

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
SW/S Falls Road, 398' S of c/line of		
Graves Run Road	*	ZONING COMMISSIONER
(19234 Falls Road)		
5 th Election District	*	OF
3 rd Council District		
	*	BALTIMORE COUNTY
Alford Homes, Inc.		
Petitioner	*	Case No. 2009-0126-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by Willie R. Alford, Jr., President of Alford Homes, Inc., the owner of the subject property. The Petitioner requests Variance relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an existing accessory structure (shown as a “barn” on the site plan)¹, with a height of 27 feet in lieu of the maximum required 15 feet. The subject property and requested relief are more particularly described on the site plan, which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the request were Willie R. Alford, Jr., on behalf of the property owner, and J. Scott Dallas, of J.S. Dallas, Inc., the consultant who prepared the site plan for this property and is assisting the Petitioner through the minor subdivision process (Case No. 05-034M). There were no Protestants or other interested persons present, and it should be noted that there were no adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies.

¹ Section 400 of the B.C.Z.R. pertains to accessory buildings in residential zones and mandates their location only in the rear . . . with a height limitation of 15 feet. Sections 1A01.3A and 300.1 more specifically pertain to accessory structures in the Resource Preservation Zone and specifically state that the height of farm buildings and barns are an exception to Section 400. It became obvious, however, at the outset of the hearing that the accessory structure in this case, while a barn, is not being used for agricultural purposes at this time. Accordingly, the Zoning Review Office within the Department of Permits and Development Management, determined that it was subject to the provisions of Section 400.1.

Testimony and evidence disclosed that the Petitioner has owned the property since 2003 and now desires to subdivide the property, raze the existing home, build two (2) new single-family dwellings and retain the 100-year old existing barn that is 27' high x 23' wide x 38' deep built on a stone foundation and located along the eastern portion of the property near Graves Run Road. In this regard, the subject property is an irregularly shaped parcel, approximately 20.847 acres in area, zoned R.C.2, and located in northern Baltimore County at its borderline with Carroll County. The property is on a State scenic byway referred to as "Indian Run" on the west side of Falls Road opposite Graves Run Road. Given its configuration, the lot has 998 feet of frontage on Falls Road and 846 feet along the Carroll County division line. The property is known as Parcel 5 on Maryland Department of Assessments and Taxation Real Property Tax Map 9 and contains a two-story dwelling that was constructed in 1890. As shown on the site plan, proposed Lot 1 will be 17.634 acres and contains the subject barn that will be in the rear yard of the proposed new dwelling. Lot 2 will encompass the southwestern portion of the tract and will be 3.213 acres. Access to both lots will be from Woods Road that connects to Falls Road in Baltimore County, traverses through the northwestern tip of the subject property, and then runs into Carroll County. The evidence offered was that the approved configuration of these lots would result in the most logical and compatible lot configuration possible. Neither of these two (2) lots can be further improved with additional dwellings. Mr. Alford believes the barn to be aesthetically appealing and in keeping with the characteristics of the mid-19th century appearance of the area. He stated that the barn is in fair condition and he intends to restore it pending variance approval. He testified that tearing the barn down would cause a hardship as it is in fair condition, can be renovated to excellent condition and is positioned in one of the finest residential areas in the metropolitan area. It is in keeping with the historical styles of other barns in the area. Although the barn will be used in an agricultural manner, it is not commercial in

nature, and so it does not fall under the statutory definition of a “barn”, which has no height restrictions. Unlike a commercially used agricultural barn, this structure is required to conform to B.C.Z.R. Section 400.3 and not exceed 15 feet in height. No County agency found fault with the proposed variance. I agree with the Petitioner that there is no reason for the barn to be taken down. It is structurally sound and has been in continuous use since 1890. Thus, I am persuaded that relief can be granted without detrimental impact to adjacent properties or surrounding locale. In my judgment, the Petitioner has satisfied the requirements of Section 307 of the B.C.Z.R. and *Cromwell v. Ward*, 102 Md. App. 691 (1995). The variance in this case is driven by the structure’s age and location on property that is within a scenic and historical area of the County.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of January 2009 that the Petition for Variance from 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing accessory structure with a height of 27 feet in lieu of the maximum allowed 15 feet, in accordance with Petitioner’s Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) ADVISORY: The Petitioner shall return to the Development Review Committee (DRC) for a limited exemption under Baltimore County Code (B.C.C.) Section 32-4-106(a)(1)(viii) concerning the minor subdivision and lot line adjustment.
- 2) The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30)-day appellate process from this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

- 3) The accessory barn shall be limited to uses accessory to the residential use of the property. It shall not be used for commercial or business purposes. Moreover, the Petitioner shall not allow or cause the barn to be converted to a second dwelling unit and/or apartments. There shall be no living quarters contained therein, and no kitchen or bathroom facilities.
- 4) When applying for a permit, the site plan filed must reference this case and set forth and address the conditions and restrictions of this Order.

Any appeal of this decision shall be made within thirty (30) days of the date of this Order.

WJW:dlw

SIGNED
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County