

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
NE side of Fox Meadow Road, 430' SE of	*	OFFICE OF
c/line of Burnbrook		
(6732 Fox Meadow Road)	*	ADMINISTRATIVE HEARINGS
2 nd Election District		
4 th Council District	*	FOR
Terry C. and Dana E. Shird	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2012-0306-SPHA

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Hearing and Variance filed the legal owners, Terry C. and Dana E. Shird, who also reside at the subject property. The Petitioners are requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Administrative Law Judge should approve a use permit for a Class A Group Child Care Center for a maximum of 12 children. The Petitioners are also seeking variance relief from Section 424.1 of the B.C.Z.R., to permit an existing fence (146 linear feet) with a height of 42" and a setback of 0" from the property line in lieu of the required 5' height and 20' property line setbacks respectively. 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 held for this case was Petitioner Terry C. Shird. There were no Protestants or other interested persons in attendance. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. There were no adverse ZAC comments received from any of the County reviewing agencies.

Testimony and evidence revealed that the subject property is 9,900 square feet and is zoned DR 5.5. The Petitioner has been licensed by the State of Maryland for 12 years to provide child day care, and has in fact operated a center for up to eight (8) children at the present location. Due to increased demand, the Petitioner would like to expand her center and care for up to 12 children, and the State has licensed her for that level of operation. The Petitioner explained that she “staggers” the arrival and departure of the children between the hours of 6:00 AM to 6:00 PM, so that any given child will not be at her center for more than eight (8) hours. The Petitioner explained that her neighbors are very supportive of her operation; and a photo of the location (Exhibit 2) shows that the dwelling is well-maintained and has a large fenced yard in the rear with children’s play equipment.

In light of the testimony and exhibits presented, I am convinced the Petitioner’s operation is well run and successful, and would in no way be detrimental to the community’s health, safety and welfare.

Based on the evidence presented, I also find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995). I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Specifically, the Petitioner’s rear yard has been fenced for over 12 years, and thus she is dealing with long-existing site conditions. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship, given that Petitioners would be unable to continue their group day care

operation.

Finally, as discussed earlier, 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 these Petitions, and for the reasons set forth above, the special hearing and variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 1st day of August, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing seeking relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Administrative Law Judge should approve a use permit for a Class A Group Child Care Center for a maximum of 12 children, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the requested variance relief from Section 424.1 of the B.C.Z.R., to permit an existing fence (146 linear feet) with a height of 42" and a setback of 0" from the property line in lieu of the required 5' height and 20' property line setbacks, respectively, be and are hereby GRANTED.

The relief granted herein shall be conditioned upon and subject to the following:

1. The Petitioners may apply for any required permits and may be granted same upon receipt of this Order; however the Petitioners are hereby made aware that proceeding at this time is at their 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:dlw