

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1320 Birch Avenue)		
13 th Election District	*	OFFICE OF ADMINISTRATIVE
1 st Council District		
Edward R. Luers, 3 rd & Jennifer L. Luers	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2020-0247-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Administrative Variance filed by the legal owners of the property, Edward R. Luers, 3rd and Jennifer L. Luers (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to approve an accessory structure located in the third area of the rear yard not furthest removed from any street. 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. There were no adverse ZAC comments submitted by any of the County reviewing agencies. However, it is to be noted that three (3) letters of support were received from neighbors residing at 1325 Poplar Avenue and 1318 and 1324 Avenue, all of whom had no objections to Petitioners’ zoning request.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on October 18, 2020, 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 structure (garage) height and usage, I will impose conditions that the accessory structure (garage) shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom 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 9th day of **November, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to approve an accessory structure located in the third area of the rear yard not furthest removed from any street, 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 (garage) into a dwelling unit or apartment. The accessory structure (garage) shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

- The accessory structure (pool house) shall not be used for commercial purposes.

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