

<b>IN RE: PETITION FOR ADMIN. VARIANCE *</b>		BEFORE THE
<b>(1005 Rolandvue Road)</b>		
9 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
2 <sup>nd</sup> Councilmanic District		
Henry A. and Pamela B. Knott	*	HEARINGS FOR
<i>Petitioners</i>		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2013-0002-A</b>

\* \* \* \* \*

**MOTION FOR RECONSIDERATION  
ORDER AND OPINION**

Now pending is Petitioners’ motion for reconsideration, as well as an opposition thereto filed by Protestants and a reply memorandum in further support of the motion. I have reviewed all of the papers, and will grant, in part, the motion for reconsideration.

In the Order dated September 13, 2012, I denied variance relief primarily because I believed the Petitioners had an alternative location in which to construct the garage that would not require variance relief. In a series of letters exchanged after the hearing (attached as Exhibits R1-3 to the motion for reconsideration), Baltimore County zoning authorities indicated they would not approve locating the garage along Rolandvue Road. The County believed that the property was “unique,” but that constructing a garage in front of the recorded street setback line would be a “dangerous precedent.” Exhibit R-3.

This interpretation, coupled with the September 13, 2012 Order, leaves the Petitioners with few options for locating the garage. Maryland cases have indicated the “determinative factor” in granting variance relief is whether a hardship will be created. *Chesley v. City of Annapolis*, 176 Md. App. 413, 428 (2007). Being deprived of a right commonly enjoyed by others is one way to establish such a hardship, and I believe the Petitioners’ have been so denied.

The Petitioners' seek to construct an accessory structure (detached garage), which is obviously a modest request and a right enjoyed by many owners of single-family dwellings. But the Order in this case, coupled with the County's letter of October 3, 2012, would leave the Petitioners with few options for locating the structure, especially considering the steeper slopes existing to the west of the dwelling. As such, given the uniqueness of the property and the hardship the Petitioners would experience if the regulations were strictly enforced, I will grant the motion for reconsideration to the extent that variance relief will be granted so that Petitioners can construct the garage in the front yard of their dwelling.

At the same time, I am not unmindful of the concerns identified by the neighbors who testified at the hearing. In cases of this nature, it is difficult (if not impossible) to arrive at a solution that will please everyone. Even so, in an effort to minimize the impacts upon the community, I will require a 15' setback from the property line abutting the shared-use driveway. In addition, I will require the Petitioners to submit to the Department of Planning (DOP) for approval (prior to permit issuance) building elevations, to ensure that the appearance and materials used will be appropriate for this location.

THEREFORE, IT IS ORDERED, this 7<sup>th</sup> day of November, 2012 by the Administrative Law Judge for Baltimore County, that Petitioners' Motion for Reconsideration, be and is GRANTED (in part) to the extent that variance relief will be granted to permit a detached accessory structure (garage) to be located in the front and side yards of the dwelling.

The relief granted herein is expressly subject to and conditioned upon the following:

1. The accessory structure must be setback a minimum of 15' from the property boundary line abutting the shared use driveway shown on the site plan (Petitioners' Exhibit 3);

2. Approval by the DOP (prior to permit issuance) of building elevations for the accessory garage; and
3. The Petitioners may apply for any required permits and may be granted same upon receipt of this Order; however the Petitioners are hereby made aware that proceeding at this time is at his own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioners will be required to return and be responsible for returning said property to its original condition.

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

JEB:dlw

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County