

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
& VARIANCE		
(1801 Ridge Road)	*	OFFICE OF ADMINISTRATIVE
8 th Election District		
2 nd Council District	*	HEARINGS FOR
Christopher & Nancy Baggan		
Legal Owners	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2020-0263-SPHA
* * * * *		* * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Administrative Special Hearing and Variance filed by the legal owners of the property, Christopher and Nancy Baggan (“Petitioners”). The Petitioners are requesting Special Hearing relief from the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to approve a detached accessory use building for a pool house that will include a full bathroom and kitchen. Variance relief from the BCZR § 400.3 to approve an accessory use building (pool house) at a total height of 17 feet 6 inches of the required maximum height of 15 ft.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. There were no protestants or interested citizens who attended the hearing.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection Sustainability (“DEPS”) and from the Department of Planning (“DOP”). They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

The property is approximately 2.67 acres and is zoned RC 5. It is at the intersection of Ridge Road and Falls Road, which is a state designated Scenic Route. The Petitioners’ architect, Erica

Wunderlich, appeared in support of the Petition. A one-sheet site plan and architectural elevations prepared by Plusen Landscape Architects and Levin/Brown & Associates was admitted as Petitioner's Exhibit 1. Ms. Wunderlich explained the site plan and the architectural plans, which depict a pool and cabana structure to the left and rear of the residence. She explained that the cabana structure will have a bathroom and outdoor kitchen facilities and will be largely open air. She further explained that most of the structure will comply with the 15' height limitation but one gable requires the minor height variance in order that the roof pitch of the cabana structure can match the pitch of the residence roof.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The site is unique in that it has a long trapezoidal shape and is bounded by two public roads, one of which is a Scenic Route. Further, its RC 5 zoning requires substantial setbacks from the roads. I find that the Petitioners would suffer practical difficulty and hardship if the variance relief was denied because they would be unable to proceed with their project. I further find that the variance is within the spirit and intent of the BCZR and that, with the conditions below, it will not harm the public health, safety or welfare. I further find that the Special Hearing relief should be granted for these same reasons.

THEREFORE, IT IS ORDERED this **9th day of December 2021**, by this Administrative Law Judge that the Petition for Special Hearing from BCZR § 500.7 to approve a detached accessory use building for a pool house that will include a full bathroom and kitchen is hereby

GRANTED.

IT IS FURTHER ORDERED that the Variance from BCZR § 400.3 to approve an accessory use building (pool house) at a total height of 17 feet 6 inches of the required maximum height of 15 ft. 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 must comply with the DEPS ZAC comment, a copy of which is attached hereto and made a part hereof.
- Petitioners shall follow the architectural floor plans and elevations that were submitted with the site plan and which were reviewed and approved by the DOP.
- 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.
- 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/dlm