

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
S of Trenton Road; SE corner of Trenton		
Road and Trenton Church Road	*	DEPUTY ZONING
5 <sup>th</sup> Election District		
3 <sup>rd</sup> Councilmanic District	*	COMMISSIONER
(16603 Trenton Road)		
	*	FOR BALTIMORE COUNTY
<b>Leslie E. Townsend</b>		
<i>Petitioner</i>	*	<b>CASE NO. 2011-0082-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 owner of the subject property, Leslie E. Townsend. Petitioner is requesting Variance relief from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an existing accessory structure (open-air storage shed) and a proposed accessory structure (carport) in a residential zone to be placed in the rear of the dwelling and in the third of the lot closest to the street in lieu of being in the third of the lot farthest removed from the street. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner Leslie E. Townsend. Also appearing was Bernadette Moskunas with Site Rite Surveying, Inc., the firm that prepared the site plan. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is irregular shaped and consists of approximately 2 acres zoned R.C.2. The property is located at the southeast corner of Trenton Road and Trenton Church Road, southwest of Blackrock Road, in the Upperco area of rural northwest Baltimore County. The property is improved with an existing dwelling and

access is from Trenton Road via a loose stone driveway as depicted on the site plan. As also shown on the site plan, there are existing accessory structures on the property.

Petitioner has owned the property for over 30 years and during that time over the years, has accumulated large quantities of junk, trash, household items, tools, lawn equipment, and other debris that is out in the open on the property or stored in the shed immediately behind the dwelling or the open-air storage shed along Trenton Church Road. As a result of the condition of the property, Petitioner has been cited by the Division of Code Inspections and Enforcement. In particular, on January 5, 2009, a Code Inspector issued to Petitioner a Correction Notice to remove the junk, trash and debris from the property, and on February 25, 2009 issued a Citation for failing to remove the same trash, junk and debris.<sup>1</sup> A hearing was held before the Code Enforcement Hearing Officer on March 25, 2009, who found evidence of the violations and imposed a civil penalty of \$500, and ordered that the penalty be suspended if Petitioner corrected the violations by June 15, 2009.

Thereafter, a second Citation under the previous case number was issued on January 25, 2010 for violations of the Zoning Regulations and County Code for outside storage of unlicensed/inoperative motor vehicles and failure to remove debris from the property. A hearing was once again held before the Code Enforcement Hearing Officer on March 10, 2010 who found evidence of significant junk and debris throughout the yard, as well as several vehicles in various states of disrepair on the property. At that hearing, the Code Inspector, Robin Clark, indicated that Petitioner had been cooperative and made some progress, but had difficulty organizing the property and getting things cleaned up. Petitioner indicated at that hearing that he has trouble getting rid of things, but that he would continue to work to clean up the property.

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<sup>1</sup> Civil Citation No. 54819.

As a result of the aforementioned Code Enforcement issues, Petitioner is attempting to alleviate the situation, at least in part, by requesting to keep the existing accessory structure (open-air shed) that is located on the Trenton Church Road side of his property, and by erecting another accessory structure (carport) next to the shed, as delineated on the site plan. Photographs of the subject property were marked and accepted into evidence as Petitioner's Exhibits 3A through 3J. They document a less than desirable situation, to say the least, with the similar condition described by the Code Enforcement Hearing Officer of junk, trash, building materials, household items, tools, lawn equipment, and debris on the property, especially in and around the open-air shed located along Trenton Church Road. Petitioner believes that if he can keep the existing accessory structure and also erect a carport, he can organize and store his junk and debris and other items out of view and improve his property's overall appearance. Also in support of the requested relief were supportive letters that were collectively marked and accepted into evidence as Petitioner's Exhibit 4. These letters are from members of the church located on the other side of Trenton Church Road and nearby neighbors, who generally do not object to the location of the existing accessory structure along Trenton Church Road or the proposed carport.

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 October 28, 2010 which states that the existing dwelling is located 39 feet from Trenton Road while the proposed 20 foot by 30 foot carport is 160 feet from the dwelling. The use opposite the proposed carport is Mount Zion Lutheran Church, not an existing dwelling as shown on the site plan. The church's side yard is Trenton Church Road. The property in question has an active Code Enforcement case with a complaint involving trash on the property. That case is ongoing. The Planning Office recommends denial of the variance to permit a carport in a wooded area 160 feet

from the existing dwelling. The Planning Office would support a variance request for a carport in the side yard in proximity to the loose stone driveway. The very dilapidated structures shown as existing accessory structures on Trenton Church Road should be razed. Comments were also received from the Department of Environmental Protection and Resource Management dated October 12, 2010 and offers the following: 1) the proposed building permit will be reviewed by Groundwater Management for well and septic setbacks; 2) the landowner has requested approval for a carport of a 20 foot by 35 foot dimension on R.C.2 property. The property is under a Zoning Enforcement Action for junk and debris; 3) this request raises questions as to what the need is and what the status of the compliance with the existing enforcement issues are. The structure is not located near the dwelling and thus raises question as to whether the use is for a carport or for some other use. The property is zoned for agricultural use not for commercial or industrial uses.

Clearly, this is a difficult case. I presided over the instant zoning request for variance and had the opportunity to see and hear Mr. Townsend. He is an elderly gentleman who does not seem to mean anyone harm or ill will. He is what he described as a “hoarder.” Judging from his testimony and the visual evidence from pictures of his property, he obviously does not like to throw anything away. On the surface, it appears he is endeavoring to get a handle on the situation by erecting a carport and keeping his existing open-air shed. However, based on the testimony and evidence presented, I am only willing to meet Petitioner to an extent. Specifically, I am willing to permit a variance to allow a replacement accessory structure (storage shed) where the current open-air shed is located on the site plan along Trenton Church Road. But I do not find the evidence persuasive to allow the carport at all. I believe this would exacerbate the problem of keeping unlicensed and inoperative vehicles on the property. Moreover, as to the

existing open-air shed, based on the photographs of the shed and nearby junk and debris that were presented, Petitioner must remove that structure. He can replace the existing open-air shed with a new shed in the same footprint that has four structural walls and a proper roof that will completely shield the junk and debris from outside view. Petitioner must also find a way to throw out or otherwise dispose of the trash, junk and debris that are littering the property. In my judgment, any other result is not within the spirit and intent of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED this 26<sup>th</sup> day of November, 2010 by this Deputy Zoning Commissioner that Petitioner's Variance request from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an existing accessory structure (open-air storage shed) and a proposed accessory structure (carport) in a residential zone to be placed in the rear of the dwelling and in the third of the lot closest to the street in lieu of being in the third of the lot farthest removed from the streets be and is hereby **DENIED**;

IT IS FURTHER ORDERED that a Variance from Section 400.1 of the B.C.Z.R. to permit a replacement accessory structure (storage shed) in the same footprint as the previously denied accessory structure with four structural walls and a proper roof in a residential zone to be placed in the rear of the dwelling and in the third of the lot closest to the street in lieu of being in the third of the lot farthest removed from the streets, be and is hereby **GRANTED**.

The following shall be conditions precedent to the relief granted herein:

1. Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If,

2. Within the next five (5) months, Petitioner shall remove the existing accessory structures (except for the existing accessory building identified on the site plan immediately behind the dwelling), and shall also remove or otherwise legally and properly dispose of the trash, junk, and debris identified and referenced in the previous Code Enforcement Hearing Officer Orders dated March 25, 2009 and March 10, 2010, respectively, in Civil Citation No. 54819. Failure to do so shall render the relief granted null and void.

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