

IN THE MATTER OF : BEFORE THE
ADAM ENG : HOWARD COUNTY
Petitioners : BOARD OF APPEALS
: HEARING EXAMINER
: BA Case No. 13-036C

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DECISION AND ORDER

On March 10, 2014, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Adam Eng for approval of a Two-family dwelling conditional use in an R-20 (Residential: Single) Zoning District, filed pursuant to Section 131.0.N.54 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioner certified to compliance with the advertising, notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure.

Petitioner Adam Eng was not represented by counsel. No one appeared in opposition to the petition. Franklin David testified in support of the petition.

FINDINGS OF FACT

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds as follows:

1. Property Identification. The subject property is located in the 1st Election District on the south side of Montgomery Road about 220 northwest of Marshalee Drive. It is referenced as

Tax Map 37, Grid 5, Parcel 320, Lot 3 and has a street address of 6414 Montgomery Road (the Property). The Property is part of the Montgomery Point subdivision.

2. Site Description. The 20,000-s.f. Property is improved with a two-story frame, single family detached dwelling, estimated to have been built in the 1930s with a later rear addition. Access to the Property is through a gravel driveway, which passes the east side of the house and extends into the south portion of the Property.

3. Zoning History. The Technical Staff Report (TSR) acknowledges the difficulty of associating older zoning cases with a specific property because the decisions did not provide exact location information, such as tax IDs or property addresses. For this reason, it discusses a December 29, 1977 decision, BOA Case No. 930-C where the Board of Appeals granted a special exception to convert an existing single-family dwelling into a two-family dwelling for the Hearing Examiner's consideration. The decision and order attached to the TSR describes the request for a second floor dwelling.

4. Adam Eng testified that his mortgage company (or insurance underwriter) required him to remove an existing kitchen on the second floor. He is now seeking approval of the two-family condition use petition for two dwellings, one on the first floor and one the second.

5. The Hearing Examiner discussed the BOA Case No. 930-C decision and order with Mr. Eng. She explained that she would review historic aerial photographs, satellite views of the Property and compare them to what she observed during her site visit.

6. Having reviewed the historic aerial photographs of the Property from 1977 to 2011, the Hearing Examiner takes notice that the dwelling she observed during her site visit is the

same as those she observed in these images.¹ The Hearing Examiner therefore concludes the Property is subject to a permitted Two-family Conditional Use.

¹ The historic aerial images are available for searching at <http://data.howardcountymd.gov/OLMaps/HistoricAerials.html>.

ORDER

Based upon the foregoing, it is this **17th day of March 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That a Two-Family Conditional Use was approved for the Property through Board of Appeals Case No. 930-C , decided December 29, 1977, which decision granted said Two-family Conditional Use for a single-family dwelling on the first floor and a second single-family dwelling on the second floor.

1. It is **FURTHER ORDERED** that this approval does include or encompass any other uses, activities, or structures on the Property, including any new additions.
2. It is **FURTHER ORDERED** that Petitioner shall obtain all necessary permits for the use.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**



Michele L. LeFaivre

Date Mailed: _____

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 calendar days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.