

<b>IN RE: PETITION FOR ADMIN. VARIANCE</b>	*	BEFORE THE
<b>(1801 Dunwoody Road)</b>		
9 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
James Aaron Kelly	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2018-0162-A</b>

\* \* \* \* \*

**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, James Aaron Kelly (“Petitioner”). The Petitioner is requesting Variance relief from §§ 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit an existing rear yard setback of 16 ft. 3 in. in lieu of the required 30 ft. and to permit an open projection (deck) with a rear setback of 10 ft. in lieu of the required 22.5 ft. 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 ZAC comments received from any of the County reviewing agencies.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on December 23, 2017, 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 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, this **11<sup>th</sup>** day of **January, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from §§ 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit an existing rear yard setback of 16 ft. 3 in. in lieu of the required 30 ft. and to permit an open projection (deck) with a rear setback of 10 ft. in lieu of the required 22.5 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.

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