

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(123 St. Thomas Lane)		
3 rd Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Gregory T. & Marcie B. Wendell	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2020-0106-A

* * * * *

AMENDED OPINION AND ORDER

This matter came before the Office of Administrative Hearings (“OAH”) as a Petition for Administrative Variance filed by the legal owners of the property, Gregory T. and Marcie B. Wendell (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 400.3 to permit an accessory structure (pool house) to have a height of 21 ft. in lieu of the maximum allowed height of 15 ft. 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 petition was granted by Order dated May 6, 2021. On May 10, 2021 Petitioners requested a slight modification of the Order to allow for a powder room (toilet and sink) in the pool house structure. Good cause having been shown the request will be granted, as provided in bold face below.

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 Ground Water Management will need to review any permit (for a pool house) especially since the property is served by septic.

The Petitioners having filed a Petition for Administrative Variance and the subject property

having been posted on April 13, 2021, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

Although the Department of Planning did not make any recommendations related to the proposed accessory building (pool house) height and usage, I will impose conditions that the pool house shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen facilities.

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 6th day of **May, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 400.3 to permit an accessory structure (pool house) to have a height of 21 ft. in lieu of the maximum allowed height of 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for their 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.

- Petitioners or subsequent owners shall not convert the accessory structure (pool house) into a dwelling unit or apartment. The accessory structure (pool house) shall not contain any sleeping quarters, living area, or full kitchen facilities.
- **A powder room containing a sink and toilet is permitted.**
- The accessory structure (pool house) 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