

IN RE: PETITION FOR VARIANCE

N side of Lucerne Road; 305 feet
S of the c/l of Lausanne Road
2nd Election District
4th Council District
(8528 Lucerne Road)

Rodney Wooten
Petitioner

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BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2012-0075-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Variance filed by the legal owner of the property, Rodney Wooten. The Petitioner is requesting Variance relief from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (shed) to be located in the side 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.

Appearing at the public hearing in support of the variance request was Petitioner Rodney Wooten and his wife Wanda Wooten. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R. There were no Protestants or other interested persons in attendance and the file does not contain any letters of protest or opposition.

This matter came to the OAH as a result of a complaint registered with the Code Enforcement Division of the Department of Permits, Approvals and Inspections¹. A Code Inspections and Enforcement Correction Notice was issued to Petitioner on July 11, 2011, to limit the accessory structures on the property to one and to require that structure to be located in the rear yard of the property. Hence, Petitioner filed the instant Petition.

¹ Case No: CO0097553

ORDER RECEIVED FOR FILING

Date 11-15-11
By [Signature]

As an initial matter, the B.C.Z.R. does not restrict the owner of a dwelling to one accessory structure on his property. In this case, the Petitioner has both a gazebo and shed (as shown on Exhibit 1) and both are in the front/side yard of the home. The Code Enforcement notice (and variance petition) focused solely on the shed, but the relief ultimately granted herein shall be equally applicable to both the shed and gazebo. According to Petitioner, the gazebo has been in its present location for more than 15 years.

Testimony and evidence offered revealed that the subject property is improved by a dwelling of 1,280 square feet. The lot contains approximately 8,811 square feet and is zoned DR 5.5. The Petitioner's home is situated on a corner lot, and the dwelling is positioned towards the rear of the lot. In addition, the home is oriented on the lot in such a manner that Petitioner has a very small "rear yard" area.

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

Considering all of the testimony and evidence presented, I am persuaded to grant the requested 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. As noted above, the Petitioner's home is on a corner lot, and the home is oriented in such a fashion – which is unlike that of adjoining properties, See Exhibit 2 -- that imposes significant site constraints and leaves Petitioner with very little rear yard area.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find that variance relief can be granted in accordance with the requirements of Section 307 of the

ORDER RECEIVED FOR FILING

Date 11-15-11

2

By 

B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

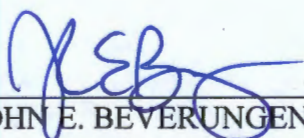
Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED, this 15 day of November, 2011 by this Administrative Law Judge that Petitioner's Variance request from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (shed) to be located in the side yard in lieu of the required rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for a building permit and may be granted same upon receipt of this Order, however the Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner 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.

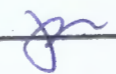


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:pz

ORDER RECEIVED FOR FILING

Date 11-15-11

By 

Violation



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property

located at 8528 Lucerne Rd

which is presently zoned D5.5

Deed Reference: 103751284 Tax Account # 0219074210

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) 400.1 (BCZP)

TO PERMIT AN ACCESSORY STRUCTURE (SHED) TO BE
LOCATED IN THE SIDE YARD IN LIEU OF THE REQUIRED
REAR YARD.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty.) ① Property is on corner lot location that is positioned differently than surrounding properties with limited back (rear) space. ② Rear of property has Utility Equipment and overhead Power Lines. (Safety concerns) ③ Shed is needed for storage of Outdoor Power Equipment and Medical Equipment for Disabled Owner

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:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

City

State

Zip Code

Representative to be Contacted:

Name

Address

City

State

Zip Code

Case No. 2012-0075-A

Office Use Only

Estimated Length of Hearing
Unavailable For Hearing

Reviewed by

D.T.

Date

9/14/11

REV 8/20/07

ORDER RECEIVED FOR FILING

Date

11-15-11

By

p26

Zoning Description For 8528 Lucerne Rd

Beginning at a point on the North side of

Lucerne Rd which is 60 Feet

wide at the distance of 305 Feet South of the

centerline of the nearest improved intersecting street

Lausanne Rd which is 50 Feet wide. Being Lot # 9

Block P, Section #4 in the subdivision of Stoneybrook North

as recorded in Baltimore County Book # 32, Folio # 82

containing 8,811. Also known as 8528 Lucerne Rd.

and located in the 2nd Election District, 4th Councilmanic District.

RE: PETITION FOR VARIANCE
8528 Lucerne Road; N/S Lucerne Road,
305' S of c/line of Lausanne Road
2nd Election & 4th Councilmanic Districts
Legal Owner(s): Rodney Wooten
Petitioner(s)

* BEFORE THE OFFICE
* OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* 2012-075-A

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

RECEIVED

SEP 30 2011

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

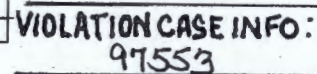
I HEREBY CERTIFY that on this 30th day of September, 2011, a copy of the foregoing Entry of Appearance was mailed to Wanda Wooten, 8528 Lucerne Road, Randallstown, Maryland 21133, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

ADDRESS 8528 LUCERNE RD. OWNER(S) NAME(S) RODNEY J. WOOTEN
SUBDIVISION NAME STONEBROOK NORTH LOT# 9 BLOCK# P SECTION# 4
PLAT BOOK # 32 FOLIO # 82 10 DIGIT TAX # 0219014210 DEED REF. # 10375/00284

EXHIBIT NO.



 MAP IS NOT TO SCALE
 ZONING MAP# 7201
 SITE ZONED D.R.55
 ELECTION DISTRICT 2
 COUNCIL DISTRICT 4
 LOT AREA ACREAGE 8811^{sq}
 OR SQUARE FEET 8811
 HISTORIC ? NO
 IN CBCA ? NO
 IN FLOOD PLAIN ? NO
 UTILITIES ? MARK WITH X
 WATER IS:
 PUBLIC X PRIVATE _____
 SEWER IS:
 PUBLIC X PRIVATE _____
 PRIOR HEARING ? NO
 IF SO GIVE CASE NUMBER _____
 AND ORDER RESULT BELOW _____

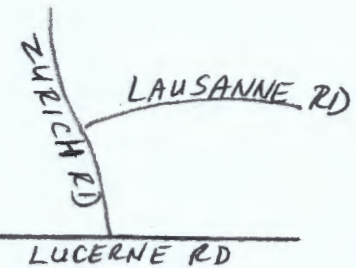
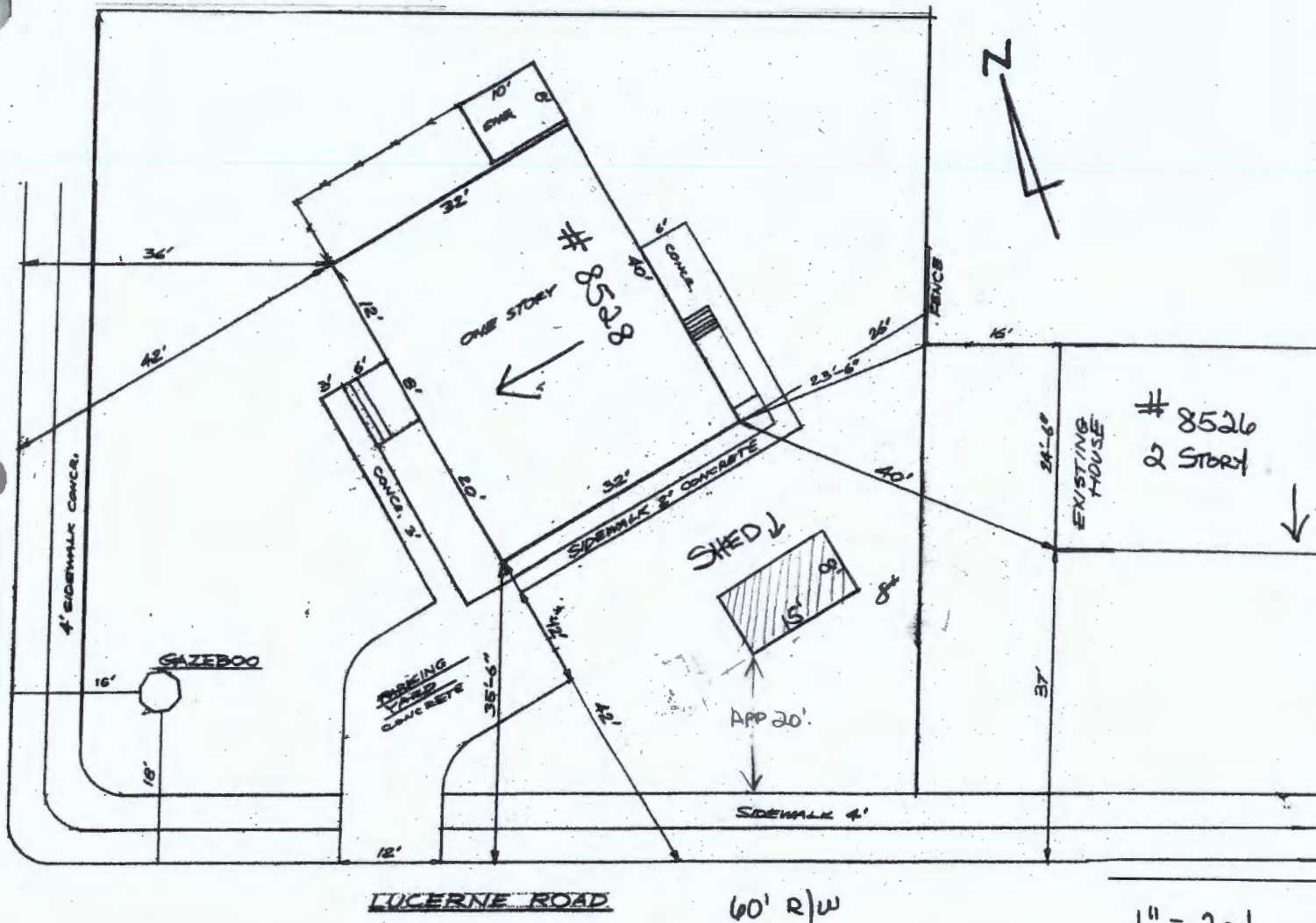
VIOLATION CASE INFO:

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)

ADDRESS 8528 LUCERNE RD. OWNER(S) NAME(S) RODNEY J. WOOTEN

SUBDIVISION NAME STONEBROOK NORTH LOT # 9 BLOCK # P SECTION # 4

PLAT BOOK # 32 FOLIO # 82 10 DIGIT TAX # 0219014210 DEED REF. # 10315/00284



↑ MAP IS NOT TO SCALE

ZONING MAP# 7201

SITE ZONED D.R. 5.5

ELECTION DISTRICT 2

COUNCIL DISTRICT 4

LOT AREA ACREAGE 88.11 ^{sq}

OR SQUARE FEET 8811

HISTORIC? NO

IN CBCA? NO

IN FLOOD PLAIN? NO

UTILITIES? MARK WITH X

WATER IS: PUBLIC X PRIVATE _____

SEWER IS: PUBLIC X PRIVATE _____

PRIOR HEARING? NO

IF SO GIVE CASE NUMBER

AND ORDER RESULT BELOW

VIOLATION CASE INFO:

97553

1" = 20'

CERTIFICATE OF POSTING

2012-0075-A

RE: Case No.: _____

Petitioner/Developer: _____

Rodney Wooten

November 14, 2011

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

8528 Lucerne Road

October 29, 2011

The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,

October 29, 2011

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

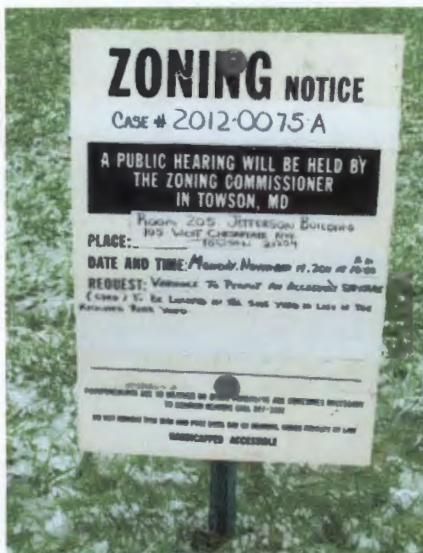
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



**NOTICE OF ZONING
HEARING**

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 2012-0075-A

8528 Lucerne Road
N/side of Lucerne Road;
305 feet south of centerline
of Lausanne Road
2nd Election District
4th Councilmanic District
Legal Owner(s): Rodney
Wooten

Variance: to permit an accessory structure (shed) to be located in the side yard in lieu of the required rear yard.

Hearing: Monday, November 14, 2011 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR
OF PERMITS, APPROVALS
AND INSPECTIONS FOR
BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

10/22/2012 October 27 289288

CERTIFICATE OF PUBLICATION

10/27/2011

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/27/2011.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING