

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
S side of Justa Lane; 210 feet W of the		
c/l of Boxer Hill Road	*	OFFICE OF
8 th Election District		
2 nd Councilmanic District	*	ADMINISTRATIVE HEARINGS
(1105 Justa Lane)		
	*	FOR BALTIMORE COUNTY
Scott J. and Bonnie G. Tarantino		
<i>Petitioners</i>	*	Case No. 2011-0156-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, Scott J. and Bonnie G. Tarantino for property located at 1105 Justa Lane. The Variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (shed) to be located in the front yard in lieu of the required rear yard. The subject property and requested relief are more particularly described on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

On November 30, 2010, then Deputy Zoning Commissioner Thomas H. Bostwick called for a formal hearing on this matter as the case is currently the subject of an active violation case, namely CO-0086904, which called upon the Petitioners to relocate the existing shed to the rear yard of the residence. The Office policy was that properties with outstanding zoning/code enforcement violations not be handled as Administrative Variances. The instant variance hearing was subsequently scheduled for Thursday, February 3, 2011 at 11:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson, Maryland. In addition, a sign was posted at the property and an advertisement was published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing.

Appearing at the public hearing in support of the variance request was Petitioner Scott J. Tarantino. There were no Protestants present. Variance petitions were received from neighbors residing in virtually all of the homes surrounding the subject site, stating that not only was there no objection to the request, but that the subject shed had been in the same location for many years.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

Testimony was provided by Mr. Tarantino. He advised that the property is some 2.59 acres, fronting on Justa Lane in Cockeysville and is zoned R.C. 5. He testified that he purchased the subject property in 2002. The then existing residence on the property was an old structure and had the subject shed in its rear yard. The well and septic area of the structure was located closer to the residence than would now exist under present regulations.

Petitioner related that he elected to construct a new primary residence, set further back from the property line on Justa Lane. The new building was situated on the site, not only to utilize the existing well and septic field, but also meet the requirements of present day regulations. Moreover, due to the increasing difficulties in the area relative to drilling new wells, the use of the already existing well would not further burden efforts to locate wells for others building homes in the area.

He related that, unfortunately, the relocation of the residence rendered the already existing shed to a position in front vis a vis the new residence. Hence, the technical violation. Additionally, the site is well wooded. A relocation of the shed, he testified, would not only leave an empty treeless area, but would also require the destruction of additional already existing tree cover.

After considering all the testimony and evidence presented, I am persuaded to grant the variance relief. I find that the constraints already existing on the site related to the septic area and well, especially considering the developing difficulties as to locating new wells, placed the Petitioner in a unique position regarding the subject site. Without the variance, new disruptions to the site and the removal of tree cover, would accompany the relocation of the primary residence.

Accordingly, I find special circumstances or conditions exist in this location that are peculiar to the land or structure which is the subject of the variance request. I further find that the Petitioner and property itself would suffer an undue and unnecessary hardship and damage as a result of the above special circumstances were the variance not granted. Finally, I find that this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare.

Thus, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 10th day of February, 2011 that a Variance from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (shed) to be located in the front yard in lieu of the required rear yard is hereby **GRANTED**, subject to the following:

1. Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners 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_____
LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:pz