

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(7846 Denton Avenue)</b>		
15 <sup>th</sup> Election District	*	OFFICE OF
7 <sup>th</sup> Council District		
Max A. and Melissa M. Gasker	*	ADMINISTRATIVE HEARINGS
Petitioners		
	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2013-0230-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Administrative Variance filed by the legal owners of the subject property, Max A. and Melissa M. Gasker for property located at 7846 Denton Avenue. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit installation of an above-ground swimming pool (24' x 15' x 54') in the right side yard vs. the rear yard. The subject property and requested relief are more particularly described on Petitioners’ Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received from the Bureau of Development Plans Review (DPR) dated April 19, 2013, indicating that the site is located in the tidal flood plain and a permit is required for the pool. In addition, a ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) dated April 30, 2013, indicating that Petitioners were obliged to comply with certain Critical Area regulations, as set forth in B.C.Z.R. Section 500.14.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 21, 2013 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 14<sup>th</sup> day of May, 2013, that the Petition for Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit installation of an above-ground swimming pool (24' x 15' x 54') in the right side yard vs. the rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for any appropriate permits 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioners must comply with the ZAC comments submitted from DPR and DEPS; copies of which are attached hereto and made a part hereof.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:dlw