

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(1133 North Point Road)</b>		
12 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
David C. & Tracy T. McCullough	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2017-0199-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the property, David C. and Tracy T. McCullough (“Petitioners”). The Petitioners are requesting Variance relief from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) To permit a proposed accessory structure (shed) with a height of 17 ft. in lieu of the maximum height of 15 ft., and (2) To permit an existing shed located in the side yard in lieu of the required rear yard. 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.

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 Bureau of Development Plans Review (DPR) dated February 13, 2017, indicating:

“There is an existing sewer main on this property and is located close to where the proposed structure is to be placed. Show the existing drainage and utility easement along existing sewer main, and submit revised drawing.”

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on February 12, 2017, 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 (B.C.C.). 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 proposed detached accessory structure (storage shed), I will impose conditions that the storage shed shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities. In addition, as noted on the attached ZAC comment, Petitioners will be required to submit a revised site plan showing location of utility easement. Petitioners are also advised the shed may need to be relocated in the rear yard to avoid interfering with the underground utilities.

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, this 8<sup>th</sup> day of **March, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking Variance relief from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) To permit a proposed accessory structure (shed) with a height of 17 ft. in lieu of the maximum height of 15 ft., and (2) To permit an existing shed located in the side yard in lieu of the required rear yard, be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
- Petitioners or subsequent owners shall not convert the proposed storage shed into a dwelling unit or apartment. The proposed storage shed shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- The proposed storage shed shall not be used for commercial purposes.
- Petitioners shall comply with the ZAC comment received by DPR, dated February 13, 2017; a copy of which is attached hereto and made a part hereof.

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