

IN RE: PETITION FOR ADMIN. VARIANCE

E side of Maple Road, 100 feet N of the
c/l of Eugene Avenue
15th Election District
7th Councilmanic District
(2501 Maple Road)

Richard and Michelle Moore
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-203-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Richard and Michelle Moore for property located at 2501 Maple Road. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (shed) with a height of 19.6 feet in lieu of the maximum required 15 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1 site plan.

The site plan shows a rectangular-shaped parcel consisting of approximately .32 acre, zoned D.R.5.5 and located on the east side of Maple Road, south of Sparrows Point Road in the Sparrows Point area of Baltimore County. The property measures approximately 100 feet wide by 140 feet deep and is improved with an existing dwelling. It also appears from photographs submitted with the Petition that the property is improved with an aboveground swimming pool. At this juncture, Petitioner desires to erect a garage-like accessory structure in the rear yard at the southeast corner of the property. This structure would measure 24 feet wide by 32 feet deep. In addition, the structure would have a height of 19.6 feet, thereby necessitating the request for variance from the maximum allowable height of 15 feet.

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The Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. The comments received from the Office of Planning dated November 28, 2007 indicate that the Office is not opposed to Petitioner's height variance request, but recommends that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 11, 2007 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. The Petitioner states in his affidavit that the height and "Gambrel" style roof is necessary to maximize attic storage space in the structure, while allowing for a stairway to the attic instead of a hideaway ladder. Petitioner explains that he will also have sufficient space for a work area on the ground floor, and that it will minimize the yard space needed to provide sufficient storage for his purposes.

Due to the proposed large size of the structure and the height variance associated with this size, the undersigned requested additional information concerning this matter in a letter to the Petitioner dated December 5, 2007, including a schematic rendering of the proposed structure, elevations, window and door placements, rooflines, exterior materials, etc. The Petitioner submitted information on December 11, 2007. This included proposed shed styles, roofline examples, garage door examples, and a schematic drawing of the structure showing the elevation and a floor plan for the ground floor. In addition to a work area, the floor plan shows

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planned storage for a boat/truck/car on one side and jet ski and ATV trailers on the other side, as well as storage for outdoor furniture, a snow blower, a riding mower, and a push mower.

Turning now to the instant matter, I can certainly appreciate the Petitioner's desire to enhance the storage capabilities of his property. With storage of family and household items and lawn equipment, obviously storage space is often at a premium. However, notwithstanding the Petitioner's stated storage needs and the comment submitted by the Office of Planning not opposing the Petitioner's request, I must decide this case based on the merits of whether a variance is warranted in this particular case. That is, has Petitioner satisfied the variance requirements of the zoning regulations and the relevant case law to be granted relief from the requirements of Section 400.3 of the B.C.Z.R.?

Variance relief can be granted only if the requirements contained in Section 307 of the B.C.Z.R. are met. This section states that the Zoning Commissioner may grant variances:

... only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship.

Variances are not favored under the law and presumed to be in conflict with the regulations. As stated in *Cromwell v. Ward*, 102 Md. App. 691, 703 (1995), "[t]he general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances."

Considering all the testimony and evidence presented, I do not find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. In short, there is no evidence to suggest that this property meets the uniqueness requirement. In fact, Petitioner's Exhibit 1 site plan shows that the lot is rather unremarkable. As such, it does not meet the requirements for a finding of uniqueness as set forth in *Cromwell*,

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supra. Attached to this Order is a copy of the *Cromwell* case for the Petitioner's review. Moreover, I cannot decide this case based on possible extenuating circumstances, particularly in light of the fact that the Petitioner can easily erect the structure in compliance with the applicable zoning regulations. As such, having determined that no uniqueness exists as to the Petitioner's property, I must therefore deny the variance requested by the Petitioner. Finally, I believe the proposed structure with a height almost 20 feet and the attendant size will overcrowd the land and will have an adverse impact on the overall appearance and character of the neighborhood, especially vis-à-vis other properties nearby.

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 shall be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 2nd day of January, 2008 that a variance from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (shed) with a height of 19.6 feet in lieu of the maximum required 15 feet is hereby DENIED.

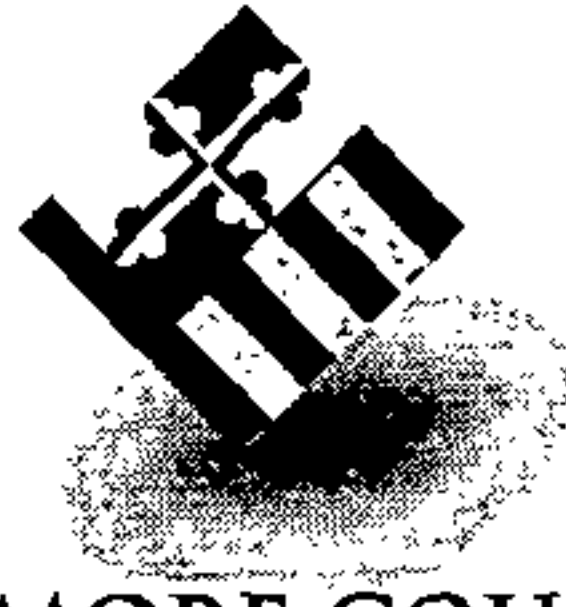
Any appeal of this decision must be made within thirty (30) days of the date of this Order.


THOMAS H. BOSKWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

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BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

January 2, 2008

RICHARD AND MICHELLE MOORE
2501 MAPLE ROAD
BALTIMORE MD 21219

Re: Petition for Administrative Variance
Case No. 08-203-A
Property: 2501 Maple Road

Dear Mr. and Mrs. Moore:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2501 Maple RD. Balto. MD. 21219
which is presently zoned DR 5-5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.3 BCZR

To permit an accessory structure (shed) with a height of 19'6" in lieu of the maximum required 15'.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 2501 Maple Road
Address
> Baltimore Maryland 21219
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

- The height and style of a Gambrel roof allows me to maximize and make efficient use of the attic storage space. I am trying to get the most storage possible out of this structure. The attic space provided by the Gambrel roof provides sufficient storage without taking away from the work area on the ground floor. It minimizes the yard space needed to provide sufficient storage for my purposes.
- X • The height and style of the roof will allow me to stand erect when carrying or moving items into the attic area. The design allows for stairs instead of a hide away ladder, which will provide me with more stable footing. It will be safer for me to move around.
- A motorcycle accident left me with physical problems due to a broken back, such as arthritis, muscle cramping, nerve damage, and balance problems. The height and style of the Gambrel roof will allow me to maneuver about in the attic area with least amount of problems.
etc

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Richard Frank Moore Jr.
Signature

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Zoning Description For 2501 Maple, Baltimore, Maryland 21219

Beginning at a point on the east side of Maple Road which is 50 feet wide at the distance of 100 feet north of the centerline of the nearest improved intersection street Eugene Avenue which is 50 feet wide. Being lots #2340 and #2341 in the subdivision of Lodge Forest as recorded in Baltimore County Plat Book #10, Folio 76 containing 13,800 square feet. Also known as 2501 Maple Road and located in the 15th Election District, 7th Councilmanic District.

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CERTIFICATE OF POST

BALTIMORE COUNTY

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development
Management

DATE: November 6, 2007

FROM: Dennis A. Kennedy^{DM}, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 12, 2007
Item Nos. 08-189, 197, 198, 199, 201,
202, 203, 204, and 205

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-11062007.doc



