

IN RE: PETITION FOR VARIANCE
W side of Balfred Avenue, 93' N of
Helmsby Road
1st Election District
1st Councilmanic District
(30 Balfred Avenue)

Rollingwood Pool, Inc.
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2012-0165-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Variance filed by the legal owner of the subject property, Rollingwood Pool, Inc. Petitioner is requesting Variance relief from Section 1B01.2.C.1.a of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a proposal building addition/replacement with a side street setback of 22 feet in lieu of the minimum required 35 feet. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Bob Krabbe with Rollingwood Pool, Inc., and Keith A. Heindel, professional land surveyor with Professional Surveys, LLC, the consultant who prepared the site plan. Gerry H. Tostanoski, Esquire appeared as counsel for the Petitioner. The file reveals that the Petition was properly advertised and the property was properly posted as required by the Baltimore County Zoning Regulations. No Protestants or other parties were present.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

Bob Krabbe, a member of the pool's grounds committee, testified as to the proposed request and project. The Petitioner, a community pool of approximately 400 members in the Catonsville area, wish to raze an existing shed attached to their main building and replace it with a new 24 feet x 48 feet shed. The new shed is necessary to house maintenance equipment as well as a new pool cover. Unfortunately, the County had previously determined that the technical "front" of the structure is on Balfred Avenue, bordering the site even though the actual entrance faces a parking area in the interior of the site. Accordingly, the existing structure built in the early 1950s, finds itself regulated by later imposed setbacks applicable to the front of the structure.

The witness described the site as an irregular shaped parcel bordered by a residential community and several larger uses, including a state forest park. Moreover, the topography of the site limits, as a practical matter, where the new pool cover must be stored to allow it access to the already existing pool. Without the requested variance, a new shed will not be able to be constructed at the necessary and appropriate site on the property.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Moreover, I find that strict enforcement of the B.C.Z.R. would cause the Petitioner to suffer practical difficulty and undue hardship.

Therefore, I also find that the variances requested can be granted in strict harmony with the spirit and intent of the said regulations, and in such a manner as to grant relief without injury to the public, health, safety, and general welfare. In all manner and respect, the variances requested meet the requirements of Section 307 of the B.C.Z.R. as well as those requirements established in *Cromwell v. Ward*, 102 Md. App. 691 (1995) and *McLean v Soley*, 270 Md. 208 (1973).

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this 24 day of February, 2012 by this Administrative Law Judge that Petitioner's Variance request from Section 1B01.2.C.1.a of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposal building addition/replacement with a side street setback of 22 feet in lieu of the minimum required 35 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for their building permit and be granted same upon receipt of this Order; however, Petitioner is 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, 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
LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:pz