

JOHN A. OLSZEWSKI, JR. County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

January 2, 2023

Robert I. K. Hastings – <u>rikh812@comcast.net</u> 812 Western Run Road Cockeysville, MD 21030

RE:

Petition for Variance

Case No. 2023-0199-A

Property: 812 Western Run Road

Dear Petitioner:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely, Mauren E. Murphy

MAUREEN E. MURPHY

Chief Administrative Law Judge

for Baltimore County

MEM:dlm Enclosure

c:

Carly Eisenbrandt – <u>carly@eisenbrandcompanies.com</u>

 $Bruce\ E.\ Doak - \underline{bdoak@bruceedoakconsulting.com}$ 

Sarah Schweizer - sbcschweiz@icloud.com

IN RE: PETITION FOR VARIANCE (812 Western Run Road)

8th Election District 3<sup>rd</sup> Council District Robert Hastings Legal Owner

Petitioner

BEFORE THE

OFFICE OF ADMINISTRATIVE

\* HEARINGS OF

BALTIMORE COUNTY

\* CASE NO. 2023-0199-A

\* \* \* \* \* \* \* \*

## **OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings ("OAH") as a Petition for Variance filed by the legal owner, Robert Hastings ("Petitioner") for property located at 812 Western Run Road, Cockeysville (the "Property"). The Petitioner is requesting Variance relief to: (1) to permit an accessory structure (workshop/storage/carport) to be located in the front and side yards in lieu of the required rear yard only, per Baltimore County Zoning Regulations ("BCZR"), §400.1; and (2) to permit an accessory structure (workshop/storage/carport) with a height of 18 ft. in lieu of the required maximum height of 15 ft. per BCZR, §400.3.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. The Petitioner appeared in support of the Petition along with Bruce E. Doak, a licensed surveyor, of Bruce E. Doak Consulting, LLC, who prepared and sealed a site plan (the "Site Plan"). (Pet. Ex. 1). Sarah Schweizer, registered architect, also appeared in support. There were no Protestants or other interested persons who appeared at the hearing.

A Zoning Advisory Committee ("ZAC") comment was received from the Department of Planning ("DOP") dated October 6, 2023 which opposed the Variance relief based on the prohibition in BCZR, §1A08.6.C.2.f which states that accessory structures are not allowed in the

front yard of any primary use within an RC7 zone. However, DOP mentioned that it would be open to moving the proposed structure to a north-east location. DOP was provided and reviewed additional information from the Petitioner as noted in its email dated October 11, 2023. Department of Environmental Protection and Sustainability ("DEPS") provided two (2) ZAC comments both dated October 11, 2023: (1) in regard to required compliance with Forest Conservation Regulations; and (2) to relocate the structure outside the septic reserve area. Department of Plans Review ("DPR") provided a ZAC comment which did not oppose the requested relief.

The Property is 4.706 acres +/- and is improved with a 1,905 sf, 2-story dwelling constructed in or about 1983. It has an attached garage. While the dwelling has access from a driveway off Western Run Rd., it does not sit perpendicular to the road. The dwelling sits on the top of a hill, in the only flat area of the Property, allowing extensive views of Western Run River. That River surrounds the Property on 3 sides. The Site Plan shows extensive steep slopes and the irregular 'dog-bone' shape. (Pet. Exs. 1, 3). The Property is zoned Resource-Preservation (RC 7). (Pet. Ex. 3).

An aerial view photograph shows the Property as wooded and located outside the Special Flood Hazard Area. (Pet. Ex. 4). The nearest property is also surrounded by woods. (Pet. Ex. 4). Street view photographs were submitted showing the extent of the improvements, wooded area and steep slopes. (Pet. Ex. 5A-5K).

Mr. Doak explained that, due to the limited storage space in the dwelling resulting from solar panels installed in the attic, and the absence of a basement, the attached garage is used as storage. He plans to renovate the attached garage for usable living space. For these reasons, Petitioner is in need of a detached garage for storage, as a personal workshop area, and to park his

vehicle or lawn equipment. The proposed garage will measure 24 x 28 ft. and will be located from the driveway. It may or may not have a carport as well. The requested additional 3 ft. in height for the garage will provide for a personal workshop area. The garage will have 2 overhead doors. It will not have any living quarters, kitchen or bathroom, and will connect to electrical lines in the house.

Based on the DOP ZAC comment opposing the front yard location, the Site Plan was amended and the detached garage was moved outside of the front yard and would now be located entirely in the side yard. (Pet. Exs. 2A-2D). The proposed location in the side yard is partly flat where it meets the driveway, with the rear of the structure built into the slope (i.e., a bank barn) with a walk-out door onto the hill as shown in the renderings on the Site Plan. The immediately adjoining neighbors are in support of the Petition.

With regard to the DEPS/GWM ZAC comment, Mr. Doak stated that the corner of the garage inside the septic reserve area is less than 20 sf. He added that this issue would be resolved at the building permit stage.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

I find that the Property is unique due to its irregular 'dog-bone' shape, extensive steep slopes, with 3-sides surrounded by Western Run River. The only flat area is where the home is located. The home is limited in size, does not have a basement and has an attic which is unusable due to the solar panels. The position of the home causes its side to face Western Run Rd. The

driveway is between the home and Western Run Rd. This configuration of improvements along with the steep slopes restricts the area where a detached garage can be located. Even still, in response to DOP ZAC comment, Petitioner moved the garage into the side yard as shown on the Amended Site Plan. Given all of the unique features individually and in combination, I find that the Petitioner would suffer a practical difficulty and unreasonable hardship if the proposed side yard location were not permitted as well as the additional 3 ft. in height beyond the maximum 15 ft. in height which is needed for storage and personal workshop space. The Property is entirely wooded and removed from not only Western Run Rd. but the nearest neighbor. I also find that the requested Variance relief can be granted in strict harmony with the spirit and intent of the BCZR and without injury to the health, safety or general welfare, particularly in light of the support of the immediate property owners.

THEREFORE, IT IS ORDERED, this 2<sup>nd</sup> day of January 2024, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit an accessory structure (workshop/storage/carport) to be located in the side yard in lieu of the required rear yard only, per Baltimore County Zoning Regulations ("BCZR"), §400.1 and with a height of 18 ft. in lieu of the required maximum height of 15 ft. per BCZR, §400.3, be, and they are each hereby, **GRANTED**.

The relief granted herein shall be subject to the following:

- 1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is 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, Petitioner would be required to return the subject property to its original condition.
- 2. Petitioner and/or subsequent owners shall not convert the accessory structure/garage into a dwelling unit or apartment. The proposed accessory structure/garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

- 3. The accessory structure/garage shall also not be used for commercial or industrial purposes.
- 4. The accessory structure/garage shall not have a separate utility or electric connection and shall connect to the electrical/utility in the home. The accessory structure/garage shall not have separate water connection and shall connect to the water in the home.
- 5. The Petitioner must comply with the DEPS ZAC comments, both dated October 11, 2023, copies of which are attached hereto and made a part thereof.

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

MAUREEN E. MURPHY

Chief Administrative Law Judge

Mauren E. Hurphy

for Baltimore County

MEM/dlm



## PETITION FOR ZONING HEARING(S)

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: which is presently zoned RC 7 Address 8/2 WESTERN RUN 10 Digit Tax Account # / 90000711 Deed References: 45147/98 Property Owner(s) Printed Name(s) (SELECT THE HEARING(S) BY MARKING  $\underline{X}$  AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST) The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for: a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for a Variance from Section(s) SEE ATTACHED PAGE of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition) TO BE PRESENTED AT THE HEARING 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 (Petitioners): Contract Purchaser/Lessee: - Type or Print Name- Type or Print Signature #1 Signature COCHBYSVIC 812 WESTER Mailing Address State Mailing Address 443-848-7205 2/030 **Email Address** Telephone # Email Address Zip Code Telephone # Zip Code MILLRUGS @ COMCAST. NET Representative to be contacted: Attorney for Petitioner: BRUCO E. DOAK - Type or Print Name- Type or Print Signature Signature 3801 BAKER State Mailing Address City State City Mailing Address 20.53 910-419-4906 **Email Address** Telephone # **Email Address** Zip Code Telephone # BOOAK @ BRUCE & DOAKCONSVITING. COM Reviewer Do Not Schedule Dates: Filing Date CASE NUMBER

REV. 10/4/11

## Zoning Hearing Petitions Being Requested

Variance to permit an accessory structure (workshop/ storage /carport) to be located in the front and side yards per Section 400.1 BCZR

Variance to permit an accessory structure (workshop/storage/carport) with a height of 18 feet in lieu of the required maximum height of 15 feet per Section 400.3 BCZR

## ZONING PROPERTY DESCRIPTION FOR

## 812 Western Run Rd

Beginning at a point on the East side of Western Run Rd which is 23 feet wide at a distance of 6,376 feet South of the centerline of the nearest improved intersecting street, Thornton Mill Rd which is 22 feet wide.





## **Zoning Description**

812 Western Run Road- 4.704 Acre Parcel Eighth Election District Third Councilmanic District Baltimore County, Maryland

Beginning at a point on the eastern side of Western Run Road, approximately 2,400 feet southerly of the centerline of Western Road. said point being the northwestern most corner of Lot 1 as shown on the plat entitled "Hastings Property" which is recorded in the land records of Baltimore County in Plat Book EHK Jr 49, page 78.

Containing 4.704 acres of land, more or less.

This description is part of a zoning petition and is not intended for any conveyance purposes.

OF MARY
EDWIN
531
LINE SUR

Bruce E. Doak Consulting, LLC 3801 Baker Schoolhouse Road Freeland, MD 21053 410-419-4906 cell / 443-900-5535 office bdoak@bruceedoakconsulting.com

2023-0199-A

# DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW OFFICE

#### 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 legal owner/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 legal owner/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.

| Case Number:  | or Newspaper Advertising:  |
|---|--|
| Property Description:   | Case Number: 2023-0199-A   |
| Legal Owners (Petitioners):  ROBERT I. K. HASTINGS  Contract Purchaser/Lessee:  N/A  PLEASE FORWARD ADVERTISING BILL TO:  Name:  Baves E. Doak  Company/Firm (if applicable):  Baves E. Doak  Company/Firm (if applicable):  Schoolhouse Rose | Property Address: 812 Westown Run Roso   |
| PLEASE FORWARD ADVERTISING BILL TO:  Name: Bayes E. Doak  Company/Firm (if applicable): Bayes E. Doak Consulting LU  Address: 3861 Bayes Schoolhouse Rosa   | Property Description: Lot / "HASTINGS PROPERTY" PB 49/78                       |
| PLEASE FORWARD ADVERTISING BILL TO:  Name: <u>Baves E. Doak</u> Company/Firm (if applicable): <u>Bake E. Doak Comsulting LU</u> Address: <u>3861 Baker Schoolhouse Roso</u>   | egal Owners (Petitioners): Roser I. K. Hastings                                |
| Name: Bauco E. Doak  Company/Firm (if applicable): Bauco E. Doak Consulting LU  Address: 3801 Baken Schoolhouse Roso  | Contract Purchaser/Lessee:   |
| 1 266 420 1110 2033   | Name: BRUCE E. DOAK Company/Firm (if applicable): BRUCE E. DOAK CONSULTING LUC |
| Telephone Number:   |  |

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## **Inter-Office Correspondence**



TO:

Hon. Paul M. Mayhew; Managing Administrative Law Judge

Office of Administrative Hearings

FROM:

Jeff Livingston, Department of Environmental Protection and

Sustainability (EPS) - Development Coordination

DATE:

October 11, 2023

SUBJECT:

DEPS Comment for Zoning Item

# 2023-0199-A

Address:

812 WESTERN RUN RD.

Legal Owner: Robert Hastings

Zoning Advisory Committee Meeting of October 10, 2023.

- X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:
  - <u>X</u> Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

#### Additional Comments:

This property is over 40,000-sf; therefore, the Forest Conservation Law applies. However, since less than 20,000-sf of forest will be cleared on site, a Single Lot Declaration of Intent may be completed in order to satisfy the forest conservation requirement.

Reviewer:

Jannifer Anderson

## Inter-Office Correspondence



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1. If the zoning variance is granted, Ground Water Management requests that the location of the proposed workshop/storage/carport be relocated outside of the approved septic reserve area. The proposed work must comply with all Groundwater Management policy and regulation.

#### Additional Comments:

Reviewer:

Mia Lowery, L.E.H.S.

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TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge

Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and

Sustainability (EPS) - Development Coordination

DATE: October 11, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0199-A

Address: 812 WESTERN RUN RD.

Legal Owner: Robert Hastings

Zoning Advisory Committee Meeting of October 10, 2023.

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Reviewer: Jannifer Anderson

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## Additional Comments:

Reviewer: Mia Lowery, L.E.H.S.

# BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

**TO:** C. Pete Gutwald **DATE:** 10/6/2023

Director, Department of Permits, Approvals and Inspections

**FROM:** Steve Lafferty

Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case Number: 2023-0199-A

**INFORMATION:** 

**Property Address:** 812 Western Run Road **Petitioner:** Robert I.K. Wastings

**Zoning:** RC 7 **Requested Action:** Variance

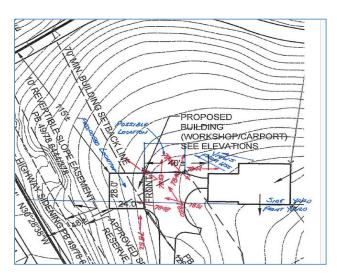
The Department of Planning has reviewed the petition for the following:

## Variance(s) -

1. To permit an accessory structure (workshop / storage / carport) to be located in the front and side yards per section 400.1 BCZR

2. To permit an accessory structure (workshop / storage / carport) with a height of 18 feet in lieu of the required maximum height of 15 feet per Section 400.3 BCZR

The property under consideration is located on the west of Interstate 83N along Western Run Road by the Western Run River in the Cockeysville area of Baltimore County. Spanning approximately 4.70 acres +/-, the property is zoned as RC 7 and it's improved with a two-story residential dwelling. Residential dwellings, farms and forest conservation characterize the surrounding area. The practical hardship and reason given by the applicant for the proposed location of the building are as follows (Refer to the image below, where relevant locations are marked in red numbers).



The applicant has built patios, decks (7844), and gardens (7846 & 7853) with an emphasis on the Western Run view (7847). When deciding on the building's location, preserving these views was crucial. Positioning the proposed accessory building at the back would obstruct these views and disrupt the gardens. Moreover, the applicant prefers not to set the building (7850) as the first thing seen when entering the driveway. The applicant also believes that the proposed site is ideal for the project, given that the driveway paving will align with the front of the proposed building (7851). There's a plateau (7852) beneath the left side of the driveway, which will substantially minimize the necessary grading for the building's placement there. No gardens or distinctive trees exist along the driveway's left side (7848), ensuring the accessory building won't be prominently visible from this suggested spot.

If necessary, the applicant is open to relocating from the current proposed location (7848) to the northeast side (7845) relative to the primary dwelling.



The plan submitted by the applicant indicates that the proposed accessory building encroaches upon the "70 ft minimum building set back line." Section 1A08.6.C.2.f BCZR states that accessory structures, such as solar panels, antennas, and storage sheds, are not allowed in the front yard of any primary use within an R.C.7 Zone. Consequently, the Department of Planning does not support the variance relief request for the proposed site (7852). However, the Department is open to the applicant's idea to move the development from the proposed location (7848) to a new location, north-east (7845) of the proposed location.

For further information concerning the matters stated herein, please contact Henry Ayakwah at 410-887-3482.

Prepared by:

Krystle Patchak

**Division Chief:** 

enifer G. Nugent

## SL/JGN/KP

c: Bruce E. Doak, Bruce E. Doak Consulting LLC
Joe Wiley and Abigail Rogers, Community Planners
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

Real Property Data Search ( )
Search Result for BALTIMORE COUNTY

| View Map             | View GroundRent Rede                    | mption  | View Ground                 | Rent Registration  |
|----------------------|---|---|-----------------------------|--|
| Special Tax Recaptur |   |   |                             |  |
| Account Identifier:  | District 08 Acco                        | ount Number - 1                                 | 1900007115                  |  |
|                      | Own                                     | er Informat                                     | ion                         |  |
| Owner Name:          | HASTINGS ROBE                           | ERT IK  | Use:<br>Principal Residence | RESIDENTIAL<br>9:YES   |
| Mailing Address:     | 812 WESTERN R<br>COCKEYSVILLE           | O THE REAL PROPERTY OF THE PARTY AND A STATE OF | Deed Reference:             | /45147/ 00098  |
|                      | Location &                              | Structure Ir                                    | formation                   |  |
| Premises Address:    | 812 WESTERN R<br>COCKEYSVILLE           |   | Legal Description:          | 4.704 AC<br>812 WESTERN RUN F<br>HASTING PROPERTY  |
|                      | ighborhood: Subdivision:                | Section: Block                                  |                             |  |
| 0042 0001 0153 804   | 10089.04 0000                           |   | 1 2023                      | Plat Ref: 0049/ 007  |
| Town: None           |   |   |                             |  |
| Primary Structure Bu | uilt Above Grade Living Ar<br>1,905 SF  | ea Finished Ba                                  | sement Area Proper          | A District Control of the Control of |
| Stories Basement Typ | e ExteriorQuality                       | Full/Half Bath G                                | Garage Last Notice          | of Major Improvement   |
| 2 NO SPI             | LIT LEVELFRAME/4                        | 2 full 1  | Attached                    |  |
|                      | Valu                                    | ue Informati                                    | ion                         |  |
|                      |   |   |                             |  |
|                      | Base Value                              | Value<br>As of                                  | Phase-in Asso<br>As of      | As of  |
|                      |   | 01/01/2023                                      | 07/01/2023                  | 07/01/2024   |
| Land:                | 239,700                                 | 239,700   |                             |  |
| Improvements         | 121,200                                 | 186,100   |                             |  |
| Total:               | 360,900                                 | 425,800   | 382,533                     | 404,167  |
| Preferential Land:   | 0                                       | 0   |                             |  |
|                      | Trans                                   | sfer Informa                                    | ation                       |  |
| Seller: HASTINGS M   | APCHEDITE I Date                        | e: 07/21/2021                                   |                             | Price: \$0   |
| TRUSTEE              | ARGUERITE J Dan                         | s. 0772172021                                   |                             | Title. 40  |
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| State:               | 000                                     |   | 0.00                        |  |
| Municipal:           | 000                                     |   | 0.00 0.00                   | 0.00 0.00  |
| Special Tax Recaptu  | ıre: None                               |   |                             |  |
|                      | Homestead A                             | Application                                     | Information                 |  |
| Homestead Applicat   | tion Status: No Application             | 97/65   |                             |  |
|                      | *************************************** |   | :1:                         | ··   |
|                      |   |   | COSTION INTOFFING           | บดที   |
|                      | Homeowners' Tax (                       | Credit Appli                                    | ication imornia             |  |



