IN RE: PETITION FOR ADMIN. VARIANCE (429 Virginia Avenue)

15<sup>th</sup> Election District 7<sup>th</sup> Council District Earl T. Krause

Petitioner

BEFORE THE

OFFICE OF ADMINISTRATIVE

\* HEARINGS FOR

\* BALTIMORE COUNTY

CASE NO. 2013-0212-A

## OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Earl T. Krause. The Petitioner is requesting Variance relief from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (garage) with a height of 18' in lieu of the maximum 15'. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse comments submitted from any of the County reviewing agencies.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on March 29, 2013, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code (B.C.C.). 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 ORDER RECEIVED FOR FILING

Date	5-8-13	
Ву	100	

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.

Although the Department of Planning did not make any recommendations related to the garage height and usage, I will impose conditions that the accessory building not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

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, this <u>8<sup>th</sup></u> day of May, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (garage) with a height of 18' in lieu of the maximum 15', be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- The Petitioner may apply for his appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2. The Petitioner or subsequent owners shall not convert the subject garage into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
- 3. The garage shall not be used for commercial purposes.

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

JOHN E. BEVERUNGEN Administrative Law Judge for Baltimore County

JEB:dlw

ORDER RECEIVED FOR FILING

Date 5-8-13

By\_\_\_\_

ADMINISTRATIVE ZONING PETITION FOR ADMINISTRAT VARIANCE – OR – ADMINISTRATIVE ECIAL HEARING
To be filed with the Department of Permits, Approvals and Inspections To the Office of Administrative Law of Baltimore County for the property located at: Address 429 UIRGNIA AUE which is presently zoned DR 5.5 10 Digit Tax Account # 1 5 1 1 00 1 60 0 Deed Reference 00 298 1 44 86 Property Owner(s) Printed Name(s) EARL (SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST) Administrative Variances require that the Affidavit on the reverse of this Petition Form be completed / notarized. 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 X ADMINISTRATIVE VARIANCE from section(s) BCZR 400.3 70 PERMIT AN ACCESSORY STRUCTURE (GARAGE) WITH A HEIGHT OF 18' IN LIEU OF THE MAYINUM 15 of the zoning regulations of Baltimore County, to the zoning law of Baltimore County ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Sections 32-4-107(b), 32-4-223.(8), and Section 32-4-416(a)(2): (indicate type of work in this space to raze, alter or construct addition to building) of the zoning regulations of Baltimore County, to the zoning law of Baltimore County. Property is to be posted and advertised as prescribed by the zoning regulations, I, or we, agree to pay expenses of above petition(s), 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. Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s). Legal Owners: Contract Purchaser/Lessee: Name #2 - Type or Print Name-Type or Print Signature Signature #1 Mailing Address City State Name-Type or Print RECEIVED 803 Representative to be contacted: Name - Type or Print Signature Mailing Addres Mailing Address City State Zip Code Telephone # **Email Address Email Address** Telephone # A PUBLIC HEARING having formally demanded and/or found to be required, it is ordered by the Office of Administrative Law, of Baltimore County, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Administrative Law Judge of Baltimore County

CASE NUMBER 2013 -0212 - 4

Filing Date 3,19,13 Estimated Posting Date 3,37,13

## Zoning property description for 429 Virginia Ave. 21221

Beginning at a point on the north side of Virginia Ave, which is 's' wide at the distance of '75' of the center line of the nearest improved intersecting street, Taylor Ave, which is 35' wide.

Thence the following courses and distances (S68\* 49' 30" W 100.00) (S21\* 10' 30" E 145.00) (N68\* 49' 30" E 100.00) (N21\* 10' 30" W 145.00)

Being lots # 31 & 32, Block L, section A in the subdivision of Essex as recorded in the Baltimore County PLAT book # 0000005, Folio 15 containing .33 acres. Located in the 15 election district 7th council district.

# 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. <u>For those petitions which require a public hearing</u>, 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.

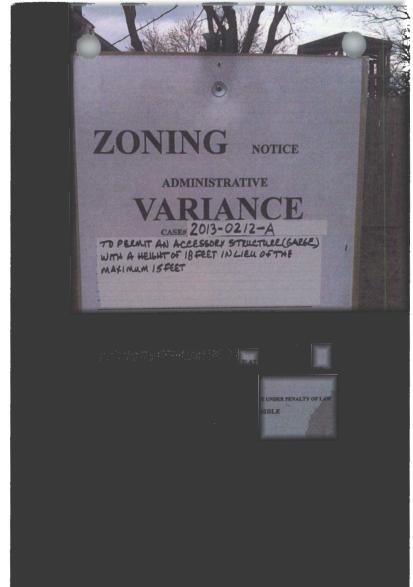
#### OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

Item Number or Case Number: 2013-0212-A	
Petitioner: KRAUSE	
Address or Location: 479 VIRGINIA AVE.	-
PLEASE FORWARD ADVERTISING BILL TO:	
PLEASE FORWARD ADVERTISING BILL TO:  Name: FARL KAAUSE	
Name: FARL KRAUSE	
Name: FARL KRAUSE Address: 429 VIRGINIA AVE	

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## CERTIFICATE OF POSTING

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Per	titioner/DeveloperKRAUSE
ALL	
Date	e Of Hearing/Closing: 4/15/13
Baltimore County Departme Permits and Development I County Office Building,Roo 111 West Chesapeake Ave	Management om 111
Attention:	
adies and Gentlemen	
ign(s) required by law were	r penalties of perjury that the necessary e posted conspicuously on the property
his sign(s) were posted on	March 29, 2013
	Month, Day, Year Sincerely,
	- 10/2 2/20/12
	Signature of Sign Poster and Date
	Martin Ogle
	60 Chelmsford Court Baltimore,Md,21220 443-629-3411



Jarahal gle 3/29/13

#### MEMORANDUM

DATE:

June 10, 2013

TO:

Zoning Review Office

FROM:

Office of Administrative Hearings

RE:

Case No. 2013-0212-A - Appeal Period Expired

The appeal period for the above-referenced case expired on June 7, 2013. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: Case File

Office of Administrative Hearings





CASE NO. 2013- 0212-P

## CHECKLIST

Comment Received	<u>Department</u>	Conditions/ Comments/ No Comment
4-4	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent)	NC
4-22	DEPS (if not received, date e-mail sent)	NC
	FIRE DEPARTMENT	
	PLANNING (if not received, date e-mail sent)	
4-4	STATE HIGHWAY ADMINISTRATION	No objection
	TRAFFIC ENGINEERING	
	COMMUNITY ASSOCIATION ADJACENT PROPERTY OWNERS	
ZONING VIOLA	ATION (Case No	
PRIOR ZONING	(Case No.	<u>· · · · · · · · · · · · · · · · · · · </u>
NEWSPAPER A	Date: 3-29-13	by Ogle
	NSEL APPEARANCE Yes No No	
Comments, if any	Pm - Spoke to her. Kruse; hile small ph	Knowse - left V.m. 3:27 Pm
	There for 5-1-13 in humber.	

ZONING REVIEW

## ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

ADMINISTRATIVE VARIANCE INFORMATION SHELT AND DATES
Case Number 2013- 0212 -A Address 429 VIAGINIA AVE
Contact Person: JASON SEIDELMAN Phone Number: 410-887-3391 Planner, Please Print Your Name
Filing Date: 3   19   13 Posting Date: 3   31   13 Closing Date: 4   15   13
Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.
1. <a href="POSTING/COST">POSTING/COST</a> : 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. POSSIBLE PUBLIC HEARING AND REPOSTING: 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)
Petitioner: This Part of the Form is for the Sign Poster Only
USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT
Case Number 2013 0212 -A Address 429 VIRGINIA AVE
Petitioner's Name KRAUSE Telephone 410-697-3283
Posting Date: 3 31 13 Closing Date: 4 15 13
Wording for Sign: To Permit AN ACCESSORY STANCTURE (GARAGE) WITH A
HEIGHT OF 18 FEET IN LIEU OF THE MAXIMUM 15 FEET.

## BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

**DATE:** April 04, 2013

Department of Permits, Approvals

And Inspections

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans

Review

SUBJECT:

**Zoning Advisory Committee Meeting** 

For April 8, 2013

Item Nos. 2013-0210, 0211, 0212,0213,0215 and 0216.

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

DAK:CEN Cc: file



Martin O'Malley, Governor Anthony G. Brown, Lt. Governor Darrell B. Mobley, Acting Secretary Melinda B. Peters, Administrator

#### MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 4-4-13

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County

Item No 2013-0212-A Administrative Variance Earl T. Krause

Earl T. Krause 429 Virginia Avenue.

Dear Ms. Lewis:

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. 2013-0212-4.

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).

Sincerely,

Steven D. Foster, Chief

Access Management Division

SDF/raz



KEVIN KAMENETZ County Executive

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

April 16, 2013

Earl T Krause 429 Virginia Avenue Baltimore MD 21221

RE: Case Number: 2013-0212 A, Address: 429 Virginia Avenue

Dear Mr. Krause:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on March 19, 2013. 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,

U. Cal Richal D

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: jaf

**Enclosures** 

c: People's Counsel



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Maryland Department of Assessments and Taxation Real Property Data Search (vw6.1A) BALTIMORE COUNTY Go Back
<u>View Map</u>
<u>New Search</u>
GroundRent Redemption
GroundRent Registration

						Owner Info	rmation							
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Preferen	tial Land:		0				0							
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## Maryland Department of Assessments and Taxation BALTIMORE COUNTY Real Property Data Search

Go Back View Map New Search

District - 15 Account Number - 1511001600



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net.

Property maps provided courtesy of the Maryland Department of Planning ©2011. For more information on electronic mapping applications, visit the Maryland Department of Planning web site at <a href="https://www.mdp.state.md.us/OurProducts/OurProducts.shtml">www.mdp.state.md.us/OurProducts/OurProducts.shtml</a>







RECEIVED

MAY 0 1 2013

## **BALTIMORE COUNTY, MARYLAND**

RECEIVED

**Inter-Office Correspondence** 

APR 22 2013

OFFICE OF ADMINISTRATIVE HEARINGS



TO:

Hon. Lawrence M. Stahl; Managing Administrative Law Judge

Office of Administrative Hearings

FROM:

David Lykens, Department of Environmental Protection and Sustainability

(DEPS) - Development Coordination

DATE:

April 22, 2013

SUBJECT:

**DEPS** Comment for Zoning Item

# 2013-0212-A

Address

429 Virginia Avenue

(Krause Property)

Zoning Advisory Committee Meeting of April 1, 2013.

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

The majority of this property, including the proposed development area, is located outside the Chesapeake Bay Critical Area. Based on this, and the information submitted, this office has no comments on the proposed accessory structure, or the structure height.

Reviewer: Paul Dennis; Environmental Impact Review

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING (MARK TYPE REQUESTED WITH X)  ADDRESS 429 UIRGINIA AUE, OWNER(S) NAME(S) EARL, T KRAUSE  SUBDIVISION NAME ESSEX  LOT#31 BLOCK# L SECTION# A	SITE VICINITY MAP
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2013-0212-A



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2013-0212-4