

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N/S Bowleys Quarters Road,		
NE Corner of New Section Road	*	ZONING COMMISSIONER
(1119 Bowleys Quarters Road)		
15 th Election District	*	OF
6 th Council District		
	*	BALTIMORE COUNTY
Josef L. Lacher		
Petitioner	*	Case No. 2009-0186-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Josef Lacher. The Petitioner seeks relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (pole barn) with a height of 22 feet in lieu of the maximum allowed 15 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the request was Josef Lacher, owner of the subject property. There were no Protestants or other interested persons present. It should be noted, however, that Mike Vivirito, President of the Bowleys Quarters Improvement Association, participated by telephone conference and offered his Association’s position of supporting the requested relief.

Testimony and evidence offered revealed that the subject property is an irregular rectangular shaped parcel located on the north side of Bowleys Quarters Road at its intersection with New Section Road in eastern Baltimore County. The Petitioner’s property lies between the Seneca and Galloway Creeks. The property contains a gross area of 12.1 acres, more or less, zoned R.C.20, and is being improved with a two-story single-family dwelling. The Petitioner has owned the property since 2003 and proposes the construction of a detached pole barn, 44' x 60' in dimension, in the rear yard of his property. Testimony indicated that the accessory structure is

necessary to provide the architecture and roofline similar to that of the main dwelling (*See* Building Elevations – Pole Barn – [Petitioner’s Exhibit 2] and House Elevations [Petitioner’s Exhibit 3]). Additionally, the Petitioner desires to incorporate a recreational area (baseball batting cage and basketball court) inside the barn for his son who has big-league baseball playing dreams. Testimony and photographs submitted show that the property is heavily wooded with a 7-acre critical area easement on the eastern portion of the lot. Moreover, as is the case with Resource Conservation – Critical Area (B.C.Z.R. Section 1A05.1) zoned land, the Department of Environmental Protection and Resource Management (DEPRM) imposes rigorous obligations on development requests to protect water quality and area natural habitat. As evidenced by DEPRM’s Zoning Advisory Committee (ZAC) comment dated March 5, 2009, they have reviewed Petitioner’s request and have stated in pertinent part, “The proposed pole barn is located outside of the Critical Area Easement and within the approved clearing area”.

Mr. Lacher stated the accessory structure would be built to resemble a country “pole” barn and feature a pitched roof with cupolas, thereby requiring a variance from the height regulations. The Petitioner has reviewed the Office of Planning’s ZAC comment and agrees that the barn will not have a bathroom toilet or sink. Nor will it contain sleeping quarters or be used commercially. Finally, the Petitioner testified that he discussed his plans with neighbors and the Bowleys Quarters Improvement Association and no one had any objections

After due consideration of the testimony and evidence presented, I am persuaded that the Petitioner has met the requirements of Section 307 of the B.C.Z.R. for relief to be granted and that strict compliance with the regulations would result in a practical difficulty and unreasonable hardship for the Petitioner. As noted above, the neighbors support the proposal and there were no adverse comments from any County reviewing agency. DEPRM has approved the proposed location of the structure and Petitioner has provided forest clearing calculations and provided the required mitigation. Thus, I am persuaded that relief can be granted. I find the height of the pole building is reasonable and will not adversely affect the community provided that the terms of the Planning Office comments are incorporated.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9th day of March 2009 that the Petition for Variance seeking relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (“pole” barn) with a height of 22 feet in lieu of the maximum allowed 15 feet, in accordance with Petitioner’s Exhibits 1 and 2, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at his own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The barn/structure 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 bathroom/kitchen/cooking facilities.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

WJW:dlw

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