

**IN RE: PETITION FOR ADMIN. VARIANCE**  
N side of Crest Haven Way; 25 feet W  
of Fragrance Way  
11<sup>th</sup> Election District  
5<sup>th</sup> Councilmanic District  
**(5114 Crest Haven Way)**

Daniel J. and Michelle A. Kile  
*Petitioners*

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2010-0244-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 property, Daniel J. Kile and Michelle A. Kile for property located at 5114 Crest Haven Way. Resolution 16-10 concerning the public disclosure of Daniel John Kile, an employee of the Baltimore County Fire Department, was approved at the County Council meeting held on April 5, 2010. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed detached accessory structure (swimming pool) to be located on the third of the lot closest to a street in lieu of the required farthest removed portion of the lot, and to amend the latest Final Development Plan for Moores Orchard Lot 54 only. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1.

Petitioners desire to install an in-ground swimming pool measuring 20 feet by 39 feet in the northeast corner of their property. In their Affidavit accompanying the variance request, Petitioners state that a swale runs west to east in the south portion of the property. If the pool is built in this area it will block drainage that carries water mainly during rainstorms or snow melts from neighboring homes as well as the subject property. The northwest corner of the lot would also be difficult to build in due to a 5½ foot± incline/hill with an oak tree, tree stump and other trees that would be disrupted due to excavation. Petitioners also note that they would suffer

financial hardship by incurring additional costs for a longer and deeper retaining wall, and tree and stump excavation. Petitioners cannot build the pool in the southeast corner of the property due to drainage and utility easements as well as the swale. Photographs submitted with the Petition depict two large drains in the rear yard. The property contains 13,418 square feet. None of the neighbors on Crest Haven Way or Fragrance Way voiced any objection to the location of the proposed swimming pool.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated April 8, 2010 which indicates that the Petitioners should provide a realistic elevation drawing of the exact dimensions of where the pool will be located. Because the proposed pool will be located in close proximity to the public street, Planning also recommends that the Petitioners provide fencing to shield the view of the proposed pool from the street, or relocate the proposed pool somewhere else on the property (away from the street). In this regard, photographs submitted by the Petitioners clearly depict attractive white fencing that already exists around the entire rear yard. Comments were also received from the Bureau of Development Plans Review dated March 24, 2010 which indicates that the site plan must be revised to show that the swimming pool will be 11 feet from the property line so that it is not built within the County's drainage and utility easement.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on March 28, 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 13<sup>th</sup> day of April, 2010 that a Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed detached accessory structure (swimming pool) to be located on the third of the lot closest to a street in lieu of the required farthest removed portion of the lot, and to amend the latest Final Development Plan for Moores Orchard Lot 54 only, be and 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. The site plan must be revised to show that the swimming pool will be situated 11 feet from the property line so that so that it is not built within the County's drainage and utility easement.

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