

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2306 Martin Drive)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Gary Hofmeister	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0062-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Gary Hofmeister, the legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing accessory structure (shed) to be located in the front yard in lieu of the required rear yard in the third of the lot farthest removed from any street. A site plan was marked as Petitioner’s Exhibit 1.

Property owner Gary Hofmeister 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), indicating Petitioner must comply with critical area regulations.

The site is approximately 14,384 sq. ft. in size and zoned DR 3.5. The property is improved with a single-family dwelling constructed in 1956. Petitioner’s home and personal property suffered extensive damage in Hurricane Isabel. Shortly thereafter Petitioner constructed a small (10’ x 6’) shed in the front of his house. Petitioner chose the front yard location--which is a significant distance from Hogpen Creek--so he can safely store lawn equipment and other items

without fear of flood damage. Mr. Hofmeister noted many of his neighbors also have sheds in their front 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).

Petitioner’s lot is pie-shaped and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to retain the shed. Finally, I find that the variance 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.

THEREFORE, IT IS ORDERED, this 15th day of **November, 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 accessory structure (shed) to be located in the front yard in lieu of the required rear yard in the third of the lot farthest removed from any street, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 1. Petitioner may apply for necessary permit(s) upon receipt of this Order, assuming a permit is in fact required. However, Petitioner is hereby made aware that proceeding at this time is at his 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.
- 2. Petitioner must comply with critical area regulations

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