

<b>IN RE: PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
E side of Gwynn Oak Avenue, 160 feet +/-		
N of the c/l of Dogwood Road	*	DEPUTY ZONING
1 <sup>st</sup> Election District		
4 <sup>th</sup> Councilmanic District	*	COMMISSIONER
<b>(1903 Gwynn Oak Avenue)</b>		
	*	FOR BALTIMORE COUNTY
Estate of Charles W. Warren;		
Darlene Warren, Personal Representative	*	<b>Case No. 08-104-SPH</b>
Petitioner		
	*	

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### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Darlene Warren on behalf of the Estate of Charles W. Warren, the legal property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an amendment to Case No. 01-427-SPH to reduce the area of the construction equipment storage yard, and to determine that the proposed development of one residential lot will meet the requirements of Section 204.5 of the B.C.Z.R. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1, and the colored and highlighted site plan which was marked and accepted into evidence as Petitioner's Exhibit 1A.

Appearing at the requisite public hearing in support of the requested special hearing was Petitioner Darlene Warren, Personal Representative for the Estate of Charles W. Warren, Ms. Warren's attorney, C. William Clark, Esquire, and Thomas Church with Development Engineering Consultants, Inc., the professional engineer who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is an irregular-shaped parcel containing approximately 49,898 square feet or 1.146 acres, more or less, and zoned R.O.

The property is located on the east side of Gwynn Oak Avenue, between Mount Alto Avenue to the north and Dogwood Road to the south in the Woodlawn area of Baltimore County. It is served by public water and public sewer. In viewing the property as it fronts Gwynn Oak Avenue, it is improved with an existing 2½-story framed dwelling situated at an angle on the right side of the property. Access to the property from Gwynn Oak Avenue is by way of an existing concrete driveway that runs along the property line on the right side to the back of the property. The property is also improved with an existing 60 foot by 30 foot metal building situated to the rear of the property at the end of the driveway.

By way of background, the property was purchased in 1978 by Mr. Charles Warren, Petitioner's husband. He, his wife, and family resided in the dwelling while Mr. Warren operated his business from the site known as "Maryland Diving Service." The nature of the business was to repair bridges, pipelines, watercraft, and other underwater facilities. Mr. Warren stored equipment related to his business in the metal building, including welding tools, supplies, pumps, hand tools, and drills. He also stored and maintained several vehicles related to the business at the site.

In that vein, the property was the subject of a prior zoning hearing in Case No. 01-427-SPH, wherein Mr. Warren requested special hearing relief for approval, as a non-conforming use, of a construction equipment storage yard and/or the outside storage of machinery, equipment and building materials for the business operating on the site. Because the case involved a non-conforming use, Mr. Warren testified as to the historical nature and use of the property, and also presented an affidavit from his elderly mother and several photographs and other documentation in support of the request to continue the non-conforming use. This evidence revealed that the subject property has been in the Warren family since approximately 1915, and that Mr. Warren's grandfather used the property to operate a contracting business there

for many years, until Mr. Warren acquired it in 1978. During all that time, the property was used to run his grandfather's and Mr. Warren's contracting businesses and as a contractor's equipment storage yard. As such, in an Order dated in June 2001, then Zoning Commissioner Lawrence E. Schmidt granted the special hearing request for a non-conforming use of the property. This Order was marked and accepted into evidence as Petitioner's Exhibit 2. The original site plan which accompanied the special hearing petition for a non-conforming use was marked and accepted into evidence as Petitioner's Exhibit 3.

Moving forward, Mr. Warren continued to operate his business at the site until his passing on November 11, 2005. Since that time, Petitioner, Ms. Warren, has continued to utilize the site for her own contracting business, and as a contractor's equipment storage yard. At this juncture, Petitioner desires to reduce the area of the construction equipment storage yard, and also desires to subdivide the existing lot to allow for the construction of a single-family dwelling on left side of the property as it fronts Gwynn Oak Avenue. Presently, Petitioner's consultant, Mr. Church, is proceeding through the County's Development Review Committee (DRC) for a requested minor subdivision.

In support of this request, Petitioner's attorney, Mr. Clark, indicated that Section 205.4 of the B.C.Z.R. indicates that while in general, the use or development of any property in an R.O. zone may not be changed from that existing, the use or development may change in accordance with a plan approved by the County Review Group pursuant to Article 32, Title 4 of the Baltimore County Code (B.C.C.). As indicated above, Mr. Church is currently pursuing the minor subdivision on behalf of Petitioner. In addition, photographs which were marked and accepted into evidence as Petitioner's Exhibits 5A through 5G are indicative of the present appearance of the property. They show that the existing dwelling is situated on the right side of the parcel and that the property has the appearance of a "double lot" because there is an open

space on the left side of the property leading to the very rear portion of the yard near where the metal storage building is located. Additional photographs showing the property, as well as other adjacent properties and their mixed residential and commercial uses, were marked and accepted into evidence as Petitioner's Exhibits 6A through 6D.

Mr. Church's proffered testimony indicated that in the event the proposed minor subdivision is granted, the new lot identified on the site plan as Lot 2 will be approximately 12,326 square feet and will meet all the requirements of the adjacent D.R.5.5 zone, including minimum area and front, side, and rear setback requirements. The proposed dwelling to be built on Lot 2 will consist of a two story single-family dwelling with an attached side-approach two-car garage. Access to the property will be from a driveway from Gwynn Oak Avenue up the left side of the property with a parking pad and access to the garage. The home will be similar in size, design, and features as the existing homes nearby, and as much as practical, would be in keeping with the current aesthetics of the neighborhood. It should also be noted that there were no adverse comments received from any of the representative County and State agencies comprising the Zoning Advisory Committee (ZAC).

Based on the testimony and evidence presented, I find that Petitioner's proposed minor subdivision plan to create an additional lot on the subject property in this R.O. zone is a change that is permitted by Section 204.5 of the B.C.Z.R. Therefore, I am persuaded to grant the special hearing relief to approve an amendment to Case No. 01-427-SPH in order to reduce the construction equipment storage yard, and to allow the proposed minor subdivision plan to proceed through the DRC in accordance with Article 32, Title 4 of the B.C.C. Moreover, in my judgment, Petitioner's planned uses of the property to continue to utilize the storage building to the rear of the property in connection with her contracting business, and her proposal to subdivide the property for one additional lot which will be in compliance with all minimum area

and front, side, and rear setback requirements are appropriate, and will not be detrimental to the health, safety, or general welfare of the surrounding locale.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's request for special hearing should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 29<sup>th</sup> day of November, 2007, that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve an amendment to Case No. 01-427-SPH to reduce the area of the construction equipment storage yard, and to determine that the proposed development of one residential lot will meet the requirements of Section 204.5 of the B.C.Z.R. is hereby GRANTED subject to the following:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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SIGNED  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz