

**IN RE: PETITION FOR ADMIN. VARIANCE**

W side of Greenwood Road, 320 feet S  
of the c/l of Joppa Road  
9<sup>th</sup> Election District  
5<sup>th</sup> Councilmanic District  
**(616 Greenwood Road)**

Ronald F. and Lissen T. Tutrone  
*Petitioners*

\* BEFORE THE  
\* OFFICE OF  
\* ADMINISTRATIVE HEARINGS  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2011-0203-A**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before this Office of Administrative Hearings for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Ronald F. and Lissen T. Tutrone for property located at 616 Greenwood Road. The variance request is from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit accessory structures (pool and pool house) to be located in the side yard with a height of 22 feet in lieu of the required rear yard and allowed 15 feet height, respectively. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners desire to construct an in-ground swimming pool measuring 20 feet x 62 feet and a pool house/pavilion measuring 22 feet x 26 feet. After conducting a comprehensive site analysis, the architect determined that the only feasible location for the pool and pool house is in the side yard area of the property. In order to maintain appropriate architectural and aesthetic compatibility with the existing dwelling, the proposed pool house needs to be 22 feet high. Although not mentioned in the variance request, Petitioners also desire to construct a concrete spa measuring 9 feet x 9 feet to be located in the side yard in lieu of the rear yard. Petitioners’ property contains 2.18 acres and is served by private water and sewer.

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 January 19, 2011 which recommends that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area or kitchen facilities, and not be used for commercial purposes. In addition, the Office suggested the following conditions: Preserve the existing vegetation on the southern property line. Screen the southern side of the proposed driveway with vegetation to buffer the view of the proposed pool house from Greenwood Road.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on January 12, 2011 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 Petitioner. I will not require the Petitioners to screen the southern side of the proposed driveway with vegetation to buffer the view of the proposed pool house from Greenwood Road. The pool house is to be located over 294 feet from Greenwood Road.

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. The granting of this variance request shall also include the concrete spa measuring 9 feet x 9 feet to be located in the side yard in lieu of the rear.

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 3<sup>rd</sup> day of February, 2011 that a variance from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit accessory structures (pool and pool house) to be located in the side yard with a height of 22 feet in lieu of the required rear yard and allowed 15 feet height, respectively 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 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, living area or kitchen facilities.
3. The accessory structure shall not be used for commercial purposes.

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

\_\_\_\_SIGNED\_\_\_\_\_  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK:pz