

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(9 Hawick Court)		
4th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Tanya Nibeth	*	HEARINGS FOR
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2021-0171-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, Thomas C. Llewellyn and Megan A. Llewellyn (“Petitioners”). The Petitioners are requesting Variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to allow an accessory structure (pool) in the side yard in lieu of the require rear yard. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as 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 Department of Environmental Protection and Sustainability (“DEPS”) dated June 12, 2021, indicating that the property must comply with Baltimore County Code (“BCC”) Sections 33-3-101 through 33-3-120, recordation of a Forest Buffer Easement may be required as a condition of permit approval for the pool complex, and a Single Lot Declaration of Intent may be filed to meet Forest Conservation Law if forest clearing to construct the pool is less than 20,000 sq. ft.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 12, 2021, 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 § 32-3-303 of the Baltimore County Code (“BCC”). 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 § 307.1 of the BCZR. Furthermore, strict compliance with the BCZR 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 BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 30th day of **June, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from BCZR § 400.1 to allow an accessory structure (pool) in the side yard in lieu of the require rear yard be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
- Petitioner must comply with the DEPS ZAC comment, dated June 11, 2021; a copy of which is attached hereto and make a part thereof.

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

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm