



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

July 7, 2023

Michael H. Pachino – thepachinofamily@gmail.com
Nina H. Pachino
4 Thornhaugh Court
Baltimore, MD 21208

RE: Petition for Administrative Variance
Case No. 2023-0123-A
Property: 4 Thornhaugh Court

Dear Mr. and Mrs. Pachino:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in cursive script that reads "Maureen E. Murphy".

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw
Enclosure

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(4 Thornhaugh Court)		
3 rd Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Michael Pachino & Nina Pachino	*	HEARINGS FOR
	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2023-0123-A
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Administrative Variance filed by the legal owners of the property Michael and Nina Pachino, (“Petitioners”) for the property located at 4 Thornhaugh Court, Baltimore (the “Property”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (“BCZR”), §400.1: To permit an accessory building (detached shed) in the side yard in lieu of the required rear yard. The Property is more fully depicted on the site plan (the “Site Plan”). (Pet. Ex. 1). Street view photographs of the Property were provided. (Pet. Ex. 2). There were no adverse Zoning Advisory Committee (“ZAC”) comments contained in the case file from any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the Property having been posted on June 11, 2023 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Property is 1.45 ac +/- and is zoned DR1. As shown on the Site Plan, the 2-story home with an attached garage was constructed close to Thornbaugh Court, but outside of the 50 ft building setback line. (Pet. Ex. 1). Behind the home is an in-ground pool and pool deck. Other than the 10 ft. Drainage and Utility Easement in the rear yard which cannot have any structures or

fencing located within it, the rear yard is expansive and provides ample space in which to locate a storage shed.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995). No evidence has been presented here that the Property is unique under *Cromwell, supra*. Even assuming *arguendo* that the Property was somehow determined to be unique, no showing of practical difficulty has been established. Petitioners locate a storage shed in the rear yard without the granting of the requested Variance. The law is clear that self-inflicted hardship cannot form the basis for a claim of practical difficulty. Speaking for the Court in *Cromwell, supra*, Judge Cathell noted:

Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively, not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

Cromwell, at 722.

In *Chesley v. Annapolis*, 933 A.2d 475, 176 Md. App. 413 (Md. App. 2007), the Court of Special Appeals relied on the Court of Appeals holding in *Belvoir Farms Homeowners Ass'n. Inc. v. North*, 355 Md. 259, 276, 734 A.2d 227 (1999), wherein the Court recognized that the purpose of zoning restrictions is "to prevent exceptions as far as possible," so that the specific need for the variance "must be substantial and urgent and not merely for the convenience of the applicant[.]" (citing *Carney v. City of Baltimore*, 201 Md. 130, 137, 93 A.2d 74 (1952)). The *Chesley* Court emphasized the Court of Appeals' holding in *Belvoir Farms* in stating that: "it generally is not a

hardship to be without a desired convenience or amenity on one's property, because zoning restrictions are to be enforced in the absence of a "substantial and urgent" need for a variance." *Id.* At 933 A.2d 488. (See *Belvoir Farms Homeowners Ass'n*, 355 Md. at 261, 734 A.2d 227). The *Chelsey* Court stated: "the fact that a particular improvement would enhance the owner's enjoyment of the property did not establish that it would be a hardship to continue using the property without the variance." *Id.* At 933 A.2d 488-489. See, e.g., *Citrano v. North*, 123 Md. App. 234, 717 A.2d 960 (1998) (fact that proposed deck created a "pleasant amenity" did not create hardship); *North v. St. Mary's County*, 99 Md. App. 502, 519, 638 A.2d 1175 (owner's desire to build gazebo to read and view creek is not evidence of hardship), *cert. denied sub nom. Enoch v. North*, 336 Md. 224, 647 A.2d 444 (1994). The request to locate a storage shed in the side yard in lieu of the rear yard is for convenience of the Petitioners. Accordingly, the Petition for Variance will be denied.

THEREFORE, IT IS ORDERED, this 7th day of **July, 2023**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from the Baltimore County Zoning Regulations ("BCZR"), §400.1 to permit a proposed accessory building (detached garage) to be located in the side yard in lieu of the rear yard, be and it is hereby, **DENIED**.

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



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/ neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.*

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Case Number: 2023-0123-A
Property Address: 4 Thornhaugh Court
Legal Owners (Petitioners): Michael E Nino Pachino
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Michael E Nino Pachino
Address: 4 Thornhaugh Court
Balto. MD. 21208

Telephone Number: 410-299-8069

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

Revised 3/2022

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number: 2023-0123-A Address 4 Thornhaugh Court

Contact Person: MITCH KELLMAN Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 6/1/2023 Posting Date: 6/11/2023 Closing Date: 6/26/2023

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for a neighbor (occupant or owner) within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the Administrative Law Judge. The judge may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. If all County/State agencies' comments are received, you will receive written notification as to whether the petition has been granted, denied, or will proceed to a public hearing. This decision is usually made within 10 days of the closing date. The written order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the Administrative Law Judge), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

Petitioner: This Part of the Form is for the Sign Poster Only (Detach Along Dotted Line)

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number: 2023-0123-A Address 4 Thornhaugh Court

Petitioner's Name: Michael & Nina Pachino Telephone (Cell) 410-299-8069

Posting Date: 6/11/2023 Closing Date: 6/26/2023

Wording for Sign: To Permit an accessory building (detached shed)
in the side yard in lieu of the required rear yard.

Revised 1/2022

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 20, 2023
Item No. 2023-0108-SPHA

DATE: June 21, 2023

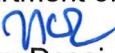
The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

As part of the proposed improvement the County request a 10-foot highway widening along the property frontage (Gorsuch Mill Rd.)

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

FROM:  Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 20, 2023
Item No. 2023-0124-A

DATE: June 21, 2023

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPW&T Comments:

The proposed deck, sunroom, landing and steps are to be constructed within an existing Baltimore City easement for an emergency underground water tunnel. Permission must be obtained from Baltimore City for development within the easement. If Baltimore City approves of the development, DPWT has no exception to the approval of the administrative variance. No Building permits may be granted until Baltimore City approval.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

FROM:  Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 20, 2023
Item No. 2023-0125-A

DATE: June 21, 2023

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

Landscape: If zoning relief is granted a Landscape Plan is required per the requirements of the Landscape Manual. A Lighting Plan is also required.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: June 21, 2023

FROM:  Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 20, 2023
Item No. 2023-0123-A, 2023-0126-A, 2023-0127-SPHA, 2023-0128-A, 2023-0129-A, 2023-0130-SPHA, and 2023-0131-A

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

VKD: JK
cc: file

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: June 16, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0123-A
Address: 4 THORNHAUGH CT
Legal Owner: Michael & Nina Pachino

Zoning Advisory Committee Meeting of June 20, 2023.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Additional Comments:

Reviewer: Earl D. Wrenn

ZONING NOTICE

#1

ADMINISTRATIVE VARIANCE

CASE # 2023-0123-A

TO PERMIT AN ACCESSORY BUILDING (DETACHED SHED)
IN THE SIDE YARD IN LIEU OF THE REQUIRED REAR
YARD

PUBLIC HEARING ?

PURSUANT TO SECTION 26-127(b)(1), BALTIMORE COUNTY CODE,
AN ELIGIBLE INDIVIDUAL OR GROUP MAY
REQUEST A PUBLIC HEARING CONCERNING
THE PROPOSED VARIANCE, PROVIDED THE REQUEST IS
RECEIVED IN THE ZONING REVIEW BUREAU BEFORE

4:30 P.M. ON 6/26/23

ADDITIONAL INFORMATION IS AVAILABLE AT THE DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT, COUNTY OFFICE BUILDING,
111 WEST CHESAPEAKE AVE., TOWSON, MD 21204, (410) 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL AFTER ABOVE DATE, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

ZONING NOTICE

#2

ADMINISTRATIVE VARIANCE

CASE # 2023-0123-A

TO PERMIT AN ACCESSORY BUILDING (DETACHED SHED)
IN THE SIDE YARD IN LIEU OF THE REQUIRED REAR
YARD

PUBLIC HEARING ?

PURSUANT TO SECTION 26-127(b)(1), BALTIMORE COUNTY CODE,
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PERMITS AND DEVELOPMENT MANAGEMENT, COUNTY OFFICE BUILDING,
111 WEST CHESAPEAKE AVE., TOWSON, MD 21204, (410) 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL AFTER ABOVE DATE, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 222570

Date: 5/1/2023

[illegible]

Total:

SLH

Rec
From:

Michael & Anne Pachino

For:

~~Admin Zoning Variance~~
4 Thornburgh Court

20111 Case 2023-0183-A

DISTRIBUTION

WHITE - CASHIER

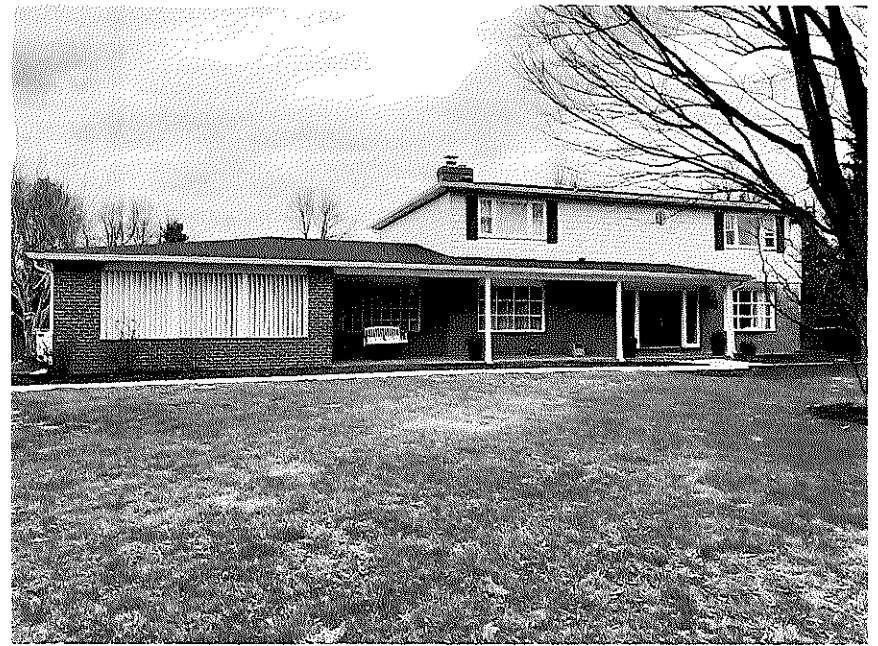
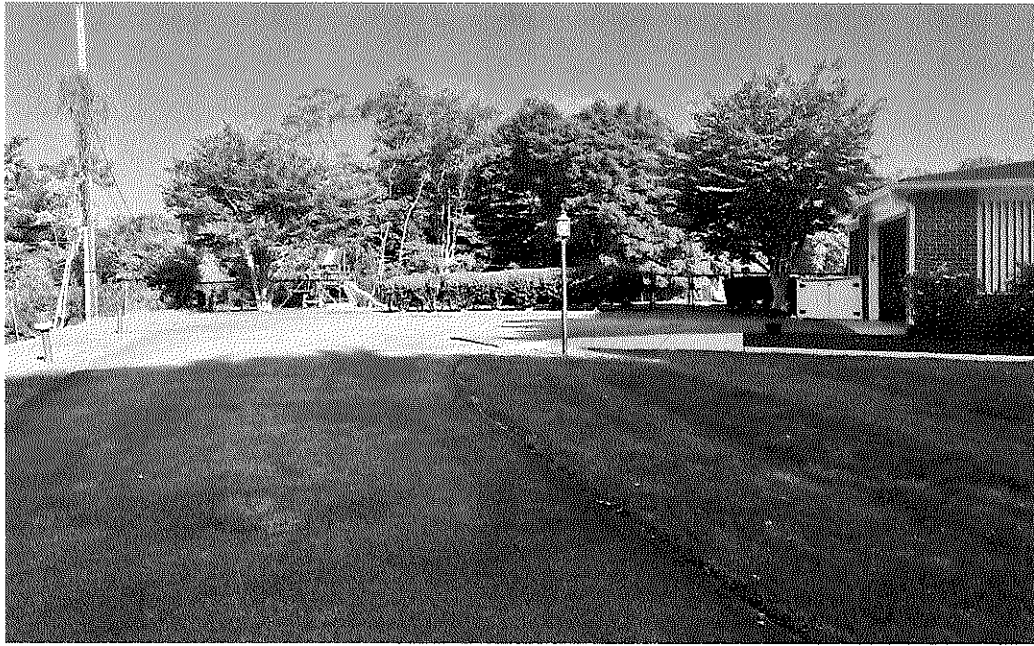
PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**



#2023-0123-A

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 03 Account Number - 0318053370

Owner Information

Owner Name: PACHINO MICHAEL H Use: RESIDENTIAL
PACHINO NINA H Principal Residence: YES
Mailing Address: 4 THORNHAUGH CT Deed Reference: /36959/ 00001
BALTIMORE MD 21208-1609

Location & Structure Information

Premises Address: 4 THORNHAUGH CT Legal Description: HALCYON GATE
BALTIMORE 21208-1609

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 3
0068 0011 0232 3030028.04 0000 E 3 2023 Plat Ref: 0029/ 0047

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1964	2,914 SF	800 SF	1.4500 AC	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2	YES	STANDARD UNIT	1/2 BRICK FRAME/5	2 full/ 1 half	1 Attached		

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2023	07/01/2022	07/01/2023
Land:	142,100	142,100		
Improvements	383,500	462,300		
Total:	525,600	604,400	525,600	551,867
Preferential Land:	0	0		

Transfer Information

Seller: NEFF DAVID J	Date: 12/08/2015	Price: \$530,000
Type: ARMS LENGTH IMPROVED	Deed1: /36959/ 00001	Deed2:
Seller: ROBINSON NEIL A	Date: 06/14/2013	Price: \$440,000
Type: ARMS LENGTH IMPROVED	Deed1: /33782/ 00427	Deed2:
Seller: ROBINSON NEIL A	Date: 01/28/1977	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /05720/ 00810	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2022	07/01/2023
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: Approved 01/22/2018

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2023-0123-A

Legend

- House Numbers
- Zoning History Cases
- Zoning
- Property
- SWM Easements since 2008
- County Boundary

Map Labels:

- SWANHILL CT
- KEYSER RD
- HORNBAUGH CT
- RC 5
- DR 1
- House Numbers: 101, 102, 103, 105, 106, 107, 109, 3201, 3203, 3205, 3206, 3207, 3208, 3210, 3211
- 521 ft

Scale and Date:

0 95 190 380 Feet

1:2,257

June 2, 2023

Sources: Esri, HERE, Garmin, Intermap, increment P, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri, DeLorme, NAVTEQ, Swisstopo, Mapbox, Swisstopo, China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Map ID: 2023-0125 A

County: BALTIMORE COUNTY MARYLAND

Baltimore County Government VITA Esri HERE Garmin INCREMENT P USGS EPA USDA |