

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(3401 Baker Schoolhouse Road)</b>		
6 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Amy J. Combs	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2016-0318-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Bruce Doak on behalf of Amy J. Combs, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) § 400.1 to permit a proposed and existing detached accessory structures (garages) to be located in the side yard in lieu of the required rear yard. A site plan was marked as Petitioner’s Exhibit 1.

Owner Amy J. Combs and Bruce E. Doak, whose firm prepared the site plan, appeared in support of the petition. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Department of Environmental Protection and Sustainability (DEPS). Neither agency opposed the requests.

The approximately one acre property is zoned Resource Conservation – Agricultural (R.C. 2) and is improved with a single-family dwelling which was constructed in 1840. On the property are three small sheds which were constructed many years ago, before the adoption of the zoning regulations. As such they would qualify as lawful nonconforming structures under B.C.Z.R. §104. Even so, they are referenced in the Petition and will be considered along with the variance request

for the proposed garage.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Cromwell v. Ward*, 102 Md. App. 691 (1995).

Petitioner has met the test. The property is long and narrow, and there is simply no room to construct a garage in the rear yard as required by the regulations. As such, the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because she would not be able to construct a modern garage to store household items and motor vehicles. 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.

THEREFORE, IT IS ORDERED, this 8<sup>th</sup> day of September, **2016**, 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.”) § 400.1 to permit a proposed and existing detached accessory structures (sheds & garages) to be located in the side yard in lieu of the required rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at her own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. The Petitioner or subsequent owners shall not convert the garage into a

dwelling unit or apartment. The garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

3. The garage shall not be used for commercial purposes.
4. Prior to issuance of a building permit for the proposed garage, Petitioner must obtain approval from the Ground Water Management section of DEPS.

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:sln