

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(829 Loyola Drive)		
9 th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Anita Delahay	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2018-0038-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owner of the property, Anita Delahay (“Petitioner”). The Petitioner is requesting Variance relief pursuant to §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed detached accessory structure (children's tree house) to be located on the side yard, on the third of the lot closest to a street with a height of 18 ft. in lieu of the required rear yard, the third of the lot farthest removed and maximum allowed height of 15 ft., respectively. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

The Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. There were no ZAC comments received from any of the County reviewing agencies. However, it is to be noted that five (5) letters of support were received from community residents indicating they have no objections to Petitioner’s zoning request.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on August 13, 2017, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by § 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 § 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 Petitioner.

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 **31st** day of **August, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §§ 400.1 and 400.3 of the B.C.Z.R. to permit a proposed detached accessory structure (children's tree house) to be located on the side yard, on the third of the lot closest to a street with a height of 18 ft. in lieu of the required rear yard, the third of the lot farthest removed and maximum allowed height of 15 ft., respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw