

IN RE: PETITION FOR ADMIN. VARIANCE

S side of Buedel Court, 719 feet W
of York Road
7th Election District
3rd Councilmanic District
(413 Buedel Court)

Kelly A. Wilkinson
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0102-A**

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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 owner of the subject property, Kelly A. Wilkinson for property located at 413 Buedel Court. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (in-ground swimming pool) to be located in the side yard in lieu of the required rear yard only, and to amend the latest Final Development Plan for Theresa's Manor, Lot 11 only. The subject property and requested relief are more particularly described on Petitioner’s Exhibit No. 1. The photographs submitted with the Petition clearly illustrate that the Petitioner’s property is much lower than the surrounding properties of 414 Buedel Court, 415 Buedel Court and 417 Buedel Court. The side yard is the only available level area on the property for construction of the proposed swimming pool. The new swimming pool, 668 square feet travertine patio and fireplace will be attractive outdoor amenities for the family. Even if the property were level, the proposed in-ground swimming pool would still have to be constructed in the side yard due to the required septic reserve area, pipeline easement and revertable slope easement in the rear yard. The property contains 1.21 acres and is served by private water and sewer. No dwellings are within 200 feet of the subject side property line.

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 Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 16, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has 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.

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 8 day of November, 2011 that a Variance from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an accessory structure (in-ground swimming pool) to be located in the side yard in lieu of the required rear yard only, and to amend the latest Final Development Plan for Theresa's Manor, Lot 11 only, be and is hereby GRANTED, subject to the following:

1. The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is 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, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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