

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(21 Brett Manor Ct.) *	OFFICE OF
8 th Election District	
3 rd Council District *	ADMINISTRATIVE HEARINGS
Gurmeet & Santosh Dhillon, <i>Legal Owners</i>	
Petitioners *	FOR BALTIMORE COUNTY
	Case No. 2014-0060-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Gurmeet & Santosh Dhillon, the legal owners. The Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”): to allow a proposed accessory structure (pool house) with the following amenities: kitchen, 2 bathrooms, and a full basement. The Variance petition seeks relief from B.C.Z.R. §400.3 to permit a proposed accessory structure (pool house) with a height of 25 feet in lieu of the maximum of 15 feet. 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.

Appearing at the public hearing in support of the requests was Santosh Dhillon. The file reveals that the Petition was advertised and the site was posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance, and the file does not contain letters of protest or opposition. In fact, the Petitioner indicated his neighbors all expressed support for the project.

Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Department of Environmental Protection and Sustainability (DEPS).

The subject property is 3.04 +/- acres in size and is zoned RC-7. The Petitioners constructed their house in 2000, and the property is bordered by woods and a creek. The nearest home is over 600 feet away. Mr. Dhillon - -an engineer - -indicated he designed his home and also designed the proposed pool house, shown on the site plan. The Petitioners would like to serve hot food at pool parties and gatherings, and for that reason the pool house is designed with a “kitchenette.” The building would have bathrooms/changing rooms for men and women, and a dining area. Mr. Dhillon explained the building will not have living quarters, and will not be used for commercial purposes, and he submitted a revised plan with a conspicuous note to this effect, as requested by the DOP. Exhibit 1. Mr. Dhillon stated that the building will not really have a “basement,” since it will have no internal means of access. Instead, it will have only a small exterior entrance, and will be used to store medical records for the Petitioners’ son, who is a physician. Mr. Dhillon also explained that several of his neighbors have pool houses with similar kitchen and bathroom amenities.

I reviewed and considered the concerns expressed by the DOP and DEPS; that the accessory building could serve as a second dwelling. Having had the opportunity to review the plans and photos of the site, and hear Mr. Dhillon describe the project, it is clear to me that the structure will not be used in that fashion, and a restriction prohibiting commercial or dwelling use will be on the plan and included in the final Order. The Petitioners’ home is almost 9,000 square feet and has an assessed value in excess of one million dollars. The proposed pool house will be in keeping with the estate-like nature of the existing improvements, and its final design will be reviewed by the community’s architectural committee. Thus, I will grant the petition for Special Hearing.

Based upon the testimony and evidence presented, I will also grant the petition for variance. To obtain variance relief a petitioner must show:

- (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).

The Petitioners have met this test. The lot is irregularly shaped and is therefore unique. The Petitioners would experience a practical difficulty if the regulations were strictly interpreted, since they would be unable to construct the proposed improvements. Finally, I do not believe the grant of relief would be detrimental to the health safety and welfare of the community.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Hearing and Variance requests should be granted.

THEREFORE, IT IS ORDERED this 18th day of November, 2013, by this Administrative Law Judge, that Petitioners' request for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a proposed accessory structure (pool house) with the following amenities: kitchen, 2 bathrooms, and a full basement, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. §400.3 to permit a proposed accessory structure (pool house) with a height of 25 feet in lieu of the maximum of 15 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners is 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. No commercial activities of any kind shall be permitted in the proposed accessory building.

3. The Petitioners or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters or living area.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB/sln

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County