

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(538 Belfast Road)		
8 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Thomas H. & Tamara L. Watson	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0140-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 owners of the property, Thomas H. and Tamara L. Watson (“Petitioners”). The Petitioners are requesting Variance relief pursuant to §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed accessory building (pool house) to be located in the side yard in lieu of required in the rear yard of the existing single family dwelling, and to permit a proposed height of 22 ft. in lieu of maximum allowed height of 15 ft. respectively. 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 received from any of the County reviewing agencies. However, it is to be noted that a letter of support was received from adjacent neighbors, Richard and Margaret Stansbury (540 Belfast Road), who have no objections to the Petitioners’ zoning request.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 11, 2018, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (“BCC”). 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 BCZR. Furthermore, strict compliance with the BCZR would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Although the Department of Planning did not make any recommendations related to the proposed accessory building (pool house) height and usage, I will impose conditions that the pool house shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

The petition in this case, as was proper, sought relief from the area and height restrictions set forth in BCZR §§ 400.1 and 400.3. That is the extent of the relief permitted in a variance case. The decision to permit (or not) bathroom facilities must be made by the County’s zoning, public works and environmental departments.

Pursuant to the posting of the property and the provisions of both the BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this **30th** day of **November, 2018** 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 (“BCZR”) to permit a proposed accessory building (pool house) to be located in the side yard in lieu of required in the rear yard of the existing single family dwelling, and to permit a proposed height of 22 ft. in lieu of maximum allowed height of 15 ft. respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners or subsequent owners shall not convert the accessory structure (pool house) into a dwelling unit or apartment. The accessory structure (pool house) shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities. Should the aforementioned agencies permit a powder room (sink and toilet) in this structure, that aspect of Condition No. 3 shall be considered stricken.
3. The accessory structure (pool house) 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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw