

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(7611 Cypress Avenue)		
12 th Election District	*	OFFICE OF
7 th Council District		
Ellwood C. Payne, deceased	*	ADMINISTRATIVE HEARINGS
Bernadette P. Aley, Personal Rep.		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2015-0270-SPH

* * * * * * * *

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 the Estate of Ellwood C. Payne, by Bernadette P. Aley, Personal Rep. (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to approve as a nonconforming use the two (2) dwelling units on the property.

Appearing at the public hearing in support of the requests was Bernadette P. Aley, personal representative and daughter of the decedent. Gary R. Maslan, Esquire, represented the Petitioner. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is 12,000 square feet and zoned DR 5.5. The decedent and his wife purchased the property in 1947, and a copy of that contract of sale was admitted as Exhibit 2. Ms. Aley, who was born at the property in March 1948, lived there until she attended college. She testified that the property was always improved with both a single family dwelling and a smaller dwelling or bungalow, as shown on the site plan marked as Exhibit 1.

Ms. Aley testified that through the years the bungalow was rented to third parties or occupied by family members. Recently, a caretaker lived in the bungalow and provided care for the decedent and his wife. Petitioner also presented a property tax assessment worksheet from 1974, assigning values to both a “main dwelling” of 1,048 square feet and a “shack” with dimensions of 23' x 18'. Exhibit 3. The records indicate these structures were constructed in 1930.

In these circumstances, the Petitioner has established that the subject property was improved with a both a single family dwelling and a smaller dwelling (bungalow), and that both have been used and occupied on a continuous basis since 1947. As such, the petition will be granted.

THEREFORE, IT IS ORDERED this 17th day of July, 2015, 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 continued use of two (2) dwelling units on the subject property as a lawful non-conforming use, be and is hereby GRANTED.

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/sln