

## MINUTES

The Salisbury Board of Zoning Appeals met in regular session on July 1, 2010, in Room 301, Government Office Building at 7:00 p.m. with attendance as follows:

### **BOARD MEMBERS:**

Patricia Layton, Chairman  
Dave Rainey, Vice Chairman (Absent)  
Daniel Baker  
Edgar Williams (Absent)  
Dave Nemazie

### **CITY OFFICIALS:**

Henry Eure, Building, Permits & Inspections Dept.  
Skip Cornbrooks, City Attorney's Office

### **PLANNING STAFF:**

Gloria Smith, Planner  
Beverly Tull, Recording Secretary



Mrs. Layton, Chairman, called the meeting to order at 7:11 p.m.

**MINUTES:**

The approved the June 3, 2010 meeting minutes as submitted.



**#SA-1013      Champion Properties, LLC – Administrative Appeal –  
Determination regarding an Illegal Garage Apartment –  
713 Camden Avenue – R-10 Residential District.**

Mr. Tom Maloney, Ms. Laura Borowski, and Ms. Regina Campioni came forward. Mrs. Gloria Smith presented and entered a Memo into the record. She summarized the memo explaining that further research of the Salisbury Board of Zoning Appeals case files revealed a request from August 2, 1979 (#SA-7922) in which the Board made a determination that the three-family residence at 713 Camden Avenue was a legal nonconforming dwelling that had not been abandoned. The Board needs to make a determination that the 1979 decision of the Board stands, and that there are in fact, four legal nonconforming units at this location, including the garage apartment.

Mr. Maloney explained that after research was done by both the City and Mr. Maloney's office it was determined by the City that there was a 1979 Appeals case allowing four (4) units at this property. Mr. Maloney requested an action by the Board to state that this is still a legal nonconforming use.

Mrs. Smith stated that the materials that were handed out at the meeting included the minutes and the decision letter from the 1979 case. She added that she didn't copy the site plans that were in the case file which showed the garage apartment.

Mr. Maloney stated that Champion Properties was also submitting a bill to the City of Salisbury for the cost of the appeals and the attorney's fees. This invoice was handed to Mr. Cornbrooks.

Upon a motion by Mr. Baker, seconded by Mr. Nemazie, and duly carried, the Board **UPHELD** the 1979 Board decision, based on the decision letter and minutes, that the property at 713 Camden has three Legal Nonconforming units in the house and one legal nonconforming unit in the garage.



**#SA-1010**

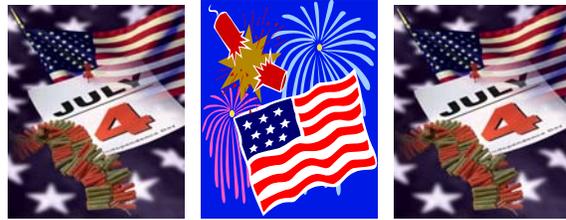
**Jeron & Pamela Holland - 2 ft. Fence Height Variance along Truitt Street – 901 E. Church Street – R-8 Residential District.**

Mrs. Pamela Holland came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the Staff Report explaining that the applicant is requesting approval of a 6-ft. tall fence within the “front” yard of this property along Truitt Street. The property is a corner lot, with frontage on both East Church Street and Truitt Street, and by the Code’s definition, has two front yards. The City Code limits the height of fences to 4 ft. in front yards. Board approval of a 2-ft. fence height Variance is requested.

Mr. Eure stated that the fence doesn’t interfere with any of the other properties or the traffic. There are other fences in the area. Mr. Eure stated that the Building Department recommended approval of the fence height variance.

Mrs. Holland stated that she had obtained a permit for the fence which was installed two (2) years ago for the safety of her children. A nice fence was installed. She submitted as **Applicant’s Exhibit #B** a letter from her neighbor in support of the request. She added that the business located behind her residence had thanked them for putting up the fence. Mrs. Holland stated that traffic is not affected by the fence and requested approval of the variance.

Upon a motion by Mr. Nemazie, seconded by Mr. Baker, and duly carried, the Board **APPROVED** the 2 ft. Fence Height Variance as submitted, based on Section V(c) of the Staff Report.



**#SA-1011**

**Pat & Cathy-Jo Williams – Special Exception – Accessory Apartment in a freestanding garage – 1005 Mt. Hermon Road – Lt. Bus. and Institutional District.**

Mr. Pat Williams and Mrs. Cathy-Jo Williams came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the Staff Report explaining that the Applicants propose utilizing the second floor of a garage building on this property as an accessory apartment. The Code allows an apartment unit as an accessory use above the first floor by special exception in the Light Business and Institutional District. The Applicants have applied to the Board for the Special Exception to permit the accessory apartment.

Mr. Eure stated that the request meets all Zoning Code requirements and parking requirements. The lot is large enough that if the primary use were to change that there is room for additional parking. Mr. Eure stated that the Building Department recommended approval of the requested Special Exception.

Mr. Williams stated that the apartment would be a single bedroom apartment.

Mr. Nemazie questioned the condition about the permits and inspections. Mrs. Smith stated that the condition was included as a precautionary measure to make sure that the applicant was aware that all necessary permits and licenses would have to be obtained.

Mr. Baker questioned how the request would change the use of the accessory building and if the setbacks would change. Mr. Eure responded that there would be no changes to the accessory building setbacks because the building already exists.

Mr. Williams stated that the garage was built for this apartment and when they took ownership of the property they tried to clean it up.

Mr. Baker questioned if the business could be converted back to a single family residence. Mr. Eure responded that the zoning district doesn't allow single family residences.

Upon a motion by Mr. Nemazie, seconded by Mr. Baker, and duly carried, the Board **APPROVED** the requested Special Exception to create an accessory apartment in the second floor of the existing garage on the property at 1005 Mt. Hermon Road, based on Section V(c) of the Staff Report and subject to the following Condition of Approval:

**CONDITION:**

1. The required building permits and registrations for the accessory apartment shall be obtained from the appropriate City Departments.



**#SA-1014**

**Wicomico Presbyterian Properties, Inc., rep. by George White – Administrative Appeal – Determination regarding an Illegal Dwelling – Garage Apartment – 207 Broad Street – Office and Service Residential District.**

Mr. George White came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the Staff Report explaining that the Applicants own a residential property at 207-209 Broad Street that is being used as a three-family residence. The property is zoned Office and Service Residential, which allows two-family residences. The Director of the Department of Building, Permits and Inspections notified the applicants in letters dated May 4, and May 12, 2010, that the property at 207 Broad Street contains an illegal dwelling unit. As provided by the Code, the Applicant appealed the Director's decision, taking the position that the two-family use is a legal nonconforming use that was established at a time when the City's Zoning Code allowed two-family dwellings in this property's particular zoning district.

Mr. Eure stated that the Staff Report was accurate. In 1979 someone requested a variance before the Board and it was denied. Mr. Eure stated that the Building Department wishes for the Board to uphold their decision and reduce the property to two single family dwellings.

Mr. White stated that the Staff Report is correct in that there is no garage apartment on this property. However it does erroneously portray 207-209

Broad Street as running through to Chestnut Street and it does not. Wicomico Presbyterian Properties acquired the property in 1981 and it had three units at that time. The property at 207 Broad Street is a two-story dwelling with two (2) units. The property at 209 Broad Street is a one (1) story single family dwelling. Both of these properties are on one (1) deed. These properties have been used as three (3) rental units since the property was purchased in 1981. **Applicant's Exhibit #B** was entered into the record as the current plat showing 2 ½ acres of property that the Church or Wicomico Presbyterian Properties owns in that block. **Applicant's Exhibit #C** was entered in to the record as the assessment sheet for the property. **Applicant's Exhibit #D** was entered into the record as the 1981 deed for the property. **Applicant's Exhibit #E** was entered into the record as three (3) photographs taken on July 1, 2010 with **Exhibit #E1** being the easterly direction of the property, **Exhibit #E2** being the westerly direction of the property in from of the Church, and **Exhibit #E3** being a photograph taken directly across Route 50 from the property. **Applicant's Exhibit #F** was entered into the record as a letter dated May 24, 2010 from Mr. Rick Ramsey stating that since January 1, 1980 that 207 Broad Street had contained two (2) units and that 209 Broad Street had contained one (1) unit showing that three (3) units were being taxed on that property. **Applicant's Exhibit #G** was entered into the record as the permit application from 1996 for window replacement for 207 Broad Street for the Salisbury Historic District Commission. **Applicant's Exhibit #H** was entered into the record as the permit receipt. **Applicant's Exhibit #I** was entered into the record as the approval of the Historic District Commission to replace the windows. **Applicant's Exhibit #J** was entered into the record as the inventory or rating list of the historic district showing 207 Broad Street being highlighted. **Applicant's Exhibit #K** was entered into the record as an affidavit by Mr. Walter Webster from whom the Church acquired the property, stating that it was a two (2) family dwelling for 207 Broad Street and a single family residence for 209 Broad Street and included a copy of the deed. **Applicant's Exhibit #L** was entered into the record as the 1946 Sanborn map showing the area of the property before Route 50 was constructed. This shows the number of dwellings and that 203 Broad Street is now 207 Broad Street and that 205 Broad Street is now 209 Broad Street. He stated that there were a number of properties that were in place of where the Church is now located. The Church has tried to be a responsible property owner. Twelve dwelling units have been acquired and removed by the Church. The units are managed by a property manager. There are only three (3) or four (4) residential units left on the block. Based on either principles or equity and fairness, this property should remain in three (3) units as it has been for the last 30 years. In the 1980's, the Church could have gotten permission for three (3) units. In the 1979 variance the Church didn't own all these properties. The Church now owns all the property around these homes. The property is well maintained and taxes have been paid on these three (3) units for over 30 years.

Mr. Nemazie questioned if the question was really about 60 sq. ft. or if a 9,000 sq. ft. parcel would have made a difference. Mr. Eure responded that in

1981 it would have made a difference. Mrs. Smith added that the 3<sup>rd</sup> unit is still not permitted under today's Code.

Mr. White stated that there are actually two (2) deeded structures there but they are on one (1) deeded parcel.

Mrs. Layton stated that if the property was resubdivided then there wouldn't be a problem. Mr. Eure stated that if the property was resubdivided then it was a good possibility that there wouldn't be a problem. Mr. White stated that the property is used for parking. Mr. Eure stated that if the property met the minimum lot requirement then they could resubdivide.

Mrs. Layton questioned if the use could go with the land if it was there. Mr. Eure stated that there must be two (2) lots and that three (3) units are not allowed today.

Mr. White stated that the Church was not going to sell the property but will probably demolish some more of the houses at some point. Mr. White stated that resubdividing seems like a technicality but questioned if it would require additional variances. Mrs. Smith stated that the structures would need setback variances if it was resubdivided.

Mr. Nemazie questioned if all three (3) units were occupied. Mr. White responded in the affirmative.

Mrs. Layton stated that this appeared to be an issue that time would take care of.

Mr. Nemazie questioned if he could make it into one (1) lot since he owned the adjacent property. Mr. Eure responded that there couldn't be three (3) units on one (1) property.

Mr. White stated that there was enough land there to resubdivide the property. One (1) structure has been there since before 1979 as a two (2) family dwelling. This is more of a formality than anything of substance at this time. He added that the Church would like to not have to go through the additional expense.

Mr. Baker commented that the Board has used affidavits in the past to establish when a unit was occupied and now this case has a State Assessment Office letter stating that there are three (3) units being taxed on the property.

Mr. Nemazie stated that he was more disturbed over the variance being requested and denied in 1979.

Mrs. Layton stated that it appeared that Mr. Webster requested the variance and it was denied, and converted the structure anyway. Mr. Eure responded that it appeared that Mr. Webster proceeded even though the variance was denied.

Mr. White stated that the principal owns two and a half acres of land on the block and there are only a few residential homes on the block. He requested the Board's consideration to avoid having to reconfigure the parcels. The property has been used for three (3) dwellings for over 30 years.

Mr. Nemazie stated that the Board had seen many of these cases recently and that some things done in good faith have to be denied.

Mr. White questioned if he was turned down, could he come back. Mr. Eure responded that it would be a different situation so he would be able to come back before the Board.

Mr. Cornbrooks suggested that the Board uphold the Building Department's determination and give the applicant a period of time to apply for a resubdivision of the property.

Upon a motion by Mr. Nemazie, seconded by Mr. Baker, and duly carried, the Board **UPHELD** the Department of Building, Permits and Inspection's determination that the residence at 207 Broad Street is not a legal nonconforming use as a two-family dwelling and allowed a six (6) month time period for completion of resubdivision of the property or elimination of one of the units.



**#SA-1015**

**Hilda Escobar, rep. by Thomas J. Maloney – Administrative Appeal – Determination regarding an Illegal Two-Family Dwelling – 624 East Church Street – R-5 Residential District.**

Ms. Hilda Escobar, Ms. Laura Borowski and Mr. Thomas Maloney came forward. Mr. Maloney stated that there had been 10 owners in 10 years. He requested a continuance to allow for more time for research on this case.

Upon a motion by Mr. Baker, seconded by Mr. Nemazie, and duly carried, the Board, **CONTINUED** your request until the August 5, 2010 meeting.



**#SA-1016**

**Patrick & Deniece Ashley, rep. by Thomas J. Maloney – Administrative Appeal – Determination regarding an Illegal Two-Family Dwelling - 842 Brown Street – R-8 Residential District.**

Mr. Thomas Maloney, Ms. Laura Borowski, and Mr. Patrick Ashley came forward. Mr. Maloney requested a continuance for this case due to the lengthy chain of title which includes 70 years and a five (5) year gap.

Upon a motion by Mr. Nemazie, seconded by Mr. Baker, and duly carried, the Board **CONTINUED** your request until the August 5, 2010 meeting.



**#SA-1017**

**Salisbury Alliance Realty, LLC , rep. by Thomas J. Maloney – Administrative Appeal – Determination regarding an Illegal Two-Family Dwelling – 308 East Vine Street – R-8 Residential District.**

Mr. Donnie Williams, Ms. Laura Borowski, and Mr. Thomas Maloney came forward. Mr. Maloney requested a continuance of time to fill in the gaps due to a lengthy chain of title.

Upon a motion by Mr. Nemazie, seconded by Mr. Baker, and duly carried, the Board **CONTINUED** your request until the August 5, 2010 meeting.



**#SA-1018                    Salisbury Alliance Realty, LLC, rep. by Thomas J. Maloney –  
Administrative Appeal – Determination regarding an Illegal  
Multiple-Family Dwelling – 112 Naylor Street – R-5A  
Residential District.**

Mr. Donnie Williams, Ms. Laura Borowski, and Mr. Thomas Maloney came forward. Mr. Maloney requested that the record show that the Staff Report had been entered into the record as printed per Mrs. Smith.

Mr. Maloney stated that this property has three (3) units. The property became nonconforming in 1959 when it was zoned Residential-A. There are two (2) units in the main house and one (1) unit in the garage. In 1978, Mr. Williams acquired the property.

**Applicant's Exhibit #B** was entered into the record as Mr. William's affidavit. The property was purchased in 1978. There are two (2) units in the main house and the structure with the unit. These units have been continuously occupied and maintained. The property was purchased from a family who had owned the property since 1927. **Applicant's Exhibit #C** was entered into the record as an affidavit from Anne R. Smith. Ms. Smith now lives in Florida, but her family had owned the property from 1927 until the sale in 1978 when Mr. Williams purchased the property. The property was used as a fall out shelter during the war. In 1945, Ms. Smith's sister married and occupied the third unit. Ms. Smith indicated in her affidavit that at some point she had also occupied the third unit. The dwellings have always been occupied. Mr. Maloney referenced the Zoning Estoppel which has been submitted in previous cases as well. He stated that they had met the burden and that the property had been continuously occupied.

Mr. Nemazie questioned if it would still have to be occupied since it is shown as having been built prior to 1959 as a two-family structure. Mr. Eure responded in the affirmative.

Mrs. Layton questioned if Mr. Maloney's testimony made the Staff want to make any changes to their report. Mr. Eure responded that they hadn't seen Mr. Maloney's evidence.

Mr. Nemazie questioned if the Staff could request a continuance to review evidence that was submitted at a meeting. Mr. Cornbrooks responded in the affirmative.

Mr. Eure stated that both affidavits state that both units have always been occupied.

Mr. Baker stated that on other cases the Board has gone off the information in the affidavits and made a decision the night of the hearing.

Mr. Cornbrooks noted that Mr. Maloney could object.

Mr. Maloney stated that he was trying to pin-point the affidavits. Until 1983, it was two (2) years for occupancy and if it was zoned Commercial than the occupancy issue wouldn't apply.

Mr. Cornbrooks noted that rental properties are not a commercial use.

Mr. Maloney stated that residential occupancy requirements don't apply to commercially zoned properties.

Upon a motion by **Mr. Nemazie**, seconded by Mr. Baker, and duly carried, the Board **OVERTURNED** the Building Department's determination that the property at 112 Naylor Street was an Illegal Multiple-Family Dwelling based on the Affidavits submitted at the meeting.



**#SA-1019**

**Salisbury Alliance Realty, LLC, rep. by Thomas J. Maloney – Administrative Appeal – Determination regarding an Illegal Two-Family Dwelling – 812 South Division Street – R-8 Residential District.**

Mr. Donnie Williams, Ms. Laura Borowski, and Mr. Thomas Maloney came forward. Mr. Maloney requested waiving the reading of the Staff Report and noting that it applied as written. He stated that they had to trace this property back to 1990.

Mrs. Smith noted changes in a date at the bottom of page 2 and page 3 in the recommendation section that this goes for 822 S. Division Street as well.

Mrs. Smith noted that the Staff Report was entered into the record as corrected.

Mr. Maloney stated that Mr. Williams had owned this property since February 28, 1994. **Applicant's Exhibit #B** was entered into the record as Mr. Williams's affidavit. The date of applicability is 1990. The affidavit indicates that both units have been occupied continuously. **Applicant's Exhibit #C** was entered into the record as Ms. Carolyn Wanex's affidavit. Ms. Wanex has resided across the street from this property at 817 S. Division Street since 1949. Mr. Maloney stated that she is knowledgeable about every house on the street. Ms. Wanex's parents owned several rental homes on the street. The house has been continuously occupied. This is a legal nonconforming use. **Applicant's Exhibit #D** was entered into the record as the Zoning Estoppel memorandum from Mr. Maloney.

Upon a motion by Mr. Baker, seconded by Mr. Nemazie, and duly carried, the Board **OVERTURNED** the Building Department's decision that the property at 812 South Division Street was an Illegal Two-Family Dwelling based on the additional information submitted by the applicant and his attorney at the meeting.



**#SA-1020**

**Salisbury Alliance Realty, LLC, rep. by Thomas J. Maloney –  
Administrative Appeal – Determination regarding an Illegal  
Two-Family Dwelling – 822 South Division Street – R-8  
Residential District.**

Mr. Donnie Williams, Ms. Laura Borowski, and Mr. Thomas Maloney came forward. Mr. Maloney waived the reading of the Staff Report and had it entered into the record with the noted changes.

Mr. Maloney stated that they had to trace this property back to before 1990. **Applicant's Exhibit #B** was entered into the record as Mr. Williams's affidavit. Mr. Williams purchased the property on September 20, 1978 and there were two (2) units when he bought it. These units have been continuously occupied.

Upon a motion by Mr. Nemazie, seconded by Mr. Baker, and duly carried, the Board **OVERTURNED** the Building Department's determination that the property at 822 South Division Street was an Illegal Two-Family Dwelling based on the additional information submitted at the meeting by the applicant and his attorney.



#SA-1012

**Dolores Hudson – Administrative Appeal – Determination regarding an Illegal Two-Family Dwelling – 624 Germania Circle – R-5 Residential District.**

Mr. Thomas Maloney, Ms. Laura Borowski, and Ms. Dolores Hudson came forward. Mr. Maloney explained that they were appealing the City's determination, not the nonconforming use. The use was lost because it was vacant for more than a year. Mr. Maloney requested a waiver of the reading of the Staff Report and marked it as entered into the record as written.

Mr. Maloney made a clarification on Page 2, Paragraph 2, Item 5 that the dwelling wasn't condemned due to fire damage but due to the furnace backfiring and spreading soot all over the residence. The family has owned the property since 1978 and Ms. Hudson acquired the property in February 2008. Within two (2) weeks of acquiring the property, Ms. Hudson was called to the property because someone had passed away on the first floor and had been deceased for several days. Due to the backfiring of the furnace, NSCC thought that a fire had occurred and required condemnation on February 28, 2008. **Applicant's Exhibit #B** was entered as the City documentation on this property. Since February 2008, a series of events ensued that brought Ms. Hudson here tonight. The condemnation certificate was issued on February 25, 2008. Ms. Hudson complied with the condemnation. She obtained a certificate of vacancy from the City of Salisbury. The question became should Ms. Hudson have obtained that certificate. There was a four (4) month fight with the insurance company about paying for the soot damage to the residence. Ms. Hudson went to the City and began the work of repairing the dwelling. This work had to be MDE compliant. When Ms. Hudson went to register the property in February 2010, she got a second certificate of vacancy. Once she got the second certificate of vacancy, she was told that she couldn't rent the unit until it was inspected and received a Certificate of Compliance. The CO was received for Unit #1. On July 2009, Ms. Hudson evicted the residents of Unit #2 to renovate that unit and get it into MDE compliance. The property came into Ms. Hudson's possession in February 2008 and was zoned General Commercial for a long time. The process was utter confusion and Ms. Hudson was in and out of the Building Department and NSCC getting certificates. At no point was Ms. Hudson told that she had to occupy the unit within one (1) year. She received the letter on April 20, 2010 informing her that she had a nonconforming use. Ignorance of the law is no excuse. However, 15 months after the property was condemned she received a CO and now she is told she can't utilize that unit. On the

same date that the first floor unit was condemned, NSCC did an inspection of the second floor unit and Ms. Hudson made the necessary repairs. Ms. Hudson has attempted to abide by the law. Very few people get a vacancy certificate. There was a complete misunderstanding about what the law required. Under the rules of the Board, the Board has the right to grant an extension. Ms. Hudson wasn't aware that she only had a year to reoccupy the dwelling. Due to her efforts with the City to get all the permits, Mr. Maloney stated that he believed there was an unwarranted hardship that deserved an extension. **Applicant's Exhibit #C** was entered into the record as Ms. Hudson's affidavit.

Mr. Eure stated that the Building Department's position still stands.

Mr. Nemazie questioned if a permit was requested when the renovations were completed. Mr. Eure responded that if the unit was condemned then Ms. Hudson would have been required to get a CO which NSCC can issue. There was no building permit required so the Building Department didn't issue the CO.

Mr. Nemazie questioned the commercial zoning. Mr. Maloney responded that the property is not currently zoned commercial. When Ms. Hudson's father purchased the property in 1978 it was zoned General Commercial. In 1983, the zoning was changed. The general commercial zoning didn't have the one (1) year rule so it could have sat vacant for years without losing its status.

Mr. Nemazie questioned that the Board needed to see that the property had been occupied since 1983. Ms. Borowski stated that the information was in the affidavit. Mr. Maloney added that it was a good question because the City's letter only addresses the one (1) year aspect. Mr. Nemazie questioned if the one (1) year was since 2008. Mr. Eure responded in the affirmative. Mr. Nemazie questioned if there was a certificate of vacancy. Mr. Maloney responded in the affirmative. Mr. Cornbrooks added that the certificate of vacancy keeps track of the vacancies for the City.

Mrs. Layton questioned that the property could not have been occupied until July 2009. Mr. Cornbrooks stated that the unit could have been occupied if the renovations were complete.

Ms. Hudson stated that she didn't rent the downstairs unit while the upstairs unit was being renovated.

Mr. Cornbrooks stated that the extension of time is not before the Board and is not part of the appeal. The Code doesn't allow for retroactive extension of time. Mr. Maloney claims that Ms. Hudson didn't know about the one (1) year period of time. If Ms. Hudson were to look at the letter from the City there are three (3) disclaimers. Based on the exhibits submitted, the applicant owns at least three (3)

rental properties so she has working knowledge of the business. Mr. Cornbrooks added that the only issue is the occupancy of the first floor unit.

Mr. Nemazie questioned if the CO was issued on July 13, 2009 wouldn't that give Ms. Hudson one (1) year to occupy the unit. The gap is from February 2008 until July 2009 and that is what the City is referring to.

Mr. Cornbrooks stated that once the CO is issued, the owner has one (1) year to occupy the dwelling unit but not in this case.

Mr. Baker questioned Mr. Cornbrooks that the Code doesn't mention anything about repairs going on at that time. Mr. Cornbrooks responded that that is the reason that the Code allows for an extension. Zoning doesn't like nonconforming uses.

Ms. Hudson stated that all the properties were inherited on February 15, 2008 at the same time. There are five (5) houses on Germania Circle and two (2) are multi-family. Across the street is in a different zoning district.

Mr. Eure stated that the area is a convergence of multiple zoning districts.

Ms. Hudson questioned where it said that it must be reoccupied within one (1) year.

Mr. Maloney stated that Ms. Hudson applied for a received her rental license.

Mr. Cornbrooks stated that there are two (2) separate issues. A rental license can have multiple units but the unit licenses are separate.

Mr. Eure stated that Ms. Hudson only needs to have one (1) license.

Mr. Cornbrooks stated that one (1) license and registering each unit is the process but Ms. Hudson would have not been allowed to register the condemned unit until a CO was issued.

Mr. Nemazie questioned how the Building Department found the unit. Mr. Eure stated that at some point when the unit was registered by March 1, 2010, Mr. Stevenson sent a letter to the Building Department to check on the two (2) family unit and if it was legal.

Mr. Nemazie questioned if both units were occupied. Ms. Hudson responded that the downstairs unit needs MDE certificate and that she wanted to replace the heating unit.

Mr. Maloney stated that from the equity standpoint the City issued the CO in July 2009. The license was obtained. Mr. Maloney read from the Zoning Estoppel. **Applicant's Exhibit #C** was entered into the record as Mr. Maloney's Memo on Zoning Estoppel. Mr. Maloney stated that the Board exists to hear cases in which following the exact letter of the law gives a hardship or inequity. This is a case that cries out for a result. Ms. Hudson has tried to comply and spent a lot of money. The relief requested would give her a certain number of days to get the unit certified, registered, and occupied. This is a result of the change in zoning in 1983.

Mr. Cornbrooks stated that this is the Appeals Board not the Board of equity. The Board must apply the law as written.

Mr. Nemazie stated that the Board had heard a similar case a few months ago dealing with a fire and that case was denied.

Mr. Baker questioned the letter of condemnation that requires a rehabilitation plan and a timeline and if the timeline was submitted. Ms. Hudson responded that the timeline and rehabilitation plan was submitted. Mr. Baker questioned if the timeline showed the rehabilitation being done within one (1) year. Ms. Hudson responded that she believed that it did but she wasn't certain.

Mr. Maloney stated that part of the problem was the haggling with the insurance company for four and a half months and only getting half of what should have been paid out for the damages.

Mr. Cornbrooks stated that only one unit can be occupied.

Mrs. Layton stated that the option was open to convert the dwelling to a single family dwelling.

Upon a motion by Mr. Nemazie, seconded by Mr. Baker, and duly carried, the Board **UPHELD** the Building Department's determination that the residence at 624 Germania Circle has lost its nonconforming status as a two-family dwelling and required that steps be taken to preclude further occupancy as a two-family dwelling.



**ADJOURNMENT**

With no further business, the meeting was adjourned at 9:15 p.m.



This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the Salisbury-Wicomico County Department of Planning, Zoning and Community Development.

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Patricia Layton, Chairman

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John F. Lenox, Secretary to the Board

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Beverly Tull, Recording Secretary