

IN THE MATTER OF	:	BEFORE THE
Deck Armor, LLC	:	HOWARD COUNTY
	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 25-021V

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DECISION AND ORDER

On November 18, 2025, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the Petition of Deck Armor, LLC (Petitioner) for a variance to reduce the minimum structure and use rear yard setback, from 30 feet to 14 feet (a deck is permitted to encroach 10 feet into the rear yard setback as a matter of right), a variance of 6 ft, for a 16x36 ft deck, in Council District 1, Tax Map 31, Grid 9, Parcel 24, Lot 8, also identified as 4776 Attenborough Way, Ellicott City, Maryland, in the R-20 (Residential: Single) Zoning District, filed pursuant to § 130.0.B.2 of the Howard County Zoning Regulations (the HCZR) for a variance from § 108.0.D.4.c.(1).(c).(i)..

The Petitioner certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the

Hearing Examiner Rules of Procedure. Deck Armor, LLC (Petitioner), represented by Levgenii Khomiak and David and Katherine Juarez (Property Owners) appeared in support of the Petition. No one appeared in opposition.

FINDINGS OF FACT

Based upon the evidence of record, the Hearing Examiner finds as follows:

1. Property Identification and Description. The approximately .295-acre property is located on the north side of Attenborough Way, west of Bonnie Branch Road, north of MD 103 (Montgomery Road) and south of MD 144 (Frederick Road). The subject Property lies in Council District 1, is identified as Tax Map 31, Grid 9, Parcel 24, Lot 8, is in the Hampton Hills subdivision (Plat No. 25875) and is known as 4776 Attenborough Way, Ellicott City, Maryland (the Property). The Property is developed with a one-story single-family detached dwelling and is in a development of similar dwellings and lot sizes. The Property is an irregular heptagon shape which has seven (7) sides, is roughly pie shaped, and is located on a cul-de-sac. There is a retaining wall approximately 25 feet from the rear of the dwelling and the property slopes downward from the retaining wall towards the open space located to the rear of the Property. The Subject Property is surrounded by similar size lots developed with attached dwellings and decks. The Subject Property has a stormwater management pond located along the west side of the property which has a utility and maintenance easement.

2. Vicinal Properties. Adjoining properties to the front and side property lines are zoned R-20 and adjoining properties to the rear are zoned R-ED (Residential: Environmental Development). Adjoining properties to the front and side property lines are developed with single family detached dwellings with decks and to the rear is dedicated open space of the neighboring subdivision.

3. Agency Comments. There are no agency or department comments in opposition to the proposed variance request.

The Division of Land Development has reviewed the above referenced Variance Petition for the proposed 6- foot rear setback encroachment for a deck construction at 4776 Attenborough Way, Ellicott City, MD. The proposed deck will encroach a total of 16 feet into the rear setback, however decks are permitted to encroach 10 feet into the rear or side setback in accordance with the Zoning Code. The additional 6-foot rear setback encroachment is minor in nature and has the potential to comply with all technical requirements in the Subdivision and Land Development Regulations. Please note that there is a private drainage and utility easement at the rear of the property, and it is advised that permission be acquired for any construction within the easement from the easement owner.

The Development Engineering Division takes NO EXCEPTION to the request for a reduction to the 30' setback for main structures to setback for main structures to 14' for an enclosed 16' x 36' deck in an R-20 Zoning District based on the justification presented in the application.

4. The Requested Variance. Petitioner is requesting a variance to reduce the minimum structure and use rear yard setback for a structure, from 30 feet to 14 feet, a

variance of 16 feet, for a 16x36 ft deck. Section 128.0.A.1.e allows decks and porches to encroach 10 feet into the rear setback, effectively reducing the 30-foot rear setback to 20 feet for a deck. The area to the rear of the Property is a private drainage and utility easement, owned by the HOA. The Petitioner has provided documentation for the HOA's approval.

CONCLUSIONS OF LAW

The standards of variances are contained in HCZR § 130.0.B.2.a. Pursuant to this Section, the Hearing Examiner may grant a variance only if the Petitioner demonstrates compliance with all four variance criteria. Based upon the foregoing Findings of Fact, and for the reasons stated below, the Hearing Examiner finds the requested variance complies with § 130.0.B.2.a.(1) through (4) and therefore may be granted.

- (1) That there are unique physical conditions, including irregularity, narrowness or shallowness of the lot or shape, exceptional topography, or other existing features peculiar to the particular lot; and that as a result of such unique physical condition, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these regulations.**

Compliance with the first criterion is a two-part test. First, there must be a finding that the property is unusual or different from the nature of the surrounding properties. Secondly, this unique condition must disproportionately impact the property such that a practical difficulty arises in complying with the bulk regulations. See *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424 (1995). A "practical difficulty" is shown when the strict

letter of the zoning regulation would “unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.” *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 322 A.2d 220 (1974).

As shown on the Variance Exhibit, the Property is an irregular pie shaped lot having seven (7) sides, fronting along a curved cul-de-sac. As a result of the Property's shape, the dwelling, by necessity, is sited close to the rear yard building restriction line. Add the stormwater management pond and the rear yard sloping down from the rear retaining wall towards the open space located between the Subject Property and these existing physical constraints cause the Property Owners practical difficulty in complying with the current bulk area requirements for the minimum structure and use rear yard setback for structures, of 30 feet, in accordance with §130.0.B.2.a.(1).

- (2) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.**

The Property is an interior lot located on a cul-de-sac in a developed detached single-family dwelling subdivision. Adjoining lots are of similar size and are developed with similar size dwellings with decks. The proposed deck will not alter the character of the existing neighborhood. The requested variance will not alter the essential character of the neighborhood and will not impact the appropriate use and development of adjacent properties as they have already been developed. The proposal to construct a 16x36 ft deck will not be detrimental to the public welfare as it will not produce excessive noise,

odors, dust, fumes, vibrations, or other adverse effects that would negatively impact vicinal properties.

The variance, if granted, will therefore not alter the essential character of the neighborhood in which the lot is located nor substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, in accordance with § 130.0.B.2.a.(2).

(3) That such practical difficulties or hardships have not been created by the owner provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

The practical difficulty and hardship in complying strictly with the bulk regulations requiring a 30-foot rear yard structure and use setback arises from the 7-sided irregularly shaped lot, the location of the Subject Property on a cul-de-sac, the stormwater management pond, and the resulting siting of the dwelling close to the 30-ft rear yard building restriction line, which all render the rear yard impractical for a reasonably sized deck. These circumstances were not created by the Property Owners, in accordance with §130.0.B.2.a.(3).

(4) That within the intent and purpose of these regulations, the variance, if granted, is the minimum necessary to afford relief.

The variance sought, a reduction of 6 feet from the minimum structure and use rear yard setback for structures, is the minimum decrease necessary to permit the reasonable construction and use of a 16x36 ft deck. Within the intent and purpose of the

regulations, this variance is the minimum necessary to afford relief, in accordance with §130.0.B.2.a.(4).

(5) That no variance be granted to the minimum criteria established in Section 131.0 or Conditional Uses except where specifically provided therein or in an historic district. Nothing herein shall be construed to prevent the granting of variances in any zoning district other than to the minimum criteria established in Section 131.0.

The Subject Property is not located in a Historic District.

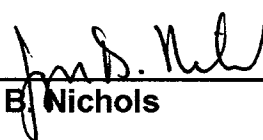
ORDER

Based upon the foregoing, it is this 18th day of November, 2025, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Petition of Deck Armor, LLC for a variance to decrease the minimum rear yard structure and use setback for a structure, from 30 feet to 14 feet, a variance of 6 feet when taking into account Section 128.0.A.1.e which allows decks and porches to encroach 10 feet into the rear setback, effectively reducing the 30-foot rear setback to 20 feet for a deck, in order to construct a 16x36 ft deck, in Council District 1, Tax Map 31, Grid 9, Parcel 24, Lot 8, also identified as 4776 Attenborough Way, Ellicott City, Maryland, in the R-20 (Residential: Single) Zoning District, be and is hereby **GRANTED**.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER



Joyce B. Nichols

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals 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 Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.