

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(12101 Garrison Forest Road)		
4 th Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Nick Wittig	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0293-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Nick Wittig, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 400.1 of the Baltimore County Zoning Regulations (“BCZR”) and the Zoning Commissioner’s Policy Manual (“ZCPM”): (1) to permit a proposed shed (accessory structure) on a corner lot located in the rear yard closest to the street side in lieu of 1/3 farthest removed from the street side; and (2) to permit a proposed shed (accessory structure) on a double-frontage lot to be closer to a street right-of-way line than the setback required for a principal dwelling. A site plan was marked as Petitioner’s Exhibit 1.

George Wittig 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 BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). That agency did not oppose the request.

The site is approximately 1.11 acres in size and is zoned RC-5. The property is improved with a small single-family dwelling which is bordered on three sides by public roadways. Given this unusual configuration Petitioner requires variances to construct a 14' x 24' wood shed 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).

The property is triangular and is bound on three sides by public streets. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be unable to construct the proposed 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 10th day of **June, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations: (1) to permit a proposed shed (accessory structure) on a corner lot located in the rear yard closest to the street side in lieu of 1/3 farthest removed from the street side; and (2) to permit a proposed shed (accessory structure) on a double-frontage lot to be closer to a street right-of-way line than the setback required for a principal dwelling, 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.

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