

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

JOAN F. ENDT, SP 2011-SP-003 Appl. under Sect(s). 8-918 of the Zoning Ordinance to permit an accessory dwelling unit within the existing dwelling. Located at 7822 Belleflower Dr. on approx. 10,040 sq. ft. of land zoned PDH-3. Springfield District. Tax Map 89-2 ((14)) (11) 12. Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 16, 2011; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. The present zoning is PDH-3.
3. The area of the lot is 10,040 square feet.
4. The applicant has satisfied the requirements as set forth in the Ordinance.
5. Once a person gets a Notice of Violation, they are required to either bring the structure or area into compliance, or remove the offending kitchen.
6. Under the Ordinance, a person that has a kitchen like this is permitted to seek a special permit to allow it to remain.
7. The special permit has conditions attached which allow inspection.
8. The special permit is only good for a number of years; it has to be renewed periodically.
9. It does not change the zoning category. The neighborhood remains residential.
10. The Board does not enforce covenants. They are considered a private remedy.
11. The board of directors of the homeowners association may try to enforce the covenants. We do not have them before us. We do not know what is in them. We do not know if they give a remedy or not. There is a lot of confusion on that with other homeowners associations who bring them in from time to time.
12. With respect to the rental issue, the Ordinance does not prohibit renting rooms or, in this case, renting the accessory dwelling unit.
13. The Board will not try to add a condition that prohibits rental in this particular case.
14. The Board has a favorable staff report.
15. The County Board of Supervisors enacted the accessory dwelling unit years ago, and as Mr. Hart said, they adopt the policy. The Board of Zoning Appeals is not here to change their policy.
16. If you have a problem with the policy, it should be discussed with the County Board representative.
17. If it requires that the garage be cleaned out to put a third or fourth car in the garage when an inspection is done, the applicant has indicated willingness to comply, that the garage be cleaned out and an extra car be put in there.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant only, Joan F. Endt, and is not transferable without further action of this Board, and is for the location indicated on the application, 7822 Belleflower Drive, (10,040 square feet), and is not transferable to other land.
3. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by Larry N. Scartz, dated May 20, 1983, and approved with this application, as qualified by these development conditions.
4. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
6. The accessory dwelling unit shall contain a maximum of 550 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
7. All applicable building permits and final inspections shall be obtained for the kitchen in the accessory dwelling unit.
8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
9. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.

11. All parking shall be provided on site including the garage, if required, as shown on the special permit plat. There shall be no parking in the street or over the sidewalk.
12. The space identified on the special permit plat as the office/den shall not be used for sleeping quarters.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.

Mr. Byers seconded the motion, which carried by a vote of 6-0. Mr. Smith was absent from the meeting.

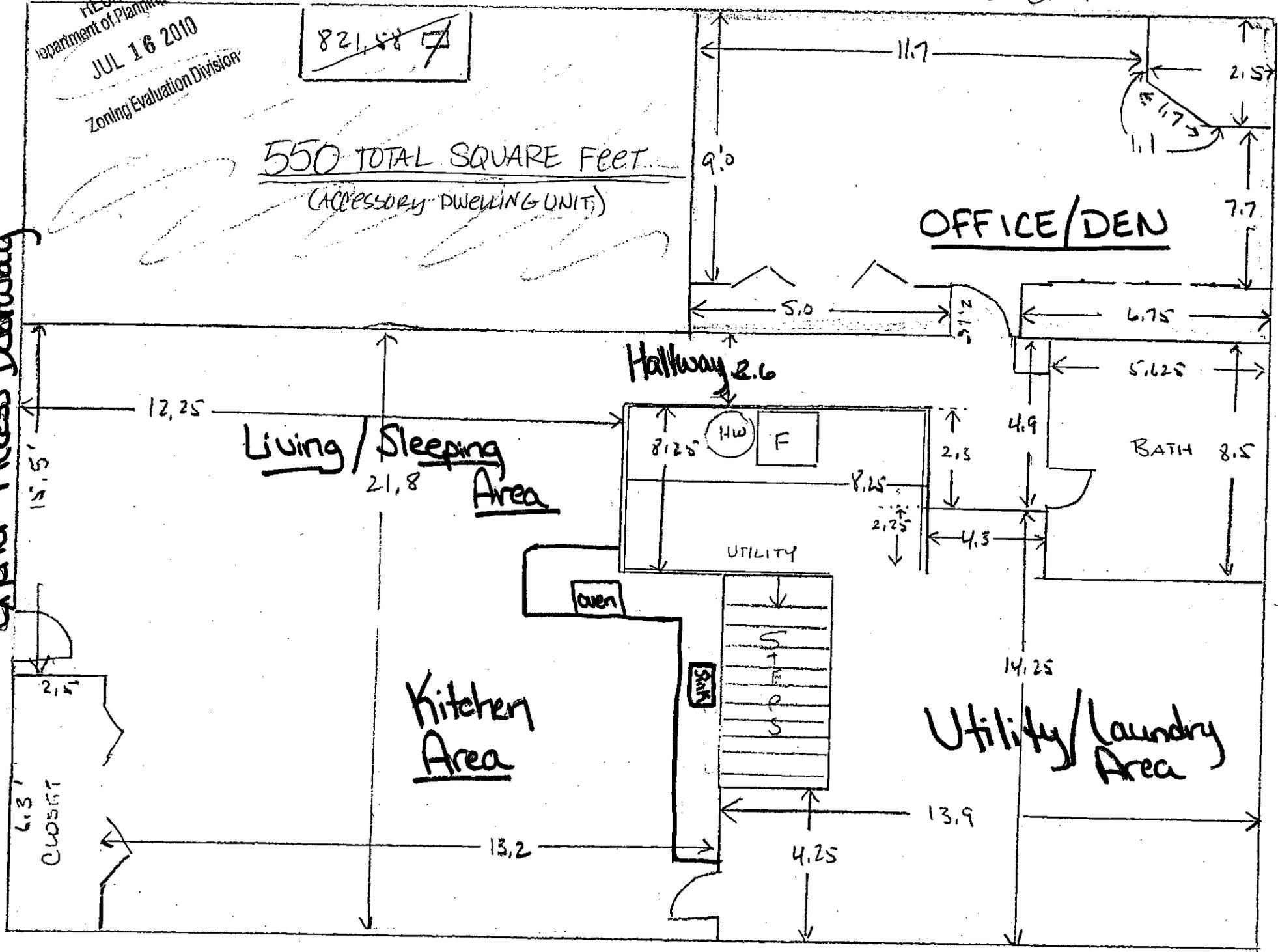
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Department of Planning & Zoning
JUL 16 2010
Zoning Evaluation Division

ORIGINAL

821,587

550 TOTAL SQUARE FEET
(ACCESSORY DWELLING UNIT)

Exterior Access Driveway



OFFICE/DEN

Living/Sleeping Area

Kitchen Area

Utility/Laundry Area

BATH 8.5

Hallway 2.6

ATTACHMENT 1