

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(14 Bellclare Circle)		
8 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Amanda B. Coleman & Justin Phelps	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2017-0317-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, Amanda B. Coleman and Justin Phelps (“Petitioners”). The Petitioners are requesting variance relief from § 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed in-ground pool (accessory structure) 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 Petitioners’ Exhibit 1.

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. A letter of opposition was received from a neighbor, and is discussed below.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 9, 2017, and there being no formal request for a public hearing (which must be accompanied by a filing fee of \$60.00), a decision shall be rendered based upon the documentation presented.

The Petitioners have 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 Petitioners.

In a letter dated June 14, 2017, Elmer Mack (who lives at 18 Bellclare Circle) indicated he opposed the variance request. Mr. Mack opined the proposed location of the pool would negatively effect his property value and be an eyesore. Based on the plan, the pool will be located 216 ft. from Bellclare Circle. In these circumstances, I do not believe the pool would be an eyesore, if in fact it would even be clearly visible from the street. As for the negative impact on property values, no evidence was provided other than Mr. Mack's personal opinion.

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 **29th** day of **June, 2017**, 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 in-ground pool (accessory structure) 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:

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw