

Circuit Court for Baltimore County
Case No. 03-C-15-009114

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1485

September Term, 2016

KARL KIESLING ET AL.

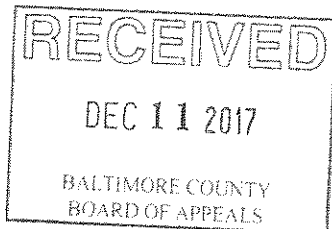
v.

ROBERT LONG

Eyler, Deborah S.,
Kehoe,
Arthur,

JJ.

Opinion by Kehoe, J.



File: October 24, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. *See* Md. Rule 1-104.

— Unreported Opinion —

Karl Kiesling, Kevin Kauders, and Anne Franey appeal from a judgment of the Circuit Court for Baltimore County, the Honorable Paul J. Hanley presiding, which affirmed a decision of the Baltimore County Board of Appeals. The Board granted permission to Jean Marie Jones and Robert Long to build a house on a lot (the “Property”) with a street address of 3505 Beach Road, Baltimore, Maryland.¹

Background

A. The Property

The Property is located in the Middle River area of Baltimore County. The front and rear boundaries of the Property are Beach Road and Seneca Creek, respectively. Beach Road is a dead-end street which extends in a southeasterly direction from Seneca Park Road and terminates at a small park on the waters of Seneca Creek. In addition to the Property, there are four waterfront residential parcels on the southerly side of Beach Road. The northerly side of Beach Road abuts the side lot line of a single property that fronts on Seneca Park Road.

Mr. Kiesling, on one side, and Mr. Kauders and Ms. Franey, on the other, own the parcels immediately adjacent to the Property. The Property is 50 feet wide, approximately 175 feet deep, and has an area of 9,750 square feet. It is located within a residential

¹ The zoning petition that eventually resulted in the Board’s decision under review in this appeal was filed in February, 2014 by Jean Marie Jones. At the time the application was filed, Mr. Long was the contract purchaser. He acquired title while this case was pending.

subdivision known as “Seneca Beach Park,” which was established by a plat recorded in the Baltimore County land records in 1926. For many years, the Property was improved by a house. This structure, along with many others located in the Seneca Beach Park neighborhood, was badly damaged by Hurricane Isabel in 2003. At that time, the Property was owned by Roy E. Jones and Jean Marie Jones. They were unable or unwilling to rebuild and what was left of the structure was demolished in 2005. At the time of the hearing before the Board, the Property was vacant except for two small storage sheds.

B. The Relevant Provisions of the BCZR

The Property is located in the County’s “Rural Residential” (RC 5) zoning district. The Baltimore County Zoning Regulations (“BCZR”) provide that: (1) the minimum size for lots within the RC-5 district is 1.5 acres, (2) the maximum permitted lot coverage is 15%, (3) the minimum front setback is 75 feet, and (4) the minimum side and rear setbacks are 50 feet. BCZR § 1A04.3B.2.b. Obviously, it is impossible to build a house on the Property while strictly complying to these regulations. The BCZR provides several at least arguably relevant avenues by which a property owner can seek this relief from the strict application of these regulations.

First, the BCZR permits property owners to carry on non-conforming uses and to maintain non-conforming structures. The prior house on the Property was a non-conforming structure. BCZR § 104.2 provides that, if a non-conforming structure is damaged or destroyed “by fire or other casualty,” the structure can be rebuilt on the same

footprint within two years of the date of damage or destruction. If a property owner wishes to have a larger building, BCR § 104.3 authorizes a County administrative law judge and the Board to grant a variance to allow a property owner to increase the floor area of such a structure by no more than 25% when the building is repaired or replaced.

Second, BCZR § 1A04.3.B.4 states:

Any existing lot or parcel of land with boundaries duly recorded among the land records of Baltimore County with the approval of the Baltimore County Department of Planning on or before the effective date of these zoning regulations and not part of an approved subdivision that cannot meet the minimum standards as provided within the zone may be approved for residential development in accordance with the standards prescribed in force at the time of the lot recordation.

Although this statute probably won't be inducted into the Punctuation Hall of Fame, its meaning is clear enough. Section 1A04.3.B.4 is a grandfathering law. It provides that a property in the RC 5 District does not have to comply with the current setback and lot coverage provisions of the BCZR if: (1) the lot had been conveyed by a deed recorded in the Baltimore County Land Records prior to the effective date of the RC 5 regulations, (2) the lot cannot be developed in conformance with the BCZR's minimum requirements for the zoning district within which the lot is located, and (3) the lot is not part of an approved subdivision.

There is another "grandfathering" provision in the RC 5 regulations. BCZR § 1A04.3.B.1.b states:

The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the [RC 5] setback requirement[s], may apply for a

special hearing under Article 5 to alter the minimum lot size requirement. However, the provisions of Section 1A04.4^[2] may not be varied.

Section § 1A04.3.B.1.b refers to a “special hearing.” BCZR § 500.7 states in pertinent part (emphasis added):

[A County ALJ] shall have the power to conduct such other hearings and pass such *orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations*, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the [County’s Office of Administrative Hearings] for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

Finally, the BCZR provides property owners in any zoning district with the ability to seek variances from the strict application of the BCZR’s development regulations.

Section 500.7 states in pertinent part (emphasis added):

The [County’s administrative law judges and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are *peculiar to the land or structure* which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in *practical difficulty or unreasonable hardship*.

² BCZR § 1A04 sets out design standards for residential developments in the RC 5 District.

C. The Application

Mr. Jones passed away in 2008. In 2014, Ms. Jones, as owner, and Mr. Long, as contract purchaser, filed a zoning petition seeking a variance from the minimum lot size, lot coverage and setback provisions of the BCZR that we have previously summarized, as well as a variance from the strict application of CBRZ § 301.1³ The petition described the requested relief as:

Section 1A04.3 and 301.1 BCZR

1. To allow an area of 9,750 sq. ft. in lieu of the required 1 1/2 acres.
2. To allow an open projection deck with a setback of 13 ft. in lieu of the required 37 11/2 ft.
3. To allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively.
4. To allow a building coverage of 20% in lieu of the maximum required 15%.
5. To allow any variances deemed necessary by the administrative Law Judge.

This language was incorporated into the public notice of the hearing on the application. The zoning petition is a preprinted form available from the County's

³ Section 301.1 provides in pertinent part:

A. If attached to the main building, a carport or a one-story open porch, with or without a roof, may extend into any required yard not more than 25% of the minimum required depth of a front or rear yard or of the minimum required width of a side yard. Any carport or open porch so extended must be open on three sides.

Department of Permits, Approvals, and Inspections. It is a “check-the-box” form and contains a box—unchecked in this case—for a request for a special hearing.

Prior to any hearings, the application was reviewed by several County agencies, including the Department of Environmental Protection and Sustainability. None of these agencies voiced misgivings about the proposal.⁴

The application was subject to a public hearing before a County administrative law judge. In a written decision dated April 23, 2014, the ALJ granted the application but with some modifications. First, the ALJ imposed a 10 foot side setback instead of the 9 foot setback requested by the applicants. Second, the ALJ limited the size of the new structure to not more than 125% of the footprint of the residence that existed before Hurricane Isabel. The ALJ imposed these modifications out of a concern that the size of the proposed structure would “‘dwarf’ a neighboring dwelling” and “‘severely restrict that owner’s view of Seneca Creek.”

Appellants appealed the ALJ’s decision to the Board. After two postponements for procedural reasons, the Board held a de novo hearing on the application on January 5, 2015. At the hearing, appellee’s counsel suggested to the Board that, as an alternative to

⁴ The Property is in the Chesapeake Bay Critical Area and is therefore subject to the County’s Critical Area Program. The County Department of Environmental Protection and Sustainability (“DEPS”) reviewed the application and concluded that, although off-site mitigation would be required, the project would comply with the County’s Program as long as the total lot coverage did not exceed 31.25%. The proposed building will occupy 20% of the Property. Appellants do not argue that the proposed development violates the County’s Critical Area program.

seeking a variance, appellee was entitled to relief pursuant through the BCZR's special hearing procedure. Appellants' counsel objected to this. After the evidentiary phase of the hearing was concluded, the Board permitted counsel for the parties to submit post-hearing memoranda.

After considering the testimony and legal argument by counsel, the Board decided to grant the request described in the application and filed a written decision to that effect on July 23, 2015. We will discuss portions of the Board's opinion later; for the present, it is sufficient to note that the Board decided that it was not necessary for appellee to obtain a variance from the RC 5 District's minimum lot size requirement of 1.5 acres.

Additionally, the Board reasoned that appellee was entitled to relief either through application of the RC 5 grandfathering regulations or by a variance. The Board analyzed the evidence under both approaches and concluded that appellee was entitled to the relief he sought under each of them.

Appellants filed a timely petition for judicial review. The circuit court affirmed the Board's decision. This appeal followed.

Appellants present the following contentions, which we have reworded and reordered:

1. Did the Board err by permitting appellee to seek relief on grounds that were not set forth in the zoning petition?
2. Did the Board err by deciding that appellee did not require a variance?
3. Did the Board err by permitting appellee to build a non-conforming structure on the Property more than two years after the destruction of the prior structure?

4. Did the Board err in finding that the appellee met the criteria for relief under the BCZR's special hearing provision?

5. Did the Board err in finding that appellee met the criteria for a variance?

The Standard of Review

In a judicial review proceeding, the issue before an appellate court “is not whether the circuit . . . court erred, but rather whether the administrative agency erred.” *Bayly Crossing, LLC v. Consumer Protection Division*, 417 Md. 128, 136 (2010) (citations, internal quotation marks, and brackets omitted). For that reason, we “look through” the circuit court’s decision, in order to “evaluate the decision of the agency” itself. *People’s Counsel for Baltimore County v. Loyola College*, 406 Md. 54, 66 (2008).

In quasi-judicial proceedings, administrative agencies like the Board typically perform three functions: (1) making findings of fact; (2) identifying and interpreting the relevant legal standards; and (3) applying the law to the facts. Courts accept an agency’s factual findings if they are supported by substantial evidence, that is, if there is relevant evidence in the record that logically supports the agency’s factual conclusions. *Bayly Crossing*, 417 Md. at 139. An agency’s application of the law to the evidence presents a mixed question of law and fact. If the agency has correctly identified the applicable legal standard, courts of review defer to the agency’s application of the law to the facts before it, as long as the findings are supported by substantial evidence. *See Baltimore Lutheran High School Assoc. v. Employment Security Administration*, 302 Md. 649, 662 (1985). Although a reviewing court is not bound by the agency’s legal conclusions, we

“frequently give weight to an agency’s experience in interpretation of a statute that it administers.” *Schwartz v. Maryland Department of Natural Resources*, 385 Md. 534, 554 (2005). Finally, “[a]n agency’s decision is to be reviewed in the light most favorable to it and is presumed to be valid.” *Assateague Coastal Trust v. Schwalbach*, 448 Md. 112, 124 (2016) (citation and quotation marks omitted).

Analysis

1. Was the Public Notice Legally Adequate?

As we have related, at the hearing before the Board, appellee’s counsel suggested that appellee was entitled to relief through the grandfathering provisions of the BCZR by means of a special hearing as well as by a variance. Over the objection of appellants’ counsel, the Board considered this argument and eventually granted appellee the relief he sought on both grounds. Appellants contend that the Board erred in doing so. They point out that appellee’s petition requested only a variance. They argue that they were prejudiced at the hearing because they were not prepared to present evidence as to the compatibility of appellees’ proposal, and that the Board violated appellants’ right to due process and a fair hearing by permitting appellee to present a basis for relief that was not identified in the zoning petition and the public notice,

This argument is not persuasive. The petition and the Board’s notice of the hearing contained the same substantive information. Public notice of an administrative hearing is sufficient if it informs the public “clearly of the character of the action proposed and enough of the basis upon which it rest[s] to enable them to intelligently prepare for the

hearing.” *Cassidy v. Board of Appeals of Baltimore County*, 218 Md. 418, 425 (1958) (citation and quotation marks omitted). This standard has been reaffirmed in more recent cases. *See Baltimore St. Parking Co., LLC v. Mayor & City Council of Baltimore*, 194 Md. App. 569, 593–94 (2010); and *O’Donnell v. Basslers*, 56 Md. App. 507, 519 (1983).

The Board’s public notice reiterated the information that was set out in the zoning petition, namely, that appellee sought variances from the minimum lot size, lot coverage, and front, side and rear setbacks “to allow a replacement dwelling.” In our view, this clearly informed the appellants and other members of the public that appellee was seeking permission to build a house on the Property. This was sufficient for them to “intelligently prepare for the hearing.”

In this context, the Court’s analysis in *Cassidy* is instructive. In that case, the property owner filed an application to rezone property from residential to heavy manufacturing. 218 Md. at 422. After the public hearing, the Board granted a special exception for the use intended by the applicant (a power plant), in lieu of rezoning the property. In response to a challenge to the Board’s decision very similar to the one presented by appellants, the Court noted that the applicant had applied for “the least restricted, category of zoning in Baltimore County. . . . Anyone who attended the hearing prepared to defeat the above request would likewise have been prepared to defeat the grant of a special exception[.]” *Id.* at 425–26.

Finally, any error on the Board’s part was harmless because the Board also granted appellee a variance from the relevant BCZR regulations.

2. Was Appellee Required to Obtain a Variance from the Minimum Lot Size Requirements of the RC 5 District?

As we have noted, the BCZR establishes a minimum lot size in the RC 5 District of 1.5 acres. *See* BCZR § 1A04.03B.1.a. In his petition, and among other relief, appellee requested a variance from the strict application of that regulation. In its decision, the Board concluded that he did not require such a variance. The Board's reasoning was based on its interpretation of BCZR § 1A04.3.B.1.4, which, as we have explained, permits residential development of a nonconforming lot in the RC 5 District if (1) the lot had been conveyed by a deed recorded in the Baltimore County Land Records prior to the effective date of the RC 5 regulations, (2) the lot cannot be developed in conformance with the RC 5 District's minimum requirements, and (3) the lot is not part of an approved subdivision.

The record before the Board indicates that the Property was first conveyed in 1934. In its opinion, the Board stated that this conveyance predated the County's first zoning ordinance. The Board was correct; the County was not authorized to exercise zoning powers until 1941, when the General Assembly enacted the Baltimore County Zoning Enabling Act. *See Temmink v. Board of Zoning Appeals*, 205 Md. 489, 493 (1954). Appellants do not contest that strict application of the current RC 5 regulations render development of the Property impossible. Appellants assert, however, that the Property does not satisfy the third requirement. Therefore, according to them, § 1A04.3.B.4 is inapplicable. In their brief, they assert:

The preparation and recording of the Plat of Seneca Park Beach represents precisely the act described in BCZR § 101.1. Specifically, the original parcel of land was divided into multiple lots for building development, which process included the extensive modification of street and lot lines. Moreover, at a minimum, the plat was accepted for recording among the Land Records of Baltimore County, meaning the subdivision was “approved” to the fullest extent possible and necessary at the time of the subdivision.

We do not agree for two reasons. First, there is no documentation in the record that suggests that any government agency reviewed and approved the subdivision plat prior to its recordation. Appellants hypothesize that the Clerk of the Circuit Court must have reviewed the plat prior to accepting it for recordation but they do not identify any law that imposed such an obligation upon the clerk in 1926. Second, in this case, it is appropriate for us to consider the Board’s construction of the statute, which was that the term “approved” refers to subdivision approval by a County agency. We are not bound by the Board’s interpretation but we may give it weight. We agree with the Board. We hold that the phrase “approved subdivision” in § 1A04.3.B.4 means that lots which otherwise meet the statute’s criteria do not fall within the § 1A04.3.B.4’s remedial ambit if they were established by a plat that had been approved through the County’s subdivision review process, which is currently found in Article 32, Title 4 of the Baltimore County Code. Because the Seneca Park Beach plat was not approved in this fashion, the statute applies to the Property. The Board was correct when it decided that appellee did not need a variance from the minimum lot size standard for the RC 5 District.

3. Did the Prior Owner's Failure to Rebuild Within Two Years Affect Appellee's Ability to Seek Relief?

BCZR § 104.2 provides that a non-conforming structure can be rebuilt within two years after it is damaged or destroyed by a fire or similar catastrophe. Appellants concede that § 104.2 provides a two-year window to the Joneses to rebuild their home and further concede that the two year period began when the house on the Property was demolished in 2005. However, they note that the variance petition was not filed until 2014. From this premise, they contend:

By electing to allow that amount of time to pass, the Appellee's predecessors in title forfeited their right to the benefit of BCZR § 1A04.2 and must abide by the consequences. Furthermore, the consequences of that election bind the Appellee as the successor to Mr. and Mrs. Jones.

The actions of the Appellee and his predecessors in title have created a status quo in which the Property has remained unimproved and vacant for nearly ten years, without placing undue burden on the community and the Chesapeake Bay and its tributaries. Strict compliance with the applicable regulations would merely maintain that status, which result should have been encouraged by the Board. Instead, the Board and the Circuit Court ignored that reality and imposed a significant burden on the community and the adjacent waters.

Appellants point to no legal authority to support their contention and it is otherwise not persuasive. Without belaboring the point, non-conforming use statutes such as § 104.2 permit property owners to rebuild the destroyed or damaged structure as a matter of right. If an owner fails to rebuild within the statutory window, then he or she forfeits the *right* to rebuild and must obtain a variance or other administrative relief before doing so. This is what happened in the present case.

4. Did the Board misapply the standards for granting relief through the special hearing process?

In its opinion, the Board read the two grandfathering provisions of the RC 5 regulations in conjunction with one another. The Board concluded that the Property was grandfathered pursuant to BCZR § 1A.0.3.B.4, and that § 1A04.3.B.1.b requires review of appellee's requested relief through the special hearing process. Further, the Board decided it did not have the authority to waive compliance with the relevant RC 5 development standards set out in BCZR § 1A04.4.

The statute that establishes the special hearing remedy, BCZR § 500.7, does not contain specific standards for granting relief. The Board stated that "the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations." The Board then turned to BCZR § 502.1⁵ and, applying those standards, concluded that:

⁵ BCZR § 502.1 states:

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;

the requested relief does not adversely impact the health safety and welfare of the community and is consistent with the intent of the RC 5 regulations.

Appellants do not question the logic which led to the Board's conclusion that the appropriate test was whether appellee's proposal was compatible with neighboring properties. They do challenge, however, the Board's finding that the house proposed by appellee would be compatible. Specifically, appellants argue that their testimony at the hearing established that (1) construction of appellee's house would pose a fire hazard to Mr. Kiesling's home because the two homes would only be 11 feet apart; (2) appellee's home "would be inconsistent with the rest of the neighborhood because it would be built on a substantially larger footprint than the prior dwelling"; (3) appellee's proposed house "would effectively create a wall of houses along Beach Road, with a minimal gap between houses," with the result that the community would resemble a townhouse development"; (4) construction of the house would limit appellants' views of Seneca

E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

F. Interfere with adequate light and air;

G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

Creek from their residence; (5) the Property was subject to flooding and any attempts at remediation would negatively affect appellants and the waters of Seneca Creek by increasing run-off and pollution from fertilizers; and (6) construction of the proposed house would create traffic and parking problems on Beach Road.

The Board was not required to credit this testimony. For example, Mr. Kiesling, who raised the traffic and parking concerns, also testified that there were currently no parking or traffic problems on Beach Road. {E. 167} His concern about a fire hazard was expressed as a “possibility,” without further explanation. Both Mr. Kiesling and Mr. Kauder have unobstructed views of Seneca Creek over the Property but, as the Board noted in its opinion, absent an express easement, “there is no right to a water view across another’s property.”⁶ The Board also observed that appellants did not offer any expert testimony to support their traffic and environmental concerns. Appellee’s proposed house is smaller than Mr. Kiesling’s existing home and would be set further back from the street than either of the Kiesling and Kauder residences.

Bernadette Moskunas, appellee’s expert witness, testified that the proposed house would not adversely affect the health, safety, and welfare of the surrounding properties. None of the reports from the various County agencies that reviewed the project identified any negative impacts that would occur if appellee’s project was approved. Ms.

⁶ The appellants, of course, have views of the creek over their own properties.

Moskunas's testimony and the agency reports constituted a sufficient evidentiary basis to support the Board's finding.

5. Did the Board misapply the standards for granting a variance?

BCZR § 307.1 authorizes the Board to grant variances from height and area regulations when the applicant demonstrates that there are "special circumstances or conditions peculiar to the land . . . which is the subject of the variance request", and that strict compliance with the regulations would result in "practical difficulty or unreasonable hardship" to the applicant. Further, any variance actually granted must be "in strict harmony with the spirit and intent" of the regulations at issue and the specific relief must not injure the public health, safety and general welfare.

As an alternative basis for its decision, the Board granted a variance to appellee. It found that the Property was "different from other properties in the vicinity." Additionally, the Board found that strict application of the County zoning regulations imposed a practical difficulty upon appellee because "there is no location on the property where a residence could be constructed in compliance with the BCZR."

Appellants contend that the Board erred. They assert that (1) any practical difficulty is not related to the Property's dimensions and location; (2) granting the variance would be inconsistent with the spirit and intent of the BCZR; (3) a variance was inappropriate because any hardship was self-imposed; and (4) the variance imposes a substantial harm upon other residents in the community.

As this Court has explained, an administrative decision to grant a variance is a three-step process

The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is—in and of itself—unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e., a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance caused by the property's uniqueness, exists. Further consideration must then be given to the general purposes of the zoning ordinance.

Cromwell v. Ward, 102 Md. App. 691, 694–95 (1995) (footnote deleted).

Appellee certainly satisfied the first two criteria. Although the Property is approximately the same size as appellants' lots, all three are significantly smaller than most of the other properties in the Seneca Park Beach subdivision.⁷ This fact satisfies the “unique, unusual, or different” criterion. Imposition of the County's setback requirements

⁷ Although most of the lots in the Seneca Park Beach subdivision are 50 feet wide, they vary widely in depth. A copy of the 1928 subdivision plat was introduced by appellee at the Board's hearing. According to that plat, the side boundary lines of the Property were 170 and 180 feet long—about the same as they were at the time of the Board's hearing. In contrast, other waterfront lots were larger. For example, Lots 15 through 50 extended from 300 to 480 feet back from Seneca Park Road to the water. The same is true of inland lots. For example, Lots 117 through 148 were depicted on the 1928 plat as being approximately 400 feet deep. The discrepancy in lot sizes is confirmed by a contemporary aerial photograph of a portion of the community introduced into evidence by appellee.

renders it impossible for appellee to locate a structure on the Property. This is certainly a practical difficulty “resulting from the disproportionate impact of the ordinance caused by the property's uniqueness[.]”

Moving to the third step, there is no doubt that one of the purposes of the RC 5 regulations is to further the goals of the State’s Critical Area laws. *See* BCZR §§ 1A00.2 E; 1A04.1.B.3. The County’s Critical Area program recognizes the necessity of permitting in-fill development as long as the effects of that development are mitigated. As we previously noted, the County’s Department of Environmental Protection and Sustainability reviewed the application and concluded that, although off-site mitigation would be required, the project would comply with the County’s Program as long as the total lot coverage did not exceed 31.25%. The proposed building will occupy 20% of the Property. The variance in this case is consistent with the critical—no pun intended—legislative purpose of the BCZR.

Appellants’ argument that the hardship is self-imposed is based on the premise that the Joneses were required to rebuild within two years after demolition. As we have explained, this premise is incorrect. Equally unpersuasive is appellants’ contention that the variance imposes a hardship on the community. The reality is quite to the contrary. The Board’s decision will allow appellee to build a home on the Property, which is nothing more than what appellants and many other property owners in Seneca Beach Park have already done.

In conclusion, the Board was legally correct when it decided that the grandfathering provisions of the RC 5 regulations applied to the Property, that the appellee could obtain relief from the strict application of the RC 5 setback and lot coverage rules either through a special hearing or a variance, and that compatibility with the neighborhood was the operative standard for relief through a special hearing. The Board's factual findings were consistent with the applicable law and supported by substantial evidence. We affirm the Board's decision.

**THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE
COUNTY IS AFFIRMED. APPELLANTS TO PAY COSTS.**

KARL KIESSLING, et. al

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IN THE

Petitioners

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CIRCUIT COURT

v.

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FOR

ROBERT LONG

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BALTIMORE COUNTY

Respondent

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CASE NO. 03-C-15-9114

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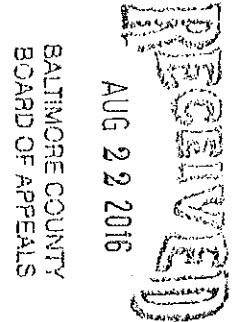
MEMORANDUM OPINION

This matter came before the Court on May 9, 2016 for a hearing on Petitioners' Memorandum in Support of Petition for Judicial Review (Paper #1000), Petitioners' Memorandum of Law in Support of Petition for Judicial Review (Paper #14000) and Respondents Memorandum in Opposition to Petition for Judicial Review (Paper #15000). Bruce Covahey, Esq. appeared on behalf of the Petitioners and Lawrence E. Schmidt, Esq. appeared on behalf of the Respondent. At the heart of the dispute is whether the granting of Respondent's requested zoning relief before the Board of Appeals (hereinafter "the Board") was proper.

STANDARD OF REVIEW

In reviewing a decision of an administrative agency, such as the Board, on a petition for judicial review, the decision of the that agency may only be reversed if the agency's determination is unconstitutional, exceeds the authority or jurisdiction of the final decision maker, results from an unlawful procedure, is affected by any other error of law, is unsupported by competent, material and substantial evidence or is arbitrary or capricious. Md Code Ann. State Gov't §10-222(h).

Upon a review of the file and hearing the arguments of counsel, significant portions of §10-222(h) appear inapplicable. There is no claim that the decision of the Board was unconstitutional, exceeded the authority or jurisdiction of the Board, or was arbitrary or



capricious. All five of the alleged errors contained in Petitioners' Memorandum of Law (Paper #14000) speak to a lack of evidentiary support, errors of law, a mixed question of law and fact or an unlawful procedure.

In an administrative appeal, the appellant bears the burden of establishing an error of law or that the agency's final decision was not supported by substantial evidence. *Doe v. Allegany County Dept. of Social Services*, 205 Md.App. 47, *cert. denied*, 427 Md. 609 (2012). In conducting the review, the Court is to review the decision in the light most favorable to the agency as decisions of administrative agencies are *prima facie* correct. *Maryland State Police v. Lindsey*, 318 Md. 325, 334 (1990).

In weighing the sufficiency of the evidence, a threshold standard of "substantial evidence" must be met. The parties here agree that the measure of "substantial evidence" is "more than a scintilla of evidence," such that a reasoning mind reasonably could have reached the same factual conclusion as the agency. *Lindsey*, 318 Md. at 333 (citing *Bulluck*, 238 Md. at 512). Furthermore, the Court should endeavor not to "substitute its judgment for the expertise of those persons who constitute the administrative agency from which the appeal is taken" and should exercise restrained and disciplined judicial judgment. *Grasslands Plantation, Inc. v. Frizz-King Enterprises, LLC*, 410 Md. 191, 203-204 (2009) (quoting *Bulluck v. Pelham Wood Apartments*, 283 Md. 505, 513 (1978); *Liberty Nursing Center, Inc. v. Department of Health and Mental Hygiene*, 330 Md. 433, 442 (1993)). Finally, the reviewing Court is to give deference to the factual findings and inferences of the agency if they are supported by the record. *Maryland Aviation Administration v. Noland*, 386 Md. 556, 571 (2005).

With regard to the application of the law, a reviewing Court is not bound by an erroneous conclusion of law. An administrative agency's interpretation and application of the statute which

the agency administers, or its interpretation and application of its own regulation, should ordinarily be given considerable weight by reviewing courts. *Oltman v. Maryland State Bd. Of Physicians*, 2005, 875 A.2d 200, 162 Md.App. 457, cert. denied 883 A.2d 915, 389 Md (2005).

DISCUSSION

Petitioners alleged four errors at the May 9 hearing before this Court:

- 1) The Board erred in determining that no variance was needed, which amounted to legal error on the part of the Board.
- 2) The Board erred in concluding that the property was unique for zoning purposes and in determining that a variance was warranted under the standard laid out in *Cromwell v. Ward*, specifically that the subject property was sufficiently unique.
- 3) The Board erred in concluding that special hearing relief was available to Respondents which amounted to legal error on the part of the Board.
- 4) The Board erred by granting relief on grounds not stated in the petition which amounted to legal error on the part of the Board.

Each allegation of error will be addressed in turn.

A. Whether a Variance was Needed

Petitioners first contend that the Board erred in determining no variance was needed. Section 1a04.3.b.4 of the Baltimore County Zoning Regulations provides an exception to the variance requirement if three conditions are met. First, the subject property must have been recorded prior to the effective date of the governing zoning regulations; second, the lot must not be part of an approved subdivision; and third, the lot must not be able to be developed in conformance with the minimum requirements provided in the zone. Petitioners concede the first and third elements are met. They take issue with the Board's conclusion that the second

requirement was met. Respondents argue that the lot was approved to the fullest extent possible in the zoning regulations at the time, and therefore the property qualifies as an approved subdivision. In giving considerable weight to the determination by the Board, the Court finds there is not clear and satisfactory evidence of any illegality in the Board's determination. Simply put, this Court finds there was no subdivision process in effect at the time of the recording of this property, and therefore, the Court finds no error in the Board's determination.

B. Uniqueness of Property; Cromwell v. Ward

Petitioner next contends that the Board erred in addressing the variance requirements and arriving at the conclusion that the variance standard was met. Specifically, the Petitioners contend that the Board erred in determining that the property was unique. *Cromwell v. Ward* sets the standard for granting variances in a two-step process.

"The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is-in and of itself-unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, *i.e.*, a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance *caused by* the property's uniqueness, exists."

Cromwell v. Ward, 102 Md.App 691, 694-695 (1995). Petitioners launch multiple attacks on the Board's application of this test. First, Petitioners assert that there were no facts presented to the Board which warranted a finding of uniqueness. Second, Petitioners argue that any alleged uniqueness is not the cause of any disproportionate impact on the property. Finally, Petitioners assert that the legal standard for finding a practical difficulty and/or undue hardship has not been met.

The Board's finding of uniqueness is a finding of fact that is measured against the substantial evidence test outlined above. Here, the length of the property and the contours of the

shoreline were both presented as evidence of uniqueness and the Board found the evidence presented sufficient to make such a finding. Based on the deferential nature of the standard above, and the fact that more than a scintilla of evidence was presented, this Court finds the evidence presented was sufficient to substantiate a finding of uniqueness such that reasoning minds could have reasonably reached the same conclusion as the Board, and thus, finds no error in that finding.

Regarding whether there has been a disproportionate impact caused by uniqueness, the Petitioners assert that the alleged uniqueness here, *ie.* the uneven property line lengths and the shoreline contour, do not cause the disproportionate impact. According to Petitioners, the inadequate side setbacks, notwithstanding any imperfections in the shape of the property, are truly what renders the property unbuildable. The Court here is not to endeavor to substitute its own judgment for that of the Board's and further, should give the fact findings of the Board a degree of deference. As such, there is nothing in the record which causes this Court to disturb the finding that the disproportionate impact was caused by the property's uniqueness.

To determine whether a practical difficulty or undue hardship exists, there must be an examination of three factors:

- 1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

McLean v. Soley, 270 Md. 208, 214-215 (1973). Petitioners acknowledge in regard to the first factor that strict compliance with the zoning regulations would preclude the building of any

dwelling, however, Petitioners argue the inability to build was self-inflicted.¹ With regard to the second factor, Petitioners argue there was testimony regarding multiple impacts to the neighbors if the proposed relief were granted such as the creation of fire hazards because of an inadequate setback; the proposed dwelling being larger than the previous dwelling and thus inconsistent with the rest of the neighborhood and affecting the views of other property owners of the shoreline; the potential of flooding on the property which could runoff into a tributary of the Chesapeake Bay or neighboring properties; as well as increased traffic and parking issues on beach roads. With regard to the third factor, Petitioners argue the spirit and intent of the zoning regulation in RC-5 zoned properties is to preserve the Chesapeake Bay and preserve resources and rural character, and any impact here would necessarily impact the Bay, and thus, contrary to the spirit and intent of RC-5 zoning. Despite Petitioners contention, there is nothing within the record which shows that the Board's application of the *McLean* factors was erroneous, and as such, the Court will not disturb the Board's findings.

C. Special Hearing Relief

Petitioners argue that the Board's determination that special hearing relief was available pursuant to BCZR 1a.04.3.b.1.b.1. To be eligible for special hearing relief, the owner of a single lot must: not be a part of a subdivision, be in existence prior to September 2, 2003, and does not meet the minimum acreage or setback requirement. Petitioners concede the latter two requirements are met; however, Petitioners assert the same argument as to a subdivision that was asserted in discussing the determination that no variance was needed with the caveat that the requirement here does not include an "approved subdivision." Furthermore, special hearing

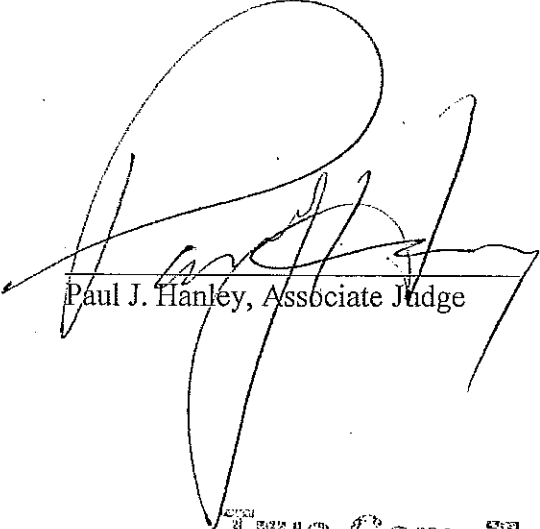
¹ BCZR 104.2 provides any structure that represents a non-conforming use, such as the previous structure, which is damaged by fire or other casualty, may be restored within two years of such damage but may not be enlarged. Here, Petitioners argue that the Respondents failed to avail themselves of this provision and thus caused their own practical difficulty.

relief is only warranted where the proposed use of the property would not adversely impact the health, safety and welfare of the community and such use is generally consistent with the spirit and intent of the legislature. Petitioner incorporated their argument regarding this requirement through reference to the negative affects asserted in discussing the Cromwell standard above.

The Court incorporates its ruling above in subsection A as to the determination of whether the property is part of a subdivision and subsection B as to the adverse impact of the property and intent of the legislature, and therefore, finds no legal error in the Board's finding that special hearing relief was warranted.

D. Grounds for Granting Petition

Petitioners finally argue that the Respondents basis for requesting a variance at the hearing substantially deviated from the grounds raised in the petition, prejudicing Petitioners by depriving them of the due process requirements of notice and an opportunity to be heard. However, Appellees correctly point out that no rules of pleading exists before the Board of Appeals, and further, the parties were permitted to submit memoranda following the proceeding and prior to the Board rendering a decision. Accordingly, for the foregoing reasons Petitioners appeal will be dismissed. Order to be signed

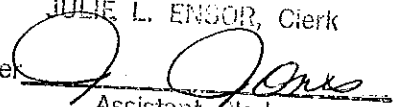


Paul J. Hanley, Associate Judge

True Copy Test

JULIE L. ENSOR, Clerk

Per



Assistant Clerk

KARL KIESSLING, et. al

Petitioners

v.

ROBERT LONG

Respondent

*

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IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

CASE NO. 03-C-15-9114

* * * * *

ORDER

For the reasons set forth in the foregoing Memorandum Opinion of this date,

It is this 12 day of August 2016

ORDERED that the decision of the Board of Appeals is **AFFIRMED**.


Paul J. Hanley, Associate Judge

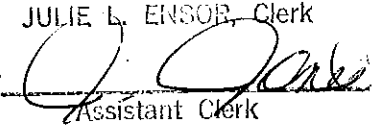
Clerk to:

- 1) Docket Order
- 2) Send copies to all parties

True Copy Test

JULIE L. ENSOR, Clerk

Per


Assistant Clerk

RECEIVED

AUG 22 2016

BALTIMORE COUNTY
BOARD OF APPEALS

FILED AUG 18 2016

PETITION FOR VARIANCE	*	BEFORE THE
(3505 Beach Road)		
	*	BOARD OF OFAPPEALS
15 th Election District		
6 th Coucilmanic District	*	OF
Roy E. (Deceased) & Jean Jones, Owner	*	BALTIMORE COUNTY
Robert Long –Contract Purchaser	*	Case No. 14-172-A
Petitioners		

*

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County (the “Board”) as a Petition for Variance filed by Roy E. Jones (Deceased) and Jean Jones, Legal Owners and Robert Long, Contract Purchaser (“Petitioners”). The Petitioners are requesting variance relief from Sections 1A04.3 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows: (1) to allow an area of 9,750 sq. ft in lieu of the required 1.5 acres; (2) to allow an open projection deck with a setback of 13 ft. in lieu of the required 37.5 ft.; (3) to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft from any lot line, respectively; (4) to allow a building coverage of 20% in lieu of the maximum required 15. A hearing was held before the Board on January 5, 2015 and this matter was publicly deliberated on April 6, 2015. Petitioners were represented by Lawrence E. Schmidt, Esquire, of Smith, Gildea, and Schmidt, LLC. Protestants, Kevin and Anne Kauders, and Karl Kiesling, neighbors to the property in question, were represented by Bruce E. Covahey, Esquire, of Covahey and Boozer, P.A.

Zoning Advisory Committee (ZAC) comments were received into evidence by the Petitioner from the Department of Planning (DOP) dated April 7, 2014, and the Bureau of

Development Plans Review (DPR) dated March 20, 2014 and the Department of Environmental Protection and Sustainability (DEPS) dated April 11, 2014. DPR noted Petitioners were required to satisfy the County's flood protection laws, while DEPS indicated Petitioners must satisfy the Critical Area regulations. The DOP did not oppose the Petition.

Testimony from the Petitioners revealed that the subject property is approximately 9,750 square feet and is zoned RC 5. Petitioner (Mr. Long) is planning to purchase the property, and requires variance relief to construct a replacement dwelling on the site. The site was improved with a single family dwelling but the structure had to be razed after suffering extensive storm damage. The B.C.Z.R. permits nonconforming structures which are destroyed by casualty to be reconstructed and the regulations also permit the Zoning Commissioner to authorize an enlargement ("extension") of the original structure by 25% of the ground floor area. (B.C.Z.R. sections 104.2 and 104.3.)

Bernadette Moskunas testified on behalf of the Petitioners and opined that the both the size and shape of the property are unique. She noted the irregular depth, the acreage, and configuration of the property are unlike other properties in the area. Ms. Moskunas also testified that the Petitioners would suffer practical difficulty if their request to construct a replacement dwelling is denied, because due to the property's size, shape, and configuration there is no location on the property where a residence could be reconstructed in conformance with the BCZR. Ms. Moskunas further testified that considering the surrounding neighborhood the site constraints at issue, the construction of the proposed dwelling would be consistent with the RC 5 zoning regulations, compatible with the neighborhood and would not cause injury to the public health, safety, or general welfare.

As presented into evidence by the Protestants, the Protestants reside on lots abutting the property on either side, respectively. Their properties are each improved by single-family dwellings. Neither dwelling complies with the R.C.5 regulations, however each dwelling represents the continuance of a pre-existing non-conforming use. (BCZR § 101.01.) The residence on the Kiesling property, located at 3503 Beach Road, was constructed in 2005, after the previous dwelling was damaged by Hurricane Isabel in 2003 and razed in 2004. The current dwelling sits within the footprint of the prior dwelling, however, is taller than the prior residence. The Kauders residence located at 3507 Beach Road, was constructed in or about 1947, thus predating the adoption of the Baltimore County's comprehensive zoning. The carport attached to the house has been converted into an enclosed garage.

The Protestants testified that the proposed dwelling would be inconsistent with the rest of the neighborhood because it would be built on substantially larger footprint than the prior dwelling. Protestant Kevin Kauders testified that in his opinion the proposed development would result in making the community resemble a "townhouse development", which he finds not to be appropriate in a community abutting a tributary of the Chesapeake Bay. Protestants further testified that the property is prone to significant flooding. Protestants further argue that the construction of a new home on the property would interfere with the views currently enjoyed. In particular, Protestant, Kevin Kauders, testified that his view would be significantly reduced because of the proposed new dwelling. Finally, the Protestants also noted that constructing a dwelling on the property will increase existing parking problems on Beach Road. Protestants argue that the street is currently inadequate to support existing traffic needs. Adding new residents to the neighborhood will only increase the burden on Beach Road and the surrounding roads. No expert testimony was offered as to traffic volume.

ARGUMENTS

A. Applicability of Lot Requirements for the R.C. 5 Zone

Although the Petitioners originally requested variance relief, they now also argue that such relief is not required from the Minimum Lot Area Requirement, since no “lot” is actually being “created.” The regulation at issue is BCZR § 1A04.3.B.1a, which states, “[a] lot having an area of less than 1 ½ acres may not be created in an R.C.5 Zone.” The word at issue is the meaning of the term “created.” Petitioners argue that this provision is not applicable in the present case as no lot is being created by the Petitioners requested relief. Evidence presented to the Board reflects that the lot at issue was created many years ago, when the Seneca Park Beach Plat, dated May 28, 1926, was recorded in the Land Records. (See Petitioners’ Exhibit 2.)

The Board concurs with the Petitioner’s logic that lots that were in existence prior to when the 1.5 acre minimum was adopted must be grandfathered. If that were not the case, there would be hundreds of RC 5 lots in Baltimore County (including the Protestants) that are illegal because they were created prior to the adoption of BCZR § 1A04.3.B.1.a. The lot at issue was created in 1926 and predates the creation of the first zoning regulations that were adopted in Baltimore County in 1945.

Additionally, Petitioners argue that pursuant to BCZR § 1A.04.3.B.4, the property at issue qualifies for an exception from the setback and lot coverage regulations and variance relief is not required. BCZR § 1A.04.3.B.4 provides for an exception for certain properties in the RC 5 zone from these setback standards and lot coverage requirements. It states:

Exceptions for certain lots. Any existing lot or parcel of land with boundaries duly recorded among the land records of Baltimore County with the approval of the Baltimore County Department of Planning on or before the effective date of these zoning regulations and not part of an approved subdivision that cannot meet the minimum standards as provided within the zone may be approved

for residential development in accordance with the standards prescribed in force at the time of the lot recordation.

The provisions of the BCZR for which the Petitioners seek relief primarily relate to setbacks for the proposed dwelling. As noted above, they are: (1) to allow an open projection deck (in the rear yard/street) with a setback of 13 ft. in lieu of the required 37.5 ft.; (2) to allow a replacement dwelling with a rear yard setback of 33 ft. in lieu of the required 75 feet to the centerline of the road; (3) a variance to allow 9 feet setbacks on both sides in lieu of the required 50 ft. from any lot line; and (4) to allow a building coverage of 20% in lieu of the maximum required 15%. Petitioners contend that the following elements must be established under BCZR § 1A.04.3.B.4 in order for lot to qualify for this exception: (1) An existing lot must be recorded in the Baltimore County Land Records prior to the effective date of the governing regulations; (2) the lot must not be a part of an approved subdivision; (3) the lot must not be developed in conformance with the minimum standards provided within the zone; and (4) if elements (1)-(3) are satisfied, then residential development may be permitted on the lot in accordance with the standards prescribed in force at the time of the lot recordation.

In the case at bar, the existing lot was recorded in the Baltimore County Land Records on May 28, 1926, well before the effective date of the RC 5 zoning classification, which was enacted in 1975. (See County Council Bill 98-1975.) Thus, element (1) has been satisfied. Similarly, element (2) has also been met because in 1926 Baltimore County had yet to enact a subdivision process. In fact, zoning regulations were not introduced in Baltimore County until 1945; therefore, the property at issue was not part of an approved land recorded subdivision. The Seneca Park community, as shown on the plat, was never approved by Baltimore County as no Department of Planning existed when the plat was recorded. Addressing element (3), considering the 50 ft. width of the property, the limited and uneven depth of the property, the property's proximity to the

shoreline and location within the Chesapeake Bay Critical Area, and the regulations that govern thereto, it is clear that the property at issue would not be developable in conformance with the RC 5 standards.

The Protestants argue that BCZR § 101.1 provides that a “subdivision” is “[t]he subdivision of any tract or Parcel of land... into two or more lots, plots or other subdivision of land for the purpose, whether immediate or in the future, of building development for rental or sale...” BCZR § 101.1, consequently, the Protestants argue that the preparation and recording of the Plat of Seneca Park Beach represents precisely the act described in BCZR §101.1. Specifically, the original parcel of land was divided into multiple lots for building development. The Board does not find this argument to be persuasive in that the Plat of Seneca Park Beach was recorded well before the adoption of any Baltimore County zoning regulations or subdivision requirements and thus cannot be considered part of a “subdivision” contemplated by current zoning regulations. Consequently, the Board finds that the Petitioner’s request has met the first three criteria of BCZR § 1A.04.3.B.4.

BCZR § 1A.04.3.B.4 further states that if the first three criteria are established then the property “may be approved for residential development in accordance with the standards prescribed in force at the time of the lot recordation.” In this case, there were no regulations in place in 1926 and thus no standards prescribed in force at the time of the lot recordation, however, as noted by the Petitioners, the RC 5 regulations set forth certain “performance standards” as set out in BCZR § 1A04.4. These performance standards contained in a separate subtitle within the RC 5 regulations and thus are not subject to waiver via the exception in BCZR § 1A.04.3.B.4. In this circumstance, the performance standards are in place to monitor proposed development and ensure that it is appropriate in the absence of other regulation. Accordingly, the Petitioners cannot redevelop the property in a manner that does not satisfy the performance standards in BCZR §

1A04.4. As previously noted, the DOP (within their ZAC comment) supported Petitioners' requested relief stating, "the proposal was consistent with the RC 5 zone performance standards."

In sum, an exception to the setback and lot coverage requirements is proper under BCZR § 1A.04.3.B.4 without requesting variance relief.

B. Should the proposed dwelling be permitted through Special Hearing Relief Pursuant to BCZR § 1A04.3.B.1b.1?

BCZR § 1A04.3.B.1b.1 states:

The owner of a single lot of record that is not a subdivision and that is in existence prior to September 2, 2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a special hearing under Article 5 to alter the minimum lot size requirement. However, the provisions of Sections 1A04.4 may not be varied.

This Board finds that BCZR § 1A04.3.B.1b.1 is applicable to this matter, and now must determine the necessary standard used in evaluating Special Hearing requests. Special Exceptions are adjudged pursuant to § 502.1 (detrimental to the health, safety, and welfare of the locale). Special Hearings have been likened to a declaratory judgment. (See *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005).) Within the regulation that authorizes the filing of a Special Hearing (BCZR § 500.7), there is no standard identified which delineates the circumstances when Special Hearing relief should be granted. Historically, the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations. In applying the § 502.1 standard to the case at bar, the Board finds, as testified by Ms. Moskunas, that the requested relief does not adversely impact the health, safety and welfare of the community, and it is consistent with the intent of the RC 5 regulations. Protestants have raised the objection that the proposed development will cause interference with their view of the water. This Board finds that

it is well established that without a view easement there is no right to a water view across another's property, consequently, while not being an ideal situation for adjoining neighbors, the interference with water view cannot be seen as a negative impact in the neighborhood for the § 502.1 analysis. Additionally, no expert testimony was offered by the Protestants regarding their claims of possible traffic problems or environmental issues. As previously noted, this project was reviewed by relevant County agencies. County review of this request indicates that the proposal is in compliance with the goals of the governing regulations. As noted, DEPS evaluated the subject Petition for compliance with the goals of Critical Area Law, stating the "the relief requested will be consistent with established land-use policies for development in the Critical Area." DPR stated that Petitioner's requested building is proposed to be built to the elevation required. The DOP supported Petitioner's requested relief, finding that "the proposal was consistent with RC 5 zone performance standards." If the proposal was deemed noncompliant with any Regulations to recommend denial of the instant project, no such denial was recommended in this case.

C. Effect of new construction outside of the two year time period permitted to construct a replacement dwelling under BCZR § 305.1 and BCZR § 104.2.

Protestants concede that the dwelling previously located on the property at issue existed as a permitted non-conforming use. Protestants note that BCZR § 101.1 BCZR § 104.2 provides that any structure that represents a non-conforming use is "damaged to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but may not be enlarged." That provision afforded the Petitioners a period of two years after the demolition of the original dwelling within which to build a new dwelling on the property.

As noted by the Petitioners, Protestant, Mr. Kiesling testified that he purchased the property located at 3503 Beach Road in 2001. Mr. Kiesling further testified that thereafter, Hurricane Isabel struck in 2003, rendering the home that he purchased unlivable. After Hurricane Isabel, Mr.

Kiesling then constructed a replacement dwelling in 2006, 5 feet away from the property line at 3504 Beach Road, *without requesting a variance or any other zoning relief*. This construction can be construed as outside of the two year time period in which Mr. Kiesling would have been permitted to construct a replacement dwelling under BCZR § 305.1 and BCZR §104.2. Therefore, under the BCZR, Mr. Keisling may have been required to request a variance or other zoning relief in order to rebuild his home in 2006 and did not do so. While the mere fact that Mr. Kiesling did not request zoning relief for the building of his replacement home does not entitled the Petitioner to do so as well, it does illustrate the fact that the County has been flexible in the application of regulations in the case of those affected by the disastrous effects of Hurricane Isabel. Consequently, the Board does not find that failure to rebuild in the two-year window contemplated by BCZR § 305.1 and BCZR § 104.2 precludes the proposed development in the case at bar.

D. Variance Analysis

Although the Board has determined that the Petitioners do not require variance relief as a result of the application of BCZR § 1A04.3.B.1a and BCZR § 1A.04.3.B.4, the Board will comment briefly on the variance issue.

Protestants contend that the parcel at issue is essentially identical to all other parcels in the neighborhood and is not unique for zoning purposes pursuant to *Cromwell V. Ward*, 102 Md. App. 691 (1995.) Additionally, Protestants argue that no practical difficulty exists because if the proposed variances are denied that the status quo would be maintained and the Petitioner's would be limited to rebuilding within the confines of the previous structure. At the Board's hearing, Ms. Moskunas testified that both the size and shape of the property is unique. More particularly, she emphasized the impact of the shoreline on the depth of the property, which unlike other lots in the neighborhood, creates a western property boundary of +/- 180 feet and an eastern property

boundary of +/- 170 feet. Similarly, Ms. Moskunas testified that at 9,750 square feet in area, the size of the subject property is also different from other properties in the vicinity. Testimony was offered that no other lot in the area shares these dimensions. Additionally, the property was also impacted particularly severely by Hurricane Isabel, causing total destruction of the previously existing dwelling, which has caused the property to be one of the few vacant lots in the neighborhood. Considering these facts in conjunction with application of the Maryland Chesapeake Bay Critical Area Law, renders the property at issue unique. More particularly, the Maryland Chesapeake Bay Critical Area Laws and Baltimore County's Buffer Management Regulations require structures to be setback from the water and closer to the road; conversely, the RC 5 zoning regulations require structures to be setback at least 5 feet from the center line of any road. Therefore, because the zoning regulations and environmental regulations at issue are intended to serve competing goals, combined with the unique shape and size of the property, the lack of feasible building area is exacerbated by the combination of these factors. Moreover, in consideration of the unique circumstances, the DOP and Ms. Moskunas both concluded the proposed dwelling is consistent with the neighborhood as well as the RC 5 zoning regulations. Ms. Moskunas also testified that the Petitioners in this case would suffer practical difficulty if their request to construct a replacement dwelling is denied, because there is no location on the property where a residence could be constructed in conformance with the BCZR. Further, Ms. Moskunas testified that considering the surrounding neighborhood and site constraints at issue, the construction of the proposed dwelling would be consistent with the RC 5 zoning regulations and would not cause injury to the public health, safety, or general welfare.

Although the Board does not find that variance relief is required in this matter, in reviewing the competing points of views of the Petitioners and Protestants as to whether the property is

unique whether practical difficulty exists, the Board finds the Petitioner's arguments to be persuasive and finds that the Petitioner's would be eligible for variance relief if it were necessary.

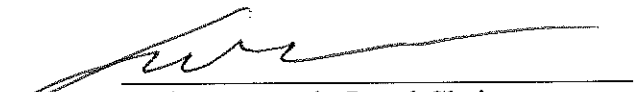
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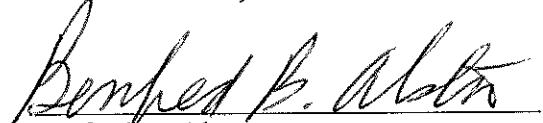
THEREFORE, IT IS THIS 23rd day of July, 2015 by the Board of Appeals of Baltimore County

ORDERED that the Petitioner's requested relief from Sections 1A04.3 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows: (1) to allow an area of 9,750 sq. ft. in lieu of the required 1.5 acres; (2) to allow an open projection deck with a setback of 13 ft. in lieu of the required 37.5 ft.; (3) to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft from any lot line, respectively; (4) to allow a building coverage of 20% in lieu of the maximum required 15; are hereby GRANTED pursuant to the standards used to review this request Section 502.1 of the BCZR or in the alternative through Petition for Variance in keeping with *Cromwell v. Ward*.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
FOR BALTIMORE COUNTY**


Andrew M. Belt, Panel Chairman


Benfred B. Alston

Richard A. Wisner was a Panel member at the hearing on January 5, 2015 and public deliberation on April 6, 2015. His term expired on April 30, 2015 and he was not reappointed.



Board of Appeals of Baltimore County

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July 23, 2015

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RE: *In the Matter of: Roy E. Jones (Deceased) & Jean Jones – Legal Owner*
Robert Long – Contract Purchaser
Case No.: 14-172-A

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script, reading "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: Jean Jones
Robert Long
Kevin and Anne Kauders
Karl Kiesling
Bernadette Moskunus/Site Rite Surveying, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy C. West, Assistant County Attorney
Michael E. Field, County Attorney, Office of Law

KEVIN KAMENETZ
County Executive



LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

May 27, 2014

RECEIVED
MAY 27 2014

BALTIMORE COUNTY
BOARD OF APPEALS

Jean Jones
503 Elm Street
Conway, South Carolina 29526

Robert Long
3827 Annadale Road
Baltimore, Maryland 21222

RE: APPEAL TO BOARD OF APPEALS – PETITION FOR VARIANCE

Property: 3505 Beach Road
Case No.: 2014-0172-A

Dear Ms. Jones and Mr. Long:

Please be advised that an appeal of the above-referenced case was filed in this Office on May 19, 2014. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Stahl", is written over the word "Sincerely,".

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Bernadette Moskunas, 200 E. Joppa Road, Room 101, Towson, Maryland 21286
Kevin and Anne Kauders, 3507 Beach Road, Middle River, Maryland 21220
Karl Kiesling, 3503 Beach Road, Middle River, Maryland 21220

APPEAL

Petition for Variance
(3505 Beach Road)

15th Election District – 6th Councilmanic District

Legal Owner: Roy E. (Deceased) & Jean Jones, *Owner* and Robert Long, *Contract Purchaser*
Case No. 2014-0172-A

Petition for Variance Hearing (February 21, 2014)

Zoning Description of Property

Notice of Zoning Hearing (March 13, 2014)

Certificate of Publication (March 27, 2014)

Certificate of Posting (March 26, 2014) SSG Robert Black

Entry of Appearance by People's Counsel (March 14, 2014)

Petitioner(s) Sign-in Sheet – One

Citizen(s) Sign-in Sheet – One

Zoning Advisory Committee Comments

Petitioner(s) Exhibits -

1. Site Plan
2. Aerial Photo of Site
3. SDAT Record; Deed and Boundary Survey
4. Photos and Proposed Elevations
5. Seneca Park Beach Plat

Protestants' Exhibits – None

Miscellaneous (Not Marked as Exhibits)

Administrative Law Judge Order and Letter (GRANTED with Conditions – April 23, 2014)

Notice of Appeal – May 19, 2014 from Kevin Kauders & Anne Franey (Kauders) (3507 Beach Road) and Karl Kiesling (3503 Beach Road)

KEVIN KAMENETZ
County Executive



LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

May 27, 2014

RECEIVED

MAY 27 2014

BALTIMORE COUNTY
BOARD OF APPEALS

Jean Jones
503 Elm Street
Conway, South Carolina 29526

Robert Long
3827 Annadale Road
Baltimore, Maryland 21222

RE: APPEAL TO BOARD OF APPEALS – PETITION FOR VARIANCE

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LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Bernadette Moskunas, 200 E. Joppa Road, Room 101, Towson, Maryland 21286
Kevin and Anne Kauders, 3507 Beach Road, Middle River, Maryland 21220
Karl Kiesling, 3503 Beach Road, Middle River, Maryland 21220

APPEAL

**Petition for Variance
(3505 Beach Road)**

15th Election District – 6th Councilmanic District

**Legal Owner: Roy E. (Deceased) & Jean Jones, *Owner* and Robert Long, *Contract Purchaser*
Case No. 2014-0172-A**

Petition for Variance Hearing (February 21, 2014)

Zoning Description of Property

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Administrative Law Judge Order and Letter (GRANTED with Conditions – April 23, 2014)

Notice of Appeal –May 19, 2014 from Kevin Kauders & Anne Franey (Kauders) (3507 Beach Road) and Karl Kiesling (3503 Beach Road)

JB
4/15/14

IN RE: PETITION FOR VARIANCE

(3505 Beach Road)

15th Election District

6th Councilman District

Roy E. (Deceased) & Jean Jones, *Owner*

Robert Long

Contract Purchaser

Petitioners

BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2014-0172-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Roy E. Jones (Deceased) and Jean Jones, legal owners and Robert Long, contract purchaser ("Petitioners"). The Petitioners are requesting variance relief from Sections 1A04.3 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows: (1) to allow an area of 9,750 sq. ft. in lieu of the required 1.5 acres; (2) to allow an open projection deck with a setback of 13 ft. in lieu of the required 37.5 ft.; (3) to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively; and (4) to allow a building coverage of 20% in lieu of the maximum required 15%. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests was Robert Long and Bernadette Moskunus, whose firm prepared the plan. The adjoining neighbors on either side of the subject property attended the hearing and opposed the petition. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations.

Zoning Advisory Committee (ZAC) comments were received from the Department of

Planning (DOP) dated April 7, 2014, the Bureau of Development Plans Review (DPR) dated March 20, 2014, and the Department of Environmental Protection and Sustainability (DEPS) dated April 11, 2014. DPR noted Petitioners were required to satisfy the County's flood protection laws, while DEPS indicated Petitioners must satisfy the Critical Area regulations. The DOP did not oppose the Petition.

Testimony and evidence revealed that the subject property is approximately 9,750 ± square feet and is zoned RC 5. Petitioner (Mr. Long) is planning to purchase the property, and requires variance relief to construct a dwelling on the site. The site was improved with a single family dwelling but the structure had to be razed after suffering extensive storm damage.

To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

Petitioners have met this test, although I do not believe that the Petition as filed should be granted in its entirety, as discussed below. The lot is narrow and deep, and was created over 80 years ago. As such, it is arguably unique.

If the B.C.Z.R. were strictly interpreted, the Petitioners would suffer a practical difficulty, given they would be unable to construct a replacement dwelling on site. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the DOP's comment, which found the proposal was consistent with the RC 5 zone performance standards.

The original dwelling on the site was substantially smaller than the one proposed by

Petitioners. While it is true, as noted by the DOP, that many of the original homes in the area have been replaced with much larger dwellings, the circumstances here are such that the proposed structure (w/ 9' side yard setbacks) would "dwarf" the neighboring dwelling at 3507 Beach Road. It would also severely restrict that owner's view of Seneca Creek.

The B.C.Z.R. permits nonconforming structures which are destroyed by casualty to be reconstructed, and the regulations also permit the Zoning Commissioner to authorize an enlargement ("extension") of the original structure by 25% of the ground floor area. B.C.Z.R. §§104.2 and 104.3. I believe that is the more appropriate remedy in this case, and variance relief will be granted to that extent. To address the concerns raised by the neighbors, the side yard setbacks shall be no less than 10 feet.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted in part and denied in part, as follows.


THEREFORE, IT IS ORDERED, this 23rd day of April, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Sections 1A04.3 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) to allow an area of 9,750 sq. ft. in lieu of the required 1.5 acres; (2) to allow an open projection deck (in the rear yard) with a setback of 13 ft. in lieu of the required 37.5 ft.; (3) to allow a replacement dwelling with a rear yard setback of 33 ft. and 10 ft. setbacks on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively; and (4) to the extent necessary when constructing a replacement dwelling that is no greater than 25% larger than the former dwelling on site which was razed, to allow a building coverage of 20% in lieu of the maximum required 15%, be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioners shall be permitted to construct on the site a replacement dwelling that is (at the maximum) 25% larger than the ground floor area of the former dwelling which was razed due to storm damage.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Petitioners must comply with the ZAC comments of the DEPS and Bureau of DPR, copies of which are attached hereto and incorporated herein.
- Petitioners may extend/increase by up to 25% of the ground floor area of the prior (now razed) structure the size of the replacement dwelling, and the site plan shall be revised accordingly within fifteen (15) days of the date hereof.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
*Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections*

April 9, 2014

Ms. Jean Jones
503 Elm Street
Conway SC 29526

RE: Case Number: 2014-0172 A, Address: 3505 Beach Road

Dear Ms. Jones:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on February 21, 2014. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
Robert Long, 3827 Annadale Road, Baltimore MD 21222

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

Date: 3/17/14

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No 2014-0172-A
Variance
Roy E. & Jean Jones
3505 Beach Road

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2014-0172-A.

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us).

Sincerely,

A handwritten signature in black ink, appearing to read 'Steven D. Foster', is written over a horizontal line.

Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

FROM: Dennis A. Kennedy, ^{DAK}Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For March 20, 2014
Item No. 2014-0172

DATE: March 20, 2014

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comments.

The base flood elevation for this site is 10.2 feet [NAVD 88].

The flood protection elevation is 11.2. feet.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the *International Building Code*.

DAK: CEN.
Cc: file.
ZAC-ITEM NO 14-0172-03172014.doc

4/10/14
wcr

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: April 7, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 3505 Beach Road

INFORMATION:

Item Number: 14-172

Petitioner: Jean Jones

Zoning: RC 5

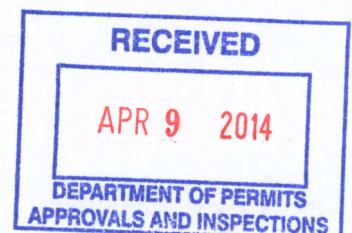
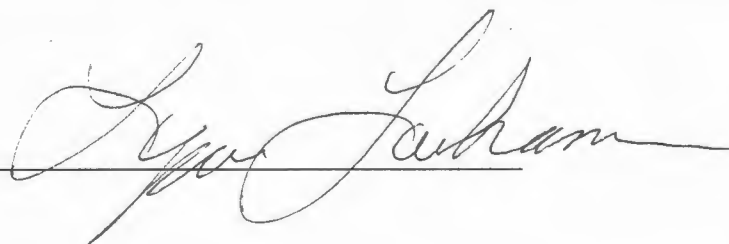
Requested Action:

The petitioner is requesting relief for side yard and rear yard setbacks as well as a setback from the road centerline. Relief is also needed for the lot size, for an area of 9,750 square feet, in lieu of the required 1 ½ acres. Additionally, the building will cover 20% of the lot, as opposed to the maximum allowed 15%.

The subject site is at the very end of Seneca Park Road in an area with many narrow lots that have houses very close to one another. The dwelling proposed in this petition is similar in size and style to the surrounding houses. The petitioner has submitted architectural elevations along with photos of the subject site and the surrounding area.

This department has reviewed the submittals and finds the proposal to be in accordance with the spirit and intent of the performance standards listed within Section 1A04.4 of the Baltimore County Zoning Regulations. In sum, this office does not oppose the subject request.

Division Chief:
AVA/LL



BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: David Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: April 11, 2014

SUBJECT: DEPS Comment for Zoning Item # 2014-0172-A
Address 3505 Beach Road
(Jones Property)

Zoning Advisory Committee Meeting of March 10, 2014.

EPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area (LDA) and a Buffer Management Area (BMA) and is subject to Critical Area requirements. The applicant is proposing to permit a dwelling with a reduced rear yard setback, reduced deck setback, less building coverage, and less lot area than permitted. Lot coverage on the entirety of this property is limited to 31.25% (3046 square feet), with mitigation required for lot coverage above 25% (2437 square feet). Lot coverage information was not provided. 15% afforestation, or 3 trees, is required in the LDA; existing trees that will remain may be counted towards this requirement. If the applicant can meet the lot coverage requirements and the 15% afforestation requirements, the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This property is waterfront. If both lot coverage and afforestation requirements are met, that will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts;

Afforestation and lot coverage information were not included. Provided that the applicants meet all the requirements stated above, the relief requested will be consistent with established land-use policies.

Reviewer: *Regina Esslinger – Environmental Impact Review (EIR)*

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 25, 2014 Issue - Jeffersonian

Please forward billing to:

Bob Long
3827 Annadale Road
Baltimore, MD 21222

410-336-5100

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2014-0172-A

3505 Beach Road

E/s Beach Road at the distance of 245 ft. s/of centerline of Seneca Park Road

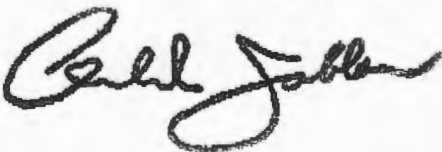
15th Election District – 6th Councilmanic District

Legal Owners: Ray E. Jones (deceased) & Jean Jones

Contract Purchaser: Robert Long

Variance to allow an area of 9,750 sq. ft. in lieu of the required 1 ½ acres; to allow an open projection deck with a setback of 13 ft. in lieu of the required 37 ½ ft.; to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively. To allow a building coverage of 20% in lieu of the maximum required 15%; to allow any variances deemed necessary by the Administrative Law Judge.

Hearing: Tuesday, April 15, 2014 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



CBCA

FLOOD

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 3505 Beach Rd, Balto, MD 21222 which is presently zoned RC5

Deed References: 010162/00663 10 Digit Tax Account # 1502201030

Property Owner(s) Printed Name(s) Ray E. Jones & Jean Jones

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

2. a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for

3. a Variance from Section(s)

See attached.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

TO be presented at hearing.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Robert Long

Name- Type or Print

Signature

3827 Annadale Rd Balto MD 503 Elm St Conway SC

Mailing Address

City

State

Legal Owners (Petitioners):

Ray E. Jones, Jean Jones

Name #1 - Type or Print

Name #2 - Type or Print

Deceased

Signature #1

Signature #2

29526 18432430307

Mailing Address

City

State

21222 / 4103365100

Zip Code

Telephone #

covenantreality@

Email Address

MBIS.com

29526 18432430307

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Representative to be contacted:

Robert Long

Name - Type or Print

Signature

3827 Annadale Rd Balto MD

Mailing Address

City

State

21222 / 4103365100 / covenantreality@

Zip Code

Telephone #

Email Address

MBIS.com

CASE NUMBER 2014-0172-A

Filing Date 2/21/14

Do Not Schedule Dates:

Reviewer JF



CBCA

PETITION FOR ZONING HEARING(S)

FLOOD

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 3505 Beach Rd, Balto MD 21208 which is presently zoned RC5
 Deed References: 016162/00663 10 Digit Tax Account # 1502201030
 Property Owner(s) Printed Name(s) Ray E. Jones & Jean Jones

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3. ☒ a Variance from Section(s)

see attached

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Contract Purchaser/Lessee:

Robert Long

Name- Type or Print

Signature

3827 Annadale Rd Balto MD 503 Elm St Conway SC

Mailing Address

City

State

Legal Owners (Petitioners):

Ray E. Jones, Jean Jones

Name #1- Type or Print

Name #2 - Type or Print

Deceased

Signature #1

Signature #2

21222 / 4103365100 covenantreality@hbs.com 29526 / 18432430307

Zip Code

Telephone #

Email Address

HBS.com

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

Robert Long

Name - Type or Print

Signature

3827 Annadale Rd Balto MD

Mailing Address

City

State

21222 / 4103365100 / covenantreality@hbs.com

Zip Code

Telephone #

Email Address

HBS.com

CASE NUMBER 2014-0172-A

Filing Date 2/21/14

Do Not Schedule Dates:

Reviewer JF

Section 1A04.3 and 301.1 BCZR

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Section 1A04.3 and 301.1 BCZR

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5. To allow any variances deemed necessary by the Administrative Law Judge

ZONING PROPERTY DESCRIPTION
#3505 BEACH ROAD

BEGINNING on the east side of Beach Road which has a variable right of way width at the distance of 245 feet south of the centerline of Seneca Park Road which is 30 feet wide. Being Lot No. 47 in the Subdivision of "Seneca Park Beach" as recorded in Baltimore County Plat Book No. 8, folio No. 45, containing 9,750 S.F. Located in the 15th Election District and 6th Councilmanic District.



Michael V. Moskunas

Michael V. Moskunas
Professional Land Surveyor
Reg. No. 21175

Site Rite Surveying, Inc.
200 E. Joppa Road
Suite 101
Towson MD 21286
(10) 828-9060

ZONING PROPERTY DESCRIPTION
#3505 BEACH ROAD

BEGINNING on the east side of Beach Road which has a variable right of way width at the distance of 245 feet south of the centerline of Seneca Park Road which is 30 feet wide. Being Lot No. 47 in the Subdivision of "Seneca Park Beach" as recorded in Baltimore County Plat Book No. 8, folio No. 45, containing 9,750 S.F. Located in the 15th Election District and 6th Councilmanic District.



Michael V. Moskunas

Michael V. Moskunas
Professional Land Surveyor
Reg. No. 21175

Site Rite Surveying, Inc.
200 E. Joppa Road
Suite 101
Towson MD 21286
(10) 828-9060

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2014 - 0172 - A
Petitioner: Jean Jones Contract Purchaser Bob Long
Address or Location: 3505 Beach Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Bob Long
Address: 3827 Annapdale Road
Dundalk, MD 21222
Telephone Number: 410 336-5100

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. **108073**

Date: **2/21/14**

PAID RECEIPT

DATE: 2/21/2014 TIME: 10:57:00
 BY: NALYN SHEL SAH
 RECEIPT # 610401 2/21/2014
 5 528 ZONING VERIFICATION
 108073
 Print Tot \$75.00
 \$75.00 BY \$75.00
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					75.00

Total: **75.00**

Rec From:

Robert Long

For:

3505 Beach Rd.

Parking for Verano

Case # 2014-0172-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 25, 2014 Issue - Jeffersonian

Please forward billing to:
Bob Long
3827 Annadale Road
Baltimore, MD 21222

410-336-5100

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2014-0172-A

3505 Beach Road

E/s Beach Road at the distance of 245 ft. s/of centerline of Seneca Park Road

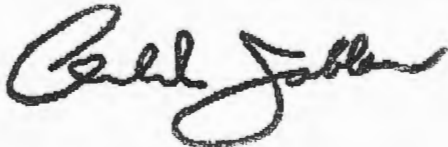
15th Election District – 6th Councilmanic District

Legal Owners: Ray E. Jones (deceased) & Jean Jones

Contract Purchaser: Robert Long

Variance to allow an area of 9,750 sq. ft. in lieu of the required 1 ½ acres; to allow an open projection deck with a setback of 13 ft. in lieu of the required 37 ½ ft.; to allow a replacement dwelling with a rear yard setback of 33 ft. and 9 ft. setback on both sides in lieu of the required 75 ft. from the centerline of the road and 50 ft. from any lot line, respectively. To allow a building coverage of 20% in lieu of the maximum required 15%; to allow any variances deemed necessary by the Administrative Law Judge.

Hearing: Tuesday, April 15, 2014 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Real Property Data Search (w1)

[Search Help](#)

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
Account Identifier: District - 15 Account Number - 1515004120		
Owner Information		
Owner Name:	KIESLING KARL KIESLING KARL GENE	Use: RESIDENTIAL
Mailing Address:	3503 BEACH RD BALTIMORE MD 21220-2319	Principal Residence: YES Deed Reference: 1) /21765/ 00513 2)
Location & Structure Information		
Premises Address:	3503 BEACH RD 0-0000 Waterfront	Legal Description: 3503 BEACH RD SENECA PARK BEACH PLAYTOPUS ADVERTISEMENT
Map: 0091	Grid: 0017	Parcel: 0139
Sub District:	Subdivision: 0000	Section:
Block:	Lot: 46	Assessment Year: 2012
Plat No.:	Plat Ref: 0008/ 0045	NONE
Special Tax Areas:		
Town: Ad Valorem:		
Tax Class:		
Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area
2006	3,752 SF	9,650 SF
Property Land Area	County Use	
34		
Stories	Basement	Type
2.000000	YES	STANDARD UNIT
Exterior	Full/Half Bath	Garage
SIDING	2 full/ 1 half	1 Attached
Last Major Renovation		
Value Information		
Base Value	Value	Phase-in Assessments
	As of	As of
	01/01/2012	07/01/2013
Land:	319,500	259,500
Improvements	400,100	336,500
Total:	719,600	596,000
Preferential Land:	0	596,000
		0
Transfer Information		
Seller: KIESLING KARL	Date: 04/25/2005	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /21765/ 00513	Deed2:
Seller: DIETZ DIANNE M	Date: 10/11/2001	Price: \$240,000
Type: ARMS LENGTH IMPROVED	Deed1: /15647/ 00333	Deed2:
Seller: DIETZ DIANNE M	Date: 09/19/2000	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /14703/ 00159	Deed2:
Exemption Information		
Partial Exempt Assessments:	Class	07/01/2013
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00
Tax Exempt:	Special Tax Recapture:	07/01/2014
Exempt Class:	NONE	0.00 0.00
Homestead Application Information		
Homestead Application Status: Approved 11/13/2013		

1. This screen allows you to search the Real Property database and display property records.
2. Click [here](#) for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

Real Property Data Search (w1)

Search Help

Search Result for BALTIMORE COUNTY

<u>View Map</u>		<u>View GroundRent Redemption</u>		<u>View GroundRent Registration</u>	
<u>Account Identifier:</u>		<u>District - 15 Account Number - 1502201030</u>			
<u>Owner Information</u>					
<u>Owner Name:</u>		JONES JEAN MARIE		<u>Use:</u>	RESIDENTIAL
<u>Mailing Address:</u>		503 ELM ST CONWAY SC 29526-		<u>Principal Residence:</u>	NO
				<u>Deed Reference:</u>	1) /32617/ 00407 2)
<u>Location & Structure Information</u>					
<u>Premises Address:</u>		3505 BEACH RD 0-0000 Waterfront		<u>Legal Description:</u>	REAR 250 FT 1720 E SENECA PARK RD SENECA PARK BEACH
<u>Map:</u>	<u>Grid:</u>	<u>Parcel:</u>	<u>Sub District:</u>	<u>Subdivision:</u>	<u>Section:</u>
0091	0017	0139		0000	
					<u>Block:</u>
					47
					<u>Lot:</u>
					2012
					<u>Assessment Year:</u>
					<u>Plat No:</u>
					0008/ 0045
					<u>Plat Ref:</u>
					NONE
<u>Special Tax Areas:</u>					
<u>Town:</u>					
<u>Ad Valorem:</u>					
<u>Tax Class:</u>					
<u>Primary Structure Built</u>	<u>Above Grade Enclosed Area</u>	<u>Finished Basement Area</u>	<u>Property Land Area</u>	<u>County Use</u>	
			8,750 SF	34	
<u>Stories</u>	<u>Basement</u>	<u>Type</u>	<u>Exterior</u>	<u>Full/Half Bath</u>	<u>Garage</u>
					<u>Last Major Renovation</u>
<u>Value Information</u>					
	<u>Base Value</u>	<u>Value</u>	<u>Phase-in Assessments</u>		
		As of	As of	As of	
		01/01/2012	07/01/2013	07/01/2014	
<u>Land:</u>	176,700	176,700			
<u>Improvements</u>	0	0			
<u>Total:</u>	176,700	176,700	176,700	176,700	
<u>Preferential Land:</u>	0			0	
<u>Transfer Information</u>					
<u>Seller:</u> JONES ROY E		<u>Date:</u> 10/02/2012		<u>Price:</u> \$0	
<u>Type:</u> NON-ARMS LENGTH OTHER		<u>Deed1:</u> /32617/ 00407		<u>Deed2:</u>	
<u>Seller:</u> JONES ROY E		<u>Date:</u> 05/07/1980		<u>Price:</u> \$0	
<u>Type:</u> NON-ARMS LENGTH OTHER		<u>Deed1:</u> /06162/ 00663		<u>Deed2:</u>	
<u>Seller:</u>		<u>Date:</u>		<u>Price:</u>	
<u>Type:</u>		<u>Deed1:</u>		<u>Deed2:</u>	
<u>Exemption Information</u>					
<u>Partial Exempt Assessments:</u>	<u>Class</u>	07/01/2013	07/01/2014		
<u>County:</u>	000	0.00			
<u>State:</u>	000	0.00			
<u>Municipal:</u>	000	0.00 0.00	0.00 0.00		
<u>Tax Exempt:</u>	<u>Special Tax Recapture:</u>				
<u>Exempt Class:</u>	NONE				
<u>Homestead Application Information</u>					
<u>Homestead Application Status:</u> No Application					

Baltimore County

[New Search \(http://sdat.resiusa.org/RealProperty/\)](http://sdat.resiusa.org/RealProperty/)District: **15** Account Number: **1502201030**

The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (<http://www.plats.net>).

Property maps provided courtesy of the Maryland Department of Planning ©2011.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>).

[\(http://imsweb05.mdp.state.md.us/website/mosp/\)](http://imsweb05.mdp.state.md.us/website/mosp/)☒ Loading... Please

Loading... Please Wait.

4/10/14
wch

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: April 7, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 3505 Beach Road

INFORMATION:

Item Number: 14-172

Petitioner: Jean Jones

Zoning: RC 5

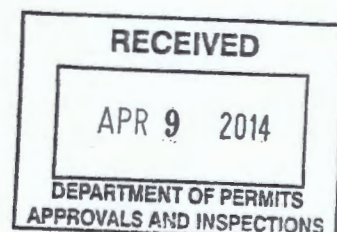
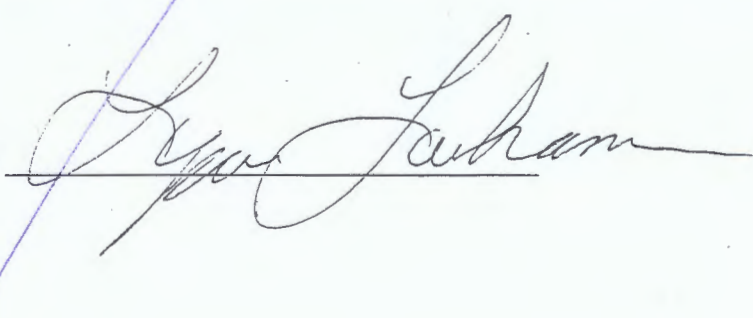
Requested Action:

The petitioner is requesting relief for side yard and rear yard setbacks as well as a setback from the road centerline. Relief is also needed for the lot size, for an area of 9,750 square feet, in lieu of the required 1 ½ acres. Additionally, the building will cover 20% of the lot, as opposed to the maximum allowed 15%.

The subject site is at the very end of Seneca Park Road in an area with many narrow lots that have houses very close to one another. The dwelling proposed in this petition is similar in size and style to the surrounding houses. The petitioner has submitted architectural elevations along with photos of the subject site and the surrounding area.

This department has reviewed the submittals and finds the proposal to be in accordance with the spirit and intent of the performance standards listed within Section 1A04.4 of the Baltimore County Zoning Regulations. In sum, this office does not oppose the subject request.

Division Chief:
AVA/LL



Sherry Nuffer - I just received the files for scheduled hearings on Tuesday April 15, 2014. Case No.: 2014-0172-A is in CBCA and there is no DEPS ZAC comment. Please advise.

From: Sherry Nuffer
To: Livingston, Jeffrey
Date: 4/11/2014 10:09 AM
Subject: I just received the files for scheduled hearings on Tuesday April 15, 2014. Case No.: 2014-0172-A is in CBCA and there is no DEPS ZAC comment. Please advise.

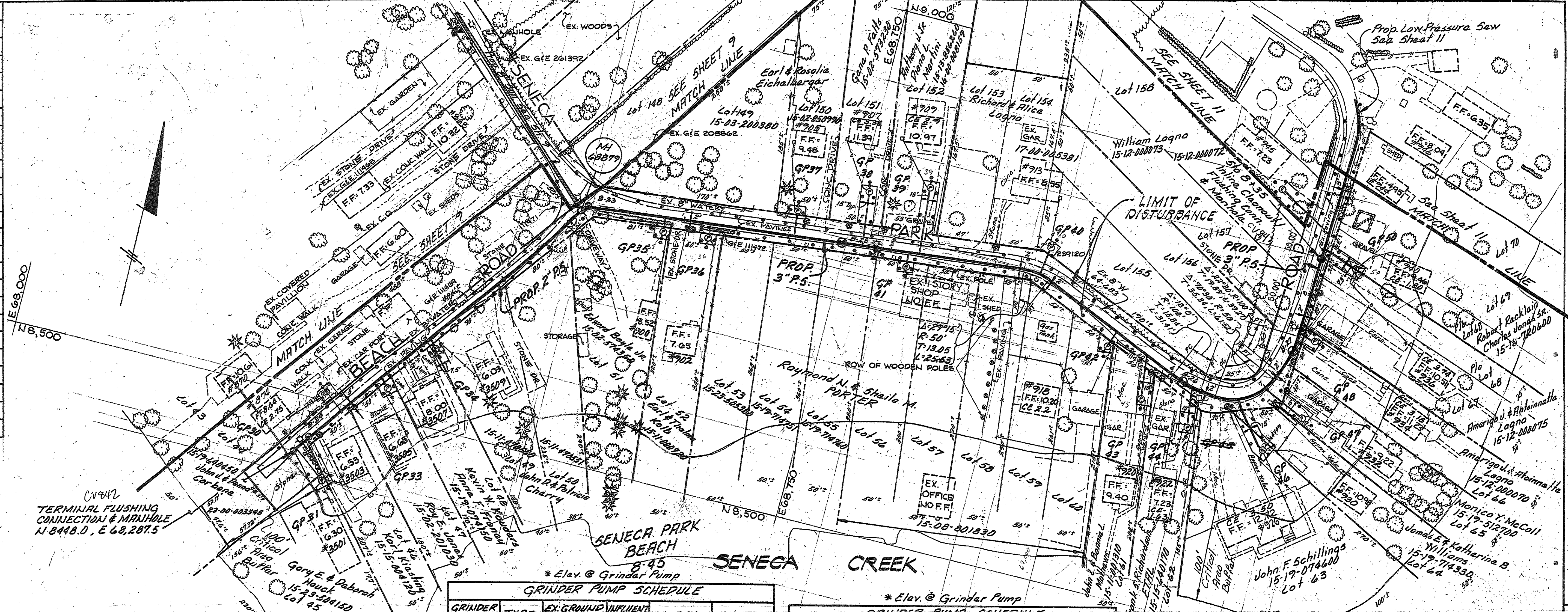
I just received the files for scheduled hearings on Tuesday April 15, 2014. Case No.: 2014-0172-A is in CBCA and there is no DEPS ZAC comment. Please advise.

Thank you and have a great weekend!

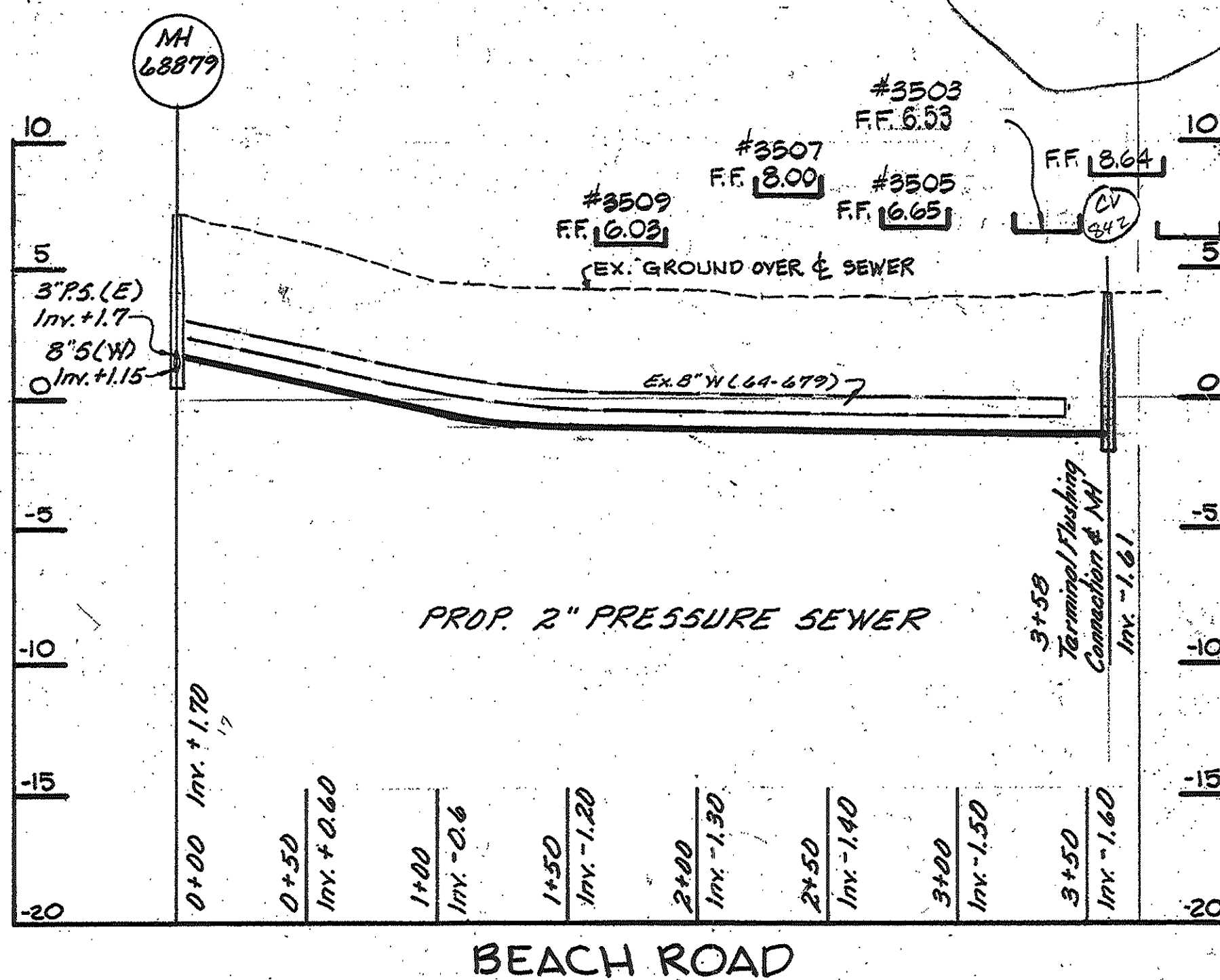
Sherry Nuffer
Legal Assistant
Office of Administrative Hearings
105 W. Chesapeake Avenue
Room 103
Towson, Maryland 21204
410-887-3868
Fax: 410-877-3468

SENECA PARK RD		
@ Sta	North	East
MH 68879	8,737.5	68,495.0
0+10 22 1/2" HB	8,743.0	68,506.5
3+00	8,773.5	68,794.0
4+27.5 PC	8,787.0	68,821.0
4+53 PT	8,782.0	68,847.0
6+02.5 PC	8,723.0	68,084.0
6+33.9 PT	8,715.5	68,113.5
6+49 PC	8,714.5	68,128.0
7+10.5 PT	8,743.5	68,178.0
7+18 PC	8,750.5	68,182.0
7+57 PT	8,788.5	68,191.0
8+35 MH	8,866.0	68,195.0
9+00	8,931.0	68,197.0

BEACH ROAD		
@ Sta	North	East
1+00	8,654.0	68,442.0
2+00	8,574.0	68,382.5
3+58 MH	8,448.0	68,287.5



CV842
TERMINAL FLUSHING
CONNECTION & MANHOLE
N 8448.0, E 68,287.5



* Elev. @ Grinder Pump

GRINDER PUMP #	TYPE	EX. GROUND ELEVATION	INFLUENT INVERT	NORTH	EAST
GP30	S	4.8'	-2.2	8,508.0	68,304.0
GP31	D	4.8'	-1.2	8,427.0	68,320.5
GP32	Delatad				
GP33	S	4.6'	-1.4	8,525.58	68,359.12
GP34	D	4.8'	-1.7	8,570.67	68,379.82
GP35	S	6.1'	-1.4	8,737.40	68,579.17
GP36	S	4.5'	-1.5	8,742.27	68,622.12
GP37	S	7.9'	+2.7	8,788.24	68,678.72
GP38	S	6.8'	-1.2	8,823.69	68,757.67

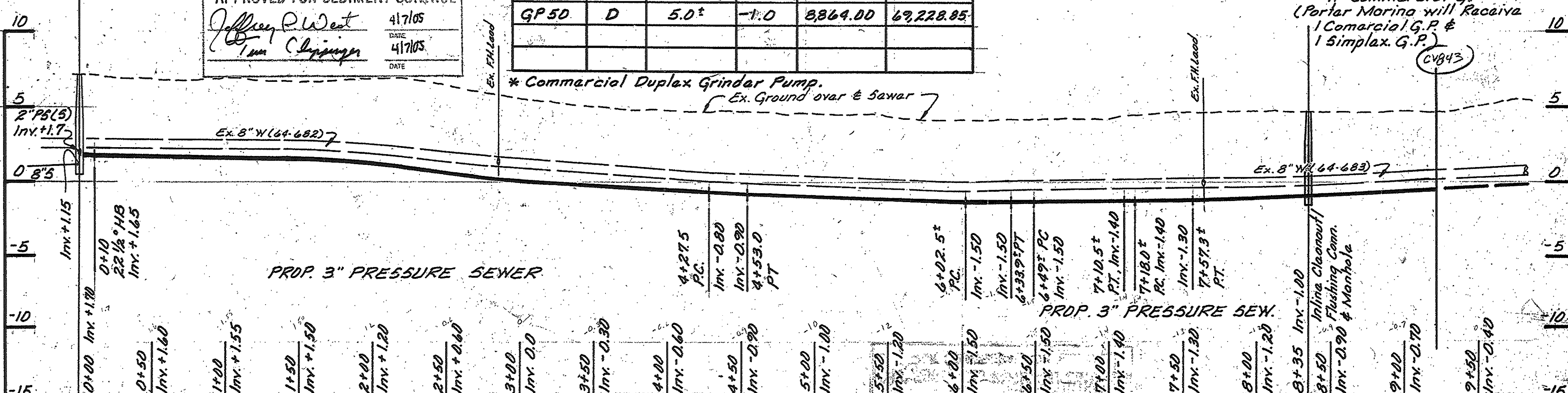
SOIL CONSERVATION
APPROVED FOR SEDIMENT CONTROL
Jeffrey P. West 417105
Tom Chappin 417105
DATE 4/17/05

* Elev. @ Grinder Pump

GRINDER PUMP #	TYPE	EX. GROUND ELEVATION	INFLUENT INVERT	NORTH	EAST
GP39	S	6.8'	-0.2	8,842.50	68,815.81
GP40	S	4.8'	-0.2	8,811.68	68,740.09
GP41	S	5.9'	-3.1	8,763.52	68,812.52
GP42	D(C)	5.6'	-4.4	8,735.33	69,016.75
GP43	S	4.5'	-2.0	8,694.75	69,060.11
GP44	S	4.7'	-0.3	8,681.08	69,110.03
GP45	S	4.8'	-0.2	8,692.36	69,143.48
GP46	D	5.5'	-0.5'	8,676.7'	69,184.2'
GP47	S	5.0'	0.0	8,713.58	69,212.46
GP48	S	5.0'	0.0	8,788.79	69,207.65
GP49	Delatad				
GP50	D	5.0'	-1.0	8,864.00	69,228.85

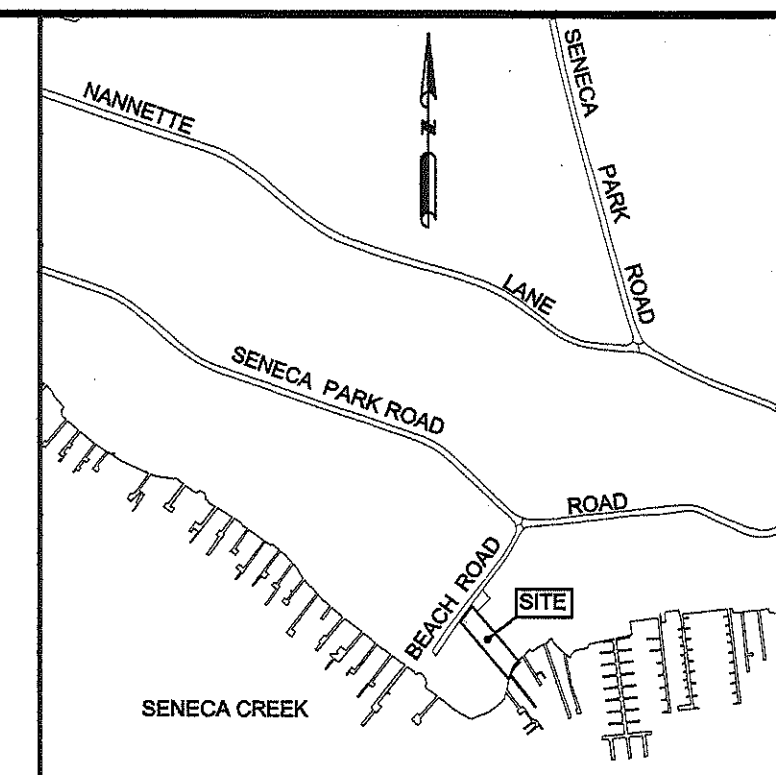
Note: Directional Drilling of low pressure sewer pipe may not be possible with a radius of less than 180'. For proposed low pressure sewer pipes with a radius of less than 180' the Contractor shall install the low pressure sewer pipe by the Open Cut method. The low pressure sewer pipe install by open cut shall be of the same materials as the pipe that it will connect to. The cost to install this sewer will not be paid for separately, and shall be paid for under the items for low pressure pipe and as per the Special Provision, Section 5 Measurement of Payment B-2

Number of House Connections 22
13 1/2 Simplex G.P.
4 3/4 Duplex G.P.
1 Commercial G.P.
(Porter Marina will receive 1 Commercial G.P. & 1 Simplex G.P.)
CV843



		CITY OF BALTIMORE DIRECTOR DEPT. OF PUBLIC WORKS DATE CHIEF, WATER ENG. DIVISION BUREAU OF WATER AND WASTEWATER DATE	
DATE RIGHT OF WAY REF.	ROAD PERMIT AND GRADES PERMIT REQUESTED PERMIT NUMBER GRADE ESTABLISHED PROFILE NUMBER	P. W. A. DIR. NO. CONTRACT NO. REVISED AS PER RECORD PRINT J.O. DRAFTSMAN DATE	BUREAU OF ENGINEERING DEPARTMENT OF PUBLIC WORKS LEVEL BK. KEY SHEET POSITION SHEET DATE REVISION BY
DESIGNED: RRF DRAWN: RRF CHECKED: GAK	ENGINEER: Glen A. Keller DATE: 1/10/05 LIC. NO.: 14167	REVIEWED: MR DATE: 2/7/05	APPROVED: [Signature] DATE: 2/6/05
BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS LOW PRESSURE, GRINDER PUMPS, GRADING, SEDIMENT & EROSION CONTROL SENECA PARK RD & BEACH RD 1/11METER / SENECA PARK		BALTIMORE COUNTY TYPE NUMBER 1	

05004 5X0
JOB ORDER NO.
201-085-0008
SHEET 10 OF 18
DWG. NO.
2005-0313
FILE: 1



GENERAL NOTES

1. EXISTING ZONING: RS-5 (091C3) *PCS*
2. LOT AREA: 9750 S.F.± / BASED ON A BOUNDARY SURVEY FROM DON LYNCH, INC. SURVEY.
3. EXISTING USE: S.F.D. RAZED DURING ISABEL (ACCESSORY BUILDINGS REMAIN)
PROPOSED USE: REPLACEMENT DWELLING.
4. THIS PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (LDA) AND 100 YEAR FLOOD PLAIN.
5. THIS PROPERTY IS NOT LOCATED IN AN HISTORIC DISTRICT.
6. THIS PROPERTY IS SERVICED BY PUBLIC SEWER AND WATER.
7. THERE ARE NO PRIOR ZONING HISTORY.
8. THERE ARE NO CURRENT OR OUTSTANDING ZONING VIOLATIONS.
9. THIS PROPERTY IS A LOT OF RECORD SHOWN ON THE "SENECA PARK BEACH" PLAT DATED 1926. SAID SUBDIVISION WAS CREATED PRIOR TO THE ADOPTION OF 1945 ZONING REGULATIONS.
10. THIS PLAN WAS PREPARED WITH THE USE OF PUBLIC RECORDS: TITLE DEEDS, RECORD PLATS, GIS PORTAL & UTILITY DRAWINGS. NO BOUNDARY SURVEY WAS COMPLETED BY THIS FIRM. HOWEVER, A BOUNDARY SURVEY
11. THERE IS NO CONTIGUOUS OWNERSHIP.
12. THIS PROPERTY IS LOCATED IN THE MARTIN STATE AIRPORT RESTRICTION AREA.

GRAPHICAL SCALE 1"=30'



PLAN TO ACCOMPANY PETITION
FOR ~~SPECIAL HEARING~~

#3505 BEACH ROAD *Variance*
"JONES PROPERTY"

LOT-47
"SENECA PARK BEACH" 8/45
TAX MAP: 91 GRID: 17 PARCEL: 139
DEED REFERENCE: 32617/407
BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT C6

02/20/2014 SCALE:1"=30' JOB No. 9835

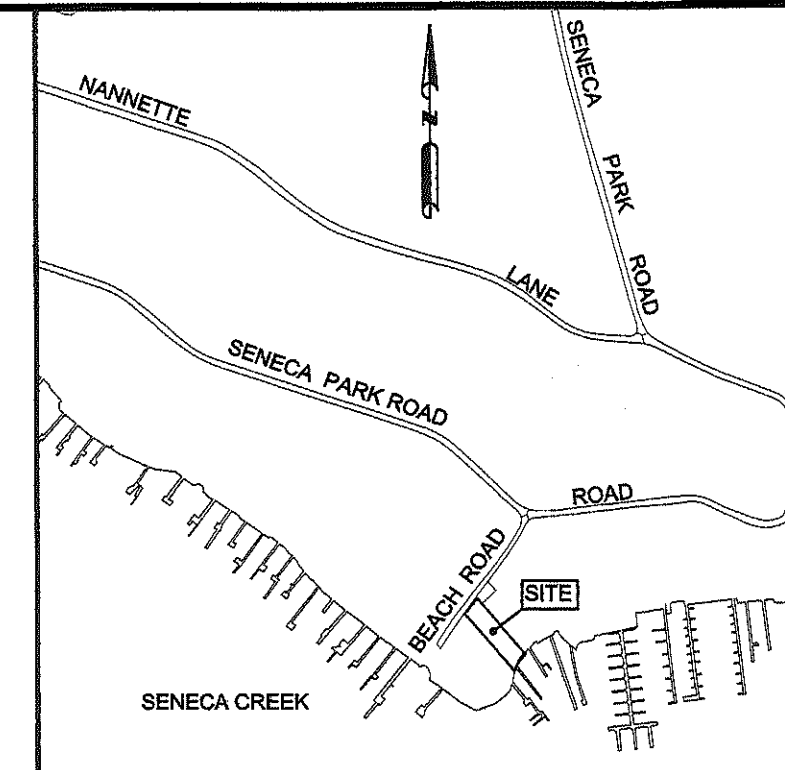
10260



Michael V. Moskuras
02/20/2014

OWNER
JEAN JONES
503 ELM STREET
CONWAY, SC 29526

CONTRACT PURCHASER
ROBERT LONG
3827 ANNADALE ROAD
BALTIMORE, MD. 21222
(410) 336-5100



VICINITY MAP SCALE: 1"=500'

GENERAL NOTES

1. EXISTING ZONING: RC 5 (091C3)
2. LOT AREA: 9750 S.F.± / BASED ON A BOUNDARY SURVEY FROM DON LYNCH, INC. SURVEY.
3. EXISTING USE: S.F.D. RAZED DURING ISABEL (ACCESSORY BUILDINGS REMAIN)
PROPOSED USE: REPLACEMENT DWELLING.
4. THIS PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (LDA) AND 100 YEAR FLOOD PLAIN.
5. THIS PROPERTY IS NOT LOCATED IN AN HISTORIC DISTRICT.
6. THIS PROPERTY IS SERVICED BY PUBLIC SEWER AND WATER.
7. THERE ARE NO PRIOR ZONING HISTORY.
8. THERE ARE NO CURRENT OR OUTSTANDING ZONING VIOLATIONS.
9. THIS PROPERTY IS A LOT OF RECORD SHOWN ON THE "SENECA PARK BEACH" PLAT DATED 1926. SAID SUBDIVISION WAS CREATED PRIOR TO THE ADOPTION OF 1945 ZONING REGULATIONS.
10. THIS PLAN WAS PREPARED WITH THE USE OF PUBLIC RECORDS: TITLE DEEDS, RECORD PLATS, GIS PORTAL & UTILITY DRAWINGS. NO BOUNDARY SURVEY WAS COMPLETED BY THIS FIRM. HOWEVER, A BOUNDARY SURVEY WAS COMPLETED BY DON LYNCH ASSOC., INC. IN 1990 WHICH DEMONSTRATES A LOT WIDTH OF 50 FEET.
11. THERE IS NO CONTIGUOUS OWNERSHIP.
12. THIS PROPERTY IS LOCATED IN THE MARTIN STATE AIRPORT RESTRICTION AREA.
13. BUILDING COVERAGE IS 20%.

PETITIONER'S EXHIBIT #1
CASE No. 2014-0172-A

REVISED 2/24/2014: M.V.M.

GRAPHICAL SCALE 1"=30'



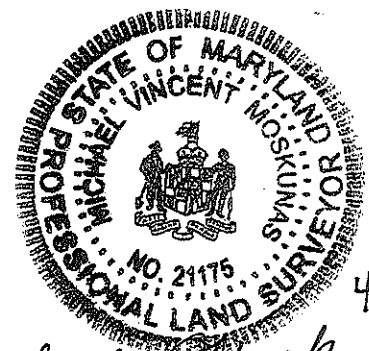
PLAN TO ACCOMPANY PETITION FOR VARIANCE

#3505 BEACH ROAD
"JONES PROPERTY"

LOT-47
"SENECA PARK BEACH" 8/45
TAX MAP: 91 GRID: 17 PARCEL: 139
DEED REFERENCE: 32617/407
BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT C6

02/20/2014 SCALE: 1"=30' JOB No. 10260

SITE RITE
SURVEYING INC.
200 E. JOPPA ROAD
SHELL BUILDING, SUITE 101
TOWSON, MD. 21286
410-828-9060



4/09/14
Michael V. Moskuma

OWNER
JEAN JONES
503 ELM STREET
CONWAY, SC 29526

CONTRACT PURCHASER
ROBERT LONG
3827 ANNADALE ROAD
BALTIMORE, MD. 21222
(410) 336-5100

