

IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE
(2909 Knoll Acres Road) *
Arthur L. and Karen A. Hauck * OFFICE OF ADMINISTRATIVE
Petitioners * HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2013-0055-A**

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ORDER AND OPINION

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, Arthur L. and Karen A. Hauck. The Petitioners are requesting Variance relief pursuant to Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit an enclosed addition in the rear of the existing dwelling with a 10' side, a 28' sum side setback, and a 21' rear setback in lieu of the required 15', 40' sum, and 40' rear setbacks respectively; and an open deck addition with a 3' side and 8' rear setbacks in lieu of the required 11.25' and 30' respectively. 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.

While the relief requested seems modest, there are other concerns that prevent the granting of this Administrative Variance. Specifically, the Director of the Baltimore County Department of Public Works (by memorandum dated September 20, 2012) has identified that the proposed addition is located approximate to a 100-year riverine floodplain. County law (Bill 40-12) prohibits construction of new buildings or additions within the 100-year floodplain. As such, I am inclined to rely upon the opinion and recommendation of the Department of Public Works

Director, and cannot grant variance relief for a project that would impact or intrude upon the 100-year floodplain.

Petitioners are advised that the Baltimore County Zoning Regulations (B.C.Z.R.) provide for the filing of a Motion for Reconsideration within thirty (30) days of the date of this Order. *See* B.C.Z.R., Apx. G, Rule 4K. To the extent Petitioners have an opinion from a professional engineer licensed in Maryland that the Department of Public Works erroneously determined the location of the 100-year floodplain, or that the Petitioners' proposal complies in all respects with Baltimore County Bill 40-12, I would be willing to reconsider the merits of the Petition.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 16, 2012, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be denied.

THEREFORE, IT IS ORDERED, this 11th day of October, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit an enclosed addition in the rear of the existing dwelling with a 10' side, a 28' sum side setback, and a 21' rear setback in lieu of the required 15', 40' sum, and 40' rear setbacks respectively; and an open deck addition with a 3' side and 8' rear setbacks in lieu of the required 11.25' and 30' respectively, be and is hereby DENIED.

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

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw