

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(7436 Bradshaw Road)</b>		
11 <sup>th</sup> Election District	*	OFFICE OF
5 <sup>th</sup> Council District		
Richard A. Robinson &	*	ADMINISTRATIVE HEARINGS
Dennis Robinson, Sr.		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	<b>Case No. 2019-0066-SPH</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Richard A. Robinson & Dennis Robinson, Sr., legal owners (“Petitioners”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a non-conforming use for a 2 or 3 unit dwelling instead of a permitted single-family dwelling. A site plan was marked and admitted as Petitioners’ Exhibit 1.

Richard A. Robinson appeared in support of the petition. John B. Gontrum, Esq. represented Petitioners. Doug Behr attended the hearing on behalf of the Greater Kingsville Civic Assn., Inc. to obtain additional information regarding the request. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”). Neither agency opposed the request.

The subject property is 27,991 square feet in size and zoned RC-5. The property is improved with a dwelling constructed in 1949. At the time the dwelling was constructed records from the Office of Zoning Review establish the property was in the “A” zone (Cottage) established in the 1945 zoning regulations. According to photographs (Petitioners’ Exhibit 3) and affidavits

(Pets. Exhibit 4) submitted at the hearing, the house was constructed as a “two-family dwelling,” which under the 1945 zoning regulations (which were applicable at the time this structure was built), is defined as a “dwelling...used for occupancy by not more than two families....Such a dwelling shall have one housekeeping unit over the other.” BCZR (1945) §I, ¶12. The subject property is constructed in this fashion, and thus it was a lawful use and structure when built in 1949, since the applicable regulations permitted such use in the “A” (cottage) zone. BCZR (1945) §III.A.3.

The two family use continued from 1949 until 1988, at which time the owner added two additional units in the basement for a total of four dwelling units. Following discussions with the community association, Petitioners do not seek a determination approving a 3 or 4 unit nonconforming use. Instead, Petitioners and the community have reached an agreement whereby the existing tenant(s) in the basement shall be permitted to stay, subject to certain conditions. When the basement tenant(s) have moved, the property will be permitted to continue as a two family dwelling pursuant to BCZR Section 104. Conditions will be included below to incorporate into this order the terms set forth in that agreement.

THEREFORE, IT IS ORDERED this 13<sup>th</sup> day of **December, 2018** by this Administrative Law Judge, that the Petition for Special Hearing to approve a non-conforming use for a two (2) unit dwelling instead of a permitted single-family dwelling, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners’ current use of the dwelling for three (3) separate families may continue for so long as Patty Tabeling, Lorraine Vittilo and Richard Robinson are living in the dwelling.
2. When either Patty Tabeling or Lorraine Vittilo leave and no longer reside in the dwelling, it shall permanently revert to a two-family dwelling, and the apartments (including any kitchen and/or bathroom facilities) shall be removed.
3. The terms and conditions set forth herein may be enforced by the Baltimore County Bureau of Code Enforcement.

Any appeal of this decision must be filed within thirty (30) days of the date of this Order.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:slh