

IN RE: PETITION FOR ADMIN. VARIANCE
E side of Rockaway Beach Avenue; 1554 feet
NE of Regina Avenue
15th Election District
5th Councilmanic District
(607 Rockaway Beach Avenue)

Nancy S. Seidel
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0177-A**

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ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner for consideration of a Motion for Reconsideration filed on February 3, 2010 by the Petitioner’s representative, Tom Berg of Berg Contracting Services LLC, to amend the Order issued January 21, 2010 to reflect that the Petitioner is also seeking relief from the front setback of 47 feet instead of 50 feet and relief for the 25% rule on the left side of the property. The Motion for Reconsideration was filed pursuant to Rule 4(k) of Appendix G of the Baltimore County Zoning Regulations (B.C.Z.R.) wherein the Rules of Practice and Procedure Before the Zoning Commissioner/Hearing Officer for Baltimore County are provided. Rule 4(k) permits a party to file a Motion for Reconsideration of an Order issued by the Zoning Commissioner. This Motion must be filed within 30 days of the date the Order was issued, and must state with specificity the grounds and reasons for their request.

This matter originally came before this Deputy Zoning Commissioner as a Petitioner for Administrative Variance filed by the legal owner of the subject property, Nancy S. Seidel. The variance request is from Sections 1B02.3.C.1 and 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing accessory building (shed) to be located in the front yard with an 8 inch side yard setback and 16 feet front street setback, respectively, in lieu of the

required rear yard with a 2.5 feet side yard setback and 30 feet front street setback, respectively.¹ The Petitioner's request was granted in this Commissioner's January 21, 2010 Order.

Following issuance of the January 21, 2010 Order, Petitioner discovered that the Zoning Official had neglected to include all of the variance relief being sought, namely relief from the front setback of 47 feet instead of 50 feet and relief for the 25% rule on the left side of the property. The additional relief was described in detail as items 2 and 3 on the Petitioner's Affidavit in Support of the Administrative Variance. Evidently, when the Zoning Official prepared the variance request description on the Petition, items 2 and 3 were inadvertently left off. This problem was not the Petitioner's and she should not be penalized for the oversight by the Zoning Official.

The Petitioner reposted the property on January 31, 2010 to indicate the additional variance relief being sought. This variance relief should have been listed on the original sign posting on December 27, 2009. None of the Petitioner's neighbors expressed any concern over the variance request.

In considering the Motion for Reconsideration, the undersigned reviewed the file, including the site plan and photographs, as well as the Findings of Fact and Conclusions of Law dated January 21, 2010. After reviewing the evidence, I am persuaded to grant the Motion and grant the variance request. Based upon the information available, there is no evidence in the file

¹ The Zoning Commissioner's Policy Manual (Z.C.P.M.), Sections 400.1A and 400.2A, provides a determination of what constitutes the front yard on waterfront lots based on the orientation of the houses and accessory buildings. In most cases, as is the situation here, waterfront lots refer to the front of the structure as facing the water. In this case, it was incorrectly noted by the Zoning Review Office that the front of the home faced Rockaway Beach Avenue. The site plan was corrected to show the front of the home as facing the Middle River. Since it is determined that the front of the dwelling faces the Middle River, an accessory structure (shed) is permitted in the rear yard of the subject property. The Petition was corrected to read "from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing accessory building (shed) with an 8 inch side yard setback in lieu of the required 2.5 feet side yard setback".

to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner. Petitioner's dwelling is constructed much closer to Rockaway Beach Avenue than either adjacent property owner.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 23rd day of February, 2010 that a Variance relief from the front setback of 47 feet instead of 50 feet and relief for the 25% rule on the left side of the property are hereby GRANTED; and

IT IS FURTHER ORDERED that all other terms and conditions of this Commissioner's January 21, 2010 Order shall remain in full force and effect.

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

____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz