



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

www.howardcountymd.gov
FAX 410-313-3467
TDD 410-313-2323

January 13, 2015

TECHNICAL STAFF REPORT

*Petition Accepted on November 20, 2014
Hearing Examiner Hearing of January 26, 2015*

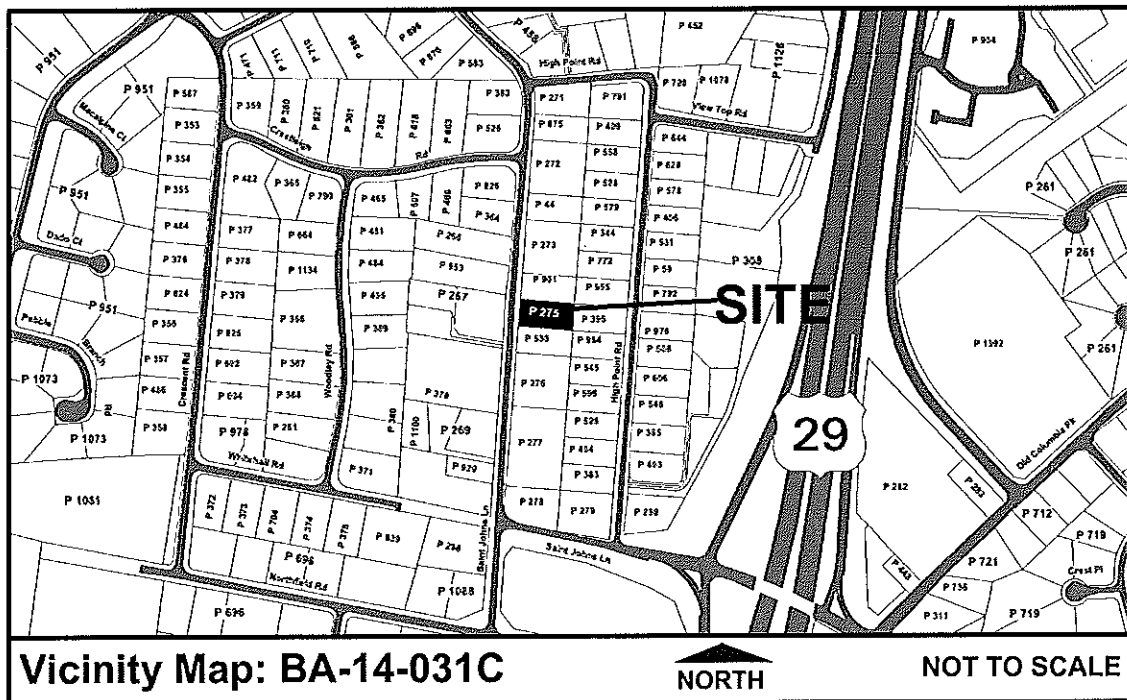
Case No./Petitioner: BA-14-031C Lorman Lykes

Request: Conditional Use for a Two-family Dwelling (Section 131.0.N.54)

Location: Second Election District
East side of St. Johns Lane approximately 600 feet south of Crestleigh Road
Tax Map 24, Grid 17, Parcel 275, Lot 9; 4033 St. Johns Lane (the "Property")

Area of Site: 21,344 square feet (0.49 acre)

Zoning: R-20 (Residential: Single)



I. CONDITIONAL USE PROPOSAL

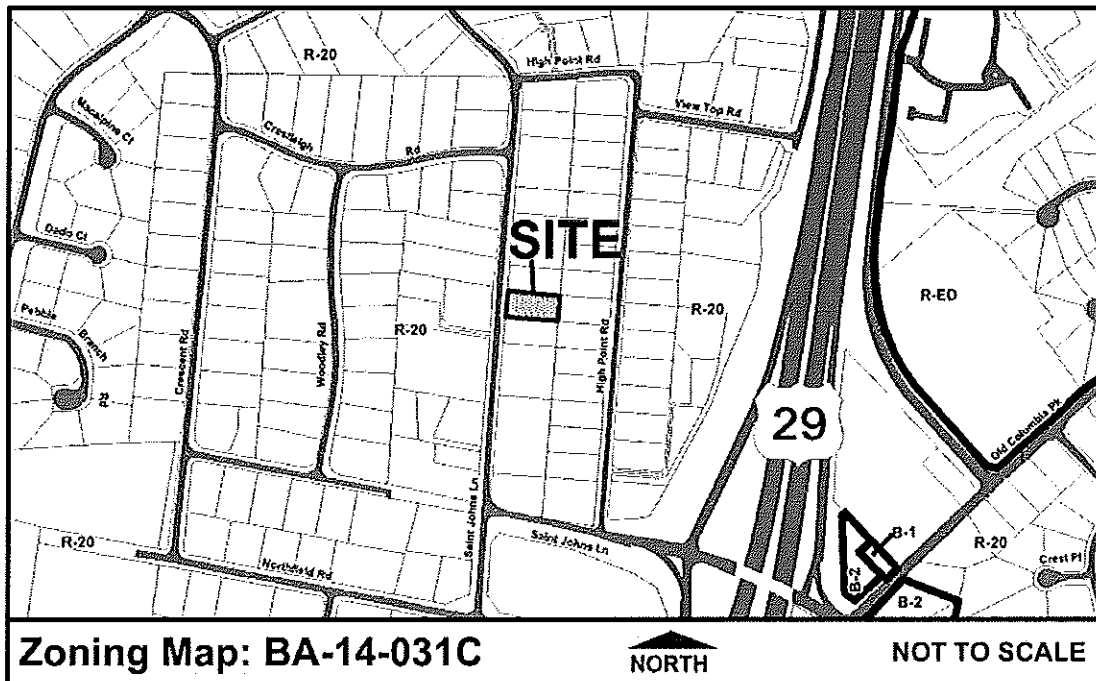
The Petitioner seeks approval for a two-family dwelling located within the existing dwelling on the Property. The petition states that the owner occupies the lower level and basement and the upper level is occupied by a renter. According to the submitted floor plan, the upper and lower levels each comprise a living room, dining room, kitchen, bathroom and two bedrooms. The basement comprises areas designated as storage, laundry, a utility room, rec room, bathroom and one bedroom. No new additions are proposed in connection with the Conditional Use petition.

The dwelling measures approximately 30' x 48' according to Howard County GIS. The dimensions shown on the submitted floor plan exceed the GIS dimensions; it appears that the decimal point may have been inadvertently omitted from the dimensions shown on the submitted floor plan.

II. BACKGROUND INFORMATION

A. Site Description

The Property is Lot 9 of the Dunloggin Heights subdivision. The rectangular shaped Property is improved with a two-story dwelling with a basement. There is a driveway on the south side of the lot which leads to a car port adjacent to the house. The topography of the site is relatively level.



B. Vicinal Properties

Vicinal properties to the north, south, east and west are zoned R-20 and are predominately improved with single-family detached dwellings.

C. Roads

St. Johns Lane has two travel lanes. According to data from the Department of Public Works, the traffic volume on St. Johns Lane south of Frederick Road was 8,800 AADT (average daily trips) as of January, 2009.

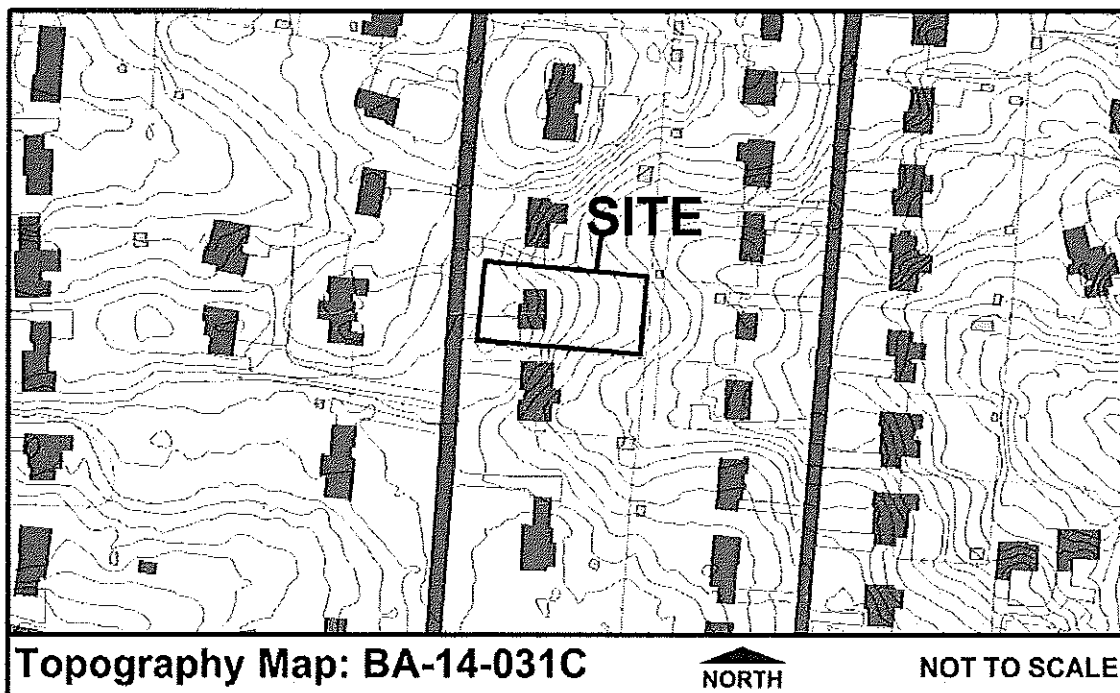
D. Water and Sewer Service

The Property is within the Metropolitan District and is within the Existing Service Area of the Howard County Water and Sewerage Master Plan according to the Howard County Geographic Information System maps. The Property is served by public water and sewer facilities.

E. General Plan

The Property is designated Established Community on the Designated Place Types Map of PlanHOWARD 2030.

St. Johns Lane is depicted as a Minor Collector on the Functional Road Classification Map of PlanHOWARD 2030.



F. Agency Comments

See attached comments on the proposal from the following agency:

1. Department of Inspections, Licenses and Permits

The following agencies had no objections to the proposal:

1. Department of Recreation and Parks
2. Department of Fire and Rescue Services
3. Bureau of Health

III. ZONING HISTORY

A. CE-13-108

Action: Formal notice issued October 4, 2013 for the maintenance of three dwelling units in a single-family detached dwelling on R-20 zoned property.

Action: Preliminary Order, January 6, 2015 (copy attached)

Status: Closed, December 1, 2014

IV. EVALUATION AND CONCLUSIONS

A. Evaluation of petition according to Section 131.0.B. of the Zoning Regulations (general criteria for Conditional Uses):

1. The Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use, particularly Policies of Chapter 9, Housing, of PlanHOWARD 2030.

The Conditional Use is residential in nature and predominately comprises indoor use. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.

2. The residential use would not create impacts or adverse effects such as noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions which would be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.
3. The location, nature and height of structures and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.
4. Section 133.0.D.2.a requires two parking spaces per single-family detached dwelling unit; however, there is no specific requirement for a two-family dwelling. The carport and driveway would provide at least four parking spaces so it appears there are an adequate number of parking spaces for the Conditional Use. The parking areas and

driveway are appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

5. There are no proposed changes to the existing ingress and egress drives and there is no shared driveway access. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions.
6. There are no known environmentally sensitive areas in the vicinity.
7. There are no known historic sites in the vicinity.

B. Evaluation of petition according to Section 131.0.N.54 (Specific Criteria for a Conditional Use for a Two-family Dwelling):

No new structures or additions are proposed for the two-family dwelling. The existing structure is compatible in architectural style, materials and scale with the surrounding residential neighborhood.

1. The Property is a 21,344 square foot lot located in an R-20 District. It is improved with a residential dwelling on an individual lot, and is an existing recorded lot (Dunloggin Heights subdivision) at the time of the Conditional Use application. The petition complies with Section 131.0.N.54.a.
2. This section which concerns accessory apartments is not applicable.

V. RECOMMENDATION

For the reasons stated above, the Department of Planning and Zoning recommends that the request for a Two-family Dwelling (Section 131.0.N.54) be **GRANTED** subject to the following condition:

1. The Conditional Use shall be conducted in conformance with and shall apply only to the Conditional Use for a Two-family Dwelling as described in the petition and as depicted on the Conditional Use plan submitted November 20, 2014 and as may be revised by the Hearing Authority, and not to any other activities, uses, or structures on the Property.

for William A. Mackey, Jr. 1/15/2015
Marsha McLaughlin, Director Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

MEMO TO: Department of Planning and Zoning

FROM: Department of Inspections, Licenses and Permits



Petition No.: **BA 14-031C** Date Due: **01/05/2015** Date Rec'd: **12/09/2014**

Tax Map No: **24** Parcel: **17** Lot: **9**

Applicant: **Lorman Lykes**

Location/Address: **4033 St. Johns Lane, Ellicott City**

Nature of Petition: **Zoning change to two-family dwelling**

Approved, subject to the following advisory comment:

The building code will require a one (1) hour fire separation be installed between the two dwelling units. A building permit is required to install the one (1) hour fire separation.

James Hobson

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DEC 12 2014

HOWARD COUNTY BOARD OF APPEALS HEARING EXAMINER

In the Matter of

Civil Citation No. CE 13-108

LORMAN LYKES

Respondent

Preliminary Order

PRELIMINARY ORDER

This matter came before the Howard County Board of Appeals Hearing Examiner for a November 11, 2014 hearing on a Department of Planning and Zoning (DPZ) civil citation for violations of Howard County Zoning Regulations (HCZR) §§ 108.0.B & .C and § 101.0.O, involving the maintenance of three dwelling units within a single-family detached dwelling on R-20 (Residential: Single Family) zoned property known as 4033 Saint Johns Lane. On February 2, 2014, pursuant to Howard County Code (HCC) Title 24, "Civil Penalties," and Subtitle 3 of Title 16 of the HCC, Department of Planning and Zoning (DPZ) Zoning Regulations Inspector Curtis Braithwaite issued Lorman E. Lykes Civil Citation CE 13-108. The citation was sent by registered and regular mail to Respondent at 4033 Saint Johns Lane.

Nowelle A. Ghahhari, Assistant County Solicitor, represented the Department of Planning and Zoning (DPZ). Zoning Regulations Inspector Curtis Braithwaite appeared for the hearing and testified. Respondent Lorman Lykes appeared for the hearing and testified

The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure.

DPZ introduced into evidence the exhibits as follows.

1. Letter to Valerie Parkham from Anthony LaRose, DPZ Zoning Supervisor, re: illegal rental property at 4033 Saint Johns Lane
Notice of Violation, CE 13-108, October 4, 2013
2. Civil Citation, CE 13-108, February 7, 2014

3. Department of Inspections, Licenses and Permits (DILP) rental housing agreement for 4033 Saint Johns Lane
4. Two-Family Conditional Use petition filed by Lorman Lykes, October 13, 2014

DPZ Testimony and Evidence

1. Zoning Inspector Curtis Braithwaite testified to being a DPZ Regulations Inspector and receiving a zoning complaint about illegal rental property at 4033 Saint Johns Lane (the Property), specifically that the home was being used as a three-dwelling unit. The Inspector met Mr. Lykes at the property by appointment and conducted an inspection of the premise's interior. The three-level home had separate dwelling units in the basement, on the first floor and on the second floor. They are separate units because each unit had a full kitchen and bath. He recalled there being a main door through which all tenants entered the units.

2. Inspector Braithwaite referred to DPZ Exhibit 1, which includes the NOV issued to Lorman Lykes on October 4, 2013. Based on a September 23, 2013, inspection, the NOV informs Mr. Lykes that the premises are in violation of HCZR §§ 108.B & .C and § 101.0 by maintaining three dwelling units within a single-family detached dwelling on R-20 zoned property. The NOV instructs Mr. Lykes to abate the violation by reducing the number of dwelling units from three to one or by obtaining conditional use approval for a two-family dwelling unit (and eliminating the third unit). The NOV further instructs Mr. Lykes to abate the violation with 30 days of the notice.

3. Inspector Braithwaite issued Mr. Lykes a civil citation on February 7, 2014 for the maintenance of three dwelling units within a single-family detached dwelling on R-20 zoned property. Based on a second inspection, when Mr. Braithwaite did not enter the premises, Mr. Lykes has not brought the property into compliance.

4. DPZ introduced DPZ Exhibit 3, a rental license for the premises issued on June 19, 2013, for an accessory apartment. The Inspector explained an accessory apartment use includes a unit with a kitchen and bath and that the dwelling is being used as three separate dwelling units. DPZ also introduced DPZ Exhibit 4, a copy of the Conditional use petition submitted by Mr. Lykes. The Conditional Use, if approved, would allow two dwelling units, but Mr. Lykes would still need to remove the third unit.

Respondent's Testimony

5. Mr. Lykes testified to attempting to bring the property into compliance by reducing the number of units from three to two. He resides there, as does a tenant. There is one family living there, himself and his children. The basement apartment was rented to a family, but he asked them to live. The dwelling (what he called the apartment) has three separate entrances. It was his understanding that even though there are three families living at the premises, there are only two units, because the basement and the first floor are adjoined. When he bought the house, there were two families residing there and the first floor and basement were considered one unit. He installed kitchen equipment in the basement with the thought of his mother living in the basement, but she has yet to move in. His intention is that his extended family (himself, his mother and children) live on the first floor and basement, with the second floor used as a rental unit. As the Hearing Examiner understood Mr. Lykes' later testimony, there are two households currently in residence. He and his son live in the lower unit (the basement and first floor) and his tenant lives on the second floor. At DPZ's request, Mr. Lykes agreed to DPZ inspecting the premises to ensure compliance with the HCZR.

Burden of Proof

Pursuant to HCC 16.1605(d), in an appeal of a citation issued under Section 16.1603 of Subtitle 16, Enforcement of The Howard County Subdivision and Land Development Regulations and the Zoning Regulations, the burden of proof is on the county to show, by a preponderance of the evidence, that the alleged violator has violated the laws or regulations in question. However, it is the alleged violator's burden to provide all affirmative defenses, including the defense of nonconforming use.

Analysis and Conclusions of Law

The Civil Citation was properly issued after the requisite Notices of Violation pursuant to Title 16.602 of the HCC. Lorman Lykes is the property owner of 4033 Saint Johns Lane and the person responsible for abating the violations by bringing the subject property in compliance with the Zoning Regulations.

The evidence of record indicates that Mr. Lykes has submitted a Conditional Use petition for a two-family dwelling. He also agreed to the County inspecting the premises to ensure compliance with county law. HCZR § 103.0 defines a dwelling unit as "[a] single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking limited to one kitchen, and sanitation." To abate the violation, Mr. Lykes must be granted the Two-Family conditional use petition and demonstrate through an inspection that there are only two dwelling units on the premises. Alternatively, if the conditional use petition is denied, Mr. Lykes must demonstrate, through an inspection, that there is only one dwelling unit on the premises.

ORDER

It is therefore this 6th day of January 2015, by the Howard County Board of Appeals

Hearing Examiner, **ORDERED**:

1. That Respondent is ordered to seek approval of the Two-Family Conditional Use petition submitted to DPZ. The Hearing Examiner takes note that a hearing on the petition is scheduled for January 26, 2015.
2. It is **Further Ordered** that if the petition is granted, Respondent shall permit the Department of Planning and Zoning to inspect the premises to ensure there are only two dwelling units in compliance with the Howard County Zoning Regulations.
3. It is **Further Ordered** that in the event the petition is denied, Respondent shall reduce the number of dwelling units to one in compliance with the Howard County Zoning Regulations and permit the Department of Planning and Zoning to inspect the premises for compliance.
4. It is **FURTHER ORDERED** that the Hearing Examiner is retaining jurisdiction over this case. Should Respondent not abate the violation, Respondent is on notice that DPZ may request a continuation hearing for further enforcement action, including a civil fine.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**

MICHELE LEFAIVRE

Michele L. LeFaivre