

IN RE: PETITION FOR ADMIN. VARIANCE

E side of Hernwood Road, 2010 feet N
of the c/l of Sharon Hill Farm Road
2nd Election District
4th Councilmanic District
(3113 Hernwood Road)

Jamie E. and Kyle F. Condon
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2011-0227-A**

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, Jamie E. and Kyle F. Condon for property located at 3113 Hernwood Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit existing accessory structures (garage and shed) in the side yards of a single family dwelling in lieu of the required rear yard. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Due to the location of the existing well and driveway on the north side yard and the need to maintain bedroom window views on the south side yard, the best location to build the addition is to the rear yard. In building the new addition, the existing one story garage and shed will now be in the side yard. The dwelling was constructed in 1901 long before the imposition of zoning on the 32 acre site. The property is encumbered by a perpetual safety and access easement to the United States which limits the use of the back yard. The property east is owned by the Department of Public Safety and Correctional Services.

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 Sustainability on March 3, 2011, which states that the proposed addition building permit will need to be reviewed by Groundwater Management.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on February 10, 2011 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 Administrative Law Judge, 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 Administrative Law Judge for Baltimore County, this 9th day of March, 2011 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit existing accessory structures (garage and shed) in the side yards of a single family dwelling in lieu of the required rear yard be and 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. The proposed addition building permit will need to be reviewed by Groundwater Management.

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

Signed
LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:pz