

**IN RE: PETITION FOR ADMIN. VARIANCE**  
E side of Aubree Lane, 160 feet N of  
the c/l of Lipscomb Way  
11<sup>th</sup> Election District  
5<sup>th</sup> Councilmanic District  
**(5612 Aubree Lane)**

Kathleen M. and John F. Legere, Sr.  
*Petitioners*

\* BEFORE THE  
\* OFFICE OF  
\* ADMINISTRATIVE HEARINGS  
\* FOR BALTIMORE COUNTY  
\* **Case No. 2011-0268-A**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, Kathleen M. and John F. Legere, Sr. for property located at 5612 Aubree Lane. The variance request is from Sections 1B01.2.C.1 and 301.1.A and 504.2 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an open projection (deck) with 14 feet rear setback in lieu of the required 22.5 feet, and to amend the latest Final Development Plan for Mayfield/Day Property, Lot 14 only. The subject property and requested relief are more particularly described on Petitioners’ Exhibit No. 1. Petitioners’ dwelling was constructed 25 feet from the front property line and 30 feet from the rear property line. The adjacent dwelling at 5610 Aubree Lane is constructed 42 feet from the rear property line. Petitioners’ deck will be constructed 16 feet from the rear property line; the steps leading from the deck to the backyard will be 14 feet from the rear property line. Outside stairs leading to the basement are located at the rear of the dwelling and this limits where along the rear of the home that the proposed deck can be constructed. Photographs submitted with the Petition clearly show that the properties located at 5610 and 5614 Aubree Lane enjoy decks as well as other properties in the immediate area.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on March 16, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. 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 Petitioners.

A deck smaller than proposed would not be of sufficient size to allow the Petitioners to have a table, chairs and a grill on the deck. Petitioners would be unable to enjoy reasonable use of the property, suffering further practical difficulty. The use of a deck is enjoyed by the surrounding property owners, as evidenced by the photographs submitted by the Petitioners.

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, by the Administrative Law Judge for Baltimore County, this 11<sup>th</sup> day of April, 2011 that a variance from Sections 1B01.2.C.1 and 301.1.A and 504.2 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit an open projection (deck) with 14

feet rear setback in lieu of the required 22.5 feet, and to amend the latest Final Development Plan for Mayfield/Day Property, Lot 14 only be and is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the 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  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK/pz