

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
NW corner of Murdock Road; 25 feet W		
of the c/l of Edgewood Road	*	DEPUTY ZONING
9 <sup>th</sup> Election District		
5 <sup>th</sup> Councilmanic District	*	COMMISSIONER
(640 Murdak Road)		
	*	FOR BALTIMORE COUNTY
<b>James B. and Alise A. Davies</b>		
<i>Petitioners</i>	*	<b>CASE NO. 2010-0195-A</b>

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, James and Alise Davies. Petitioners are requesting Variance relief from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (shed) to be located in the side yard with a 1.5 foot setback in lieu of the permitted third of the lot farthest removed from the side street and a 2.5 foot setback, respectively. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner James B. Davies. Appearing as an interested citizen was the next door neighbor, Bob Eckert, of 638 Murdock Road. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is rectangular in size and contains approximately 6,250 square feet or 0.143 acre, more or less, zoned D.R.5.5. The property is located at the northwest corner of Murdock Road and Edgewood Lane, east of York Road and south of Register Avenue, near the Baltimore City/Baltimore County line in the Anneslie neighborhood. As depicted on the site plan and shown in the photographs that were

marked and accepted into evidence as Petitioners' Exhibits 2A through 2H, the property is improved with a two-story frame dwelling. At the northwest corner of the property to the rear is a raised stone patio with a built-in fireplace. Also to the rear of the property is a one-story frame garage and concrete parking pad.

According to tax records, the dwelling was constructed in 1924 and has an enclosed area of 1,890 square feet. Petitioners have resided at the property since 1997. As also shown in the aforementioned photographs, recently, Petitioner placed a relatively small shed (4 feet wide by 8 feet long by 7 feet high with a studio roof) in the side yard of the property, behind a wooden board-on-board fence that appears to surround the side and rear yards of the property. According to Mr. Davies, the shed and its location gives Petitioners easy access from the side door of their home for overflow storage of household and yard items. However, as a result of an anonymous complaint, a Code Inspector observed the property on January 14, 2010 and issued a Correction Notice to remove the shed from the side of the house or place the shed in the rear yard 2.5 feet away from the rear fence.<sup>1</sup> As a result, Petitioners filed the instant request for variance relief.

In support of the requested relief, Mr. Davies indicated that the present location is the most suitable placement for the shed due to several unique features of the property. First, he explained that the existing stone patio and garage located to the rear of the property takes up a large area of his backyard and significantly limits the area where the shed might otherwise be placed in the rear yard. In addition, Petitioners' property essentially has two frontages. Although the home and the front door face Murdock Road, there is also frontage on Edgewood Lane. In fact, Petitioners' vehicular access to their off street parking and garage is from Edgewood Road. Mr. Davies also indicated that the remaining area of the rear yard has an excessive grade, sloping from the garage and patio areas toward the home. This is well

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<sup>1</sup> CO-0071434

documented in the photograph of the rear yard that was accepted into evidence as Petitioners' Exhibit 2D. Finally, Mr. Davies indicated that the shed is buffered to some extent by his neighbor's driveway, and is also screened by several large trees that basically surround it, as well as the fence that encircles the property.

Mr. Eckert appeared as an interested citizen and lives directly adjacent to Petitioners' property, on the side where the shed is located. Mr. Eckert indicated that he is supportive of Petitioners' choice for the location of the shed and agrees there really are not any other practical locations for the shed on the property.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated February 2, 2010 stating they do not oppose Petitioners' request.

Considering all the testimony and evidence presented, I am persuaded to grant the variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I agree with Petitioner that the existing improvements to the rear yard and the grade of the yard limit the placement of an accessory structure in the rear yard as required. Petitioners' property is also unique in that, while it does have frontage on Murdock Road, access to the property is from Edgewood Lane. I also find that Petitioners would suffer practical difficulty and undue hardship if the variance was not granted. Petitioners would be denied an accessory structure that is otherwise permitted by the Regulations. Finally, I find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. In my judgment, this relatively small structure will not have a negative impact on the community and the most potentially affected neighbor, Mr. Eckert, is

supportive of Petitioners' request. In addition, Petitioners submitted a letter of support that was signed by 11 nearby neighbors on Murdock Road and also contained their comments. The letter was marked and accepted into evidence as Petitioners' Exhibit 3, and the comments from neighbors generally stated they had no problem with or objection to the location of the shed.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered, I find that Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED this 26<sup>th</sup> day of March, 2010 by this Deputy Zoning Commissioner, that Petitioners' Variance request from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (shed) to be located in the side yard with a 1.5 foot setback in lieu of the permitted third of the lot farthest removed from the side street and 2.5 foot setback, respectively, be is hereby **GRANTED**, subject to the following:

1. Petitioners are advised that they may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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

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SIGNED  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz