

CHARLES CASTRONOVO, et al.

\* IN THE  
\* COURT OF APPEALS  
\* OF MARYLAND

v.

\* Petition Docket No. 48  
\* September Term, 2021  
\*  
\* (No. 1275, Sept. Term, 2019  
\* Court of Special Appeals)  
\*  
\* (No. 03-C-18-006886, Circuit  
\* Court for Baltimore County)

PAUL GODWIN

**ORDER**

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals and the answer filed thereto, in the above-captioned case, it is this 22<sup>nd</sup> day of June, 2021

**ORDERED**, by the Court of Appeals of Maryland, that the petition be, and it is hereby, **DENIED** as there has been no showing that review by certiorari is desirable and in the public interest.



/s/ Mary Ellen Barbera  
Chief Judge

Circuit Court for Baltimore County  
Case No. 03-C-18-006886

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1275

September Term, 2019

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CHARLES CASTRONOVO, ET AL.

v.

PAUL GODWIN

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Berger,  
Arthur,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Arthur, J.

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Filed: February 16, 2021

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

A couple complained that their neighbor had constructed a deck and other structures on his property, in violation of the Baltimore County Code and the Baltimore County Zoning Regulations. An administrative law judge, the Baltimore County Board of Appeals, and the Circuit Court for Baltimore County largely rejected those contentions. They appealed. We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

#### **A. The Property and Chesapeake Bay Critical Area Restrictions**

The parties in this case are next-door neighbors in Middle River, Baltimore County. Appellants Charles and Ingrid Castronovo reside at 1501 Shore Road. Appellee Paul Godwin resides at the adjacent property at 1452 Shore Road. Mr. Godwin's property is the subject matter of this litigation.

The parties' neighborhood is a waterfront community located within what has been designated a "Chesapeake Bay Critical Area." In an effort to reduce runoff into the Bay and its tributaries, these critical areas are subject to various restrictions, in addition to those in local land-use statutes and regulations.

The principal source of the additional restrictions is the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program, Maryland Code (1973, 2012 Repl. Vol., Supp. 2020), §§ 8-1801 to -1817 of the Natural Resources Article ("NR"). In accordance with that legislation, the Baltimore County Code ("BCC") and the Baltimore County Zoning Regulations ("BCZR") establish limits on "lot coverage" – impervious surface area through which rainwater cannot be absorbed – within the critical areas.

The Godwin property is in a “limited development area,” which is regulated by BCC § 33-2-603. For properties more than half an acre in size, like the Godwin property, that statute generally provides that the amount of lot coverage may not exceed 5,445 square feet. *See* BCC § 33-2-603(b)(3)(iii)(2)(B). However, under a “grandfather clause” in the BCZR, a property may exceed the lot-coverage limitations if it exceeded those limitations in 1988, before the effective date of the critical area laws. *See* BCZR § 103.5.<sup>1</sup>

The parties agree that in 1988 Mr. Godwin’s property had 5,478 square feet of lot coverage and thus exceeded the limitations by 33 square feet. Therefore, under the BCZR’s grandfathering provision, Mr. Godwin is permitted to have the 5,478 square feet of lot coverage that existed before the enactment of the critical area laws. (Appellant’s Brief at 4.)

## **B. Improvements to the Godwin Property**

### **1. 2006 Renovations**

In 2006, Mr. Godwin made various improvements to his home. The improvements increased the amount of lot coverage at the Godwin property, largely, it appears, by increasing the size of the house.

Before making these improvements, Mr. Godwin applied for and received a permit to execute his proposed plans. For reasons that no one can explain, the County issued a

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<sup>1</sup> The County’s grandfather clause is authorized by COMAR 27.01.02.07.B, which requires local jurisdictions to “establish grandfather provisions as part of their local Critical Area programs.”

permit even though the 2006 improvements caused the property to exceed the lot-coverage limitation. The Castronovos did not take any action or complain to any authority regarding these renovations and the corresponding violations at that time.

## **2. 2014-2015 Deck Construction**

In 2014, nearly a decade later, Mr. Godwin began the construction of a new deck. The deck consisted of two levels, a stairway with a landing between the two levels, and posts in the ground.

In the words of the Castronovos’ counsel, the deck “hangs over [the Castronovos’] property,” so that from the deck “you can probably throw a beer at somebody in Mr. Castronovo’s swimming pool.” Given the potential detrimental impact on the use and enjoyment of their property, the Castronovos, for the first time, took legal action against Mr. Godwin.

### **C. Initial Proceedings**

#### **1. Petition for Special Hearing**

In 2014, when the construction of the Godwin deck commenced, the Castronovos filed a petition for special hearing in the Baltimore County Office of Administrative Hearings (“OAH”). A petition for special hearing “is, in legal effect, a request for a declaratory judgment.” *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005).

The Castronovos’ petition alleged that, as a result of the 2006 renovations, the Godwin property was already in violation of the lot-coverage restrictions. The petition also alleged that the construction of the stairway and two-level deck would increase the amount of lot coverage, in violation of the BCC. Thus, the petition alleged that the

construction of the stairway and the two-level deck would violate BCZR § 102.1, which generally prohibits an “extension of a lawful nonconforming use,” and BCZR § 104.3, which generally prohibits the extension of a nonconforming use by “more than 25 percent of the ground floor area of the building so used.” The Castronovos did not expressly request a determination of the precise extent to which the Godwin property exceeded the lot-coverage limitation.<sup>2</sup>

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<sup>2</sup> The questions presented in the petition for special hearing were as follows:

1. Whether an adjoining property located at 1452 Shore Road is currently in violation of the lot coverage limitations imposed by § 33-2-603 of the Baltimore County Code, Title 17 of the Code of Maryland Regulations, and Title 8, Subtitle 18, of the Natural Resources Article of the Maryland Code;
2. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would increase the amount of lot coverage maintained on the property in violation of § 33-2-603 of the Baltimore County Code, Title 17 of the Code of Maryland Regulations, and Title 8, Subtitle 18, of the Natural Resources Article of the Maryland Code;
3. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates § 102.1 of the BCZR;
4. Whether the proposed constructions of a stairway and a two level deck on the property located at 1452 Shore Road would violate the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building, as provided in § 104.3 of the BCZR;
5. Whether a plan for the proposed development of 1452 Shore Road can be approved by Baltimore County without review by all required agencies of substantial amendments alterations thereto; and

## 2. Office of Administrative Hearings

After the resolution of some procedural disputes,<sup>3</sup> the OAH considered the merits of the petition for special hearing in early 2017. The Castronovos argued that Mr. Godwin’s property was over the lot-coverage limitation and that the addition of the second level of the deck put the property even further over the limitation.

The definition of “lot coverage” is set forth in NR § 8-1802(a)(17):

- (i) “Lot coverage” means the percentage of a total lot or parcel that is:
  - 1. Occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or
  - 2. Covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material.
- (ii) “Lot coverage” includes the ground area covered or occupied by a stairway or impermeable deck.
- (iii) “Lot coverage” does not include:

...

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- 6. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

The Castronovos withdrew Question 5. The administrative decisionmakers did not explicitly address Question 6.

<sup>3</sup> The OAH initially dismissed the petition for special hearing on the ground that it lacked jurisdiction, because the petition requested an interpretation of the BCC, which is apparently beyond the OAH’s power. The Baltimore County Board of Appeals affirmed that decision. On the Castronovos’ petition for judicial review, however, the Circuit Court for Baltimore County reversed and remanded the petition to the Board of Appeals. The circuit court reasoned that the OAH has power to interpret the BCC insofar as the provisions of the BCC are cross-referenced in the BCZR, as they are in the applicable BCZR provision in this case. The Board of Appeals remanded the petition, in turn, to the OAH.

4. A deck with gaps to allow water to pass freely.

In the OAH, an administrative law judge (“ALJ”) found that the Godwin property had exceeded the lot-coverage limitations even before the first set of additions and renovations in 2006, but that the excess was permitted under the grandfather clause in BCZR § 103.5. Crediting the testimony of Thomas Panzarella, an employee of the Baltimore County Department of Environmental Protection and Sustainability (“DEPS”), the ALJ found that in 2013 the amount of lot coverage had increased to 6,001 square feet. Hence, the ALJ recognized that the 2006 construction had put the property in violation of the lot-coverage limitations.<sup>4</sup>

Although we do not seem to have a transcript of the proceedings before the ALJ, it appears from the opinion that the Castronovos introduced an email written by a program chief at the Maryland Critical Area Commission. She stated:

1. CAC [Critical Areas Commission] staff typically recommends that if two decks are stacked on top of each other, even if they are both built with spaces between the boards, the area of overlap should be considered lot coverage.
2. Stairs between decks were not specifically called out in the definition of lot coverage as being exempt. So I would likely recommend that they qualify as lot coverage.

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<sup>4</sup> Citing *Permanent Financial Corp. v. Montgomery County*, 308 Md. 239 (1986), the ALJ volunteered that Baltimore County “should be estopped” from taking any enforcement action to address the violation, because the 2006 permit “appears” to have been “issued in error.” The ALJ went on to recognize that “such a determination is beyond the scope of this matter.” In our view, it was inappropriate to discuss whether the County is or is not estopped from taking some action in a case in which the County itself is not even a party.



On the basis of this email, the Castronovos argued that the second level of the deck and the stairway qualified as “lot coverage” under the statute. The ALJ disagreed. He relied on Mr. Panzarella’s testimony that his agency, DEPS, does not count decking boards or stairs as “lot coverage,” because they are spaced so as to allow water to flow between the boards (and, hence, they are not impermeable). In relying on Mr. Panzarella’s testimony, the ALJ noted the “great deference” owed to DEPS in its interpretation of a statutory provision that it is charged with enforcing.

In summary, the ALJ agreed that the Godwin property was in violation of the lot-coverage limitations in BCC § 33-2-603 as a result of the 2006 additions, but disagreed that the amount of lot coverage increased as a result of the construction of the two-level deck and the stairway in 2014-2015. The ALJ concluded that because the deck and stairway did not constitute lot coverage, those structures could not cause the additional violations that the Castronovos had alleged.

#### **D. Board of Appeals of Baltimore County**

The Castronovos sought de novo review of the OAH’s decision in the Board of Appeals of Baltimore County. The Board of Appeals considered the same questions as the ALJ. The Castronovos did not ask the Board of Appeals to determine the precise amount of the alleged lot-coverage violation.

At a hearing, the Castronovos presented the testimony of Ken Wells, a registered surveyor, regarding his measurements and calculations of the Godwin property. Mr. Wells used computer-aided design software to measure the property’s lot coverage as it existed at different points in time.

Mr. Wells testified that in 1988 (the year the critical areas legislation took effect), the property's lot coverage measured 5,478 square feet (the permissible grandfathered amount). From 1988 until 2005, that figure remained unchanged.

In 2006, following the first set of improvements to Mr. Godwin's property, the lot coverage increased to 6,397 square feet, according to Mr. Wells. His calculations include the extent to which the roof of the Godwin house overhangs the ground.

The Castronovos again argued that the construction of the two-level deck and stairway further increased the lot coverage of the property. Again, the Castronovos cited the email from the regional program chief for the Maryland Critical Area Commission, saying the second level of the deck and the stairway should constitute lot coverage. Relying on the determinations made in this email, Mr. Wells calculated that the deck and stairway increased the amount of lot coverage by an additional 326 square feet, for a total of 6,723 square feet.

By contrast, Mr. Panzarella testified, again, that in 2013 the Godwin property had 6,001 square feet of lot coverage. With respect to the amount of lot coverage in 2013, the parties agree that the primary difference between Mr. Panzarella's calculation (6,001 square feet) and Mr. Wells's calculation (6,397 square feet) is that Mr. Wells included the roof overhang from the house, whereas Mr. Panzarella did not. The parties also agree that no matter which measurement is correct, the property is over the limit and that the County erred in issuing the permit for the 2006 expansion.

Mr. Panzarella testified once again that it is DEPS's practice not to count any portion of the deck as lot coverage. He explained that because Mr. Godwin's deck has

quarter-inch gaps between the boards to allow water to pass freely, the deck is exempt from the definition of “lot coverage.”

After the hearing, the Board of Appeals found the Godwin property in violation of lot-coverage limitations under BCC § 33-2-603. The Board found that the Godwin property was at its maximum allowable grandfathered amount of 5,478 square feet before the 2006 construction. Therefore, the Board stated that when Mr. Godwin made the improvements on the property in 2006, he went over the limit. The Board did not specify which expert’s measurement, if either, it accepted in making this determination. In other words, the Board made no finding as to whether the amount of lot coverage at the Godwin property was 6,001 square feet before the 2006 improvements (as Mr. Panzarella said) or 6,397 square feet (as Mr. Wells said). The Board said only that, “[a]ccording to both experts that testified at the hearing, the Godwin Property thus illegally exceeded the permissible lot coverage following the 2006 expansion of the Godwin dwelling.” The Board found that Mr. Godwin never attained a variance for the expansion in 2006.

The Board further found that the 2014-2015 deck construction did not increase lot coverage on the property. The Board noted that under NR § 8-1802(a)(17)(iii)(4) “[a] deck with gaps to allow water to pass freely” is not included in the definition of “lot coverage.” Thus, because the two-level deck is “not ‘impermeable,’” the Board concluded that it does not count as lot coverage. Citing the deference owed to an administrative agency charged with interpreting and enforcing a particular set of statutes or regulations, the Board, like the ALJ, deferred to Mr. Panzarella’s testimony about DEPS’s conclusion that the deck is excluded from lot coverage.

Because the Board concluded that the two-level deck and stairway did not increase the amount of lot coverage, it rejected the Castronovos' contention that Mr. Godwin had extended a non-conforming use in violation of BCZR § 102.1. For the same reason, the Board concluded that the new two-level deck and stairway did not intensify or expand a nonconforming use within the Chesapeake Bay Critical Area in violation of BCZR § 104.3.

**E. Circuit Court for Baltimore County**

The Castronovos sought judicial review of the Board of Appeals' decision in the Circuit Court for Baltimore County. The Castronovos asked the court to rule that the 2006 improvements and 2014-2015 construction added illegal lot coverage and to order the removal of 1,245 square feet of lot coverage, including the deck's second level.<sup>5</sup> The Castronovos did not ask the circuit court to determine whether the Board of Appeals erred in not determining the precise amount of excess lot coverage.

Mr. Godwin argued that the circuit court could not order him to remove any part of the improvements on his property, because the Castronovos had not requested any such relief in their petition for special hearing. Apparently anticipating that the Castronovos might use the court's ruling to induce the County to require him to remove

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<sup>5</sup> The Castronovos arrived at the total of 1,245 square feet by adding Mr. Wells's measurement of lot coverage in 2006 (6,397 square feet) to Mr. Wells's measurement of the additional lot coverage allegedly attributable to the construction of the two-level deck and stairway in 2014 and 2015 (326 square feet), and then subtracting the amount of lot coverage that was permissible under County law (5,478 square feet).  $6,397 + 326 - 5,478 = 1,245$ .

any excess lot coverage, Mr. Godwin also argued that the County was estopped to proceed against him because he had constructed the improvements in reliance on permits that the County had issued.

The circuit court did not order the removal of any lot coverage on Mr. Godwin's property, but it opined that the County would not be estopped in any enforcement action it choose to undertake against the 2006 improvements.<sup>6</sup> Additionally, although the Board of Appeals had made no express finding about whether the amount of lot coverage was 6,397 square feet after the 2006 improvements (as Mr. Wells testified) or only 6,001 square feet (as Mr. Panzarella testified), the circuit court rejected Mr. Wells's computation. The court reasoned that the roof overhang, which Mr. Wells had included, should not count as lot coverage, because the overhang does not prevent water from being absorbed into the soil. The court also reasoned no portion of the deck and stairway could count as lot coverage, because they are not impervious. In addition, the court reasoned that the stairs and footers did not count as lot coverage, because they were part of the deck. Finally, the circuit court agreed with the Board that because the deck and stairway do not constitute lot coverage, the construction of the deck and stairway did not cause any additional zoning violations.

The Castronovos have appealed to this Court for review.

#### **QUESTIONS PRESENTED**

The Castronovos pose three questions, which we quote:

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<sup>6</sup> As to the propriety of deciding whether the County is estopped from doing something in a case in which the County is not a party, *see supra* n.4.

1. Whether the Board erred by failing to delineate the amount of lot coverage and ordering the illegal excess to be removed when it ruled that the property is currently in violation of lot coverage limitations in BCC § 33-2-603?
2. Whether the Board erred when it ruled that the construction of a two-level deck did not increase lot coverage in violation of BCC § 33-2-603?
3. Whether the Board erred when it ruled that the improvements on the property are not in violation of BCZR §§ 102.1 & 104.3?

For the reasons stated below, we see no error. Consequently, we shall affirm the judgment of the circuit court.

#### **STANDARD OF REVIEW**

In reviewing the final decision of an administrative agency, including the Board of Appeals, this Court “looks through” the circuit court’s decision and “evaluates the decision of the agency.” *People’s Counsel for Baltimore Cty. v. Surina*, 400 Md. 662, 681 (2007); *Bd. of Trs. for the Fire & Police Employees’ Ret. Sys. v. Mitchell*, 145 Md. App. 1, 8 (2002) (stating that “[o]ur role” in reviewing an administrative decision “is precisely the same as that of the circuit court”). The Board’s decision is “presumed valid.” *Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 68 (1999) (quoting *CBS Inc. v. Comptroller*, 319 Md. 687, 698 (1990)). Thus, this Court’s review of the Board’s decision is “limited to determining if there is substantial evidence in the record as a whole to support the [Board’s] findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.” *Id.* at 67-68.

**DISCUSSION**

**I. The Amount of Excess Lot Coverage**

The Board of Appeals of Baltimore County ruled (and the parties agree) that the 2006 expansion of the property violated the lot-coverage limitations on Mr. Godwin's property. The Castronovos argue that the Board erred when it found a lot-coverage violation, but failed to define the extent of that violation. It appears that the Castronovos want to quantify the precise amount of excess lot coverage on the Godwin property because they may ask Baltimore County to require their neighbor to remove some of the impervious structures on his property and to reduce the amount of lot coverage to the maximum amount permissible under Baltimore County law.<sup>7</sup>

The parties each presented the testimony and measurements of a witness – Mr. Wells for the Castronovos and Mr. Panzarella for Mr. Godwin. In making its findings, the Board stated:

When Mr. Godwin renovated and expanded his property in 2006, the lot coverage increased to 6,397 square feet based on Mr. Wells' calculations and 6,001 square feet based on Mr. Panzarella[']s]. According to both of the experts that testified at the hearing, the Godwin Property thus illegally exceeded the permissible lot coverage [of 5,478 square feet].

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<sup>7</sup> The Castronovos must persuade the County to act, because their inaction from 2006 to 2014 may mean that they are estopped from challenging the 2006 improvements, which put the Godwin property over the lot-coverage limitations. Because the Castronovos may be estopped to challenge the 2006 improvements, both the OAH and the circuit court were induced to speculate, improperly, as to whether the County is estopped as well. *See supra* nn. 4 & 6. Although the parties continued to debate whether the County is estopped in their briefs in this Court, they agreed, at oral argument, that that question is not before us.

The Board did not expressly rule which witness's measurements, if either, it had accepted. Nor did the Board address the principal difference between the witnesses: whether the lot coverage does or does not include the amount by which the roof overhangs the ground. Instead, the Board simply determined that the Godwin property exceeds the lot-coverage limitations, without saying by how much.

In our view, the Board did not err in omitting any quantification of the precise amount of lot coverage. By the Castronovos' own admission, at no point during any prior proceeding – in the OAH, the Board of Appeals, or the circuit court – did the Castronovos ask for a finding of the amount of the violation. The Castronovos merely asked the Board, and the OAH before it, to find that Mr. Godwin's property was in violation.

The Board found a violation, as requested. In its order, the Board could have quantified the amount of excess lot coverage or given an indication as to which witness was to be believed, as the OAH did. But we cannot fault the Board for doing only what it was asked to do.

For similar reasons, we conclude that the Board did not err in not ordering Mr. Godwin to remove some specific portion of the lot coverage from his property. Just as the Castronovos failed to request a computation of the specific amount of excess lot coverage in their petition for special hearing, so too did they fail to make any specific request for an order requiring the removal of excess lot coverage. We cannot fault the Board for failing to order relief that was not requested.



## **II. Construction of the Two-Level Deck**

The Castronovos argue the Board erred in ruling that the two-level deck, the stairway, and the deck footers did not count as additional lot coverage. Again, we disagree.

In concluding that the deck and stairway did not count as additional lot coverage, the Board relied on the testimony of Mr. Panzarella, an employee of DEPS, the agency charged with administering the Chesapeake Bay critical area program in Baltimore County. When reviewing Mr. Godwin’s plans for deck construction in 2014, DEPS made a specific determination that the deck and stairway did not constitute “lot coverage” under the Baltimore County regulations pertaining to critical areas. Because “[a] degree of deference should often be accorded the position of the administrative agency charged with interpreting and enforcing a particular set of statutes or regulations” (*HNS Dev., LLC v. People’s Counsel for Baltimore County*, 425 Md. 436, 449 (2012)), the Board of Appeals did not err in crediting DEPS’s determination that the two-level deck and stairway do not constitute additional lot coverage.

Even without DEPS’s determination, we would agree with the Board’s conclusion that the two-level deck and stairway do not constitute additional lot coverage. NR § 8-1802(a)(17)(iii)(4) specifically excludes “[a] deck with gaps to allow water to pass freely” from the definition of lot coverage. Based on photographs of the deck and a sample of the decking material that was presented to the Board, it is clear that the quarter-inch gaps in the boards allow for the free passage of water. Thus, there is no reason to believe that the upper level of the deck increases the amount of runoff into the Bay or its

tributaries: the deck and stairs remain permeable even if the upper level, with the quarter-inch gaps between its boards, stands above the lower level, with its own quarter-inch gaps.

The Castronovos argue that the stairway, which connects the two levels of the deck, should nonetheless count as lot coverage. They cite NR § 8-1802(a)(17)(ii), which includes “the ground area covered or occupied by a stairway” in the definition of lot coverage.

We are unconvinced, however, that § 8-1802(a)(17)(ii) refers to a stairway that is part of “[a] deck with gaps to allow water to pass freely.” NR § 8-1802(a)(17)(iii)(4). In this case, the stairway is not impermeable: when precipitation falls onto the stairway, it runs off to the deck and, from there, to the ground below the deck. Unlike a stairway that connects with a paved sidewalk or driveway, the stairway in this case does nothing to increase the amount of runoff into the Bay or its tributaries. In fact, it appears that, like the boards in the deck, the individual stairs have gaps that allow for the passage of water to the deck, and thus to the ground. In these circumstances, the stairway should be regarded as a feature of the deck, which is excluded from lot coverage under § 8-1802(a)(17)(iii)(4).

Finally, the Castronovos contend that, at the very least, the posts or footers on which the deck sits should be considered lot coverage. For that reason, they argue that the Board of Appeals erred in concluding that those 24 square feet of footers did not increase the amount lot coverage on the Godwin property.

Although the Board did not expressly mention the footers in its ruling, we believe that the Board was within its rights to exempt them from the computation of lot coverage. Mr. Panzarella testified that, as a matter of judgment, when he calculates the amount of lot coverage on a property, he typically does not include minor features such as birdbaths, small paving or boundary stones, and the like. The Board was entitled to rely on Mr. Panzarella's testimony and thus to omit minor, miscellaneous structures like the footers in its findings concerning the amount of lot coverage. *De minimus non curat lex.*

### **III. Zoning Violations**

The Castronovos claim the Board erred when it ruled that Mr. Godwin's improvements did not extend a lawful nonconforming use, in violation of BCZR § 102.1, and did not extend a nonconforming use, building, or structure, in violation of BCZR § 104.3. The Board concluded that the alleged violations depend on whether the construction of the two-level deck and stairway created additional "lot coverage." Because the Board ruled that it did not, the Board found no corresponding zoning violations.

In this appeal, the Castronovos argue that *both* the 2006 construction and 2014-2015 deck and stairway construction violated the BCZR. At the OAH and the Board of Appeals, however, the Castronovos argued only that the deck and stairway construction violated the BCZR.

A "reviewing court, restricted to the record made before the administrative agency, may not pass upon issues presented to it for the first time on judicial review and that are not encompassed in the final decision of the administrative agency." *Dep't of*

*Health & Mental Hygiene v. Campbell*, 364 Md. 108, 123 (2001) (citation omitted).

“Stated differently, an appellate court will review an adjudicatory agency decision solely on the grounds relied upon by the agency.” *Id.* The alleged 2006 zoning violations were not mentioned in the petition for special hearing. For that reason, neither the OAH nor the Board considered them, and they did not appear in either final decision. Accordingly, we do not consider the Castronovos’ allegations regarding the 2006 construction.

BCZR § 104.3 states, “[n]o nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25 percent of the ground floor area of the building so used.” A violation of BCZR § 104.3 necessarily implicates BCZR § 102.1, which states, “[n]o land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use.”

The Board found that because the 2014-2015 deck and stairway construction did not add to the amount of lot coverage, there was no extension “of the ground floor area of the building so used” in violation of § 104.3, nor was there “any extension of a lawful nonconforming use” in violation of § 102.1. We agree with the Board’s determination that Mr. Godwin could not violate the applicable provisions of the BCZR without expanding the amount of lot coverage on his property. Because the Board found no expansion in lot coverage caused by the 2014-2015 deck and stairway construction, it did not err in finding no zoning violations.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY AFFIRMED.  
COSTS TO BE PAID BY APPELLANTS.**

PETTITION OF:  
CHARLES AND INGRID CASTRONOVO

\* IN THE  
\* CIRCUIT COURT

FOR JUDICIAL REVIEW OF THE  
DECISION OF THE  
COUNTY BOARD OF APPEALS  
FOR BALTIMORE COUNTY

\* FOR  
\* BALTIMORE COUNTY

\* CASE NO: 03-C-18-006886

IN THE CASE OF:  
The Petition for Special Hearing for  
1452 Shore Road  
Baltimore, Maryland 21220

Defendant

\* \* \* \* \*

OPINION AND ORDER

The Petitioners herein are Charles and Ingrid Castronovo and they are the next door neighbors of Paul Godwin, who owns the property located at 1452 Shore Road Baltimore, Maryland 21220. The matter was briefed extensively by both parties and oral argument was held on June 13, 2019.

The Castronovos have appealed an Opinion and Order of the Board of Appeals for Baltimore County (the "Board") dated June 14, 2018 that found the following:

**ORDERED**, that the Petition for Special Hearing to determine that the Godwin Property is currently in violation of the lot coverage limitations imposed by Section 33-2-603 of the BCC be and hereby is **GRANTED**.

**IT IS FURTHER ORDERED**, that the Petition for Special Hearing to determine that the construction of a stairway and two level deck on the Godwin Property increases the amount of lot coverage maintained on the property in violation of Section 33-2-603 of the BCC be and hereby is **DENIED**.

**IT IS FURTHER ORDERED**, that the Petition for Special Hearing to determine that the construction of a stairway and two level deck on the Godwin Property violates Section 102.1 of the BCZR be and hereby is **DENIED**.

**IT IS FURTHER ORDERED**, that the Petition for Special Hearing to determine the construction of a stairway and two level deck on the Godwin Property violates that limitation on extending nonconforming structures and uses no more than 25% of the ground floor area of the existing building be and hereby is **DENIED**.

On appeal, the Castronovos, request the Court to rule that the 2006 and 2013/2014 addition to the Godwin home constitutes illegal lot coverage; order removal of the second tier of the Godwin deck; order the removal of the existing deck; and/or order compliance by having 1,245 square feet of lot coverage removed.

Mr. Godwin argues that the County is estopped from enforcing the violation herein with regard to the 2006 construction; that the 2013-2014 deck construction is not lot coverage; that the amount of lot coverage is 6001 square feet as opposed to the 6397 square feet that the petitioners argue for. Mr. Godwin seeks to have the Board's Opinion affirmed in most respects, but argues that the Board does not have the authority and/or jurisdiction to order any affirmative relief.

#### **FACTS AND PROCEDURAL HISTORY**

The extensive procedural history of this case has been accurately portrayed in the Memoranda of the parties. Consequently, it will not be restated here and will be noted in this Opinion only when relevant.

The factual background is mostly agreed upon by the parties. However, a review of the facts is necessary to properly frame this opinion.

The litigants are next door neighbors on Shore Road in Middle River, Maryland, both properties are water front properties that are on the Middle River. In 2006, Mr. Godwin added onto his home an addition, which was done pursuant to a building

permit issued by Baltimore County. Respondent also brought the "lot coverage" on his lot up to 6001 or 6397 square feet. The issue here is largely whether roof overhangs are considered "coverage". In either event, the lot coverage violated County and State regulations that require no more than 5478 square feet of lot coverage. Both parties agree that under the grandfather provisions of Baltimore County Code (BCC), and the Baltimore County Zoning Regulations (BCZR), that the allowed coverage is 5,478 square feet of lot coverage.

### QUESTIONS PRESENTED

I. Whether the respondent can be ordered to remove a portion of the deck constructed on the property when no such relief was requested in the

Petition.

II. Whether Baltimore County is estopped from requiring mitigation of any excess "Lot Coverage" that may exist on the property insofar as the Respondent relied upon the issuance of a permit in constructing an addition to his residence in 2006.

III. Whether the Board of Appeals correctly determined that the construction of the deck on the property did not increase the "lot coverage" on the property pursuant to BCC § 33-2-603 in light of the permeable nature of the deck construction.



IV. Whether the Board erred when it ruled that the construction of the 2014-2015 deck did not violate BCZR Section 104.2 and BCZR Section 102.1.

ANALYSIS

I. Whether the Respondent can be ordered to remove a portion of the deck constructed on the property when no such relief was requested in the Petition.

As this Court is not ordering or directing the removal of a portion of the deck at issue, this issue is moot.

II. Whether Baltimore County is estopped from requiring mitigation of any excess "Lot Coverage" that may exist on the property insofar as the Respondent relied upon the issuance of a permit in constructing an addition to his residence in 2006.

A County or municipality in Maryland may sometimes be bound by the doctrine of equitable estoppel, however, this is not an absolute rule.

Permanent Financial Corp. v. Montgomery County, 308 Md. 239 (1986). This case illustrates a scenario in which Montgomery County was bound by equitable estoppel. In Permanent Financial, a developer was building an office building pursuant to a building permit. Montgomery County suspended the building permit due to a height restriction violation. The dispute involved whether the top floor of the building, which was to be used for offices, was a "noninhabitable structure" id. at 245. The code provision was subject to at least two interpretations and the County had consistently applied the interpretation that offices were "noninhabitable structure(s)". As the County approved the building permit and substantial funds were expended in reliance upon the

County's "longstanding interpretation of the code provision", the Court of Appeals held that it would be inequitable to permit the County to change its interpretation. Id. At 257-258.

Unlike Permanent Financial, the violation that occurred in 2006 is not the product of the County choosing one interpretation of a zoning law and then changing to the detriment of the permit applicant. It appears from the record, that permit issued for the work done in 2006 was issued in error. At the hearing on this case before the Board of Appeals, Mr. Thomas Panzarella of Baltimore County Department of Environmental Protection and Sustainability (DEPS) stated, "So, the property was in compliance in 2006, it was at 6,001 square feet until I began this review and we can't go back and say, well, you were really out of compliance back then, because I can't make that determination and I don't know what happened." (See trans. p.84).

It is clear that Baltimore County failed to properly apply its own regulations as well as state law in granting the permit that allowed the construction in 2006.

Neither party suggests that there is an ambiguity in the State or County law wherein the expansion of the Godwin's home in 2006 would have been compliant.

In Berwyn Heights v. Rogers, 228 Md.271 at 279 (1962), the Court of Appeals held that the doctrine of equitable estoppel "cannot be invoked to defeat the municipality in the enforcement of its ordinances, because of error or mistake committed by one of its officers or agents which has been relied on by the third party to its detriment." City of Hagerstown v. Long Meadow, 264 Md. 481 (1972) had a similar result. In City of Hagerstown, 264 Md. 481 (1972), the Court of Appeals stated that equitable estoppel in municipal cases, is "bottomed on the need for the interpretation or

clarification of an ambiguous statute or ordinance which latter element [had not been] present." 264 Md. at 493.

As stated in Lipsitz v. Parr, 164 Md. 222, 227 (1933), "a municipality may be estopped by the act of its offices if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of the law". The addition to the Godwin house in 2006 was done in violation of the law. Accordingly, this Court finds that equitable estoppel does not apply to the 2006 improvements and any enforcement that the County would undertake.

**III. Whether the Board of Appeals correctly determined that the construction of the deck on the property did not increase the "lot coverage" on the property pursuant to BCC § 33-2-603 in light of the permeable nature of the deck construction.**

Between 2014 and 2015, the Godwin property was augmented with a deck. The increase of lot coverage from 523 to 919 square feet, noted above, went unnoticed until the new deck was built. According to the Castronovo's expert Mr. Kenneth Wells, the deck dimensions are:

Lower Deck	825 sq. ft.
Upper Deck	168 sq. ft.
Steps/stairs/landing	134 sq. ft.
Deck Footers	24 sq. ft.

Using Mr. Wells' findings, the Castronovo's argue that the net expansion of lot coverage as a result of the deck was 326 square feet, including the total of the upper deck, steps and deck footers.

Godwin argues that the deck is not "lot coverage" at all.

No Maryland Appellate Court has reviewed the term "lot coverage" as it applies

here.

The Board found in favor of Godwin, ruling that the deck addition did not increase lot coverage on the property in violation of BCC Section 33-2-603. BCC Section 33-2-603 does not use the term "lot coverage". Conversely, "lot coverage" as interpreted under the Code, applies to a "man-made" impervious surface "over a percentage of the lot or parcel.

The Castronovos argue that Kate Charbonneau, the Regional Chief of the Maryland Critical Area Commission stated in an email, "it is the Commission's position that the overlap area of two-level decks are considered lot coverage, and in addition that the area covered by stairs in between decks also qualify as coverage".

"Lot coverage" is defined as

- (17) (i) "Lot coverage" means the percentage of a total lot or parcel that is:
1. Occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or
  2. Covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material.
- (ii) "Lot coverage" includes the ground area covered or occupied by a Stairway or impermeable deck.
- (iii) "Lot coverage" does not include:
1. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;
  2. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;
  3. A wood mulch pathway; or
  4. A deck with gaps to allow water to pass freely.

Maryland Code Ann. Nat. Res. Art. §8-1802(a)(17)

The Castronovos also argue that "lot coverage" would include the roof overhangs. This issue will be discussed below.

The Castronovos also argue that Mr. Panzarella testified that Baltimore County

historically treated the top level of a deck as lot coverage. Mr. Panzarella had no explanation as to why Baltimore County has changed its position on lot coverage, but now Baltimore County does not view two tier decks as lot coverage.

Neither Mr. Panzarella, by testimony, nor Ms. Charbonneau give any real explanation or support for their respective positions. The BCC restricts "man-made impervious surfaces". "Impervious", per the Miriam-Webster dictionary, means not allowing entrance or passage. Under §8-1802(a)(17), "a deck with gaps to allow water to pass freely" does not constitute "lot coverage". The photographs admitted at the trial before the Board show such gaps. The Commission's interpretation may be entitled to deference, but the law itself is clear and does not mention two tiered decks. The operative part of §8-1802(a)(17) is whether water may pass through freely and there is no evidence to support the premise that water does not "pass freely". The deck is not "impervious". Accordingly, this Court affirms the Board's decision in this regard.

The Castronovos also contend that the deck's stairs and footers constitute lot coverage. As the stairs at issue here are an aspect of the deck and made of the same material of the deck, it would be illogical to find that the stairs and footers constitute lot coverage.

With regard to the overhang issue as it pertains to the amount of square feet that the 2006 expansion exceeded the lot coverage limit, this Court finds that the overhang area does not constitute "lot coverage".

The Board did not directly answer the question in its opinion.

Mr. Wells testified that he included the overhang in his lot coverage opinion. Stating, "Well you have to measure what the coverage is and that ... is consistent with

an overhang. It has the same elements. In other words, it prohibits the rain from coming down and hitting the ground directly. That would be considered lot coverage" (Transcript p. 41).

Neither the BCC nor §8-1802(a)(17) notes roof overhang as a factor. Mr. Wells testified that the overhang was roughly two feet beyond the frame of the building. The area beneath the overhang is not covered by "man-made impervious surfaces". The area under the overhang would appear to be permeable.

There were no photographs of the area under the overhang and no testimony was presented as to whether the area below the overhang had grass or gardens or other living plants. Generally, such areas are both permeable and have plant life up to the walls of the home. Accordingly, this Court finds that the overhang does not constitute as lot coverage.

**V. Whether the Board erred when it ruled that the construction of the 2014-2015 deck did not violate BCZR Section 104.2 and BCZR Section 102.1.**

Baltimore County Zoning Regulation (BCZR) §102.1 and §104.3 provide:

No land shall be used or occupied and no building or structure shall be erected, altered, located or used in conformity with these regulations and this shall include any extension of a lawful nonconforming use.

BCZR §102.1

No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used...

BCZR §104.3

The Castronovos argue that the Board incorrectly ruled that the 2013-2014 improvements did not violate BCZR §102.1 and §104.3. The Castronovos cite Jahnigen

v. Staley, 245, Md. 130 (1977) and several ALJ decisions in Baltimore County zoning cases.

The Board's Opinion on these two regulations is found in Section C and D of its Opinion. The Board found that the two level deck and stairway did not constitute an increase in lot coverage and therefore neither §102.1 or §104.3 were violated. As the Court agrees with the Board that the two level deck did not constitute lot coverage, the Board's Opinion is affirmed.

**CONCLUSION**

This case is on appeal from Administrative Board (the Baltimore County Board of Appeals, (the "Board").

The Board's Opinion of June 14, 2018 has virtually no factual findings. The issue before the Board were primarily, if not solely, the application of law to a set of facts that had no material disputes. Consequently, as a reviewing court, this Court owes no deference to any fact finding done by the Board and the Board's Opinion is reviewed on a de novo basis Gallaria, LLC v. Dulaney Valley Improvement Association, Inc., 192 Md. App. 719, 734 (2010).

Applying such standard, this Court will affirm the Board's decision of June 14, 2018 for the reasons stated above.

7-25-2019  
DATE:

**True Copy Text**  
JULIE L. ENSOR, Clerk  
*[Signature]*  
Clerk

*[Signature]*  
JUDGE ANDREW M. BATTISTA

IN THE MATTER OF  
PAUL GODWIN – Legal Owner  
CHARLES AND INGRID CASTRONOVO –  
Petitioners

RE: Petition for Special Hearing for the  
Property Located at 1452 Shore Road  
  
15<sup>th</sup> Election District  
6<sup>th</sup> Councilmanic District

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. 15-055-SPH  
\*

\* \* \* \* \*

**OPINION**

This matter comes to the Board of Appeals on appeal by Charles Castronovo and Ingrid Castronovo (the “Petitioners” or “Castronovos”) of the Order on Remand issued by John E. Beverungen, Administrative Law Judge for Baltimore County (the “ALJ”), dated February 24, 2017 granting in part and denying in part a Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) in connection with the property owned by Paul Godwin (the “Respondent” or “Godwin”) located at 1452 Shore Road, Baltimore, Maryland 21220 (the “Godwin Property”).

In the proceedings before the Board, Lawrence E. Schmidt, Esquire, Christopher W. Corey, Esquire, and Smith, Gildea & Schmidt, LLC represented the Petitioners and Edward C. Covahey, Jr., Esquire, Bruce Edward Covahey, Esquire, and Covahey & Boozer, P.A. represented the Respondent.

A hearing was held before the Board on July 13, 2017, and the Board conducted a public deliberation on October 17, 2017.



## PROCEDURAL HISTORY

The Castronovos own the waterfront property located at 1501 Shore Road, Baltimore, Maryland 21220 in the Middle River community of Baltimore County. Godwin owns the waterfront property that adjoins the Castronovos' parcel to the northwest. The disputes at issue before the Board stem from the enlargement of the house on the Godwin Property in 2006 and the construction of a two-story deck on the waterside of the Godwin Property in 2014-15.

The Castronovos initially filed a Petition for Special Hearing in 2014 before the Office of Administrative Hearings for Baltimore County, seeking a determination that the Godwin Property was in violation of Baltimore County Code ("BCC") Section 33-2-603 and the BCZR because (a) the dwelling and other improvements illegally exceeded the permitted lot coverage following a substantial renovation and expansion of Godwin's house in 2006 and (b) the construction of a two-level deck in 2014-15 further exacerbated the limitations on lot coverage and was otherwise illegal under applicable regulations. Following a hearing, the ALJ issued an Order dated November 6, 2014 dismissing the Castronovos' Petition for Special Hearing. The ALJ ruled that he did not have jurisdiction to grant a Petition for Special Hearing under Section 500.7 of the BCZR that would require an interpretation of the BCC. On appeal by the Castronovos, this Board also granted Godwin's motion to dismiss following a *de novo* hearing. By Order dated June 5, 2015, the Board, like the ALJ, concluded that it lacked jurisdiction to provide special hearing relief in connection with the interpretation of the BCC. On further appeal to the Circuit Court for Baltimore County, the Honorable Judith C. Ensor issued a Memorandum Opinion and Order dated February 25, 2016 holding that the Board's dismissal of the Castronovos' Petition for Special Hearing was "incorrect as a matter of law" and this case was remanded to the Board "for further proceedings."

Following remand from the Circuit Court, the Board issued an Order of Remand dated October 28, 2016 to the Office of Administrative Hearings for Baltimore County. The ALJ held a second hearing of this matter on January 12, 2017 which was followed by an Order dated February 24, 2017. The ALJ's Order granted the Castronovos' Petition for Special Hearing with respect to their contention that Godwin was in violation of the permitted lot coverage limitations imposed by BCC Section 33-2-603 due to the improvements to the Godwin dwelling in 2006 but denied the Castronovos' requests for special hearing relief with respect to the construction of the new deck in 2014-15. Not satisfied with the ALJ's decision, the Castronovos seek *de novo* review of the issues raised in their Petition for Special Hearing before the Board.

### **BACKGROUND**

The Godwin Property is 22,244 square feet in area – just over a half acre – and is zoned D.R. 5.5. According to the evidence presented to the Board, the Godwin Property is improved with a dwelling, a porch, a detached garage, a shed, a brick walkway and steps, and a driveway. The parties agree that the Godwin Property is located within the Chesapeake Bay Critical Area pursuant to Section 8-1801, *et seq.* of the Natural Resources Article of the Annotated Code of Maryland. As such, the Godwin Property is subject to limitations that dictate the maximum amount of permitted lot coverage under the Maryland Code and the Baltimore County Code. *See* Md. Code Ann., Nat. Res. § 8-1808(a) (“It is the intent of this subtitle that each local jurisdiction shall have primary responsibility for developing and implementing a [critical area protection] program, subject to review and approval by the [Critical Area] Commission [for the Chesapeake and the Atlantic Coastal Bays].”); BCC § 33-2-603(b)(3)(iii)(2)(B) (limiting lot coverage for parcels greater than one-half acre and less than one acre existing on or prior to December 1, 1985 to the greater of 5,445 square feet or 15% of the lot area).

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**Charles and Ingrid Castronovo, Petitioners**  
**Case No: 15-055-SPH**

Because (a) the Godwin Property existed as a subdivided parcel as of December 1, 1985 and (b) is 22,244 square feet in size, the BCC generally would limit lot coverage within the Chesapeake Bay Critical Area to 5,445 square feet. Under the BCZR, however, any parcel with lot coverage within the Chesapeake Bay Critical Area exceeding the limitations established by the Baltimore County Code is grandfathered based on the use in existence on June 13, 1988. *See* BCZR § 103.5(C) (“The county shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on June 13, 1988.”).

“Lot coverage is defined in Section 8-1802 of the Natural Resources Article of the Annotated Code of Maryland as follows:

(17)(i) “Lot coverage” means the percentage of a total lot or parcel that is:

1. Occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or
2. Covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material.

(ii) “Lot coverage” includes the ground area covered or occupied by a stairway or impermeable deck.

(iii) “Lot coverage” does not include:

....

4. A deck with gaps to allow water to pass freely.

Md. Code Ann., Nat Res. § 8-1802(a)(17). Ken Wells, a registered surveyor, testified on behalf of the Castronovos and presented to the Board his calculations of lot coverage on the Godwin Property at specified points in time, referred to as “mile posts:” (a) in 1988, when Baltimore County enacted its Chesapeake Bay Critical Area regulations, (b) in 2006, at the time that Godwin expanded the dwelling on his property, and (c) in 2014, when Godwin added a deck to his property.

Comparing a 1982 Location Survey of the Godwin Property that he brought to scale with the assistance of CAD software, and using control points that he obtained through field

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measurements, Mr. Wells testified that the lot coverage for the Godwin Property as of 1988 was 5,478 square feet. Mr. Wells further corroborated his calculations using a 2005 GIS aerial image of the Godwin Property. The parties agree that the lot coverage represented on the 1982 Location Survey and in the 2005 GIS aerial photograph remained unchanged from 1988 until the expansion of the Godwin dwelling in 2006. Although BCC Section 33-2-603(b)(3)(iii)(2)(B) otherwise limited lot coverage to 5,445 square feet, BCZR Section 103.5(C) permitted the grandfathered lot coverage on the Godwin Property that existed as of June 13, 1988 – 5,478 square feet.

According to Mr. Wells' calculations, in 2006, following an expansion of the Godwin dwelling, the lot coverage on the Godwin Property increased to 6,397 square feet. Thomas Panzarella, a representative of the Baltimore County Department of Environmental Protection and Sustainability ("DEPS"), testified at the hearing before the Board that lot coverage following the 2006 improvements to the Godwin Property totaled 6,001 square feet. The parties agree that the difference between the calculations of Mr. Wells and Mr. Panzarella stems primarily from Mr. Wells' inclusion of the overhang of the roof of the Godwin dwelling in his determination of lot coverage, a component that Mr. Panzarella did not include in his calculations. Notwithstanding the limitations on lot coverage imposed by the Chesapeake Bay Critical Area Regulations eight years earlier, the County issued a building permit to allow for the increase in lot coverage on the Godwin Property in 2006 – by 919 square feet according to Mr. Wells. Neither of the parties nor Mr. Panzarella could offer an explanation as to reason for the County's issuance of a building permit to allow the 2006 renovations of the Godwin Property when it is clear that the lot coverage resulting from those improvements increased beyond the grandfathered limit under BCZR Section 103.5(C).

In 2014-15, Godwin constructed a deck on the water side of his dwelling, comprised of a lower deck, an upper deck, stairs, a landing, and footers. Relying on an email dated July 21, 2014 from Kate Charbonneau, the Regional Program Chief for the Maryland Critical Area Commission, the Castronovos argue that the overlap area of the upper deck and the lower deck and the area covered by stairs and a landing between the upper deck and lower deck constitute lot coverage. Based on Ms. Charbonneau's email, Mr. Wells calculated that Godwin had illegally increased the lot coverage on his property by an additional 326 square feet based on the area of the upper deck (which overlaps with the lower deck), the stairs and landing included as part of the deck, and the deck footers.

Godwin testified at the hearing about, among other things, the materials used in the construction of his deck. He produced photographs and a sample of the composite decking material used for the upper deck, the lower deck, and the stairs and landing connecting the two deck levels. The evidence demonstrates that the decking material used by Godwin contains a ¼ inch space between the boards that allows for water to pass freely through. According to Mr. Panzarella, Regina Esslinger, a DEPS supervisor, declined to include any portion of the deck structure constructed in 2014-15 as lot coverage because all of the deck material used by Godwin allows for water to pass freely through.

### **DECISION**

The Petition for Special Hearing seeks a determination regarding four issues:

1. Whether the Godwin Property is currently in violation of lot coverage limitations imposed by BCC Section 33-2-603;
2. Whether the construction of a stairway and two-level deck on the Godwin Property increases the lot coverage for the property in violation of BCC Section 33-2-603;

3. Whether the construction of a stairway and two-level deck on the Godwin Property violates BCZR Section 102.1; and
4. Whether the construction of a stairway and two-level deck on the Godwin Property violates the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building.

**A. The Godwin Property Currently is in Violation of Lot Coverage Limitations Imposed by BCC § 33-2-603**

Based on the evidence presented at the hearing, it is clear that the 2006 improvements to the Godwin Property violated the lot coverage limitations included in the Chesapeake Bay Critical Area regulations. Because the Godwin Property is 22,244 square feet in size (slightly more than a half acre), the total lot coverage permitted under BCC Section 33-2-603(b)(3)(iii)(2)(B) without grandfathering is 5,445 square feet. Pursuant to COMAR 27.01.02.07.B, local jurisdictions are authorized to “establish grandfather provisions as part of their local Critical Area programs.” Under the grandfathering provisions of the BCZR, Baltimore County permits “the continuation, but not necessarily the intensification or expansion,” of lot coverage in existence on June 13, 1988. *See* BCZR § 103.5.

For grandfathered parcels that exceed the lot coverage limitations established by BCC Section 33-2-603, any “intensification or expansion” of lot coverage “may be permitted only in accordance with [BCZR] Section 104.5 . . . and with the variance provisions and procedures outlined in § 32-4-231, § 33-2-205, or § 33-2-603 of the Baltimore County Code, whichever is or are applicable.” BCZR § 103.5; *see also* BCZR § 104.5 (“Any use which becomes or continues to be nonconforming which exists within the Chesapeake Bay Critical Area on or after the effective date of this section is subject to the provisions of Sections 104.1, 104.2 and 104.3 and to the variance provisions and procedures of . . . § 33-2-603 of the Baltimore County Code, whichever

is or are applicable.”). Any expansion of grandfathered lot coverage exceeding the limitations mandated by BCC Section 33-2-603(b)(3)(iii)(2)(B) thus requires a variance from DEPS under BCC Section 33-2-603(b)(3)(v).

In the case before the Board, the grandfathered lot coverage for the Godwin Property totaled 5,478 square feet – the lot coverage in existence on June 13, 1988. When Godwin renovated and expanded his property in 2006, the lot coverage increased to 6,397 square feet based on Mr. Wells’ calculations and 6,001 square feet per Mr. Panzarella. According to both of the experts that testified at the hearing, the Godwin Property thus illegally exceeded the permissible lot coverage following the 2006 expansion of the Godwin dwelling. Contrary to the requirements of BCZR §§ 103.5 and 104.5 and BCC Section 33-2-603(b)(3)(v), Godwin never obtained a variance in connection with the expansion of his nonconforming lot coverage in 2006.<sup>1</sup> Based on the foregoing undisputed facts, the Board is compelled to grant the Castronovos’ petition for special hearing to the extent that the Godwin Property is in violation of the lot coverage limitations imposed by BCC Section 33-2-603 based on the 2006 renovations thereto.

**B. The Construction of a Deck in 2014 Did Not Increase Lot Coverage on the Godwin Property in Violation of BCC Section 33-2-603**

The Board concludes that the 2014-15 construction of a stairway and two-level deck on the Godwin Property did not violate the lot coverage limitations included in the Chesapeake Bay Critical Area regulations for two independently sufficient reasons. First, the Board notes that Section 8-1802(a)(17)(iii)(4) of the Natural Resources Article of the Annotated Code of Maryland specifically excludes from the definition of “lot coverage” “[a] deck with gaps to allow water to

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<sup>1</sup> It is possible that Godwin did not realize that a variance was required in connection with his increase of lot coverage in 2006 as the County granted his request for a building permit to expand his dwelling without a variance.

pass freely.” Based on the photographs of the constructed deck and the sample of the decking material used by Godwin, it is clear that his deck contains ¼ inch gaps in the boards that allow for the free passage of water. In other words, the deck erected by Godwin is not “impermeable” such that the Board would be compelled to conclude that it constitutes “lot coverage” under Section 8-1802(a)(17)(ii) of the Natural Resources Article. Accordingly, the construction of the deck and stairway on the Godwin Property in 2014-15 did not violate the lot coverage limitations included in BCC Section 33-2-603.

Second, DEPS is the County agency charged with administering Chesapeake Bay Critical Area program, and DEPS made a specific determination in its consideration of Godwin’s application for a building permit that the deck does not constitute “lot coverage” under the Chesapeake Bay Critical Area regulations. The Court of Appeals has made clear that “[a] degree of deference should often be accorded the position of the administrative agency charged with interpreting and enforcing a particular set of statutes or regulations.” *HNS Dev., LLC v. People’s Counsel for Baltimore County*, 425 Md. 436, 449 (2012). Deference to DEPS in the instant case is particularly appropriate given its mandate to make determinations regarding lot coverage and variances relating thereto under BCC Section 33-2-603. For the foregoing reasons, the Board denies the Castronovos’ request for special hearing relief in connection with their contention that the Godwin’s construction of a stairway and two-level deck on the water side of his house violates that lot coverage limitations of BCC Section 33-2-603.

**C. The Construction of a Deck in 2014 Did Not Violate BCZR Section 102.1**

The Castronovos assert that the approval of Godwin’s deck violates BCZR Section 102.1. BCZR Section 102.1 provides that “[n]o land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations and this shall



include any extension of a lawful nonconforming use.” Because the construction of the two-level deck and stairway on the Godwin Property does not constitute an increase in lot coverage, the new deck and stairway likewise are not an extension of a nonconforming use in violation of BCZR Section 102.1. The Board thus denies the Castronovos’ request for a special hearing to determine that the Godwin’s construction of a two-level deck and stairway violated BCZR Section 102.1.

The Board further notes that the Castronovos’ reliance on alleged violations of the Baltimore County Modified Buffer Area Plan as an additional basis for Godwin’s violation of BCZR Section 102.1 also is misplaced. BCZR Section 102.1 clearly applies to violations of “these regulations” – meaning the BCZR. The Baltimore County Modified Buffer Area Plan is not part of the BCZR. Moreover, the Castronovos have not sought in this case special hearing relief in connection with Godwin’s asserted violations of the Modified Buffer Area Plan.

**D. The Construction of a Deck in 2014-15 Did Not Violate the Limitation in BCZR Section 104.3 on Extending Nonconforming Structures and Uses No More Than 25% of the Ground Floor Area of the Existing Building**

BCZR Section 103.5(C) restricts the intensification or expansion of a grandfathered use of property that does not conform to the strictures of the Chesapeake Bay Critical Area program. The intensification or expansion of such a nonconforming use within the Chesapeake Bay Critical Area may only be permitted in accordance with BCZR Section 104.5, which, in turn, mandates compliance with BCZR Section 104.3.

Under BCZR Section 104.3, “[n]o nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used.” The Board has concluded that Godwin’s construction of a two-story deck and stairs in 2014-15 does not constitute an illegal expansion of lot coverage and, therefore, is not an extension of a nonconforming use within the ambit of the

Chesapeake Bay Critical Area program that would implicate BCZR Sections 103.5(C), 104.3, and 104.5. Accordingly, the Board denies the Castronovos request for special hearing relief in connection with their claim that Godwin's two-level deck and stairs violates the limitation on extending nonconforming structures and uses no more than 25% of the ground floor area of the existing building.

**ORDER**

**WHEREFORE**, it is this 14<sup>th</sup> day of June, 2018, by the Board of Appeals of Baltimore County,

**ORDERED**, that the Petition for Special Hearing to determine that the Godwin Property is currently in violation of the lot coverage limitations imposed by Section 33-2-603 of the BCC be and hereby is **GRANTED**.

**IT IS FURTHER ORDERED**, that the Petition for Special Hearing to determine that the construction of a stairway and two level deck on the Godwin Property increases the amount of lot coverage maintained on the property in violation of Section 33-2-603 of the BCC be and hereby is **DENIED**.

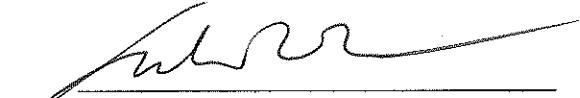
**IT IS FURTHER ORDERED**, that the Petition for Special Hearing to determine that the construction of a stairway and two level deck on the Godwin Property violates Section 102.1 of the BCZR be and hereby is **DENIED**.


**IT IS FURTHER ORDERED**, that the Petition for Special Hearing to determine that the construction of a stairway and two level deck on the Godwin Property violates that limitation on extending nonconforming structures and uses no more than 25% of the ground floor area of the existing building be and hereby is **DENIED**.

In the matter of: Paul Godwin, Legal Owner  
Charles and Ingrid Castronovo, Petitioners  
Case No: 15-055-SPH

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**

  
\_\_\_\_\_  
Andrew M. Belt, Panel Chair

  
\_\_\_\_\_  
Maureen E. Murphy

James H. West was a Board member and participated in the hearing and public deliberation in this matter. His term expired on April 30, 2018.



## 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

June 14, 2018

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600 Washington Avenue, Suite 200  
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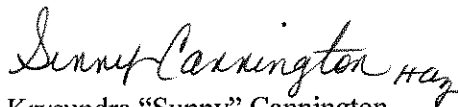
RE: *In the Matter of: Paul Godwin – Legal Owner*  
*Charles and Ingrid Castronovo – Petitioners*  
Case No.: 15-055-SPH

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

KLC/taz  
Enclosure  
Duplicate Original Cover Letter

c: Paul Godwin  
Charles and Ingrid Castronovo  
Office of People's Counsel  
Lawrence M. Stahl, Managing Administrative Law Judge  
Andrea Van Arsdale, Director/Department of Planning  
Arnold Jablon, Deputy Administrative Officer, and Director/PAI  
Nancy C. West, Assistant County Attorney/Office of Law  
Michael E. Field, County Attorney/Office of Law  
Jeanne Walsh  
Louis and Ann Workmeister  
Donald Durham  
Jacqueline Hogarth



KEVIN KAMENETZ  
County Executive

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

March 7, 2017

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Edward C. Covahey, Jr., Esq.  
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Towson, Maryland 21204

**RE: APPEAL TO BOARD OF APPEALS (REMAND)**

Case No. 2015-0055-SPH

Location: 1452 Shore Road



Dear Counsel:

Please be advised that an appeal of the above-referenced case was filed in this Office on March 1, 2017. 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

**REMAND APPEAL**

**Petitions for Special Hearing  
(1452 Shore Road)  
15<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District  
Legal Owner: Paul Godwin  
Interested Parties : Charles & Ingrid Castronovo  
Case No. 2015-0055-SPH**

Order of Remand (October 28, 2016)

Remand from Board of Appeals Letter (October 31, 2016)

Remand Hearing Notice (December 14, 2016)

Petitioner(s) Sign-in Sheet – One

Citizen(s) Sign-in Sheet – One

Zoning Advisory Committee Comments

Petitioner(s) Exhibits -

1. A&B- Photos
2. SDAT Records
3. Resume-Castronovo
4. 4A-4C- Location survey and bldg. permit applications
5. 5A-5E- photos of house under construction
6. 6A-6C- Aerial photographs
7. Aerial w/lot coverage calculations 2005
8. Aerial of sub. Prop. 2014
9. Aerial w/lot coverage calculations 2014
10. 10A-10B- Summaries I.D. only-not admitted
11. 11A-11C- Drawing and application for bldg. permit-deck
12. 12A- photos of deck under construction
13. 13A-13C- Letters from Deps to Godwin
14. Email between Castronovo and critical area comm'n
15. Exhibit re: Deck impervious coverage

Protestant(s) Exhibits-

1. Location survey
2. Panzarello file notes
3. Plans for deck
4. Invoice for trees
5. Photos of trees along neighbor's property
6. Photos deck under construction
7. Photos deck under construction
8. Photos deck under construction
9. ZAC comments
10. Photo-deck
11. Photo showing both deck levels
12. Photo of deck board spacing
13. Photo-deck stairs
14. " same "
15. Photo-2d level deck board spacing

Miscellaneous (Not Marked as Exhibits) –

Respondent Post-Trial Memorandum from Edward Covahey, Jr., Esq. (February 13, 2017)

Closing Memorandum In Lieu of Closing Argument from Lawrence Schmidt (February 13, 2017)

Administrative Law Judge Order and Letter (GRANTED/DENIED on February 24, 2017)

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(1452 Shore Road)</b>		
15 <sup>th</sup> Election District	*	OFFICE OF
6 <sup>th</sup> Council District		
Paul Godwin, <i>Legal Owner</i>	*	ADMINISTRATIVE HEARINGS
Charles & Ingrid Castronovo, <i>Petitioners</i>	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2015-0055-SPH</b>

\* \* \* \* \*

**ORDER ON REMAND FROM THE BOARD OF APPEALS**  
**OF BALTIMORE COUNTY**

This matter was remanded to the Office of Administrative Hearings (OAH) by the Board of Appeals of Baltimore County (hereinafter “the Board”). The Board’s October 28, 2016 remand order recites the procedural history and current posture of this case. As such that will not be repeated here.

Charles and Ingrid Castronovo (hereinafter “Petitioners” or “Castronovos”) filed a Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), as follows:

- (1) To determine whether an adjoining property located at 1452 Shore Road is currently in violation of the lot coverage limitations imposed by Section 33-2-603 of the Baltimore County Code (B.C.C.);
- (2) Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would increase the amount of lot coverage maintained on the property in violation of Section 33-2-603 of the B.C.C.;
- (3) Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates Section 102.1 of the B.C.Z.R.;
- (4) Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would violate the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building; and

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Date 2/24/17  
By sen

- (5) Whether a plan for the proposed development of 1452 Shore Road can be approved by Baltimore County without review by all required agencies of substantial amendments/alterations thereto.

Special hearing request number 5 was dismissed at the original hearing by Petitioners' counsel, and the Petition in the file was so amended and initialed by the undersigned.

The Castronovos have (by their own admission) had a long-running feud with their neighbor Paul Godwin (hereinafter "Respondent" or "Godwin"), who owns the adjacent property at 1452 Shore Road (hereinafter, the "subject property"). Petitioners seek a determination that certain improvements made to the subject property in 2006 & 2014 are unlawful in that they exceed impervious surface limitations set forth in State and County law.

Some history is important to resolve this dispute. In 1973 the State of Maryland enacted a comprehensive set of statutes and regulations designed to protect the Chesapeake Bay, known as the Chesapeake Bay Critical Area law. Baltimore County adopted its own critical area program (as envisioned in the State law) in 1988. The critical area program in Baltimore County is administered by the Department of Environmental Protection and Sustainability ("DEPS").

The subject property is approximately 22,244 sq. ft. in size and is located in what is known as a limited development area ("LDA") as described in the critical area regulations. A lot of this size in the LDA has an impervious coverage limitation of 5,445 sq. ft. Petitioners' Exhibit 13C. The B.C.Z.R. (§§ 103.5 & 104.5) contains certain "grandfathering" provisions which essentially permit the continuation of any use in existence in 1988 when the County's critical area program was adopted. As such, resolution of this case will involve examining the status of the subject property as of 1988, as well as after the enlargement of the single-family dwelling in 2006 and the construction of a two-story deck in 2014.

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Date 2/24/17  
By Sen



Petitioners presented an aerial photo and lot coverage calculations from 2005, and except as noted below no evidence was presented to suggest any improvements had been made to the subject property between the 1988 “grandfathering” date and 2005. Petitioners’ Exhibit 7. Although that document indicated a small shed had been constructed between 1995 and 2005, Mr. Godwin testified the shed was on the subject property when he purchased it in 1982. As such, according to Petitioners’ calculations the amount of impervious coverage on the lot in 2005 was 6,374 square feet.

Therefore, as of 2005 the subject property had already exceeded the lot coverage limitations under current law, though the site and conditions were lawfully nonconforming under B.C.Z.R. §103.5. But any construction or improvements thereafter (to the extent deemed “lot coverage” by DEPS) would by definition exceed the lot coverage limitations found in the critical area law.

The subject property was renovated and expanded in 2006, and Petitioners presented photos and other records documenting that project. According to Petitioners the subject property had 7,820 sq. ft. of impervious coverage in 2014, although the parties now agree the shed was constructed prior to 1988, which would reduce that figure to 7,704 sq. ft. Petitioners’ Ex. No. 9. Mr. Castronovo testified he completed these calculations using aerial photography and CAD/GIS software. Thomas Panzarella, an environmental reviewer at DEPS, testified he visited the site on multiple occasions and calculated the impervious coverage in 2013 to be 6,001 sq. ft. Mr. Panzarella’s field notes were admitted as Respondent’s Ex. No. 2.

Since DEPS is the agency charged with administering the critical area law, and Mr. Panzarella has worked for DEPS for over 12 years during which time he reviewed in excess of 2,000 permits, I find his testimony and calculations to be credible. Even so, the 6,001 sq. ft. of lot

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Date 2/24/17  
By Sen

coverage (some portion of which is owing to the 2006 renovation project) is in excess of the 5,445 sq. ft. permitted under the Regulations. Mr. Panzarella was not involved in reviewing the 2006 project and could not find any notes or documents in the file pertaining to that construction. If, as it appears, the 2006 permit was issued in error, I believe Baltimore County should be estopped from any enforcement action pursuant to *Permanent Financial Corp. v. Montgomery County*, 308 Md. 239 (1986), although such a determination is beyond the scope of this matter.

The final issue concerns the construction of the deck in 2014. Petitioners contend certain portions of that construction should be considered "lot coverage" under the critical area law. In support of that proposition, Petitioners submitted an email from Kate Charbonneau, a program chief at the Critical Area Commission. Petitioners' Ex. No. 14. Ms. Charbonneau opined the areas covered by the second level of the deck and the stairway steps should be counted as "lot coverage." In the aggregate, these features would increase the amount of lot coverage by approximately 348 sq. ft. Petitioners' Ex. No. 15.

But Mr. Panzarella testified DEPS does not consider the second story of the deck or the stairways to be "lot coverage." Mr. Panzarella indicated he received an e-mail from Regina Esslinger (his supervisor) wherein she noted DEPS does not count the decking boards or stairs as lot coverage since they are spaced in such a fashion that allows water to flow between the boards. This is recognized in the statute as an exception to the definition of "lot coverage." Md. Nat. Res. Code Ann. §8-1802(a)(17)(iii)(4). Mr. Godwin provided a sample of the decking boards and pointed out that ample space exists between the boards to allow for water drainage.

As such, and in recognition of the "great deference" which is owed to an interpretation of a statutory provision by the agency charged with its enforcement and administration, I am convinced by Mr. Panzarella's testimony that no portion of the 2014 deck project should be

ORDER RECEIVED FOR FILING

Date 2/24/17  
By DLH

considered "lot coverage." *Brethren Mutual Ins. Co. v. Buckley*, 437 Md. 332, 348 (2014)(discussing deference owed to administrative agency interpretation).

THEREFORE, IT IS ORDERED this 24th day of **February, 2017**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R"), as follows:

- (1) To determine whether an adjoining property located at 1452 Shore Road is currently in violation of the lot coverage limitations imposed by Section 33-2-603 of the Baltimore County Code (B.C.C.), be and is hereby GRANTED for the reasons stated above.

IT IS FURTHER ORDERED that the Petition for Special Hearing to determine:

- (2) Whether the construction of a stairway and a two level deck on the property located at 1452 Shore Road would increase the amount of lot coverage maintained on the property in violation of Section 33-2-603 of the B.C.C.;
- (3) Whether the construction of a stairway and a two level deck on the property located at 1452 Shore Road violates Section 102.1 of the B.C.Z.R.; and
- (4) Whether the construction of a stairway and a two level deck on the property located at 1452 Shore Road would violate the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building,

be and is hereby DENIED.

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

ORDER RECEIVED FOR FILING

Date 2/24/17

By SEN



KEVIN KAMENETZ  
*County Executive*

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

February 24, 2017

Lawrence E. Schmidt, Esquire  
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Towson, Maryland 21204

Bruce Covahey, Esquire  
614 Bosley Avenue  
Towson, Maryland 21204

RE: **REMAND FROM BOARD OF APPEALS**- Petition for Special Hearing  
Property: 1452 Shore Road  
Case No. 2015-0055-SPH

Dear Counsel:

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 Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over the typed name of John E. Beverungen.

JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln

c: Jeanne Walsh, 1452 Shore Road, Baltimore, MD 21220  
Louis and Ann Workmeister, 1302 Shore Road, Baltimore, MD 21220  
Donald Durham, 1505 Shore Road, Baltimore, MD 21220  
Jacqueline Hogart, 1415 Third Road, Baltimore, MD 21220



## Board of Appeals of Baltimore County

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

October 28, 2016

Lawrence E. Schmidt, Esquire  
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Towson, Maryland 21204

Bruce E. Covahey, Esquire  
Covahey & Boozer, P.A.  
614 Bosley Avenue  
Towson, Maryland 21204

RE: *In the Matter of: Paul Godwin – Legal Owner*  
*Charles and Ingrid Castronovo – Petitioners*  
Case No.: 15-055-SPH

Dear Counsel:

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

By copy of this letter, the Board of Appeals case file is being returned to the Administrative Law Judges for further proceedings consistent with the foregoing Order.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington Ham".

Krysundra "Sunny" Cannington  
**Administrator**

KLC/tam  
Enclosure  
Duplicate Original Cover Letter

c:	Paul Godwin	Jeanne Walsh
	Charles and Ingrid Castronovo	Louis and Ann Workmeister
	Office of People's Counsel	Donald Durham
	Lawrence M. Stahl, Managing Administrative Law Judge	Jacqueline Hogarth
	Andrea Van Arsdale, Director/Department of Planning	
	Arnold Jablon, Deputy Administrative Officer, and Director/PAI	
	Nancy C. West, Assistant County Attorney/Office of Law	
	Michael E. Field, County Attorney/Office of Law	

IN THE MATTER OF	*	BEFORE THE
<u>PAUL GODWIN – Legal Owner</u>		
<u>CHARLES AND INGRID CASTRONOVO – Petitioners</u>	*	BOARD OF APPEALS
PETITION FOR SPECIAL HEARING FOR		
THE PROPERTY LOCATED AT	*	OF
1452 SHORE ROAD		
15 <sup>th</sup> Election District; 6 <sup>th</sup> Councilmanic District	*	BALTIMORE COUNTY
	*	Case No. 15-055-SPH
* * * * *		

**ORDER OF REMAND**

This matter was before Administrative Law Judge John E. Beverungen (“ALJ Beverungen”), Office of Administrative Hearings (OAH), for consideration of a Petition for Special Hearing filed by Charles and Ingrid Castronovo (the "Petitioners"). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”). The Petitioners sought the following relief: (1) to determine whether an adjoining property located at 1452 Shore Road is currently in violation of the lot coverage limitations imposed by Section 33-2-603 of the Baltimore County Code (B.C.C.); (2) whether the proposed construction of a stairway and a two level deck on Subject Property would increase the amount of lot coverage maintained on the property in violation of Section 33-2-603 of the B.C.C.; (3) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road, which is owned by Paul Godwin (the “Subject Property”) violates Section 102.1 of the B.C.Z.R.; (4) whether the proposed construction of a stairway and a two level deck on the property located at the Subject Property would violate the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building; and (5) whether a plan for the proposed development of Subject Property can be approved by Baltimore County without review by all required agencies of substantial amendments/alterations thereto.

Previously both ALJ Beverungen and this Board determined that they lacked jurisdiction to hear this matter. The Board's Opinion and Order dated June 5, 2015 was appealed to the Circuit Court for Baltimore County.

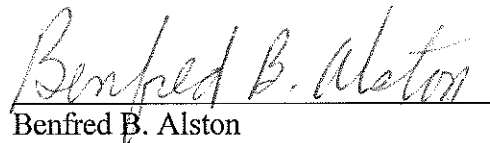
On February 25, 2016, Judge Judith Ensor of the Circuit Court for Baltimore County remanded this matter to the Board of Appeals for further proceedings after finding that the "dismissal of Petitioners' case for lack of jurisdiction was incorrect as a matter of law."

Therefore, it is this 28<sup>th</sup> day of October, 2016, by the Board of Appeals of Baltimore County

**ORDERED** that the above captioned case is **REMANDED** to the Office of Administrative Hearings for further proceedings pursuant to the February 25, 2016 Memorandum Opinion and Order of Circuit Court for Baltimore County.

**BOARD OF APPEALS  
OF BALTIMORE COUNTY**

  
Andrew M. Belt, Panel Chairman

  
Benfred B. Alston

  
Maureen E. Murphy

RECEIVED

MAR 09 2016

BALTIMORE COUNTY  
BOARD OF APPEALS

IN THE  
MATTER OF  
CHARLES CASTRONOVO, ET AL.

\*  
\*  
\*  
\*  
\*

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE COUNTY  
Case No. 03-C-15-6323

\* \* \* \* \*

MEMORANDUM OPINION

Currently before the Court is Charles and Ingrid Castronovo's ("the Castronovos" or "Petitioners") Petition for Judicial Review (Paper 1000), which was filed on June 12, 2015. The Castronovos seek review of the Baltimore County Board of Appeals' (the "Board of Appeals" or the "Board") decision that the Board lacks jurisdiction to hear their case. Petitioners' Memorandum in Support (Paper 11,000) was filed on October 22, 2015. The Memorandum in Opposition (Paper 13,000) was filed on December 2, 2015. Petitioners filed their Reply (Paper 14,000) on December 17, 2015. The matter was heard on February 2, 2016. Having read and considered the entire file, including the parties' respective pleadings, and having considered the arguments of counsel and the relevant case law, this matter will be remanded to the Board of Appeals for further proceedings.

FACTUAL AND PROCEDURAL BACKGROUND

The Castronovos own the property located at 1501 Shore Road, Middle River, Maryland. Paul Godwin ("Mr. Godwin" or "Respondent") owns the property directly adjoined to the northwest of Petitioners' parcel, located at 1452 Shore Road, Middle River, Maryland. The instant case began when the Castronovos filed a Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("BCZR"). Petitioners claimed that Mr. Godwin's



“property is in violation of various Baltimore County laws and regulations.” Baltimore County Administrative Law Judge’s Opinion and Order of Dismissal (“ALJ Opinion”) at p. 2. They sought a determination as to (1) whether the property located at 1452 Shore Road violates § 33-2-603 of the Baltimore County Code (“BCC”); (2) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road increases the amount of lot coverage maintained on the property in violation of § 33-2-603 of the BCC; (3) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates § 102.1 of the BCZR; and (4) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building, as provided in § 104.3 BCZR. Record (“R.”), Petition for Special Hearing and Attachment.

On October 30, 2014, Baltimore County Administrative Law Judge (“ALJ”)<sup>1</sup> John E. Beverungen presided over a public hearing on the Petition. By Order dated November 6, 2014, ALJ Beverungen indicated that the relief sought by the Castronovos required “an interpretation of the Baltimore County Code (B.B.C.), *not* the B.C.Z.R.” ALJ Opinion at p. 2 (emphasis in original). He found that an interpretation of the BCC was not authorized under BCZR § 500.7. Thus, the ALJ found that he lacked jurisdiction to consider Petitioners’ case and dismissed the Petition.

The Castronovos then appealed this decision to the Board of Appeals; a *de novo* hearing was held on April 6, 2015. At that time, no testimony was taken; the parties simply argued their respective motions. The Castronovos argued that the hearing should not proceed until the Board of Appeals received “a written recommendation from the Department of Environmental

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<sup>1</sup> BCC § 3-12-104(b) acknowledges that “[a]ny reference to the Zoning Commissioner, the Deputy Zoning Commissioner or the Hearing Officer in the Charter, the Code or the Baltimore County Zoning Regulations shall be deemed to be a reference to the Office [of Administrative Hearings].”

Protection.” Transcript (Tr.) April 6, 2015, Hearing at p. 8. Mr. Godwin argued that the Petition should be dismissed for lack of jurisdiction. By Order dated June 5, 2015, the Board of Appeals granted Respondent’s preliminary Motion to Dismiss. The Board found “that though there might be some small components that could be falling under the Zoning Regulations that the meat of this matter still falls within The Baltimore County Code and therefore is beyond the purview and jurisdiction of this Board.” Tr. at p. 24. Following the Board of Appeals’ decision, the Castronovos filed a Petition for Judicial Review.

### DISCUSSION

The Board of Appeals found that it lacked jurisdiction to hear the Petition for Special Hearing because, in its estimation, the “meat of this matter” involves interpretation of the BCC. Therefore, the question before this Court is whether the Board of Appeals’ decision regarding its jurisdictional authority is legally correct. When reviewing a decision of the Board of Appeals that is based upon an error of law, the reviewing court need not give deference to that decision and “may substitute its own judgment.” *Lee v. Maryland Nat. Capital Park & Planning Comm’n*, 107 Md. App. 486, 492 (1995).

Petitioners filed this matter under BCZR § 500.7, which grants the Zoning Commissioner and the Board of Appeals “the power to conduct such hearings and pass such orders thereon as shall, in his [or its] discretion, be necessary for the proper enforcement of all zoning regulations . . . [and] to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.” Additionally, BCZR § 500.6 indicates that “the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon, subject to the right

of appeal to the County Board of Appeals as hereinafter provided.” Therefore, jurisdiction is determined based upon whether any property right will be affected by the application of the relevant BCZR sections to a particular property.

As an initial matter, the party filing a Petition for Special Hearing must have standing. The Castronovos, as interested persons, have standing regarding Respondent’s compliance with the BCZR pursuant to BCZR § 500.7. *See* BCZR § 500.7 (stating that “[t]he power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing . . . to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.”); *see also* BCZR § 500.10 (stating that “any person or persons . . . aggrieved by any decision of the Zoning Commissioner shall have the right to appeal therefrom to the County Board of Appeals.”); *see generally* *Marzullo v. Kahl*, 366 Md. 158, 165 (2001) (indicating that, while a Baltimore County resident was not permitted to appeal the issuance of a building permit for a neighbor’s property, the resident was permitted to institute a Special Hearing under BCZR § 500.7 to determine the neighbor’s compliance with the BCZR). Petitioners’ waterfront property, located at 1501 Shore Road, is directly adjoined on its northwest side to Respondent’s waterfront property, located at 1452 Shore Road. As neighbors and owners of property adjacent to Mr. Godwin’s property, the Castronovos have standing to file a Petition for Special Hearing regarding Respondent’s compliance with the BCZR.

Next, the Petition for Special Hearing and *de novo* appeal must be filed with regard to a violation of the BCZR. BCZR §§ 500.6–500.7. The Castronovo’s Petition for Special Hearing sought relief as a result of alleged violations of BCC § 33-2-603, BCZR § 102.1, and BCZR §

104.3. Without question, the Baltimore County Office of Administrative Hearings<sup>2</sup> and the Board of Appeals have jurisdiction with regard to the issues involving BCZR § 102.1 and BCZR § 104.3 as they require the interpretation of the BCZR.

In addition, BCZR § 500.7 grants authority to hear cases regarding non-conforming uses. BCZR § 101.1 defines non-conforming use as a “legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use.” BCZR § 103.5 and § 104.5 specifically address non-conforming uses and both sections incorporate BCC § 33-2-603, which is the basis for the Castronovos’ first and second issues raised in the Petition for Special Hearing. BCZR § 103.5(C) states:

The county shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on June 13, 1988. If the existing use does not conform with the provisions of the local protection program, its intensification or expansion may be permitted only in accordance with Section 104.5 of these regulations and with the variance provisions and procedures outlined in § 32-4-231, § 33-2-205, or § 33-2-603 of the Baltimore County Code, whichever is or are applicable.

BCZR § 104.5 indicates:

Any use which becomes or continues to be nonconforming which exists within the Chesapeake Bay Critical Area on or after the effective date of this section is subject to the provisions of Section 104.1, 104.2, and 104.3 and to the variance provisions and procedures of § 32-4-231, § 33-2-205, or § 33-2-603 of the Baltimore County Code, which is or are applicable.

Both BCZR § 103.5 and BCZR § 104.5 require compliance with those procedures and provisions detailed in BCC § 33-2-603. As a result, the Board of Appeals must have the authority to review the cross-referenced sections of the BCC, including BCC § 33-2-603. Without such authority, the Board of Appeals would not be able to evaluate whether Respondent is in compliance with the requirements of BCZR § 103.5 and BCZR § 104.5.

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<sup>2</sup> See *supra* note 1.

CONCLUSION

For the reasons set forth above, the Board of Appeals' dismissal of Petitioners' case for lack of jurisdiction was incorrect as a matter of law. Therefore, the matter will be remanded to the Board of Appeals for further proceedings.

  
\_\_\_\_\_  
JUDITH C. ENSOR, Judge

**True Copy Test**

JULIE L. ENSOR, Clerk

Per



\_\_\_\_\_  
Assistant Clerk

RECEIVED  
MAR 09 2016

IN THE  
MATTER OF  
CHARLES CASTRONOVO, ET AL.

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\*  
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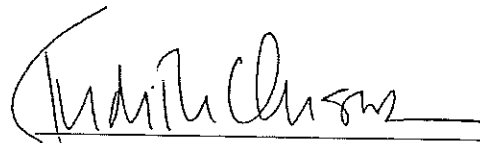
IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE COUNTY  
Case No. 03-C-15-6323

BALTIMORE COUNTY  
BOARD OF APPEALS

\* \* \* \* \*

ORDER

Having read and considered Petitioners' Memorandum in Support of Petition for Judicial Review (Paper 11,000), Respondent's Memorandum in Opposition to Petition for Judicial Review (Paper 13,000), and Petitioners' Reply Memorandum in Support of Petition for Judicial Review (paper 14,000), and having read and considered the entire file, including the record and transcript from the *de novo* hearing before the Board of Appeals, and having considered the relevant case law and the arguments of counsel, the Court finds that the Board of Appeals' dismissal of Petitioners' case for lack of jurisdiction was incorrect as a matter of law. Accordingly, it is hereby ORDERED this 25<sup>TH</sup> day of February, 2016, that this matter is REMANDED to the Board of Appeals for further proceedings.

  
JUDITH C. ENSOR, Judge

**True Copy Test**

JULIE L. ENSOR, Clerk

Per   
Assistant Clerk

IN THE	*	IN THE
MATTER OF	*	CIRCUIT COURT
CHARLES CASTRONOVO, ET AL.	*	FOR
	*	BALTIMORE COUNTY
	*	Case No. 03-C-15-6323
* * * * *		

**MEMORANDUM OPINION**

Currently before the Court is Charles and Ingrid Castronovo’s (“the Castronovos” or “Petitioners”) Petition for Judicial Review (Paper 1000), which was filed on June 12, 2015. The Castronovos seek review of the Baltimore County Board of Appeals’ (the “Board of Appeals” or the “Board”) decision that the Board lacks jurisdiction to hear their case. Petitioners’ Memorandum in Support (Paper 11,000) was filed on October 22, 2015. The Memorandum in Opposition (Paper 13,000) was filed on December 2, 2015. Petitioners filed their Reply (Paper 14,000) on December 17, 2015. The matter was heard on February 2, 2016. Having read and considered the entire file, including the parties’ respective pleadings, and having considered the arguments of counsel and the relevant case law, this matter will be remanded to the Board of Appeals for further proceedings.

**FACTUAL AND PROCEDURAL BACKGROUND**

The Castronovos own the property located at 1501 Shore Road, Middle River, Maryland. Paul Godwin (“Mr. Godwin” or “Respondent”) owns the property directly adjoined to the northwest of Petitioners’ parcel, located at 1452 Shore Road, Middle River, Maryland. The instant case began when the Castronovos filed a Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”). Petitioners claimed that Mr. Godwin’s

“property is in violation of various Baltimore County laws and regulations.” Baltimore County Administrative Law Judge’s Opinion and Order of Dismissal (“ALJ Opinion”) at p. 2. They sought a determination as to (1) whether the property located at 1452 Shore Road violates § 33-2-603 of the Baltimore County Code (“BCC”); (2) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road increases the amount of lot coverage maintained on the property in violation of § 33-2-603 of the BCC; (3) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates § 102.1 of the BCZR; and (4) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building, as provided in § 104.3 BCZR. Record (“R.”), Petition for Special Hearing and Attachment.

On October 30, 2014, Baltimore County Administrative Law Judge (“ALJ”)<sup>1</sup> John E. Beverungen presided over a public hearing on the Petition. By Order dated November 6, 2014, ALJ Beverungen indicated that the relief sought by the Castronovos required “an interpretation of the Baltimore County Code (B.B.C.), *not* the B.C.Z.R.” ALJ Opinion at p. 2 (emphasis in original). He found that an interpretation of the BCC was not authorized under BCZR § 500.7. Thus, the ALJ found that he lacked jurisdiction to consider Petitioners’ case and dismissed the Petition.

The Castronovos then appealed this decision to the Board of Appeals; a *de novo* hearing was held on April 6, 2015. At that time, no testimony was taken; the parties simply argued their respective motions. The Castronovos argued that the hearing should not proceed until the Board of Appeals received “a written recommendation from the Department of Environmental

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<sup>1</sup> BCC § 3-12-104(b) acknowledges that “[a]ny reference to the Zoning Commissioner, the Deputy Zoning Commissioner or the Hearing Officer in the Charter, the Code or the Baltimore County Zoning Regulations shall be deemed to be a reference to the Office [of Administrative Hearings].”



Protection.” Transcript (Tr.) April 6, 2015, Hearing at p. 8. Mr. Godwin argued that the Petition should be dismissed for lack of jurisdiction. By Order dated June 5, 2015, the Board of Appeals granted Respondent’s preliminary Motion to Dismiss. The Board found “that though there might be some small components that could be falling under the Zoning Regulations that the meat of this matter still falls within The Baltimore County Code and therefore is beyond the purview and jurisdiction of this Board.” Tr. at p. 24. Following the Board of Appeals’ decision, the Castronovos filed a Petition for Judicial Review.

### DISCUSSION

The Board of Appeals found that it lacked jurisdiction to hear the Petition for Special Hearing because, in its estimation, the “meat of this matter” involves interpretation of the BCC. Therefore, the question before this Court is whether the Board of Appeals’ decision regarding its jurisdictional authority is legally correct. When reviewing a decision of the Board of Appeals that is based upon an error of law, the reviewing court need not give deference to that decision and “may substitute its own judgment.” *Lee v. Maryland Nat. Capital Park & Planning Comm’n*, 107 Md. App. 486, 492 (1995).

Petitioners filed this matter under BCZR § 500.7, which grants the Zoning Commissioner and the Board of Appeals “the power to conduct such hearings and pass such orders thereon as shall, in his [or its] discretion, be necessary for the proper enforcement of all zoning regulations . . . [and] to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.” Additionally, BCZR § 500.6 indicates that “the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon, subject to the right

of appeal to the County Board of Appeals as hereinafter provided.” Therefore, jurisdiction is determined based upon whether any property right will be affected by the application of the relevant BCZR sections to a particular property.

As an initial matter, the party filing a Petition for Special Hearing must have standing. The Castronovos, as interested persons, have standing regarding Respondent’s compliance with the BCZR pursuant to BCZR § 500.7. *See* BCZR § 500.7 (stating that “[t]he power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing . . . to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.”); *see also* BCZR § 500.10 (stating that “any person or persons . . . aggrieved by any decision of the Zoning Commissioner shall have the right to appeal therefrom to the County Board of Appeals.”); *see generally* *Marzullo v. Kahl*, 366 Md. 158, 165 (2001) (indicating that, while a Baltimore County resident was not permitted to appeal the issuance of a building permit for a neighbor’s property, the resident was permitted to institute a Special Hearing under BCZR § 500.7 to determine the neighbor’s compliance with the BCZR). Petitioners’ waterfront property, located at 1501 Shore Road, is directly adjoined on its northwest side to Respondent’s waterfront property, located at 1452 Shore Road. As neighbors and owners of property adjacent to Mr. Godwin’s property, the Castronovos have standing to file a Petition for Special Hearing regarding Respondent’s compliance with the BCZR.

Next, the Petition for Special Hearing and *de novo* appeal must be filed with regard to a violation of the BCZR. BCZR §§ 500.6–500.7. The Castronovo’s Petition for Special Hearing sought relief as a result of alleged violations of BCC § 33-2-603, BCZR § 102.1, and BCZR §

104.3. Without question, the Baltimore County Office of Administrative Hearings<sup>2</sup> and the Board of Appeals have jurisdiction with regard to the issues involving BCZR § 102.1 and BCZR § 104.3 as they require the interpretation of the BCZR.

In addition, BCZR § 500.7 grants authority to hear cases regarding non-conforming uses. BCZR § 101.1 defines non-conforming use as a “legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use.” BCZR § 103.5 and § 104.5 specifically address non-conforming uses and both sections incorporate BCC § 33-2-603, which is the basis for the Castronovos’ first and second issues raised in the Petition for Special Hearing. BCZR § 103.5(C) states:

The county shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on June 13, 1988. If the existing use does not conform with the provisions of the local protection program, its intensification or expansion may be permitted only in accordance with Section 104.5 of these regulations and with the variance provisions and procedures outlined in § 32-4-231, § 33-2-205, or § 33-2-603 of the Baltimore County Code, whichever is or are applicable.

BCZR § 104.5 indicates:

Any use which becomes or continues to be nonconforming which exists within the Chesapeake Bay Critical Area on or after the effective date of this section is subject to the provisions of Section 104.1, 104.2, and 104.3 and to the variance provisions and procedures of § 32-4-231, § 33-2-205, or § 33-2-603 of the Baltimore County Code, which is or are applicable.

Both BCZR § 103.5 and BCZR §104.5 require compliance with those procedures and provisions detailed in BCC § 33-2-603. As a result, the Board of Appeals must have the authority to review the cross-referenced sections of the BCC, including BCC § 33-2-603. Without such authority, the Board of Appeals would not be able to evaluate whether Respondent is in compliance with the requirements of BCZR § 103.5 and BCZR § 104.5.

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<sup>2</sup> See *supra* note 1.

CONCLUSION

For the reasons set forth above, the Board of Appeals' dismissal of Petitioners' case for lack of jurisdiction was incorrect as a matter of law. Therefore, the matter will be remanded to the Board of Appeals for further proceedings.

  
\_\_\_\_\_  
JUDITH C. ENSOR, Judge

IN THE  
MATTER OF  
CHARLES CASTRONOVO, ET AL.

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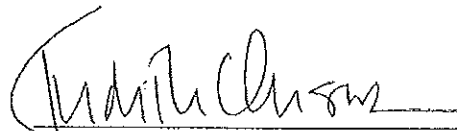
IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE COUNTY  
Case No. 03-C-15-6323

\* \* \* \* \*

ORDER

Having read and considered Petitioners' Memorandum in Support of Petition for Judicial Review (Paper 11,000), Respondent's Memorandum in Opposition to Petition for Judicial Review (Paper 13,000), and Petitioners' Reply Memorandum in Support of Petition for Judicial Review (paper 14,000), and having read and considered the entire file, including the record and transcript from the *de novo* hearing before the Board of Appeals, and having considered the relevant case law and the arguments of counsel, the Court finds that the Board of Appeals' dismissal of Petitioners' case for lack of jurisdiction was incorrect as a matter of law.

Accordingly, it is hereby ORDERED this 25<sup>TH</sup> day of February, 2016, that this matter is REMANDED to the Board of Appeals for further proceedings.

  
\_\_\_\_\_  
JUDITH C. ENSOR, Judge

8/13/15

IN THE CIRCUIT COURT  
FOR BALTIMORE COUNTY

\*  
\*

PETITION OF:  
CHARLES AND INGRID CASTRONOVO

\*

FOR JUDICIAL REVIEW OF THE OPINION OF  
THE BOARD OF APPEALS  
OF BALTIMORE COUNTY  
JEFFERSON BUILDING – ROOM 203  
105 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204

CIVIL ACTION  
NO. : 03-C-15-006323

\*  
\*  
\*  
\*

IN THE MATTER OF:  
PAUL GODWIN – LEGAL OWNER  
FOR PROPERTY LOCATED AT  
1452 SHORE ROAD  
BALTIMORE, MD 21220

\*  
\*  
\*

15<sup>TH</sup> ELECTION DISTRICT  
6<sup>TH</sup> COUNCILMANIC DISTRICT

\*

BOARD OF APPEALS CASE NO.: 15-055-SPH

\*

\* \* \* \* \*

**PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW JUDGE  
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the original papers on file in the Department of Permits, Approvals and Inspections and the Board of Appeals of Baltimore County:

**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND  
DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS  
OF BALTIMORE COUNTY**

**In the Matter of: Paul Rodwin – Legal Owner**  
**Board of Appeals Case No.: 15-055-SPH**  
**Circuit Court Civil Action No. 03-C-15-006323**

- September 16, 2014 Petition for Special Hearing to determine 1) whether an adjoining property located at 1452 Shore Road is currently in violation of the lot coverage limitations imposed by Section 33-2-603 of the Baltimore County Code, Title 17 of the Code of Maryland Regulations, and Title 8, Subtitle 18, of the Natural Resources Article of the Maryland Code; and 2) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would increase the amount of lot coverage maintained on the property in violation of Section 33-2-603 of the Baltimore County Code, Title 17 of the Code of Maryland Regulations, and Title 8, Subtitle 18, of the Natural Resources Article of the Maryland Code; and 3) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates Section 102.1 of the BCZR; and 4) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would violate the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building, as provided in Section 104.3 of the BCZR; and 5) for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.
- September 26, 2014 Entry of Appearance filed by People's Counsel for Baltimore County.
- October 7, 2014 Certificate of Posting.
- October 9, 2014 Certificate of Publication in newspaper
- October 23, 2014 ZAC Comments.
- October 30, 2014 Hearing held before the Office of Administrative Hearings.
- November 6, 2014 Opinion and Order issued by the Administrative Law Judge wherein the Petition for Special Hearing was DISMISSED without prejudice.
- December 4, 2014 Notice of Appeal filed by Christopher W. Corey, Esquire, Smith, Gildea & Schmidt, LLC, on behalf of Charles & Ingrid Castronovo, Interested Parties/Appellants.
- December 11, 2014 Appeal received by Board of Appeals.
- January 8, 2015 Notice of Assignment issued, hearing scheduled for March 5, 2015
- January 23, 2015 Subpoenas issued by the Board to Patricia M. Farr and Thomas Panzarella at the request of Bruce E. Covahey, Esquire.

**In the Matter of: Paul Rodwin – Legal Owner  
Board of Appeals Case No.: 15-055-SPH  
Circuit Court Civil Action No. 03-C-15-006323**

- March 13, 2015 Notice of Postponement and Reassignment issued by the Board. Hearing scheduled for April 6, 2015
- March 31, 2015 Subpoena issued by the Board to Thomas Panzarella at the request of Bruce E. Covahey, Esquire.
- April 6, 2015 Board convened for a Hearing and Public Deliberation.

*Exhibits submitted at hearing before the Board of Appeals:*

Petitioner’s Exhibit No.

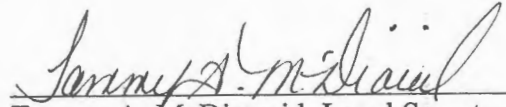
1a-c – Copies of Baltimore County Zoning Regulations.

- June 5, 2015 Opinion and Order of Dismissal issued by the Board in which the Petition for Special Hearing was DISMISSED.
- June 12, 2015 Petition for Judicial Review filed in the Circuit Court for Baltimore County by Lawrence E. Schmidt, Esquire on behalf of Charles and Ingrid Castronovo, Petitioners/Appellants.
- June 17, 2015 Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.
- June 19, 2015 Certificate of Compliance sent to all parties and interested persons.
- August 13, 2015 Transcript of testimony filed.
- August 13, 2015 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.



In the Matter of: Paul Godwin – Legal Owner  
Board of Appeals Case No.: 15-055-SPH  
Circuit Court Civil Action No. 03-C-15-006323



Tammy A. McDiarmid, Legal Secretary  
Board of Appeals for Baltimore County  
The Jefferson Building, Suite 203  
105 W. Chesapeake Avenue  
Towson, Maryland 21204  
(410) 887-3180

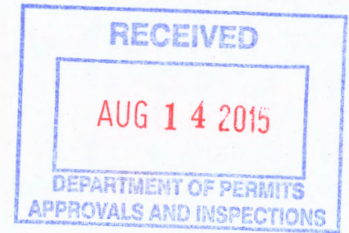
c: Lawrence E. Schmidt, Esquire  
Bruce Covahey, Esquire  
Paul Godwin  
Charles and Ingrid Castronovo  
Jeanne Walsh  
Louis and Ann Workmeister  
Donald Durham  
Jacqueline Hogarth  
Office of People's Counsel  
Lawrence M. Stahl, Managing Administrative Law Judge  
Andrea Van Arsdale, Director/Dept. of Planning  
Arnold Jablon, Director/PAI  
Nancy West, Assistant County Attorney, Office of Law  
Michael Field, County Attorney, Office of Law



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

8/14/15 Filed  
WCP



August 13, 2015

Civil Clerk  
Circuit Court for Baltimore County  
401 Bosley Avenue  
Towson, Maryland 21204

RE: In the matter of: Paul Godwin – Legal Owner  
Civil Action No: 03-C-15-006323  
Board of Appeals Case No: 15-055-SPH

Dear Clerk:

Enclosed for filing please find the Proceedings before the Administrative Law Judge and the Board of Appeals for Baltimore County. Additionally, please allow this letter to reflect the filing of one accordion folder containing the entire Board of Appeals case file, exhibits, and transcript pursuant to Maryland Rule 7-206.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Tammy A. McDiarmid  
Legal Secretary

Enclosure(s)

cc: Lawrence E. Schmidt, Esquire  
Bruce Covahey, Esquire  
Paul Godwin  
Charles and Ingrid Castronovo  
Office of People's Counsel  
Lawrence M. Stahl, Managing Administrative Law Judge  
Andrea Van Arsdale, Director/Dept. of Planning  
Arnold Jablon, Director/PAI  
Nancy C. West, Assistant County Attorney, Office of Law  
Michael E. Field, County Attorney, Office of Law

Jeanne Walsh  
Louis and Ann Workmeister  
Donald Durham  
Jacqueline Hogarth

6/19/15

IN THE CIRCUIT COURT  
FOR BALTIMORE COUNTY

\*  
\*

PETITION OF:  
CHARLES AND INGRID CASTRONOVO

\*

FOR JUDICIAL REVIEW OF THE OPINION OF  
THE BOARD OF APPEALS  
OF BALTIMORE COUNTY  
JEFFERSON BUILDING – ROOM 203  
105 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204

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CIVIL ACTION  
NO. : 03-C-15-006323

IN THE MATTER OF:  
PAUL GODWIN – LEGAL OWNER  
FOR PROPERTY LOCATED AT  
1452 SHORE ROAD  
BALTIMORE, MD 21220

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15<sup>TH</sup> ELECTION DISTRICT  
6<sup>TH</sup> COUNCILMANIC DISTRICT

\*

BOARD OF APPEALS CASE NO.: 15-055-SPH

\*

\* \* \* \* \*

CERTIFICATE OF COMPLIANCE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Lawrence E. Schmidt, Esquire  
Smith, Gildea & Schmidt, LLC  
600 Washington Avenue, Suite 200  
Towson, MD 21204

Bruce E. Covahey, Esquire  
Covahey & Boozer, P.A.  
614 Bosley Avenue  
Towson, MD 21204

Charles and Ingrid Castronovo  
1501 Shore Road  
Baltimore, MD 21220

Paul Godwin  
1452 Shore Road  
Baltimore, MD 21220

Jeanne Walsh  
1452 Shore Road  
Baltimore, MD 21220

Louis Workmeister  
Ann Workmeister  
1302 Shore Road  
Baltimore, MD 21220

Donald Durham  
1505 Shore Road  
Baltimore, MD 21220

Jacqueline Hogarth  
1415 Third Road  
Baltimore, MD 21220

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

Lawrence M. Stahl  
Managing Administrative Law Judge  
The Jefferson Building, Suite 103  
105 W. Chesapeake Avenue  
Towson, MD 21204

Arnold Jablon, Director  
Permits, Approvals and Inspections  
County Office Building  
111 W. Chesapeake Avenue, Suite 105  
Towson, MD 21204

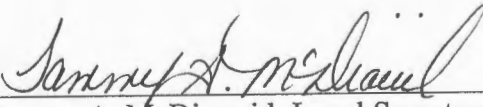
Andrea Van Arsdale, Director  
Department of Planning  
The Jefferson Building, Suite 100  
105 W. Chesapeake Avenue  
Towson, MD 21204

Nancy C. West, Assistant County Attorney  
Baltimore County Office of Law  
The Historic Courthouse  
400 Washington Avenue  
Towson, MD 21204

Michael E. Field, County Attorney  
Baltimore County Office of Law  
The Historic Courthouse  
400 Washington Avenue  
Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

**I HEREBY CERTIFY** that on this 19<sup>th</sup> day of June, 2015 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.

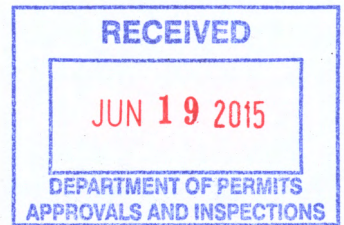
  
\_\_\_\_\_  
Tammy A. McDiarmid, Legal Secretary  
Board of Appeals for Baltimore County  
The Jefferson Building, Suite 203  
105 W. Chesapeake Avenue  
Towson, Maryland 21204  
(410) 887-3180



Board of Appeals of Baltimore County

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

6/21/15  
wch  
for file



June 19, 2015

Lawrence E. Schmidt, Esquire  
Smith, Gildea & Schmidt, LLC  
600 Washington Avenue, Suite 200  
Towson, Maryland 21204

Bruce E. Covahey, Esquire  
Covahey & Boozer, P.A.  
614 Bosley Avenue  
Towson, Maryland 21204

RE: Petition for Judicial Review  
Circuit Court Case No.: 03-C-15-006323  
In the Matter of: Paul Godwin - Legal Owner  
Board of Appeals Case No.: 15-055-SPH

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on June 12, 2015 by Lawrence E. Schmidt, Esquire, on behalf of Charles and Ingrid Castronovo, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

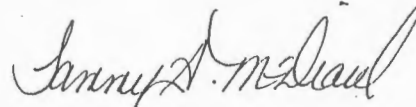
In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Lawrence E. Schmidt, Esquire, having taken the appeal, is responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

Courtsmart was the official record of the hearings before the Board. The disk(s) will be copied by this office and provided to you for transcription. The transcriptionist must meet the requirements set forth in Maryland Rule 16-406d(B) which states: "a stenographer, court reporter, or transcription service designated by the court for the purpose of preparing an official transcript from the recording." The Board of Appeals can assist in obtaining a qualified transcriptionist upon request.

**Please be advised that the ORIGINAL transcript must be provided to the Board of Appeals no later than AUGUST 7, 2015 so that it may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.**

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,



Tammy A. McDiarmid  
Legal Secretary

Duplicate Original  
Enclosure

c: Paul Godwin  
Charles and Ingrid Castronovo  
Jeanne Walsh  
Louis and Ann Workmeister  
Donald Durham  
Jacqueline Hogarth  
Office of People's Counsel  
Andrea Van Arsdale, Director/Dept. of Planning  
Lawrence M. Stahl, Managing Administrative Law Judge  
Arnold Jablon, Director/PAI  
Nancy C. West, Assistant County Attorney/Office of Law  
Michael E. Field, County Attorney/Office of Law



## Board of Appeals of Baltimore County

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

June 5, 2015

Lawrence E. Schmidt, Esquire  
Smith, Gildea & Schmidt, LLC  
600 Washington Avenue, Suite 200  
Towson, Maryland 21204

Bruce E. Covahey, Esquire  
Covahey & Boozer, P.A.  
614 Bosley Avenue  
Towson, Maryland 21204

RE: *In the Matter of: Paul Godwin – Legal Owner*  
*Charles and Ingrid Castronovo – Petitioners*  
Case No.: 15-055-SPH

Dear Counsel:

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

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

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington Ham".

Krysundra "Sunny" Cannington  
Administrator

KLC/tam  
Enclosure  
Duplicate Original Cover Letter

c: Paul Godwin  
Charles and Ingrid Castronovo  
Jeanne Walsh  
Office of People's Counsel  
Lawrence M. Stahl, Managing Administrative Law Judge  
Nancy West, Assistant County Attorney, Office of Law

Louis and Ann Workmeister  
Donald Durham  
Jacqueline Hogarth  
Andrea Van Arsdale, Director/Dept. of Planning  
Arnold Jablon, Director/PAI  
Michael Field, County Attorney, Office of Law





the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road, which is owned by Paul Godwin (the “Subject Property”) violates Section 102.1 of the B.C.Z.R.; (4) whether the proposed construction of a stairway and a two level deck on the property located at the Subject Property would violate the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building; and (5) whether a plan for the proposed development of Subject Property can be approved by Baltimore County without review by all required agencies of substantial amendments/alterations thereto.

ALJ Beverungen went on to opine that the Subject Property is zoned DR 5.5. The property is 22,244 square feet in size, and is improved with a single family dwelling and garage/shed. The Petitioners own adjoining property at 1501 Shore Road, and filed this Petition for special hearing seeking a determination that their neighbor's property is in violation of various Baltimore County laws and regulations.

ALJ Beverungen concluded that B.C.Z.R. Section 500.7 did not provide the OAH with “jurisdiction” to hear this case. In his opinion, he stated that a “special hearing” under Section 500.7 of the B.C.Z.R. is akin to a declaratory judgment proceeding, and provides this office with authority to construe and interpret the zoning regulations as they apply in a particular setting. Antwerpen v. Baltimore County, 163 Md. App. 194, 209 (2005). The problem here is that the Petitioners have asked for an interpretation of the Baltimore County Code (B.C.C.), not the B.C.Z.R. The Subject Property is zoned DR 5.5 which (unlike some of the RC Zones) does not contain lot coverage limitations. It is DEPS which is the arbiter of this issue, and its inspectors (assuming they found a violation) can issue citations for violations of the County Code and environmental regulations.

On November 6, 2014, for want of jurisdiction, ALJ Beverungen dismissed the Petition for Special Hearing pursuant to Section 500. 7 of the B.C.Z.R, without prejudice.

**FACTS**

On April 6, 2015, pursuant Section 500.10 of the B.C.Z.R and incident to an appeal filed by Petitioners, who are not owners of the Subject Property<sup>1</sup>, a special hearing was held before the County Board of Appeals for Baltimore County (the “Board”). The Petitioners were represented by attorneys Lawrence E, Schmidt, Esquire and Christopher Corey, Esquire. The legal owner of the Subject Property was represented by Bruce Covahey, Esquire.

In a preliminary motion argued before the Board, Lawrence E, Schmidt, Esquire, attorneys for the Petitioners, proffered that the Subject Property is waterfront property located in Eastern Baltimore County. He further stated that Mr. Godwin, the legal owner of the Subject Property has begun the construction of a deck. It is the Petitioners’ position that because the Subject Property is located within the Chesapeake Bay Critical Area (“CBCA”), any construction on said property must comply with Baltimore County Code (“BCC”) Article 32-2 et. seq. (Chesapeake Bay Critical Areas Protection) and related State Natural Resources regulations. The Petitioners claim that the issue presented is whether the existing and proposed construction, as identified, violated certain provisions of BCC Article 32-2 et. seq. and their companion state regulations. The Petitioners claim that the existing and proposed construction are in fact a violation of BCC Article 32-2 et. seq. and their companion state regulations.

The Petitioners also made a preliminary motion that would require the Board to hold the

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<sup>1</sup> Under Section 500.10 of the B.C.Z.R, “Any person or persons, jointly or severally, or any taxpayer or any official, department, board or bureau of Baltimore County feeling aggrieved by any decision of the Zoning Commissioner shall have the right to appeal therefrom to the County Board of Appeals. Notice of such appeal shall be filed, in writing, with the Zoning Commissioner within 10 days from the date of any final order appealed from. Such appeals shall be heard and disposed of by the County Board of Appeals as hereinafter provided.”

special hearing in abeyance until such time it receives certain written recommendations from the Director of Environmental Protection and Sustainability (“DEPS”). To support the motion, the Petitioners proffered that pursuant to Section 500.14 of the Baltimore County Zoning Regulations (“BCZR”)<sup>2</sup>, the Board cannot render a decision in a special hearing<sup>3</sup>, (de novo appeal), concerning property situated in CBCA unless written recommendations describing how the proposed request complied with the particulars of that section. The Petitioners proffered that the Subject Property is indisputably within the CBCA and no such written recommendations related to Section 500.14 (A), (B) or (C) have been received by the Board from the Director of DEPS, as such, the Board cannot render a decision in this case.

In an attempt to clarify the Petitioners position concerning the application of Section 500.14 of BCZR, the Board questioned the appropriateness of requiring Paul Godwin, the legal owner of the Subject Property to seek written recommendations from DEPS because it shifts the burden to him to seek something from DEPS that he may not need for the existing and proposed construction on his property. The Petitioners proffered that it is a benefit to all parties to know exactly how DEPS would view the existing and proposed construction on the Subject Property prior to the hearing held by ALJ Beverungen or soon to be held by this Board. The Petitioners opine that neither party should be penalized for not seeking written comments from DEPS but

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<sup>2</sup>§ 500.14. Within Chesapeake Bay Critical Area.

No decision may be rendered by the Zoning Commissioner on any petition for special exception, variance or special hearing unless the Zoning Commissioner has received from the Director of Environmental Protection and Sustainability, or his designated representative, written recommendations describing how the proposed request would:

- A. 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;
- B. Conserve fish, wildlife and plant habitat; and
- C. 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.

rather the triggering event for the written recommendations is simply the filing of the request to build in the CBCA. As a result, this hearing should be postponed until written comments from DEPS are issued. The Petitioners pointed out that the DEPS did not issue written comments concerning Mr. Godwin's proposed construction on the Subject Property, but it should have, and until such comments are issued all construction should stop.

Bruce Covahey, Esquire; attorney for the Mr. Godwin, owner of the Subject Property, proffered that the preliminary motion offered by the Petitioners supports his motion to dismiss because their petition for special hearing does not require the Board to interpret the Baltimore County Zoning Regulations. Therefore, this Board does not have jurisdiction to hear this matter because only issue presented in this case is whether or not an increase in the amount of lot coverage is a violation of Section 33-2-603 of the BCC.

The Legal Owner also argues the position that the Petitioners have no legal standing in this matter and are attempting to act as private code enforcement officers by protesting the issuance of a building permit to him. The Legal Owner stated that there is nothing in the code or statute that permits an individual appeal the issuance of a building permit. The Legal Owner proffered that only the building permit applicant may appeal the denial of building permit pursuant Section 35-2-302 (e) of the BCC.

The Board sought clarification from the parties concerning the issues presented in this case. The Legal Owner proffered that the issue presented by the Petitioner is whether (i) the amount of lot coverage maintained on the Subject Property in violation of Natural Resources Article and its companion COMAR regulations and/or Section 33-2-603 of the B.C.C, (ii) this Board has jurisdiction to hear a matter unrelated to Baltimore County Zoning Regulations and

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<sup>3</sup>§ 500.7 (Petitions for Public Hearing; Notice).

(iii) and the Petitioners have standing to petition this Board for a special hearing pursuant to Section 500.7 of the BCZR. Conversely, the Petitioners proffer that the issue in this case is the extent to which the Legal Owner has violated the regulations associated with the CBCA because his 2006 construction project and, the existing and proposed construction are in excess of the lot coverage permitted for Subject Property.

The Petitioners further stated that Section 103.5 (Chesapeake Bay Critical Area; Grandfathering)<sup>4</sup> and Section 104.5 of the BCZR (Uses in the Chesapeake Bay Critical Area) are

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<sup>4</sup>§ 103.5. Chesapeake Bay Critical Area; grandfathering.

A. This subsection applies to grandfathering requirements of the Chesapeake Bay Critical Area Local Protection Program and to the residential densities at which certain land within the Critical Area may be developed after June 13, 1988.

B. The rights conferred under this subsection are subject to:

1. The provisions in § 32-4-273 of the Baltimore County Code, pertaining to the time limit for validity of subdivision plats and, if applicable, to the provisions of Sections 103.3 and 103.4 of the Baltimore County Zoning Regulations;

2. The provisions in Article 33, Title 2, Subtitles 3, 4, and 5 and § 33-2-604 of the Baltimore County Code, pertaining to wetlands, buffers, habitat protection areas and water-dependent facilities; and

3. Other applicable county laws or regulations in effect at the time a right is exercised.

C. The county shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on June 13, 1988. If the existing use does not conform with the provisions of the local protection program, its intensification or expansion may be permitted only in accordance with Section 104.5 of these regulations and with the variance provisions and procedures outlined in § 32-4-231, § 33-2-205, or § 33-2-603 of the Baltimore County Code, whichever is or are applicable.

D. Lots of record or record lots as of December 1, 1985.

1. Each individual lot or parcel of land that was either a lot of record or a record lot on December 1, 1985, may be developed with a single-family dwelling if a dwelling was not already in existence and if a single-family dwelling was a use permitted on the property under the zoning in effect on December 1, 1985, notwithstanding that such development may be inconsistent with the density provisions of the approved local protection program and provided that this right to develop is subject to all the Zoning Regulations, other than density or lot size, in effect at the time the right is to be exercised; unless the lot or parcel is within the recorded plan or plat of a land subdivision approved by the county before December 1, 1985, in which case the limitations and rights pertaining to the approved plan or plat shall govern.

2. All lots that are developed under this paragraph shall be brought into conformance with the local critical area program, including the consolidation or reconfiguration of lots not individually owned, to avoid or minimize impacts to wetlands, buffers, and habitat protection areas, as determined by the Department of Environmental Protection and Sustainability.

E. Growth allocation will not be required for subdivisions of land where each resultant parcel or lot contains a dwelling which existed on December 1, 1985.

F. Residential subdivision of land other than for single-family dwellings, as covered by Paragraphs D and E of

dispositive to the outcome of the issues presented in this case. Section 103.5 (B) (1) and (B) (2) of the BCZR specifically adopts and incorporates certain provisions of the BCC; including Section 33-2-604 of the BCC. The Petitioners proffered that these grandfathering provisions in this section of the BCZR are relevant to the Legal Owner's ability to further improve the Subject Property in the CBCA.

The Petitioners further argue that Section 104.5 of the BCZR<sup>5</sup> states that where any use within the CBCA that becomes nonconforming on or after the effective date of this section<sup>6</sup> is subject to the provisions of "Sections 104.1, 104.2 and 104.3 and to the variance provisions and procedures of § 32-4-231, § 33-2-205, or § 33-2-603 of the Baltimore County Code, whichever is or are applicable."

The Petitioner contends that under Section 103.5 and Section 104.5 of the BCZR because they incorporate provisions in the BCC that are germane to the CBCA, the Petitioners have standing to file this petition under Section 500.7 of the BCZR<sup>7</sup>. Finally, the Petitioners contend that the Board has jurisdiction and authority to construe the aforementioned Baltimore County Zoning Regulations relating to the CBCA and how they impact the Subject Property.

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this subsection, is permitted in accordance with an approved final development plan or record plat if the approval was granted by the county before June 1, 1984.

G. For nonresidential developments, a lot or parcel of land may be developed with a use permitted on the property under the zoning or use regulations in effect on December 1, 1985, notwithstanding that such development may be inconsistent with the provisions of Article 33, Title 2 of the Baltimore County Code and provided that this right to develop is subject to the Zoning Regulations in effect at the time the right is to be exercised; unless the lot or parcel is within the recorded or approved plat or a plan of a land subdivision approved by the county before December 1, 1985, in which case the limitations and rights pertaining to the approved plan or plat shall govern.

<sup>5</sup>§ 104 Uses in Chesapeake Bay Critical Area.

Any use which becomes or continues to be nonconforming which exists within the Chesapeake Bay Critical Area on or after the effective date of this section is subject to the provisions of Sections 104.1, 104.2 and 104.3 and to the variance provisions and procedures of § 32-4-231, § 33-2-205, or § 33-2-603 of the Baltimore County Code, whichever is or are applicable.

<sup>6</sup>Bill Nos. 32-1988; 124-1991; 9-1996; 137-2004

<sup>7</sup>The Petitioners also pointed out that there is Maryland case law that support the proposition that a neighbor has

DISCUSSION

The Board having evaluated the proffers made by the attorneys of the respective parties and reviewed section of the Baltimore County Code and the Baltimore county Zoning regulations has determined that this Board lacks the jurisdiction to hear the matter. The Board agrees with the Legal Owner the issues presented in the petition for special hearing filed by the Petitioners would require it to interpret and construe certain sections of the Baltimore County Code for which it has no authority. The Petitioners preliminary motion, which would require this Board to hold this special hearing in abeyance until the Director of DEPS could provide written recommendation consistent with Section 500.14 of BCZR, is dismissed because this Board lacks jurisdiction to hear the underlying particulars of the petition for special hearing.

The Board agrees with the Legal Owner's position that the Petitioners petition for special hearing does not involve the interpretation of the Baltimore County Zoning Regulations; therefore, the Board lacks jurisdiction to hear this matter. As such, the Legal Owner's motion to dismiss is granted.

ORDER


THEREFORE IT IS THIS, 5<sup>th</sup> day of June, 2015, by the Board of Appeals of Baltimore County,

**ORDERED** that the Petition for Special Hearing in case number 15-055-SPH is hereby **DISMISSED**.

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**

  
\_\_\_\_\_  
Andrew M. Belt, Panel Chairmen

  
\_\_\_\_\_  
Benfred B. Alston

Richard A. Wisner was a Board member at the hearing on April 6, 2015. He was not reappointed and his term expired on April 30, 2015.





KEVIN KAMENETZ  
*County Executive*

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

December 10, 2014

Christopher Corey, Esquire  
Smith, Gildea & Schmidt  
600 Washington Avenue  
Suite 200  
Towson, Maryland 21204

Bruce Covahey, Esquire  
614 Bosley Avenue  
Towson, Maryland 21204

RE: **APPEAL TO BOARD OF APPEALS**  
Case No. 2015-0055-SPH  
Location: 1452 Shore Road

**RECEIVED**

DEC 11 2014

BALTIMORE COUNTY  
BOARD OF APPEALS

Dear Mr. Corey:

Please be advised that an appeal of the above-referenced case was filed in this Office on December 4, 2014. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "L. Stahl", written over a horizontal line.

LAWRENCE M. STAHL  
Managing Administrative Law Judge  
for Baltimore County

LMS/sln

c: Baltimore County Board of Appeals  
People's Counsel for Baltimore County

**APPEAL**

**Petitions for Special Hearing  
(1452 Shore Road)  
15<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District  
*Legal Owner: Paul Godwin*  
*Interested Parties : Charles & Ingrid Castronovo*  
Case No. 2015-0055-SPH**

Petition for Special Hearing (September 16, 2014)

Zoning Description of Property

Notice of Zoning Hearing (September 29, 2014)

Certificate of Publication (October 9, 2014)

Certificate of Posting (October 7, 2014) by Linda O'Keefe

Entry of Appearance by People's Counsel (September 26, 2014)

Petitioner(s) Sign-in Sheet – One

Citizen(s) Sign-in Sheet – One

Zoning Advisory Committee Comments

Petitioner(s) Exhibits -

1. Castronovo CV
2. SDAT for 1452 Shore Road.
3. Google Earth Aerial Photo
4. Location Survey 1452 Shore Road
5. Aerial photo w/footprint calculations

Miscellaneous (Not Marked as Exhibits) – Subpoenas and Entry of Appearance

Administrative Law Judge Order and Letter (DISMISSED without prejudice November 6, 2014)

Notice of Appeal – filed by Christopher Corey, Esquire with Smith, Gildea & Schmidt

1. Original delivered to Arnold Jablon with check number 13725 on December 4, 2014 (OAH received original and check on December 9, 2014)
2. Copy of Appeal dated December 4, 2014 to John E. Beverungen – OAH received on December 8, 2014 via U.S. Mail

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(1452 Shore Road)</b>		
15 <sup>th</sup> Election District	*	OFFICE OF
6 <sup>th</sup> Councilmanic District		
Paul Godwin	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Charles & Ingrid Castronovo,	*	FOR BALTIMORE COUNTY
<i>Interested Parties</i>		
Petitioners	*	<b>Case No. 2015-0055-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Charles and Ingrid Castronovo (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to determine whether an adjoining property located at 1452 Shore Road is currently in violation of the lot coverage limitations imposed by Section 33-2-603 of the Baltimore County Code (B.C.C.); (2) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would increase the amount of lot coverage maintained on the property in violation of Section 33-2-603 of the B.C.C.; (3) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates Section 102.1 of the B.C.Z.R.; (4) whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would violate the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building; and (5) whether a plan for the proposed development of 1452 Shore Road can be approved by Baltimore County without review by all required agencies of substantial amendments/alterations thereto. Special hearing request number 5 was dismissed at the hearing by Petitioners’ counsel, and the Petition in the file was so amended and initialed by the

ORDER RECEIVED FOR FILING

Date 11-6-14

By Den

undersigned.

Appearing at the public hearing in support of the requests was Charles Castronovo. Christopher Corey, Esq., represented the Petitioners. Paul Godwin, owner of the adjoining home, attended the hearing and was represented by Bruce Covahey, Esq. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property (1452 Shore Road, owned by Mr. Godwin) is zoned DR 5.5. The property is 22,244 square feet in size, and is improved with a single family dwelling and garage/shed. The Petitioners own adjoining property at 1501 Shore Road, and filed this Petition for special hearing seeking a determination that their neighbor's property is in violation of various Baltimore County laws and regulations.

Charles Castronovo testified and explained his educational background and professional experience as an engineer. He presented a series of aerial photographs and described the mapping tools he used to calculate the amount (i.e., square footage) of impervious surface on his neighbor's property. Mr. Castronovo contends that Mr. Godwin has exceeded the lot coverage limitations set forth in the County Code and critical area regulations. And while that may be the case, I do not believe B.C.Z.R. §500.7 provides the OAH with "jurisdiction" to hear this case.

A "special hearing" under §500.7 of the B.C.Z.R. is akin to a declaratory judgment proceeding, and provides this office with authority to construe and interpret the zoning regulations as they apply in a particular setting. Antwerpen v. Baltimore County, 163 Md. App. 194, 209 (2005). The problem here is that the Petitioners have asked for an interpretation of the Baltimore County Code (B.C.C.), not the B.C.Z.R. The property in question is zoned DR 5.5 which (unlike some of the RC zones) does not contain lot coverage limitations. It is the DEPS which is the

ORDER RECEIVED FOR FILING


Date 11-6-14

By DLN

arbiter of this issue, and its inspectors (assuming they found a violation) can issue citations for violations of the County Code and environmental regulations.

THEREFORE, IT IS ORDERED this 6<sup>th</sup> day of November, 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R"), be and is hereby DISMISSED without prejudice.

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 11-6-14

By sln

TO: PATUXENT PUBLISHING COMPANY  
Thursday, October 9, 2014 Issue - Jeffersonian

Please forward billing to:  
Charles Castronovo  
1501 Shore Road  
Baltimore, MD 21220

410-583-2100

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## 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: 2015-0055-SPH**

1452 Shore Road

SW/s Shore Road, 45 ft. SE of centerline of intersection with Gumwood Drive

15<sup>th</sup> Election District -6<sup>th</sup> Councilmanic District

Legal Owners: Paul Goodwin

Interested Parties: Charles & Ingrid Castronovo

Special Hearing 1. Whether an adjoining property located at 1452 Shore Road is currently in violation of the lot coverage limitations imposed by Section 33-2-603 of the Baltimore County Code (BCC). 2. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would increase the amount of lot coverage maintained on the property in violation of Section 33-2-603 of the BCC. 3. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates Section 102.1 of the BCZR. 4. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would violate the limitation on extending non-conforming structures and uses no more than 25 % of the ground floor area of the existing building. 5. Whether a plan for the proposed development of 1452 Shore Road can be approved by Baltimore County without review by all required agencies of substantial amendments/alterations thereto; and 6. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

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



Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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

check

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 1452 Shore Road, Baltimore, MD 21220

which is presently zoned DR 5.5

Deed Reference 06409/00355

10 Digit Tax Account # 1 5 0 6 3 5 0 3 3 1

Property Owner(s) Printed Name(s) Mr. Paul Godwin

CASE NUMBER 2015-0035-SPH Filing Date 9/16/14 Estimated Posting Date 9/28/14 Reviewer JS

(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

**See attached.**

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).

~~Interested Parties:~~ Interested Parties:

Charles & Ingrid Castronovo

Name- Type or Print

*Charles* *Ingrid Castronovo*

Signature

1501 Shore Road, Baltimore, MD

Mailing Address City State

21220 (410) 583-2100 charles@appliedmagnetics.com

Zip Code Telephone # Email Address

410 780-6248 HOME

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners:

Mr. Paul Godwin

Name #1 - Type or Print Name #2 - Type or Print

Signature #1 Signature #2

1452 Shore Road, Baltimore, MD

Mailing Address City State

21220

Zip Code Telephone # Email Address

Representative to be contacted:

Charles & Ingrid Castronovo

Name - Type or Print

Signature

1501 Shore Road, Baltimore, MD

Mailing Address City State

21220 (410) 583-2100 charles@appliedmagnetics.com

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING

Date 11-6-14

By Den

**ATTACHMENT TO PETITION FOR SPECIAL HEARING**  
**1452 Shore Road**

**Special Hearing relief to Determine:**

1. Whether an adjoining property located at 1452 Shore Road is currently in violation of the lot coverage limitations imposed by Section 33-2-603 of the Baltimore County Code, Title 17 of the Code of Maryland Regulations, and Title 8, Subtitle 18, of the Natural Resources Article of the Maryland Code;
2. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would increase the amount of lot coverage maintained on the property in violation of Section 33-2-603 of the Baltimore County Code, Title 17 of the Code of Maryland Regulations, and Title 8, Subtitle 18, of the Natural Resources Article of the Maryland Code;
3. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates Section 102.1 of the BCZR;
4. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would violate the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building, as provided in Section 104.3 of the BCZR;
5. Whether a plan for the proposed development of 1452 Shore Road can be approved by Baltimore County without review by all required agencies of substantial amendments/alterations thereto; and
6. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.



## PROPERTY DESCRIPTION

Beginning for the same at a point on the southwesterly side of shore road, formerly called Riverside Boulevard, at a point in the second line of the whole tract of land of which the lot now being described is a part and which said whole tract of land is described in a deed dated August 27, 1948, and recorded among the Land Records of Baltimore County in Liber T.B.S. No. 1697 folio 117 from Frances M. Parrish to Gerald L. Cochran and wife, distant 34 and 35/100ths feet southeasterly measured along said second line of said whole tract of land, from the beginning of said second line of said whole tract of land; and running thence from said place of beginning, binding on the southwesterly side of said Shore Road and binding on part of said second line of said whole tract of land, South 59 degrees east 72 and 65/100ths feet to the end of said second line of said whole tract of land; thence leaving the said southwesterly side of said Shore Road, at right angles thereto and binding on the third line of said whole tract of land and running, South 31 degrees west 333 feet more or less to the end of said third line and to the shore of Middle River, thence Northwesterly binding on part of fourth line of said whole tract of land and along the shore of said Middle River, 62 and 5/10ths feet; thence for line of division the two following courses and distances, viz: North 24 degrees East 88 feet, more or less, to an iron pipe and North 31 degrees east, parallel with the second line of this description, 244 and 30/100ths feet, more or less to the place of beginning. The improvements thereon being known as 1452 Shore Road.

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

No. **116257**

Date: **9/16/14**

**PAID RECEIPT**

BUSINESS ACTUAL TIME DRW  
 9/16/2014 9/16/2014 11:35:56 5

REC: NSDS WALKIN ISDS LRB  
 RECEIPT # 761963 9/16/2014 CELH

Dept: 5 528 ZONING VERIFICATION  
 CR NO: 116257

Receipt Tot \$75.00  
 \$75.00 CK \$ 0.00 CA  
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Obj	Dept	Obj	BS Acct	Amount
001	806	0000		610					\$ 75.00

Total: \$ 75.00

Rec From: **2015-0055-SP1**

For: **CHARLES CASTRONOVO**

DISTRIBUTION

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

**CASHIER'S  
 VALIDATION**

# 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.**

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#### For Newspaper Advertising:

Item Number or Case Number: 2015-0055-SPH

Petitioner: Charles Castanovo

Address or Location: ~~1450~~ 1450 Shore Road

#### PLEASE FORWARD ADVERTISING BILL TO:

Name: Charles Castanovo

Address: 1501 Shore Road

Baltimore, MD 2120

Telephone Number: 410 583 2100

11/6/14  
WCL

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE



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

**DATE:** October 10, 2014

**FROM:** Andrea Van Arsdale  
Director, Department of Planning

**SUBJECT:** Zoning Advisory Petition(s) for  
Item No: 2015-055 and 2015-079

The Department of Planning has reviewed the above referenced zoning item(s) and has no comments. For further questions or additional information concerning the matters stated herein, please contact Lloyd T. Moxley at 410-887-3482.

**Prepared By:**  \_\_\_\_\_

LTM/ka

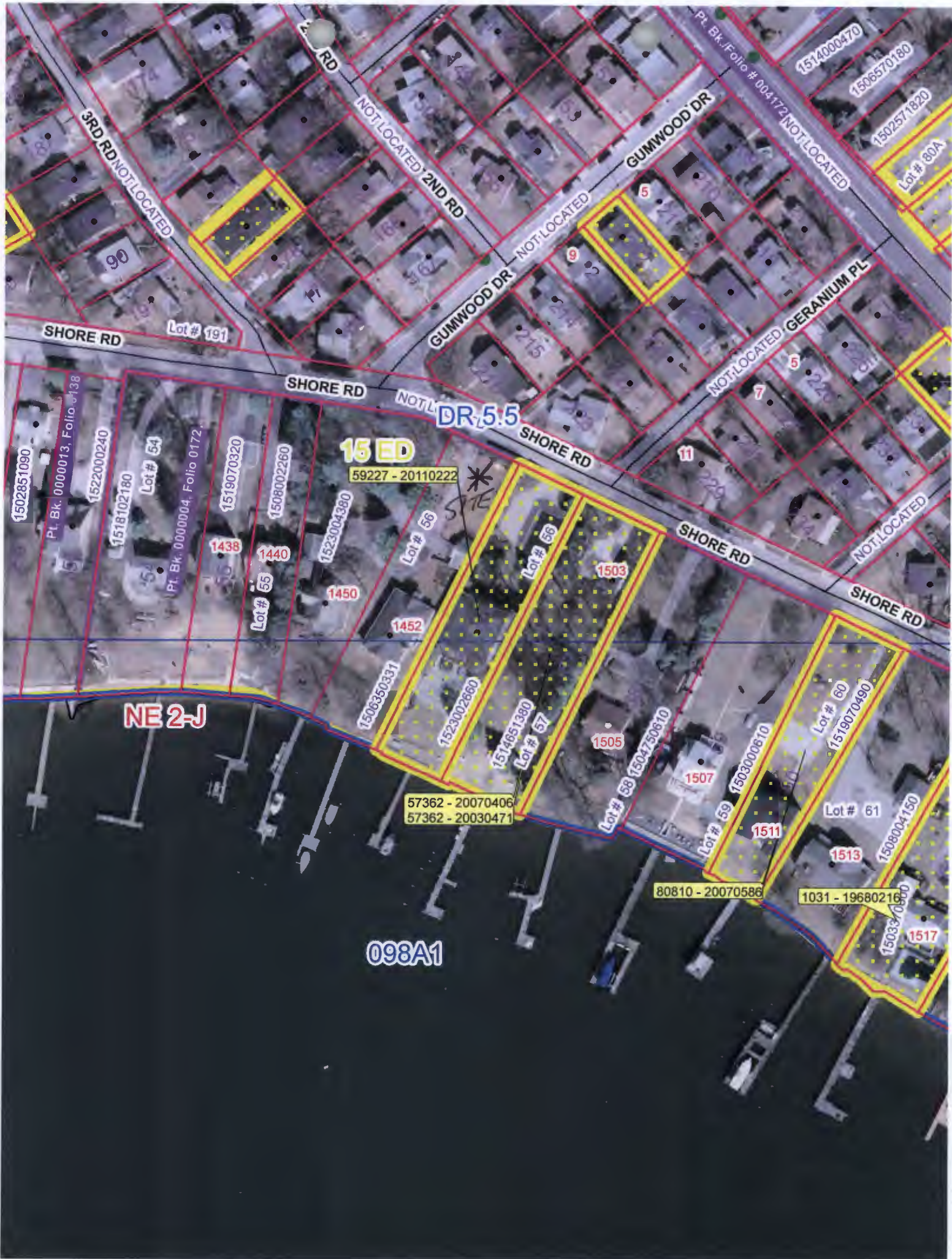
**c:** John Beverungen, ALJ  
Peter Max Zimmerman

Real Property Data Search ( w1)

Guide to searching the database

## Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
<b>Account Identifier:</b>		<b>District - 15 Account Number - 1506350331</b>			
<b>Owner Information</b>					
<b>Owner Name:</b>	GODWIN PAUL		<b>Use:</b>	RESIDENTIAL	
<b>Mailing Address:</b>	1452 SHORE RD BALTIMORE MD 21220-5446		<b>Principal Residence:</b>	YES	
			<b>Deed Reference:</b>	/06409/ 00355	
<b>Location &amp; Structure Information</b>					
<b>Premises Address:</b>		1452 SHORE RD 0-0000 Waterfront		<b>Legal Description:</b>	PT LT 56 BULL NECK
<b>Map:</b>	<b>Grid:</b>	<b>Parcel:</b>	<b>Sub District:</b>	<b>Subdivision:</b>	<b>Section:</b>
0091	0019	0067		0000	
					<b>Block:</b>
					56
					<b>Lot:</b>
					56
					<b>Assessment Year:</b>
					2015
					<b>Plat No:</b>
					<b>Plat Ref:</b>
					0004/ 0172
<b>Special Tax Areas:</b>			<b>Town:</b>		
			NONE		
			<b>Ad Valorem:</b>		
			Tax Class:		
<b>Primary Structure Built</b>	<b>Above Grade Enclosed Area</b>	<b>Finished Basement Area</b>	<b>Property Land Area</b>	<b>County Use</b>	
1954	2,840 SF		22,244 SF	34	
<b>Stories</b>	<b>Basement</b>	<b>Type</b>	<b>Exterior</b>	<b>Full/Half Bath</b>	<b>Garage</b>
1	NO	STANDARD UNIT	SIDING	2 full	1 Detached
					<b>Last Major Renovation</b>
<b>Value Information</b>					
	<b>Base Value</b>	<b>Value</b>	<b>Phase-in Assessments</b>		
		<b>As of</b>	<b>As of</b>	<b>As of</b>	
		01/01/2012	07/01/2014	07/01/2015	
<b>Land:</b>	264,500	264,500			
<b>Improvements</b>	191,100	191,100			
<b>Total:</b>	455,600	455,600	455,600		
<b>Preferential Land:</b>	0				
<b>Transfer Information</b>					
<b>Seller:</b> FLOYD JOSEPH M		<b>Date:</b> 06/30/1982		<b>Price:</b> \$95,000	
<b>Type:</b> ARMS LENGTH IMPROVED		<b>Deed1:</b> /06409/ 00355		<b>Deed2:</b>	
<b>Seller:</b>		<b>Date:</b>		<b>Price:</b>	
<b>Type:</b>		<b>Deed1:</b>		<b>Deed2:</b>	
<b>Seller:</b>		<b>Date:</b>		<b>Price:</b>	
<b>Type:</b>		<b>Deed1:</b>		<b>Deed2:</b>	
<b>Exemption Information</b>					
<b>Partial Exempt Assessments:</b>	<b>Class</b>	<b>07/01/2014</b>	<b>07/01/2015</b>		
<b>County:</b>	000	0.00			
<b>State:</b>	000	0.00			
<b>Municipal:</b>	000	0.00	0.00		
<b>Tax Exempt:</b>	<b>Special Tax Recapture:</b>				
<b>Exempt Class:</b>	NONE				
<b>Homestead Application Information</b>					
<b>Homestead Application Status:</b> Approved 10/18/2013					



3RD RD NOT LOCATED

NOT LOCATED 2ND RD

GUMWOOD DR

PL. BK. Folio # 004172 NOT LOCATED

SHORE RD

Lot # 191

GUMWOOD DR NOT LOCATED

NOT LOCATED GERANIUM PL

SHORE RD

DR-5.5

SHORE RD

SHORE RD

SHORE RD

15 ED

59227 - 20110222

Lot # 56

Lot # 56

1503

1450

1452

1506350331

1523002660

1514651380

Lot # 57

1505

Lot # 58

1504750610

1507

1503000810

Lot # 59

1511

Lot # 60

1519070490

Lot # 61

1513

1508004150

NE 2-J

57362 - 20070406  
57362 - 20030471

80810 - 20070586

1031 - 19680216

098A1

1517

1503370570

1502851090  
Pt. Bk. 0000013, Folio 0138

1522000240

1518102180

Lot # 54  
Pt. Bk. 0000004, Folio 0172

1519070320

1508002260

1523004380

1438

1440

Lot # 55

1514000470

1508570180

1502571820

Lot # 80A



My Neighborhood Map

Created By  
Baltimore County  
My Neighborhood



This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and court costs incurred as a result of, arising from or in connection with the use of or reliance upon this data.



1452 SHORE RD

Permit Review Map

2015-0055-SPH

Created By  
Baltimore County  
My Neighborhood



This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and court costs incurred as a result of, arising from or in connection with the use of or reliance upon this data.





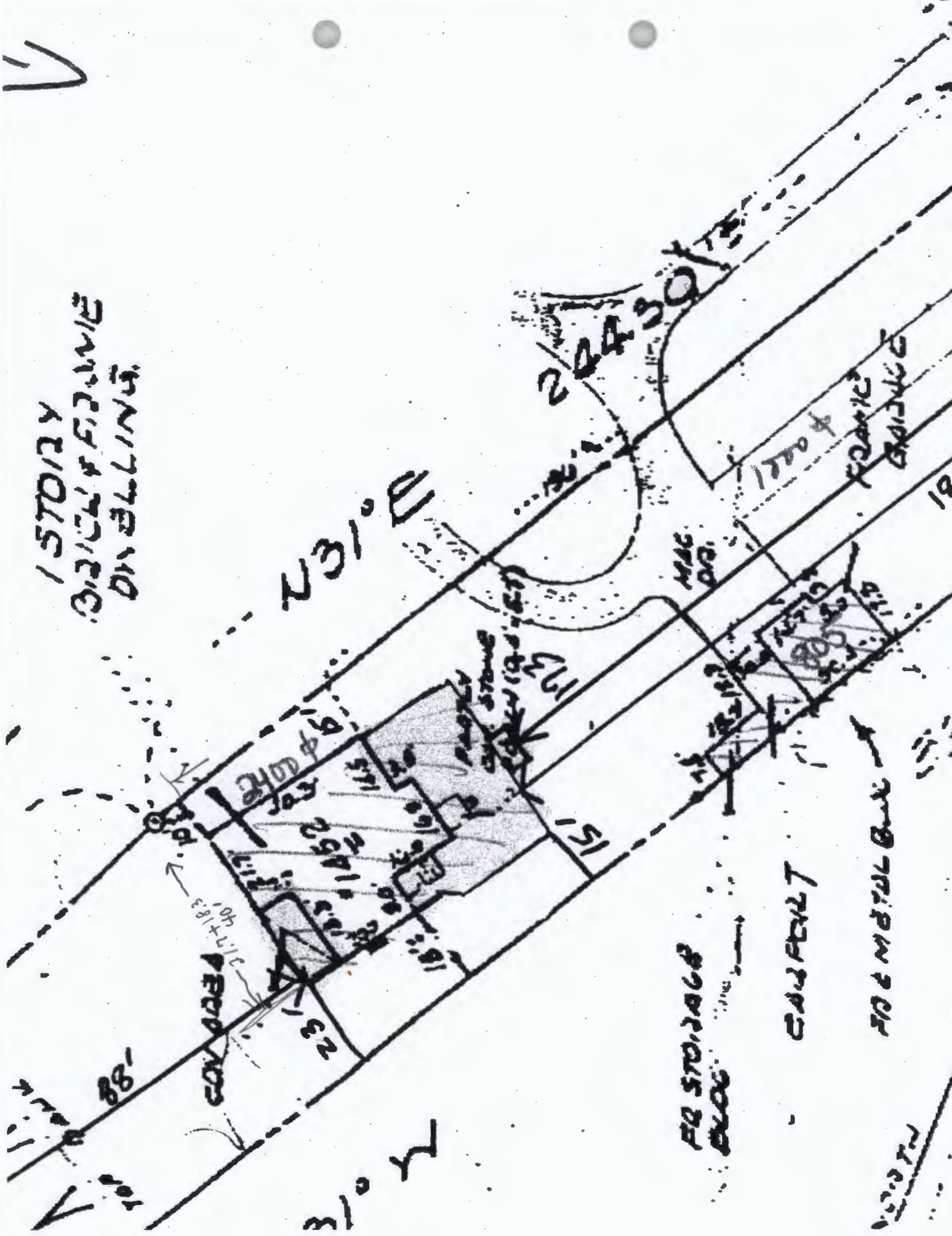
2014.09.04 08:30



2014.09.04 08:40

V

157012Y  
BIRCH & FRANKIE  
DINELLING



151

FRANKIE  
FRANKIE

MAG. DR.

1700

FRANKIE  
FRANKIE

19

CONCRETE

40

217-183

151

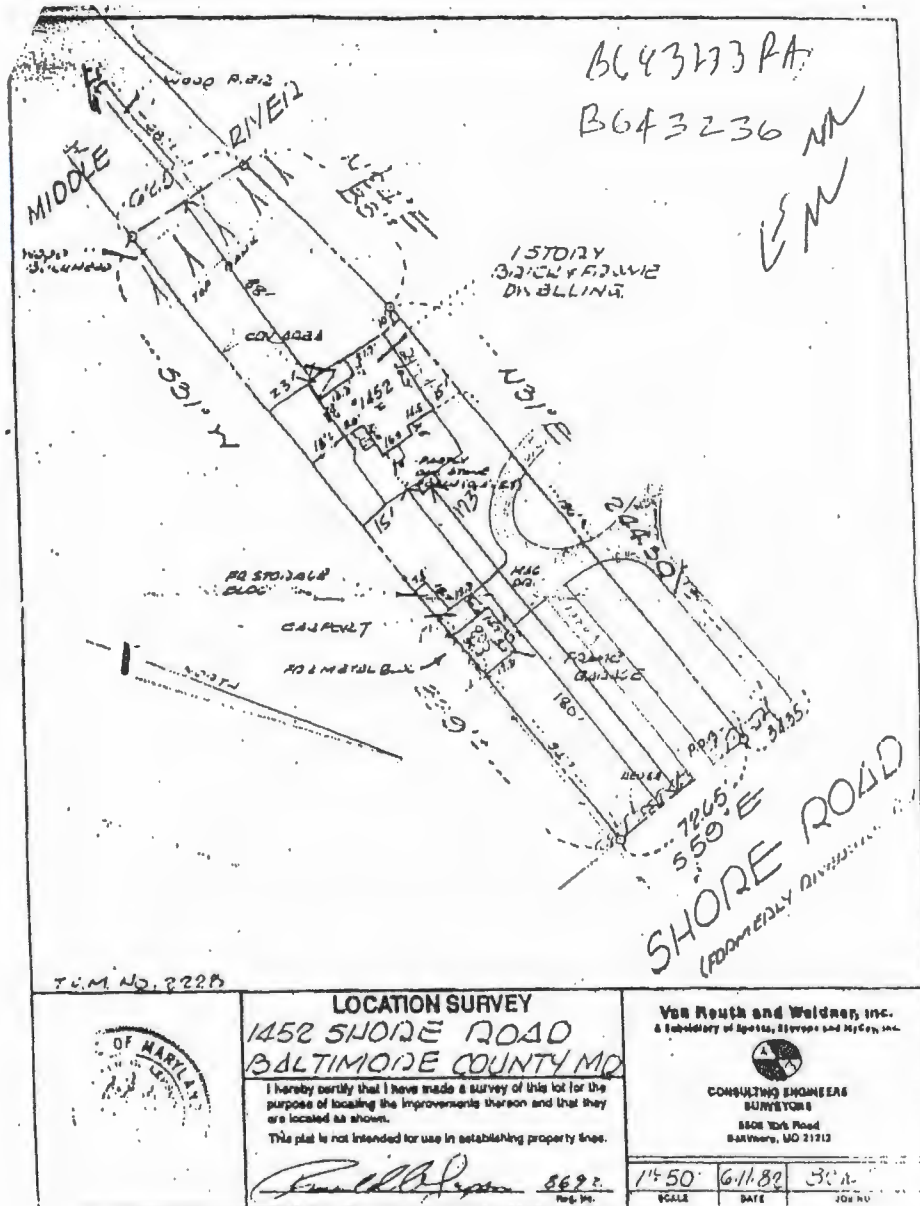
FRANKIE  
FRANKIE

1700

FRANKIE  
FRANKIE

19

Zoning hearing plan for Special Hearing. Address 1452 Shore Road. Owners name (s): Paul Godwin. Subdivision Name: Bull Neck. Lot # 56. Plat Book # 4 Folio #172. 10 Digit Tax # 1506350331. Deed Reference # 6409/355



Site Zoned: DR 5.5

Election District: 15

Council District: 6

Lot Area: 22,244 square feet

Historic: No

In Flood Plain: Yes

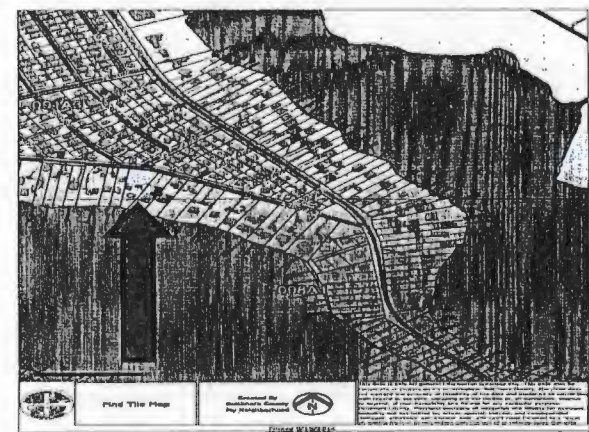
Located In Chesapeake Bay Critical Area: Yes

Water is: Public

Sewer is: Public

Prior Hearing: No

Any known outstanding zoning violations?: No



- "SCALED" COPY OF SITE-PLAN ATTACHED -



4  
12<sup>18</sup>

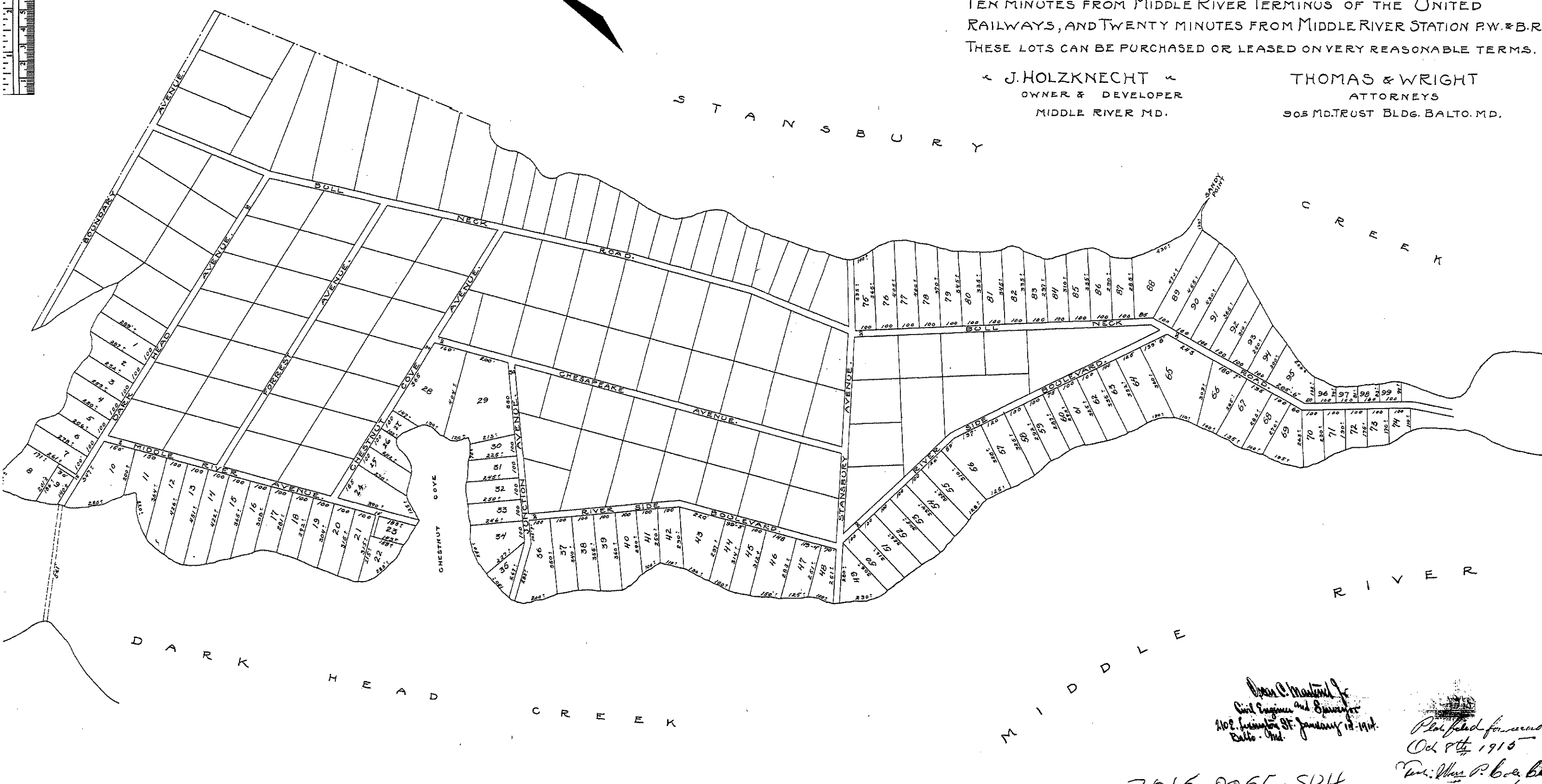
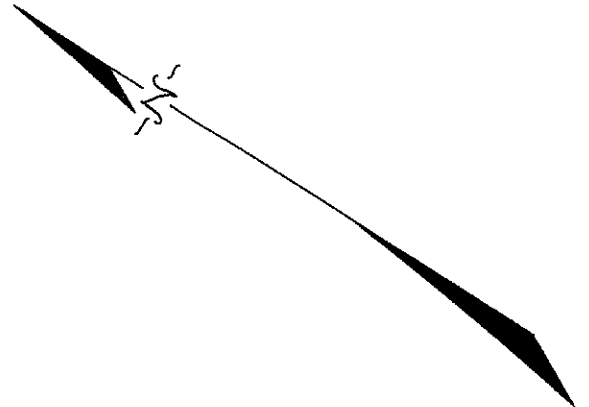
NOTE  
ALL AVENUES OR ROADS AS SHOWN ON THIS  
PLAT ARE RESERVED FROM DEDICATION TO  
PUBLIC USE, AND ARE SHOWN HEREON FOR  
PURPOSES OF DESCRIPTION ONLY, THE FEE  
SIMPLE BEDS THEREIN BEING HEREBY EXPRESSLY  
RESERVED TO J. HOLZKNECHT

# ~BULL NECK~

SHORE FRONT LOTS ON MIDDLE RIVER AND STANSBURY CREEK  
OVERLOOKING CHESAPEAKE BAY. HIGH, PLENTY OF SHADE, SANDY  
BEACH, EXCELLENT FISHING, CRABBING AND BOATING.  
TEN MINUTES FROM MIDDLE RIVER TERMINUS OF THE UNITED  
RAILWAYS, AND TWENTY MINUTES FROM MIDDLE RIVER STATION P.W. & B.R.  
THESE LOTS CAN BE PURCHASED OR LEASED ON VERY REASONABLE TERMS.

J. HOLZKNECHT  
OWNER & DEVELOPER  
MIDDLE RIVER MD.

THOMAS & WRIGHT  
ATTORNEYS  
505 MD. TRUST BLDG. BALTO. MD.



SCALE - 1 INCH = 200 FEET.

*John C. Marshall Jr.*  
Civil Engineer and Surveyor  
1102 Huntington St. January 18, 1915  
Balto. Md.

Plat filed for record  
Oct 27th 1915  
Treas: *Wm. P. Coe, Co.*

2015-0055-SPH

MSA c54 286 - 4577-3      Sept 30, 1915