

IN RE: PETITION FOR ADMIN. VARIANCE &	*	BEFORE THE
ADMINISTRATIVE WAIVER (FENCE)	*	OFFICE OF ADMINISTRATIVE
(3607 Southside Avenue)	*	HEARINGS FOR
10 th Election District	*	BALTIMORE COUNTY
3 rd Council District	*	
Christopher H. Wiedey	*	
	*	CASE NO. 2021-0133-A
Petitioner	*	

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owner of the property, Christopher H. Wiedey (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to permit a shed to be located in the front and side yards 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.

In addition, Petitioner seeks an Administrative Waiver (Fence) from Part 122.4 of the Baltimore County Building Code (“BCBC”) to construct a 6 ft. fence in lieu of the permitted 42 in. permitted by statute in the front yard. It is to be noted that a letter of support was contained in the case file from Scott Messengill, 3603 Southside Avenue, who has no objection to the administrative waiver (fence).

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

The Petitioner having filed a Petition for Administrative Variance and an Administrative Waiver (Fence) and the subject property having been posted for both on May 8, 2021, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (“BCC”). Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of § 307.1 of the BCZR. Furthermore, strict compliance with the BCZR would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Although the Department of Planning did not make any recommendations related to the detached shed height and usage, I will impose conditions that the proposed shed (accessory structure) shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, or used for commercial purposes.

Pursuant to the posting of the property and the provisions of the BCC, BCZR, and BCBC, and for the reasons given above, the requested administrative variance and administrative waiver (fence) should be granted.

THEREFORE, IT IS ORDERED, this 7th day of **June, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from BCZR § 400.1 to permit a shed to be located in the front and side yards in lieu of the required rear yard, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Administrative Waiver (Fence) seeking relief from Part 122.4 of the Baltimore County Building Code (“BCBC”), to permit a 6 ft. fence in lieu of the permitted 42 in. in the front yard, be and hereby is GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
- Petitioner or subsequent owners shall not convert the proposed shed into a dwelling unit or apartment. The proposed shed shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- The proposed shed shall not be used for commercial purposes.

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

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlw