

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(3339 Edwards Lane)	*	OFFICE OF
15 th Election District		
6 th Council District	*	ADMINISTRATIVE HEARINGS
Gregory V. Ottensmeyer	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2018-0321-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Gregory V. Ottensmeyer, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve temporarily, an existing accessory building (shed) to remain on a vacant property, prior to construction of a proposed single family dwelling and continue to remain after dwelling construction. A petition for Variance seeks to permit an existing accessory building (shed) to be located partially within the side yard in lieu of the required rear yard only. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Gregory V. Ottensmeyer appeared in support of the requests. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) and the Bureau of Development Plans Review (“DPR”). Neither agency opposed the requests.

SPECIAL HEARING

The Petitioner owns two (2) lots on Edwards Lane; one is improved with a single family dwelling and the other (the subject property) is unimproved. The unimproved lot was created with DRC approval of a lot line adjustment. Prior to that time, the shed in question was situated in the rear yard of 3337 Edwards lane. Following the lot line adjustment the shed is now on the newly-created and unimproved lot. Petitioner plans to construct a single family dwelling on the subject property, which necessitated zoning relief.

VARIANCE

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 waterfront property is subject to a variety of environmental constraints, which renders the property unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be required to raze/relocate the shed. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the absence of County and/or community opposition.

THEREFORE, IT IS ORDERED this 20th day of **July, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve temporarily, an existing accessory building (shed) to remain

on a vacant property, prior to construction of a proposed single family dwelling and continue to remain after dwelling construction, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit an existing accessory building (shed) to be located partially within the side yard in lieu of the required rear yard only, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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 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 the ZAC comments submitted by the DPR and DEPS, copies of which are attached hereto.

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