

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(13663 Bottom Road)		
11 th Election District	*	OFFICE OF
3 rd Councilmanic District		
James Kenneth Powell, Jr.	*	ADMINISTRATIVE HEARINGS
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0265-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by James Kenneth Powell, Jr., legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve the continuation of two dwellings, built in 1975, to remain on the same lot.

Appearing at the public hearing in support of the requests was James Kenneth Powell, Jr. Timothy M. Kotroco, Esquire with Whiteford, Taylor & Preston, LLP represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance at the hearing. The only substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP) dated June 30, 2014.

The subject property is 43.364 acres and is zoned R.C. 2. The rural property is situated near the Baltimore/Harford County line, and is improved with two (2) modest single family dwellings. The Petitioner testified that the dwellings were constructed between the years 1972-75, and that before their passing his parents lived in one of the homes and he the other. A portion of the property is also leased for farming/agricultural purposes. The Petitioner is

processing a minor subdivision with Baltimore County (to create two lots on the property), and that process is on hold pending this case.

The DOP, in its ZAC comment, suggested that although it would support the second dwelling if its use were restricted to an “accessory apartment” (B.C.Z.R. § 400.4), it did not believe that the two dwellings were appropriate otherwise. The regulations provide that “no more than one principal dwelling is permitted on any lot in an R.C. 2 zone.” B.C.Z.R. § 1A01.3.B.4. But this provision was enacted in 1979 (Bill 178-1979). The dwellings here were constructed before that date (between 1972-75), and it does not appear that a similar prohibition was included in the B.C.Z.R. prior to 1979. As such, the two dwellings would qualify as lawful nonconforming uses/structures per B.C.Z.R. § 104.3.

THEREFORE, IT IS ORDERED this 6th day of August 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to approve the continuation of two dwellings, built in 1975, to remain on the same lot, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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.

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/dlw