

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(1421 Wine Spring Lane)</b>		
9 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
James W. Ancel, Sr.	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2017-0117-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, James W. Ancel, Sr. The Petitioner is requesting variance relief from § 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed accessory structure (swimming pool) and associated gazebo/shed to be located in the side yard in lieu of the required in the rear of the dwelling. 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.

It is to be noted that this administrative variance case closed on November 14, 2016 but was not received by OAH until November 21, 2016; the whereabouts of the case file between these dates is unknown.

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

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 28, 2016, 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 Section 32-3-303 of the Baltimore County Code (B.C.C.). 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 Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. 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 proposed gazebo/shed and pool equipment storage structures' height and usage, I will impose conditions that the gazebo/shed and pool equipment storage structures shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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 should be granted.

THEREFORE, IT IS ORDERED, this 22<sup>nd</sup> day of **November, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed accessory structure (swimming pool) and associated gazebo/shed to be located in the side yard in lieu of the required in the rear of the dwelling, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for his appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this

Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

- Petitioner or subsequent owners shall not convert the gazebo/shed and pool equipment storage structures into a dwelling unit or apartment. The gazebo/shed and pool equipment storage structures shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- The garage 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:dlw