

APPLICANTS:
Kevin and Paula Klages

REQUEST: A variance to allow a sunroom and deck within the required rear yard setback

HEARING DATE: April 20, 2005

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5480

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Kevin and Paula Klages

LOCATION: 1111 Greenwood Ridge Court / Vineyard Oak – Phase I, Bel Air
Tax Map: 41 / Grid: 2C / Parcel: 663 / Lot: 57
Third Election District (3rd)

ZONING: R1 / Urban Residential District / Conventional With Open Space
R1 / COS (with Natural Resource District (NRD) development adjustment)

REQUEST: A variance pursuant to Section 267-36B, Table V, of the Harford County Code to allow a sunroom and deck addition to maintain a 20 foot rear yard setback (35 foot required for sunroom and 26 foot required for deck) in an R1/COS District (with NRD development adjustment)

TESTIMONY AND EVIDENCE OF RECORD:

Kevin A. Klages, Co-Applicant, explained his request for a variance as necessitated by his family's desire to install a 14 foot by 18 foot sunroom and approximately 30 foot by 18 foot deck onto the rear of their home. In total, the improvements will extend approximately 18 feet from the rear wall of their house. In order to construct these additions the Applicant must come to within 20 feet of the rear yard lot line. This will require a variance, as a sunroom is required to maintain a 35 foot setback, and a deck in this location would normally be required to maintain a 26 foot setback.

Mr. Klages described his lot as being approximately .259 acres in size, located in the Vineyard Oak subdivision outside of Bel Air.

The Applicant believes his property to be unique. His lot is heavily impacted by a recorded Natural Resources District. This Natural Resources District impacts the subject property more than other lots in the subdivision, and particularly more than adjoining lots. As a result of this rather extreme impact the Applicants' home is sited much closer to the road than other lots in the subdivision. Attachment 10 in the file amply demonstrates the odd location of the home on the subject property in relationship to others along Greenwood Ridge Court.

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As a further result of the extreme impact on the Natural Resource District, Mr. Klages stated that the rear wall of his house is separated from the beginning of the Natural Resource District by only about 4 feet. Obviously, such a small space makes it virtually impossible to construct any sort of significant improvement.

Mr. Klages also testified that the Natural Resources District is a wetland. His rear yard is almost always wet, and he can make little use of it.

Mr. Klages stated that homes on either side of him have similar sunrooms and decks, and neither required variances. Their lots are not as highly impacted by the Natural Resources District as is the subject property.

Mr. Klages has spoken to his neighbors and none has any objections to the proposed request. A letter is in the file from neighbors at 1109 and 1113 Greenwood Ridge Court indicating their lack of objection.

Next for the Harford County Department of Planning and Zoning testified Dennis Sigler. Mr. Sigler gave the opinion of the Department that the subject property is clearly unique. The Natural Resources District takes a deep cut into the back of the subject property. As a result the builder was forced to move the house far forward on the lot. Other homes in the neighborhood are not as significantly impacted as is the subject property.

The Department feels there would be no adverse impact if the requested variance were granted.

No evidence or testimony was presented in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

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(2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants propose to improve their property with a deck and sunroom similar to many others in their neighborhood, and particularly similar to the improvements on either side of their property. A deck and sunroom as proposed would be similar to many others throughout the County, and is a common feature in many subdivisions.

Unfortunately, the Applicants’ property is very significantly impacted by a Natural Resources District which comes to within approximately 4 feet of the rear wall of this house. This is so even though the house has been significantly set forward on the lot. There is, obviously, little available space for any improvements to the rear of the home. This is of particular concern to the Applicants as their lot is somewhat wet, which further reduces its usability.

The Applicants propose a modest variance in order to allow them to construct a deck and sunroom which would be in keeping with others in the neighborhood. In order to be granted such a variance the Applicants must show that there is an unique feature of their property which causes them some practical difficulty. Quite obviously, the Natural Resources District by impacting the subject property to the extent it does, is the sort of feature which the variance section was designed to give relief to. Without the variance, the Applicants would suffer the practical difficulty of being unable to improve their property in a way similar to how neighbors have improved theirs, and in a way which most homeowners in the county would expect the right to enjoy.

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There is further no showing of any adverse harm to the adjoining neighbors. Indeed, the adjoining neighbors have given letters to the file indicating their lack of opposition.

CONCLUSION:

It is accordingly recommended that the requested variance be granted subject to the following conditions:

1. The Applicants obtain all necessary permits and inspections for the construction of the sunroom and deck.
2. The Applicants prepare a landscaping plan for the area around the base of the deck. The plan shall be approved by the Harford County Department of Planning and Zoning prior to the issuance of any building permit.

Date: May 20, 2005

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on JUNE 20, 2005.