

**IN RE: PETITION FOR VARIANCE**  
**(6200 Glen Falls Road)**  
4<sup>th</sup> Election District  
3<sup>rd</sup> Councilmanic District  
Richard M. Folio  
Petitioner

\* BEFORE THE  
\* OFFICE OF ADMINISTRATIVE  
\* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* **CASE NO. 2014-0185-A**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner of the property, Richard M. Folio, for property located at 6200 Glen Falls Road. The Petitioner is requesting Variance relief from Sections 1A09.7.C.2.e and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed accessory structure (pool house) located in the front yard in lieu of the required side or rear yard; and to permit a height of 24 ft. in lieu of the maximum height of 15ft.

Though originally filed as an Administrative Variance, a neighbor requested (in a timely fashion) a formal hearing on this matter. The hearing was subsequently scheduled for Friday, May 16, 2014 at 1:30 PM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no substantive Zoning Advisory Committee (ZAC) comments received.

Appearing at the public hearing in support of the Petition was Richard M. Folio and Lawrence Schmidt, Esq., from Smith, Gildea & Schmidt, who represented the Petitioner. Several neighbors and representatives of the Hanover Road Association attended the hearing and opposed the Petition.

The subject property is approximately 3 acres and is zoned RC 8. The property is improved with a single family dwelling, pool and other amenities. The Petitioner indicated he needs additional storage space, and proposes to construct a detached garage/pool house, as shown in the architectural drawings admitted as Petitioner's Exhibit 7. Given the height and proposed placement of the garage, variance relief is required.

Based upon the testimony and evidence presented, I will deny the petition for variance.

To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Trinity Assembly of God v. People's Counsel*, 407 Md. 53, 80 (2008).

I believe the configuration of the lot and the topographical changes throughout the site render the property unique. I also believe Petitioner would experience a practical difficulty if the regulations were strictly interpreted, since the proposed placement of the garage is the only feasible location due to the topography of Petitioner's rear yard. But the Petition must be denied because the proposed structure would (in combination with existing improvements) exceed the lot coverage limitations of the RC 4 zone.

The property is currently zoned RC 8, which requires, prior to approval of a variance, the Department of Planning ("DOP") to issue a written finding that the request is in keeping with the "spirit and intent" of the regulations. B.C.Z.R. §1A09.4.A. The DOP has not issued such a finding, because it considers the property vested under the RC4 regulations, which was the zoning at the time the subdivision was approved in 1991. See Petitioner's Exhibit Nos. 2 (subdivision plat) and 5 (e-mail from DOP). The RC 4 regulations contain a lot coverage limitation of 10%. B.C.Z.R. §1A03.4.B.3.

The Petitioner's lot is 3 acres or 130,680 square feet. Ten percent (10%) of that figure is 13,068 square feet, which under the B.C.Z.R. is the limitation on "impermeable surfaces." Id. One of Petitioner's neighbors submitted a calculation of the existing impermeable surface coverage on the subject property, by adding together the square footage of the house, garage, pool, basketball/tennis court, driveway and turnaround area. That figure is 12,082 square feet, which the author concedes is "approximate." Protestant's Exhibit 4A. The proposed garage measures 32' x 48', or 1,536 square feet. That would bring the total lot coverage to 13,618 square feet, which would exceed (by nearly 600 square feet) the allowance referenced above.

THEREFORE, IT IS ORDERED, this 23<sup>rd</sup> day of May, 2014 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Sections 1A09.7.C.2.e and 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit a proposed accessory structure (pool house) located in the front yard in lieu of the required side or rear yard; and to permit a height of 24 ft. in lieu of the maximum height of 15ft., be and is hereby DENIED.

Any appeal of this decision must be made 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