

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(343 Sassafras Road)		
15 th Election District	*	OFFICE OF
6 th Council District		
Jerry Lynn Smith, Sr. & Robin A. Smith	*	ADMINISTRATIVE HEARINGS
Petitioners		
	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0125-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Jerry Lynn Smith, Sr. & Robin A. Smith. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a proposed detached accessory structure (storage shed) to be located in the side yard of the principal dwelling and in the third of the closest to a street in lieu of the required rear and farthest removed from the streets, respectively. The subject property and requested relief are more particularly described on Petitioners’ Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) on January 17, 2014, indicating that the Petitioners were obliged to comply with certain Critical Area regulations, as set forth in B.C.Z.R. Section 500.14.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on December 1, 2013 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 Department of Planning did not make any recommendations related to the storage shed height and usage, I will impose conditions that the detached 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 22nd day of January, 2014, that the Petition for Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a proposed detached accessory structure (storage shed) to be located in the side yard of the principal dwelling and in the third of the closest to a street in lieu of the required rear and farthest removed from the streets, respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for any appropriate permits 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, 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 shed into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.

3. The shed shall not be used for commercial purposes.
4. Petitioners must comply with the ZAC comment received from the Department of Environmental Protection and Sustainability (DEPS) on January 17, 2014; a copy of which is attached and made a part hereof.

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:dlw