

IN RE: PETITION FOR ADMIN. VARIANCE

NW side of Chestnut Road; 250 feet W
of the c/l of Seneca Road
15th Election District
6th Councilmanic District
(3812 Chestnut Road)

John Johlito, Jr. and Elizabeth Johlito
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2010-0213-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, John Johlito, Jr. and Elizabeth Johlito for property located at 3812 Chestnut Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a shed to be located in the front yard in lieu of the required rear yard with a height of 18 feet in lieu of the permitted 15 feet (portion existing). The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to replace an existing shed for storage of lawn mowers, air compressor, grandchildren's bikes, camping equipment, lawn furniture and golf cart. These items cannot be adequately stored in the garage because it protects a 1967 restored Mustang and a 1997 Mustang. The existing garage and existing attached shed are already constructed and located in the front yard. Petitioners' site plan shows that the proposed replacement shed will be smaller than the existing shed. There is virtually no rear yard on this property. The existing dwelling was constructed approximately 125 feet from the front property line and the existing garage was constructed 87 feet from the road.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental

Protection and Resource Management dated April 12, 2010 which states that development of the property must comply with the Chesapeake Bay Critical Area Regulations. The property is in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage requirements and 15% afforestation requirements must be met. Comments were received from the Bureau of Development Plans Review dated February 25, 2010. The comments indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code. Although the Office of Planning did not make any recommendations related to the shed height and usage, I will impose conditions that the shed 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.

Tom Cole residing at 3810 Chestnut Road, the most affected property owner, stated that he does not object to the demolition of the existing shed and the construction of a new addition to the two car garage. The dimensions of the new construction are 22 feet x 24 feet and 2.5 feet from the property line.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on February 28, 2010 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. 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. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

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 14th day of April, 2010 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a shed to be located in the front yard in lieu of the required rear yard with a height of 18 feet in lieu of the permitted 15 feet (portion existing) is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit 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, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).
3. The property is in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area. Lot coverage requirements and 15% afforestation requirements must be met.
4. The base flood elevation for this site is 10.2 feet Baltimore County Datum.
5. The flood protection elevation for this site is 11.2 feet.
6. In conformance with Federal Flood Insurance Requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

7. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
8. The building engineer shall require a permit for this project.
9. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
10. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building Code.
11. The Petitioner or subsequent owners shall not convert the subject shed into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
12. The shed shall not be used for commercial purposes.

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