

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
S side of Sunnybrook Road; 4,000 feet		
SW of the c/l of Paper Mill Road	*	OFFICE OF ADMINISTRATIVE
10 th Election District		
3 rd Council District	*	HEARINGS FOR
(14006 Sunnybrook Road)		
	*	BALTIMORE COUNTY
Kimberly Marie Heid		
<i>Petitioner</i>	*	CASE NO. 2012-0254-A

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Kimberly Marie Heid. The Petitioner is requesting Variance relief from § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed accessory building (pole building) in the rear yard of the existing dwelling with a height of 18 feet in lieu of the maximum allowed 15 feet. The subject property and requested relief is more fully depicted on the (revised) site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of May 7, 2012. On May 7, 2012, Robert S. Glushakow requested a formal hearing on this matter. The hearing was subsequently scheduled for Monday, June 11, 2012 at 10:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. In addition, a sign was posted at the property and an advertisement was published in *The Jeffersonian* newspaper, giving neighbors and interested citizens notice of the hearing.

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 (DEPS), dated May 10, 2012, which state:

A proposed building permit for a pole bldg. will need review by Groundwater Mgmt., since the house is served by a septic system.

Appearing at the public hearing in support for this case were Kimberly and Donald Messina. Appearing in opposition to the request was Robert S. Glushakow, who filed the formal demand for hearing, Michael S. Charnasky, Donna Hargest and Dolores Klass. The file also contains letters of objection from adjacent neighbors.

Testimony and evidence revealed that the subject property is located in the Phoenix area of the County, and the one acre lot (zoned RC 6) is improved with a one-story, single-family dwelling. Petitioner would like to construct the pole barn to store a travel trailer and other household items which are currently on her lot. The Petitioner testified that the 18' height variance would allow her to construct a peaked roof with cupola, instead of a flat roof which she did not think was as attractive.

Based upon the testimony and evidence presented, I must deny the request for variance relief.

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).

Petitioner has not met this test.

In this case, the Petitioner was unable to articulate how her property was unique, or whether any "special circumstances" existed with regard to her lot. Unfortunately, these are indispensable elements of a variance case.

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

THEREFORE, IT IS ORDERED, this 11th day of June, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed accessory building (pole building) in the rear yard of the existing dwelling with a height of 18 feet in lieu of the maximum allowed 15 feet, be and is hereby DENIED.

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

JEB:dlw

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