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| IN RE: PETITION FOR ADMIN. VARIANCE | * | BEFORE THE |
| (3120 W Golf Course Road) | | |
| 3 rd Election District | * | OFFICE OF ADMINISTRATIVE |
| 2 nd Council District | | |
| Familia Posterus, LLC | * | HEARINGS FOR |
| Petitioner | * | BALTIMORE COUNTY |
| | * | CASE NO. 2018-0008-A |

* * * * *

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, C. Ashton Newhall on behalf of Familia Posterus, LLC (“Petitioner”). The Petitioner is requesting Variance relief pursuant to §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) To allow an accessory structure (pool house) to be located in the side yard in lieu of the required rear yard; and (2) To allow an accessory structure (pool house) with a height as great as 19 ft. in lieu of the maximum permitted 15 ft. 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.

The Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (“DEPS”), dated August 8, 2017, indicating Petitioner must comply with certain environmental regulations as set forth in Article 33 of the Baltimore County Code (“B.C.C.”). DEPS also noted there was an outstanding violation on the property which is being addressed pursuant to certain conditions imposed upon the grant of an environmental variance, as set forth in a letter dated June 13, 2017 from Director Vincent Gardina to Ashton Newhall.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on July 20, 2017, 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 (“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 § 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 accessory structure (pool house) height and usage, I will impose conditions that the pool house shall not be converted into a dwelling unit or apartment, nor contain any sleeping quarters.

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 **17th** day of **August, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) To allow an accessory structure (pool house) to be located in the side yard in lieu of the required rear yard; and (2) To allow an accessory structure (pool house) with a height as great as 19 ft. in lieu of the maximum permitted 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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.
2. Petitioner or subsequent owners shall not convert the pool house into a dwelling unit or apartment, and the accessory structure/pool house shall not contain any sleeping quarters.
3. The accessory structure/pool house shall not be used for commercial purposes.
4. Petitioner shall be required to complete and satisfy in a timely fashion all items and conditions set forth in the DEPS letter dated June 13, 2017, as referenced above.
5. Petitioner must comply with the ZAC comment of DEPS, dated August 8, 2017; a copy of which is attached hereto and made a part hereof.

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