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|-------------------------------------|---|-----------------------------|
| <b>IN RE: PETITION FOR VARIANCE</b> | * | BEFORE THE OFFICE           |
| (13414 Longnecker Road)             |   |                             |
| 4 <sup>th</sup> Election District   | * | OF ADMINISTRATIVE           |
| 3 <sup>rd</sup> Council District    |   |                             |
| Richard T. & Karen T. Shortess      | * | HEARINGS FOR                |
| <i>Legal Owners</i>                 | * | BALTIMORE COUNTY            |
| Petitioners                         | * | <b>CASE NO. 2018-0031-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 Richard & Karen Shortess, the legal owners of the subject property (“Petitioners”). 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 two proposed accessory structures (studio and pool house), existing shed and a pool to be located in the side and front yards in lieu of the required rear yard; and (2) to permit two accessory structures (studio and pool house) with a height of 20 ft. in lieu of the required 15 ft. A site plan was marked as Petitioners’ Exhibit 1.

Richard and Karen Shortess and surveyor Bruce Doak 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. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (DEPS).

The site is approximately 59.516 acres in size and zoned RC-2. The property is improved with a single family dwelling constructed in 1977. Petitioners propose to construct a pool and two accessory structures at the site, although zoning relief is required to do so.

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).

The large rural property has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed accessory structures.

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. This is demonstrated by the lack of community and/or Baltimore County opposition. Also, this 60 acre lot has only one dwelling, and the proposed additions will not overcrowd the site or impact in any way neighboring properties.

THEREFORE, IT IS ORDERED, this 27<sup>th</sup> day of **September, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §§400.1 and 400.3 as follows: (1) to permit two proposed accessory structures (studio and pool house), existing shed and a pool to be located in the side and front yards in lieu of the required rear yard; and (2) to permit two accessory structures (studio and pool house) with a height of 20 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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.

2. Petitioners must comply with the ZAC comment of DEPS, a copy of which is attached hereto.

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