

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(20905 Mt. Zion Road)		
6 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Robert Utz	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0346-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Robert Utz, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 400.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed accessory structure (shed) with a height of 22 ft. in lieu of the required 15 ft. A site plan was marked as Petitioner’s Exhibit 1, and an aerial photograph of the property was marked as Exhibit 2.

Robert Utz appeared in support of the petition. There was one interested citizen in attendance, the neighbor to the north, Howard A. McHenry, Jr. whose property is at 20907 Mt. Zion Road. 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 3.64 acres in size and is zoned RC-2.

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).

Because of the lot dimensions the property is unique. The Petitioner testified that the dimensions of the proposed structure will be 30' x 50' for a total square footage of 1,500 feet. He further testified that his residence is 3,460 square feet. Therefore, the proposed structure conforms to the BCZR. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be unable to park his recreational vehicle in the accessory structure, which is the primary purpose of the pole barn he intends to construct. Mr. McHenry acknowledged that Mr. Utz had explained his plans to him and that his only objection or concern is that the structure will partially block his view as he exits his driveway. However, Mr. McHenry testified that this would be the case whether the structure is 15 ft. or 22 ft. tall. 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 24th day of **September, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations to permit a proposed accessory structure (shed) with a height of 22 ft. in lieu of the required 15 ft., 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 _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/sln