

IN RE: **PETITION FOR ADMIN. VARIANCE**
E side of Old Fredrick Road; 220 feet S of
the c/l of Stonewall Road
(2409 Old Frederick Road)
1st Election District
1st Council District

Jeffrey M. Seligson, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
*
* Case No. 2010-0139-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Jeffrey M. Seligson and his wife, Sharon A. Seligson. Variance relief is requested from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (shed) with a height of 20 feet in lieu of the maximum permitted 15 feet. The subject property and requested relief are more particularly described on the site plan which was accepted into evidence and marked as Petitioners' Exhibit 1.

The Petition was filed through the administrative variance process, pursuant to Section 32-3-303 of the Baltimore County Code. That Section allows an individual to seek variance relief for an owner-occupied residential property without the need for a public hearing. Under the Code, the property in question is posted for a period of 15 days during which time any property owner residing within 1,000 feet of the property may demand a public hearing for a determination as to the merits of the request. Additionally, the Zoning Commissioner/Deputy Zoning Commissioner can schedule the matter for a public hearing if deemed appropriate.

In this case, the Petitioners have filed the supporting affidavits as required by Section 32-3-303 (a)(2)(i) of the Baltimore County Code. The subject property having been posted and there being no requests for a public hearing, a decision shall be rendered based upon the documentation contained within the case file.

Based upon the evidence contained therein, I am persuaded to grant the requested variance. Relief is necessitated given the unique configuration of the property and the layout and location of the existing dwelling thereon. As shown on the site plan, the Petitioners propose to construct a shed with a height of 20 feet. This additional height is necessary to accommodate a lawn tractor and its attachments, a chipper and loader so that this equipment is protected from the elements and safe from theft. The overhead space in the garage will be used for smaller tools, supplies and storage. This proposed shed replaces an old shed that had deteriorated beyond repair and was removed during a landscaping project. The size of the shed is required to support the work space and storage needed for the property. Placement of the shed as indicated on the site plan will also shield the Petitioners from the neighbor's deteriorated three-story garage structure. Petitioners have completed significant landscape improvements to their property including arbors, a stone bridge, ornamental pavers, decorative screening and fencing, stream bank stabilization in the rear yard along with improvements to a pond. This project has also included planting of numerous trees and flowering shrubs, such as 251 bronze beauty ajuga, 118 chocolate chip ajuga, 103 yellow, 62 goldenrod, 3 fringetree, 3 kousa dogwood, 207 salvia, 52 little bunny pennisetum, and 271 little rocket ligularia, to name only a portion of the planting materials. A complete list of the planting material and the landscape schematic is contained in the case file. With such extensive improvements to the property, the County and the adjacent neighbors can be assured that the new shed will be an attractive addition to the property. The subject property contains 1.25 acres zoned D.R.1.

Therefore, based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted.

There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and none of the neighbors voiced any objection. The Office of Planning does not oppose the Petitioners' request; however, they recommend that the accessory

structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes. Thus, it appears that the relief requested can be granted without detrimental impact to adjacent properties or the surrounding locale.

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 shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of November, 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 (shed) with a height of 20 feet in lieu of the maximum permitted 15 feet be and is hereby GRANTED, subject to the following restriction:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their 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 Petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The accessory structure shall not be used for commercial purposes.

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

WJW:pz