

RE: HEARING TO DETERMINE NON-CONFORMING
USE OF PROPERTY OF J. MELVIN ROBERTS,
N. E. Cor. WARREN ROAD & WILMAR PLACE

The appeal in the above entitled matter coming on for hearing before the Board of Zoning Appeals of Baltimore County, determining a non-conforming use of the property described in said Order; and it appearing from the facts and evidence adduced at the appeal that there is a lawful non-conforming use as to that tract of land lying on the East side of Wilmar Place in the rear of the property of J. Melvin Roberts on Warren Road, said tract of land being 92 ft. 4 inches at the corner of Wilmar Place and Benton's property and having a depth of 150 ft.

It is this 30th day of October, 1952, Ordered that the said tract of land shall bear a non-conforming use, but without the right of any further extension since this property already includes an expanded area of once again the original lawful non-conforming use; and further, that any property not included in the above described (namely 92 ft. 4 in. by 150 ft.) shall cease to be used as a contractor's storage yard or anything similar thereto; and that all building supplies, lumber, equipment, or other such materials shall be removed immediately therefrom.

Samuel W. Johns
Carl F. Valentin

Board of Zoning Appeals of
Baltimore County

OPINION OF THE BOARD OF ZONING APPEALS
OF
BALTIMORE COUNTY

This is an appeal by Elwood V. Lyon and H. Warner Benton from an Order of the Zoning Commissioner of Baltimore County dated June 11, 1952, determining that a non-conforming use applies to that portion of the property of J. Melvin Roberts, as stated in said opinion.

The case came on for hearing before the Board, testimony was taken, and counsel heard.

The property which is the subject of this consideration is located at the Northeast corner of Warren Road and Wilmar Place, Cockeysville, pertaining to a contractor's storage yard of J. Melvin Roberts.

From the testimony in the case it would appear that Mr. Roberts built a garage in 1930 which was 9 ft. 4 in. by 18 ft. 6 in. on the rear of his Warren Road lot. In 1940 an addition of 16 ft. by 24 ft. was added to the garage, all of which was used for the storage of lumber and materials in connection with his building business. To this building was added another storage shed 42 ft. by 60 ft. and in 1947 another addition was made having the dimensions of 20 ft. by 60 ft. This latter addition was towards the Wilmar Avenue boundary line. There was conflicting testimony as to the use of the land adjoining these buildings, some stating that the property was used for the storage of building materials, while others stated that the property was farmed or cultivated and not used for the storage of building materials regularly, steadily, and uninterruptedly.

The Board is of the opinion that J. Melvin Roberts has a right to use the buildings described heretofore and a tract of land having a frontage of 92 ft. 4 in. on Wilmar Place by

a depth from the East side of Wilmar Place of 150 ft.; and that the total tract of land shall constitute a non-conforming use, but shall not be subject to any further expansion as the owner thereof has already extended such use once again in size; and, therefore, the Board will pass its Order in accordance with this opinion.

Samuel W. Johns
Carl F. Valentin

Board of Zoning Appeals of
Baltimore County

FILED JUN 19 1952

Mr. Augustine J. Muller
Zoning Commissioner
Towson 4, Maryland

In re: Hearing to Determine
Nonconforming Use of property
of J. Melvin Roberts, N. E.
Cor. Warren Road & Wilmar Place

Dear Mr. Muller:

You will please enter an Appeal from your Order of June 11, 1952 to the Board of Zoning Appeals of Baltimore County, in the above case.

Elwood V. Lyon
H. Warner Benton
Protestants

Samuel W. Johns
Carl F. Valentin
Attorney for Protestants

2290

RE: HEARING TO DETERMINE NONCONFORMING USE OF
PROPERTY OF J. MELVIN ROBERTS, N. E. Cor.
WARREN ROAD AND WILMAR PLACE, 4th District

The purpose of this hearing is to determine the rights of J. Melvin Roberts in the use of property at the northeast corner of Warren Road and Wilmar Place, Cockeysville, for a contractor's storage yard. Testimony was introduced to the effect that Mr. Roberts has owned this property for twenty eight years and that he has been a builder since 1926.

Mr. Roberts testified that he built a garage of dimensions 9 ft. 4 in. x 18 ft. 6 in. on the rear of the lot which fronts on Warren Road in 1930. He further testified that in 1939 he added the 1st of dimensions 50' x 200' fronting on Wilmar Place, to Mr. Harry Benton. He also testified that in 1940 an addition was made to the garage of dimensions 16' x 24'. These buildings were used for the storage of lumber and building materials in connection with his building business.

In June 23, 1945 the Buildings Engineer issued a building permit to Mr. Roberts for the construction of a building 10 feet front by 10 feet in depth for an open storage shed for contractor's equipment. The building which was constructed, according to Mr. Roberts, was of dimensions 60 feet front by 18 feet deep and was contiguous to the building constructed in 1940. In 1947 an addition was made of dimensions 20' x 60' to the front of this building constructed in 1945 and an addition of 20 feet front by 10 feet deep to the rear of the building constructed in 1945, both of these additions being used in connection with the operation of the contracting business.

It was further testified by Mr. Roberts that he started in the brick and culvert construction in 1913 and that he used, in addition to the use of land covered by the buildings heretofore described, a lot fronting on Warren Road between the Roberts residence at the northeast corner of Warren Road and Wilmar Place and the property of E. V. Lyon.

Mr. Lyon testified that the lot fronting on Warren Road was not used until 1910 for the storage of building materials, that he was out from the lot at various times and that the lot was used for a tank farm other than. The testimony of other persons residing in the neighborhood was to the effect that the front lot had been used only intermittently for storage purposes.

In view of the foregoing it is the opinion of the Zoning Commissioner of Baltimore County that a nonconforming use does not exist for the operation of a contractor's storage yard on the property fronting on Warren Road to a depth of 150 feet. It is also the opinion of the Zoning Commissioner that a nonconforming use exists for certain portions of the rear of the property fronting on Warren Road behind the 150 feet depth.

In view of the fact that the Zoning Department of Baltimore County approved by decision for building permits for additions to the buildings now existing after January 2, 1945, it is evident that the Zoning Commissioner at that time felt that Mr. Roberts had the right to this expansion. However, from the evidence introduced, it is the opinion of the Zoning Commissioner of Baltimore County that the nonconforming use which exists on this property has been extended once again the size which existed at the time of the adoption of the Zoning Regulations and Restrictions on January 2, 1945 and that no right of further expansion exists. In view of the opinion of the Zoning Commissioner that J. Melvin Roberts has the right to use the rear of the lot fronting on Warren Road (said rear of lot fronting on Wilmar Place), this lot being of dimensions 92 ft. 4 in. fronting on Wilmar Place with an irregular depth of 150 feet.

It is, therefore, ORDERED this 11th day of June, 1952, by the Zoning Commissioner of Baltimore County that a nonconforming use does not exist for the operation of a contractor's storage yard on the property fronting on Warren Road to a depth of 150 feet, and it is further ORDERED that this lot be cleared of all materials and equipment within sixty (60) days from the date of this Order.

Augustine J. Muller
Zoning Commissioner

JOHNIFER AND JOHNIFER
ATTORNEYS AT LAW
JOHNIFER BUILDING
TOWSON 4, MARYLAND

July 2, 1952

Mr. Augustine J. Muller, Zoning Commissioner
303 Washington Avenue
Towson 4, Maryland

Dear Mr. Muller:

Re: Nonconforming use of property
of J. Melvin Roberts, N. E.
Cor. Warren Road and Wilmar
Place, 4th District

Mr. J. Melvin Roberts has been absent from this community since the date of your Order in the above matter. He has advised me under date of June 28, 1952, that he is not satisfied with your decision and has instructed me to enter an appeal.

In view of the fact that your decision was appealed by the protestants, this matter will come before the Board of Zoning Appeals at a de novo hearing and I, therefore, feel that a formal appeal on behalf of Mr. Roberts is unnecessary. Please make a pertinent entry on your records.

Very truly yours,

Clinton P. Pitts
Clinton P. Pitts

OPP:JS

Form 7-1-52 1952

COMPLAINT REPORT

Serial No. _____
Appl. No. _____
Type of Bldg. _____
District _____ 8th
Date _____ March 5, 1950

Name Helvin Roberts
Address Warren Road, east of York Road,
Complainant's Name R. B. Lyon
Address Warren Road, Cockeysville, Md.

Rec'd By N. Galleria _____
In Person X _____
Telephone _____

Details of Complaint (Be definite)
Mr. R. B. Lyon called at the office to complain about the use being made of property on Warren Road of Mr. Helvin Roberts, and other properties adjacent to this property. He left the attached sketch which may be of help in locating the property.

Inspector's Report
It is my opinion Mr. Roberts has a nonconforming use of his property existing for nonconforming use

100-35-50
Signature of Inspector
(Over)

