

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
W/S Old York Road; 750' S of		
Graystone Road	*	OFFICE OF ADMINISTRATIVE
(19836 Old York Road)		
7 th Election District	*	HEARINGS FOR
3 rd Election District		
	*	BALTIMORE COUNTY
James A. Baseman		
Petitioner	*	CASE NO. 2012-0043A

* * * * *

ORDER AND OPINION

This matter comes before the Administrative Law Judge as a Petition for Administrative Variance filed by the legal owner of the property, James A. Baseman. The Petitioner is requesting Variance relief pursuant to Section 400.1 [1955; Bill No. 27-1963] of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed accessory building to be located in the side and front yard in lieu of the required rear yard. 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. The Petitioner desires to construct an accessory building 24’ x 40’ x 15’ in size. The subject property has been a location of a “choose and cut” Christmas tree operation for approximately 20 years, and the site of the accessory building will be positioned approximately 40’ from the septic tank and approximately 172’ from the water well. The position of the accessory building is restricted by the location of the existing dwelling, electrical utilities, septic system and associated plumbing, water well, Christmas trees, and operation of the farm. In addition, photographs submitted by Petitioner show that the proposed building will be located 1,000’ from the existing two-story dwelling and just off the 20’ wide driveway that starts at Old York Road. The accessory building will be surrounded by several acres of trees that would not be visible to neighboring properties or to motorists from the main road. This location provides

the best access for customers and for farm machinery to and from the field. The subject property is 7.413 acres, zoned R.C.2 and is located in the White Hall area of Baltimore County.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on August 26, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has 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.

Although the Office of Planning did not make any recommendations related to the accessory building usage, I will impose conditions that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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, this 19th day of September, 2011 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 400.1 [1955; Bill No. 27-1963] to permit a proposed accessory building to be located in the side and front yard in lieu of the required rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.

Signed _____
TIMOTHY M. KOTROCO
Administrative Law Judge for
Baltimore County

TMK:dlw