

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(9128 A Cowenton Avenue)		
11 th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Gregory & Christa Zalewski	*	HEARINGS FOR
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2021-0103-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, Gregory and Christa Zalewski (“Petitioners”). The Petitioners are requesting Variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to permit a proposed pool to be located in the side yard and to permit an existing detached shed to be located in the front yard in lieu of the required rear yard placement for both. 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 April 14, 2021, indicating that the development of the property must comply with the following: (1) Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (§§ 33-3-101 through 33-3-120 of the Baltimore County Code), (2) Forest Conservation Regulations (§§ 33-6-101 through 33-6-122 of the Baltimore County Code, (3) Establishment and recordation of a Forest Buffer Easement, a stream system buffer to protect Honeygo Run, may be required as a condition of permit

approval, and (4) Forest Conservation Regulations may be addressed by filing a Single Lot Declaration of Intent.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 11, 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.

Although the Department of Planning did not make any recommendations related to the existing detached shed height and usage, I will impose conditions that the existing detached shed shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, or used for commercial purposes.

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 6th day of **May, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from BCZR § 400.1 to permit a proposed pool to be located in the side yard and to permit an existing detached shed to be located in the front yard in lieu of the required rear yard placement for both, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are 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, Petitioners would be required to return the subject property to its original condition.
- Petitioners or subsequent owners shall not convert the existing detached shed into a dwelling unit or apartment. The existing detached shed shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- The existing detached shed shall not be used for commercial purposes.
- Petitioners must comply with the DEPS ZAC comment, dated April 14, 2021; a copy of which is 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.

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

PMM:dlw