

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(7235 Bridge Wood Drive)	*	OFFICE OF ADMINISTRATIVE
12th Election District	*	HEARINGS OF
7th Council District	*	BALTIMORE COUNTY
Jorge R. Barbecho	*	CASE NO. 2020-0170-A
Legal Owner/Petitioner	*	

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Jorge R. Barbecho (the “Petitioner”) for property located at 7235 Bridge Wood Drive (the “Property”). The Petitioner is requesting variance relief from Baltimore County Zoning Regulations (“BCZR”) §§400.1 and 400.2 to approve an accessory structure (shed) with a rear yard setback of 9 ft. from the center of the alley and (12 inches from the rear property line) in lieu of the required 15 ft. from the center line of the alley and a side yard setback 6 inches in lieu of the required 2 ½ ft.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. The Petitioner appeared at the hearing along with an interpreter Maria Nolasco. Lynne M. Mithell, President of Eastwood Residents & Business Community Association of Baltimore County also appeared in opposition to present and assisted at the hearing. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”) which agencies did not oppose the requested relief.

The Property is approximately 3,531 sq. ft. (33 ft. wide and 106 ft. long) and is zoned DR 10.5. It is the end unit townhome and includes a front, side and rear yard with access to a rear alley. It also has a small shed in the rear. It is part of the Eastwood community which consists of townhomes built in the mid-20th century. The Petitioner is a contractor/builder by trade. The Petition was filed as a result of a Code Violation complaint (CB 2000241) issued on May 19, 2020 for constructing a garage without a building permit. The garage is nearly completed and sits within inches of the rear fence.

The Eastwood Residents & Business Community Association of Baltimore County (“Eastwood Association”) provided a written objection dated February 26, 2021. The Eastwood Community objection also provided a letter from Regional Pest Management Co which is under contract with Baltimore County to exterminate for rats in the Eastwood Community. Both the Eastwood Association and Regional Pest advocated that the illegal location of the garage prevents rat extermination and will be a “perfect breeding ground for rats.” (Prot. Ex. 1). The garage is partially built on soil which allows rats to burrow underneath the garage making extermination more difficult. (*Id.*). Had the Petitioner obtained a building permit prior to construction, this issue, as well as the illegal location, would have been prevented.

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).

The Property is not unique; it is a townhome on a rectangular lot the same as the other 23 townhomes on lots of the same size in the Eastwood Community. There was no evidence

presented of either uniqueness or practical difficulty. The Property was already improved with a shed. Additionally, granting a variance here would not be in harmony with the BCZR and would cause injury to the health, safety and general welfare of the Eastwood Community. Accordingly, the Petition for Variance will be denied.

THEREFORE, IT IS ORDERED, this **22nd** day of **March 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR”) §§400.1 and 400.2 to approve an accessory structure (shed) with a rear yard setback of 9 ft. from the center of the alley and (12" from the rear property line) in lieu of the required 15 ft. from the center line of the alley and a side yard setback 6" in lieu of the required 2 ½ ft. is hereby **DENIED**.

Signed _____
MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm