

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND SPECIAL EXCEPTION</b>		
<b>(23 Liberty Ridge Ct.)</b>	*	OFFICE OF
2 <sup>nd</sup> Election District		
4 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
Arnold T. & Anita Abel		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners		
	*	<b>Case No. 2015-0149-SPHX</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Special Exception filed on behalf of Arnold T. & Anita Abel, legal owners. The Petition for Special Hearing seeks a declaration that a Financial Advisor qualifies as a “professional person” under the B.C.Z.R. A Petition for Special Exception was filed pursuant to §1A03.3.B.12 to permit a professional office that does not involve the employment of more than one non-residential professional associate nor two other non-residential employees.

Appearing at the public hearing in support of the requests was owner Arnold T. Abel. Lawrence Schmidt, Esquire represented the Petitioners. Several neighbors attended the hearing and opposed the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case.

**Special Hearing**

As noted by counsel at the beginning of the hearing, a “professional person” is entitled to maintain an office in his home by right or special exception (which permits additional employees) in the RC-4 zone. B.C.Z.R. §§1A03.3.A.9.d and 1A03.3.B.12. The first issue

concerns whether Petitioner Arnold Abel qualifies as a “professional person.” While the regulations provide expressly that doctors, lawyers and engineers (among others) are “professional persons,” they are silent with respect to whether a certified financial planner (CFP) qualifies as such.

Counsel noted in a post-hearing submission that a certified public accountant (CPA) has been deemed a “professional person” (Case No. 14-033-X) while a real estate agent (Case No. 00-184-X) was held not to be. These are the closest comparators available, and I tend to believe a CFP is more like a CPA than a real estate broker or agent. As such, the petition for special hearing will be granted.

Like a CPA, the CFP must possess a bachelor’s degree and undergo a lengthy and rigorous training and examination process. The CFP, also like the CPA, can charge an hourly rate for his services. Mr. Abel testified that more than 50% of his income is derived from financial planning advice, for which an hourly fee is charged.

A real estate agent, on the other hand, need not possess a college degree and does not charge an hourly rate for his advice or consultation. Their income is derived from commissions, as is the case for many salesmen. The training and examination process to become a licensed real estate broker is not as lengthy, comprehensive and/or challenging as it is for the CFP. While in no way diminishing the societal value or intrinsic importance of real estate agents/brokers, I believe based on Mr. Abel’s testimony and the numerous exhibits (Petitioners’ Exhibit Nos. 8-14) that a CFP is correctly characterized as a “professional person” under the cited regulations.

### **Special Exception**

While the test for special exception relief is well-known and frequently applied in cases of this nature, I will not address the “merits” of this issue in this proceeding. Though Petitioners

have presented compelling arguments to the contrary, I do not believe that the professional office use can be conducted in a detached accessory structure. Both of the aforementioned regulations specify the office must be “established within the same building as that serving as the professional person’s primary residence.” Mr. Abel’s office is not within his residence, but in a detached building.

THEREFORE, IT IS ORDERED this 22<sup>nd</sup> day of April 2015, by this Administrative Law Judge, that the Petition for Special Hearing, seeking a declaration that a Financial Advisor qualifies as a “professional person” under B.C.Z.R. §1A03.3.A.9.d, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Special Exception to use a detached accessory building (garage) located on the subject property as a professional office, be and is hereby DENIED.

Any appeal of this decision must be made 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/sln