

**IN RE: PETITION FOR VARIANCE**  
**(1740 Drexel Road)**  
15th Election District  
7th Council District  
Frederick and Louise Auffarth  
Petitioners

\* BEFORE THE  
\* OFFICE OF ADMINISTRATIVE  
\* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* **CASE NO. 2020-0062-A**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Variance filed by the legal owners of the subject property, Frederick and Louise Auffarth (“Petitioners”). The Petitioners are requesting Variance relief pursuant of the Baltimore County Zoning Regulations (“BCZR”) §301.1 to permit a front setback for a deck of 17 ft. 5 in. in lieu of the required front application of §301.1 average setback of 22.5 ft. (rounded up) A site plan was marked as Petitioners’ Exhibit 15.

Due to the COVID-19 pandemic, a WebEx hearing was conducted remotely by computer and/or phone participation. Mark Auffarth appeared on behalf of the Petitioners, Frederick and Louise Auffarth. There were no protestants in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. The Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. There were no adverse ZAC comments submitted by any of the County reviewing agencies.

Mr. Auffarth explained that his parents had hired a contractor to construct the porch/deck this past November and that the contractor was responsible for pulling the necessary permits, which they failed to do. This resulted in a Code Citation being issued and a fine in the amount of \$500.00 being imposed in Case No. CC1916899. Mr. Auffarth attested that the fine has been

paid and that he will send proof of payment to the Office of Administrative Hearings.

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).

The subject property is irregularly shaped with frontage on both Drexel and Kirkland roads. The house is sited fairly close to the sidewalk on Drexel Road. As such the property is unique. Due to the narrow front yard a 5 foot front setback variance is required for the porch. Without this variance the porch would need to be removed, which would obviously cause the petitioners hardship. I find that the porch in question is compatible with the home and the surrounding residences and that the variance relief can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety or welfare.

THEREFORE, IT IS ORDERED, this day 26<sup>th</sup> of **August, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief, from BCZR §301.1 to permit a front setback for a deck of 17 ft. 5 in. in lieu of the required front application of §301.1 average setback of 22.5 ft. (rounded up) be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioners are 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, Petitioners 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.

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Signed \_\_\_\_\_  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM:dlm