

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(51 Burkshire Road)		
9 th Election District	*	OF ADMINISTRATIVE
5 th Council District		
Dortzbach Family Care Trust	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0057-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Dortzbach Family Care Trust, the legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from §400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing shed located in the side yard in lieu of the rear yard with a setback of 5 ft. 8 in. to the center of the alley in lieu of the required 15 ft. A site plan was marked as Petitioner’s Exhibit 1.

Ms. Dortzbach 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 Planning (DOP). That agency opposed the request.

The site is approximately 2,340 sq. ft. in size and zoned DR 5.5. The property is improved with an end-of-group townhome. Ms. Dorzbach stated she and her husband purchased the home for their daughter, who is divorced and has four children under the age of 13. She said the shed is necessary to store bicycles and other recreation items used by the children which would otherwise be exposed to the elements in the rear yard.

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).

This is an end-of-group home which borders an alley, which renders the property unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to retain the shed. 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.

The DOP opined the shed was not compatible with the established pattern of the neighborhood. I respectfully disagree and note the Burkleigh Square Community Association submitted a letter (Ex. 2) dated October 4, 2017 stating “other properties in the neighborhood have side sheds.” That letter also stated the shed’s location did not negatively impact the adjacent community park. Ms. Dortzbach provided similar testimony, and based on this evidence I do not believe granting the variance request would be injurious to the community.

THEREFORE, IT IS ORDERED, this 10th day of **October, 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 an existing shed located in the side yard in lieu of the rear yard with a setback of 5 ft. 8 in. to the center of the alley in lieu of the required 15 ft., be and is hereby GRANTED.

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:sln