

**IN THE MATTER OF
ROSE KNOPP
PETITIONER**

*** BEFORE THE DIRECTOR OF
* DEPARTMENT OF PLANNING & ZONING
* CASE NO. AA-22-004
* 5661 OAKLAND MILLS ROAD**

DECISION AND ORDER

On August 3, 2022, the Designee for the Director of the Department of Planning and Zoning conducted a public hearing to consider the petition of Rose Knopp, for Administrative Adjustments from Section 109.0.D.4.a(1)(a) to reduce the required 30-foot setback from an arterial public street right-of-way (MD Route 175) to 24.5 feet for an existing freestanding deck at 5661 Oakland Mills Road (“the Property”), as authorized under the Administrative Adjustment Procedure, Section 100.0.F.1. The notice of the hearing was posted on the Property in accordance with all applicable regulations. Ryan Knopp represented the Petitioner as Counsel and presented the testimony. No one testified in opposition to the petition.

Prior to the introduction of testimony, the following items were incorporated into the record by reference:

1. The Howard County Zoning Regulations.
2. The Subdivision and Land Development Regulations.
3. The Administrative Procedures Act of the Howard County Code.

During the hearing, the following items were introduced as exhibits:

1. Administrative Adjustment Petition and Plans submitted by the Petitioner.
2. Photos of the Property entered by Petitioner’s Counsel “Exhibit A”

Mr. Tyler provided a brief report on the Property and the Administrative Adjustment request. Mr. Knopp concurred with the report and submitted photos of the Property that were entered into the record as ‘Exhibit A’. Mr. Knopp stated that the purpose of the Administrative Adjustment is to reduce the side setback for an existing deck and explained that due to the unique lot shape, the narrowness of the lot in the rear of the Property, and the proximity to MD Route 175, a standard rear deck cannot be designed to comply with the required setbacks. Mr. Knopp asserted that this Property is the only property in the community impacted by the constraints caused by the MD Route 175 right-of-way. He further explained that the deck was built in 2018 and a Notice of Violation (NOV) was sent to the previous owners who did not notify potential buyers of the pending violation notice

against the Property. Mr. Knopp asserted that without the Administrative Adjustment a portion of the deck and other architectural features of the principal dwelling will need to be removed to bring the structure into compliance, which will alter the ingress and egress to the rear of the principal dwelling. Based upon the testimony and exhibits presented at the hearing, and the plans and materials submitted by the Petitioner as part of the petition, the Director makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Petitioner, Rose Knopp, is the owner of the Property, which is located on the east side of Oakland Mills Road, approximately 320 feet southeast of the intersection of Oakland Mills Road and Shadow Fall Terrace. The Property is identified as Tax Map 36, Parcel 123, Lot 3 and is addressed 5661 Oakland Mills Road. The Property is 0.33 acre and is zoned R-12 (Residential: Single).
2. The lot was recorded on January 1, 2006 and the house was constructed in 2007. The house was constructed 17 feet beyond the 30-foot front setback and nonparallel to the MD Route 175 right-of-way.
3. The Petitioner purchased the property in 2022.
4. The lot has an irregular shape and narrows from front to rear due the MD Route 175 right-of-way and is relatively flat with an average elevation of 410 feet.
5. The deck encroaches 5.5 feet into the 30-foot side setback from the MD Route 175 right-of-way.
6. The property to the north is a single-family detached dwelling within the NT zoning district. The property to the east consists of the MD Route 175 right-of-way of, and to the west and south are single family detached dwellings within the R-12 zoning district.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Director makes the following Conclusions of Law:

1. The lot is irregularly shaped and constrained by three (3) 30-foot setbacks. The house's excessive distance from the front property line and nonparallel location to the side property line limit use of the rear portion of the Property. These physical conditions are unique to the Property and result in practical difficulties in complying with the required 30-foot side setback from the MD Route 175 right-of-way.

2. The proposed setback encroachment is on the east side of the Property, which is adjacent to the MD Route 175 right-of-way. The surrounding properties to the north and west have single family detached dwellings with decks/patios. The setback encroachment is unlikely to be visible from adjacent properties. Therefore, the encroachment is unlikely to alter the essential character of the area, impair the use or development of the adjacent property, or be detrimental to the public welfare.
3. The practical difficulties resulting from the irregular lot shape, excessive setbacks, and the location of existing house were not created by the Petitioner who purchased the Property in 2022.
4. The irregular lot shape, large setbacks, and the location of existing house result in practical difficulties in complying with the required 30-foot side setback. The encroachment is approximately 18.3%, which is less than the allowed 20% adjustment, and is the minimum necessary to allow for an open deck on the Property given the unique physical conditions. Therefore, the adjustment is the minimum necessary to afford relief within the intent and purpose of the zoning regulations.


ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 29 day of August, 2022 by the Director of the Department of Planning and Zoning for Howard County, ORDERED that the petition of Rose Knopp, for an Administrative Adjustment from Section 109.0.D.4.a(1)(a) to reduce the required 30-foot setback from an arterial public street right-of-way to 24.5 feet for an existing freestanding deck, be and the same is hereby **GRANTED**.



Amy Gowan, Director
Department of Planning and Zoning

Prepared By:



Justin Tyler, Director's Designee
Department of Planning and Zoning

Notice: A person aggrieved by this decision may appeal it to the Howard County Hearing Authority within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time, the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Hearing Authority. The person filing the appeal will bear the expense of providing notice and advertising the hearing.