

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(7914 Subet Road)		
2 <sup>nd</sup> Election District	*	OF ADMINISTRATIVE
4 <sup>th</sup> Council District		
Derek Tucker	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2017-0264-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 Derek Tucker, owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit an accessory structure (shed) to be located in the side yard in lieu of the required rear yard placement. A site plan was marked as Petitioner’s Exhibit 1.

Derek Tucker appeared in support of the petition. The next door neighbor opposed the request. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency opposed the request. In its ZAC comment opposing the request, the DOP stated a zoning violation case is pending against the owner. That is inaccurate; the owner was issued a code enforcement correction notice and the code enforcement bureau has taken no further action, and there is no violation case pending.

The site is approximately 6,825 square feet in size and zoned DR 5.5. The property is improved with a single-family dwelling, which Petitioner purchased last year. Petitioner would like to install a shed (8' x 12') on the side of his home, which requires variance relief. Both the DOP and Petitioner’s neighbor contend the proposed shed would “loom over” the adjacent

property at 7912 Subet Road. Petitioner testified the shed would in fact be one of the smaller varieties available at big-box home stores like Lowe's and Home Depot. Owners are not even required to obtain a building permit for such small structures. Thus, I do not believe it would impact the neighbor to the degree suggested by the opponents. Even so, Maryland law provides that variances should be granted "sparingly" since it is "an authorization for [that] ... which is prohibited by a zoning ordinance." *Cromwell v. Ward*, 102 Md. App. 691, 699 (1995).

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*, 102 Md. App. 691.

Based on the Baltimore County My Neighborhood and GIS maps included in the file, it appears Petitioner's lot is similar in size and shape to the many other homes in the subdivision. The property simply is not unique in terms of shape, size, or topography and thus the petition must be denied.

THEREFORE, IT IS ORDERED, this 7<sup>th</sup> day of **August, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit an accessory structure (shed) to be located in the side yard in lieu of the required rear yard placement, be and is hereby DENIED.

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