

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
E side of Riversedge Way; 940' SE of the		
c/line of Morse Lane	*	OFFICE OF
15 th Election District		
7 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(4227 Riversedge Way)	*	FOR BALTIMORE COUNTY
Brian and Kimberly Sanner	*	Case No. 2012-0036-A
<i>Petitioners</i>	*	

* * * * *

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, Brian and Kimberly Sanner for property located at 4227 Riversedge Way. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory building (shed) with a height of 17 feet in lieu of the maximum allowed 15 feet. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners wish to construct a two-story shed (28' in length x 14' wide x 17' height) to provide additional storage for the family. The Petitioners have hired a builder, Combs Custom Carpentry, to build the shed and will make every effort to compliment the existing dwelling. The Petitioners offered a letter of support from their adjacent neighbors at 4225 and 4229 Riversedge Way stating they had no objections with the shed height and location as well as approval from the Beachwood North HOA Architectural Committee. The subject property is 21,444 square feet, zoned D.R.1, and is located in the Beachwood North subdivision of Baltimore County.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Bureau of Development Plans Review dated August 19, 2011. The comments indicate that the first floor or basement must be at least

one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code.

ZAC comments were also received from the Department of Environmental Protection and Sustainability (DEPS), dated September 22, 2011. DEPS has indicated the following:

The subject property is located within the Chesapeake Bay Critical Area. According to BCZR Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (DEPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area and is subject to Critical Area lot coverage requirements. The applicant is proposing to exceed the height limits for a shed. To minimize impacts on water quality, lot coverage requirements must be met. Additional storage on a second level, rather than an expanded footprint, help reduce lot coverage. By meeting the lot coverage requirements, the relief requested by the applicant will result in minimal impacts to water quality.

2. Conserve fish, wildlife, and plant habitat; and

This property is not waterfront. The applicant's plan accompanying the zoning petition shows that the requested relief will not exceed the lot coverage limit on site, which will conserve fish habitat in Back River.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The applicant's proposal can be consistent with this goal. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on August 14, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Although the Office of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

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 23rd day of September, 2011 that a variance from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory building (shed) with a height of 17 feet in lieu of the maximum allowed 15 feet, be and is hereby GRANTED, subject to the following:

1. The 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.

2. The Petitioners or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The accessory structure shall not be used for commercial purposes.
4. Prior to the issuance of any building permit, Petitioners shall comply with the ZAC comments submitted by the Department of Environmental Protection and Sustainability (DEPS), dated September 22, 2011, and the Bureau of Development Plans Review, dated August 19, 2011; copies of which are attached hereto and made a part hereof.
5. When applying for a building permit, the site plan filed must reference this case and set forth and address the conditions and restrictions of this Order.

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:dlw