

IN RE: PETITION FOR ADMIN. VARIANCE

S side of Forge Acre Drive; 35 feet E
of the c/l of Perry Hall Drive
11th Election District
5th Councilmanic District
(4821 Forge Acre Drive)

Michael S. Ferger Sr.
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2011-0136-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owner of the subject property, Michael S. Ferger Sr. for property located at 4821 Forge Acre Drive. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposed detached accessory structure (pool) to be partially located on the third of the lot closest to a road in lieu of the the required third of the lot farthest removed, and to amend the Final Development Plan of Perry Hall Farms, Section 1, Lot 1 only. Petitioner desires to construct an in-ground swimming pool with only a small portion of that swimming pool within in the above-referenced restricted area, but not within the building restriction line. The rear and side of the property will have a fence as per County Code. Photographs submitted with the Petition clearly show that a portion of the rear yard is heavily wooded with tall trees.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 21, 2010 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. 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 Deputy Zoning Commissioner, 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.

Moreover, I am appreciative of the Petitioner's concerns that the removal of mature, specimen trees is not warranted in this case. The preservation of trees is an appropriate justification for zoning relief. *See McLean v. Soley*, 270 Md. 208 (1973). Furthermore, I find that due to the removal of the numerous aforementioned mature trees, the Petitioner would suffer a "practical difficulty" if strict adherence to the regulation were required.

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, by the Deputy Zoning Commissioner for Baltimore County, this 12th day of November, 2010 that a variance from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed detached accessory structure (pool) to be partially located on the third of the lot closest to a road in lieu of the the required third of the

lot farthest removed, and to amend the Final Development Plan of Perry Hall Farms, Section 1, Lot 1 only is hereby GRANTED, subject to the following:

1. The Petitioner may apply for his building permit 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, the Petitioner 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
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz