IN RE: PETITION FOR ADMIN. VARIANCE

NE side of Wake Robin Drive, corner of Topsfield Drive 8th Election District 3rd Councilmanic District (428 Wake Robin Drive)

Regina T. Dabkowski Petitioner

- * BEFORE THE
- * OFFICE OF
- * ADMINISTRATIVE HEARINGS
- * FOR BALTIMORE COUNTY
- * Case No. 2011-0300-A

OPINION AND ORDER

This matter comes before this Office of Administrative Hearings for Baltimore County as a Petition for Administrative Variance filed by the legal owner of the subject property, Regina T. Dabkowski for property located at 428 Wake Robin Drive. The variance request is from Section 1B02.3.B (Section 301.1 of 1955 regulations) of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed open projection (deck) with a rear yard setback of 23 feet in lieu of the required 30 feet. The subject property and requested relief are more particularly described on Petitioner's Exhibit No. 1. Petitioner desires to construct a deck measuring 22 feet x 15 feet. The deck will be accessed via the existing sliding doors from the sunroom. The property is served by private sewer and is encumbered by the required septic reserve area in the rear yard.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A comment was received from the Department of Environmental Protection and Sustainability dated May 5, 2011, which indicates that the proposed building permit (for a deck/porch) will need to be reviewed by Groundwater Management, especially since a low pressure dose septic system exists on this site.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on April 17, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

ORDER RECEIVED FOR FILING

Date	5-12-11	
D		

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. 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 Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

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 granted.

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this Aday of May, 2011 that a variance from Section 1B02.3.B (Section 301.1 of 1955 regulations) of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed open projection (deck) with a rear yard setback of 23 feet in lieu of the required 30 feet is hereby GRANTED, subject to the following:

1. The Petitioner may apply for her building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would 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.

TIMOTHY M. KOTROCO Administrative Law Judge for Baltimore County

TMK:pz

ORDER RECEIVED FOR FILING

Date__5-13-11

By



KEVIN KAMENETZ County Executive LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

May 12, 2011

REGINA T. DABKOWSKI 4335 DABKOWSKI DRIVE MANCHESTER MD 21102 PAUL DABKOWSKI 428 WAKE ROBIN DRIVE COCKEYSVILLE MD 21030

Re: Petition for Administrative Variance Case No. 2011-0300-A Property: 428 Wake Robin Drive

Dear Ms. Dabkowski and Mr. Dabkowski:

Enclosed please find the decision rendered in the above-captioned case. The petition for Administrative Variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file with the Department of Permits, Applications and Inspections an appeal within thirty (30) days from the date of this Order. If you require additional information concerning filing an appeal, please contact our appeals clerk at 410-887-3391.

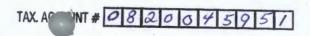
Sincerely,

TIMOTHY M. KOTROCO Administrative Law Judge

for Baltimore County

TMK:pz

Enclosure





Petition for Administrative Variance

is the subject of this Petition.

to the Zoning Commissioner of Baltimore County

for the property located at 428 Wake Robin DR. Cockeysville MD 21030 which is presently zoned DR - 2 (R-20)

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which

Baltimore County, MD

Baltimore County, MD

oning Commissioner of Baltimore County

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) | BO2.3.B ~ BCZR ~ (Section 301.1)

of 1955 regs) - to permit a proposed open projection (porch) with a rear yard setback of 23 feet in lieu of the required 30

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Contract Purchaser/Lessee:	Legal Owner(s):
Paul Dabkowsky	Regina T. Dabkowski Kegane The State
Paul Calus west	hy Stand Willali his ottom
428 Wake Robin Dr. 443 847 1054	Signature # FreTT
Cockeysville MD 21030	Name - Type or Print
City / State Zip Code	Signature
Attorney For Petitioner:	4335 Dabkonski DR. 443 375 2550
	Manchester MD 21102
Name - Type or Print	City State Zip Code
SIVED FOR FILING	Representative to be Contacted:
Signature ORDER RECEIVED FOR FILING Company	Paul Dabkowski
Company	- Name 428 Wake Robin Dr. 443847 1054
Address Telephone No.	Cockeysvolle MD 21030
By—	

Reviewed By

Estimated Posting Date

regulations of Baltimore County and that the property be reposted.

CASE NO. 2011-0300

REV 10/25/01

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at	Address			
a section of the sect	City		State	Zip Code
That based upon personal knowledge, the follo Variance at the above address (indicate hardsh	owing are the ip or practical	facts upon which difficulty):	I/we base the request	for an Administrative
(see attac	ched doc	coment)		
retationers and the re-	Hall to a			
en mas				
That the Affiant(s) acknowledge(s) that if a for advertising fee and may be required to provide a	ormal demandadditional info	nmation.	s) will be required to	pay a reposting and
Signature DEGLANA T DARWOLLEN	1/ sal	Signature Signature	T MBKNAKKI	
Name - Type or Print	(14) 3	Name - Type or	Print	•
STATE OF MARYLAND, COUNTY OF BALTIN	AODE to wit:			
I HEREBY CERTIFY, this 30 day of of Maryland, in and for the County aforesaid, pe	once	201	, before me, a Nota	ry Public of the State
the Affiant(s) herein, personally known or satisfa	actorily identifi	ied to me as such	Affiant(s).	Bing
AS WITNESS my hand and Notarial Seal				- VH
JEROME W. BLUM, JR. Notary Public Baltimore County, MD		Completion Fundament	es 11-1-2011	<i>D</i>
REV 10/25/01	My	Commission Expli	es // Joseph	

Petition for Variance

428 Wake Robin Dr. Cockeysville MD 21030

The subject property is of equivalent size compared to the other lots in the neighborhood. The septic system takes up most of the left hand side of the lot, therefore pushing the house envelope closer to the narrow side of the lot. The shape of the lot is a little different than the other lots in the neighborhood. Most lots are deeper than wider, allowing the house box to fit a normal house appropriately. The subject lot is very wide, but not as deep as the other houses in the neighborhood.

The outcome of Case No. 2010-0038-A was the granting of a zoning variance on October 19, 2009 to the builder of our new home that allowed the rear yard set back to be 23' in lieu of the required 40' based on the information above. The footprint of the house that was used for this appeal extended 15' deeper then the house that was actually built. During the layout decisions for our house we were given an option by the builder to decide to what side of the morning room that protrudes from the back of the house we wanted the sliding door to be placed to exit to a future deck. The builder gave us the option of "deck on either side" knowing of that he had received the variance noted above to decrease the rear yard setback to 23'. We did not realize that there were different setback requirements for an unenclosed structure (deck) and an enclosed structure, that the original variance was for.

At this time, with the sliding door installed exiting the morning room to the East, the proposed location for which we are petitioning for the zoning variance is our only option. If we changed the location of the proposed deck, there would be no other way to access a deck from inside the house, without costly major renovations to our new house. (i.e. taking out windows, building walls, installing another sliding door on the opposite side of the morning room)

We chose the side to the East of the morning room for several reasons.

- (1)It overlooks the flattest part of the yard, where our children would most likely end up playing.
- (2)It was furthest away from our septic field.
- (3) It would be shaded from the hot afternoon sun.

ZONING DESCRIPTION

ZONING DESCRIPTION FOR 428 WAKE ROBIN DRIVE

Beginning at a point on the east side of Wake Robin Drive which is 50 feet wide at the distance of 315 south west of the centerline of the nearest improved intersecting street (Sherwood Road) which is 50 feet wide. Being lot 12 (parcel A) in the subdivision of Don Rovin as recorded in Baltimore County Plat Book # 23, Folio # 12, containing 23,739 square feet. Also known as 428 Wake Robin and located in the 8th Election District, 3rd Councilmanic District.

AV

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO:

Lawrence M. Stahl; Managing Administrative Law Judge

Office of Administrative Hearings

FROM:

David Lykens, Department of Environmental Protection and Sustainability

(DEPS) - Development Coordination

DATE:

May 5, 2011

SUBJECT:

DEPS Comment for Zoning Item

11-300-A

Address

428 Wake Robin Drive

(Dabkowski Property)

Zoning Advisory Committee Meeting of April 18, 2011.

The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

1. A proposed building permit (for a deck/porch) will need review by Groundwater Mgmt., especially since a low-pressure dose septic system exists on this site.

Reviewer:

Dan Esser; Groundwater Management

RECEIVED

MAY 05 2011

OFFICE OF ADMINISTRATIVE HEARINGS

From NE Rear Corner of Property



From NW Rear Corner



From NW Rear yard



From SE Corner of Wake Robin Dr. & Topsfield Dr.



From neighbor's patio at 10618 Topsfield (the house just NE of ours)



From neighbor's patio at 433 Sherwood Rd (the house directly North of ours)



CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 4/19/2011

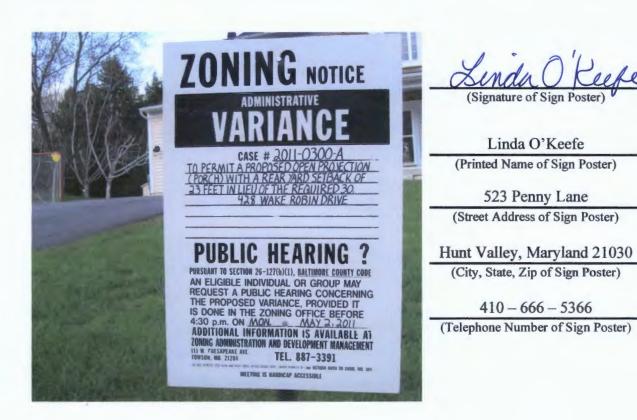
Case Number: 2011-0300-A

Petitioner / Developer: PAUL DABKOWSKI

Date of Hearing (Closing): MAY 2, 2011

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 428 WAKE ROBIN ROAD

The sign(s) were posted on: APRIL 17, 2011



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: April 12, 2011

Department of Permits, Approvals And Inspections

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For April 18, 2011

Item Nos. 2011- 295, 296, 297, 298

and 300

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

DAK:CEN:cab

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-04182011 -NO COMMENTS.doc



KEVIN KAMENETZ County Executive

JOHN J. HOHMAN, Chief Fire Department

April 8, 2011

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

ATTENTION: Zoning Review

Distribution Meeting of: April 4, 2011

Item No .:

Administrative Variance: 2011-0298A, 2011-0300A

Variance: 2011-0295A - 0297A, 2011-0299A

Comments:

The Baltimore County Fire Marshal's Office has no comments on the above case numbers at this time.

Don W. Muddiman, Inspector Baltimore County Fire Marshal's Office 700 E. Joppa Road, 3RD Floor Towson, Maryland 21286 Office: 410-887-4880 dmuddiman@baltimorecountymd.gov

cc: File



Martin O'Malley, Governor Anthony G. Brown, Lt. Governor Beverley K. Swaim-Staley, Secretary Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 4-13-11

Ms. Kristen Matthews Baltimore County Department of Permits, Approvals and Inspections County Office Building, Room 109 Towson, Maryland 21204 RE: Baltimore County

Item No. 2011-0300-A Administrative Variance Regina T. Dabkowski 428 Wake Robin Drive.

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2011-0320-4.

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us). Thank you for your cooperation.

Sincerely,

Steven D. Foster, Chief

Access Management Division

SDF/rz



KEVIN KAMENETZ County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

Date April 19, 2011

Regina Dabkowski 4335 Dabkowski Drive Manchester, MD 21102

RE: Case Number 2011-0300A, 428 Wake Robin Drive

Dear Ms. Dabkowski,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 5, 2011. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR:mcn

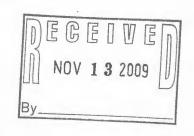
Enclosures

c: People's Counsel

Paul Dabkowski, 428 Wake Robin Dr., Cockeysville, MD 21030

Baltimore County Government Department of Permits and Development Management





111 West Chesapeake Avenue Towson, MD 21204

410-887-3335

November 5, 2009

Mr. Steve Schneidereith 4100 Kiwi Court Randallstown, MD 21133

RE: Dun Rovin Parcel A
428 Wake Robin Drive
DRC Number: 082409A, Dist. 8C3

Dear Mr. Schneidereith:

Pursuant to Article 25A, Section 5.(1) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Sections 32-1-101, 32-3-401, and 32-3-517 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 32-4-106, Section 32-4-107, Section 32-4-107.1 and Section 32-4-262 of the <u>Baltimore County Code</u> and to make recommendations to the Director, Department of Permits and Development Management.

The DRC has, in fact, met in an open meeting on November 3, 2009, and made the following recommendations:

The DRC reviewed the plan submitted on the above referenced project and determined that a waiver as requested would be within the scope, purpose, and intent of the development regulations of Baltimore County.

DANGEL

Steve Schneidereith Dun Rovin Parcel A November 5, 2009 Page 2

After a review of the petition, the Director of the Department of Permits and Development Management has agreed that the petition meets the requirements of a waiver of a development plan submittal. The waiver shall be granted effective the date of this letter.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 5th day of November 2009, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Sincerely

Timothy Kotroco

Director

TK: CMK:dak

c: File

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

1/1 D1. D

Case	Number 2011- 0300 -A Address 720 Wake Robin Dr
	act Person: David Duvall Phone Number: 410-887-3391
Filing	Date: 4/5/11 Posting Date: 4/17/11 Closing Date: 5/2/11
Any o	contact made with this office regarding the status of the administrative variance should be gh the contact person (planner) using the case number.
1.	<u>POSTING/COST:</u> The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2.	<u>DEADLINE:</u> The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3.	ORDER: After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4.	<u>POSSIBLE PUBLIC HEARING AND REPOSTING:</u> In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.
	(Detach Along Dotted Line)
Petiti	oner: This Part of the Form is for the Sign Poster Only
	USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT
Case	Number 2011- 0300 -A Address 428 Wake Robin Dr
Petitio	oner's Name Paul Pabkowski Telephone 443-847-1054
Posti	ng Date: 4/17/11 Closing Date: 5/2/4
	ling for Sign: To Permit a proposed open projection (porch) with a ar yard schook of 23 feet in lieu of the required 30

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
Item Number or Case Number: 2011-0300-A Petitioner: Paul Dabkowski
Address or Location: 428 Wake Robin Dr
PLEASE FORWARD ADVERTISING BILL TO: Name: Paul Dahkowski
Address: 428 Wake Robin Dr Cockeysville Maryland
21030 Telephone Number: 443-847-1054

From the East on Topsfield Dr



Subject: 428 Wake Robin Dr. Deck Project Zoning Variance

By signing this document you are agreeing that you do not attest to the proposed deck project at 428 Wake Robin Dr. Cockeysville MD 21030.

The zoning variance being applied for is for a rear setback of 23 feet to an unenclosed structure (deck). This same rear setback was already granted to the builder of the home on October 19, 2009 in Case No. 2010-0038-A. Currently, with no zoning variance required, a permit would be granted for an enclosed addition to the existing house; but an unenclosed structure, the proposed deck, falls under different regulation.

Attachments:

- (1)Proposed deck is shown on attached site plan highlighted in yellow.
- (2)Baltimore County "Findings of Fact and Conclusions of Law" from original Petition for Variance

Kenneth Wilson 431 Sherwood Rd Cockeysville, MD 21030 (410) 628-4143	Signature:	Date: 3-21/- //
William H Maupai 433 Sherwood Rd Cockeysville, MD 21030 (410) 667-0477	Signature: Mm H manpai	Date 3/28/1/
Shohreh A Sohrab 10618 Topsfield Dr Cockeysville, MD 21030 (410) 628-0718	Signature: Rholl A. Roll	Date: 3/28/11
Paul N Bessette 10619 Topsfield Dr Cockeysville, MD 21030 (410) 683-0301	Signature:	Date: 3/28/11
Nancy S Franklin 10615 Topsfield Dr Cockeysville, MD 21030 (410) 628-8188	Signature: Wildy Mus	Date: 3 28 11
Edward C Shade 10612 Topsfield Dr Cockeysville, MD 21030 (410) 683-7013	Signature: _ le ul hal-	Date: 3-28-//

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