

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(6508 Greenspring Avenue)</b>		
3 <sup>rd</sup> Election District	*	OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
Lynne & Peter Grossman	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2015-0059-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of the legal owners of the subject property. The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§ 301.1 and 400.1 to permit an existing accessory structure/shed in the side yard of a lot with an existing dwelling in lieu of the permitted rear yard and to permit an existing open deck in the side yard with a side yard setback of 4 ft. in lieu of the permitted 7.5 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Lynne Grossman appeared in support of the requests. There were no protestants or interested citizens in attendance at the hearing. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) dated September 26, 2014. Mr. Kennedy, the Director of DPR, indicated that a 10 foot wide Baltimore County utility and drainage easement exists on the subject property. The photographs admitted show that the shed (8' x 14') does not have a foundation, and as such, does not raise any concerns regarding the County’s easement. Mr. Kennedy noted the deck (12' x 12') foundation does not obstruct the

easement, but that the deck surface is cantilevered over the easement. The DPR determined this is permissible in this instance, but that Baltimore County could require Petitioners to remove the overhanging portion if it needed at some point in the future to access the easement.

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).

Petitioners have met this test. As shown on the site plan, the property has irregular dimensions, and the Petitioners must content with existing site conditions; i.e., the deck was constructed in 2009, while the shed was installed in 2007. As such, the property is unique. If the B.C.Z.R. were strictly interpreted, the Petitioners would suffer a practical difficulty, given they would need to relocate the deck and shed. 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 Baltimore County opposition, and the support of their adjoining neighbor, Dr. Edward Kramer, whose letter was marked as Exhibit 3.

THEREFORE, IT IS ORDERED, this 3<sup>rd</sup> day of November, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") §§ 301.1 and 400.1 to permit an existing accessory structure/shed in the side yard of a lot with an existing dwelling in lieu of the permitted rear yard and to permit an existing open deck in the side yard with a side yard setback of 4 ft. in lieu of the permitted 7.5 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. As explained at the hearing, there is a 10 foot wide Baltimore County drainage and utility easement centered on the common property line between 6506 & 6508 Greenspring Avenue. Should it need to use and/or access this easement at some point in the future, Baltimore County could remove (or insist that Petitioners remove) the overhanging portion of the deck without compensating Petitioners.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB:sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County