R zoning [in] May 1949 and was rezoned in 1984 to the R-80 Zone per 1984 Subregion VII Sectional Map Amendment and remained in the R-80 Zone until the adoption of the current Zoning Ordinance on April 1, 2022, at which time the property was reclassified to the RSF-95 Zone.

At the time the permit applications were filed, all development was required to be in conformance with the R-80 Zone upon completion of permit reviews. The permits do not appear to have been in compliance with Sections 27-442 and 27-420(a) of the Prince George's County Zoning Ordinance effective prior to April 1, 2022 (prior Zoning Ordinance). Permit 41406-2018-RGW/01 was issued for handicap ramp and fence on 12/13/2019 by The Department of Permitting Inspections and Enforcement and 37152-2020-RGU issued for a two-story addition on 11/25/2020 by The Department of Permitting Inspections and Enforcement. Additional information is provided as follows:

41406-2018-RGW/01 - Approved for 48' handicap ramp and 4-foot and 6-foot high fence. Issued

12/13/2019. Compliance with Section 27-420(a) Fences and walls. On a corner lot consisting of one (1) acre or less, fences in the front yard or side yard shall not be more than four (4) feet high unless a variance is approved by the Board of Appeals. A 6-foot high

fence in the side yard may have been erroneously recommended for approval by the Maryland-National Capital Park and Planning Commission.

37152-2020-RGU - Approved for a 2,462 square foot, two-story addition with a maximum height of 40 feet. [Issued] 11/25/2020. Compliance with Section 27-442, Regulations, of the prior Zoning Ordinance requires a 20-foot rear setback. A 10-foot rear setback may have been erroneously recommended for approval by the Maryland-National Capital Park and Planning Commission.

(Exhibit 1) Section 27-4202 of the Current Edition of the Zoning Ordinance also requires a 20-foot rear yard depth (setback), and Section 27-6603 (a) generally requires a four-foot-high fence within a required front yard, build to zone, or corner lot side yard in front of the principal building.

(8) As a result, the instant request was filed. Applicant seeks to validate the permits for the fence and the expansion to the dwelling unit, respectively, for the reasons noted above. The Applicant submitted copies of invoices detailing the money expended in reliance on the building permits and testified as to the expenditure for the fencing. The invoices covered the period from January 2021 to January 2024, and show that the applicant expended over \$200,000.00 on:

- Pre-Construction
- Demolition & Site Work
- Building & Utilities
- Electrical & Mechanical
- Insulation & Drywall
- Interior Finishes
- Tile Work
- Kitchen Renovations
- Bathroom Renovations
- Laundry Room Renovations

(Exhibit 9)

(9) The Applicant states that she did not become aware that the fence and addition were in violation of the Zoning Ordinance until she initiated the Special Exception process to increase the number of residents. (T. 35-36) She also noted that she has not been cited with any zoning violations in regard to the fence and building addition and was unaware of any pending appeals or controversy regarding the approval of the permits, other than the requirement to change the use of the property since they did not have a Special Exception. (T. 35-36) Finally, Ms. Ogu stated she has never received any complaints from the community regarding the use of her property. (T. 37)

### **APPLICABLE LAW**

(1) The Application is a request to validate building permits that were issued in error and therefore qualify for review under Section 27-3615 (b) of the Zoning Ordinance. It can be approved by the District Council if it satisfies Section 27-3615 (e) of the Zoning Ordinance, which provides as follows:

**(e) Validation of Permit Issued in Error Decision Standards**

A validation of a permit issued in error may only be approved if the applicant demonstrates by substantial competent evidence in the record that:

- (1) No fraud or misrepresentation occurred in obtaining the permit;
- (2) At the time of the permit's issuance, no appeal or controversy regarding its issuance was pending before any review body;
- (3) The applicant has acted in good faith on the permit approval, expending monies or incurring other obligations in reliance on the permit; and
- (4) The validation will not adversely affect the public interest or the health, safety, or welfare of County landowners and residents.

**CONCLUSIONS OF LAW**

(1) The instant Application is in accordance with Section 27-3615 (b) of the Zoning Ordinance, since the request is to validate two building permits for a dwelling used as a Congregate Living Facility (as defined under the prior Edition of the Zoning Ordinance) that were issued in error more than five years ago.

(2) The record reveals that no fraud or misrepresentation was practiced in obtaining the permits as noted by sworn testimony, and as reasonably inferred by the lack of testimony to the contrary. (Section 27-3615(e)(1))

(3) While it is concerning that people aware of certain provisions of the Zoning Ordinance were unaware of the setback requirements, there is no evidence that any appeal or controversy regarding the issuance of the permits was pending before any administrative body at the time of their issuance. (Section 27-3615 (e)(2))

(4) The Applicant has acted in good faith, expending over \$200,000 since its purchase of the subject property in reliance on these permits. (Section 27-3615(e)(3))

(5) Given these facts, the validation will not be against the public interest as the instant Application validates an addition and a fence that has existed for several years, has generated no complaints by its surrounding neighbors and did not generate opposition to the request at the hearing, and does not detract from the character of the surrounding area as noted in the pictures submitted into the record. (Section 27-(3615 (e)(4))

(6) The District Council should declare the dwelling and fencing as nonconforming structures to ensure any further encroachment on setbacks or other changes are subject to review.

### **RECOMMENDATION**

It is recommended that the District Council validate the permits issued in error that allowed the construction of a privacy fence and an addition to the dwelling located at 6313 Joyce Drive, Temple Hills, Maryland. (Exhibits 3 and 4), in accordance with the Use and Occupancy Site Plan (Exhibit 26), with the condition that the dwelling and side yard fencing be declared Non-Conforming Structures.