

IN RE: PETITION FOR ADMIN. VARIANCE
NE side of Sue Grove Road; 1,690 feet SE
from the c/l of Turkey Point Road
15th Election District
6th Councilmanic District
(905 Sue Grove Road)

Mark R. and Atussa Haynes
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2011-0055-A**

* * * * *

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 owners of the subject waterfront property, Mark R. and Atussa Haynes for property located at 905 Sue Grove Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory use (in-ground pool) to be located in the front yard in lieu of the rear yard. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners desire to install an in-ground swimming pool in the front yard (water side) of their property. The subject property is rectangularly shaped with 30 feet of frontage on Sue Grove Road and 65 feet of width at the bulkhead and pier on Sue Creek. The Zoning Commissioner’s Policy Manual (Z.C.P.M.), Sections 400.1A and 400.2A, provides a determination of what constitutes the front yard on waterfront lots based on the orientation of the houses and accessory buildings. In most cases, as is the situation here, waterfront lots refer to the front of the structure as facing the water.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Resource Management dated September 8, 2010 that states development of the property must comply with the Chesapeake Bay Critical Area Regulations. This property is located within a Limited Development Area (LDA) and Buffer Management Area (BMA) in the Chesapeake Bay

Critical Area. Lot coverage is limited to 25% of the lot area above mean high water, or a maximum lot coverage of 31.25%, if approved and with mitigation. A 100-foot tidal buffer applies to this site. Use and development within the buffer is restricted, and must comply with all LDA and BMA requirements. A minimum 15% forest cover is required to exist on-site at all times. Mitigation requirements may require additional planting, removal of lot coverage, fees-in-lieu, or a combination of these. The site plan must show the 100-ft. tidal buffer measured off mean high water, all existing and proposed lot coverage in detail and in a table, and all existing and proposed trees.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on August 14, 2010 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 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 Petitioners.

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 8th day of September, 2010 that an Administrative Variance from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory use (in-ground pool) to be located in the front yard in lieu of the rear yard is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit 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, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).
3. This property is located within a Limited Development Area (LDA) and Buffer Management Area (BMA) in the Chesapeake Bay Critical Area. Lot coverage is limited to 25% of the lot area above mean high water, or a maximum lot coverage of 31.25%, if approved and with mitigation. A 100 feet tidal buffer applies to this site. Use and development within the buffer is restricted, and must comply with all LDA and BMA requirements. A minimum 15% forest cover is required to exist on-site at all times. Mitigation requirements may require additional planting, removal of lot coverage, fees-in-lieu, or a combination of these. The site plan must show the 100 feet tidal buffer measured off mean high water, all existing and proposed lot coverage in detail and in a table, and all existing and proposed trees.

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