

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(3032 Second Avenue)		
11 th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Deborah J. & Charles Franco	*	HEARINGS FOR
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2021-0245-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, Deborah J. and Charles Franco (“Petitioners”). The Petitioners are requesting Variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 400.1 to permit an accessory structure (above ground swimming pool) to be located in the side yard of a single-family dwelling in lieu of the required 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 Public Works and Transportation (“DPW&T”), dated September 17, 2021, regarding Building Code requirements for riverine flood plain and drainage and utility easement conditions. The file also contained five (5) letters of support from adjacent neighbors residing on Second Avenue.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 10, 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 28th day of **September, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from BCZR § 400.1 to permit an accessory structure (above ground swimming pool) to be located in the side yard of a single-family dwelling in lieu of the required rear yard, 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.
- Prior to issuance of permits, Petitioners must comply with the DPW&T ZAC comment, dated September 17, 2021; a copy of which is attached hereto and made apart hereof.

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

PMM:dlw

Signed

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County