

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1718 Wilson Point Road)		
15 th Election District	*	OFFICE OF
6 th Council District		
Edward L. and Doris A. Stuckey	*	ADMINISTRATIVE HEARINGS
Petitioners		
	*	FOR BALTIMORE COUNTY
	*	Case No. 2013-0197-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Edward L. and Doris A. Stuckey for property located at 1718 Wilson Point Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (above ground pool) to be placed in the front yard (water side) in lieu of the required rear yard placement. The subject property and requested relief are more particularly described on Petitioners’ 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 Bureau of Development Plans Review (DPR) dated March 12, 2013, indicating that the base flood elevation for the site is 8.5 feet [NAVD 88], and the flood protection elevation is 9.5 feet. In addition, a ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) dated March 26, 2013, indicating that Petitioners were obliged to comply with certain Critical Area regulations, as set forth in B.C.Z.R. Section 500.14.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on March 8, 2013 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 Administrative Law Judge, 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 Administrative Law Judge for Baltimore County, this 2nd day of April, 2013, that the Petition for Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (above ground pool) to be placed in the front yard (water side) in lieu of the required rear yard placement, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for any appropriate permits 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners must comply with the ZAC comments submitted from DPR and DEPS; copies of which are 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