

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(206 Dumbarton Road)		
9 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
Randi & Erik Kaustel	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2018-0006-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 Randi & Erik Kaustel, the legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from § 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit a shed to be located in the side yard in lieu of the required rear yard. A site plan was marked as Petitioner’s Exhibit 1.

Randi Kaustel appeared in support of the petition. Several neighbors attended the hearing and their names are on the sign-in sheets in the file. 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 objected to the variance request.

The site is approximately 4,590 sq. ft. in size and zoned DR 10.5. The property is improved with an end-of-group townhome, which Petitioners have owned for over 13 years. Petitioners constructed a shed in their side yard and were issued a correction notice by Baltimore County, which led to the filing of the zoning petition.

As an initial matter, I do not believe a variance is required in this case. Ms. Kaustel indicated she spoke with Carl Richards, Director of the County’s Zoning Review office, who indicated that under the 1945 zoning regulations which were applicable at the time this dwelling

was constructed in 1952 an accessory building could be located on the lot “without restrictions.” B.C.Z.R. (1945 Regs.) § VI.C.5. Even so, I will consider the Petition as filed, which seeks a variance for the location of the shed.

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).

Ms. Kaustel explained this is a corner lot which is bordered by converging alleys and the Rodgers Forge Elementary School. As such the property is unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be required to relocate the shed, which would cost in excess of \$1,000.00.

Finally, I find that the variances 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. Ms. Kaustel indicated the new shed was placed in the exact location as a prior shed which stood on the property for over 10 years. Petitioners’ neighbor submitted a letter of support indicating the shed is a “handsome addition, and fits in nicely with the Rodgers Forge neighborhood.” Pets. Ex. 3. In addition, the Rodgers Forge Community Inc. did not oppose the request (Pets. Ex. 4), and its president Kristine Henry conceded the property had certain unique attributes.

THEREFORE, IT IS ORDERED, this **8th** day of **September, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.1 of the

Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a shed to be located in the side yard in lieu of the required rear yard, be and is hereby GRANTED.

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