

**IN RE: PETITION FOR VARIANCE**  
**(3003 Benson Mill Road)**  
5<sup>th</sup> Election District  
3<sup>rd</sup> Councilman District  
Robert J. Schmid  
Petitioner

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BEFORE THE OFFICE  
OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
**CASE NO. 2014-0147-A**

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Robert J. Schmid, the legal owner of the subject property. The Petitioner is requesting variance relief from Sections 104.2, 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the replacement of an existing non-conforming detached accessory structure (storage shed) in its original location and situated in the side yard and in the third of the lot closest to a street, with a height of 16 ft. in lieu of the required rear yard, the third of the lot farthest removed, and the maximum allowed height of 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the request was Robert Schmid. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance and the file does not contain any letters of opposition. In fact, Mr. Schmid submitted a petition signed by each of his neighbors, expressing support for the request. Exhibit 2.

There were no Zoning Advisory Committee (ZAC) comments received from any of the County agencies.

Testimony and evidence revealed that the subject property is approximately 2.343 acres and is zoned RC 2. The property is improved with a single family dwelling, garage and large shed, which is the subject of this case. The file contains photos which reveal the shed in a state of disrepair, and could be at risk of collapse. Exhibit 3. The B.C.Z.R., in my opinion, would permit the reconstruction of this shed (in the same location and with the same dimensions) without zoning relief. Even so, the Petitioner was instructed to seek variance relief, which led to the filing of this Petition.

Based upon the testimony and evidence presented, I will grant the petition for variance.

To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, petitioner will experience a practical difficulty or hardship.

*Trinity Assembly of God v. People's Counsel*, 407 Md. 53, 80 (2008).

Petitioner has met this test. The subject property is of irregular dimensions, and is therefore unique.

If the B.C.Z.R. were strictly interpreted, the Petitioner would indeed suffer a practical difficulty, given he would be unable to reconstruct the shed which has existed on site for many years. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of County agency opposition, and the support of Petitioner's neighbors.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 26<sup>th</sup> day of March, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Sections 104.2, 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the replacement of an existing non-conforming detached accessory structure (storage shed) in its original location and situated in the side yard and in the third of the lot closest to a street, with a height of 16 ft. in lieu of the required rear yard, the third of the lot farthest removed, and the maximum allowed height of 15 ft, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner 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.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:dlw