

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(6 Apple Valley Court)		
7 th Election District	*	OFFICE OF ADMINISTRATIVE
3 rd Council District		
Joseph and Monique Herkalo	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0073-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, Joseph and Monique Herkalo. The variance request is from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a proposed accessory structure (tree house) with a height of 30 ft. in lieu of the maximum 15 ft. 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.

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 Department of Environmental Protection and Sustainability (DEPS) dated October 23, 2013, indicating that a future building permit for the proposed tree house would need review by Groundwater Management especially since the septic reserve area is in that part of the lot.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on October 4, 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 (B.C.C.). 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, this 30th day of October, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a proposed accessory structure (tree house) with a height of 30 ft. in lieu of the maximum 15 ft., 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 her 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 comment from DEPS dated October 23, 2013; a copy of which is 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
LAWRENCE M. STAHL
Managing Administrative Law Judge for
Baltimore County

LMS:dlw