

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(7418 Chesapeake Road)</b>		
15 <sup>th</sup> Election District	*	OFFICE OF
6 <sup>th</sup> Council District		
Matthew Riemer	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
<b>Petitioner</b>		
	*	<b>Case No. 2019-0086-SPH</b>

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Matthew Riemer, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to permit an existing pool house with a kitchen and bathroom facilities to remain as an accessory structure/use, with no living quarters. A site plan was marked and admitted as Petitioner’s Exhibit 1.

Matthew Riemer and Bernadette Moskunus appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”). The DOP objected only to the kitchen remaining in the accessory building.

Petitioner constructed the pool house in 2014, at the same time the pool and single-family dwelling were constructed on the property. The improvements are located on a “double lot” (i.e., two 50 ft. wide lots, with the dwelling straddling the lot line) 20,000 square feet in size. Though permits were obtained for the single-family dwelling and pool, Petitioner stated a permit was never

obtained for the pool house. Petitioner believed the contractor who constructed the pool and pool house had obtained the necessary permits and approvals, but that was not the case.

An anonymous complaint was filed with code enforcement and Petitioner was instructed to obtain a permit for the accessory building. Petitioner has applied for that permit and indicated he was going to obtain the building permit after the hearing in this case concluded. DEPS staff visited the site in connection with the recent permit application (as is customary since the property is in the CBCA) and the reviewer noted the kitchen and bathroom facilities in the pool house, which lead to the filing of this Petition.

While bathroom facilities are often permitted in accessory buildings, kitchens are not. The concern, of course, is that the building will or could be used as a second residential dwelling on the lot. I do not believe those concerns are animated in this case, for the following reasons. First, the one-story structure is small (less than 500 sq. ft.) and has no bedroom or living quarters. Also, the building is constructed immediately adjacent to an in-ground pool in the rear yard, and is clearly used in connection with that amenity. Petitioner explained he hosts frequent gatherings and pool parties, and the bathroom and kitchen in the accessory building prevent guests from needing to enter the dwelling to use the restroom or get food/beverage.

As such I believe the Petition should be granted, consistent with several recent zoning orders where kitchens have been permitted in accessory buildings. *See, e.g.*, Case No. 2018-0224-SPH. In the cited case the DOP did not object to kitchen and living quarters in an accessory building, but that agency suggested the owner be required to file in the land records a declaration of understanding similar to the one required in accessory apartment applications under BCZR Section 400.4. I agreed with the DOP in that case that the declaration of understanding was a fair and effective way to address the County's concerns, and I will include a similar condition in this

case.

THEREFORE, IT IS ORDERED this 3<sup>rd</sup> day of **December, 2018** by this Administrative Law Judge, that the Petition for Special Hearing to permit an existing pool house with a kitchen and bathroom facilities to remain as an accessory structure/use, with no living quarters, 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. The accessory building (pool house) shall not have living quarters and shall not be converted to residential use. No overnight habitation shall be permitted in the accessory structure.
3. Petitioner must within 60 days of the date hereof file among the land records of Baltimore County a declaration of understanding as approved by the DOP to address the concerns raised in that agency's October 9, 2018 ZAC comment.
4. Petitioner must prior to issuance of permits comply with Critical Area regulations.

Any appeal of this decision must be filed 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:sln