

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
E side of Searles Road, corner		
of the S side of Westfield Road	*	OFFICE OF ADMINISTRATIVE
12 th Election District		
7 th Council District	*	HEARINGS FOR
(1701 Searles Road)		
	*	BALTIMORE COUNTY
Alfred and Wendy Greiser		
<i>Petitioners</i>	*	CASE NO. 2012-0068-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by Alfred and Wendy Greiser. The Petitioners are requesting Variance relief under Section 1B02.3.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”) (Sections I, 1., Accessory Building definition; VI, C,5 of the 1945 Zoning Regulations) to permit an existing accessory building (frame shed) in the side yard in lieu of the required rear yard, and to permit the accessory building to have a side street setback closer than the principal dwelling. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the variance request were Petitioners Alfred and Wendy Greiser. Martin H. Schreiber II, Esquire appeared and represented the Petitioners, and John Ayres, President of the Norwood – Holabird Community Association, also attended the hearing. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R., and the file does not contain any letters of opposition or protest.

Testimony and evidence revealed that the subject property is an end of group row home, and the photographs (Exhibit 3) reflect that the property is attractive and well maintained. The Petitioners’ bought the home in 2008, and they believe the shed was erected in approximately

2005. In the spring of 2011, the Petitioners received a citation from Baltimore County Code Enforcement, indicating their shed was in violation of the B.C.Z.R.

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

Based upon the testimony and evidence presented, I am persuaded to grant the request for 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 also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners.

Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md 53, 80 (2008).

The Petitioners have met this test. As noted above, Petitioners' home is an end of group dwelling, and the shed was in place when they purchased the home in 2008. The small rear yard contains a pool and a parking pad, and there is really nowhere else on the property to relocate the shed. The shed has been in place for over 6 years without objection, and the relief sought will merely "legitimize" existing site conditions. In addition, the Petitioners presented a petition containing signatures of several neighbors, all of whom support their request.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty and/or hardship. An elderly relative is living with Petitioners, as is their teenage son,

which has forced the owners to reside in the basement. As such, storage space is at a premium, and the Petitioners need the shed to store many household items and such.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

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

THEREFORE, IT IS ORDERED, this 2nd day of November, 2011 by this Administrative Law Judge that Petitioner's Variance request from B.C.Z.R. § 1B02.3.B (Sections I, 1., Accessory Building definition; VI, C,5 of the 1945 Zoning Regulations) to permit an existing accessory building (frame shed) in the side yard in lieu of the required rear yard, and to permit the accessory building to have a side street setback closer than the principal dwelling, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioners may apply for a building permit and may be granted same upon receipt of this Order. However the Petitioners are hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason this Order is reversed, the Petitioners will 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.

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB: