

IN THE MATTER OF
HARLAN ZINN –Petitioner/Legal Owner
809 Cold Spring Road
Middle River, MD 21220

RE: Petition for Special Hearing to Approve
Building Permit for Undersized Lot

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA- 13-295-SPH

* * * * *

OPINION

This case comes to the Board on appeal of the denial by the Administrative Law Judge of a Petition for Special Hearing filed by Harlan Zinn, Petitioner, pursuant to Baltimore County Zoning Regulations §500.7 (“B.C.Z.R.”) to approve a building permit for an undersized lot located at 809 Cold Spring Lane, Middle River, MD 21220 (the “Property”).

A public hearing was held on November 13, 2013. The Petitioner was represented by Michael McCann, Esquire. Deputy People’s Counsel for Baltimore County, Carole DeMilio, participated in the hearing. Edward C. Covahey, Jr., Esquire represented Danan Holding Corporation, Daniel and Nancy Hubers, Richard and Amelia Pitz, Edward Bardroff, Sr. and Mirium Lee O’Hare, Protestants.

MOTION TO DISMISS

At the beginning of the Board hearing, Deputy People’s Counsel made a oral motion to dismiss the case on the basis of *res judicata*. Mr. Covahey joined in the Motion. Mr. McCann opposed the Motion contending that the instant case was different than the previous cases filed by the Petitioner or his predecessor in title.

PRIOR ZONING LITIGATION

In this appeal, Mr. Zinn seeks a building permit to construct a residence on the Property. The hurdle he faces is that BCZR §1B02 (a/k/a the "small lot table") requires that property zoned D.R. 3.5. be at least 10,000 sq. ft. with a front and rear yard setback of 30 feet each. Because this Property measures less than 10,000 sq. ft., it is 'undersized'. Mr. Zinn argues that the small lot table setbacks restrictions do not apply based on BCZR §1B02.3.A.5.

By way of background, the Property was platted in 1914 as Lot 304, Part of Plan C of Long Beach Estates on Galloway Creek. Other than a shed, the Property has remained unimproved, having been used as a place to dock and launch boats. In 1976, the Property was zoned D.R. 5.5 and the minimum lot size was 6,000 sq. ft. In 1992, the Property was rezoned D.R. 3.5 and the minimum lot size was increased to 10,000 sq. ft.

In considering the Motion to Dismiss, the Board reviewed the zoning history of the Property which is extensive and summarized from prior Orders as follows:

(1) 2003 – Petition for Variance; Zoning Commissioner, Case No.: 03-500-A. Janice Oberst, the predecessor in title, along with a contract purchaser, Robert Long, filed a Petition for relief from BCZR §303.1 and from the setback restrictions in small lot table in BCZR, §1B02.3.C.1. Specifically, she requested a front yard setback of 11 feet in lieu of the required 55 ft. and a rear yard setback of 2 ft. in lieu of the required 30 ft. In addition, she requested that the Property be approved as an undersized lot.

Ms. Oberst and her family had owned the Property since 1954. They lived in the house located at 810 Cold Spring Road. During the 50 years that Ms. Oberst's family had owned the Property, they kept a small sailboat there, and her father operated a charter business out of the

Property. A storage shed was also on the Property as well as a pier and bulkhead. In 2004, the Oberst family sold the home at 810 Cold Spring Road to Robert Kroll.

The Petition filed by Ms. Oberst was opposed by Richard Pitz, a neighboring property owner who is also opposed to the instant Petition. In 2005, the Zoning Commissioner denied the relief finding that the lot was too small to build a house, that to do so would be inconsistent with the neighborhood and further, that the requested relief failed to meet the uniqueness test set forth in *Cromwell v. Ward*, 102 Md. App. 691 (1995). Ms. Oberst did not appeal the Commissioner's decision.

(2) 2004 – Petition for Variance – Deputy Zoning Commissioner;
Case No.: 04-522-A.

In 2004, Mr. Zinn, as the contract purchaser, along with Ms. Oberst, sought relief to allow construction of a dwelling on the Property. In requesting that relief, Mr. Zinn argued that the Property was an undersized lot, that the front yard setback be 23 ft. in lieu of the required 30 ft. and the rear yard setback be 2 ft. in lieu of the required 30 ft.

The Deputy Zoning Commissioner denied the relief sought and agreed with the prior decision of the Zoning Commissioner. That decision was appealed to this Board.

(3) 2005. Petition for Variance - Board of Appeals; Case No.: 04-522-A.

In the hearing on appeal, Mr. Zinn amended the Site Plan and argued that the size of the Property was larger at 7,504 sq. ft. because the property lines included a portion of the 40-foot right of way known as Cold Spring Road as well as a 900 sq. ft. road end parcel purchased by Ms. Oberst from Bowley's Quarters Improvement Association in 1992.

Protestant, Mr. Pitz, testified in opposition to that request, pointing out that his home and others in the area were built on double and triple lots. In addition, Robert Kroll, the purchaser of 810 Cold Spring Rd. also opposed Mr. Zinn's request.

In that case, this Board considered whether the case should be barred under *res judicata* and collateral estoppel. At that time, we allowed the case to go forward but ultimately denied the requested relief. We held that the Property could not be used as an undersized lot upon which a home could be built, without variances being granted for setbacks. In considering the variance requested, the Board found that the Property was not unique. We said that the fact that the Property was wider than it is long was not sufficient to make it unique for zoning purposes. We held that the Property was too small for a home to be built.

In making that decision, the Board found that the Property was not 7,504 sq. ft. as Mr. Zinn contended but rather the original 5,396 sq. ft. The Board did not find credible the argument that the property lines included the 40 foot right of way or the 900 sq. ft. purchased by Ms. Oberst. We held that the extent of the property lines must be determined by the Circuit Court.

Mr. Zinn did not appeal the decision of this Board.

(4) 2007 –Petition for Special Hearing under BCZR, §500.7,
Zoning Commissioner, Case No.: 07-236-SPH.

In 2007, Mr. Zinn filed for special hearing relief under BCZR, §500.7 to request that a storage shed be constructed for kayaks, boating equipment and gardening equipment. The shed was intended to supplement the use of the pier. The Deputy Zoning Commissioner granted that relief subject to restrictions to ensure that the shed would not be converted to a dwelling. There was no opposition to the requested relief. There was no appeal filed.

(5) 2007 –Petition for Variance, Zoning Commissioner, Case No.: 07-545-A.

Five months after the Order granting the storage shed, Mr. Zinn filed a Petition for Variance from the setback restrictions contained in the small lot table. In that case, Mr. Zinn argued that the Property measured 7,342 sq. ft. and he wanted variances from the 10,000 sq. ft.

minimum lot size and from the 25 ft. front and rear setbacks in lieu of the required 30 foot setbacks.

The Zoning Commissioner dismissed the case on the basis of *res judicata* indicating that Mr. Zinn was bound by this Board's 2005 decision and could not relitigate the same matter. Mr. Zinn appealed that decision to this Board.

(6) 2008 – Board of Appeals, Petition for Variance, Case No.: 07-545-A.

This Board heard the appeal of the Zoning Commissioner's dismissal. In our decision, we summarized the previous cases and Opinions concerning the Property. Mr. Zinn alleged that the size of the Property at that time was 7,342 sq. ft. We held that *res judicata* barred that appeal and said that the matter was fully litigated. We noted that *res judicata* is intended to prevent endless re-litigation of issues that have already been legally determined. Mr. Zinn did not appeal our 2008 decision.

Baltimore County Zoning Regulations

§ 1B02.3. Special regulations for certain existing or proposed developments or subdivisions and for small lots or tracts in D.R. Zones.

A. In D.R. Zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy and development of; alteration or expansion of structures upon; and administrative procedures with respect to:

* * * *

5. Any lot or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission.

C. Development standards for small lots or tracts.

1. Any dwelling hereafter constructed on a lot or tract described in Subsection A.3 or A.4 shall comply with the requirements of the following table:

Zoning Classification	Minimum Net Lot Area per Dwelling Unit (square feet)	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Width of Individual Side Yard (feet)	Minimum Sum of Side Yard Widths (feet)	Minimum Rear Yard Depth (feet)
D.R.1	40,000	150	50	20	50	50
D.R.2	20,000	100	40	15	40	40
D.R.3.5	10,000	70	30	10	25	30
D.R.5.5	6,000	55	25	10	—	30
D.R.10.5	3,000	20	10	10	—	50
D.R.16	2,500	20	10	25	—	30

Decision

Over the past 10 years, 4 cases have been heard and decided by the Zoning Commissioner's office and 2 appeals have been heard and decided by this Board in regard to the Property. The issue before us is whether the instant appeal should be dismissed on the basis of *res judicata*. Having heard argument of counsel on the Motion to Dismiss at the hearing, having reviewed the prior decisions of the Zoning Commissioner's office and of this Board, and having deliberated the Motion at the hearing on the record (with consent of all Parties) we grant the Motion to Dismiss the case, on the basis of *res judicata*.

In *Seminary Galleria v. Dulaney Valley Improvement Ass'n*, 192 Md. App. 719, 995 A.2d 1068 (2010), the Court of Special Appeals held that "a judgment on the merits in a previous suit between the same parties or their privies precludes a second suit predicated upon the same cause of action." The Court in *Seminary Galleria* confirmed that this Board need not hear the facts of a case before determining whether the doctrine of *res judicata* applies. *Id.* at 995 A.2d 1070.

The Court also stated that the doctrine of *res judicata* is applicable to administrative proceedings. *Id.* at 995 A.2d 1078.

Citing *Batson v. Shiflett*, 325 Md. 684, 701 (1992), the Court in *Seminary* said that the test for determining whether an administrative agency's ruling is entitled to preclusive effect is as follows:

Whether an administrative agency's declaration should be given preclusive effect hinges on three factors: (1) whether the agency was acting in a judicial capacity; (2) whether the issue presented to the reviewing court was actually litigated before the agency; and (3) whether its resolution was necessary to the agency's decision.

Id. at 995 A.2d 1078.

The doctrine of *res judicata* bars litigation of the same matter with respect not only to the legal claims or issues decided in the case but also as to all matters which could have been litigated in the first suit. In *Powell v. Breslin*, 430 Md. 52 (2013), the Court of Appeals reaffirmed its holding in *Alvey v. Alvey*, 225 Md. 386, 390 (1961):

The doctrine of *res judicata* is that a judgment between the same parties and their privies is a final bar to any other suit upon the same cause of action, and is conclusive, not only as to all matters which with propriety could have been decided in the original suit, but as to all matters which with propriety could have been litigated in the first suit,....

The doctrine of *res judicata* applies in zoning cases where the issue revolves around property use rather than the owner's identity. *City of Baltimore v. Pre*, 224 Md. 428 (1961).

The Court of Appeals in *Deleon, et ux. v. Slear, et al.*, 328 Md. 569, 589 (1992) citing its holding in *Kent County Bd. of Educ. v. Bilbrough*, 309 Md. 487 (1987), explained that the test for determining whether claims are the same for the purposes of *res judicata* is the 'transaction' test as set forth in §24 of the Restatement (Second) of Judgments. The Court said that regardless of the number of substantive legal theories or forms of relief that may be available to a petitioner,

and notwithstanding the number of rights that may have been invaded, or the variations in evidence needed to support the theories or rights, the transaction test analyzes the facts of each claim to determine whether they are coterminous.

The concept of 'claim' is distinguished from the narrow concept of 'cause of action' in that a claim is defined as "a group or aggregate of operative facts giving ground or occasion for judicial action..." *Deleon* at 589. Specifically, the holdings in *Bilbrough* and *Deleon* narrow our focus to whether the facts of each case "are related in time, space, origin or motivation." *Deleon* at 591.

Applying the holdings in *Deleon* and *Alvey* here, this case involves the same property, the same parties, and the same request for a building permit on a lot that has repeatedly been adjudicated as 'too small' for a residence. The facts of this case are related in time, space, origin and motivation. Mr. Zinn created this zoning history himself, without filing for all forms of available relief back in 2004, under whatever legal theories could have been brought, including the instant one. Rather, his approach over the years has been to file cases in piece-meal fashion, arguing that the size of this property has changed, or by changing the dimensions of his proposed residence. His failure to appeal and have our previous findings of fact overturned, binds him to the facts previously adjudicated.

The way we see it, without even considering the other 5 zoning decisions, the 2003 Zoning Commissioner's decision alone is enough to deny Mr. Zinn relief here. This is true under *Seminary Galleria* even if he was not a party in 2003 because as a successor owner, he is in privy. His predecessor in title, Ms. Oberst admitted that the small lot table applied by filing for relief from it and by requesting approval of the Property as an undersized lot. In this case, Mr. Zinn's latest theory is that the small lot table does not apply. He is bound by not only Ms.

Oberst' admission but by the Zoning Commission's decision to deny the relief and his finding of fact that the "lot is too small" for a house. When the decision was not appealed, it became final. Moreover, under holdings in *Powell, supra*, and *Alvey, supra*, the issue of whether the small lot table even applied should have been raised as alternative relief in the 2003 case. Since it was not, it is barred from being raised 10 years later.

Notwithstanding the 2003 decision, the very next year, Mr. Zinn, as a contract purchaser of the Property, files for virtually the same relief as Ms. Oberst - that he needed relief from the small lot table. The only appreciable difference is that he reduced the amount of the setback variance needed. After a hearing on the merits, the Deputy Zoning Commissioner in 2004 denied the relief for the same reason set forth in the 2003 decision. Any claim by Mr. Zinn that the Property was not subject to the small lot table restrictions should have been raised as an alternative form of relief in that case.

Thereafter, this Board permitted the appeal of the 2004 decision to be heard on the merits in a *de novo* hearing in which Mr. Zinn was represented by counsel. In that appeal, Mr. Zinn rearranged his argument and claimed that the lot size had increased by including the 40' right of way and the 900 sq. ft. of unbuildable land purchased by Ms. Oberst. After a hearing on the merits, we rejected this argument and specifically found that the Property was still the original 5,396 sq. ft. Mr. Zinn did not appeal our decision and is bound by our findings as to the Property size.

He waited another 3 years before filing for relief again with the Zoning Commissioner's office. At that time, in 2007, Mr. Zinn filed a Petition for Special Hearing. While his request for relief was for a storage shed to supplement his use of the pier where he docked a houseboat, the Deputy Zoning Commissioner granted the storage shed request but placed restrictions in the

Order to prohibit the use of the shed as a residence. The 2007 case and the instant one both involve a Petition for Special Hearing, Mr. Zinn could have raised his latest legal theory in 2007 but failed to do so. He did not appeal the Deputy Zoning Commissioner's decision.

After the 2007 decision, he only waited 5 months to file another request for variance relief from the restrictions in the small lot table so he could build a house. In June of 2007, Mr. Zinn attempted at that time to increase the square footage of the lot to 7,342 sq. ft. He made this argument in 2007 despite this Board's previous decision and factual finding that the Property size was 5,396 sq. ft. In 2007, he also asked for a larger front and rear yard setbacks than he did back in 2004 notwithstanding our previous denial of the smaller setbacks. When we heard the Zoning Commissioner's 2007 decision, we agreed that the case should be dismissed on the basis of *res judicata*. Mr. Zinn did not appeal our decision and it became final.

Applying the standard set forth in *Seminary Galleria*, our previous decisions in Case No. CBA - 04-522-A and CBA 07-545-A meet this test: (1) this Board was acting in a judicial capacity by conducting hearings in both cases, where evidence was presented, and rulings were made on disputed legal issues; (2) the issue of whether the lot was large enough to construct a residence and the size of the Property was actually litigated; and (3) this Board's rulings and that of the Zoning Commissioner's office were necessary for a resolution of the requests for relief from the setback restrictions in the small lot table as well as variance relief.

The Board finds it to be incredulous that Mr. Zinn has repeatedly requested relief from the small lot table restrictions over the years and now wants to claim that such restrictions do not apply. Under the applicable case law, BCZR §1B02.3.A.5 provides no refuge for Mr. Zinn. As the foregoing sequence of decisions and factual history indicate, the instant case fits squarely within the doctrine of *res judicata* and should be dismissed.

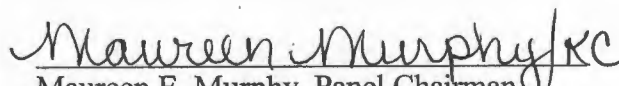
ORDER

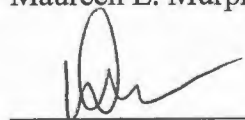
THEREFORE, IT IS THIS 19th day of February, 2014, by the
Board of Appeals of Baltimore County

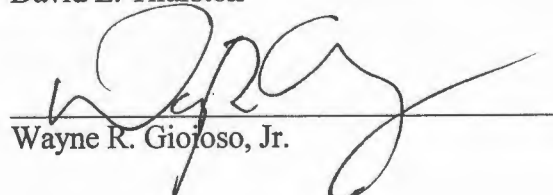
ORDERED that the Motion to Dismiss the Petition for Special Hearing relief is hereby
GRANTED for the reasons set forth herein and the case shall be dismissed; and it is further,

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
OF BALTIMORE COUNTY**


Maureen E. Murphy, Panel Chairman


David L. Thurston


Wayne R. Gioioso, Jr.



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

February 19, 2014

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel for
Baltimore County
The Jefferson Building, Ste 204
105 W. Chesapeake Avenue
Towson, MD 21204

Edward C. Covahey, Jr., Esquire
Bruce E. Covahey, Esquire
Covahey, Boozer, Devan & Dore, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: *In the Matter of: Harlan Zinn – Legal Owner/Petitioner*
Case No.: 13-295-SPH

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,

Krysundra "Sunny" Cannington
Administrator

Enclosure
Multiple Original Cover Letter

c: Harlan Zinn
Danan Holding Corporation
Richard and Amelia Pitz
John Schmidt
Michael Vivirito
Ernestine Sisson
Robert Kroll
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

Allen Robertson
Daniel and Nancy Hubers
Edward Bardroff, Sr.
Fred Conrad
Albert and Holly Leggett
Thomas and Tina Bentz

Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Michael R. McCann, P.A.

118 W. Pennsylvania Avenue

Towson, Maryland 21204

Phone: (410) 825-2150

Facsimile: (410) 825-2149

michael@mmccannlaw.net

RECEIVED

SEP 17 2013

BALTIMORE COUNTY
BOARD OF APPEALS

September 17, 2013

Via Hand-Delivery

Arnold Jablon, Director
Department of Permits, Approvals & Inspections
111 W. Chesapeake Ave.
Suite 205
Towson, Maryland 21204

RECEIVED

SEP 19 2013

Re: Notice of Appeal of OAH Decision
Case No. 2013-0295-SPH

OFFICE OF ADMINISTRATIVE HEARINGS

Dear Mr. Jablon:

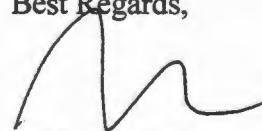
On behalf of the person identified below, pursuant to Baltimore County Code §32-3-401 *et seq.*, please let this letter serve as a notice of appeal of the decision of the Administrative Law Judge in regards to this property, located at 809 Cold Spring Rd., Baltimore, MD 21220. Enclosed please find a check for ~~Three Hundred Eighty Dollars~~ (\$380.00) to cover filing fees.

265.00

Thank you for your attention to this matter. Please contact me if you have any questions or concerns.

Harlan K. Zinn
809 Coldspring Road
Baltimore, Maryland 21220

Best Regards,



Michael McCann

cc: Baltimore County Board of Appeals

IN RE: PETITIONS FOR SPECIAL HEARING *
(809 Cold Spring Road)
15th Election District *
6th Councilmanic District *
Harlan K. Zinn *
Petitioner *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2013-0295-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Harlan K. Zinn, the legal owner of the subject property. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve "a building permit for an undersized lot where the small lot table is not applicable".

Appearing at the public hearing in support of the requests was Harlan K. Zinn and Allen Robertson, who served as Petitioner's representative. Several neighbors (whose names are listed in the case file), represented by Edward C. Covahey, Jr., Esquire, appeared and opposed the relief. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), Department of Environmental Protection and Sustainability (DEPS) and Bureau of Development Plans Review (DPR). The DOP recommended that the Petitioner's request be denied, and DEPS indicated that the "relief requested will not be consistent with established land-use policies." The Bureau of DPR indicated the Petitioner must comply with the County's flood plain requirements.

The subject property is 7,345 sq. ft. in size and is zoned DR 3.5.

ORDER RECEIVED FOR FILING

Date 8/20/13

By Sen

Petitioner argues that his lot is shown on a subdivision plat approved long before the adoption of the B.C.Z.R., and that as such, it is exempt from current lot size, setback, bulk and area regulations. Such an argument is at odds with Maryland law, and the petition will be denied.

In Baltimore County, an owner of land may pursue one of two avenues to construct a dwelling on an undersized lot. The owner could seek variance relief under B.C.Z.R. §307 or use the small lot table found at B.C.Z.R. §304. Mueller v. People's Counsel, 177 Md. App. 43 (2007). The Petitioner in this case has not sought relief under either of these regulations. Instead, the Petitioner argues that his lot is described in B.C.Z.R. §1B02.3.A.5, which means that it is exempt from current regulations. A similar argument was rejected by the Court of Special Appeals in Mardo Homes, Inc. v. Balto. Co., a copy of which is attached hereto.

As in Mardo, the Petitioner's lot may indeed be as described in §1B02.3.A.5, but it is also described by §1B02.3 subparagraphs A.3 and A.4. As such, B.C.Z.R. §1B02.3.B requires the Petitioner to satisfy the small lot table, which the Petitioner admittedly cannot do. As such, the petition must be denied.

Pursuant to the advertisement, posting of the property, and the public hearing, and after considering the arguments of the parties, I find that Petitioner's Special Hearing request should be denied.

THEREFORE, IT IS ORDERED this 20th day of August 2013, by this Administrative Law Judge, that Petitioner's request for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve "a building permit for an undersized lot where the small lot table is not applicable", be and is hereby DENIED.

ORDER RECEIVED FOR FILING

Date 8/20/13

By den

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

ORDER RECEIVED FOR FILING

Date 8/20/13

By sln

* Application of Small lot table
Old Subdivisions not App. by P.C. or P.B.

UNREPORTED

IT A.5 Resolution

IN THE COURT OF SPECIAL APPEALS

Section 304

OF MARYLAND

No. 120

September Term, 1977

Bldg. Permit # 63255 & 63256

MARDO HOMES, INC., ET AL.

v.

BALTIMORE COUNTY, MARYLAND

Davidson,
Melvin,
Wilner,
JJ.

PER CURIAM

Filed:

November 22, 1977

ORDER RECEIVED FOR FILING

Date 8/20/13

By Sen

In this appeal we are called upon to decide whether the Circuit Court for Baltimore County (Brannan, J.) was correct in affirming a decision of the Baltimore County Board of Appeals, denying building permits for two lots owned by appellant, Mardo Homes, Inc. Our conclusion in this regard is dependant upon our construction of Article 1B, Section 1B02.3 of the Baltimore County Zoning Regulations, and our determination as to whether appellant's lots are lots as described in subparagraphs A.3, A.4, and/or A.5 of that regulation. If the lots are A.3 and A.4 (as well as A.5) lots, then they are subject to certain minimum width requirements which they admittedly do not meet. If they are exclusively A.5 lots, then they are not subject to these requirements, and the denial of the permits can only be regarded as arbitrary and capricious.

The facts underlying this controversy are not in dispute, and may be quoted from Judge Brannan's opinion:

"This case involves a timely appeal from the March 5th 1976 order of the Baltimore County Board of Appeals, which affirmed denial of two building permits by the Department of Permits and Licenses of Baltimore County.

"The Appellants had applied for building permits No. 63255 and 63256 for construction of homes on two lots. Each lot measures 50 feet in width by 135 feet in depth. The zoning on the property is D.R. 5.5, and the lots in question are among 284 lots owned by the Appellants in a subdivision, the subdivision plat of which was recorded in March, 1929, some 16 years prior to the advent of zoning in Baltimore County. There was no approval of this subdivision plat by the Baltimore County Planning Board since the Planning Board was not in existence at that time.

"Interspersed throughout and among the lots which the Appellants own and intend to develop are approximately 100 existing detached houses owned by single families. Appellants contended at the Board of Appeals that they should be allowed to erect dwelling units on lots with 50 foot widths

ORDER RECEIVED FOR FILING

Date

By

rather than the newly mandated 55 foot width, and that if they were forced to build with a 55 foot width requirement, they would lose the use of 41 lots."

As Judge Brannan noted further on in his opinion, the question here is clearly,
1
one of statutory construction.

I

The regulation to be construed provides as follows:

"B02.3 -- Special Regulations for Certain Existing Developments or Subdivisions and for Small Lots or Tracts in D.R. Zones.

A. In D.R. zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy, and development of, the alteration or expansion of structures upon, and administrative procedures with respect to:

1. Any lot which is in a recorded residential subdivision approved by the Baltimore County Planning Board or Baltimore County Planning Commission and which has been used, occupied, or improved in accordance with the approved subdivision plan;
2. Any land in a subdivision tract which was laid out in accordance with the regulations of residence zoning classifications now rescinded, for which a subdivision plan tentatively approved by the Planning Board remains in effect, and which has not been used, occupied, or improved in accordance with such plan;

1.

The construction or interpretation of a statute is a question of law, not of fact. On this issue we are not, therefore, governed by the fairly debatable standard. *Kassab v. Burkhardt*, 34 Md. App. 699, 704, 368 A. 2d 1064 (1977).

ORDER RECEIVED FOR FILING

Date

8/20/13

By

SEN

3. Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in subparagraph 1 or 2 and which is too small in gross area to accommodate six dwelling or density units in accordance with the maximum permitted density in the D.R. zone in which such tract is located; or
4. Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in subparagraph 1 or 2 and which is less than one-half acre in area, regardless of the number of dwelling or density units that would be permitted at the maximum permitted density in the zone in which it is located.
5. Any lot, or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission.

B. Standards Applicable to Existing Developments Etc. The minimum standards for net lot area, lot width, front-yard depth, single-side-yard width, sum of widths of both yards, rear-yard depth, and height with respect to each use in a development described in subparagraph A.1, above, shall be as prescribed by the zoning regulations applicable to such use at the time the plan was approved by the Planning Board or Commission; however, the same or similar standards may be codified and comparable bulk (height or area) standards for different permitted uses may be established and codified under Section 504, and these standards shall thereupon control in such existing developments. Development of any subdivision described in subparagraph A.2 shall be in accordance with the tentatively approved subdivision plan therefor. Standards for development of lots or tracts described in subparagraphs A.3, A.4 or A.5 shall be as set forth in Paragraph C, below.

C. Development Standards for Small Lots or Tracts.

1. Any dwelling hereafter constructed on a lot or tract described in subparagraph A.3 or A.4 shall comply with the requirements of the following table:

ORDER RECEIVED FOR FILING

Date 8/20/13

By sen

Zoning Classification	Minimum Net Lot Area per Dwelling Unit	Minimum Lot Widths, ⁵ in Feet	Minimum Front-Yard Depth, in Feet	Minimum Width of Individual Side Yard, in Feet	Minimum Sum of Side-Yard Widths, in Feet	Minimum Rear-Yard Depth, in Feet
D.R. 1	40,000 square feet	150	50	20	50	50
D.R. 2	20,000 square feet	100	40	15	40	40
D.R. 3.5	10,000 square feet	70	30	10	25	30
D.R. 5.5	6,000 square feet	55	25	10	—	30
D.R. 10.5	3,000 square feet	20	10	10	—	50
D.R. 16	2,500 square feet	20	10	25	—	30

2. Other standards for development of small lots or tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504.

D. An amendment to any part of a development plan involving only property subject to the provisions of this subsection shall not be subject to the provisions of Paragraph D of subsection 1B01.3."

It is readily apparent that, while paragraph B states that "[s]tandards for development of lots or tracts described in subparagraphs A.3, A.4 or A.5 shall be as set forth in Paragraph C. below" (Emphasis added), paragraph C states only that, "Any dwelling hereafter constructed on a lot or tract described in subparagraph A.3 or A.4 shall comply with the requirements of the following table No provision is made for dwellings constructed on a lot or tract described in subparagraph A.5. Although subparagraph C.2 states that "[o]ther standards for development of small lots or tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504," no such provisions were ever adopted. Thus, it would appear that any lot or tract which falls exclusively within subparagraph A.5 would have no applicable development

ORDER RECEIVED FOR FILING

Date 8/20/13

By [Signature]

requirements.

Appellants contend that their lots are exclusively lots described in subparagraph A.5 and, therefore, that there are no development requirements applicable to these lots. Thus, appellants conclude that the Department of Permits and Licenses erred in denying their permits on the ground that the minimum lot width requirement was not met. If appellants are correct in their assertion that there are no development requirements applicable to their lots, then they are correct in their conclusion that the permits should have been issued.

Baltimore County (appellee) contends, however, that appellants' lots are not only lots described in subparagraph A.5, but are also lots described in subparagraphs A.3 and A.4. Thus, Baltimore County contends that as the lots are zoned D.R.5.5, the 55 foot minimum lot width set out in the table, and made applicable to lots described in subparagraph A.3 or A.4, is applicable to appellants' lots. As appellants' lots are only 50 feet wide, appellee contends that the denial of the permits was not arbitrary or capricious, but rather entirely proper.

The basic principles of statutory construction were comprehensively set out by the Court of Appeals in State v. Fabritz, 276 Md. 416, 421-22, 348 A. 2d 275 (1975), cert. denied, 425 U.S. 942 (1976):

"The cardinal rule in the construction of statutes is to effectuate the real and actual intention of the Legislature. Purifoy v. Merc.-Safe Dep. & Trust, 273 Md. 58, 327 A. 2d 483 (1974); Scoville Serv., Inc. v. Comptroller, 269 Md. 390, 306 A. 2d 534 (1973); Height v. State, 225 Md. 251, 170 A. 2d 212 (1961). Equally well settled is the principle that statutes are to be construed reasonably with reference to the purpose to be accomplished, Walker v. Montgomery County, 244 Md. 98, 223 A. 2d 181 (1966), and in light of the evils or mischief sought to be remedied, Mitchell v. State,

ORDER RECEIVED FOR FILING
Date 8/20/13
By [Signature]

115 Md. 360, 80 A. 2d 1020 (1911); in other words, every statutory enactment must be 'considered in its entirety, and in the context of the purpose underlying [its] enactment,' Giant of Md. v. State's Attorney, 267 Md. 501 at 509, 298 A. 2d 427, at 432 (1973). Of course, a statute should be construed according to the ordinary and natural import of its language, since it is the language of the statute which constitutes the primary source for determining the legislative intent. Grosvenor v. Supervisor of Assess., 271 Md. 232, 315 A. 2d 758 (1974); Height v. State, supra. Where there is no ambiguity or obscurity in the language of a statute, there is usually no need to look elsewhere to ascertain the intention of the Legislature. Purifoy v. Merc.-Safe Deposit & Trust, supra. Thus, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, courts are not at liberty to disregard the natural import of words with a view towards making the statute express an intention which is different from its plain meaning. Gatewood v. State, 244 Md. 609, 224 A. 2d 677 (1966). On the other hand, as stated in Maquire v. State, 192 Md. 615, 623, 65 A. 2d 299, 302 (1949), '[a]dherence to the meaning of words does not require or permit isolation of words from their context. '***[since] the meaning of the plainest words in a statute may be controlled by the context ' ' In construing statutes, therefore, results that are unreasonable, illogical or inconsistent with common sense should be avoided whenever possible consistent with the statutory language, with the real legislative intention prevailing over the intention indicated by the literal meaning. B. F. Saul Co. v. West End Park, 250 Md. 707, 246 A. 2d 591 (1968); Sanza v. Md. Board of Censors, 245 Md. 319, 226 A. 2d 317 (1967); Height v. State, supra.

Applying these principles to the regulation now being considered, we conclude that under the plain wording of section 1B02.3, appellants' lots are lots described in subparagraphs A.3, A.4 and A.5. The 55 foot minimum width requirement made applicable to A.3 and A.4 lots is, therefore, applicable to appellants' lots.

Subparagraph A.3 lots include any lot which is not in an existing development or subdivision as described in subparagraph 1 or 2 [that is, a subdivision for which a plan has been approved (A.1) or tentatively approved and remains in effect (A.2)] and which is too small to accommodate six dwellings or density

ORDER RECEIVED FOR FILING

Date 8/20/13

By sen

units under present zoning. It is undisputed that appellants' lots are not in an existing subdivision as described in subparagraph 1 or 2 (i.e., one for which a plan has been approved or tentatively approved) and that they are too small to accommodate six dwelling or density units under present zoning. Thus, appellants' lots come within the clear and unambiguous description contained in subparagraph A.3. With respect to subparagraph A.4, appellants' lots again are not lots in an existing development or subdivision as described in subparagraph 1 or 2, and are each less than one-half acre in area. Thus, appellants' lots are also lots described in subparagraph A.4. While appellants' lots come within the description contained in subparagraphs A.5 as well, this does not in any way negate the fact that they also come within the clear and unambiguous descriptions contained in subparagraphs A.3 and ²A.4.

Appellants advance a different interpretation of paragraph A in support of their contention that their lots are exclusively A.5 lots. Appellants contend that:

2.

Appellee Baltimore County has attempted to show a longstanding administrative interpretation that A.3, A.4 and A.5 category lots sometimes overlap. Appellants have attempted to negate this showing. As we have found the plain wording of the statute to be clear and unambiguous, we need not look to administrative interpretation. *Purifoy v. Mercantile-Safe Deposit and Trust Company, supra*. We note, however, that the interpretation of the statute by James E. Dyer, Deputy Zoning Commissioner of Baltimore County, described by the Board of Appeals "as probably the foremost authority on the subject," comports with our own.

ORDER RECEIVED FOR FILING
Date 8/20/13

By sen

"A1 deals with lots in recorded and approved subdivisions, A2 deals in tentatively approved subdivisions, A3 and A4 deal with lots not in an existing subdivision, and A5 deals with lots in a recorded subdivision not approved by the Baltimore County Planning Board or Planning Commission. A3 and A4 clearly deal with lots not in existing subdivisions, and A5 deals with lots in recorded subdivisions."

This interpretation ignores the plain wording of subparagraphs A.3 and A.4.

Categories A.3 and A.4 include more than lots not in existing subdivisions. They include lots "not in an existing development or subdivision as described in Subparagraph 1 and 2" (Emphasis added), that is, lots not in an existing development or subdivision with approved (see subparagraph A.1) or tentatively approved (see subparagraph A.2) plans. As previously noted, appellants' lots are not in an existing subdivision with approved or tentatively approved plans. They come, therefore, within the definition of A.3 and A.4 lots.

II

Having concluded that appellants' lots are A.3 and A.4 (as well as A.5) lots and, therefore, subject to the 55 foot minimum width requirement, we must next determine whether appellants should nevertheless have been granted a permit pursuant to Baltimore County Zoning Regulations, Article 2, Section 304. That Section provides:

"Section 304 -- USE OF UNDERSIZED SINGLE-FAMILY LOTS

A one-family dwelling may be erected on a lot having an area or width at the building line less than that required by the height and area regulations, provided:

- a. That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and

ORDER RECEIVED FOR FILING

Date 8/20/13

By pen

- b. That all other requirements of the height and area regulations are complied with; and
- c. That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements."

The lower court, the Board of Appeals and the Zoning Department all found that the lots in question are adjoined by land on either side, owned by the appellants, of sufficient size to conform to the lot width requirements. This finding, far from being "clearly erroneous" is not even in dispute. Accordingly, Article 2, Section 304 affords appellants no solace. See Article 2, § 304(c).

Having concluded that appellants' lots are subject to the 55 foot minimum width requirement contained in Baltimore County Zoning Regulations, Article 1B, Section 1B02.3, and that appellants' lots do not meet this requirement, it follows that the permits were properly denied.

JUDGMENT AFFIRMED. COSTS
TO BE PAID BY APPELLANTS.

ORDER RECEIVED FOR FILING

Date 8/20/13

By sen



KEVIN KAMENETZ
County Executive

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

August 20, 2013

Harlan K. Zinn
10628 Park Heights Avenue
Owings Mills, Maryland 21117

RE: Petition for Special Hearing
Case No. 2013-0295-SPH
Property: 809 Cold Spring Avenue

Dear Mr. Zinn:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

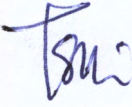
A handwritten signature in black ink, appearing to read "JEB", followed by a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Allen Robertson, 1608 Holly Tree Road, Middle River, Maryland 21220
Edward C. Covahey, Jr., Esquire, 614 Bosley Avenue, Towson, Maryland 21204
Richard Pitz, 808 Cold Spring Road, Baltimore, Maryland 21220
John Schmidt, 3833 Clarks Pt. Road, Middle River, Maryland 21220
Fred Conrad, 18 Tulip Tree Ct., Essex, Maryland 21221
Michael Vivieito, 3619 Bay Dr., Middle River, Maryland 21220
Nancy Hubers, 800 Cold Spring Road, Middle River, Maryland 21220

MEMO

From: Aaron Tsui, Planner II  June 6, 2013

To: Administrative Law Judge/File

Re: Case no. 2013-0295-SPH
809 Cold Spring Road, 15th Election District

Dr. Zinn, the petitioner, stated that he discussed with Mr. Arnold Jablon, PAI Director, regarding the history of the prior zoning cases on the subject property. Mr. Jablon remarked that Dr. Zinn may petition a Special Hearing for a proposed residence in a single lot, in a duly recorded subdivision, on the premise that the small lot table regulations do not apply.

Mr. Carl Richards opines that the Zoning Office, as always, applies the small lot table regulations per § 1B02.3.C.1 for a lot in a single ownership, duly recorded in a subdivision, that is not approved or tentatively approved by the Planning Board or Planning Commission.



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 809 COLD SPRING RD which is presently zoned DR 3.5
 Deed References: 23303/00652 10 Digit Tax Account # 2300013238
 Property Owner(s) Printed Name(s) HARLAN K. ZINN

(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
"a building permit for an undersized lot where the small lot table is not applicable"
2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
3. ☐ a **Variance** from Section(s)

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)

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:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

CASE NUMBER 2013-0295-SPH Filing Date 6/5/13

Do Not Schedule Dates:

Reviewer AT

THE ZONING HEARING PROPERTY DESCRIPTION:

PART A:

ZONING PROPERTY DESCRIPTION FOR 809 Cold Spring Road, Baltimore, MD 21220.

Beginning at a point on the east side of Cold Spring Road which is 16' wide at the distance of 660' (+/-) south of the centerline of the nearest improved intersection street, Chesapeake Avenue which is 30' wide.

PART B:

OPTION 2 (Subdivision Lot – lot is part of record plat):

Being Lot #304 in the subdivision of Long Beach Estates as recorded in Baltimore County Plat Book #4, Folio #131, containing 7,345 square feet. Located in the 15th Election District and 6th Council District.

2013-0295-SPH

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: 2013-0295-SPH
Petitioner: HARLAN K-ZINN
Address or Location: 809 COLD SPRING RD,

PLEASE FORWARD ADVERTISING BILL TO:

Name: HARLAN K-ZINN
Address: 10628 PARK HEIGHT AVE..
OWINGS MILLS, MD 21117
Telephone Number: 410-486-2899

No. 099634
Date: 6/5/13

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DOWN
6/06/2013	6/05/2013	11:13:27	2

REC 0502 WALKIN JENN JEE
 RECEIPT # 827010 8/05/2013 OFUN

5 320 30410 VERIFICATION
0099434

Recpt. tot. 175.00
175.00 CR 1.00 CR
Baltimore County, Maryland

[illegible]

Total:

For:

HARLAN ZINN

809 COLD SPRING RD

2013-0295-SPH

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

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

No. **73475**

Date: _____

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					265.00

Total: \$265.00

Rec From: MICHAEL R McCOWN - 213 E. MONTGOMERY ST 21230

For: APPEAL FEE - SPECIAL HRS DECISION
809 COLD SPRING RD.
2013-0295-SPH

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
 PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME NW
 9/17/2013 9/17/2013 12:15:51 B

REC ROOM WALKTH SHD SAN
 >>RECEIPT N 589854 9/17/2013 091H

Dept 5 520 ZONING VERIFICATION
 CR NO. 073475

Receipt Tot \$265.00
 \$265.00 OK \$1.00 CA
 Baltimore County, Maryland

**CASHIER'S
 VALIDATION**

Baltimore County Government

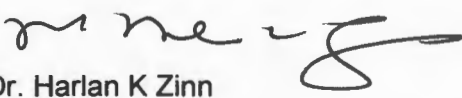
Office of Administrative Hearings

Judge John Beverungen

August 22, 2013

To Whom It May Concern:

I hereby request a copy of the proceedings affiliated with Case Number: 2013-0295-SPH which was held on August 19th, 2013 under the jurisdiction of Judge John Beverungen. Please provide the proceedings in either voice tape and / or transcript format. I understand there is a \$50 charge for production of such which will be rendered on Friday, August 23rd, 2013 in person when I pick up the proceedings. Thank you.


Dr. Harlan K Zinn

410 - Call
480 - when
2899 ready

Sp to Zinn 8/23
@ 2:08 PM
Ready for Plc
by Secretary 2:45 PM on 8/23
D. Wiley

8/23

OFFICE OF ADMINISTRATIVE HEARINGS

AUG 22 2013

RECEIVED

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

No.

94612

Date:

8/22/13

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	000		6150				50.00

Total:

50.00

Rec
From:

Dr. Harlan, K. Zinn

For:

2013-0295-SPH

CD

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME INH
8/26/2013 8/22/2013 15:09:23 8
REG MGRH WALKTH SHIL SHH
>>RECEIPT # 504005 8/22/2013 08:11

5 520 ZONING VERIFICATION

CP 0. 094612

Receipt Tot \$50.00

\$50.00 CR \$5.00 CA

Baltimore County, Maryland

**CASHIER'S
VALIDATION**

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 07/30/2013

Case Number: 2013-0295-SPH

Petitioner / Developer: HARLAN ZINN

Date of Hearing (Closing): AUGUST 19, 2013

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
809 COLD SPRING ROAD

The sign(s) were posted on: JULY 26, 2013

ZONING NOTICE
CASE # 2013-0295-SPH

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD**

ROOM 205 JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE. TOWSON 21204
DATE AND TIME: MONDAY, AUGUST 19, 2013
AT 10:00 A.M.

REQUEST: SPECIAL HEARING FOR A
BUILDING PERMIT FOR AN UNDERSIZED
LOT WHERE THE SMALL LOT TABLE IS NOT
APPLICABLE. 809 COLD SPRING ROAD

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

Linda O'Keefe

(Signature of Sign Poster)

Linda O'Keefe

(Printed Name of Sign Poster)

523 Penny Lane

(Street Address of Sign Poster)

Hunt Valley, Maryland 21030

(City, State, Zip of Sign Poster)

410 - 666 - 5366

(Telephone Number of Sign Poster)



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

August 1, 2013

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, said publication appearing on July 30, 2013

☐ The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: # 2013-0295-SPH

809 Cold Spring Road
E/s Cold Spring Road, 600 ft. S/of centerline
of Chesapeake Avenue
15th Election District - 6th Councilmanic District
Legal Owner(s): Harlan Zinn

Special Hearing: for a building permit for an undersized lot where the small lot table is not applicable.

Hearing: Monday, August 19, 2013 at 10:00 a.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 accommodations 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.

JT 7/876 July 30

937231

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 30, 2013 Issue - Jeffersonian

Please forward billing to:

Harlan Zinn
10628 Park Heights Avenue
Owings Mills, MD 21117

410-486-2899

NOTICE OF ZONING HEARING

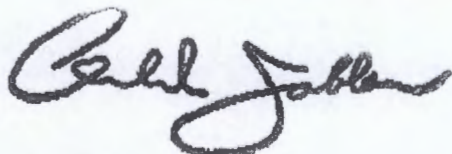
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2013-0295-SPH

809 Cold Spring Road
E/s Cold Spring Road, 600 ft. S/of centerline of Chesapeake Avenue
15th Election District – 6th Councilmanic District
Legal Owners: Harlan Zinn

Special Hearing for a building permit for an undersized lot where the small lot table is not applicable.

Hearing: Monday, August 19, 2013 at 10:00 a.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.



KEVIN KAMENETZ
County Executive

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

July 8, 2013

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: 2013-0295-SPH

809 Cold Spring Road
E/s Cold Spring Road, 600 ft. S/of centerline of Chesapeake Avenue
15th Election District – 6th Councilmanic District
Legal Owners: Harlan Zinn

Special Hearing for a building permit for an undersized lot where the small lot table is not applicable.

Hearing: Monday, August 19, 2013 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Harlan Zinn, 10628 Park Heights Ave., Owings Mills 21117
Allen Robertson, 1608 Holly Tree Road, Middle River 21220

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JULY 30, 2013.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182
October 3, 2013

NOTICE OF ASSIGNMENT

CASE #: 13-295-SPH

IN THE MATTER OF: Harlan Zinn – Petitioner/Legal Owner
809 Cold Spring Road/15th Election District; 6th Councilmanic District

Re: Petition for Special Hearing to approve a building permit for an undersized lot where the small lot table is not applicable.

8/20/13 Opinion and Order issued by the Administrative Law Judge wherein the above requested relief was DENIED with restrictions.

ASSIGNED FOR: WEDNESDAY, NOVEMBER 13, 2013, AT 9:00 A.M.

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, *Baltimore County Code*.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Krysundra "Sunny" Cannington
Acting Administrator

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner

: Michael McCann, Esquire
: Harlan Zinn

Counsel for Protestants
Protestants

: Edward Covahey, Jr., Esquire
: Danan Holding Corporation, Daniel and Nancy Hubers,
Richard and Amelia Pitz and Edward Bardroff, Sr and
Miriam Lee O'Hare

John Schmidt
Fred Conrad
Albert and Holly Leggett
Thomas and Tina Bentz
Allen Robertson
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Michael Vivirito
Ernestine Sisson
Robert Kroll
Office of People's Counsel
John Beverungen, Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law



KEVIN KAMENETZ
County Executive

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

August 14, 2013

Harlan K. Zinn
10628 Park Heights Avenue
Owings Mill MD 21117

RE: Case Number: 2013-0295 SPH, Address: 809 Cold Spring Road

Dear Mr. Zinn:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on June 5, 2013. 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 that reads "W. Carl Richards, Jr." The signature is written in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
Allen Robertson, 1608 Holly Tree Road, Middle River MD 21220

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



Darrell B. Mobley, Acting Secretary
Melinda B. Peters, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 6-17-13

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

RE: Baltimore County
Item No 2013-0295-SPH
Special Hearing
Harlan K. Zinn
809 Cold Spring 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. 2013-0295-SPH.

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,


Steven D. Foster, Chief
Access Management Division

SDF/raz

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 15, 2013

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 809 Cold Spring Road

INFORMATION:

Item Number: 13-295

Petitioner: Harlan K. Zinn

Zoning: DR 3.5

Requested Action: Special Hearing

RECEIVED

AUG 15 2013

OFFICE OF ADMINISTRATIVE HEARINGS

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The petitioner requests a special hearing to permit a building permit for an undersized lot where the small lot table is not applicable.

The Department of Planning recommends that the petitioner's request be denied. The subject site is insufficient in area for any type of comparable and consistent structural improvements that would be considered a dwelling. Furthermore, there is existing case history that involves the subject property wherein improvements were also opposed at that time.

For further information concerning the matters stated here in, please contact Matt Diana at 410-887-3480.

Prepared By:

Deputy Director:

AVA/JM:cjm

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JUL 02 2013

OFFICE OF ADMINISTRATIVE HEARINGS

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: July 1, 2013

SUBJECT: DEPS Comment for Zoning Item # 2013-0295-SPH
Address 809 Cold Spring Road
(Zinn Property)

Zoning Advisory Committee Meeting of June 10, 2013.

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 allow a single family dwelling with attached deck on an undersized lot. The lot is waterfront and contains a 120 square foot shed. The proposed dwelling is within the 100-foot buffer and is therefore subject to the BMA requirements; the attached deck is within 25 feet of the water. No structures, including decks, are permitted within 25 feet of the water without a Critical Area variance. Lot coverage on the entirety of this property is limited to 25%+ 500 square feet, with mitigation required for lot coverage above 25%. The proposed lot coverage is not provided. 15% afforestation (2 trees) is required in the LDA; existing trees to remain may be counted towards this requirement. As proposed the application does not meet the BMA requirements and I cannot determine if lot coverage and afforestation requirements will be met, therefore the relief requested by the applicant will not result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This property is waterfront. The proposal does not meet the BMA requirements and will need to apply for a Critical Area variance to allow a deck within 25 feet of the water. Lot coverage and afforestation information was not provided. Therefore I cannot determine that the application 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 was not included. The proposal does not meet the BMA requirements. The relief requested will not be consistent with established land-use policies.

Reviewer: Regina Esslinger

Date: June 25, 2013

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 17, 2013
Item No. 2013-0295

DATE: June 17, 2013

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

The base flood elevation for this site is 8.5 feet [NAVD 88].

The flood protection elevation is 9.5 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 13-0295-06172013.doc

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE OF
809 Cold Spring Road; E/side of Cold Spring *
Road, 600' S of Chesapeake Avenue * ADMINISTRATIVE HEARINGS
15th Election & 6th Councilmanic Districts *
Legal Owner(s): Harlan Zinn * FOR
Petitioner(s) * BALTIMORE COUNTY
* 2013-295-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

JUN 13 2013



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of June, 2013, a copy of the foregoing Entry of Appearance was mailed to, Allen Robertson, 1608 Holly Tree Road, Baltimore, MD 21220 Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
809 Cold Spring Avenue		
Baltimore, MD 21220	*	OFFICE OF
Legal Owner: Harlan K. Zinn		
	*	ADMINISTRATIVE HEARINGS
Petitioner		
	*	FOR BALTIMORE COUNTY
	*	2013-0295-SPH

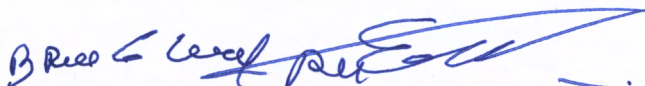
* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of Edward C. Covahey, Jr., Bruce Edward Covahey and Covahey, Boozer, Devan & Dore, P.A., as counsel for Danan Holding Corporation, owner of the property at 800 Cold Spring Avenue, Daniel Hubers and Nancy Hubers, residents of the property at 800 Cold Spring Avenue, Richard F. Pitz and Amelia C. Pitz, owners and residents of the property at 808 Cold Spring Avenue, and Edward W. Bardroff, Sr., and Miriam Lee O'Hare, co-owners of the property at 808 Cold Spring Avenue, interested parties.



EDWARD C. COVAHEY, JR.



BRUCE EDWARD COVAHEY
Covahey, Boozer, Devan & Dore, P.A.
614 Bosley Avenue
Towson, Maryland 21204
(410) 828-9441

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of August, 2013, a copy of the foregoing Entry of Appearance was hand-delivered to Harlan K. Zinn, 10628 Park Heights Avenue, Owings Mills, Maryland, 21117, and to Allen Robertson, 1608 Holly Tree Road, Middle River, Maryland, 21220 and mailed via first class mail, postage prepaid to Peter Max Zimmerman, People's Counsel, and Carole S. DeMilio, Deputy People's Counsel, Office of People's Counsel, Jefferson Building, 105 West Chesapeake Avenue, Room 204, Towson, Maryland, 21204.



EDWARD C. COVAHEY, JR.



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

July 15, 2013

CAROLE S. DEMILIO
Deputy People's Counsel

HAND DELIVERED

John Beverungen, Administrative Law Judge/Hearing Officer
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED

JUL 15 2013

Re: Harlan Zinn
809 Cold Spring Road
Case No. : 2013-295-SPH

OFFICE OF ADMINISTRATIVE HEARINGS

Dear Mr. Beverungen:

This matter is scheduled for a hearing on August 19, 2013 at 10:00 a.m. The same relief has been requested by petitioner as both owner and contract purchaser and by the previous owner in three separate Zoning Commissioner (ZC) hearings and two separate County Board of Appeals (CBA) *de novo* appeals, all from 2003 until 2008.

The ZC denied on the merits relief for variances to construct a building on an undersized lot in Orders dated July 28, 2003 and July 20, 2004. The ZC dismissed, based on *res judicata*, a third petition for variances on September 21, 2007. On December 20, 2005, the CBA, in a *de novo* appeal from the 2004 ZC Order, denied the variances on the merits. On July 1, 2008, the CBA, in a *de novo* appeal from the 2007 ZC Order, dismissed the petition on the basis of *res judicata*. We attach these five decisions.

Petitioner now incredulously and impudently seeks the same relief denied in the prior cases. It is an affront to the CBA, the office of the ZC/administrative law judge, and the county agencies to repeatedly process and review duplicate petitions requesting the same relief. It is a mockery of the administrative zoning process.

Please consider this a Motion to Dismiss based on *res judicata*.

"The doctrine of *res judicata* provides that "a judgment on the merits in a previous suit between the same parties or their privies precludes a second suit predicated upon the same cause of action. *Parkland Hosiery Co. v. Shore*, 439 U.S. 332, 326 n.5 (1979)." *Seminary Galleria v. Dulaney Valley Improvement Ass'n, Inc. et al* 192 Md. App. 719, 734 (2010).

We strenuously argue these principles bar the current petition. *Res judicata* has been consistently applied in Maryland:

“The law, in dispensing even-handed justice to all, has wisely taken care “ut sit finis litium,” and if matters, which have been once solemnly decided, could be again drawn into controversy, there would be no end of litigation. Mr. Greenleaf has happily said, “justice requires that every cause be once fairly and impartially tried; but the public tranquility demands that having been once so tried, all litigation of that question and between the same parties should be closed forever.” McKinzie v. Baltimore & O.R. Co. 28 Md. 161, 168 (1868).

It is undisputed *res judicata* applies to administrative hearings. Judge Meredith provides this background in Seminary at 735-736:

“Although there were cases decided several decades ago in which the Court of Appeals held that principles of *res judicata* did not apply to rulings of administrative agencies, the RESTATEMENT (SECOND) OF JUDGMENTS (1982) provides in § 83(1) that “a valid and final adjudicative determination by an administrative tribunal has the same effects under the rules of *res judicata*, subject to the same exceptions and qualifications, as a judgment of a court.” The more recent Maryland cases have held that, when an administrative agency is performing a quasi-judicial function, the principles of *res judicata* are applicable. See, e.g., Stavely v. State Farm Mut. Auto. Ins. Co., 376 Md. 108, 116, 829 A.2d 265 (2003); Sugarloaf v. Waste Disposal, 323 Md. 641, 658-59, 594 A.2d 1115 (1991); Cicala v. Disability Review Bd., 288 Md. 254, 263-64, 418 A.2d 205 (1980).

The Court of Appeals has confirmed that an administrative agency's decision will be entitled to preclusive effect if the test first enunciated in Exxon Corp. v. Fischer, 807 F.2d 842, 845-46 (9th Cir.1987), is met. See Batson v. Shiflett, 325 Md. 684 (1992). In Batson id. at 701, 602 A.2d 1191, the Court of Appeals quoted with approval the following test for determining whether an administrative agency's ruling “is entitled to preclusive effect”:

Whether an administrative agency's declaration should be given preclusive effect hinges on three factors: (1) whether the [agency] was acting in a judicial capacity; (2) whether the issue presented to the [reviewing] court was actually litigated before the [agency]; and (3) whether its resolution was necessary to the [agency's] decision.

(Internal quotation marks omitted.) Accord Neifert v. Dept. of Environment, 395 Md. 486, 507, 910 A.2d 1100 (2006).”

This three prong test is supported by the Supreme Court cases on issue preclusion.

In United States v. Utah Constr. Co., 384 U.S. 394, 86 S.Ct. 1545, 16 L.Ed.2d 642 (1966), the Court spoke particularly to the preclusive effect of administrative law rulings, stating that:

“When an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply *res judicata* to enforce repose.” [citations omitted].

Id. at 422, 86 S.Ct. at 1560, 16 L.Ed.2d at 661. Thus, agency findings made in the course of proceedings that are judicial in nature should be given the same preclusive effect as findings made by a court.”

The Supreme Court had quoted this language from Utah Constr. Co. in Astoria Federal Savings & Loan Assoc. v. Solimino 501 U.S. 104, 107 (1991). Mr. Justice Souter added,

“Such repose is justified on the sound and obvious principle of judicial policy that a losing litigant deserves no rematch after a defeat fairly suffered, in adversarial proceedings, on an issue identical in substance to the one he subsequently seeks to raise. To hold otherwise would as a general matter, impose unjustifiable upon those who have already shouldered their burdens, and drain the resources of an adjudicatory system with disputes resisting resolution. ... The principle holds true when a court has resolved an issue, and should do so equally when the issue has been decided by an administrative agency, be it state or federal”

Additionally, *res judicata* applies to not only to the same parties but to their privies. Batson, supra. A successor owner is a privy. This is particularly applicable in zoning cases, where the issue revolves around property use rather than the owner’s identity. City of Baltimore v. Poe 224 Md. 428 (1961). Here, the prior owner –Oberst – applied for variance relief to build on the undersized lot in 2003. The zoning Commissioner denied the relief. The case was not appealed. In 2004, Zinn, the petitioner here, filed as contract purchaser along with Oberst for variance relief for the same undersized lot. The Deputy Zoning Commissioner denied the relief on the merits. On appeal, the Board of Appeals again denied the relief on the merits. In 2007, Zinn alone petitioned for variance relief to construct on an undersized lot and the Zoning Commissioner denied the petition based on *res judicata*. On appeal, the Board of Appeals barred the relief based on *res judicata*.

The law does allow consideration of a substantial change in the character of the neighborhood if it materially affects the zoning issue. Whittle v. Board of Zoning Appeals of Baltimore County 211 Md. 36 (1956); Mayor & City Council of Baltimore v. Linthicum 170 Md. 245 (1936); Bensel v. Mayor & City of Baltimore 203 Md. 506 (1954); Woodlawn Area Citizens Assoc. v. Bd. of County Comm’rs 241 Md. 187 (1966). Chief Judge Brune wrote in Whittle, 211 Md. at 45,

“The general rule, where the question has arisen, seems to be that after the lapse of such time as may be specified by the ordinance, a zoning appeals board may consider and act upon a new application for a special permit previously denied, but that it may properly grant such a permit only if there has been a substantial change in conditions. *

* * This rule seems to rest not strictly on the doctrine of *res judicata*, but upon the proposition that it would be arbitrary for the board to arrive at the opposite conclusions on substantially the same state of facts and the same law." Emphasis supplied.

The Seminary opinion at 737 pointed out the change must be significant:

"The Court of Appeals has emphasized that, before a party can apply to a zoning agency for relief previously denied by the agency, "substantial changes in fact and circumstances" must be, indeed, substantial. Woodlawn Ass'n v. Board of County Com'rs, 241 Md. 187 (1965)."

There have been no changes to the neighborhood or to the conditions on the site, significant or otherwise, in recent memory, and certainly none from 2003 to the present. The site is in the Long Beach Estates subdivision recorded in the Land Records of the County in 1910. The residences are single family dwellings, many constructed in the 1920's on multiple lots. The 2004 Opinion of the ZC depict the dry land of the subject site as 4,800 sq. ft. while petitioner in later cases argued ownership of the roadbed claiming the lot to be approximately 7,000 square feet. In any event, the site is zoned DR 3.5 which requires a minimum area per dwelling unit of 10,000 sq. ft. under the small lot table in BCZR 1B02.3.A-C for existing subdivisions and approximately 12,400 sq. ft. for new development in the DR 3.5 zone.

Analogously, in Woodlawn Area Citizens v. Board of County Comm'rs 241 Md 187 (1966), at 156, a rezoning case, Judge Hammond wrote, quoting Whittle, 211 Md. at 49-50.

"Neither neighborhood sentiment nor the slight distinction created by the additional restrictions were deemed to amount to a substantial change in circumstances. In conclusion we held:

"Because essentially the same facts appeared in the second case as appeared or as could have been shown in the first case, the appellees are barred by *res judicata*, and their petition should have been denied."

In quick succession, the Court revisited the issue in two other rezoning cases. In Chatham Corp. v. Beltram 243 Md. 138 (1966), the applicants attempted to avoid the consequences of an earlier denial by reducing the requested density and invoking new arguments. Again, Judge Hammond wrote that the proposal did not differ significantly in kind or degree, and therefore the first decision was controlling under Woodlawn and the authorities there cited. 243 Md. at 150-52. In Alvey v. Hedin 243 Md. 334 (1966), the Court rejected an applicant's attempt to circumvent an earlier decision on the issue of mistake. Judge Marbury wrote, 243 Md. at 340,

"The above holding in the first case is an absolute bar to the present attempt by the Alveys to again raise the question of mistake in original zoning of the same tract of land, because any of the testimony relied upon in the instant case as to this question could

and should have been presented in the first case, and the applicability of the doctrine of *res judicata* as to this mistake question is not affected by the fact that they are here attempting to get a different type of commercial classification than in the first case.”

Chief Judge Hammond applied these same principles to a zoning case a few years later in Fertitta v. Brown 252 Md. 594 (1969). He approved Circuit Judge Proctor’s analysis,

“Judge Proctor said that by analogy to the doctrine of *res judicata* when the evidence which is presented to the agency could have been presented at an earlier hearing, and there is no change in circumstances between the times of the hearings, the final decision in the earlier case is unalterably binding under *Whittle v. Board of Zoning Appeals*”

Furthermore, *res judicata* bars litigation of the same matter with respect not only to the legal claims or issues decided in the case finally adjudicated, but also “as to all matters which with propriety could have been litigated in the first suit.” Alvey v. Alvey 225 Md. 386, 390 (1961); MPC, Inc. v. Kenny 279 Md. 29, 32 (1977); DeLeon v. Slear 328 Md. 569, 580 (1992); Kim v. Collington Center III 180 Md. App. 606, 619 (2008).

A litigant must bring forward the entire case, including all relevant facts and legal issues. Otherwise, there would be a potentially unending series of cases based on different facts and legal theories framed to achieve the same objective and relief. Here the same relief is requested - to shoehorn a building on an undersized lot – in the five previous hearings for this site. It makes no difference in the application of *res judicata* that the current petition is for a special hearing and the prior decisions were for variances. Otherwise, a petitioner need only change his legal theory for the same relief to escape being barred by *res judicata*.

In the instant matter, the law has not changed since 2003. In fact, the small lot table referred to in the current petition has been part of BCZR since Bill 100 (1970); petitioner could have raised it in his prior cases. The DR 3.5 zone standards were established in Bill 100 (1970) as well. (Even so, petitioner has produced no evidence to support deviation from the regulations as determined by the previous three decisions on the merits). Again, *res judicata* bars re-litigation of an issue, if any, that could have been raised in the prior cases and also bars a different legal theory for the same relief.

Furthermore, petitioner was aware of the restrictions for the site and the requirements for the zone as a contract purchaser but proceeded to buy the lot and continue the same zoning requests as the owner. In 2012, petitioner requested to rezone the site to DR 5.5 in the Comprehensive Zoning Map Process and was denied. (See attached Log of Issues.)

In revisiting *res judicata* in Powell v. Breslin, 430 Md.52 (2013), the Court of Appeals reaffirmed its broad application, even if the prior decisions were erroneous. First, Judge Harrell gives an extensive summary of the doctrine at pages 63-64:

"Res judicata is an affirmative defense that precludes the same parties from relitigating any suit based upon the same cause of action because the second suit involves a judgment that "is conclusive, not only as to all matters that have been decided on the original suit, but as to all matters which with propriety could have been litigated in the first suit." [citations omitted].

"In Maryland, the doctrine of res judicata precludes the relitigation of a suit if (1) the parties in the present litigation are the same or in privity with the parties to the earlier action; (2) the claim in the current action is identical to the one determined in the prior adjudication; and (3) there was a final judgment on the merits in the previous action.' (citations omitted).

The overarching purpose of the res judicata doctrine is judicial economy. *Colandrea*, 361 Md. At 391 . . . (noting that the res judicata doctrine is applied to "avoid the expense and vexation of multiple lawsuits, conserve judicial resources, and foster reliance on judicial action by minimizing the possibilities of inconsistent decisions")."

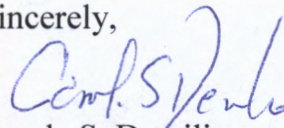
Judge Harrell, in agreement with the Circuit Court judge in Powell, quoted him approvingly at p. 64:

" . . . even if a ruling in an original suit was found later to be in error, "[t]he mere fact that the prior ruling is wrong does not deprive it of *res judicata* effect."

Although a reasonable use is not determinative, the evidence in prior cases shows petitioner uses the lot to moor his boat and has received approval (unopposed) to construct a small shed accessory to its use as a launching site.

This fourth petition for the identical relief requested in three prior petitions and five prior hearings must not be allowed to generate a sixth hearing. We respectfully request a dismissal WITH PREJUDICE of the Petition for Special Hearing based on *res judicata*.

Sincerely,



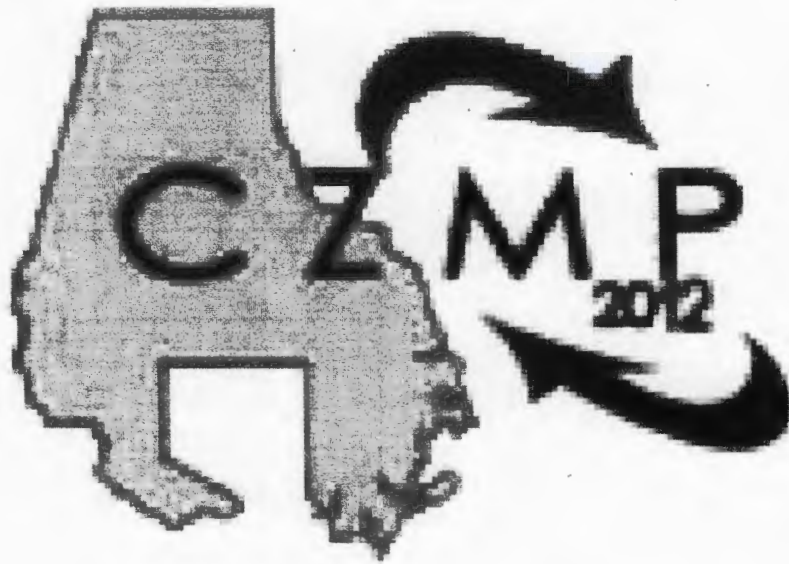
Carole S. Demilio

Deputy People's Counsel for Baltimore County

cc: Harlan Zinn
Allen Robertson

Enclosures
CSD/rmw

**COMPREHENSIVE ZONING MAP
PROCESS 2012**



DISTRICT 6

8/21/12

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE



TO: Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

FROM: Cathy A. Bevins *Cathy Bevins 8-27*
Councilwoman, Sixth District

SUBJECT: CZMP Issues: Accept Planning Board Recommendation

DATE: August 27, 2012

I wish to accept the Planning Board's recommendation on the following issues:

6-001	6-040
6-002	6-041
6-003	6-042
6-010	
6-012	
6-013	
6-014	
6-016	
6-019	
6-020	
6-021	
6-023	
6-024	
6-026	
6-027	
6-028	
6-029	
6-030	
6-034	
6-035	
6-036	
6-038	
6-039	

DELETE ALL COMMENTS

Comprehensive Zoning Map Process 2012

6th Councilmanic District - Zoning Issues



Legend

- Major Roads
- Street Centerline
- Hydrology
- IssueBoundaryArea
- IssueBoundaryArea for Other Council Districts

1 inch = 2,000 feet

0 2,000 4,000 8,000 12,000 16,000 Feet



Publication Date: December 14, 2011
 Publication Agency: Department of Planning
 Director, Annapolis, Maryland
 100 W. Chesapeake Ave., Towson MD
 Projection/Datum: Maryland State Plane,
 NAD 1983, NAD 1983/NA HARN, US Foot



Baltimore County 2012 Comprehensive Zoning Map Process
Log of Issues For District 6
August 30, 2012

Issue Number	Petitioner	Weber Avenue, LLC		Location	27 - 89 Weber Ave	
6-028	Existing Zoning and Acres	Requested Zoning and Acres		Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision
	DR 2 24.99	DR 5.5 53.31	DR 2 24.99	DR 2 24.99	DR 2 24.99	DR 2 24.99
	DR 3.5 28.32	DR 3.5 53.31	DR 3.5 28.32	DR 3.5 28.32	DR 3.5 28.32	DR 3.5 28.32
	<u>53.31</u>		<u>53.31</u>	<u>53.31</u>	<u>53.31</u>	<u>53.31</u>
Comments						
Issue Number	Petitioner	Joseph Moran		Location	East side of White Marsh Bld, between Keithley Rd and Hilltop Rd	
6-029	Existing Zoning and Acres	Requested Zoning and Acres		Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision
	RC 3 14.22	DR 3.5 14.22	RC 3 14.22	RC 3 14.22	RC 3 14.22	RC 3 14.22
	<u>14.22</u>	<u>14.22</u>	<u>14.22</u>	<u>14.22</u>	<u>14.22</u>	<u>14.22</u>
Comments						
Issue Number	Petitioner	Harlan K Zinn		Location	809 Cold Spring Rd	
6-030	Existing Zoning and Acres	Requested Zoning and Acres		Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision
	DR 3.5 0.18	DR 5.5 0.18	DR 3.5 0.18	DR 3.5 0.18	DR 3.5 0.18	DR 3.5 0.18
	<u>0.18</u>	<u>0.18</u>	<u>0.18</u>	<u>0.18</u>	<u>0.18</u>	<u>0.18</u>
Comments						
Issue Number	Petitioner	Baltimore County Planning Board		Location	8601 - 8607 Belair Rd	
6-031	Existing Zoning and Acres	Requested Zoning and Acres		Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision
	DR 5.5 0.14	DR 16 0.05	DR 16 0.05	CB 1.83	BLR 1.83	BLR 1.83
	RO 1.74	DR 5.5 0.10	DR 5.5 0.10	DR 16 0.05	DR 16 0.05	DR 16 0.05
	<u>1.88</u>	<u>1.74</u>	<u>1.74</u>	<u>1.88</u>	<u>1.88</u>	<u>1.88</u>
		<u>1.88</u>	<u>1.88</u>			
Comments						



KEVIN KAMENETZ
County Executive

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

September 25, 2013

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: **APPEAL TO BOARD OF APPEALS**
Case No. 2013-0295-SPH
Location: 809 Cold Spring Avenue

RECEIVED
SEP 25 2013
BALTIMORE COUNTY
BOARD OF APPEALS

Dear Mr. McCann:

Please be advised that an appeal of the above-referenced case was filed in this Office on September 17, 2013. 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,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Allen Robertson, 1608 Holly Tree Road, Middle River, Maryland 21220
Edward C. Covahey, Jr., Esquire, 614 Bosley Avenue, Towson, Maryland 21204
Richard Pitz, 808 Cold Spring Road, Baltimore, Maryland 21220
John Schmidt, 3833 Clarke Pt. Road, Middle River, Maryland 21220
Fred Conrad, 18 Tulip Tree Ct., Essex, Maryland 21221
Michael Vivieito, 3619 Bay Dr., Middle River, Maryland 21220
Nancy Hubers, 800 Cold Spring Road, Middle River, Maryland 21220

APPEAL

**Petitions for Special Hearing
(809 Cold Spring Avenue)
15th Election District – 6th Councilmanic District
Legal Owner: Harlan K. Zinn
Case No. 2013-0295-SPH**

Petition for Special Hearing (June 5, 2013)

Zoning Description of Property

Notice of Zoning Hearing (July 8, 2013)

Certificate of Publication (August 1, 2013)

Certificate of Posting (July 30, 2013) by Linda O'Keefe

Entry of Appearance by People's Counsel (June 13, 2013)

Petitioner(s) Sign-in Sheet – None

Citizen(s) Sign-in Sheet – 1 page

Zoning Advisory Committee Comments

Petitioner(s) Exhibits - None

Protestants' Exhibits – None

Miscellaneous (Not Marked as Exhibits) – Correspondence, Entry of Appearance Edward C. Covahey, Jr., Esquire from Covahey, Boozer, Devan & Dore, P.A.

Prior Zoning Orders for 809 Cold Spring Road

Administrative Law Judge Order and Letter (DENIED, August 20, 2013)

Notice of Appeal – September 17, 2013 by Michael R. McCann, P.A.

Address List

Petitioner

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, MD 21204

Harlan Zinn
10628 Park Heights Avenue
Owings Mills, MD 21117

Allen Robertson
1608 Holly Tree Road
Middle River, MD 21220

Interested Persons:

Edward C. Covahey, Jr., Esquire
Bruce E. Covahey, Esquire
Covahey, Boozer, Devan & Dore, P.A.
614 Bosley Avenue
Towson, MD 21204
*(on behalf of Danan Holding Corp, Mr. &
Mrs. Hubers, Mr. and Mrs. Pitz, Mr. Bardroff
and Ms. O'Hare)*

Danan Holding Corporation
800 Cold Spring Road
Baltimore, MD 21220

Daniel and Nancy Hubers
800 Cold Spring Road
Baltimore, MD 21220

Richard and Amelia Pitz
808 Cold Spring Road
Baltimore, MD 21220

Office of People's Counsel
Lawrence Schmidt, Managing Administrative Law Judge
John Beverungen, Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

Edward Bardroff, Sr.
Miriam Lee O'Hare
808 Cold Spring Road
Baltimore, MD 21220

John Schmidt
3833 Clarks Point Road
Baltimore, MD 21220

Fred Conrad
18 Tulip Tree Court
Baltimore, MD 21221

Michael Vivirito
3619 Bay Drive
Baltimore, MD 21220

Albert and Holly Leggett
813 Cold Spring Road
Baltimore, MD 21220

Ernestine Sisson
820 Cold Spring Road
Baltimore, MD 21220

Thomas and Tina Bentz
816 Cold Spring Road
Baltimore, MD 21220

Robert Kroll
810 Cold Spring Road
Baltimore, MD 21220



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 22, 2013

Michael R. McCann, Esquire
118 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: In the matter of: Harlan Zinn
Case No: 13-295-SPH

Dear Mr. McCann:

The enclosed letter, which was received by this office on November 22, 2013, is herewith returned to you.

The Board concluded the hearing in the subject matter on November 13, 2013, with the receipt of argument from the parties to this case, at which time the record was closed. The Public Deliberation took place immediately following the hearing.

Therefore, I am returning to you the enclosed documents which cannot be placed in the subject file nor become a part of the record in this matter, which was closed on November 13, 2013.

Very truly yours,

Sunny Cannington

Krysundra "Sunny" Cannington
Administrator

Enclosures: Correspondence received from Michael R. McCann, Esquire

cc w/o enclosures:

Edward C. Covahey, Jr., Esquire
Bruce E. Covahey, Esquire
Office of People's Counsel

August 9, 2013

HAND DELIVERED

John Beverungen, Administrative Law Judge/Hearing Officer
The Jefferson Building
105 W. Chesapeake Ave, Suite 103
Towson, Maryland 21204

RECEIVED

Case No. 2013-295-SPH
Harlan Zinn
809 Cold Spring Rd.

AUG 15 2013

OFFICE OF ADMINISTRATIVE HEARINGS

Dear Mr. Beverungen:

Since 2003, my neighbors and I have steadfastly opposed all efforts by multiple petitioners to obtain substantial variances for building a house on 809 Cold Spring Rd; an undersized lot by any measure. We are the immediately adjacent and opposite property owners and we and our families have lived at our current addresses for 45-85 years. We have submitted written opposition and appeared in person for 3 variance hearings (03-500-A, 04-522-A, 07-545-A) and 2 subsequent appeals before the Board of Appeals, all have been denied with *res judicata* declared, as argued for by the Office of People's Counsel. Most recently during the 2011 CZMP process, this petitioner requested a 'spot-zoning' change for this property from DR3.5 to DR5.5 which also was denied.

Now we find the petitioner requesting that all previous decisions be disregarded and for the county to ignore the basis (small lot table) upon which residential building permits are issued. The current neighbors will continue to stand united in opposition but haven't we taken enough of the county's valuable time on this very same request for relief and after *res judicata* has been declared?

The Zoning Commissioners and the Board of Appeals also consistently ruled that the property is not unique and there is no practical difficulty being imposed since the property has other legal recreational purposes as it has been used since it was first platted in 1914. They further opined that the property has never met any zoning requirements to build on and being half of what is required by the zoning regulations, would not meet the spirit and the intent of the BCZR.

Nothing has changed with this property nor with the neighborhood with the exception of the petitioner's perception of how much property he actually owns. By his own admission with earlier substantial variance requests and with surveys and property plans that he commissioned, the petitioner acknowledged that his property is only 43 feet deep from Galloway Creek to his property line along Cold Spring Rd. One of his requests was to reduce the rear yard setback from the county standard of 30 feet down to 2 feet from Cold Spring Rd, where the county trash/recycling trucks/snowplows already have to negotiate our narrow, dead-end road.

Faced with such an undersized lot and repeated relief denials, this petitioner and his counsel filed a Confirmatory Deed (dated January 10, 2006 in Baltimore County, Liber 23303, Folio 652) that claims additional property to the paved portion of Cold Spring Rd. Petitioner further claims in his request for a Special Hearing that every property owner has annexed property up to the paved portion of the roadway. Home owners maintain the grassy areas and have planted shrubbery yet this area has not been annexed nor could it be used to increase distances for variance purposes.

The Board of Appeals most recently correctly ruled that they could not consider any part of the 40 foot wide Cold Spring Rd. right-of-way as part of this property and Eric Rockel (then from Baltimore County Bureau of Land Acquisition) testified that Baltimore County could claim a prescriptive right to the 40 foot right-of-way, because it had been in open and continuous use for many years. Thus, we are back to the original 43 foot deep property with only half of the required square footage necessary for variance purposes.

Further, in all cases, the petitioner has ignored the Baltimore County requirement for waterfront properties that the front setback be the average of the immediately adjacent properties which in this case the county determined to be 55 feet; one need only be reminded that the property is only 43 feet deep at its deepest point.

Any description of the property or its suitability for building by myself or my neighbors would pale in comparison to the words and descriptions of the Zoning Commissioners and the Board of Appeals:

Zoning Commissioner Lawrence Schmidt – “The property is simply too small to support the proposed dwelling and development of the parcel would be inconsistent with the neighborhood and cause detrimental impacts to adjacent properties”

Deputy Zoning Commissioner John Murphy – In addition to finding that the dry land area was only 4800 sq. ft, he stated, “I am also troubled by the placement of a very long narrow home in a neighborhood in which the homes are built in a more traditional way. I would not want to set a precedent for this home in this neighborhood. In summary, considering all of the evidence presented, I arrive where Mr. Schmidt found himself last July. The lot is simply too small for the home proposed.”

Zoning Commissioner William Wiseman III – “In summation, I have considered the arguments and evidence presented. It is quite clear that the issues raised by the Petitioner were also before the CBA in case No. 04-522-A. The case being fully litigated in that forum, the Board’s decision not appealed, their Order is conclusive and “the end of the road”. *Res Judicata* precludes Dr. Zinn from filing the within Petition and re-litigating the matter”.

Case 2013-295-SPH.....809 Cold Spring Rd. 21220

We, the long-term, immediately adjacent and directly opposite property owners to 809 Cold Spring Rd. continue to oppose any effort to obtain a building permit for this undersized lot.

Amelia C. Pitz 8/11/13

Richard Pitz 8/11/13

Richard and Amelia Pitz
808 Cold Spring Rd.

Ernestine Sisson 8-11-13

Ernestine Sisson
813 Cold Spring Rd.
820 Cold Spring Rd.

Daniel and Nancy Hubers 8-11-13

Nancy Hubers 8/11/2013
Daniel and Nancy Hubers
800 Cold Spring Rd.

Albert & Holly Leggett 8-11-13

Holly Leggett 8-11-13
Albert and Holly Leggett
813 Cold Spring Rd.

Robert Kroll 8/14/13

Robert Kroll
810 Cold Spring Rd.
812 Cold Spring Rd.

Thomas and Tina Bentz 8/14/13

Thomas and Tina Bentz
816 Cold Spring Rd.

August 15, 2013

John Beverungen
Administrative Law Judge
Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204

Re: Harlan K Zinn
809 Cold Spring Road
Case # 2013-295-SPH

Dear Mr. Beverungen:

This is in response to People's Counsel request for a "Motion to Dismiss" based on *res judicata* relative to Case # 2013-295-SPH. Carole Demilio of that office maintains that the same relief is requested as presented in earlier administrative actions. Those requests and appeals sought relief in the form of variances from minimum lot area square footage and rear and front yard depth relative to an undersized lot. These facts were in particular reference to certain provisions of the Baltimore County Zoning Regulations, including the Small Lot Table.

The current pursuit for a building permit specifically addresses legal issues relative to those exemptions as defined under the Small Lot Table requirements of BCZR 1B02.3. New recent findings as declared by the Honorable Judge RuthJakubowski, in the Circuit Court for Baltimore County, specifically dictate that the aforementioned variances are not required.

The issue of *res judicata* does not apply here in that new facts or conditions intervene and therefore establish a new basis for the claims and defenses of the aggrieved party; the issues are no longer the same and hence the former judgment cannot be pleaded as a bar in the subsequent action (*Statler v Catalano*, 11.97) It is generally accepted that *res judicata* does not operate as an automatic bar where between the time of the first judgment and the second there has been an intervening decision or a change in the law creating an altered situation." In summary, this is a different legal argument/ issue, not raised before.

Furthermore, in spite of People's Counsel's endless pursuit of this case, when more restrictive undersized lots of record were not challenged in the same subdivision, one can only surmise that there exists an unusual prejudice in this case and question the motive and justification / basis in which the supposed public interest is served as mandated in the charter of that office.

Consequently, we hereby request that the case be allowed to proceed without prejudice and that justice be served.

Sincerely,

Dr. Harlan K Zinn, Petitioner 

Allen Robertson, Representative

RECEIVED

AUG 15 2013

OFFICE OF ADMINISTRATIVE HEARINGS

Cc: Carole S. Demilio, Deputy People's Counsel for Baltimore County

8/19 10am

Maryland Department of Assessments and Taxation
Real Property Data Search (vw6.1A)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)
[GroundRent](#)
[Redemption](#)
[GroundRent](#)
[Registration](#)

Account Identifier: District - 15 Account Number - 2400013238

Owner Information

Owner Name: ZINN HARLAN K **Use:** RESIDENTIAL
Mailing Address: 10628 PARK HEIGHTS AVE
OWINGS MILLS MD 21117-4310 **Principal Residence:** NO
Deed Reference: 1)/23303/ 00652
2)

Location & Structure Information

Premises Address **Legal Description**
809 COLD SPRING AVE .169AC LT304&ADJ LND
0-0000 809 COLD SPRING AVE
Waterfront C LONG BEACH ESTATES

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0098	0004	0203		0000			304	3	Plat Ref: 0004/0131

Special Tax Areas **Town** NONE
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
		7,345 SF	34

Stories **Basement** **Type** **Exterior**

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2012	07/01/2012	07/01/2013
Land	123,700	123,700		
Improvements:	9,700	7,100		
Total:	133,400	130,800	130,800	130,800
Preferential Land:	0			0

Transfer Information

Seller: ZINN HARLAN K	Date: 01/30/2006	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /23303/ 00652	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2012	07/01/2013
County	000	0.00	
State	000	0.00	
Municipal	000	0.00	0.00

Tax Exempt: **Special Tax Recapture:**
Exempt Class: NONE

Homestead Application Information

Homestead Application Status: No Application

CASE NAME _____
CASE NUMBER 2013-295-SPH
DATE 8-19-13

[illegible]

BACKGROUND -
Property: 809 Cold Spring Road

CASE NO.	RELIEF REQUESTED	DECISION	DATE	AUTHOR
1. 03-500-A (Oberst – Owner & Long, Contract Purchaser)	Front & Rear Setbacks and Approval of Property as an Undersized Lot	DENIED	07/28/03	Z.C. SCHMIDT
2. 04-522-A (Oberst – Owner & Zinn, Contract Purchaser)	Allow Lot containing Front & Rear Setbacks and Approval of an Undersized Lot	DENIED	07/2004	D.Z.C. MURPHY
3. 04-522-A (Same as above)	Same as Above – Appeal taken to BOA	DENIED	12/20/05	BOA – (STAHL, BRASSIL & QUINN)
4. 07-236-SPH (Zinn – Owner)	Storage Shed, accessory structure on property which no primary structure currently exists, to supplement use of property with associated pier	GRANTED WITH CONDITIONS	02/09/07	D.Z.C. MURPHY
5. 07-236-SPH (Zinn – Owner)	Same as Above – Motion for Reconsideration	GRANTED – Conditions 8 & 9 should be deleted – pertain to dwelling unit, not a shed per DPR ZAC comments	02/07	D.Z.C. MURPHY
6. 07-545-A SPH (Zinn – Owner)	Construction of single-family dwelling	DENIED	09/07	Z.C. WISEMAN
7. 07-545-A SPH (Zinn – Owner)	Same as Above – Appeal taken to BOA	DENIED	07/01/08	BOA – (WESTCOTT, BELT & MURPHY)

Schmidt
July 2003
Denied

IN RE: PETITION FOR VARIANCE
W/S Cold Spring Road, 700' S of the c/l
Chesapeake Avenue
(809 Cold Spring Road)
15th Election District
6th Council District

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY

* Case No. 03-500-A

Janice Ann Oberst, Owner;
Robert B. Long, Contract Purchaser

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Janice Ann Oberst, and the Contract Purchaser, Robert B. Long. The Petitioners request relief from Sections 303.1 and 1B.02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front setback of 11 feet in lieu of the required average 55 feet, a rear setback of 2 feet in lieu of the required 30 feet, and approval of the property as an undersized lot. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Janice Oberst, property owner; Robert Long, Contract Purchaser/Builder; and Ann J. Schuman, an adjacent property owner. Richard Pitz, another adjacent property owner, appeared in opposition. There were no other interested parties present.

Testimony and evidence offered revealed that the subject property is an irregular shaped waterfront parcel located adjacent to Galloway Creek on the east side of Cold Spring Road, near its terminus, in the subdivision of Long Beach Estates. The property contains a gross area of .15 acres in area (6,521 sq.ft.) zoned D.R.3.5 and is presently unimproved; however, is served by public water and sewer. Testimony indicated that Ms. Oberst acquired the property in January 2003 from her parents who had apparently owned the property since 1954. The Petitioner recently

(2)

John Murphy
July 2004
Denied

IN RE: PETITION FOR VARIANCE
E/S of Cold Spring Road, 640 ft. +/- S
centerline of Chesapeake Avenue
15th Election District
6th Councilmanic District
(809 Cold Spring Road)

Janice Oberst, *Legal Owner*
and
Amanda C. & Dr. Harlan K. Zinn,
Contract Purchasers
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 04-522-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners, Janice Oberst and Amanda C. & Dr. Harlan K. Zinn, the contract purchasers. The Petitioners are requesting variance relief for property located at 809 Cold Spring Road in the eastern area of Baltimore County. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a lot containing 5,092 sq. ft., a front yard of 23 ft. and a rear yard of 2 ft. in lieu of the required 10,000 sq. ft., 30 ft. and 30 ft. respectively, and to approve an undersized lot pursuant to Section 304 of the B.C.Z.R.

The property was posted with Notice of Hearing on June 25, 2004, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 29, 2004 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

"The Zoning Commissioner of Baltimore County 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

IN THE MATTER OF
THE APPLICATION OF
JANICE OBERST – LEGAL OWNER;
DR. HARLAN AND AMANDA ZINN – C.P. /
PETITIONERS FOR VARIANCE ON PROPERTY * OF
LOCATED ON THE E/S OF COLD SPRING RD,
640' +/- S OF CHESAPEAKE AVENUE
(809 COLD SPRING ROAD)

15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

3
BoA
Denied
Dec. 20, 2005

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 04-522-A

RECEIVED

JUL 23 2013

OPINION

OFFICE OF ADMINISTRATIVE HEARINGS

This matter comes as an appeal of a Deputy Zoning Commissioner Order in which the requested variance relief was denied. The variance request is for property at 809 Cold Spring Road: Petitioners requested relief from § 1B02.3.C.1 of the *Baltimore County Zoning Regulations* (BCZR) to allow a lot containing 5,092 square feet, a front yard of 23 feet and a rear yard of 2 feet, in lieu of the required 10,000 square feet, 30 feet, and 30 feet respectively. Petitioners also request approval of the lot as an undersized lot per § 304 of the BCZR.

A public, *de novo* hearing was held before the Board of Appeals on February 24 and May 25, 2005. Petitioners Janice Oberst, legal owner, and Dr. Harlan Zinn, contract purchaser, were represented by John B. Gontrum, Esquire. Carole S. Demilio, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel. The Board publicly deliberated this case on July 28, 2005.

Background

The subject property, Lot 304, was first platted in 1914 as part of Plan "C" of the Long Beach Estates subdivision (see Petitioner's Exhibit 1). It is an undeveloped parcel of land fronting Galloway Creek, off Cold Spring Road. According to the Maryland Department of Assessments and Taxations Real Property Data Search, the property consists of 5,396 square feet (Petitioner's Exhibit 5A). Lot 304 was bought by the family of Ms. Janice Oberst around 1954, following their purchase of 810 Cold Spring Road, which was their residence. In 1992, the

John Murphy
Feb. 2007
Shanteel W.
Cond.

IN RE: PETITION FOR SPECIAL HEARING
E side of Cold Spring Road, 640 feet S of
C/I of Chesapeake Avenue
15th Election District
6th Councilmanic District
(809 Cold Spring Road)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

Harlan K. Zinn
Petitioner

* CASE NO. 07-236-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the property located at 809 Cold Spring Road. The Petition was filed by Harlan K. Zinn, legal property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an 8 x 15 foot storage shed, accessory structure on property on which no primary structure currently exists, to supplement use of property with associated pier. The shed would contain kayaks, boating equipment and gardening equipment.

The property was posted with Notice of Hearing on January 13, 2007, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on January 16, 2007, to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner 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. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

5

John Murphy
Feb. 2007

Granted

IN RE: PETITION FOR SPECIAL HEARING
E side of Cold Spring Road, 640 feet S of
C/I of Chesapeake Avenue
15th Election District
6th Councilmanic District
(809 Cold Spring Road)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

Harlan K. Zinn
Petitioner

* **CASE NO. 07-236-SPH**

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner as a Motion for Reconsideration by Dennis A. Kennedy, Supervisor, with the Bureau of Development Plans Review.

Original Case

The Petitioner originally filed a Petition for Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R) to permit an 8 x 15 foot storage shed, accessory structure on property on which no primary structure currently exists, to supplement use of property with associated pier. The shed would contain kayaks, boating equipment and gardening equipment.

Motion for Reconsideration

On February 2, 2007, Mr. Kennedy submitted revised comments from the Bureau of Development Plans Review.

Finds of Fact and Conclusions of Law

The Bureau of Development Plans Review submitted revised comments which were received after the Order was issued on February 9, 2007. The revised comments reflect that conditions 8 and 9 as listed in the Order should be deleted. Conditions 8 and 9 pertain to a

(6)

Bill Wiseman
Sept. 2007
Denied

IN RE: PETITION FOR VARIANCE
E/Side Coldspring Road, 700' +/- S of
Chesapeake Avenue
(809 Cold Spring Road)
15th Election District
6th Council District

Dr. Harlan K. Zinn
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No. 07-545-A

* * * * *

MEMORANDUM OPINION AND ORDER

This matter comes before the Zoning Commissioner for a public hearing on a Petition for Variance filed by Dr. Harlan K. Zinn for waterfront property located in the Chesapeake Bay Critical Area at 809 Cold Spring Road in Bowleys Quarters. The Variance request is from Sections 303.1 and 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow for the construction of a single-family dwelling on a lot containing 7,342 square feet and having a front yard setback of 25 feet and rear yard setback of 25 feet in lieu of the required 10,000 square feet, 30 foot average and 30 foot setbacks respectively as set forth in the Density Residential regulations for the D.R.3.5 zone. The problem presented in this case is that the Office of the Zoning Commissioner, on two occasions, has denied similar requests.¹ In addition, the County Board of Appeals (CBA) after fully adjudicating Petitioner's *de novo* appeal on issues of an undersized lot and front and rear yard setbacks denied the appeal.² As aptly pointed out by the Office of People's Counsel, the case has been fully litigated; the decision of the CBA was not appealed and, therefore, constitutes a final binding Order. On August 20, 2007, a hearing was held before the undersigned on the instant Petition and the Petitioner and Protestants from the community presented testimony and evidence.³ For the reasons set forth below, the relief requested will be **DENIED**.

¹ See Orders in Case Nos. 03-500-A and 04-522-A in which decisions were previously rendered July 28, 2003 and July 20, 2004.
² See Opinion and Order issued by the CBA on December 20, 2005.
³ Dr. and Mrs. Zinn presented 19 exhibits demonstrating remedial efforts taken subsequent to zoning and CBA decision(s) while Protestants offered 6 exhibits alleging creative manipulation on the part of the Petitioner in arriving at the claimed lot area.

73

BOA
Denied
July 1, 2008

IN THE MATTER OF
THE APPLICATION OF
DR. HARLAN ZINN - LEGAL OWNER /
PETITIONER FOR VARIANCE ON
PROPERTY LOCATED ON THE E/S
COLD SPRING ROAD, 700' +/- S OF
CHESAPEAKE AVENUE
(809 COLD SPRING ROAD)

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 07-545-A

15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

RECEIVED

JUL 23 2013

* * * * *

OPINION

OFFICE OF ADMINISTRATIVE HEARINGS

This case comes as a result of Petitioner, Zinn, filing a Petition for Variance in June, 2007 to construct a residence on the site and requested relief from "Sections 303.1 and 1B02.3.C1 to allow a lot containing 7,342 square feet, front setback of 25 feet and rear yard setback of 25 feet in lieu of the required 10,000 square feet, front yard setback of 25 feet and rear yard setback of 25 feet in lieu of the required 10,000 square feet, 30 feet average and 30 feet setbacks respectively."

Zoning Commissioner, William Wiseman, denied the relief in an Opinion dated September 21, 2007. He found the relief was barred by *res judicata*. As a result of the Petitioner's appeal of this ruling to this Board, People's Counsel for Baltimore County filed a Motion for Summary Judgment pursuant to Maryland Rule 2-501 on the grounds of *Res Judicata*.

A hearing and deliberations were held on May 15, 2008. Petitioner was *pro se*. Carole S. Demilio, Deputy People's Counsel for Baltimore County, appeared on behalf of the Office of People's Counsel.

Case No. 13-295-SPH Case Name: Harlan Zinn

Exhibit List

Party: H. Zimm appellant Date: 11/13/2013

[illegible]

App. # 1 (Not admitted - not for dat-fischer)

<u>Case No.</u>	<u>Relief Sought</u>	<u>Decision</u>
03-500-A (Zoning Comm'r)	(1) Front setback variance (11 in lieu of 55) (§ 303.1) (2) Rear setback variance (2 in lieu of 30) (§ 303.1) (3) approval of undersized lot (§ 1B02.3.C.1)	Denied
04-522-A (Board)	(1) front setback variance (23 in lieu of 30) (2) rear setback variance (2 in lieu of 30) (3) approval of undersized lot (§ 1B02.3.C.1) (§ 304)	Denied *
07-236-SPH (Zoning Comm'r)	petition for special hearing to allow shed as accessory structure	Granted *
07-545-A (Board)	(1) front setback variance (25 in lieu of 30) (§ 303.1) (2) rear setback variance (25 in lieu of 30) (§ 303.1) (3) approval of undersized lot (§ 1B02.3.C.1)	Denied

* Berarungen

5. Prior Zoning Cases:

- **Zoning history** - a recorded lot of record as part of "Long Beach Estates" in 1910; lots No. 200 and 304 acquired by the Oberst family in the 1950's, transferred to a daughter in the 1990's and subsequently purchased by Harlan K Zinn.
 - *Zoning Case 03-500- Developer/contract purchaser denied variance in September, 2003 because of overwhelming house foot print, lack of environmental variance approvals and proximity to owner's partial turn around on the property.*
 - *Zoning Case 04-522A - Zinn denied variance February, 2004 in spite of reduced house footprint, environmental approvals (Critical Area Commission & DEPRM). Asst. ZC Murphy found property unique, but expressed concern about conflicting with the earlier zoning ruling, proximity to turnaround and dwelling design incompatibility with neighborhood.*
 - *Zoning Case 04-22A - Zinn appealed and denied variance by the Board of Appeals, December, 2005 because lot size was less than 10,000 square feet; property determined not unique; no practical difficulty imposed and not in the spirit and intent of zoning regulations – Office of People's Counsel opposed the variance on behalf of BQIA.*
 - *Zoning Case 07-236-SPH – Zinn requested and approved for 8x15 foot storage shed accessory structure in March, 07 with conditions by Acting ZC Murphy.*
 - *Zoning Case 07-545A - Zinn re-applied for a variance request and denied in September, 07 by ZC Wiseman on the basis of "res judicata" despite significant property improvements, updated survey which showed changed land mass, turnaround and setbacks modified, house footprint reduced and design modified.*

6. Current or Outstanding Zoning Violations:

No current or outstanding zoning violations.

7. Ownership:

- 809 Cold Spring Road Harlan K Zinn, Lot 304, Long Beach Estates Subdivision, Tax Account Number 2300013238, Deed Reference 23303/00652
- 800 Cold Spring Road Danan Holding Corp., Lot 199, Long Beach Estates Subdivision, Tax Account Number 1504001984, Deed Reference 04522/00608
- 808 Cold Spring Road Edward Bardroff, Amelia Pitz, et al., Lot 200, Long Beach Estates Subdivision, Tax Account Number 1502004760, Deed Reference 08437/00472
- 813 Cold Spring Road Ernestine Sisson, Lot 200, Long Beach Estates Subdivision, Tax Account Number 1519391660, Deed Reference 156701/00045

8. Location:

North Arrow, 809 Cold Spring Road beginning at a point on or near the existing edge of paving of the traveled portion of 16 foot paved portion of Cold Spring Road at the extension of the division line between Lots No. 200 and 304 as shown on the Plat entitled "Plan of Long Beach Estates" as recorded among the Land Records of Baltimore County. in Plat Book W>P>C> No 4 folio 131.
...(see property description under A and B of the Zoning Hearing Property Description.

9. Streets, Widening, R/W Easements:

Cold Spring Road, off Chesapeake Avenue, is a 16' wide paved roadbed which is maintained by Baltimore County. The County did not obtain title to the street even though it sometimes shows as a 40' right of way on County water and sewer maps. Every homeowner on Cold Spring Road has annexed property up to the paved portion of the roadway.

2013-0295-SPH

10. Buildings:

There currently exists one (1) 12x10 accessory building used as a shed for the storage of gardening, boating and general property supplies. It is sited on the attached drawing on the property line as indicated.

11. Street Setbacks:

Front setbacks of all dwellings within a distance of 200 feet from the joint side of property lines: (front of all waterfront properties are from the waterside)

- 800 Cold Spring Road – approximately 200'
- 809 Cold Spring Road - proposed 25' (approved from DEPS and MD Critical Commission, Chesapeake and Atlantic Coastal Bays - 2004)
- 813 Cold Spring Road – approximately 16'
- 815 Cold Spring Road – approximately 20'

12. Utilities:

Location and size of all public utilities and right-of-ways both adjacent to and on-site:
Existing utility right-a-ways of 3' per side of existing road paving exist.

13. Features:

Since 809 Cold Spring Rd is a waterfront lot, it is within the floodplain with a required 9 1/2' elevation required for the first floor of any proposed residential building. The property has been reviewed and approved by DEPS and the MD Critical Commission, Chesapeake and Atlantic Coastal Bays in 2004 with a setback of 25' from the waterline.

14. BOCA:

Proposed residential building will meet the BOCA building code and fire code requirements.

15. Special Requirements:

None

16. Special District or Area Location:

Special note:

The proposed residence is a modern house design shielded from the view of all adjacent neighbors by evergreen foliage or a large extensive block wall / rear wall of garages of adjacent property at 800 Cold Spring Road. Only the water front view (considered the front of the house) is visible and only from the water side of Galloway Creek. Adjacent residential designs are highly varied from traditional 2 story cape cods to one story ranchers, mostly 30+ years of age. Proposed residence could be "green certified", being energy efficient and water stingy. In addition, extensive native species of trees and vegetation are planned to limit irrigation while providing habitat for native birds and insects.

2013-0295-SPH

ELEVATIONS AND FLOOD HAZARDS



Publication Date: 3/4/2013



Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 10 20 40 60 80 Feet

1 inch = 40 feet

2013-0295-SPH

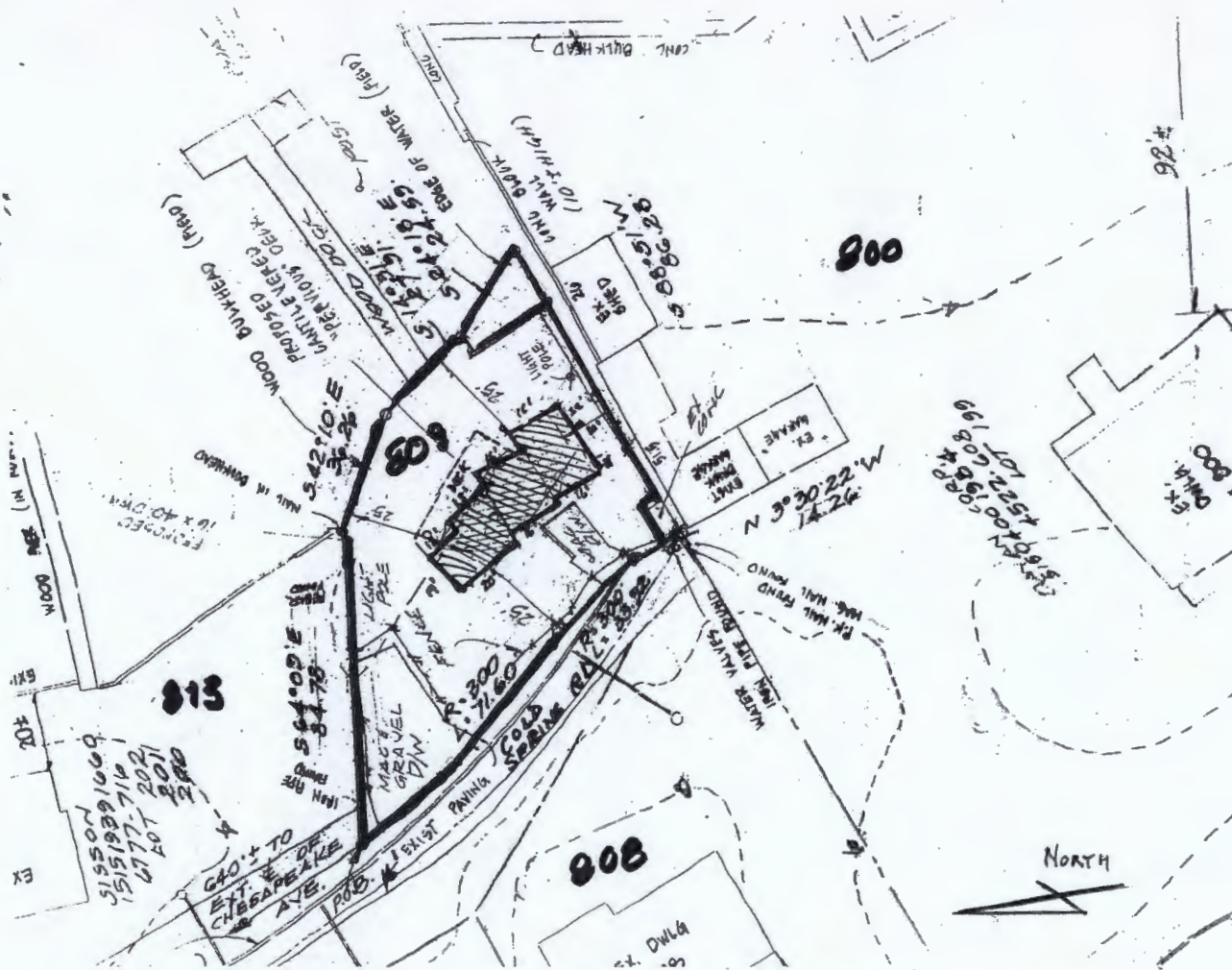
2013-0295-SPH

ZONING HEARING PLAN FOR VARIANCE _____ FOR SPECIAL HEARING X (MARK TYPE REQUESTED WITH X)

ADDRESS 809 COLD SPRING RD OWNER(S) NAME(S) HARLAN K. ZINN

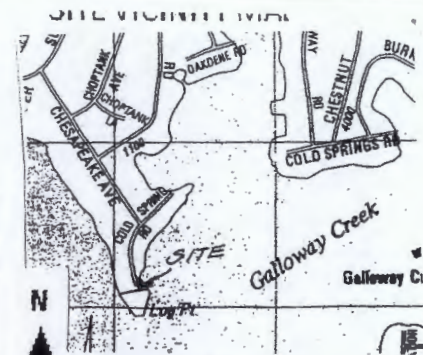
SUBDIVISION NAME LONG BEACH ESTATES LOT # 304 BLOCK # _____ SECTION # _____

PLAT BOOK # 00041 FOLIO # 131 10 DIGIT TAX # 2102012238 DEED REF. # 233 03/00 652
0031



PLAN DRAWN BY S. DALLAS - SURVEYORS
HK ZINN - OWNER

DATE 3/10/13 SCALE: 1 INCH = 50 FEET



MAP IS NOT TO SCALE

ZONING MAP# 098 B1

SITE ZONED RC 3.5

ELECTION DISTRICT 15th

COUNCIL DISTRICT 6th

LOT AREA ACREAGE 0.169 ACRES

OR SQUARE FEET 7,345 SQ. FT.

HISTORIC? NO

IN CBCA? Yes

IN FLOOD PLAIN? _____

UTILITIES? MARK WITH X

WATER IS:

PUBLIC X PRIVATE _____

SEWER IS:

PUBLIC X PRIVATE _____

PRIOR HEARING? Yes

IF SO GIVE CASE NUMBER

AND ORDER RESULT BELOW

See attached sheet

03-500 07-236 SPH

04-522A 07-545A

04-22A

VIOLATION CASE INFO:

N/A

2013-0295-SPH