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### NOTIFICATION OF ZONING HEARING EXAMINER'S DECISION

**DATE OF DECISION:** June 17, 2016  
**HEARING EXAMINER:** Robert F. Kahoe, Jr.  
**RE:** Zoning Appeal Case No. 5865  
**APPLICANT:** John Dornbusch  
**LOCATION:** 1107 Knopp Road, Jarrettsville  
**REQUEST:** Variance to allow an addition within the required front yard setback (53 feet proposed from the center of the road right-of-way – 70 foot setback required) in the Agricultural District

Enclosed is an official copy of the Hearing Examiner's decision relative to the above referenced case.

The Hearing Examiner's decision shall become final **JULY 7, 2016**.

This decision shall be considered a recommended opinion to the Harford County Council, sitting as The Board of Appeals, if a written request for Final Argument before the Harford County Council is filed by the close of business on above date by the Applicant, Applicant's Attorney, Opponents, People's Counsel, or a person aggrieved who was a party to the proceedings before the Hearing Examiner. In addition, any Board Member, upon written notice to the Council Administrator, may request final argument.

COUNTY COUNCIL OF HARFORD COUNTY

**Mylia A. Dixon**  
Council Administrator

Enclosure

cc: Applicant/Attorney; People's Counsel; Department of Planning and Zoning



**APPLICANT:**  
John W. Dornbush

**REQUEST:** A variance to allow an addition within the required front yard setback in the Agricultural District

**HEARING DATES:** April 27, 2016

**BEFORE THE**  
**ZONING HEARING EXAMINER**  
**FOR HARFORD COUNTY**  
**BOARD OF APPEALS**  
**Case No. 5865**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANT:** John W. Dornbusch

**LOCATION:** 1107 Knopp Road, Jarrettsville  
Tax Map: 25 / Grid: 2A / Parcel: 64  
Fourth (4<sup>th</sup>) Election District

**ZONING:** AG / Agricultural District

**REQUEST:** A variance to Sections 267-23A(2) and 267-53C(1), Table 53-1, of the Harford County Code, to allow an addition within the required front yard setback, 53 feet proposed from the center of road way (70 feet required) in the Agricultural District.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

The subject property is approximately 1.7 acres in size and is improved by a one-story, single-family dwelling of approximately 1,100 square feet. The dwelling was constructed in 1959 and has been owned by the Applicant since 1989.

The parcel is quite irregularly shaped, having frontage on both Rocks Chrome Hill Road and Knopp Road, both of which are improved County secondary roadways. Harford County Development Regulations require that the front yard setback applicable to the Applicant's proposed improvement be measured from the center line of Rocks Chrome Road, and would be computed as 30 feet plus the required 40 foot setback for a total of 70 feet required from its center line.

The Applicant desires to increase the size of his home by adding a one bedroom addition, having dimensions of 16 feet by 20 feet. Because the Applicant's improvement impacts the required setback by approximately 17 feet, this variance is requested.

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John Dornbusch stated that he purchased his property in 1989. It consists of two bedrooms, one bath, and a combined living room/kitchen. There is a small porch to the rear and a small front porch. Mr. Dornbusch, needing additional room, wishes to add a bedroom to the left rear side of the house. The bedroom will have dimensions of 16 feet by 20 feet and will match in design and color the existing vinyl-clad home.

However, as the addition will be approximately 17 feet within the front yard, as measured from the center of Rocks Chrome Road, Mr. Dornbusch needs a variance. In support, Mr. Dornbusch states that there is no other possible location on the property in which he can locate the proposed modest addition. His property is steeply inclined which, itself, limits the available area for the construction of an addition. Furthermore, the property is quite unusually configured, being very roughly described as a compressed triangle in shape.

Mr. Dornbusch also states that the location of the sewage disposal area to the north of the dwelling limits the available area for the construction of the addition, as does the location of the well which is to the left side of the home.

While the area in which the addition is proposed is itself on somewhat of a steep grade, Mr. Dornbusch believes that by regrading it can be constructed. In his opinion, the only location for the improvement is as proposed, due to the shape of the lot and the location of existing utilities.

Mr. Dornbusch has discussed the requested variance with his neighbors and none have any objection.

Next for the Department of Planning and Zoning testified Anthony McClune, Chief of the Current Planning Division. Mr. McClune has visited the property and finds it of a very unusual configuration which, together with the steep grade, creates a situation that Mr. McClune finds to be unique. Furthermore, the required setback is also rather extreme, given the size of the lot, in that it is 70 feet from the center line of Rocks Chrome Road. If the setback were 40 feet from the edge of Rocks Chrome Road, as would more normally be the case, then no variance would be necessary.

Mr. McClune and the Department, accordingly, recommend the granting of the requested variance, with conditions.

No testimony or evidence was given in opposition to the requested variance.

### **APPLICABLE LAW:**

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

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*“Variances.*

- A. *Except as provided in Section 267-63.H (Chesapeake Bay Critical Area Overlay District, variances), 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.*
  - (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:**

A review of the drawing of the property submitted by the Applicant is sufficient for a finding of uniqueness. The property is quite obviously a lot which was created well before subdivision regulations. Its size is quite odd – a compressed triangle with portions of the property at either end of the triangle being completely unusable. The house, which has quite modest dimensions, is situated directly in the middle of the property but is impacted by the greater than normal required setback from Rocks Chrome Road.

The property is also, of course, improved by well and waste disposal areas which further limit the available area for improvements.

The Applicant wishes to construct a modest 16 foot by 20 foot addition to his home in order to provide another bedroom. The Applicant has convincingly described the issues that exist with his property that prohibit the construction of an addition in any location that does not impact the required front yard setback. The Department of Planning and Zoning concur with the Applicant’s arguments and also recommends that the variance be granted.

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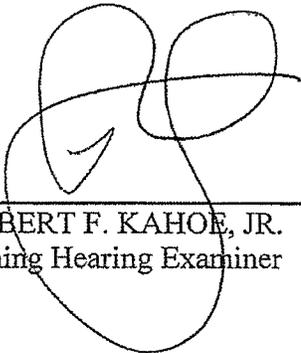
It is clear that the amenity requested by the Applicant is one which is similar to many others in Harford County; that is, the construction of a small addition in order to provide additional living space to what is a relatively small home. The improvement cannot be constructed without the requested variance due to the unusual features of the property. The requested variance, if granted, will cause no harm to any neighbor or to the neighborhood, and is the minimum relief necessary in order to alleviate the practical difficulty which the Applicant suffers as a result of the unique features of his parcel.

**CONCLUSION:**

Accordingly, it is recommended that the requested variance be granted, subject to the following conditions:

1. The Applicant shall obtain all required permits and inspections for the construction of the new addition. Specifically, the Applicant shall comply with the conditions set forth in the Harford County Health Department Memorandum dated April 7, 2016.
2. The addition shall be constructed to match the existing dwelling, utilizing similar building materials and colors.
3. The Applicant shall obtain all required permits and inspections for the existing shed and attached deck prior to the issuance of a permit for the addition.

Date:     JUNE 17, 2016    



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ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner

**Any appeal of this decision must be received by 5:00 p.m. on JULY 7, 2016.**