

IN RE: PETITION FOR VARIANCE
(3601 Claires Lane)
15th Election District
6th Councilmanic District
Christopher M. Steg
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2013-0232-A**

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner of the property, Christopher M. Steg, for property located at 3601 Claires Lane. The Variance request is from Section 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit an accessory structure (swimming pool) to be located in the side yard in lieu of the required rear yard placement. The subject property and requested relief are more particularly described on Petitioner’s Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of May 6, 2013. On May 13, 2013, Administrative Law Judge Beverungen requested a formal hearing on this matter. The hearing was subsequently scheduled for Friday, June 14, 2013 at 10:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS) and the Bureau of Development Plans Review (DPR). Both of these ZAC comments indicated the Petitioner was required to comply with Critical Area and flood protection regulations.

Appearing at the public hearing in support for this case was Christopher M. Steg. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition. In fact, the Petitioner submitted letters from his adjoining neighbors, both of whom are supportive of the Petition.

Testimony and evidence revealed that the subject property is 2.77 acres and is zoned DR 3.5.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

The Petitioner has met this test. The subject property has irregular dimensions and is thus unique for zoning purposes.

The Petitioner would experience a practical difficulty if the regulations were strictly enforced, since he would be unable to construct a pool on the waterfront property, given that the site is constrained by a critical area easement. The grant of relief will in no way be injurious to the public's health, safety & welfare, as demonstrated by the lack of County opposition and support of the adjoining neighbors.

Pursuant to the advertisement, posting of the property, and public hearing on this petition, and after considering the testimony and evidence, I find that Petitioners variance request should be granted.

THEREFORE, IT IS ORDERED, this 18th day of June, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from § 400.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit an accessory structure (swimming pool) to be located in the side yard in lieu of the required rear yard placement, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for his appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 _____

JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln