

IN RE: PETITION FOR ADMIN. VARIANCE

N side of Golf Course Road, 742 feet E
of the c/l of Hopkins Lane
3rd Election District
2nd Councilmanic District
(333 Golf Course Road)

Jeffrey Y. and Rebecca M. Flynn
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2011-0308-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, Jeffrey Y. and Rebecca M. Flynn for property located at 333 Golf Course Road. The variance request is from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a swimming pool be located in the side yard, and to permit a pool house with a height of 22 feet in lieu of the required rear yard and 15 feet height, respectively. Petitioners have an existing swimming pool which they plan to fill in and construct a new swimming pool measuring 20 feet x 40 feet much closer to the dwelling. Adjacent to the new swimming pool is a proposed one story pool house measuring 1,023 square feet. The additional height of the pool house is necessary so that the pool house has a similar roof pitch and architectural style as the existing dwelling. Photographs submitted with the Petition illustrate dense foliage surrounds the property. The property contains 3.42 acres and is served by private sewer and water. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 24, 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 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 Administrative Law Judge for Baltimore County, this 18 day of May, 2011 that Petitioners' Variance request from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a swimming pool be located in the side yard, and to permit a pool house with a height of 22 feet in lieu of the required rear yard and 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.
4. Upon issuance of building permits, the existing swimming pool which is shown on the site plan accompanying this Petition shall be filled in.
5. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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