IN THE MATTER OF ANTONIO GARGIULO - PETITIONER FOR VARIANCE ON THE PROPERTY LOCATED AT 11307 BEACH ROAD	*	BEFORE THE
	*	BOARD OF APPEALS
	*	OF
11th ELECTION DISTRICT 6th COUNCIL DISTRICT	*	BALTIMORE COUNTY
	*	Case No. 21-098-A

* * * * * * * * * * * * *

OPINION

This case comes before the Baltimore County Board of Appeals as an appeal of Baltimore County Administrative Law Judge ("ALJ"), Maureen Murphy's July 9, 2021, Opinion and Order granting Petitioner, Antonio Gargiulo's request for variance relief from Baltimore County Zoning Regulations ("BCZR") to permit a six-foot high fence in lieu of the maximum allowed forty-two inches permitted.

A *de novo* hearing was held before this Board on November 10, 2021, via Webex. Mr. Gargiulo appeared pro se. Protestant, Gerald Welsh, the owner of the neighboring property located at 11311 Beach Road, appeared in opposition. Mr. Welsh was represented by counsel, Michael R. McCann, Esquire. A public deliberation was held on February 2, 2022, via Webex.

Background

Prior to the filing for variance relief in this matter, Mr. Gargiulo applied to Baltimore County for a permit to erect a six-foot fence in his rear yard (the waterfront side) between his property and Mr. Welsh's property. The permit was approved and issued to Mr. Gargiulo. While the fence was being erected, or shortly thereafter, Mr. Welsh filed a complaint with Baltimore County Code Enforcement. Upon investigation, it was determined by Code Enforcement that the fence erected on the waterfront side was actually Mr. Gargiulo's front yard. Consequently, the permit issued to Mr. Gargiulo was rescinded by Baltimore County, thus

requiring Mr. Gargiulo to seek variance in the case at bar. Mr. Gargiulo testified before the Board that he had no intent to deceive the County when obtaining his original permit, and the Board is persuaded that this is the case. From the photos and testimony offered during the hearing, the Board concludes that it would be reasonable for a lay person to opine that the waterfront side of his yard is indeed his rear yard. Eliminating further confusion on the matter, the parties agreed that the waterfront is indeed the front yard of the property in question.

Shortly after receiving the Code Violation, Mr. Gargiulo filed a Petition for a Variance pursuant to BCZR §400.1 and §427.1.B.1 & 2. The variance was to erect a 6-foot-high fence instead of the maximum allowed, 42 inches. (The necessity for variance approval of a garage in the front yard is now moot since the parties agree that it is in the rear yard).

Mr. Gargiulo's property is a waterfront lot facing Bird River. It measures approximately 11,440 square feet and is zoned RC2. The topography is relatively flat on the roadside along Beach Road. The property slopes dramatically downhill as it approaches the water. It slopes in a tiered fashion. The property is improved with a 1 ½ story house built in 1934 and there is an older garage located at the driveway entrance on Beach Road. Additionally, the property has a unique shape to it because of the waterfront features. It is not like his neighbors. On the other side of Mr. Gargiulo's property, there is a lot which is owned by a community center. This lot does not have the severity of slope towards the waterfront that Mr. Gargiulo's property does.

Mr. Welsh's property, located next to Mr. Gargiulo's property at 11311 Beach Road, consists of two lots and is improved with a home built in the 1930s. Like Mr. Gargiulo's property, it slopes down towards the waterfront. Mr. Welsh's property has a significantly higher elevation than Mr. Gargiulo's. His property slopes downward towards Mr. Gargiulo's property. This property also contains an above ground swimming pool with an attached deck and gazebo, all located near the waterfront. The deck sits significantly higher up than Mr. Gargiulo's fence.

(Petitioner's Exhibit 7). Additionally, Mr. Welsh has a six feet high fence separating his property from the property located on the other side of him. This is the property owned by Samuel and Joanne Lee and is located at 11313 Beach Road. It is interesting to note that the Welsh property was previously subject to a Variance Order back in 2003. Mr. Welsh erected a 6 feet high fence between his property and the Lee property without obtaining a permit. This resulted in a case with the Deputy Zoning Commissioner (Case No. 04-144-A). The Welsh's sought a variance to erect a fence 8-10 feet high between the properties. This request was denied; however, a variance was granted to erect a 6 feet high fence.

Mr. Gargiulo testified that because of the elevation differences between his property and Mr. Welsh's, he has no privacy. A 42-inch fence would not alleviate the privacy issue at all. The 6 feet fence currently in place does help to alleviate this problem. Additionally, there is a compost pile and a yard waste pile which Mr. Welsh keeps directly adjacent to the property line with Mr. Gargiulo.

DECISION

The threshold issue in this matter is whether Mr. Gargiulo has met the test for entitlement to a variance as established in *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424 (1995).

In order to grant a variance, Baltimore County Zoning Regulations (BCZR) § 307.1 states, as relevant:

> "...The County Board of Appeals...shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship...Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare..."

In order to obtain a variance in this instance, Petitioner first must prove the uniqueness of the property and then that such uniqueness results in practical difficulty. *See Cromwell v. Ward*, *supra* 102 Md. App. at 703-722; 651 A.2d at 430-440. The uniqueness element requires that the subject property have an inherent characteristic not shared by other properties in the area, such as, shape, topography, sub-surface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. *Id.*, 102 Md. App. at 710-11; 651 A.2d at 433-34, *citing North v. St. Mary's County*, 99 Md. App. 502, 514-15; 638 A. 2d 1175 (1994).

With respect to practical difficulty, there is a three-part review: (1) whether compliance with the strict letter of the restrictions governing area, setbacks, etc., would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome; (2) whether a grant of the variance would do substantial justice for the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and (3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel*, 407 Md. 53, 83-84; 962 A.2d 404, 422 (2008), *citing McLean v. Soley*, 270 Md. 208, 214-15; 310 A.2d 783, 787 (1973). The hardship at issue cannot be self-created. *Cromwell*, 102 Md. App. at 721-22; 651 A.2d at 439-40. In addition, financial considerations also do not necessarily justify a petitioner's entitlement to variance relief. *See Green v. Bair*, 77 Md. App. 144, 151; 549 A.2d 762, 765 (1988) ("Mere financial hardship or an opportunity to get an increased return from the property is not a sufficient reason for granting a variance,") *citing*, *Daihl v. County Board of Appeals*, 258 Md. 157,

167; 265 A.2d 227, 232 (1970) (other citations omitted). At the same time, financial hardship can be a consideration. *Id.*

The first determination is that of uniqueness of the property. The Board finds that this prong is satisfied. Testimony was received describing of the shape of the property at the shoreline, the tiered elevation of Mr. Gargiulo's yard, and most importantly, the difference in elevation between Mr. Gargiulo's yard and Mr. Welsh's yard.

The second determination is that of practical difficulty or hardship. The Board also finds that this prong is satisfied. As mentioned above, a 42-inch fence would do very little to give Mr. Gargiulo any sort of privacy in his yard. While not dispositive in this matter, it is important to note that although both the Petitioner's and Protestant's waterfront side of their homes is considered their "front yards" the purposes for which these "front yards" are used, (i.e., swimming pools, recreation, compost piles) are more in keeping with "rear yards" where zoning relief for such fences would not be required. Given that the Petitioner had persuaded this Board that both prongs of the *Cromwell* analysis have been met, the requested variance relief is GRANTED.

ORDER

THEREFORE, IT IS THIS 16th day of June, 2022, by the Board of Appeals of Baltimore County, it is:

ORDERED that the Petition for Variance to permit an existing 6 foot rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (waterside) in lieu of the required 10 foot setback; and to permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard placement, be and is hereby **GRANTED.**

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

BOARD OF APPEALS OF
BALTIMORE COUNTY

Andrew M. Belt, Panel Chair

Fred M. Lauer

Bryan T. Pennington

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
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June 16, 2022

Antonio Gargiulo
11307 Beach Road
White Marsh, Maryland 21162

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

RE: In the Matter of: *Antonio Gargiulo*
Case No.: 21-098-A

Dear Mr. Gargiulo and Mr. McCann:

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
Duplicate Original Cover Letter
Enclosure

c: Gerald Welsh
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

From: Krysundra Cannington
To: Antonio Mazziott
Cc: Michael McCann, Esquire
Subject: RE: Gargiulo 21-098-A
Date: Wednesday, February 2, 2022 9:19:00 AM
Attachments: Gargiulo 21-098-A Deliberation Notice.pdf

Good morning,

At the end of your hearing on November 10, 2021, the Board announced that written closing arguments were due on December 13, 2021 no later than 3:00 p.m. That deadline was included on the Notice of Deliberation which was mailed to you on December 2, 2021. I have attached a copy of the Notice of Deliberation for your convenience.

Please be advised that the record was closed at 3:00 p.m. on December 13, 2021 and no further documentation will be considered by the Board. Additionally, the Board convened for the public deliberation in this matter at 9:00 a.m. this morning.

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
Phone: (410) 887-3180
Fax: (410)887-3182

From: Antonio Mazziott <a.mazziott@gmail.com>
Sent: Wednesday, February 2, 2022 9:13 AM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Subject: Re: Gargiulo 21-098-A

Hi,

I never received any info for who to send my amendment too for my case deliberation today. Please see attached.

Thank you for your time,

Antonio Gargiulo
11307 Beach Road
White Marsh MD 21162

On Tue, Nov 9, 2021 at 1:51 PM Antonio Mazziott <a.mazziott@gmail.com> wrote:

> Hi Krysundra,
>
> I have a case being heard tomorrow morning at 10am. Attached are my only exhibits for my case.
>
> After going through the initial case I now know that my waterfront side is the "Front yard". The variance I was seeking is not what I am trying to get approved. Judge Murphy said since the fence is in my front yard I do not need a permit and/or variance.
>
> Thank you for your time,
>
> Antonio Gargiulo
> 11307 Beach Road
> White Marsh, MD 21162
> (410)322-3875

From: Antonio Mazziott
To: Krysundra Cannington
Subject: Re: Gargiulo 21-098-A
Date: Wednesday, February 2, 2022 9:12:59 AM
Attachments: Amendment - 11307 Beach Road White Marsh, MD 21162.docx

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Hi,

I never received any info for who to send my amendment too for my case deliberation today. Please see attached.

Thank you for your time,

Antonio Gargiulo
11307 Beach Road
White Marsh MD 21162

On Tue, Nov 9, 2021 at 1:51 PM Antonio Mazziott <a.mazziott@gmail.com> wrote:

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> Thank you for your time,
>
> Antonio Gargiulo
> 11307 Beach Road
> White Marsh, MD 21162
> (410)322-3875

IN RE: PETITION FOR VARIANCE
(11307 Beach Road)

Antonio Gargiulo, Legal Owner

* BEFORE THE

* COUNTY

* BOARD OF

* APPEALS

* **Case no. 2121-0098-A**

* * * * * * * * * * * *

PROTESTANT'S POST-HEARING MEMORANDUM

Protestant, Gerald Welsh ("Mr. Welsh"), submits this post-hearing memorandum in support of his opposition to the petition for variances filed by Antonio Garguilo ("Mr. Garguilo").

I. INTRODUCTION

During the hearing in this matter, Mr. Garguilo identified essentially three reasons why he wants a six-foot fence in his front and side yard: (1) he wishes to install a hot tub and does not want his neighbors seeing him, (2) he does not want to look at the improvements in Mr. Welsh's yard, and (3) Mr. Welsh installed a six-foot fence on his property, so he should be able to install a six-foot fence too. These reasons may appear reasonable, but they are insufficient as a matter of law to constitute the "practical difficulty" necessary for obtaining a variance. Moreover, Mr. Garguilo failed to demonstrate that his property is "unique" in any way, which is a threshold requirement to the granting of a variance. For these reasons, and those set forth below, the petition for variance should be denied.

II. ARGUMENT

A. The Variance Standard

Section 307.1 of the Zoning Regulations provides that a variance may be granted "only" in cases where "special circumstances or conditions exist that are peculiar to the land or structure

which is the subject of the variance request," *i.e.*, the property must be unique, and "strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship." (Emphasis added). Furthermore, a variance may be granted "only if in strict harmony with the spirit and intent of said [] regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare." The Board "shall have no power to grant any other variances."

The authority to grant a variance "should be exercised sparingly and only under exceptional circumstances." *Cromwell v. Ward*, 102 Md. App. 691, 700 (1995) (citations omitted). The burden on the applicant is "indeed heavy" and "springs from a recognition that variances permit uses that are prohibited and presumed to be in conflict with the ordinance." *Evans v. Shore Communications, Inc.*, 112 Md. App. 284, 308 (1996). The applicant must meet his burden "by satisfying fully the dictates of [each and every element] of the statute authorizing the variance." *North v. St. Mary's County*, 99 Md. App. 502, 510 (1994). It is not enough for an applicant to demonstrate that his or her proposal, if allowed, would be suitable or desirable or would be convenient for the applicant. *Id.*; *Belvoir Farms Homeowners Ass'n v. North*, 355 Md. 259, 276 (1999) (citations omitted).

B. The County's Regulations Regarding Fence Height

The County's regulations require fences in front and side yards to be a maximum of 42 inches. (*See* Zoning Regulations, 427.1; Building Code, part 122.1). Under the regulations, it does not matter if the waterfront side of Mr. Garguilo's property is considered his front or rear yard – the fence cannot be higher than 42 inches because the fence adjoins the front yard of his neighbor, Mr. Welsh.[1] The regulations may be summarized as follows:

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[1] It was established in Mr. Welsh's variance case that the waterfront side is his front yard. *In re: 11311 Beach Road*, Case no. 04-114-A.

- If the waterfront is Mr. Garguilo's front yard, then the maximum height of a fence in that *front* yard is 42 inches, per section 122.1 of the Building Code.[2] In the *side* yard, the maximum height of a fence is 42 inches because the side yard adjoins the front yard of Mr. Welsh's property, per section 427.1.B. of the Zoning Regulations.

- If the road side of Mr. Garguilo's property is the front yard, then the maximum height of the fence in both Mr. Garguilo's rear yard (waterfront) and side yard is 42 inches, per section 427.1.B.

Copies of sections 427.1.B and 122.1 are attached hereto at **Tab 1**.

C. Mr. Garguilo's Property Is Not Unique

In the zoning context, the term "unique" refers to the "inherent characteristics" of the property "not shared by other properties in the area, *i.e.,* its shape, topography, subsurface condition, environmental factors, historical significance...." *North*, 99 Md. App. at 512. Importantly, uniqueness does *not* refer to "the extent of improvements upon the property, or upon neighboring property," *id.*, nor does it refer to the peculiarity of the practical difficulties alleged to exist. *Cromwell*, 102 Md. App. at 298-99.

Here, Mr. Garguilo did not claim or introduce any evidence supporting that his property is unique in comparison to other properties in the neighborhood. To the contrary, he acknowledged during cross examination that his property is rectangular in shape and similar in shape and size to other lots. He also admitted that the topography of his lot, which slopes towards the waterfront, is similar to the Welshes' lot and the other lots to the east. (*See* Prot's Ex. 6 (MyNeighborhhod map)). Uniqueness is a critical, threshold element that is simply not met here and cannot be overlooked. The variance should be denied for this reason alone. *Cromwell,* 102 Md. App. at 298-

[2] To be precise, for side yards, section 122.1 of the Building Code states that "the Baltimore County Zoning Regulations shall control." The Zoning Regulations, in turn, state that fences in a side yard, which adjoin the front yard of another on which a residence has been built, "may not exceed 42 inches if situated within ten feet of the adjoining front yard property line." Mr. Garguilo's fence is located along the property line and thus is within 10 feet of Mr. Welsh's front yard property line. Attached at **Tab 2** is the County's Residential Fence Detail which depicts this 10 foot area.

99 ("It is only when []uniqueness is first established that we then concern ourselves with the practical difficulties").

D. Mr. Marguilo Would Not Suffer A Practical Difficulty If He Were Denied A Variance And Required To Install A 42 Inch Fence

Even if Mr. Garguilo's property were unique, he did not meet his burden of demonstrating that he would suffer a practical difficulty if a variance were denied.[3] The only "difficulties" he identified at the hearing were: (1) he wishes to have privacy when he installs a hot tub, (2) he does not want to look at the improvements on Mr. Welsh's property, and (3) Mr. Welsh has a six-foot fence and he should be able to have one as well. These reasons – while not unreasonable wishes on Mr. Garguilo's part – are simply not sufficient as a matter of law. It is well-settled that matters of desirability, suitability or convenience do not rise to the level of a practical difficulty. *Belvoir Farms*, 355 Md. at 276 (citations omitted). Everyone likes their privacy and no one *wants* to see improvements on their neighbor's property, but the County Council has struck a balance between these types of personal desires and the public interest in not interfering with the viewsheds of neighbors, particularly along the waterfront. Giving up a degree of privacy and accepting the ways in which neighbors may decide to improve their properties are the price one pays for living in a busy waterfront community. Moreover, Mr. Garguilo's suggestion that a six-foot fence is the only way to obtain the privacy he wishes is hardly credible. If Mr. Garguilo wants to have privacy around his proposed hot tub, he can simply install a smaller, legally-sized privacy fence closer to and alongside the hot tub.

Mr. Garguilo's complaint that Mr. Welsh has a six foot fence is similarly irrelevant. The fact that the Zoning Commissioner, more than 18 years ago, granted Mr. Welsh a variance under

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[3] The "practical difficulty" standard is applicable to *area* variances, as here, while the "unreasonable hardship" standards is applicable to use variances.

entirely different circumstances[4] is not legally relevant to the Board's consideration of this variance request.

E. The Fact That Mr. Garguilo Has Already Installed The Fence, Illegally, Cannot Constitute A "Practical Difficulty" And Is Irrelevant To The Board's Analysis

Maryland courts have frequently held that a practical difficulty or unreasonable hardship cannot be generated when a property owner seeks a variance *after* violating the applicable regulation. Under these circumstances, the practical difficulty or unreasonable hardship is deemed self-created. *See Richard Roeser Prof'l Builder, Inc. v. Anne Arundel County*, 368 Md. 294, 314-16 (2002); *Chesley v. City of Annapolis*, 176 Md. App. 413, 437 (2007); *Randolph Hills, Inc. v. Montgomery County*, 264 Md. 78, 83 (1972) (application's subdivision that created unbuildable lot was self-inflicted condition creating variance request); *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 554-55 (1965) (construction without building permit was self-inflicted condition creating variance request); *Wilson v. Mayor of Elkton*, 35 Md. App. 417, 428 (1977); (addition of unit to nonconforming apartment building was self-inflicted condition creating need for setback variance).

Thus, the fact that Mr. Garguilo's fence is already installed, and that it would cost money to remove it or reduce its height, cannot be the "practical difficulty" necessary to obtain a variance. Any difficulty imposed on Mr. Garguilo in this regard was self-created. To be fair, fault may

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[4] If the Board considers the variance granted to the Welshes at all, the basis for that variance was entirely different. As the Zoning Commissioner found, the Welshes' property is unique because (1) the house of their neighbor, Mr. Lee, is only 2.5 feet from the property line, (2) a row of robust evergreens that had shielded the property had mysteriously died, and (3) the swimming pool and gazebo were installed many years before the Welshes purchased their property. The Zoning Commissioner also noted that, because of the proximity of Mr. Lee's house to the property line, the fence would not obstruct Mr. Lee's view of the water. (*See In re: 11311 Beach Road*, Case no. 04-144-A, Findings of Fact and Conclusions of Law, pp. 5-7).

During the hearing in this matter, Mr. Welsh confirmed these findings, explaining that the fence he installed along the border with Mr. Lee's property appears as a four-foot fence rather than a six-foot fence because of the location of Mr. Lee's house and the topography of his property. Mr. Welsh also pointed out that the waterfront side of Mr. Lee's property is his back yard, not his front yard.

actually lie with his fence company rather than Mr. Garguilo himself, but that does not matter. The fence company should know the law and presumably installed the fence without first checking County records or investigating the orientation of the neighboring property. At a minimum, the fence company should have stopped installing the fence when Mr. Walsh warned them and performed the necessary investigation.

F. Any Reliance Mr. Garguilo Placed On An Alleged Communication With The County Cannot Constitute A Practical Difficulty And Is Irrelevant To The Board's Consideration

During the hearing, Mr. Garguiolo stated errantly that he did "everything the County told him to do." It was unclear who Mr. Garguilo spoke with or when he had this communication, but it does not matter. It is well-settled that mistaken reliance on government officials cannot be the justification for a variance. "Everyone dealing with officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority...." *Cromwell*, 102 Md. App. at 724-25 (citations omitted). "[T]he mistake of a county official cannot be the 'practical difficulty' unique to the subject property required in order to authorize the grant of the variance sought." *Id.* at 725. Mr. Garguilo's alleged communication with the County is irrelevant and cannot support his variance request.[5]

G. The ALJ's Mistaken Reading Of Section 427.1

Although this proceeding is *de novo*, it is instructive to consider the ALJ's interpretation of the applicable regulations. The ALJ dismissed the petition for variance as moot based on her understanding that a variance was not required when the *front* yard of the subject property adjoins

[5] As the record reflects, Jeff Perlow of Zoning Review determined that the fence company had misrepresented to the County that the fence did not adjoin a neighbor's front yard and rescinded its approval of the permit. (*See* Prots' Exs. 3, 4).

the *front* yard of the adjoining property. (*See* Op. and Order, p. 4) ("Mr. Garguilo does not need a variance under ... BCZR 427.1 because the fence is located *between two front yards*"). The ALJ was wrong. Neither section 427.1 nor any other provision in County law allows six foot fences in adjoining front yards. Section 427.1, instead, addresses circumstances where the rear or side yard of a property adjoins the front yard of the bordering property and prohibits any fence higher than 42 inches. The ALJ's reading makes little sense. If the property owners of adjoining front yards could construct a fence higher than 42 inches, it would defeat the very thrust of 427.1, which is to prevent property owners from having fences in the viewshed of their front yards.

H. Granting The Variance Would Not Conform With The Spirit And Intent Of The Regulations Or Prevent Injury To General Welfare

The variance standard in section 307.1 requires consideration of whether granting of the variance would be "in strict harmony with the spirit and intent of" the regulations and whether injury would occur to "public health, safety and general welfare." During the hearing, Mr. Welsh testified regarding the impact the six-foot fence will have on the views he has enjoyed towards the water over the past 23 years. Photographs introduced as Prot's Ex. 1 (photos 2, 3, 4, 13, 14) demonstrate this very clearly. Avoiding this type of impact is precisely the purpose sought to be achieved by the prohibition against fences higher than 42 inches. Denying the variance sought by Mr. Garguilo would be entirely consistent with the spirit and intent of the regulations and protect the general welfare.

III. CONCLUSION

For the reasons stated, Protestant Gerald Welsh respectfully requests that the Board deny the variance request.

Respectfully submitted,

Michael R. McCann
118 W. Pennsylvania Ave.
Towson, MD 21204
michael@mmccannlaw.net
(410) 825-2150

Attorneys for Appellants/Protestants

CERTIFICATE OF SERVICE

I hereby certify that on 13th day of December 2021 a copy of the foregoing memorandum was emailed and sent *via* first-class mail, postage prepaid, to:

Antonio Gargiulo
11307 Beach Road
White Marsh, MD 21162

Michael R. McCann

Tab 1

BUILDING CODE

PART 122.1 RESIDENTIAL PROPERTIES. FENCES ON RESIDENTIAL PROPERTY SHALL COMPLY WITH THE FOLLOWING HEIGHT REQUIREMENTS:

FRONT YARDS. THE MAXIMUM HEIGHT PERMITTED FOR ANY RESIDENTIAL OCCUPANCY FENCE SHALL BE 42 INCHES ABOVE NORMAL GRADE IN A FRONT YARD.

SIDE AND REAR YARDS. THE MAXIMUM HEIGHT PERMITTED FOR ANY RESIDENTIAL OCCUPANCY FENCE SHALL BE SIX FEET ABOVE NORMAL GRADE IN A SIDE AND REAR YARD (AS DEFINED BY THE BALTIMORE COUNTY ZONING REGULATIONS).

A FENCE MAYBE ERECTED UP TO TEN FEET HIGH IN A SIDE OR REAR YARD WHEN THE FENCE IS SET BACK FROM THE PROPERTY LINE A HORIZONTAL DISTANCE OF TWO FEET 2 FOR EVERY VERTICAL FOOT OF HEIGHT IN EXCESS OF SIX FEET.

EXCEPTION. IF THE REAR OR SIDE YARD ADJOINS THE FRONT YARD OF ANOTHER RESIDENCE, OR IF THE SIDE YARD ADJOINS A PUBLIC ROAD IN A D.R. OR R.C. 5 ZONE, THE BALTIMORE COUNTY ZONING REGULATIONS SHALL CONTROL

ZONING REGULATIONS - SECTION 427 Fences

§ 427.1. Conditions for use; exceptions.

A. Notwithstanding any other provisions of this Code or the Baltimore County Code, in a D.R. or R.C. 5 Zone located in a historic district, the maximum height of a residential occupancy fence is 42 inches if the fence is erected in the side yard of a lot that adjoins a public road.

B. [REAR OR SIDE YARD]

1. A residential occupancy fence may not be erected in the rear or side yard of a lot which adjoins the front yard of another on which a residence has been built, except in accordance with the provisions of this section.
2. The fence may not exceed 42 inches in height if situated within ten feet of the adjoining front yard property line.
3. Any person may request a variance from the requirements of this subsection.

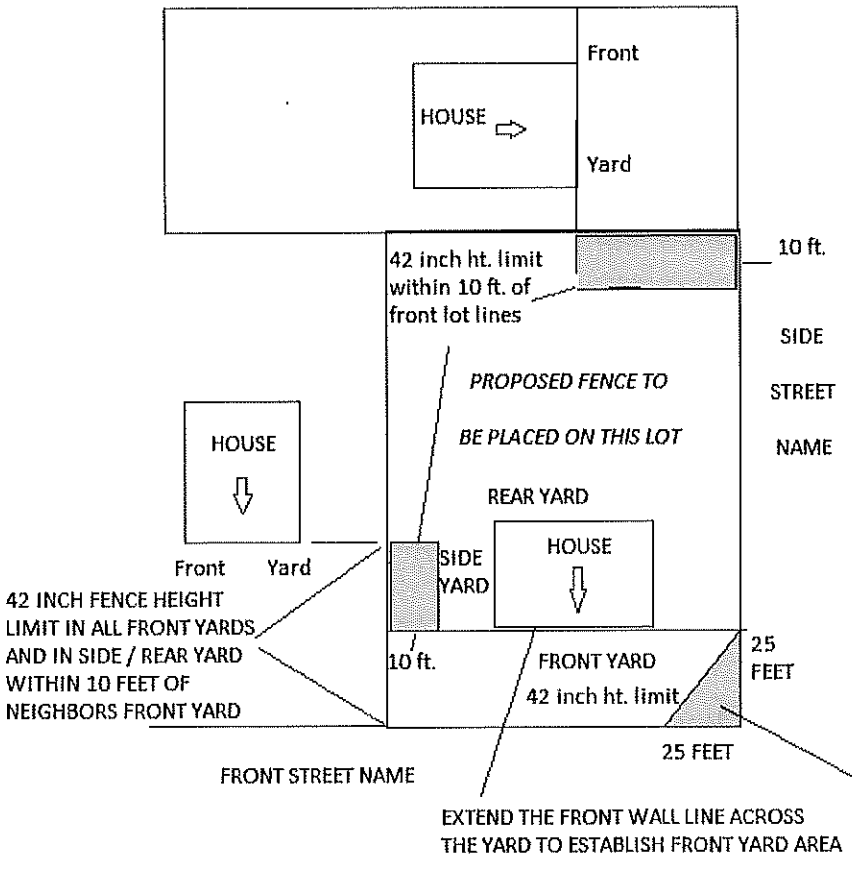
C. Applicability.

1. Subsection B of this section does not apply to a fence required by § 13-6-101 of the Baltimore County Code, as revised, to be constructed in order to screen a swimming pool.
2. Subsection B of this section does not apply if the residences on the adjoining lots are more than 200 feet apart.

Tab 2

GENERAL RESIDENTIAL FENCE DETAIL FOR CERTAIN BALTIMORE COUNTY ZONING AND BUILDING CODES

FENCES HIGHER THAN 42 INCHES REQUIRE A PERMIT FROM BALTIMORE COUNTY.
FENCE REGULATIONS FOR POOLS SHOULD ALSO BE DISCUSSED WITH YOUR BUILDING INSPECTOR.
(CONTACT THE OFFICE OF PERMITS AND LICENSES TO APPLY FOR A PERMIT)



GENERAL FENCE DETAIL FOR ESTABLISHING RULES FOR RESIDENTIAL FENCES IN BALTIMORE COUNTY, MD (This a basic diagram and it is not intended to address all possible variations.)

FENCE HEIGHT LIMIT IS 6 FEET IN A SIDE OR REAR YARD UNLESS OTHERWISE LIMITED AS SHOWN ON THIS DETAIL.

ACCESS OR WALKWAY EASEMENTS MAY **NOT** BE FENCED.

THE FENCE MUST BE ON THE OWNERS PROPERTY AND CANNOT BE WITHIN A STREET OR ALLEY RIGHT OF WAY.

THE PROPERTY OWNER IS RESPONSIBLY FOR THE ACCURACY OF ALL INFORMATION PROVIDED FOR FENCE PERMIT REVIEWS.

IF YOU ARE UNCERTAIN OF THE LOCATION OF YOUR PROPERTY LINES A SURVEY OF THE LOT LINE(S) IS STRONGLY SUGGESTED TO AVOID PROBLEMS INVOLVING LOT LINE LOCATION DISPUTES.

THIS FORM IS NOT INTENDED TO GIVE LEGAL ADVICE.

A STREET CORNER HAS A 3 FOOT HEIGHT LIMIT FOR ALL FENCES OR PLANTS. AT A STREET AND ALLEY THE MEASUREMENT IS 15X15 FT. AT AN ALLEY AND ALLEY IT IS 10X10 FT.

9/14/11

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

December 2, 2021

NOTICE OF DELIBERATION

IN THE MATTER OF: Antonio Gargiulo
11307 Beach Road
21-098-A 11th Election District; 6th Council District

Re: Petition for Variance relief from BCZR §§ 400.1 and 427.1.B.1 & 2 to permit an existing 6 ft. rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (waterside) in lieu of the required 10 ft. setback; and to permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard.

7/9/21 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance pursuant to BCZR §§ 400.1 and 427.1.B.1 & 2 was DISMISSED AS MOOT.

This matter having been heard and concluded on November 10, 2021, a public deliberation has been

ASSIGNED FOR: FEBRUARY 2, 2022, AT 9:00 A.M.

The above scheduled public deliberation will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the public deliberation will be posted on our web calendar the night before at** www.baltimorecountymd.gov/departments/appeals.html.

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. A WRITTEN OPINION AND ORDER WILL BE ISSUED BY THE BOARD WITHIN A REASONABLE TIMEFRAME AFTER DELIBERATION AND A COPY SENT TO ALL PARTIES.

NOTE: Closing briefs are due on **December 13, 2021 no later than 3:00 p.m.**
(Electronic copy emailed to: appealsboard@baltimorecountymd.gov)

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled deliberation.

Krysundra Cannington, Administrator

c.	Legal Owner	: Anthony Gargiulo
	Counsel for Protestants/Appellants	: Michael R. McCann, Esquire
	Protestants/Appellants	: Gerald Walsh

Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., 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

September 3, 2021

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Antonio Gargiulo
11307 Beach Road
21-098-A 11th Election District; 6th Council District

Re: Petition for Variance relief from BCZR §§ 400.1 and 427.1.B.1 & 2 to permit an existing 6 ft. rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (waterside) in lieu of the required 10 ft. setback; and to permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard.

7/9/21 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance pursuant to BCZR §§ 400.1 and 427.1.B.1 & 2 was DISMISSED AS MOOT.

ASSIGNED FOR: NOVEMBER 10, 2021, AT 10:00 A.M.

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at** www.baltimorecountymd.gov/departments/appeals **the night before.**

A complete set of **exhibits must be emailed** at least **48 hours before the hearing** to **appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c.	Legal Owner	: Anthony Gargiulo
	Counsel for Protestants/Appellants	: Michael R. McCann, Esquire
	Protestants/Appellants	: Gerald Walsh

Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

August 6, 2021

Via Hand Delivery

Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204

Re: *11307 Beach Road*
Case no. 2021-0098-A

To whom it may concern:

Enclosed for filing in this matter is a Notice of Appeal, along with the requisite filing fee.

Please contact me if you have any questions. Thank you.

Respectfully,

Michael R. McCann

cc: Antonio Gargiulo

IN RE: PETITION FOR VARIANCE (11307 Beach Road)	*	BEFORE THE
Antonio Gargiulo, Legal Owner	*	OFFICE OF
	*	ADMINISTRATIVE
	*	HEARINGS
	*	FOR
	*	BALTIMORE COUNTY
	*	Case no.: 2021-0098-A

* * * * * * * * * * * *

NOTICE OF APPEAL

Protestant, Gerald Welsh, hereby files an appeal to the Board of Appeals of Baltimore County from the Opinion and Order of the Administrative Law Judge dated July 9, 2021. Pursuant to Rule 3 of the Rules of Practice and Procedure of the Board of Appeals, the addresses of the appellant is 13111 Beach Road, White Marsh, Maryland 21162.

Respectfully submitted,

Michael R. McCann
118 W. Pennsylvania Ave.
Towson, MD 21204
michael@mmccannlaw.net
(410) 825-2150

Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on 6th day of August 2021 a copy of the foregoing Notice of Appeal was emailed and sent *via* first-class mail, postage prepaid, to:

Antonio Gargiulo
11307 Beach Road
White Marsh, MD 21162

and emailed and hand-delivered to:

Baltimore County Board of Appeals
105 W. Chesapeake Avenue
Towson, MD 21204

and hand-delivered to:

Baltimore County Department of Permits Approvals & Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Michael R. McCann

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

No. 203901

Date: 8-6-21

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	6000		6150				300.00

Total: 300.00

Rec From: Michael P. McCann, Esq.

For: OAH - Appeal
Case No. 2021-0098-A
Antonio Gargiulo, 11307 Beach Rd.
Hearing Date: 6-9-21
Check # 5989

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

CASHIER'S VALIDATION

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
~~8/10/2021~~	8/09/2021	15:22:01	2

REG WS02 WALKIN MSJ
>>RECEIPT # 054226 8/09/2021 OPLN
Dept 806 528 ZONING VERIFICATION
Ck Ref 203901
Recpt Tot $ 300.00
300.00 CK .00 CA
Baltimore County, Maryland

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(11307 Beach Road)		
11th Election District	*	OFFICE OF ADMINISTRATIVE
6th Council District		
Antonio Gargiulo	*	HEARINGS OF
Legal Owner		
	*	BALTIMORE COUNTY
Petitioner	*	**CASE NO. 2021-0098-A**

* * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") as a Petition for Variance filed by the Petitioner, Antonio Gargiulo ("Mr. Gargiulo") for property located 11307 Beach Rd., White Marsh (the "Gargiulo Property"). Mr. Gargiulo is requesting variance relief from the Baltimore County Zoning Regulations ("BCZR") §§ 400.1 and 427.1.B.1 & 2 to permit an existing 6 ft. rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (waterside) in lieu of the required 10 ft. setback; and to permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard placement.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Zoning Advisory Committee ("ZAC") comments were received from the Department of Environmental Protection and Sustainability ("DEPS") which indicates that the subject property is located with the Chesapeake Bay Critical Area ("CBCA"). A ZAC comment was also received from the Department of Planning ("DOP") which did not oppose the requested relief.

Mr. Gargiulo appeared, *pro se*, at the hearing in support of his Petition. Jerry Welsh, the owner of the neighboring property addressed as 11311 Beach Rd., appeared in opposition ("Mr.

ORDER RECEIVED FOR FILING
Date 7/9/21
By

Welsh"). Mr. Welsh initiated a Code Violation Complaint in regard to the construction by Mr. Gargiulo of a 6 ft. high fence between their properties. The Gargiulo Property is a waterfront lot facing Bird River. It measures approximately 11,440 sf and is zoned Agricultural (RC2). The topography is relatively flat on the street side along Beach Rd. but slopes down severely as it approaches the water. It is improved with a 1½ story home built in 1934, and has an older garage at the driveway entrance on Beach Rd.

Mr. Welsh's property consists of two (2) lots and is improved with a home built in the 1930s (the "Welsh Property"). It is also improved with an above-ground swimming pool with an attached deck and gazebo on the water side, as well as a 6 ft. high privacy fence between the Welshes Property and the adjacent property owned by Samuel and Joanne Lee (the "Lee Property") addressed as 11313 Beach Rd. The Welsh Property was previously subject to a Variance Order dated November 24, 2003 (Case No. 04-144-A), and an Order by the Board of Appeals on August 27, 2004, as well as subject to a Decision denying a fence height waiver dated December 8, 2003. According to the findings of fact by the Deputy Zoning Commissioner in Case No.: 04-144-A, the Welshes had erected the 6 ft. high privacy fence between their property and the Lee property without a permit. At the time of that hearing, Mr. Welsh testified that he had erected an identical fence between his property and the Gargiulo Property without objection.

Of relevance to the facts here, factual findings were made that the water side of the Welsh Property was their front yard and the street side was their rear yard. Additionally, it was found that the water side of the Lee property was the rear yard and the street side was the front yard. As a result, in that case, a variance was needed (and was granted) for the Welshes to erect a fence taller than 42 inches because that fence was within 30 ft. of the Lees' front property line.

In the fence waiver case, the Welshes were denied their request for a privacy fence with a

height of 8 -10 ft. between the Welsh home and the water. Importantly, a waiver was granted for the Welshes to erect a 6 ft. high fence between the Welsh property and the Lee property on the water side.

In this case, before erecting the fence, Mr. Gargiulo (who is not a zoning attorney and was admittedly unaware of the meaning of BCZR, §427.1.B.1 and 2) filed an application to erect a fence in his 'rear' yard. As a result, the fence permit authorized him to do so. In response to the Code Violation Complaint, Mr. Gargiulo filed the instant Petition for Variance requesting relief for the fence on the water side which he erroneously believed was his 'rear' yard. Notwithstanding the Code Violation Complaint he filed, Mr. Welch agrees that the water side of Mr. Gargiulo's Property is indeed the 'front' yard as he succinctly stated in his email to OAH dated June 7, 2021 (Prot. Ex. 1):

> I contend that the root issue that needs to be addressed is the orientation of the front and back of 11307 Beach Rd prior to its sale a couple years ago to Mr. G. We contend that the home has always faced the water just as mine does. The layout of the houses are the same with the street side entrances opening to the kitchen area with the living area being on the water side of the house. If the court confirms the water side is the front of 11307, it would make putting a 6 ft. fence in the front side a non-starter regardless (sic) of the fact that it is my front yard. It would also eliminate the need for variance to put a garage on the back (street side) of the property.

Indeed, Mr. Welsh's recitation of the facts in regard to the 'front' and 'back' of the Gargiulo's Property is correct. Given his position, it is unclear why Mr. Welsh was opposing the Petition here particularly in light of the fact that he erected a 6 ft. fence on the water side between the Welsh Property and the Lee Property. I find that the water side of Mr. Gargiulo's Property is the 'front' and the side facing Beach Rd. is the 'rear.' This factual finding is consistent with the Zoning Commissioner's Policy Manual ("ZCPM"), § 400.2.a – *Accessory Buildings - Waterfront*

Setbacks:

> (1) On all waterfront, when the proposed house fronts on the water, use the water as the front of the property line.

Based on the testimony presented, I find that, in filing for the fence permit as well as the Petition for Variance, Mr. Gargiulo applied his common knowledge about the front and rear of the home, and could not be expected to have reached a legal conclusion in regard to the application of BCZR, §427.1 or the ZCPM. The factual findings by the Deputy Zoning Commissioner in Case No. 04-144-A that the water side of Mr. Welsh's home is the front applies to the facts here under the doctrine of collateral estoppel. As a result, Mr. Gargiulo does not need a variance under either BCZR, §400.1 because the garage is located in the rear/street side, or under BCZR, §427.1 because the fence is located between two (2) front yards. Accordingly, Mr. Gargiulo's fence is permitted to remain in its present location on the water side.

THEREFORE, IT IS ORDERED, this **9th** day of **July, 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR §§ 400.1 and 427.1.B.1 & 2 to permit an existing 6 ft. rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (waterside) in lieu of the required 10 ft. setback and to permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard placement are hereby **DISMISSED AS MOOT**.

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

Maureen E. Murphy

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm

JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

August 9, 2021

Antonio Gargiulo – amazziott@gmail.com
11307 Beach Road
White Marsh, MD 21162

RE: **APPEAL TO BOARD OF APPEALS**
Petition for Variance
Case No. 2021-0098-A
Property: 11307 Beach Road

Dear Mr. Gargiulo:

Please be advised that an appeal of the above-referenced case was filed in this Office on August 6, 2021. 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,

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlw
Enclosure

c: Baltimore County Board of Appeals
People's Counsel
Michael R. McCann, Esq. - michael@mmccannlaw.net
Gerald Welsh – alternativedeliveryservices@gmail.com
PAI Code Enforcement

APPEAL

Petition for Variance
Case No.: 2021-0098-A
Antonio Gargiulo, Petitioner
11307 Beach Road
11th Election District, 6th Council District

Petition for Variance – March 31, 2021

Zoning Description of Property

Notice of Zoning Hearing (Webex) – May 19, 2021 for June 9, 2021

Certification of Publication – (Daily Record) May 7, 2021

Certification of Posting by Sgt. Black – May 6 & May 24, 2021

Entry of Appearance by People's Counsel – April 13, 2021

Attendance Report (1 pg.)

Zoning Advisory Committee Comments: 4 pgs.

Petitioner's Exhibits:

1. Zoning Plan Site Drawing
2 - 13. Photos
14. Zoning Advisory Committee Comments

Protestant's Exhibits:
1. Email
2. Photos
3. Photos

Miscellaneous:

Cover Letter and Administrative Law Judge Murphy's Order Decision – July 9, 2021 – DISMISSED AS MOOT – 4 pgs.

Notice of Appeal & Check # 5989 for $300 – Received on 8/6/21 – Michael McCann, Esq.

Cashier's Receipt # 20391

Exhibits sent to BOA Shared Folder on August 6, 2021

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

No. 203901

Date: 8-6-21

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				300.00

Total: = 300.00

Rec From: Michael R. McCann, Esq.

For: OAH - Appeal
Case No. 2021-098-A
Antonio Gargiulo, 11307 Beach Rd.
Hearing Date: 6-9-21
Check # 5989

CASHIER'S VALIDATION

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

MICHAEL R. MCCANN, P. A.
118 W. PENNSYLVANIA AVE
TOWSON, MD 21204

5989
65-320/550 7384

DATE 8/6/21

PAY TO THE ORDER OF Baltimore County $ 300.00

Three Hundred DOLLARS

Photo Safe Deposit Details on back

WELLS FARGO Wells Fargo Bank, N.A. Maryland wellsfargo.com

FOR Appeal 2021-098-A

[redacted]

To Cashier 8-9-21

Scanned emailed back to copy 8-9-21

Krysundra Cannington

From: Michael McCann <michael@mmccannlaw.net>
Sent: Friday, August 6, 2021 12:27 PM
To: Debra Wiley; Donna Mignon
Cc: Krysundra Cannington; Tammy Zahner
Subject: RE: 11307 Beach Case No. 2021-0098-A
Attachments: 20210806123831535.pdf

Thanks Deb (☺). Here it is.

Michael

Michael R. McCann
Michael R. McCann, PA
118 W. Pennsylvania Avenue
Towson, Maryland 21204
(p) 410-825-2150
(f) 410-825-2149

From: Debra Wiley [mailto:dwiley@baltimorecountymd.gov]
Sent: Friday, August 6, 2021 11:50 AM
To: Michael McCann <michael@mmccannlaw.net>; Donna Mignon <dmignon@baltimorecountymd.gov>
Cc: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Tammy Zahner <tzahner@baltimorecountymd.gov>
Subject: RE: 11307 Beach Case No. 2021-0098-A

Thank you Mr. McCann.

FYI – your second page inadvertently reflects Red Maple Place. If you want to change it, just send via email.

Thanks again.

From: Michael McCann <michael@mmccannlaw.net>
Sent: Friday, August 6, 2021 11:42 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Cc: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Tammy Zahner <tzahner@baltimorecountymd.gov>
Subject: 11307 Beach Case No. 2021-0098-A

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From: Michael McCann <michael@mmccannlaw.net>
Sent: Friday, August 6, 2021 11:42 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Cc: Krysundra Cannington <kcannington@baltimorecountymd.gov>; Tammy Zahner <tzahner@baltimorecountymd.gov>
Subject: 11307 Beach Case No. 2021-0098-A

Deb/Donna: Attached is a notice of appeal that I just dropped off in your box in the lobby.

Thank you.

Michael

Michael R. McCann
Michael R. McCann, PA
118 W. Pennsylvania Avenue
Towson, Maryland 21204
(p) 410-825-2150
(f) 410-825-2149

Rev. 8/6

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

August 6, 2021

Via Hand Delivery

Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204

Re: *11307 Beach Road*
Case no. 2021-0098-A

To whom it may concern:

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Respectfully,

Michael R. McCann

cc: Antonio Gargiulo

IN RE: PETITION FOR VARIANCE (11307 Beach Road)	*	BEFORE THE
Antonio Gargiulo, Legal Owner	*	OFFICE OF
	*	ADMINISTRATIVE
	*	HEARINGS
	*	FOR
	*	BALTIMORE COUNTY
	*	Case no.: 2021-0098-A

* * * * * * * * * * * *

NOTICE OF APPEAL

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Respectfully submitted,

Michael R. McCann
118 W. Pennsylvania Ave.
Towson, MD 21204
michael@mmccannlaw.net
(410) 825-2150

Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on 6th day of August 2021 a copy of the foregoing Notice of Appeal was emailed and sent *via* first-class mail, postage prepaid, to:

Antonio Gargiulo
11307 Beach Road
White Marsh, MD 21162

and emailed and hand-delivered to:

Baltimore County Board of Appeals
105 W. Chesapeake Avenue
Towson, MD 21204

and hand-delivered to:

Baltimore County Department of Permits Approvals & Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Michael R. McCann

Debra Wiley

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Michael

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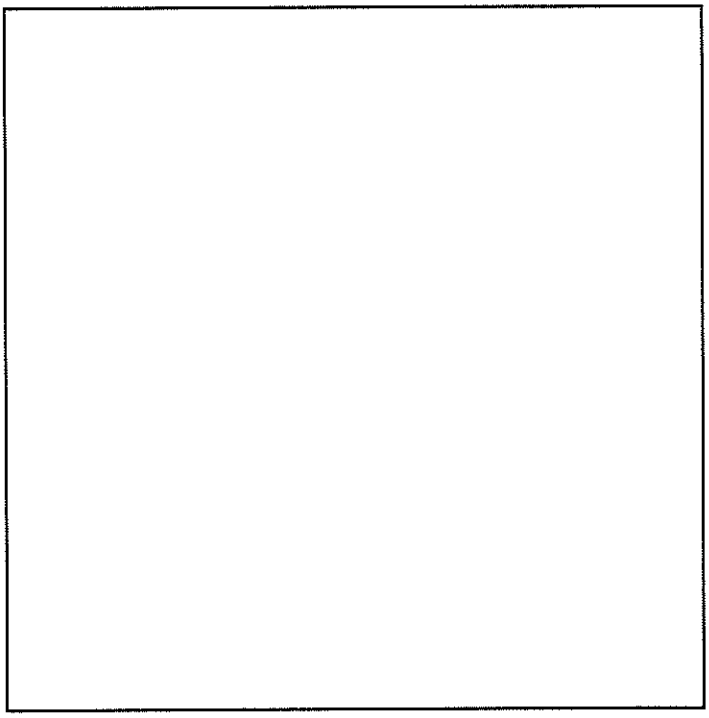

Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, Maryland 21204
Phone: (410) 825-2150
Facsimile: (410) 825-2149
michael@mmccannlaw.net

August 6, 2021

Via Hand Delivery

Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204

Re: *11307 Beach Road*
Case no. 2021-0098-A

To whom it may concern:

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Please contact me if you have any questions. Thank you.

Respectfully,

Michael R. McCann

cc: Antonio Gargiulo

IN RE: PETITION FOR VARIANCE (11307 Beach Road)	*	BEFORE THE
Antonio Gargiulo, Legal Owner	*	OFFICE OF
Red Maple Place Limited Partnership Owner/Applicant	*	ADMINISTRATIVE
.	*	HEARINGS
	*	FOR
	*	BALTIMORE COUNTY
	*	Case no.: 2021-0098-A

* * * * * * * * * * * *

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Respectfully submitted,

Michael R. McCann
118 W. Pennsylvania Ave.
Towson, MD 21204
michael@mmccannlaw.net
(410) 825-2150

Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on 6th day of August 2021 a copy of the foregoing Notice of Appeal was emailed and sent *via* first-class mail, postage prepaid, to:

Antonio Gargiulo
11307 Beach Road
White Marsh, MD 21162

and emailed and hand-delivered to:

Baltimore County Board of Appeals
105 W. Chesapeake Avenue
Towson, MD 21204

and hand-delivered to:

Baltimore County Department of Permits Approvals & Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Michael R. McCann

Krysundra Cannington

From: Michael McCann <michael@mmccannlaw.net>
Sent: Friday, August 6, 2021 11:42 AM
To: Debra Wiley; Donna Mignon
Cc: Krysundra Cannington; Tammy Zahner
Subject: 11307 Beach Case No. 2021-0098-A
Attachments: 20210806110838654.pdf

Deb/Donna: Attached is a notice of appeal that I just dropped off in your box in the lobby.

Thank you.

Michael

Michael R. McCann
Michael R. McCann, PA
118 W. Pennsylvania Avenue
Towson, Maryland 21204
(p) 410-825-2150
(f) 410-825-2149

Donna Mignon

From: Donna Mignon
Sent: Monday, July 26, 2021 1:52 PM
To: 'Gerald Welsh'
Subject: RE: Case No: 2021-0098-A -11307 Beach Road

Hi Mr. Welsh,
I received your voicemail.
You can appeal this case until August 9th. We will need a letter from you indicating you wish to appeal this case along with a check in the amount of $300.00, made payable to Baltimore County Maryland. Please drop this of at our office, we are in the Jefferson Building, Office of Administrative Hearings, 105 West Chesapeake Avenue, Towson, MD. We are right next to the Post Office. We have a drop off box in the lobby of our building, you may place it in that box. If you don't mind, please send us a quick email when you have dropped it off so we can begin to work on the appeal. Once we receive the letter and check, the file will then be sent up to the Board of Appeals.
If you have any other questions, please contact our office at 410-887-3868

From: Donna Mignon
Sent: Friday, July 9, 2021 6:58 AM
To: 'Antonio Mazziott' <a.mazziott@gmail.com>
Cc: 'Gerald Welsh' <alternativedeliveryservices@gmail.com>; Debra Wiley <dwiley@baltimorecountymd.gov>; County Council (countycouncil@baltimorecountymd.gov) <countycouncil@baltimorecountymd.gov>; Henry Ayakwah <hayakwah@baltimorecountymd.gov>; Jeffery Livingston (jlivingston@baltimorecountymd.gov) <jlivingston@baltimorecountymd.gov>; Jenifer G. Nugent <jnugent@baltimorecountymd.gov>; Peter Max Zimmerman (pzimmerman@baltimorecountymd.gov) <pzimmerman@baltimorecountymd.gov>; Rebecca Wheatley (rwheatley@baltimorecountymd.gov) <rwheatley@baltimorecountymd.gov>; Vishnubhai K Desai (vdesai@baltimorecountymd.gov) <vdesai@baltimorecountymd.gov>
Subject: Case No: 2021-0098-A -11307 Beach Road

Good Morning,

Please find attached ALJ Murphy's Opinion and Order in reference to the above matter.

Have a great and safe day.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

IN RE: **DEVELOPMENT PLAN HEARING** 15th Election District 6th Council District **(9925 Bird River Road)**	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR
SPIEGEL PROPERTY	*	BALTIMORE COUNTY
Campbell Bird River, LLC *Owner/Applicant*	*	**CASE NO. 15-1026**

* * * * * * *

ADMINISTRATIVE LAW JUDGE'S ("ALJ")
DEVELOPMENT PLAN OPINION & ORDER

This matter comes before the Office of Administrative Hearings ("OAH") for a public hearing on a development proposal submitted in accordance with Article 32, Title 4, of the Baltimore County Code ("BCC"). Campbell Bird River, LLC, *Owner/Applicant* (herein known as "Developer") submitted for approval a 4-sheet redlined Development Plan ("Plan") prepared by Little & Associates, Inc., known as "Spiegel Property". The Plan was admitted as Developer's Exhibit 1.

The Developer proposes 89 single-family detached dwellings units on 62.26 gross acres of land zone DR 2 and DR 3.5. The site is currently improved with a dwelling, a barn and other ancillary and accessory structures, which will all be razed. The site has environmental constraints including areas of wetlands, floodplain and stream buffers associated with Windlass Run. There are additional forest and utility easements and a storm water retention pond operated by Baltimore County that restricts the site. The Spiegel Property is located in the Middle River Design Review Panel Area, and the MD 43 Overlay District.

The property was posted with the Notice of Hearing Officer's Hearing ("HOH") on June 15, 2021 in compliance with the regulations. Due to the COVID-19 pandemic, the undersigned

conducted a public virtual WebEx hearing in lieu of an in-person public hearing on July 16, 2021 at 10:00 a.m. Neil Greenberg appeared at the hearing on behalf of the Developer, Campbell Bird River, LLC. Also appearing was Aaron Kensinger with Little & Associates Engineering, the engineering firm that prepared the Plan. David Gildea and Jason Vettori, Esquire of Schmidt, Gildea & Smith, appeared and represented the Developer. Robert Bendler, the President of the Essex Middle River Civic Council, an umbrella group of twenty area community associations, testified in support of the project.

AGENCY WITNESSES

Numerous representatives of the various Baltimore County agencies who reviewed the Plan also attended the hearing, including the following individuals from the Department of Permits, Approvals and Inspections ("PAI"): Darryl Putty, Project Manager, Jim Hermann and Eugene Cauley from Development Plans Review ("DPR") and Recreation and Parks ("DRP"), Brad Knatz from Real Estate Compliance, and Gary Hucik, Office of Zoning Review ("OZR"). Also appearing on behalf of the County were Stephen Ford from the Department of Environmental Protection and Sustainability ("DEPS"), and Jenifer Nugent and Brett Williams from the Department of Planning ("DOP").

Each County agency representative indicated the Plan addressed all comments submitted by their agency, and they each recommended approval of the Plan.

Brett Williams testified that the Middle River Design Review Panel recommended approval of the Plan on March 25, 2021. In addition, he explained that the DOP recommends certain Modifications of Standards under BCZR § 259.11.A.4.a(2), which applies to this property as part of the MD 43 Overlay District. He further explained that the School Impact Analysis had been approved, (Developer's Exhibit 22). He explained that Vincent Farms Elementary has a

projected enrollment of 123.80% of projected State Rated Capacity, but that there is sufficient excess capacity at five adjacent elementary school districts so this project is permitted under B.C.C. § 32-6-103(f)(3). Neither Middle River Middle School nor Kenwood High School are projected to exceed 115% of State Rated Capacity. Finally, he testified that the Plan is in compliance with the performance standards of BCZR § 260, and that DOP had approved the redlined Pattern Book, which was admitted as Developer's Exhibit 2. In conclusion, he stated that the DOP recommends approval of the Plan, as reflected in their Final HOH Report, dated July 16, 2021 (County Exhibit 1).

Mr. Hermann testified next on behalf of Plans Review and Recreation and Parks. He explained that this 89 unit project would require 89,000 sq. ft. or 2.04 acres of Open Space, and that the Developer is actually providing 181,570 sq. ft., or 4.17 acres of Open Space. He explained that the Developer is also constructing what will be a public park at a cost of $281,600.00. Finally, he testified that a Schematic Landscape Plan had been approved on July 7, 2021 (County Exhibit 2), and that both these agencies recommend approval of the Plan.

Next to testify was Eugene Cauley, representing Plans Review and DPW. He explained that these agencies had made 21 site specific comments at the final Development Review Conference and that the redlined Plan satisfies each of those comments. He further testified that the Plan conforms to all applicable provisions of the B.C.C. and BCZR, and that these agencies also recommend approval.

Gary Hucik from OZR then testified that the Plan and Pattern Book are in compliance with all applicable provisions of the B.C.C. and BCZR, and that Zoning Review also recommends approval. Finally, Steve Ford from DEPS testified on behalf of the Ground Water Management, Storm Water Management, and Environmental Impact Review sections. He explained that there

were no unresolved comments from these sections and that they too recommend approval of the Plan. In sum, all County agencies recommended approval of the Plan.

DEVELOPER'S CASE

Mr. Vettori gave an overview of the case in which he explained that the MD 43 Overlay District was created in 1978, was amended in 2013 to allow residential development, and then amended again to include the subject parcel and others adjacent to Rte. 43 and Campbell Boulevard. He noted that the site could accommodate as many as 216 units but that they were proposing only 89 units.

The first witness called by Mr. Vettori was Robert Bendler. As noted above, he is the President of the Essex Middle River Civic Council, an umbrella group for twenty community associations in the vicinity of this proposed development. Mr. Bendler was effusive in his praise for the Developer, citing their responsiveness to the community's input. He testified that the community is very appreciative of the public park that the Developer will construct, and he explained that the community appreciates the lower housing density and quality of design detailed in the Plan and Pattern Book.

Next to testify was Neil Greenberg, the representative of Campbell Bird River, LLC, the property owner and developer. He explained that he has been involved in development projects in the County for many years. He explained the development proposal in detail, including modifications made in response to concerns raised at the Community Input Meeting and the Development Plan Conference. He recounted how the Developer had reached an agreement with the County whereby the Developer bought the land needed for the County to extend Campbell Boulevard from Pulaski Highway (Rte. 40) to White Marsh Boulevard (Rte. 43), which has since been completed. Campbell Boulevard bisects the subject site and the Plan depicts units on the

north and south sides of the road with points of access onto Campbell Boulevard. Mr. Greenberg further testified that he had agreed not to build townhouses on this site. He explained that the 89 proposed units will be of superior quality and that the layout of the development is based on best practices for the geometry of the site. He detailed the many meetings with the community groups and with the DOP, which negotiated many upgrades that are incorporated into the redlined Plan. He then described his role in crafting and negotiating Bill 53-20, which applies the MD 43 Overlay District to this and other parcels in the area. The Bill was admitted as Developer's Exhibit 3. He further detailed the Declaration of Annexation that the Developer entered into with Baltimore Crossroads @95, which brought this parcel within the purview of Bill 53-20. This Declaration was admitted as Developer's Exhibit 5.

The Developer's next witness was Aaron Kensinger, the engineer who prepared and sealed the Plan. He was accepted as an expert in engineering, land planning, and the County development law and regulations. He testified that he and others at Little & Associates began working on this project in April 2020. He identified the redlined Plan (Developer's Exhibit 1) and the redlined Pattern Book (Developer's Exhibit 2). He explained the Plan in great detail, including the fact that approximately 40% of the site will be protected by environmental easements. He specifically described the Schematic Landscape Plan, the Forest Buffer Variance, the Alternatives Analysis, and the Forest Conservation Variance that have been approved. These were admitted as Developer's Exhibits 17, 18, 19, 20, respectively. He also described the Storm Water Management facilities that are planned and identified the Concept SWM Approval, which was admitted as Developer's Exhibit 21. He further explained that the site is served by public water and sewer, and he detailed how connections to these utilities will be made. He then explained that this site has no Basic Services Map deficiencies, and he identified that Traffic Impact Study that was done and

accepted by the County. (Developer's Exhibit 23). He further noted that this site is classified as Transect T 3 in the 2020 Master Plan and that the proposed single family detached houses detailed in the Plan and Pattern Book are in harmony with the T 3 designation. He then explained the location and details of the public park that the Developer will construct and dedicate to the County. Mr. Kensinger then explained all the redlined changes, including the Modifications that had been approved by DOP under BCZR § 259.11.4.b. Finally, he testified that in his expert opinion the Plan, Pattern Book, and Modifications are fully compliant with BCZR § 502.1.

Mr. Vettori then moved to admit all of Developer's exhibits into evidence and the motion was granted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The BCC provides that the "Hearing Officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations." BCC § 32-4-229. In *People's Counsel v. Elm Street Development, Inc.*, 172 Md. App. 690 (2007), the Court of Special Appeals held that if the county agencies recommend approval of a development plan, it is "then up to [protestants] to provide evidence rebutting the Director's recommendations." *Id.* at 703. It should also be noted that in Baltimore County "the development process is indeed an ongoing process, and the hearing officer's affirmation of the plan is just the first step." *Monkton Preservation Association, et al. v. Gaylord Brooks Realty Corp.*, 107 Md. App. 573, 585 (1996). Indeed, the County agencies will continue to review the Developer's evolving plans and construction activities through every phase of the development process to insure compliance with all County laws and regulations.

In the instant case the testimony of the County agency witnesses and the Developer's experts was well founded, unrebutted, and supported by the Exhibits admitted into the record.

After considering the testimony and evidence presented by the Developer, the exhibits offered at the hearing, and confirmation from the various County agencies that the Plan satisfies those agencies' requirements, I find that the Developer has satisfied its burden of proof and, therefore, is entitled to approval of the Plan.

Pursuant to the advertisement, posting of the property, and the public hearing held thereon, the requirements of which are contained in Article 32, Title 4, of the BCC, the "Spiegel Property shall be approved.

THEREFORE, IT IS ORDERED by this Administrative Law Judge/Hearing Officer for Baltimore County, this **27th** day of **July, 2021,** that the **"Spiegel Property"** Plan marked and accepted into evidence as Developer's Exhibit 1, be and hereby is **APPROVED.**

Any appeal of this Order shall be taken in accordance with Baltimore County Code, § 32-4-281.

PAUL M. MAYHEW
Administrative Law Judge
for Baltimore County

PMM:dlm

CERTIFICATE OF POST...G

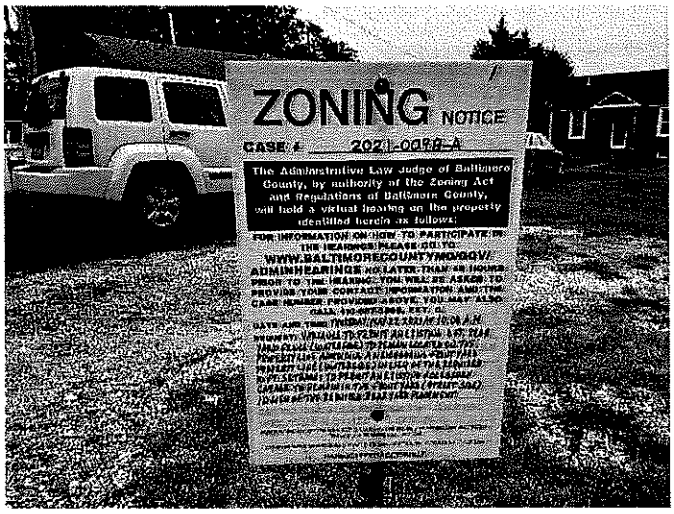
CASE NO. 2021-0098-A

PETITIONER/DEVELOPER

Antonio Mazziott

DATE OF HEARING/CLOSING

May 27 , 2021



BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE
ATTENTION:

LADIES AND GENTLEMEN :

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT

11307 Beach Road SIGN 1

THE SIGN(S) POSTED ON May 6 , 2021 May 24 , 2021
(MONTH, DAY, YEAR)

SINCERLEY ,

MARTIN OGLE

MARTIN OGLE
9912 MAIDBROOK RD.
PARKVILLE ,MD 21234
443-629-3411

CERTIFICATE OF POSTING

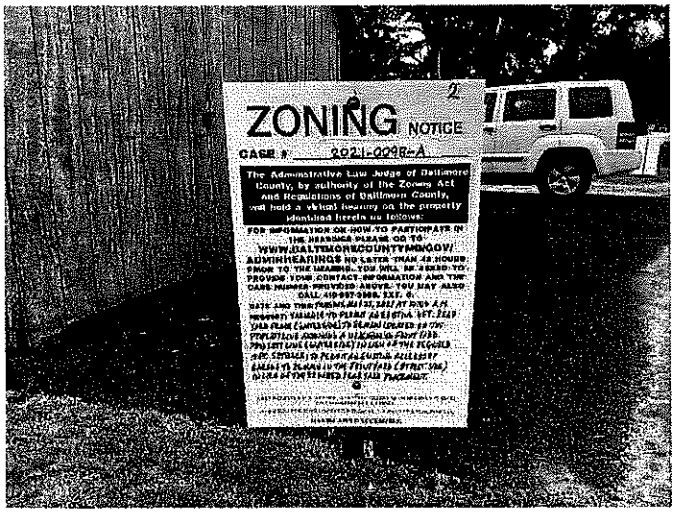
CASE NO. 2021-0098-A

PETITIONER/DEVELOPER

Antonio Mazziott

DATE OF HEARING/CLOSING

May 27 , 2021



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PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE
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THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT

11307 Beach Road SIGN 2

THE SIGN(S) POSTED ON May 6 , 2021 May 24, 2021
(MONTH, DAY, YEAR)

SINCERLEY ,

MARTIN OGLE

MARTIN OGLE
9912 MAIDBROOK RD.
PARKVILLE ,MD 21234
443-629-3411

The Daily Record
200 St. Paul Place Suite 2480
Baltimore, Maryland 21202
1 (443) 524-8100
www.thedailyrecord.com

Order #: 11997920
Case #: 2021-0098-A
Description:

NOTICE OF ZONING HEARING - CASE NUMBER: 2021-0098-A

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in **The Daily Record**, a daily newspaper published in the State of Maryland 1 times on the following dates:

5/7/2021

Darlene Miller

Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

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 virtual hearing on the property identified herein as follows

CASE NUMBER: 2021-0098-A
11307 Beach Road
South side of Beach Road, 185 ft. east of Opie Road
11th Election District - 6th Councilmanic District
Legal Owners: Antonio Gargiulo

Variance to permit an existing 6 ft. rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (waterside) in lieu of the required 10 ft. setback; to permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard placement.

Hearing: Thursday, May 27, 2021 at 10:00 a.m.

For information on how to participate in the hearings please go to www.baltimorecountymd/gov/adminhearings no later than 48 hours prior to the hearing. You will be asked to provide your contact information and the case number provided above. You may also call 410-887-3868, ext. 0.

Pete Gutwald
Director of Permits, Approvals and Inspections for Baltimore County

my7

Donna Mignon

From: mert1114@aol.com
Sent: Wednesday, May 19, 2021 9:20 PM
To: Donna Mignon
Subject: 11307
Attachments: Beach rd 1.docx; Beach rd 2.docx

Not sure if theses are the ones you're looking for . These are the first set of certificates, Marty.

CERTIFICATE OF POSTING

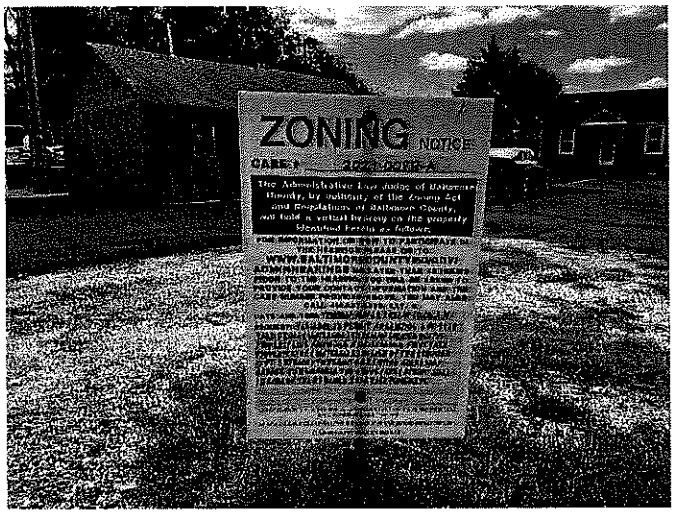
CASE NO. 2021-0098-A

PETITIONER/DEVELOPER

Antonio Mazziott

DATE OF HEARING/CLOSING

May 27 , 2021



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COUNTY OFFICE BUILDING ROOM 111
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(MONTH, DAY, YEAR)

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MARTIN OGLE

MARTIN OGLE
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443-629-3411

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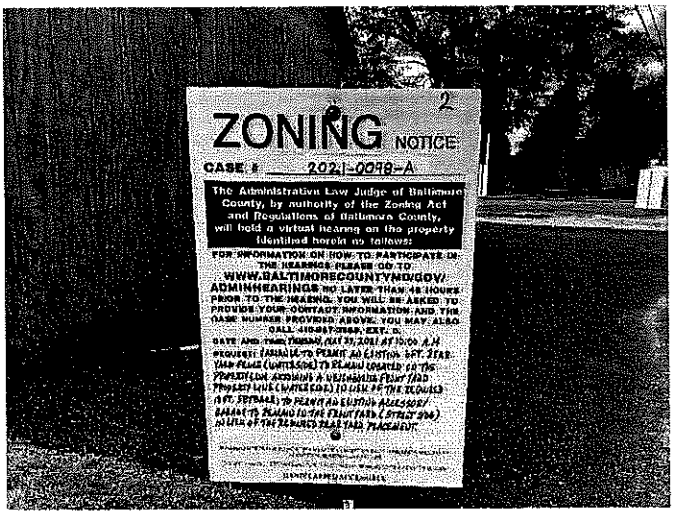

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SINCERLEY ,

MARTIN OGLE

MARTIN OGLE
9912 MAIDBROOK RD.
PARKVILLE ,MD 21234
443-629-3411

Donna Mignon

From: John Altmeyer <jaltmeyer@aol.com>
Sent: Tuesday, May 18, 2021 12:28 AM
To: Donna Mignon
Subject: Re: 11307 Beach Road - Case No: 2021-0098-A

Donna:

I contacted Mr. Garguilo and left a message that I would be out of town and that Linda O'keefe would be a good person to contact to complerte the postings.

John M. Altmeyer

-----Original Message-----
From: Donna Mignon <dmignon@baltimorecountymd.gov>
To: John Altmeyer <jaltmeyer@aol.com>
Sent: Mon, May 17, 2021 1:07 pm
Subject: 11307 Beach Road - Case No: 2021-0098-A

Dear Mr. Altmeyer:
Can you please email the 1st and 2nd sign posting certifications to our office.

Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Donna Mignon
Sent: Tuesday, May 18, 2021 7:47 AM
To: 'Antonio Mazziott'
Subject: RE: Case No: 2021-0098-A 11307 Beach Road

Dear Sir,
Your neighbor who is opposing your variance requested a postponement of the matter due to medical reasons. The Request for Postponement went to the Director's office at Zoning and the postponement was granted. If you have any questions, please contact them at 887-3391.

Thank you.

From: Antonio Mazziott <a.mazziott@gmail.com>
Sent: Monday, May 17, 2021 4:35 PM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: Re: Case No: 2021-0098-A 11307 Beach Road

Hi,

I just got a notice that my hearing is canceled?!? Why is my hearing canceled? Please help!

On Monday, May 17, 2021, Donna Mignon <dmignon@baltimorecountymd.gov> wrote:

> Hi Antonio,
>
> You will need to submit things electronically so when you have your webex hearing you will be able to present your case to the Judge any anyone that may or may not oppose your variance that you have requested.
>
> Most people submit the Plan, the my neighborhood photo and any photos of the variance that you are seeking.
>
> Please submit any exhibits to our office at administrativehearings@baltimorecountymd.gov
>
> I hope this helps. Have a great day.
>
> Donna Mignon, Legal Assistant

Baltimore County Office of Administrative Hearings

105 West Chesapeake Avenue, Suite 103

Towson, Maryland 21204

410-887-3868

From: Antonio Mazziott <a.mazziott@gmail.com>
Sent: Monday, May 17, 2021 1:40 PM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: Re: Case No: 2021-0098-A 11307 Beach Road

Hi Donna,

As far as dropping off documents, would this include the documents I have already submitted? Or in addition to what I have already submitted?

Thank you for your time,

Antonio Gargiulo

11307 Beach Road

White Marsh, MD 21162

On Mon, May 17, 2021 at 12:01 PM Donna Mignon <dmignon@baltimorecountymd.gov> wrote:

Good Afternoon:

As you are aware, a virtual Webex hearing has been scheduled for May 27, 2021 at 10:00 a.m. You should have received an invitation in an email around May 3, 2021 which invited everyone to the hearing.

Please note that all electronic and hard copies of all hearing exhibits, documents, site plans, photographs or evidence of any kind—must be submitted in PDF format at **least two business days** in advance of the hearing to :

Office of Administrative Hearings at administrativehearings@baltimorecountymd.gov

Exhibits must be separately numbered and submitted, an exhibit list with the Case Number, an exhibit number and a brief description for each exhibit. **Please bring a hard copy of all exhibits and drop off in our lobby (address below) at least two business days before the hearing date.**

If you have any questions or concerns, please feel free to contact our office. Thank you so much.

Donna Mignon, Legal Assistant

Baltimore County Office of Administrative Hearings

105 West Chesapeake Avenue, Suite 103

Towson, Maryland 21204

410-887-3868

Register for your COVID-19 vaccine today.

CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

Donna Mignon

From: Donna Mignon
Sent: Tuesday, May 18, 2021 10:35 AM
To: 'Antonio Mazziott'
Subject: RE: Case No: 2021-0098-A 11307 Beach Road

Dear Mr. Mazziott,
Please contact Kristen Lewis, she is the scheduler for the zoning hearings at 410-887-3391 and she will set up a new date and time.

Thank you.

From: Antonio Mazziott <a.mazziott@gmail.com>
Sent: Tuesday, May 18, 2021 9:08 AM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: Re: Case No: 2021-0098-A 11307 Beach Road

Will I be given another court date? This is not fair, I've paid to have this posted in the newspaper and signs posted in my yard. I don't have extra money to spend on signs for no reason... my neighbor is lying just like he lied about the multiple complaints he launched against me! This man is outside DAILY working in his yard and going out on his boat! He is only doing this to cost me more money. This is not fair...

On Tuesday, May 18, 2021, Donna Mignon <dmignon@baltimorecountymd.gov> wrote:

> Dear Sir,
>
> Your neighbor who is opposing your variance requested a postponement of the matter due to medical reasons. The Request for Postponement went to the Director's office at Zoning and the postponement was granted. If you have any questions, please contact them at 887-3391.
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> **Subject:** Re: Case No: 2021-0098-A 11307 Beach Road
>
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Most people submit the Plan, the my neighborhood photo and any photos of the variance that you are seeking.

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I hope this helps. Have a great day.

Donna Mignon, Legal Assistant

Baltimore County Office of Administrative Hearings

105 West Chesapeake Avenue, Suite 103

Towson, Maryland 21204

410-887-3868

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Sent: Monday, May 17, 2021 1:40 PM

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Subject: Re: Case No: 2021-0098-A 11307 Beach Road

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11307 Beach Road

White Marsh, MD 21162

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Donna Mignon, Legal Assistant

Baltimore County Office of Administrative Hearings

105 West Chesapeake Avenue, Suite 103

Towson, Maryland 21204

410-887-3868

Register for your COVID-19 vaccine today.

CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

Donna Mignon

From: Kristen L Lewis
Sent: Monday, May 17, 2021 2:07 PM
To: Donna Mignon
Subject: RE: Request to reschedule

Yes that's fine, thank you.

From: Donna Mignon <dmignon@baltimorecountymd.gov>
Sent: Monday, May 17, 2021 2:06 PM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: RE: Request to reschedule

Hi Kristen,
I will take it over now and put it the box in the lobby, is that okay?

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Monday, May 17, 2021 2:04 PM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Request to reschedule

Thank you, if you send this file back over to us, then I can contact all parties. Thanks!

From: Donna Mignon <dmignon@baltimorecountymd.gov>
Sent: Monday, May 17, 2021 2:02 PM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: RE: Request to reschedule

Hi Kristen,
Since it is outside of the 5 day window, it will go to the Director. We ask that the Petitioner be aware of this. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Monday, May 17, 2021 1:57 PM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: FW: Request to reschedule

Hi Donna,

This is for a case that was sent over, is this going to be Paul's decision or my Director's call?

From: Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Sent: Monday, May 17, 2021 1:53 PM
To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>; Christina Y Frink <cfrink@baltimorecountymd.gov>
Subject: FW: Request to reschedule

Kristen
See below

I'm not sure if this has to be the ALJ's decision or can we just adjust the hearing schedule.

Pete

From: Gerald Welsh <alternativedeliveryservices@gmail.com>
Sent: Monday, May 17, 2021 10:01 AM
To: Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Subject: Request to reschedule

Mr. Gutwald
My name is Gerald Welsh. I live at 11311 Beach Rd, White Marsh, MD 21162.
I'm writing to request a date change for the variance hearing (case# 2021-0098-A) scheduled for 10am on 5/27/21.
I am the original complainant that prompted the county to issue a code enforcement correction notice.(CC2101137)to my next door neighbor at 11307 Beach Rd White Marsh Md 21162.and the one most affected by the variance request.
I have long scheduled oral surgery the morning of 5/27/21.that will prevent me from participating in the hearing. I'm requesting to either move the hearing
prior to 5/27/21 or at least two weeks later to allow time for me to heal from surgery.
Thank you
Gerald Welsh

Donna Mignon

From: Donna Mignon
Sent: Monday, May 17, 2021 2:09 PM
To: Kristen L Lewis
Subject: RE: Request to reschedule

Hi Kristen,
I just asked Paul and he said the Petitioner does not need to readvertise or do a new posting. Thank you.

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Monday, May 17, 2021 2:07 PM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Request to reschedule

Do you mind asking Paul about whether a new posting and readvertising needs to be done and if so, would the person requesting the postponement be responsible for the fee?

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Thank you
Gerald Welsh

Donna Mignon

From: Donna Mignon
Sent: Monday, May 17, 2021 1:08 PM
To: 'John Altmeyer'
Subject: 11307 Beach Road - Case No: 2021-0098-A

Dear Mr. Altmeyer:
Can you please email the 1st and 2nd sign posting certifications to our office.

Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Donna Mignon
Sent: Monday, May 17, 2021 12:02 PM
To: 'a.mazziott@gmail.com'
Subject: Case No: 2021-0098-A 11307 Beach Road

Good Afternoon:

As you are aware, a virtual Webex hearing has been scheduled for May 27, 2021 at 10:00 a.m. You should have received an invitation in an email around May 3, 2021 which invited everyone to the hearing.

Please note that all electronic and hard copies of all hearing exhibits, documents, site plans, photographs or evidence of any kind—must be submitted in PDF format at **least two business days** in advance of the hearing to :
Office of Administrative Hearings at administrativehearings@baltimorecountymd.gov

Exhibits must be separately numbered and submitted, an exhibit list with the Case Number, an exhibit number and a brief description for each exhibit. **Please bring a hard copy of all exhibits and drop off in our lobby (address below) at least two business days before the hearing date.**

If you have any questions or concerns, please feel free to contact our office. Thank you so much.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Donna Mignon
Sent: Monday, May 17, 2021 11:52 AM
To: Lisa M Henson
Subject: Case No: CC2101137- Address: 11307 Beach Road White Marsh, MD

Good Morning/Good Afternoon,

I hope things are well with you. Please email me any information regarding the above case number. Thank you. Have a great day.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

RE: PETITION FOR VARIANCE 11307 Beach Road; South side of Beach Road (40') 185' South East of Opie Road (40'). 11th Election & 6th Councilmanic Districts Legal Owner(s): Antonio Gargiulo Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2021-098-A

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman/rmw
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of April, 2021, a copy of the foregoing Entry of Appearance was emailed to Antonio Gargiulo, 11307 Beach Road, White Marsh, Maryland 21162, a.mazziott@gmail.com , Petitioner(s).

Peter Max Zimmerman/rmw
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Note to Hearing Officer:

2021-0098-A

Mr. Mayhew,

The owner of the property was issued a permit to erect the existing fence on the waterside of his property. After the fence was erected, Code Enforcement received a complaint about a 6' fence in the "front yard". The property owner maintains that the waterside of the property is his rear yard. The neighbor that made the complaint (located at 11311) has been granted a variance (2004-0144-A) stating that his own waterside property is his front yard. Jeff Perlow revoked the permit pending the outcome of your decision.

In summation, the "violator" at 11307 claims the waterside is HIS rear yard and the "complainant" at 11311 claims the waterside is HIS front yard, therefore the variance request was written up as a rear yard fence adjoining a neighboring front yard.

The location variance for the existing garage is obviously because the street side is now being claimed as the front yard.

Jason Seidelman

Zoning Review

410-887-3391

ZAC AGENDA

Case Number: 2021-0098-A **Reviewer:** Jason Seidelman
Existng Use: RESIDENTIAL **Proposed Use:** RESIDENTIAL
Type: VARIANCE
Legal Owner: Antonio Gargiulo
Contract Purchaser: No Contract Purchaser was set.

Critical Area: Yes **Flood Plain:** Yes **Historic:** No **Election Dist:** 11 **Council Dist:** 6

Property Address: 11307 BEACH RD
Location: South side of Beach Road (40') 185' South East of Opie Road (40').

Existing Zoning: RC 2 **Area:** 11,440 SQ FT
Proposed Zoning:
VARIANCE:
BCZR 400.1 427.1.B.1&2 To permit an existing 6' rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (waterside) in lieu of the required 10' setback; to permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard placement.
Attorney: Not Available
Prior Zoning Cases: None
Concurrent Cases: None
Violation Cases: CC2101137
Closing Date:

Miscellaneous Notes:
The petitioner has obtained permit B974408, nothing was misrepresented. Followed permit for 6' fence. Now that the fence is up permit was rescinded 3 months later.


11304
Lot # 33
Lot # 31
Lot # 31
Lot # 29
1986-037
0003188
Lot # 68A
R-1983-0195
1102088452
2018-0159-A
11302
Lot # 35
Lot # 34
2005-0172-SPHA
2001-0313-A
2003-0342-SPHA
2300004336
2300004335
1982-0249-A
1994-0506-A
2007-0367-A
2002-0464-SPHA
1112022090
Lot # 28
Pt. Bk. 0000007, Folio 0187
1119072425
1112059275
OPIE RD
11306
11308
1112022091
Lot # 29
11310
RC 50
1119076950
Lot # 27
BEACH RD
PAI # 110933
6 CD
11 ED
RC 2
Pt. Bk./Folio # 007187B
NE 9-J
PAI # 110933
PAI PERMIT HOLD: See Jan Cook-Dev. Mgt.: Rm 123
Issues With DRC # 032018E (PAI # 11-0933)
1102000075
Lot # 18
Lot # 19
Lot # 20
Lot # 21
Lot # 21
Lot # 23
Lot # 24
Lot # 24
Lot # 24
Pt. Bk. 0000004, Folio 0133
2016-0064-SPHXA
2019-0355-X
1987-0277-A
11307
1118072500
11311
2004-0144-A
1107029440
11313
240000469
11325
2009-0218-A
1119072475
Lot # 16
Lot # 16
073A3

NE 8-J


11304
Lot # 33
Lot # 34
Lot # 35
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2005-0172-SPHA
2001-0313-A
2003-0342-SPHA
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BEACH RD
1102003750
2007-0367-A
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PAI # 110933
Pt. Bk./Folio # 007187B
PAI # 110933
Lot # 21
1118072500
2004-0144-A
11311
Lot # 21
Lot # 24
2400003469
2009-021
1107029440
Lot # 23
11313

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: April 26, 2021

SUBJECT: DEPS Comment for Zoning Item # 2021- 0098-A
Address 11307 Beach Road
(Gargiulo Property)

Zoning Advisory Committee Meeting of **April 19, 2021**

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

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

   The subject property is located within a Limited Development Area (LDA) and is subject to Critical Area requirements. The applicant is proposing to permit a 1,350-foot fence to be located on the property line adjoining a neighboring front yard property line in lieu of the required 10-foot setback and to permit an existing garage to remain in the front yard in lieu of the required rear yard placement. The lot is waterfront and is within a Modified Buffer Area (MBA). Any proposed development must meet all LDA and MBA requirements, including lot coverage limits, MBA mitigation, and afforestation requirements. Lot coverage is limited to a maximum of 31.25% (3,575 square feet), with mitigation required for any new lot coverage between 25% and 31.25%. No new lot coverage is proposed. 15% afforestation (3 trees) is required. Mitigation for any new impacts to the MBA will be required. No new MBA impacts are proposed. If the lot coverage, afforestation, and MBA mitigation requirements are met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

   This property is waterfront and is within a Modified Buffer Area (MBA). The property must meet all lot coverage, afforestation requirements, and any MBA mitigation requirements. If lot coverage, afforestation, and MBA mitigation requirements are met, this request will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

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

   This is a grandfathered lot. Provided that the applicants meet their lot coverage, afforestation, and MBA mitigation requirements, then the relief requested will be consistent with the established land-use policies.

   Additional Comments:

   Reviewer: Libby Errickson

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 4/20/2021

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 21-0098-A

INFORMATION:
Property Address: 11307 Beach Rd.
Petitioner: Antonio Gargiulo
Zoning: RC2
Requested Action: Variance

The Department of Planning has reviewed the petition for the following Variances:

1. From BCZR 400.1 and 427.1.B.1&2, to permit an existing 6' rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (wasterside) in lieu of the required 10' setback;
2. To permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard placement.

It was noted that a 6' privacy fence that was permitted and installed is now in a pending status of having its permit rescinded. The original permit number for this fence is B974408. According to constituent complaint number CC2101137, the fence "goes against the permit – it's only supposed to be on the left side and the rear of the property. It is inside the 100 ft critical area."

A site visit was conducted on April 13, 2021. Based on the facades of the houses on Beach Rd., the street side appears to function as the front yard with the waterside being the back yard. There is a wooden fence on the eastern side of the subject property. The fence appears to be approximately 4' tall from the garage until it reaches the house. At the house, the fence slopes up and continues into the backyard. Although the front yard height of the fence seems to align with what is seen throughout the neighborhood, the style of fence is different so it does obscure viewing of the opposite side. The fence sits perpendicular and not parallel to the waterside. In the front yard there is an aged wooden garage. It sits adjacent to a larger garage with a similar setback in the neighboring lot. According to aerial footage, the neighbor's waterside property has substantial development in the critical area, including a pool, a deck and a shed. These developments, especially the pool, are consistent with backyard rather than front yard uses. Considering all activity on the neighboring property, it seems reasonable that the subject property would benefit from a privacy fence between the properties.

Since the accessory garage has clearly existed there for a long time, and there is a precedent of front yard garages with the neighboring lot, the Planning Department does not object to the variance allowing an accessory garage in the front yard.

Regarding the fence issue, there are two areas of consideration, including the zoning variance request specific to a back yard fence that adjoins the front yard of another property as well as the comment attached to the rescinding of the original permit, which states that the fence should only be in the subject property's back yard. Considering the land use of the neighbor's waterside property, the pattern in the waterfront community is that of a back yard and not a front yard, therefore the Planning Department does not object to the variance request for the section of the fence in the subject property's back yard. The back yard section of the fence does not appear to comprise the character of the neighborhood, or obscure viewing access.

For further information concerning the matters stated herein, please contact Jessie Hillman at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

SL/JGN/KP/

c: Jessie Hillman
Antonio Gargiulo
Office of the Administrative Hearings
People's Counsel for Baltimore County

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 11307 Beach Road, Whitemarsh MD 21162 **which is presently zoned** RC2

Deed References: 42060/279 10 Digit Tax Account # 1 1 2 3 0 1 6 8 8 0

Property Owner(s) Printed Name(s) Antonio Gargiulo

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

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

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

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

3. X **a Variance** from Section(s)

BCZR: 400.1; 427.1.B.1 & 2. → To permit an existing 6' rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (waterside) in lieu of the required 10' setback; to permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard placement.

I obtained permit B974408, Nothing was misrepresented, Followed Permit for 6' Fence. Now that fence is up permit was rescinded 3 months later.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 3/31/21
BY

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Antonio Gargiulo / Name #1 – Type or Print / Name #2 – Type or Print

Signature #1 / Signature # 2

11307 Beach Road White Marsh MD
Mailing Address City State

21162 / 410.322.3875 / a.mazziott@gmail.com
Zip Code Telephone # Email Address

Representative to be contacted:

Antonio Gargiulo
Name – Type or Print

Signature

11307 Beach Road White Marsh MD
Mailing Address City State

21162 / 410.322.3875 / a.mazziott@gmail.com
Zip Code Telephone # Email Address

CASE NUMBER 2021-0098-A **Filing Date** 3/31/21 **Do Not Schedule Dates:** ___ **Reviewer** JS

REV. 10/4/11

ZONING PETITION PROPERTY DESCRIPTION

ZONING PROPERTY DESCRIPTION FOR 11307 Beach Road, White Marsh MD 21162.

Beginning at a point on the south side of Beach Road which is 1,350 feet +/- East of the centerline of Stevens Road. Being the lot of ground known and designated as Lot No. 20in the subdivision of Bird River Beach as recorded in the Baltimore County Plat Book W.D.C. No. 4, folio No. 133, containing 11,440 square feet of lot. Located in the 11th Election District and 6th Council District.

2021-0098-A

 Attendance Report

Panelist List

Name	Email address	Phone number	Time Zone	Language	Locale
Deb Wiley (Alternate Host)	dwiley@baltimorecountymd.gov	1-	New York Time	English	U.S.
Maureen Murphy (Alternate Host)	mmurphy@baltimorecountymd.gov	1-	New York Time	English	U.S.
Paul Mayhew (Alternate Host)	pmayhew@baltimorecountymd.gov	1-	New York Time	English	U.S.
Antonio Gargiulo	a.mazziott@gmail.com	1-	New York Time	English	U.S.
Gerard Welsh	alternativedeliveryservices@gmail.com	1-	New York Time	English	U.S.

OK

Donna Mignon

From: Donna Mignon
Sent: Wednesday, May 19, 2021 6:13 PM
To: Kristen L Lewis
Subject: Link - RE: 2021-0098 11307 Beach Road

Top of Form

Event Information

Event:	Zoning Hearing - Case No: 2021-0098- 11307 Beach Road -
Type:	Listed Event
Event address for attendees:	https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTIE
Event address for panelists:	https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTIE
Date and time:	Wednesday, June 9, 2021 1:30 pm Eastern Daylight Time (New York, GMT-04:00)
Duration:	1 hour
Description:	Zoning Hearing Case No: 2021-0098 11307 Beach Road Owner: Antonio Gargiulo
Event number:	172 032 7605
Event password:	1234
Host key:	957250
Alternate Host:	Deb Wiley,Maureen Murphy,Paul Mayhew
Panelist Info:	
Panelist password:	
Panelist numeric password:	147275
Video Address:	1720327605@baltimorecountymd.webex.com You can also dial 173.243.2.68 and enter your meeting number.
Audio conference:	US Toll +1-415-655-0001 Show all global call-in numbers Access code: 172 032 7605
Maximum number of registrants:	10000
Destination address after event:	
Host image:	
Attendee list available for viewing by:	Host, presenter and panelists only
Event material:	None
Post-event survey:	No
Email configured:	Pending, Approved, Rejected

Registration Information

Registration ID required:	No
Password required:	No
Password:	
Approval required:	No

Custom registration form: No
After registration, go to URL:

Bottom of Form
Top of Form

Bottom of Form

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Wednesday, May 19, 2021 2:25 PM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: 2021-0098 11307 Beach Road

I actually got an email from Martin Ogle who was the one who ended up posting it. I told Mr. Mazziott that his sign will not need to be reposted or advertised again per Paul. He was finally pleased lol, his hearing has been moved to June 9th at 1:30 p.m. You can resend the webex links to them again with this new date, when possible. Thank you.

From: Donna Mignon <dmignon@baltimorecountymd.gov>
Sent: Tuesday, May 18, 2021 5:26 PM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: 2021-0098 11307 Beach Road

Hey There,
I spoke to Mr. Altmyer who said he was going to be away when he needed his posting and he told me to try Ms. O'Keefe, she said she did not do the sign postings either. I am not sure who did them...

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

Subject: Web seminar scheduled: Zoning Hearing - Case No: 2021-0098- 11307 Beach Road -
Location: https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e8645d8213c880b4fb03f654d07d78b8a

Start: Wed 6/9/2021 1:30 PM
End: Wed 6/9/2021 2:30 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: webex

When it's time, start the Webex event here.

Host: Donna Mignon (dmignon@baltimorecountymd.gov)
Event number (access code): 172 032 7605

Wednesday, June 9, 2021 1:30 pm, Eastern Daylight Time (New York, GMT-04:00)

Event address for attendees:
https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e8645d8213c880b4fb03f654d07d
Event address for panelists:
https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e0982e66ee617a834ad35b73ea7

Start event

Audio conference information
+1-415-655-0001 US Toll
Global call-in numbers

Join from a video system or application
Dial 1720327605@baltimorecountymd.webex.com
You can also dial 173.243.2.68 and enter your meeting number.
Panelist numeric password: 147275

If you are a host, click here to view host information:
https://baltimorecountymd.webex.com/baltimorecountymd/j.php?MTID=e96dd28aeafaca760a5a04ed14331d2e0

Need help? Go to https://help.webex.com

Donna Mignon

From: Kristen L Lewis
Sent: Monday, May 3, 2021 12:50 PM
To: Debra Wiley; Donna Mignon
Subject: Webex 2021-0098-A

Good afternoon,

Below is a case needing a webex event created. Thank you,

Case 2021-0098-A
11307 Beach Road
Antonio Gargiulo – Owner – a.mazziott@gmail.com
5/27/2021 at 10:00 a.m.

Kristen Lewis-Coles
PAI – Zoning Review
410-887-3391

Donna Mignon

From: Donna Mignon
Sent: Monday, May 3, 2021 12:56 PM
To: Kristen L Lewis; Debra Wiley
Subject: Link - RE: Webex 2021-0098-A

Top of Form

Event Information

Event:	Zoning Hearing - Case No: 2021-0098-A 11307 Beach Road - Antonio Gargiulc
Type:	Listed Event
Event address for attendees:	https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTIC
Event address for panelists:	https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTIC
Date and time:	Thursday, May 27, 2021 10:00 am Eastern Daylight Time (New York, GMT-04:00)
Duration:	1 hour
Description:	Zoning Hearing Case No: 2021-0098-A Address: 11307 Beach Road Owner: Antonio Gargiulo
Event number:	160 330 1296
Event password:	1234
Host key:	149798
Alternate Host:	Deb Wiley,Maureen Murphy,Paul Mayhew
Panelist Info:	
Panelist password:	
Panelist numeric password:	540888
Video Address:	1603301296@baltimorecountymd.webex.com You can also dial 173.243.2.68 and enter your meeting number.
Audio conference:	US Toll +1-415-655-0001 Show all global call-in numbers Access code: 160 330 1296
Maximum number of registrants:	10000
Destination address after event:	
Host image:	
Attendee list available for viewing by:	Host, presenter and panelists only
Event material:	None
Post-event survey:	No
Email configured:	Pending, Approved, Rejected

Registration Information

Registration ID required:	No
Password required:	No
Password:	
Approval required:	No

Custom registration form: No
After registration, go to URL:

Bottom of Form
Top of Form

Bottom of Form

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Monday, May 3, 2021 12:50 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: Webex 2021-0098-A

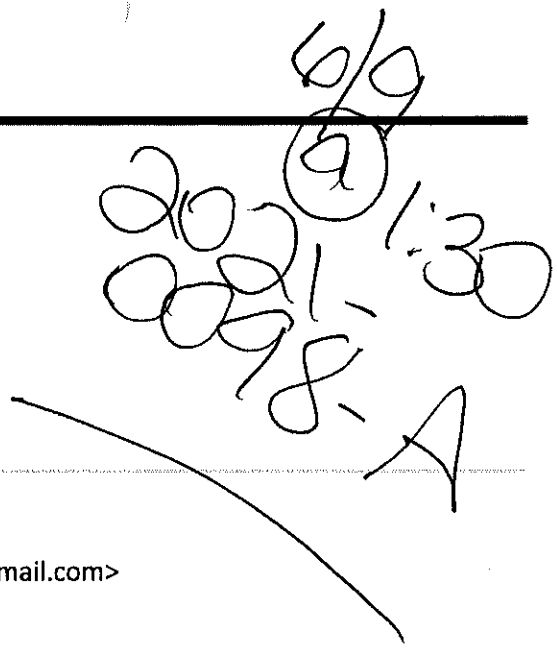
Good afternoon,

Below is a case needing a webex event created. Thank you,

Case 2021-0098-A
11307 Beach Road
Antonio Gargiulo – Owner – a.mazziott@gmail.com
5/27/2021 at 10:00 a.m.

Kristen Lewis-Coles
PAI – Zoning Review
410-887-3391

Donna Mignon



From: Donna Mignon
Sent: Monday, June 7, 2021 12:24 PM
To: Maureen E Murphy
Subject: FW: Hearing for 11307 Beach Road

This is the neighbor who is opposing this case.
Just an FYI – this case is scheduled for Wednesday at 1:30 p.m.

From: Donna Mignon
Sent: Monday, June 7, 2021 12:23 PM
To: 'alternativedeliveryservices@gmail.com' <alternativedeliveryservices@gmail.com>
Subject: RE: Hearing for 11307 Beach Road

Dear Mr. Welsh,
Per your email to Kristen. Please be advised that any exhibits you wish to present at the hearing must be emailed to our office within 48 hours prior to the hearing. Please send all hearing exhibits to: administrativehearings@baltimorecountymd.gov they must be in PDF form.

Thank you. Have a great day.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Monday, June 7, 2021 12:17 PM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: FW: Hearing for 11307 Beach Road

Good afternoon,

This gentleman is inquiring on how to upload the docs for the hearing. Can you help him? Thank you.

From: Gerald Welsh <alternativedeliveryservices@gmail.com>
Sent: Monday, June 7, 2021 11:59 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: Re: Hearing for 11307 Beach Road

Kristen
will you please send me the instructions on how to upload pic and docs for the hearing on Wed. I can't seem to find it.
Thanks
Jerry Welsh

On Wed, May 19, 2021 at 8:53 PM Gerald Welsh <alternativedeliveryservices@gmail.com> wrote:

> This works for me.
> Thank you
> Jerry Welsh
>
> On Wed, May 19, 2021, 14:49 Kristen L Lewis <klewis@baltimorecountymd.gov> wrote:
>
> > Good afternoon,
> >
> > Your request for postponement for 2021-0098-A has been approved, a new hearing date has been reset to Wednesday, June 9th at 1:30 p.m. You will receive a separate link to your email with the information for this virtual hearing. Please contact Donna at 410-887-3868, ext. 0 to confirm your information for this link to be provided. Thank you,
> >
> > Kristen Lewis-Coles
> >
> > PAI – Zoning Review
> >
> > 
> >
> >
> > **Register for your COVID-19 vaccine today.**
> >
> > **CONNECT WITH BALTIMORE COUNTY**
> >
> > www.baltimorecountymd.gov

Donna Mignon

From: Donna Mignon
Sent: Monday, June 7, 2021 12:23 PM
To: 'alternativedeliveryservices@gmail.com'
Subject: RE: Hearing for 11307 Beach Road

Dear Mr. Welsh,
Per your email to Kristen. Please be advised that any exhibits you wish to present at the hearing must be emailed to our office within 48 hours prior to the hearing. Please send all hearing exhibits to: administrativehearings@baltimorecountymd.gov they must be in PDF form.

Thank you. Have a great day.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
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To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: FW: Hearing for 11307 Beach Road

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From: Gerald Welsh <alternativedeliveryservices@gmail.com>
Sent: Monday, June 7, 2021 11:59 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: Re: Hearing for 11307 Beach Road

Kristen
will you please send me the instructions on how to upload pic and docs for the hearing on Wed. I can't seem to find it.
Thanks
Jerry Welsh

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This works for me.
Thank you
Jerry Welsh

On Wed, May 19, 2021, 14:49 Kristen L Lewis <klewis@baltimorecountymd.gov> wrote:

Good afternoon,

Your request for postponement for 2021-0098-A has been approved, a new hearing date has been reset to Wednesday, June 9th at 1:30 p.m. You will receive a separate link to your email with the information for this virtual hearing. Please contact Donna at 410-887-3868, ext. 0 to confirm your information for this link to be provided. Thank you,

Kristen Lewis-Coles

PAI – Zoning Review

Register for your COVID-19 vaccine today.

CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

FW: Case No: 2021-0098-A 11307 Beach Road

Donna Mignon

Mon 6/7/2021 4:06 PM

To:Maureen E Murphy <mmurphy@baltimorecountymd.gov>;

FYI -

From: Donna Mignon
Sent: Monday, June 7, 2021 4:06 PM
To: 'a.mazziott@gmail.com' <a.mazziott@gmail.com>
Subject: FW: Case No: 2021-0098-A 11307 Beach Road

Dear Sir,
Your hearing is on Wednesday and we need your exhibits to be sent to us electronically. If you do not send them, there is a chance your case will get postponed. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Donna Mignon
Sent: Wednesday, June 2, 2021 9:49 AM
To: 'a.mazziott@gmail.com' <a.mazziott@gmail.com>
Subject: Case No: 2021-0098-A 11307 Beach Road

Good Morning:

As you are aware, a virtual Webex hearing has been scheduled for June 9, 2021. You should have received an invitation in an email which invited you to this hearing.

Please note that all electronic and hard copies of all hearing exhibits, documents, site plans, photographs or evidence of any kind---must be submitted in PDF format at **least two business days** in advance of the hearing to :
Office of Administrative Hearings at administrativehearings@baltimorecountymd.gov

Exhibits must be separately numbered and submitted, an exhibit list with the Case Number, an exhibit number and a brief description for each exhibit. **Please bring a hard copy of all exhibits and drop off in our lobby (address below) at least two business days before the hearing date.**

If you have any questions or concerns, please feel free to contact our office. Thank you so much.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Donna Mignon
Sent: Wednesday, June 2, 2021 9:49 AM
To: 'a.mazziott@gmail.com'
Subject: Case No: 2021-0098-A 11307 Beach Road

Good Morning:

As you are aware, a virtual Webex hearing has been scheduled for June 9, 2021. You should have received an invitation in an email which invited you to this hearing.

Please note that all electronic and hard copies of all hearing exhibits, documents, site plans, photographs or evidence of any kind—must be submitted in PDF format at **least two business days** in advance of the hearing to :
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If you have any questions or concerns, please feel free to contact our office. Thank you so much.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Donna Mignon
Sent: Wednesday, May 19, 2021 6:14 PM
To: 'mert1114@aol.com'

Can you email me the posting on 11307 Beach Road.

Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Kristen L Lewis
Sent: Wednesday, May 19, 2021 2:51 PM
To: Donna Mignon
Subject: RE: 2021-0098 11307 Beach Road

Donna, just in case you didn't have the opposing neighbors email for the link it is
Mr. Welsh at alternativedeliveryservices@gmail.com
Thank you.

From: Donna Mignon <dmignon@baltimorecountymd.gov>
Sent: Tuesday, May 18, 2021 5:26 PM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: 2021-0098 11307 Beach Road

Hey There,
I spoke to Mr. Altmyer who said he was going to be away when he needed his posting and he told me to try Ms. O'Keefe, she said she did not do the sign postings either. I am not sure who did them...

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Kristen L Lewis
Sent: Wednesday, May 19, 2021 2:25 PM
To: Donna Mignon
Subject: RE: 2021-0098 11307 Beach Road

✓ ltr
✓ Order

I actually got an email from Martin Ogle who was the one who ended up posting it. I told Mr. Mazziott that his sign will not need to be reposted or advertised again per Paul. He was finally pleased lol, his hearing has been moved to June 9th at 1:30 p.m. You can resend the webex links to them again with this new date, when possible. Thank you.

From: Donna Mignon <dmignon@baltimorecountymd.gov>
Sent: Tuesday, May 18, 2021 5:26 PM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: 2021-0098 11307 Beach Road

Hey There,
I spoke to Mr. Altmyer who said he was going to be away when he needed his posting and he told me to try Ms. O'Keefe, she said she did not do the sign postings either. I am not sure who did them...

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

6/9 @ 1:30 p.m.

Donna Mignon

From: Lisa M Henson
Sent: Tuesday, May 18, 2021 12:19 PM
To: Donna Mignon
Subject: 11307 Beach
Attachments: reportViewerName.pdf; 11307 Beach Rd.pdf

Good afternoon,

Everything is well over here!! I hope youre having a great day. I will be sending a copy of the correction notice in a separate email.

Donna Mignon

From: Lisa M Henson
Sent: Tuesday, May 18, 2021 12:20 PM
To: Donna Mignon
Subject: CodeEnforcementCorrectionNotice_20210421_105533.pdf
Attachments: CodeEnforcementCorrectionNotice_20210421_105533.pdf

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROP.TAX ID
CC2101137	11-23-016880

VIOLATION ADDRESS
11307 BEACH RD
WHITE MARSH, MD 21162-1605

GARGIULO ANTONIO R
11307 BEACH RD
WHITE MARSH, MD 21162-1605

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codes/Regulations	Inspector's Comments
B.C.C. 35-2-301: Obtain building/ fence/ sign permit	Fence must be removed

Failure to comply with this correction notice, may result in a $250.00 fine/penalty per day, per violation pursuant to BCC: 1-2-217; 32-3-602 and/or the County sending a contractor to correct the violation(s) at your expense. Call the inspector for more information and details.

COMPLIANCE DATE: 05/21/2021	INSPECTOR ID: 44
	ISSUED DATE: 04/21/2021

IMPORTANT INFORMATION TO THE PERSON'S CHARGED

1. It is important that you read this document carefully, as it charges you with the commission of a crime.
2. If you fail to correct the violations noted by the date dictated, a citation may be issued, and a trial scheduled at which you may be penalized by a fine, imprisonment, or both.
3. If the County is required to bring your property into compliance, all costs and fines shall become a lien and shall be collectible in the manner provided for collection of real estate taxes; or may be collected in the same manner as any civil money judgment or debt collected.
4. A lawyer can give important assistance to you:
   (a) on how to correct the violation(s) in order to avoid trial or
   (b) at trial, if you failed to correct the violation(s) noted. Assistance may be provided to determine whether there are any defenses to the charges against you or any circumstances helpful to you that should be brought to the trial. A lawyer can help you by developing and presenting information, which could effect how you correct the violation(s).
5. A conviction for each violation will subject you to potential fines of $200, $500, $1000 per day per violation, depending on the violation, or 90 days in jail, or both Baltimore County Code section 1-2-217 and 32-3-602.
6. It is your responsibility to obtain any required permit(s) to correct the cited violation(s). All repairs must be in accordance with applicable laws, Code of Baltimore County Regulations, and standards.
7. Upon correction of these violation(s), contact the inspector for re-inspection. If you have any questions contact the inspector promptly.

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

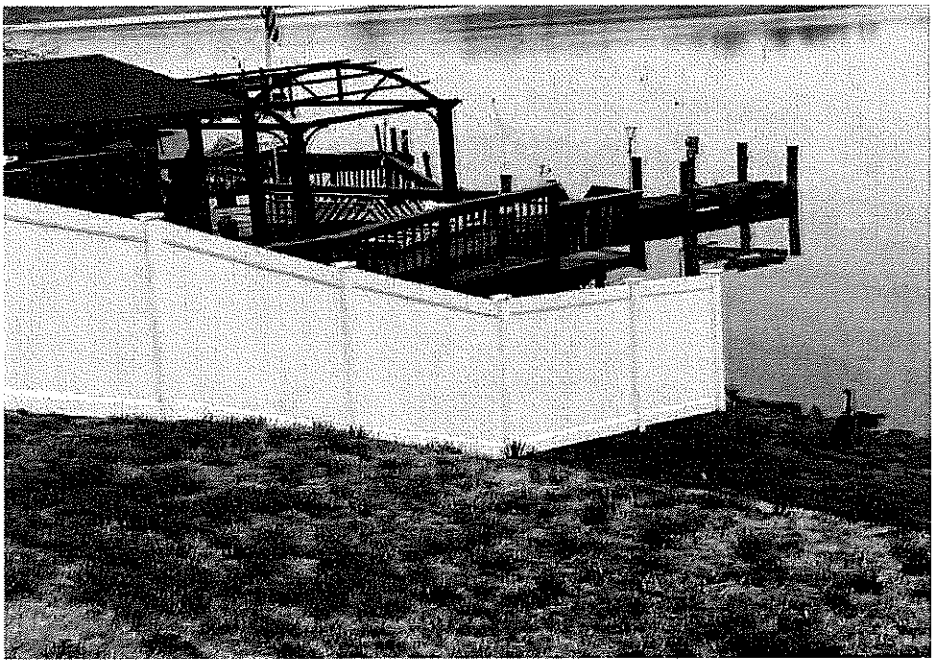


Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
20210325113452184.jpg	Photos	CODE ENFORCEMENT
Size:	**Type:**	**Entity Type:**
348.04 KB		CAP
Source:	**Department:**	**Document Status:**
ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:54AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

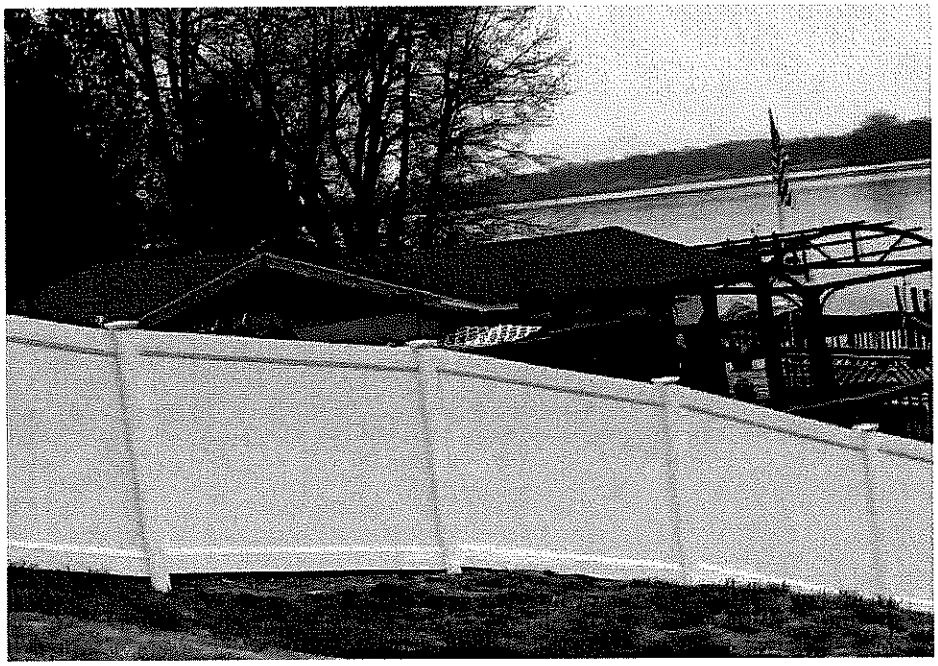


Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
20210325113451683.jpg	Photos	CODE ENFORCEMENT
Size:	**Type:**	**Entity Type:**
314.81 KB		CAP
Source:	**Department:**	**Document Status:**
ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:52AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

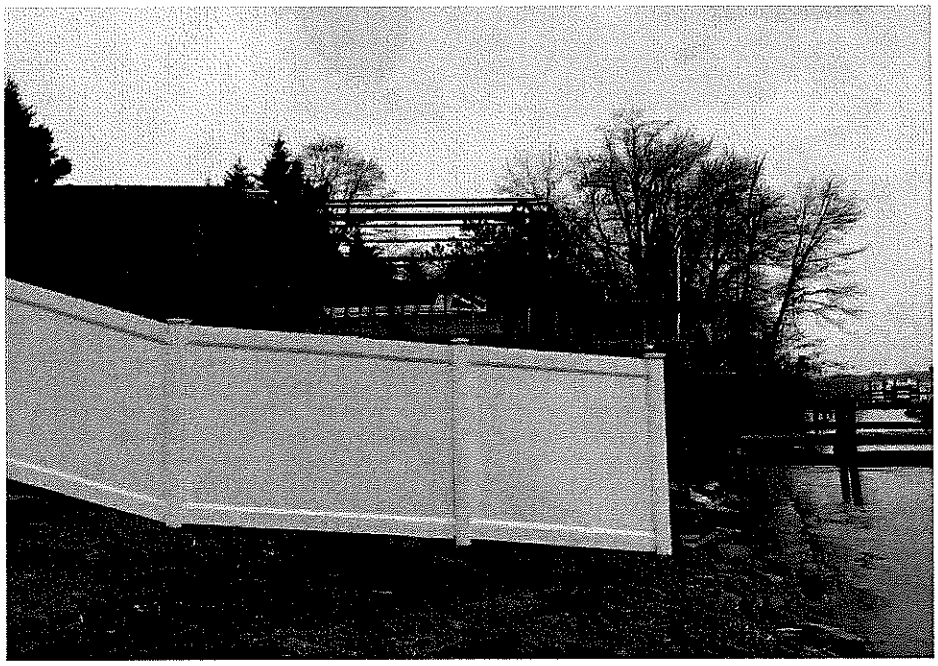


Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
20210325113429424.jpg	Photos	CODE ENFORCEMENT
Size:	**Type:**	**Entity Type:**
296.74 KB		CAP
Source:	**Department:**	**Document Status:**
ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:43AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

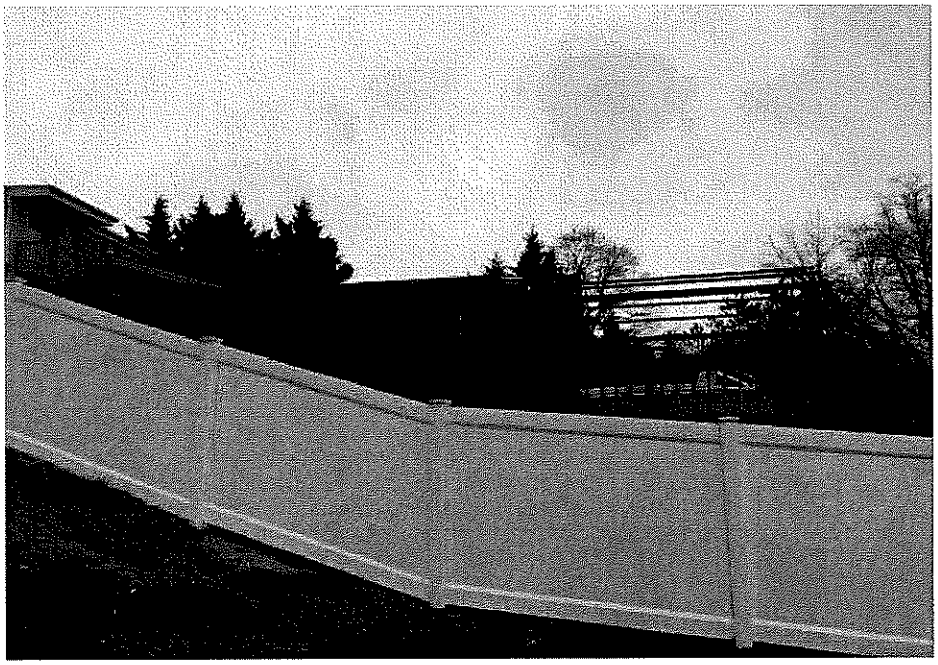


Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
20210325113428999.jpg	Photos	CODE ENFORCEMENT
Size:	**Type:**	**Entity Type:**
249.96 KB		CAP
Source:	**Department:**	**Document Status:**
ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:40AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
20210325113428472.jpg	Photos	CODE ENFORCEMENT
Size:	**Type:**	**Entity Type:**
367.88 KB		CAP
Source:	**Department:**	**Document Status:**
ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:38AM	44	
Description:		

**Department of Permits,
Approvals, and Inspections**
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
20210325113417474.jpg	Photos	CODE ENFORCEMENT
Size:	**Type:**	**Entity Type:**
367.88 KB		CAP
Source:	**Department:**	**Document Status:**
ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:36AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

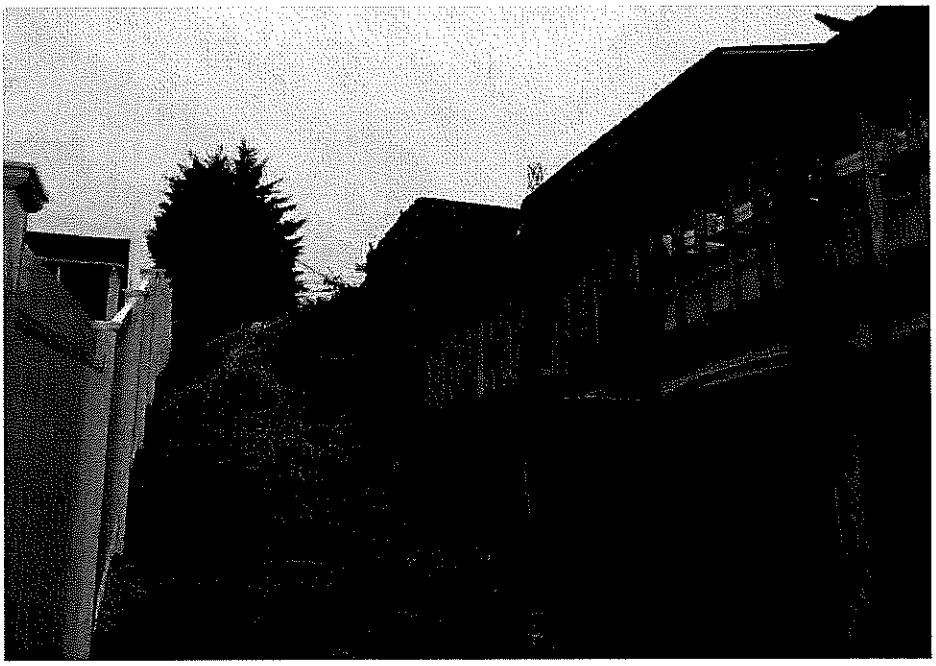
Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021



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Size:	**Type:**	**Entity Type:**
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ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:33AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
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Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:31AM	44	
Description:		

Department of Permits,
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County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

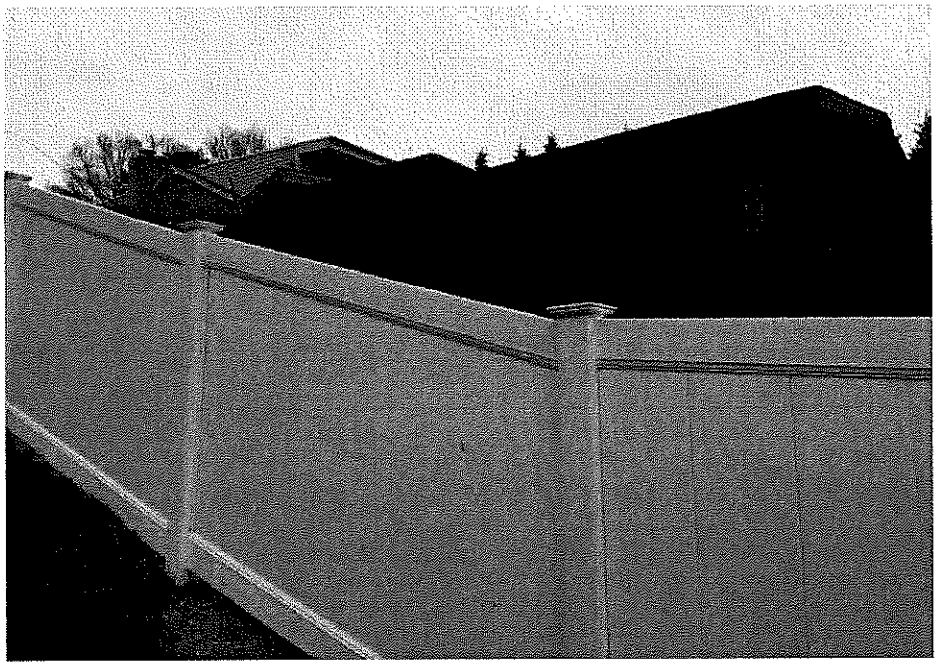

Photo Information for CC2101137:

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Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:29AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
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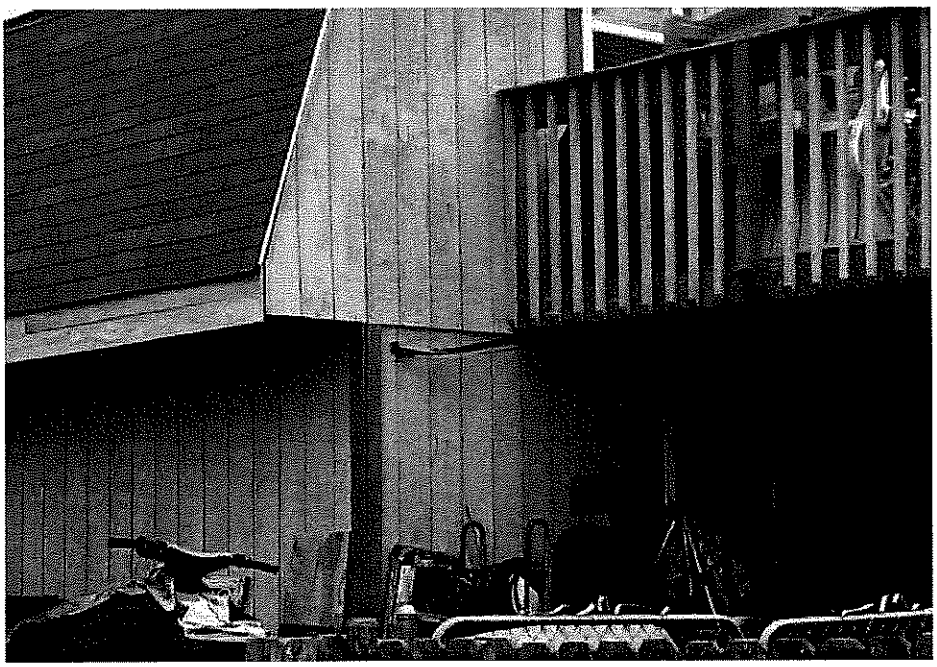
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021



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Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:27AM	44	
Description:		

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Approvals, and Inspections
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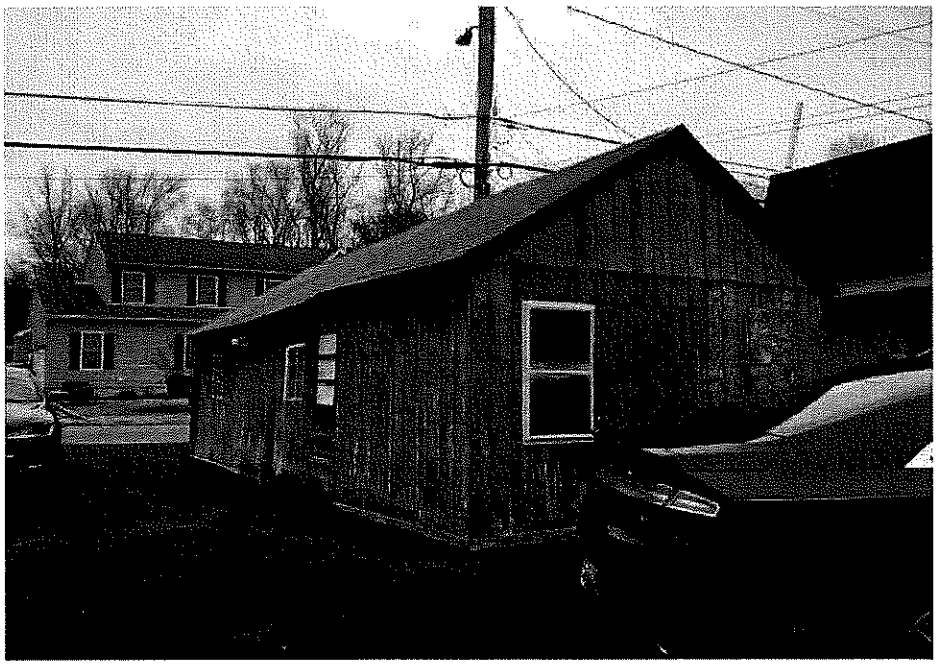
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021



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Uploaded On:	**Uploaded By:**	
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Description:		

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County Office Building, Rm. 213
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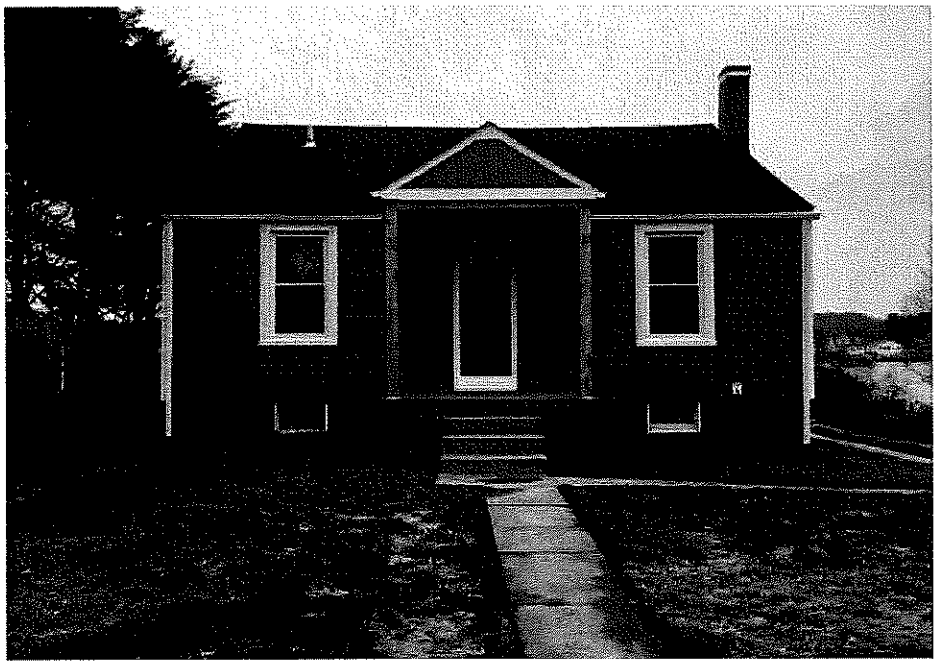
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021



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Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
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Size:	**Type:**	**Entity Type:**
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Uploaded On:	**Uploaded By:**	
3/25/2021 11:37:08AM	44	
Description:		

Department of Permits,
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Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

Photo Information for CC2101137:

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Description:		

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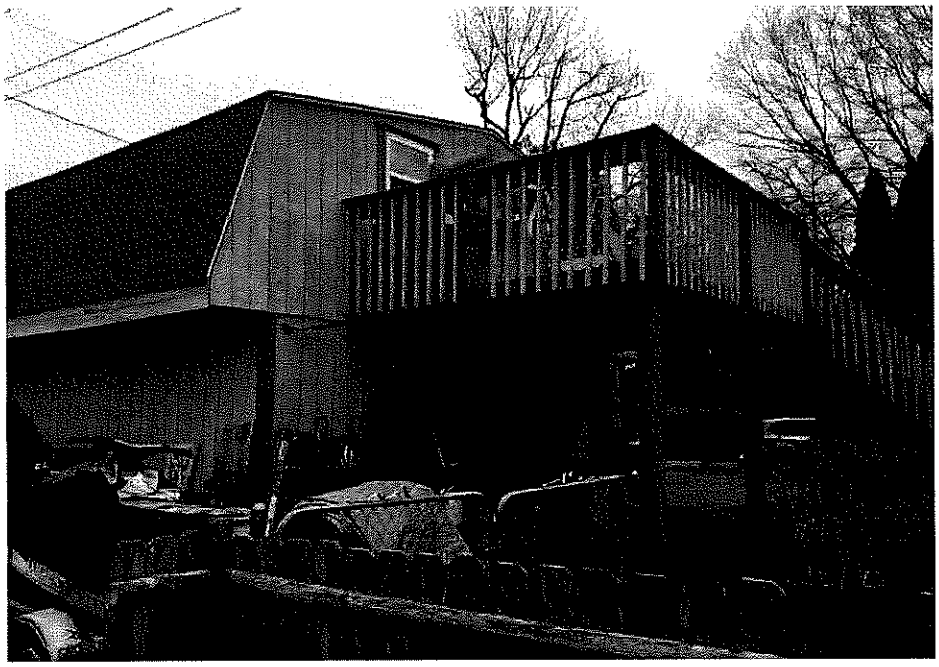
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021



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Uploaded On:	**Uploaded By:**	
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Description:		

Department of Permits,
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Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
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Uploaded On:	**Uploaded By:**	
3/25/2021 11:37:01AM	44	
Description:		

Department of Permits,
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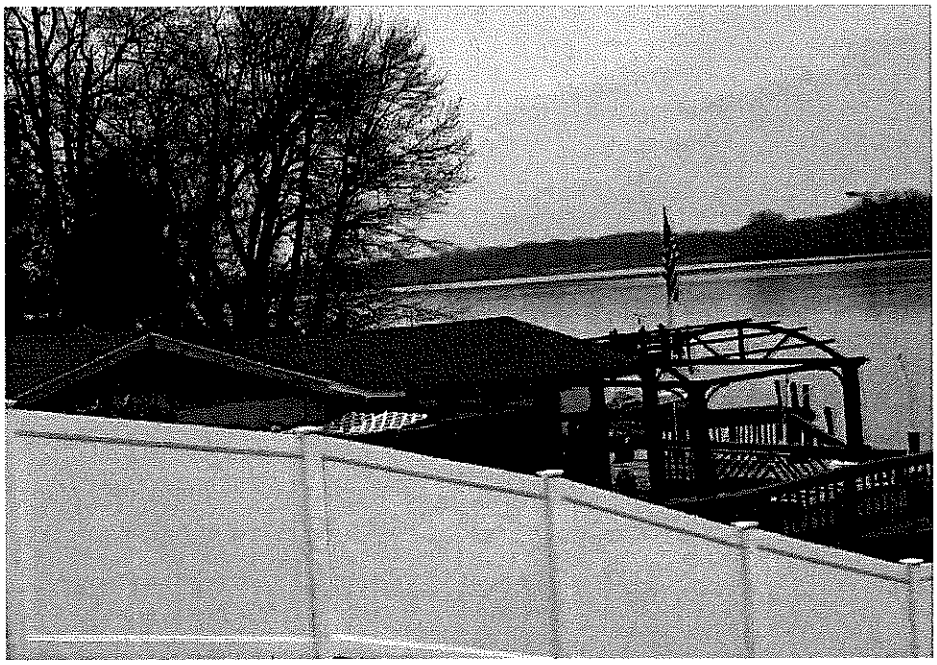
Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021



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Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:58AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
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Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021

Photo Information for CC2101137:

File Name:	**Category:**	**Document Group:**
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Size:	**Type:**	**Entity Type:**
295.29 KB		CAP
Source:	**Department:**	**Document Status:**
ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:56AM	44	
Description:		

Department of Permits,
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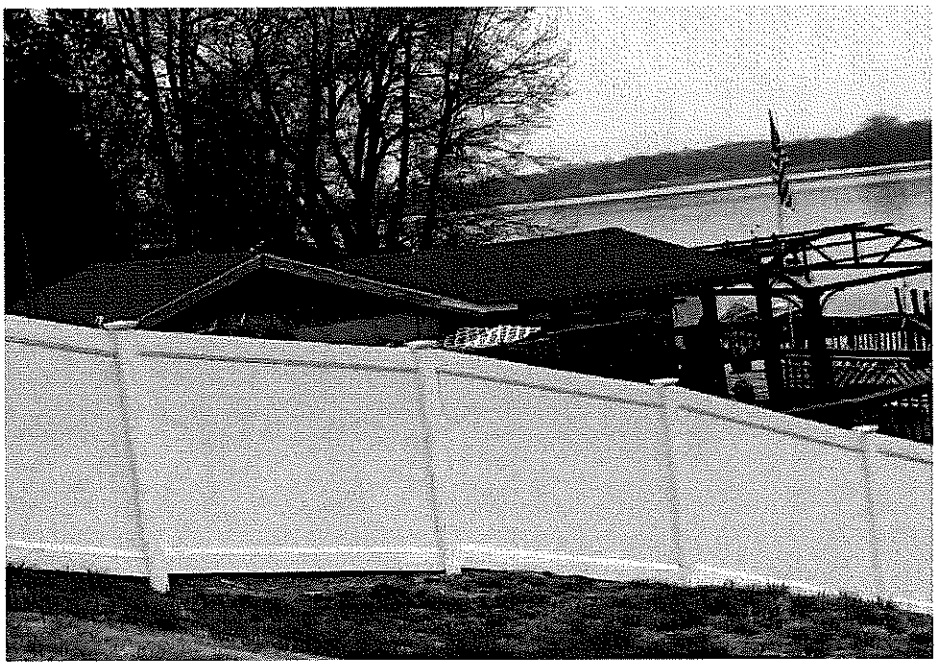
Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021



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3/25/2021 11:36:50AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

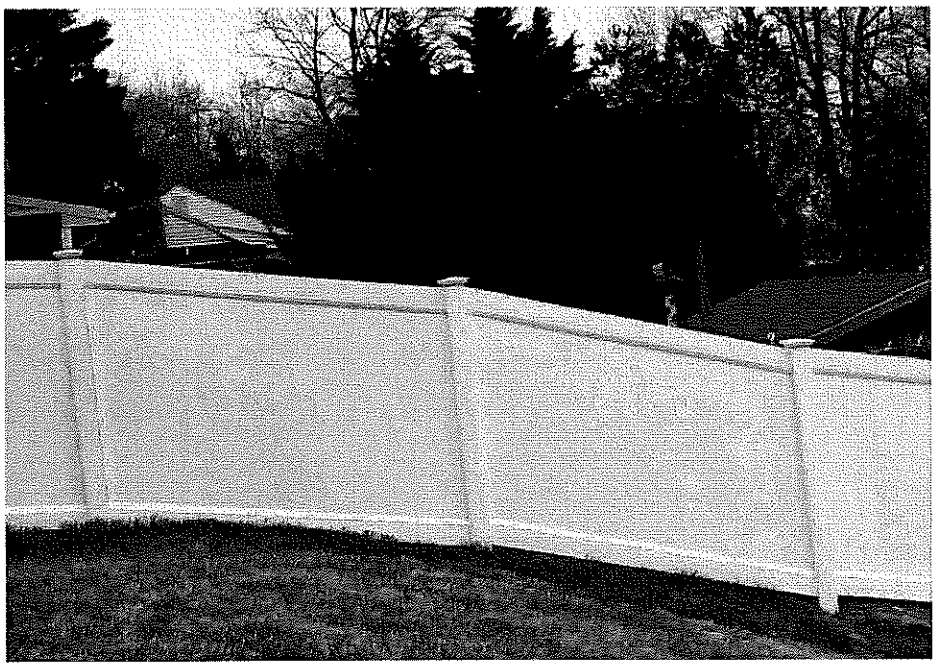
Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021



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Source:	**Department:**	**Document Status:**
ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:47AM	44	
Description:		

Department of Permits,
Approvals, and Inspections
www.baltimorecountymd.gov/Agencies/permits/

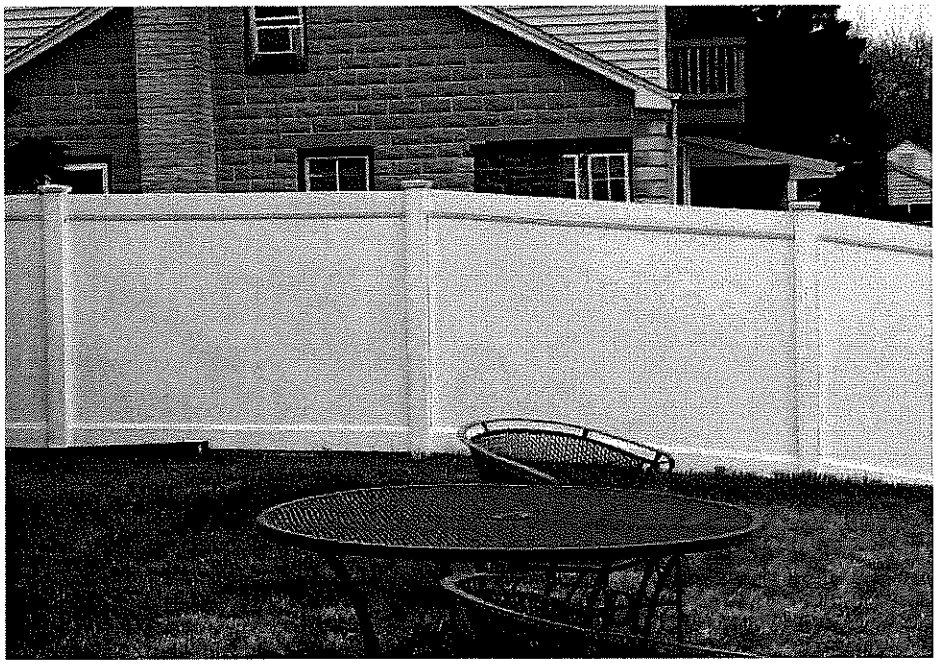
Code Enforcement & Inspections
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
410-887-3351

PHOTOGRAPHIC RECORD

Complaint Number: CC2101137

Property Address: 11307 BEACH RD 21162-1605

Date of Photographs: 03/25/2021



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Size:	**Type:**	**Entity Type:**
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ADS	BALTCO/PAI/CODE/SUPER/COMNTY	Uploaded
Uploaded On:	**Uploaded By:**	
3/25/2021 11:36:45AM	44	
Description:		

I HEREBY CERTIFY that I took the **21** photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above-referenced complaint number on the date set out above.

Code Enforcement Officer

Department of Permits, Approvals & Inspections
Complaint Report

Record Id: CC2101137

Record ID	Assigned To	Assigned Date	Received Date	Status	Compliance Date	Hearing Date
CC2101137	Latoshia Rumsey-Scott	02/17/2021	02/17/2021	Pending	05/21/2021	

Complaint Description: FENCE GOES AGAINST THE PERMIT - IT'S ONLY SUPPOSED TO BE ON THE LEFT SIDE AND THE REAR OF THE PROPERTY. ITS INSIDE A 100 FT CRITICAL AREA. FENCE PERMIT HAS BEEN RESCINDED.

Property
11307 BEACH RD
WHITE MARSH, MD 21162-1605
Tax Id: 1123016880

Owner
GARGIULO ANTONIO R
11307 BEACH RD
WHITE MARSH, MD 21162-1605

Complainant
ANONYMOUS

Inspection Details

Inspector	Date	Service	Result	Action	Complied On
Latoshia Rumsey-Scott	03/16/2021	Initial Inspection	Research	Research	
Latoshia Rumsey-Scott	04/21/2021	Re-Inspection	Correction Notice Issued	Correction Notice Issued	
Latoshia Rumsey-Scott		Re-Inspection	Scheduled		

Lien Information - No Lien

Comments Detail

3/16/2021: Scheduled to meet property owner, once violations explained will move forward with viol
4/21/2021: Correction notice issued for non-permitted fence, fence permit has been rescinded
4/21/2021: Fence must be removed

Department of Permits, Approvals & Inspections
Complaint Report

Record Id: CC2101137

Record ID	Assigned To	Assigned Date	Received Date	Status	Compliance Date	Hearing Date
CC2101137	Latoshia Rumsey-Scott	02/17/2021	02/17/2021	Inspection Scheduled	03/17/2021	

Complaint Description: FENCE GOES AGAINST THE PERMIT - IT'S ONLY SUPPOSED TO BE ON THE LEFT SIDE AND THE REAR OF THE PROPERTY. ITS INSIDE A 100 FT CRITICAL AREA. FENCE PERMIT HAS BEEN RESCINDED.

Property
11307 BEACH RD
WHITE MARSH, MD 21162-1605
Tax Id: 1123016880

Owner
GARGIULO ANTONIO R
11307 BEACH RD
WHITE MARSH, MD 21162-1605

Complainant
ANONYMOUS

Inspection Details

Inspector	Date	Service	Result	Action	Complied On
Latoshia Rumsey-Scott	03/16/2021	Initial Inspection	Research	Research	
Latoshia Rumsey-Scott		Re-Inspection	Scheduled		

Lien Information - No Lien

Comments Detail

3/16/2021: Scheduled to meet property owner, once vi9lations explained will move forward with viol

PANEL BP1003M

TIME: 10:39:01 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 02/19/2021
DATE: 03/25/2021 GENERAL PERMIT APPLICATION DATA KLL 16:27:42

PERMIT #: B974408 PROPERTY ADDRESS
RECEIPT #: A826219 11307 BEACH RD
CONTROL #: F-FP SUBDIV: BIRD RIVER BEACH
XREF #: B974408 TAX ACCOUNT #: 1123016880 DISTRICT/PRECINCT 11 01
OWNERS INFORMATION (LAST, FIRST)
FEE: 25.00 NAME: GARGIULO ANTONIO R
PAID: ADDR: 11307 BEACH RD,WHITE MARSH MD 21162-1605
PAID BY:

DATES APPLICANT INFORMATION
APPLIED: 09/12/2020 NAME: DAVE STEWART-CRAIG
ISSUED: 10/15/2020 COMPANY: CREATIVE DECK DESIGNS
CANCEL: 02/19/2021 ADDR1: 11101 PULASKI HWY.
FINAL INSPECT: ADDR2: WHITE MARSH, MD. 21162
INSPECTOR: 11B PHONE #: 443-224-5399 LICENSE #:
NOTES: RBH/FEE DUE E-MAIL: DAVE@CREATIVEDECKDESIGNS.COM
PMT 20-09231; PERMIT RESCINDED BY ZONING-JNP 2/17/21...KLL

PASSWORD :

ENTER - PERMIT DETAIL PF3 - INSPECTIONS PF7 - DELETE PF9 - SAVE
PF2 - APPROVALS PF4 - ISSUE PERMIT PF8 - NEXT PERMIT PF10 - INQRY

PANEL BP1004M

TIME: 10:39:05 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 09/15/2020
DATE: 03/25/2021 BUILDING DETAIL 1 JCM 11:16:20

DRC#

PERMIT # B974408 PLANS: CONST 0 PLOT 2 PLAT 0 DATA 0 EL PL

TENANT

BUILDING CODE: CONTR: CREATIVE DECK DESIGN, INC.
IMPRV 7 ENGNR:
USE 01 SELLR:

FOUNDATION BASE WORK: ERECT 89LF OF 6'HIGH VINYL PRIVACY FENCE ON
LFT SIDE & REAR OF PROP. FENCE IN EASEMENT
CONSTRUC FUEL SEWAGE WATER WILL BE REMOVED @ OWNERS' EXPENSE. IN BALTO
1E 1E CO. F.P.ZONE AE 8.5/FEMA ZONE AE7 PER RHURLEY
CENTRAL AIR
ESTIMATED COST

PROPOSED USE: SFD W/FENCE
OWNERSHIP: 1 EXISTING USE: SFD
RESIDENTIAL CAT: 1
#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS:
1 FAMILY BEDROOMS: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1005M

TIME: 10:39:08 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 09/15/2020
DATE: 03/25/2021 BUILDING DETAIL 2 JCM 11:16:20

PERMIT #: B974408

BUILDING SIZE
FLOOR: 89LF
WIDTH:
DEPTH:
HEIGHT: 6'
STORIES:

LOT NOS: 20
CORNER LOT: N

LOT SIZE AND SETBACKS
SIZE: 0050.10 X 0000.00
FRONT STREET:
SIDE STREET:
FRONT SETB:
SIDE SETB: 1"/
SIDE STR SETB:
REAR SETB: 1"

GARBAGE DISP:
POWDER ROOMS:
BATHROOMS:
KITCHENS:

ZONING INFORMATION
DISTRICT:
PETITION:
DATE:
MAP:

BLOCK:
SECTION:
LIBER:
FOLIO:
CLASS: 34

ASSESSMENTS
LAND: 0091200.00
IMPROVEMENTS: 0095500.00
TOTAL ASS.:

PLANNING INFORMATION
MSTR PLAN AREA: SUBSEWER: CRIT AREA: PASSWORD:

ENTER - NEXT DETAIL PF2 - APPROVALS PF7 - PREV. SCREEN PF9 - SAVE
PF1 - GENERAL PERMIT PF3 - INSPECTIONS PF8 - NEXT SCREEN CLEAR - MENU

PANEL BP1018M

TIME: 10:38:50 AUTOMATED PERMIT TRACKING SYSTEM LAST UPDATE 10/15/2020
DATE: 03/25/2021 APPROVALS DETAIL SCREEN KLL 15:21:53

PERMIT #: B974408 CONTROL #:

AGENCY	DATE	CODE	COMMENTS
ZONING	09/15/2020	01	JCM
PUB SERV	09/12/2020	01	RBH/MUST COMPLY W/FLOODPLAIN ORDINANCE
BLD PLAN	10/09/2020	01	TK
ENVRMNT	09/16/2020	01	PAD/MB
PERMITS	10/15/2020	01	KLL RBH/PMT 20-09231

01 THRU 09 INDICATES AN "APPROVAL" ** 10 THRU 99 INDICATES A "DISAPPROVAL"

ENTER - GENERAL PERMIT PF4 - ISSUE PERMIT
PF3 - INSPECTIONS PF8 - GENERAL SCREEN W/NEXT PERMIT

Exhibit List
Case No: 2021-0098-A 11307 Beach Road - Antonio Gargiulo

Exhibit 1
Zoning Plan Site Drawing

Exhibit 2
Picture shows what I consider my "Front Yard" which is street side, I have a four foot fence. No houses have a 6 foot fence on the street side of houses. Precedent is that the street side of yard is our homes "Front Yards".

Exhibit 3
Picture shows what I consider "Front Yard" which is street side. This is my neighbor's yard, who filed the complaint, he has a four foot fence around the entire yard that is "street side". No houses have a 6 foot fence on the street side of houses. Precedent is that the street side of yard is our homes "Front Yards".

Exhibit 4
Picture Shows neighbors water front side of yard has a 6 foot fence running the entire length of yard.

Exhibit 5
Picture shows my fence does not block neighbors view, neighbor's water front structures are ALL taller than 6 feet.

Exhibit 6
Pictures show neighbors 6 foot grass/bush clippings waste pile, fire hazard, which was one of the reasons I put up a fence. I do not want to look at his piles of grass/bush clippings and/or his dilapidated structures.

Exhibit 7
Pictures show fence height compared to neighbor's deck height.

Exhibit 8
Picture shows original permit that was granted, clearly shows that the fence was purposed to be put by water, not on the street side like neighbor complained about. The physical front of my house is clearly labeled which is the street side.

Exhibit 9
Pictures show aerial shot of water front side. House on left is mine, prior to new siding/roof/fence. House on right is neighbors; multiple structures, deck, hot tub, pool, fire pit (all items typically found in a back yard).

Exhibit 10
Street Side – Day I bought home 10/2019; Front yard already established, front porch on street side. House is facing the street.

Exhibit 11
Street Side – Current day, front porch still on street side. House is facing the street. I consider the street side my "Front Yard".

Exhibit 12
Street Side – Day I bought home 10/2019; Garage/Carport already existed

Exhibit 13
Street Side – Current day, neighbor lied to zoning office and said I built a new garage. I have not, the original garage/car port is still there.

Exhibit 14
Zoning Advisory Committee Comments

Board of Appeals

Exhibit List

Case No.: 21-098A Case Name: Antonio Gargiulo

Party: Antonio Gargiulo-Petitioner Date: 11/10/21

Exhibit No.	Description	ID Only
4 A+B	Neighbor's Fence	
5 A+B	Petitioner's Fence	
6 A+B	Neighbor's Yard	
	VERIFIED BY: _____ DATE: _____	

Board of Appeals

Exhibit List

Case No.: 21-098A Case Name: Antonio Gargiulo

Party: Gerald Welsh - Protestant Date: 11/10/21

Exhibit No.	Description	ID Only
1 A-M	PHOTOS	
	VERIFIED BY: _____ DATE: _____	

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald **DATE:** 4/20/2021
Director, Department of Permits, Approvals and Inspections

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number**:** 21-0098-A

INFORMATION:
Property Address: 11307 Beach Rd.
Petitioner: Antonio Gargiulo
Zoning: RC2
Requested Action: Variance

The Department of Planning has reviewed the petition for the following Variances:

1. From BCZR 400.1 and 427.1.B.1&2, to permit an existing 6' rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (wasterside) in lieu of the required 10' setback;
2. To permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard placement.

It was noted that a 6' privacy fence that was permitted and installed is now in a pending status of having its permit rescinded. The original permit number for this fence is B974408. According to constituent complaint number CC2101137, the fence "goes against the permit – it's only supposed to be on the left side and the rear of the property. It is inside the 100 ft critical area."

A site visit was conducted on April 13, 2021. Based on the facades of the houses on Beach Rd., the street side appears to function as the front yard with the waterside being the back yard. There is a wooden fence on the eastern side of the subject property. The fence appears to be approximately 4' tall from the garage until it reaches the house. At the house, the fence slopes up and continues into the backyard. Although the front yard height of the fence seems to align with what is seen throughout the neighborhood, the style of fence is different so it does obscure viewing of the opposite side. The fence sits perpendicular and not parallel to the waterside. In the front yard there is an aged wooden garage. It sits adjacent to a larger garage with a similar setback in the neighboring lot. According to aerial footage, the neighbor's waterside property has substantial development in the critical area, including a pool, a deck and a shed. These developments, especially the pool, are consistent with backyard rather than front yard uses. Considering all activity on the neighboring property, it seems reasonable that the subject property would benefit from a privacy fence between the properties.

Since the accessory garage has clearly existed there for a long time, and there is a precedent of front yard garages with the neighboring lot, the Planning Department does not object to the variance allowing an accessory garage in the front yard.

Regarding the fence issue, there are two areas of consideration, including the zoning variance request specific to a back yard fence that adjoins the front yard of another property as well as the comment attached to the rescinding of the original permit, which states that the fence should only be in the subject property's back yard. Considering the land use of the neighbor's waterside property, the pattern in the waterfront community is that of a back yard and not a front yard, therefore the Planning Department does not object to the variance request for the section of the fence in the subject property's back yard. The back yard section of the fence does not appear to comprise the character of the neighborhood, or obscure viewing access.

For further information concerning the matters stated herein, please contact Jessie Hillman at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

SL/JGN/KP/

c: Jessie Hillman
Antonio Gargiulo
Office of the Administrative Hearings
People's Counsel for Baltimore County

Jeffrey N Perlow

From: Gerald Welsh <alternativedeliveryservices@gmail.com>
Sent: Monday, June 7, 2021 3:27 PM
To: Administrative Hearings
Subject: 11307 Beach Rd Variance request
Attachments: 20210507_102509.jpg; 20210423_132518.jpg

To Whom it may concern.
The second the 1st post hole was dug by the Creative Fence Co (they pulled the permit}, I alerted the homeowner and the contractor that they should stop because at the very least it was my front yard and a 6ft fence was not allowed. They both held the permit up as the right to do so and continued with the install.
I filed a complaint the very day.
I contend that the root issue that needs to be addressed is the orientation of the front and back of 11307 Beach Rd Prior to its sale a couple years ago to Mr. G
We contend that the home has always faced the water just as mine does.The layout of the houses are the same with the street side entrances opening to the kitchen area with the living area being on the water side of the house.
If the court confirms the water side is the front of 11307, it would make putting a 6 ft fence in the front side a non-starter requadless of the fact that it is my front yard. It would also eliminate the need for variance to put a garage on the back (street side} of the property.
Should it come to it I have supplied the court with several pictures showing the fence and its impact on our views of the Beautiful Bird River.
Thank you
Gerald and Cheryl Welsh

Address List

Petitioner:

Antonio Gargiulo
11307 Beach Road
White Marsh, MD 21162
(410) 322-3875
a.mazziott@gmail.com

Protestant/Appellant:

Gerald Welsh
11311 Beach Road
White Marsh, MD 21162
alternativedeliveryservices@gmail.com

Michael R. McCann, Esquire
Michael R. McCann, P.A.
118 W. Pennsylvania Avenue
Towson, MD 21204
(410) 825-2150
michael@mmccannlaw.net

Interoffice:

Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

JOHN A. OLSZEWSKI, JR.
County Executive

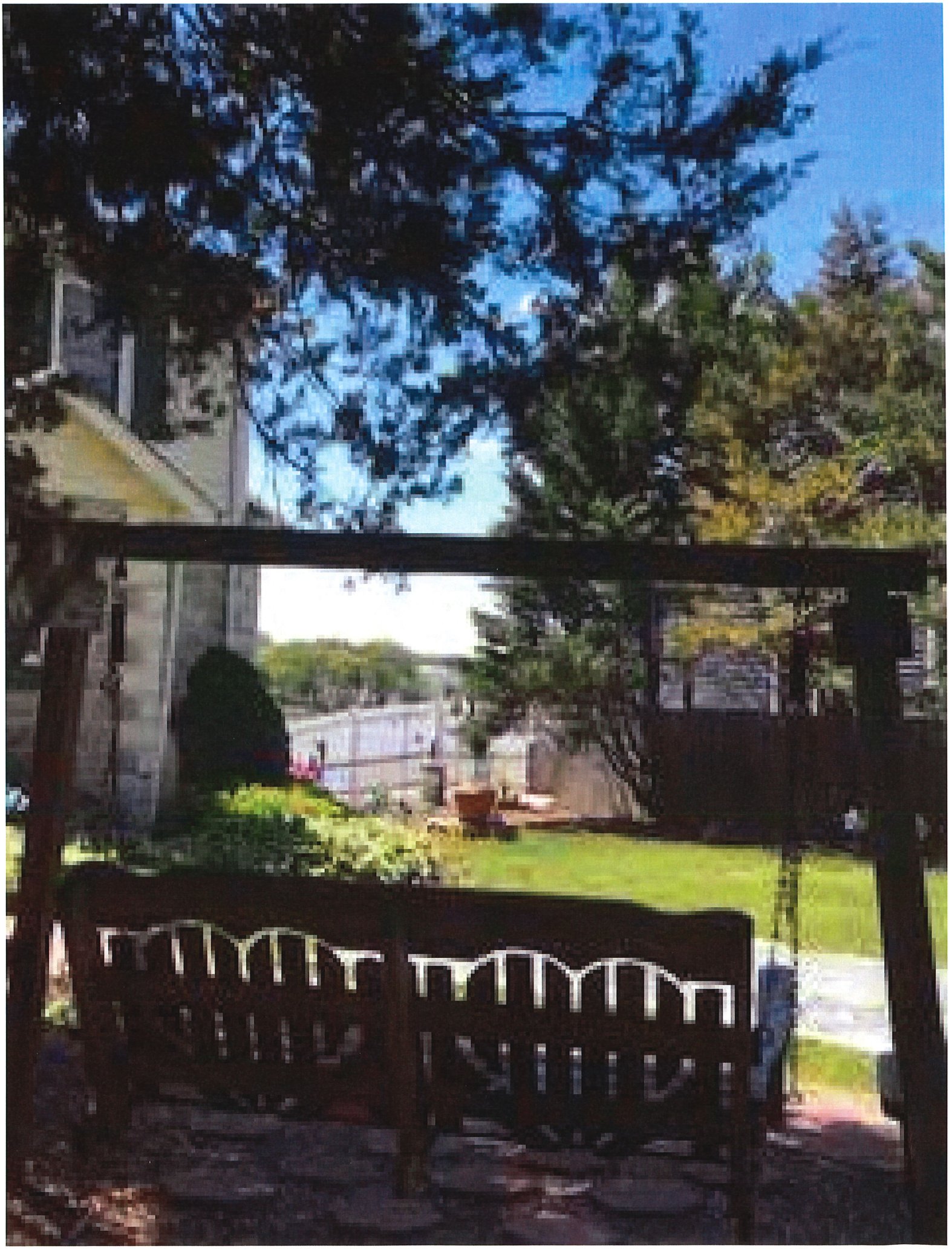
PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

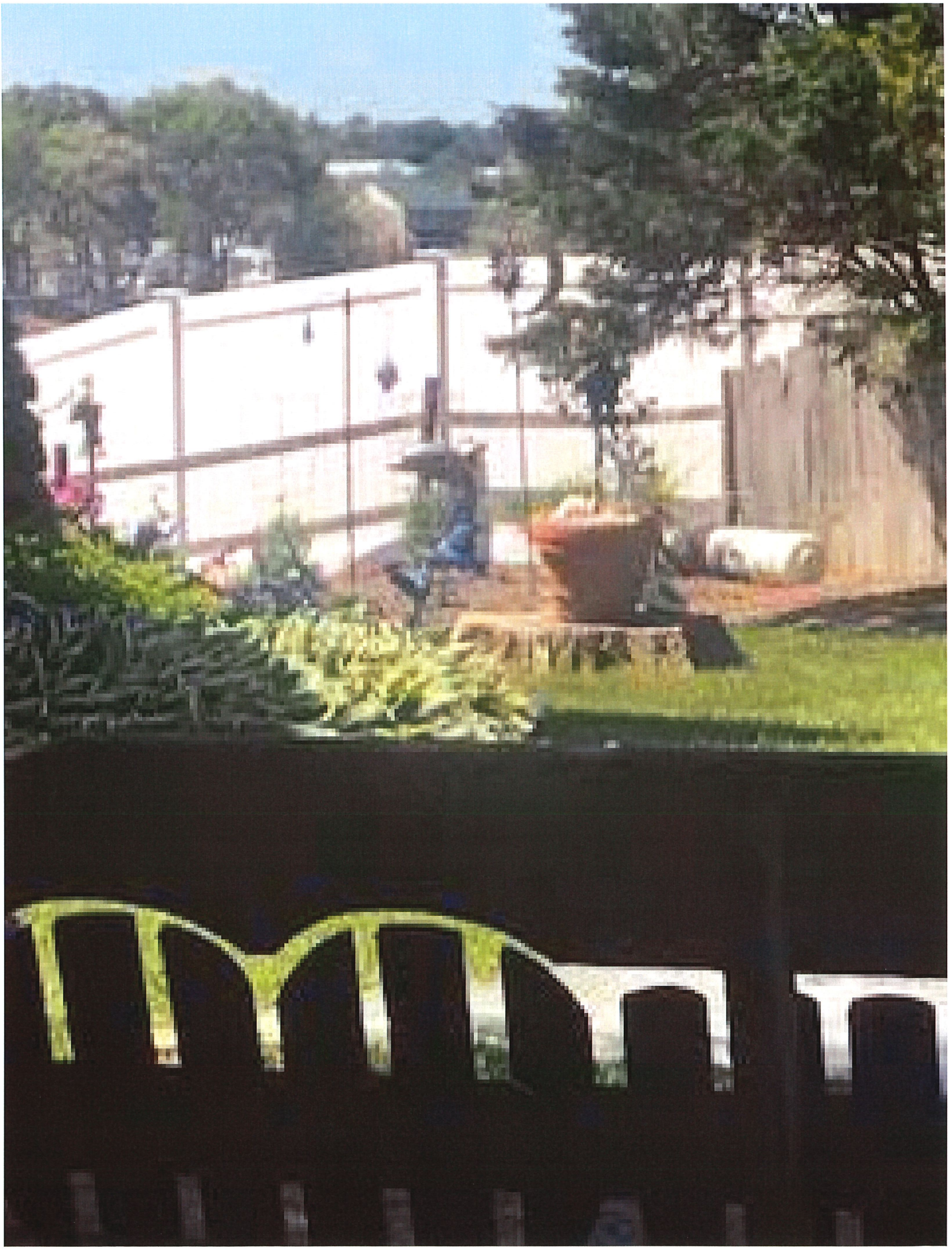
BALTIMORE COUNTY
OFFICE OF ADMINISTRATIVE HEARINGS
YOU ARE IN THE VIRTUAL HEARING ROOM
FOR:

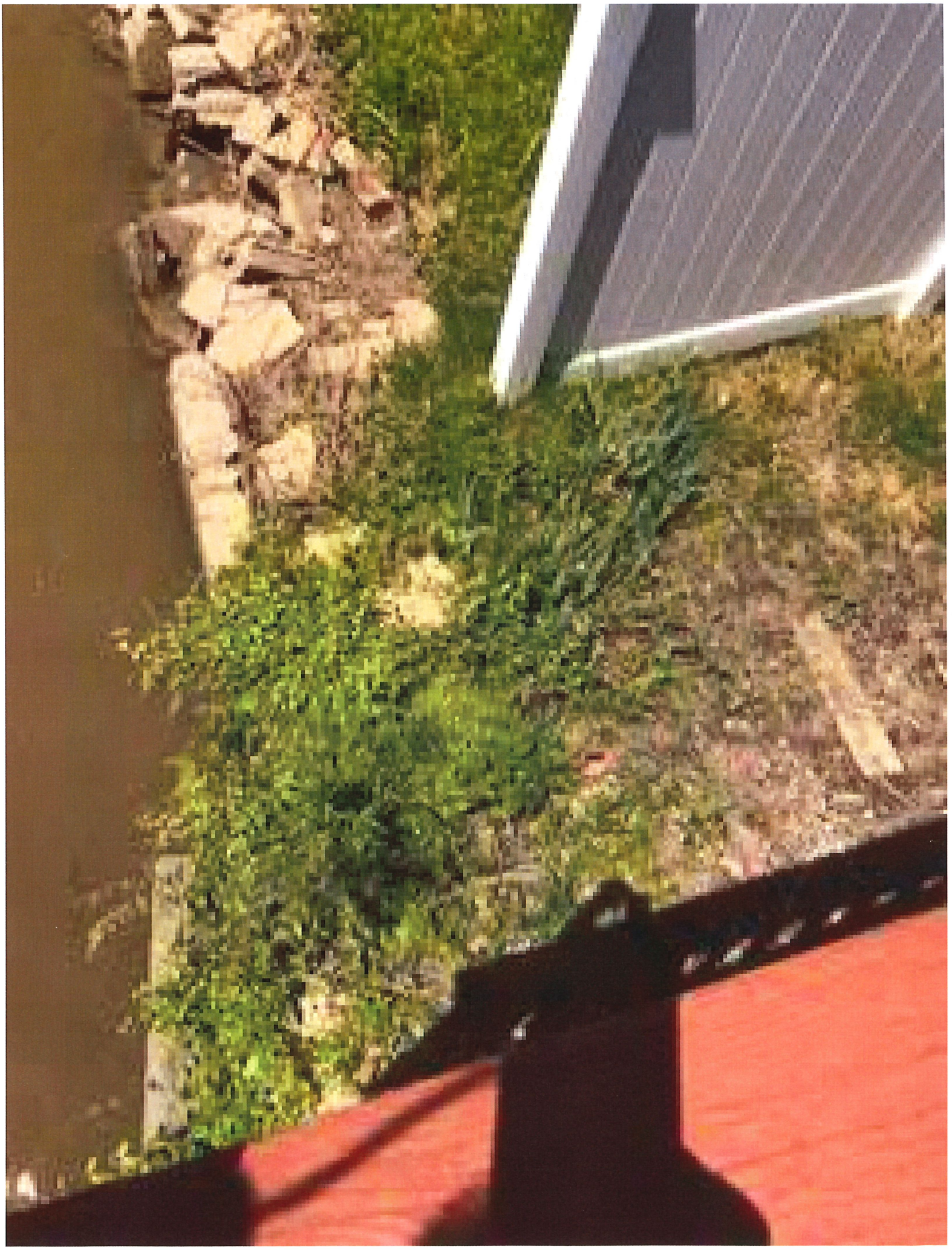
Case Number: 2021-0098-A
Property Address: 11307 BEACH RD.
Location: South side of Beach Road (40 ft.) 185 ft. South East of Opie Road (40 ft.)
Election District: 11 Council District: 6
Legal Owner: Antonio Gargiulo
Contract Purchaser: No Contract Purchaser was set.
VARIANCE: From the Baltimore County Zoning Regulations ("BCZR") §§ 400.1 and 427.1.B.1 and 2 to permit an existing 6 ft. rear yard fence (waterside) to remain located on the property line adjoining a neighboring front yard property line (waterside) in lieu of the required 10 ft. setback; to permit an existing accessory garage to remain in the front yard (street side) in lieu of the required rear yard placement.

Webex Hearing: Wednesday - 06/09/2021 @ 1:30 PM

THE HEARING IS SCHEDULED TO START AT 1:30 PM







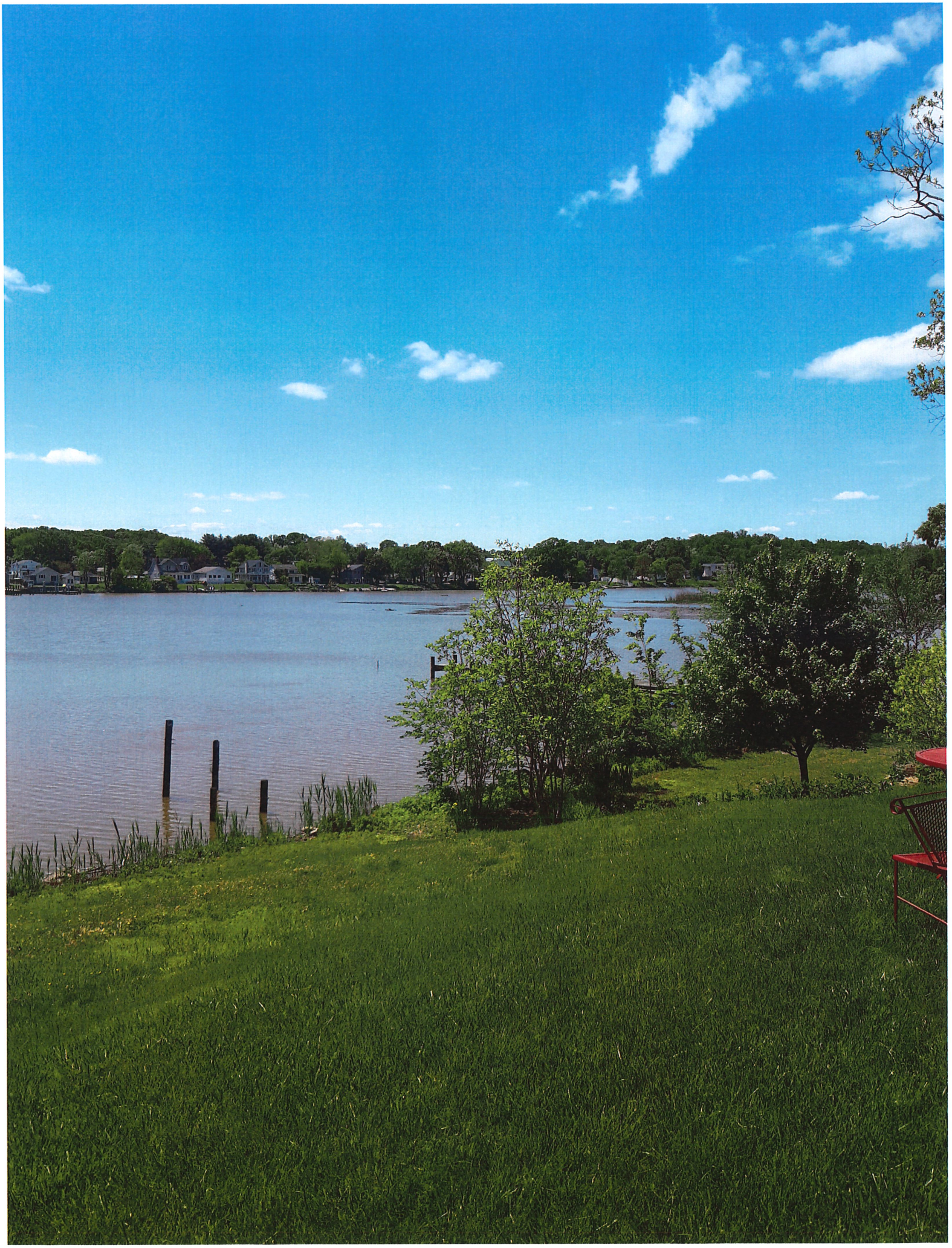
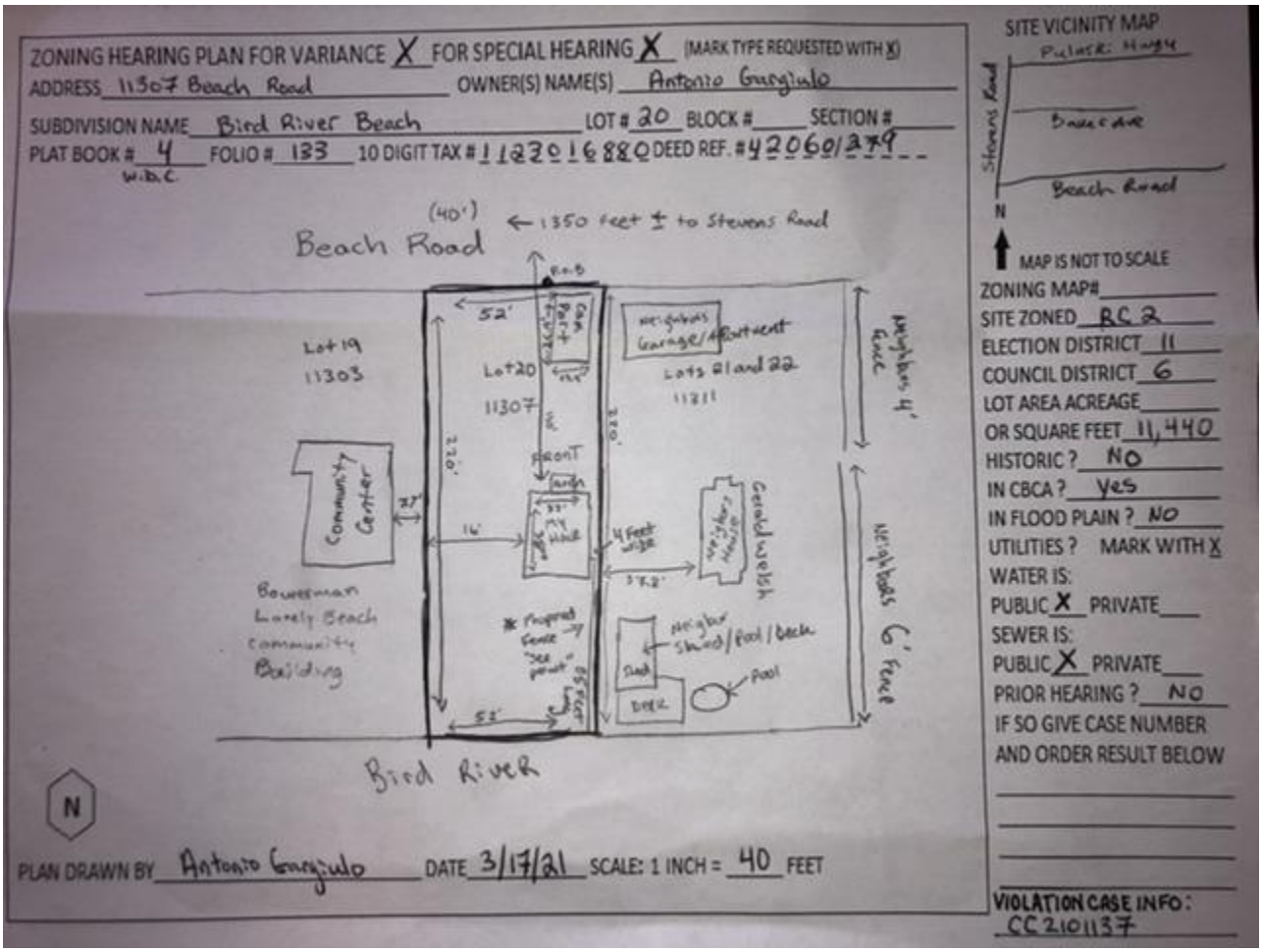


Exhibit 1 - Case No: 2021-0098-A 11307 Beach Road
Zoning Plan Site Drawing



Larger view:

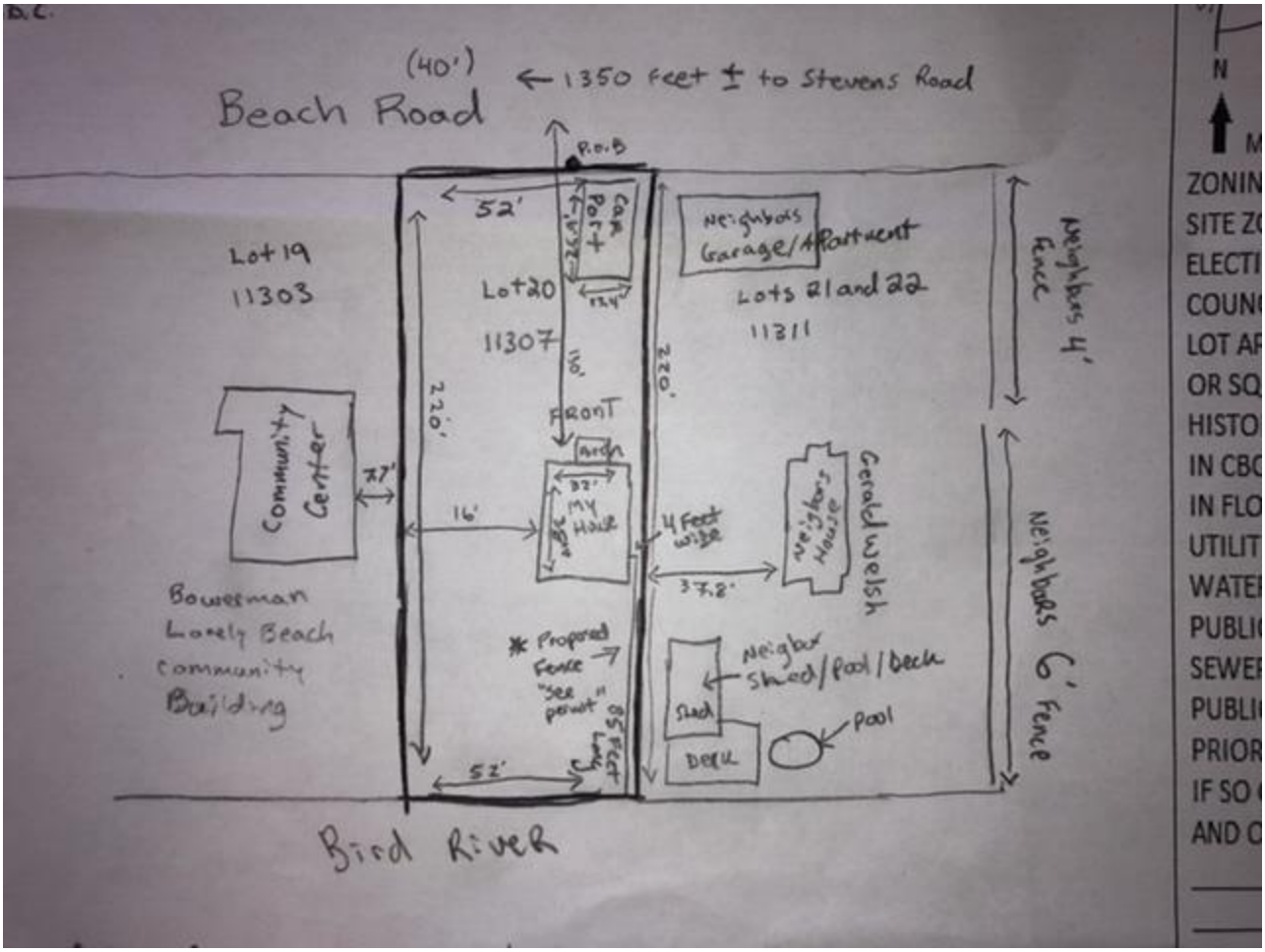

(40')
← 1350 feet ± to Stevens Road
Beach Road
P.O.B
52'
Car Port
Neighbors Garage/Apartment
Lots 21 and 22
11311
Neighbors 4' Fence
Lot 19
11303
Lot 20
11307
16'
220'
FRONT
Arch
My House
Community Center
77'
16'
4 Feet wide
37.8'
Gerald Welsh
Neighbors House
Bowerman Lonely Beach Community Building
* Proposed Fence "See permit"
Neighbor Shed/Pool/Deck
Shed
Deck
Pool
65 Feet
52'
Neighbors 6' Fence
Bird River

Exhibit 3 - Case No: 2021-0098-A 11307 Beach Road

Pictures show what I consider “Front Yard” which is street side. This is my neighbor’s yard, who filed the complaint, he has a four foot fence around the entire yard that is “street side”. No houses have a 6 foot fence on the street side of houses. Precedent is that the street side of yard is our homes “Front Yards”.

Exhibit 4 - Case No: 2021-0098-A 11307 Beach Road
Picture Shows neighbors water front side of yard has a 6 foot fence running the entire length of yard.

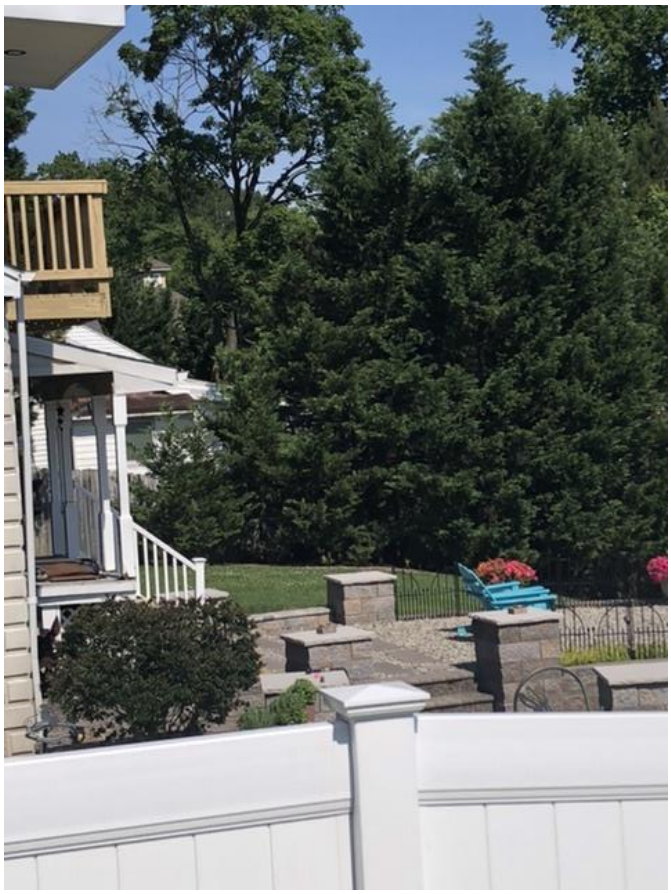


Exhibit 4 - Case No: 2021-0098-A 11307 Beach Road
Picture Shows neighbors water front side of yard has a 6 foot fence running the entire length of yard.

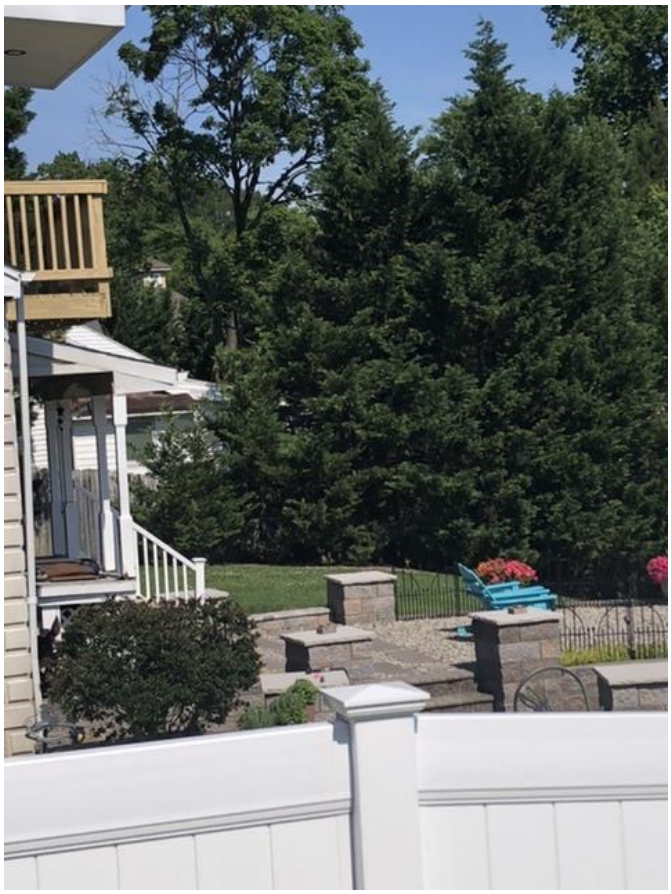


Exhibit 5 - Case No: 2021-0098-A 11307 Beach Road

Pictures shows my fence does not block neighbors view, neighbor's water front structures are ALL taller than 6 feet.

Exhibit 5 - Case No: 2021-0098-A 11307 Beach Road

Pictures shows my fence does not block neighbors view, neighbor's water front structures are ALL taller than 6 feet.

Exhibit 6 - Case No: 2021-0098-A 11307 Beach Road

Pictures show neighbors 6 foot grass/bush clippings waste pile, fire hazard, which was one of the reasons I put up a fence. I do not want to look at his piles of grass/bush clippings and/or his dilapidated structures.

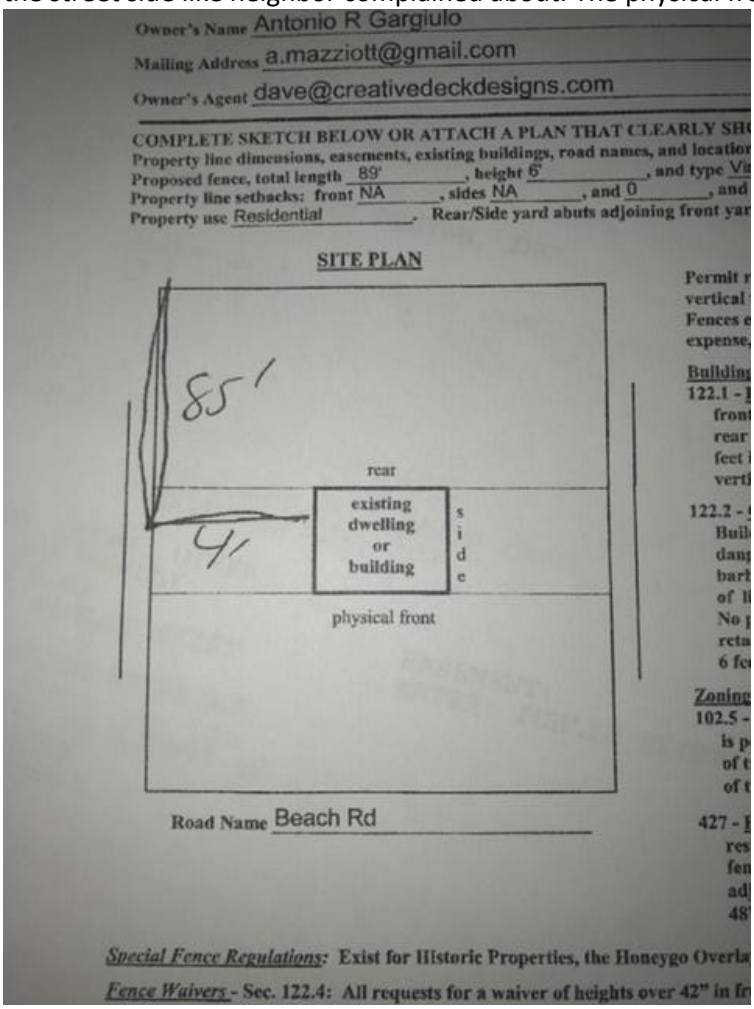
Exhibit 6 - Case No: 2021-0098-A 11307 Beach Road

Pictures show neighbors 6 foot grass/bush clippings waste pile, fire hazard, which was one of the reasons I put up a fence. I do not want to look at his piles of grass/bush clippings and/or his dilapidated structures.

Exhibit 7 - Case No: 2021-0098-A 11307 Beach Road
Picture shows fence height compared to neighbor's deck height.

Exhibit 8

Picture shows original permit that was granted, clearly shows that the fence was purposed to be put by water, not on the street side like neighbor complained about. The physical front of my house is clearly labeled which is the street side



Owner's Name Antonio R Gargiulo

Mailing Address a.mazziott@gmail.com

Owner's Agent dave@creativedeckdesigns.com

COMPLETE SKETCH BELOW OR ATTACH A PLAN THAT CLEARLY SH

Property line dimensions, easements, existing buildings, road names, and locatio

Proposed fence, total length 89', height 6', and type Vi

Property line setbacks: front NA, sides NA, and 0, and

Property use Residential. Rear/Side yard abuts adjoining front ya

SITE PLAN

Road Name Beach Rd

Permit r
vertical
Fences e
expense.

Buildin
122.1 -
fron
rear
feet
verti

122.2 -
Buil
dam
bark
of l
No
reta
6 fe

Zoning
102.5 -
is p
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of t

427 -
res
fen
ad
48

Special Fence Regulations: Exist for Historic Properties, the Honeygo Overla

Fence Waivers - Sec. 122.4: All requests for a waiver of heights over 42" in fr

Make checks payable to Baltimore County, Maryland --- PERMIT FEES ARE NON-REFUNDABLE

Tax Account # 1123016880 Zone RC 2

Type or print in ink:

Work Site Address 11307 Beach Rd Election District 11-024

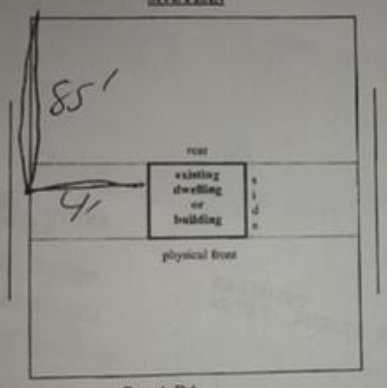
Owner's Name Antonio R Gargiulo Phone No. 410-322-3875

Mailing Address a.mazziott@gmail.com

Owner's Agent dave@creativedeckdesigns.com Phone No. 443-224-5399

COMPLETE SKETCH BELOW OR ATTACH A PLAN THAT CLEARLY SHOWS: Corner Lot: Yes ☐ No ☐
Property line dimensions, easements, existing buildings, road names, and location of alleys. Historic District: Yes ☐ No ☐
Proposed fence, total length 89', height 6', and type Vinyl Privacy.
Property line setbacks: front NA, sides NA, and 0, and rear NA.
Property use Residential. Rear/Side yard abuts adjoining front yard: Yes ☐ No ☑

SITE PLAN



Road Name Beach Rd

FENCE REGULATIONS

Permit required for fences over 42 inches high (measured vertical to ground, even if fence is placed on top of wall). Fences erected within easement must be removed at owner's expense, if required.

Building Code, Part 122:

122.1 - Residential Fences -- Maximum height of 42 inches in front yard as determined by BCZR and 6 feet in side and rear yards at the property line. Maximum height of 10 feet in side and rear yards, provided set back 2 feet for vertical foot over 6 feet.

122.2 - Commercial Fences -- Maximum height of 12 feet. Building's Engineer may approve higher fence for dangerous, hazardous, or athletic field. Electric and barbed wire fences are only permitted for the retention of livestock and when not a safety hazard to the public. No pointed projections less than 4 feet high. Barbed wire retarding material may be on top of fence that is at least 6 feet, 9 inches high.

Zoning Code (BCZR) (access easements cannot be fenced)

103.5 - Corner Lot -- No fence or other obstruction to vision is permitted higher than 3 feet within 25 feet of a corner of two streets, 15 feet of a street and alley, and 10 feet of two alleys.

427 - Residential Fences in side or rear yard which adjoins residential front yard (setback and maximum height) - fence may not exceed 42" if situated within 10 feet of the adjoining front yard property line, with the exception of 48" pool fence and houses more than 200 feet apart.

Special Fence Regulations: Exist for Historic Properties, the Honeygo Overlay District, RC5, RC6, RC7 and RC8 Zones.

Fence Waivers - Sec. 122.4: All requests for a waiver of heights over 42" in front yard must be submitted to the Building Engineer. Waiver requests require posting and may require a public hearing if height is contested. Contested front yard waiver hearings are held before the Building Engineer. If a zoning variance and fence waiver are required, both hearings shall be before the Zoning Commissioner.

County Code, Section 18-2-601, Obstruction of Drivers' View at Intersection.
Corner Lots: The County Code does not allow a fence on a corner lot to obstruct the vision of drivers as they reach an intersection. If a sight problem is noted later, the property owner will be required to move the fence. To be safe, contact Traffic Engineering at 410-887-3554 for a free site inspection before you build the fence. An issued permit does NOT certify that the fence will be in compliance.

OWNER/AGENT CERTIFICATION

I have carefully read the above regulations and hereby certify that the proposed fence will be located on private property, and NOT within the 100-year floodplain, will not violate the codes, and that the information supplied is true, complete, and correct.

Applicant Signature — 9/1/2020 Date — Dave Stewart-Craig Print or Type Name

PAI APPROVAL (FOR FENCE ONLY) Authority under Section 500.4, BCZR

Approval Signature — Print Initials — Date

KEEP FOR YOUR PERMANENT RECORDS

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS, APPROVALS, AND INSPECTIONS

Michael D. Mallinoff, Director

E. John Bryan, Building Engineer

BUILDING PERMIT

PERMIT #: B974408 CONTROL #: F-FP DIST: 11 PREC: 01
DATE ISSUED: 10/15/2020 TAX ACCOUNT #: 1123016880 CLASS: 34

PLANS: CONST 0 PLOT 2 R PLAT 0 DATA 0 ELEC PLUM
LOCATION: 11307 BEACH RD
SUBDIVISION: BIRD RIVER BEACH

OWNERS INFORMATION
NAME: GARGIULO ANTONIO R
ADDR: 11307 BEACH RD,WHITE MARSH MD 21162-1605

TENANT:
CONTR: CREATIVE DECK DESIGN, INC.
ENGNR:
SELLR:
WORK: ERECT 89LF OF 6'HIGH VINYL PRIVACY FENCE ON
LFT SIDE & REAR OF PROP. FENCE IN EASEMENT
WILL BE REMOVED @ OWNERS' EXPENSE. IN BALTO
CO. F.P.ZONE AE 8.5/FEMA ZONE AE7 PER RHURLEY

BLDG. CODE:
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD W/FENCE
EXISTING USE: SFD

TYPE OF IMPRV: OTHER
USE: ONE FAMILY
FOUNDATION: BASEMENT:
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS
SIZE: 0050.10 X 0000.00
FRONT STREET:
SIDE STREET:
FRONT SETB:
SIDE SETB: 1"/
SIDE STR SETB:
REAR SETB: 1"

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES

111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204

Exhibit 10 - Case No: 2021-0098-A 11307 Beach Road

Street Side – Day I bought home 10/2019; Front yard already established, front porch on street side. House is facing the street.

Exhibit 11 - Case No: 2021-0098-A 11307 Beach Road
Street Side – Current day, front porch still on street side. House is facing the street. I consider the street side my “Front Yard”.

Exhibit 12 - Case No: 2021-0098-A 11307 Beach Road
Street Side – Day I bought home 10/2019; Garage/Carport already existed

Exhibit 13 - Case No: 2021-0098-A 11307 Beach Road
Street Side – Current day, neighbor lied to zoning office and said I built a new garage. I have not, the original garage/car port is still there.

Exhibit 9 - Case No: 2021-0098-A 11307 Beach Road

Pictures show aerial shot of water front side. House on left is mine, prior to new siding/roof/fence. House on right is neighbors; multiple structures, deck, hot tub, pool, fire pit (all items typically found in a back yard).

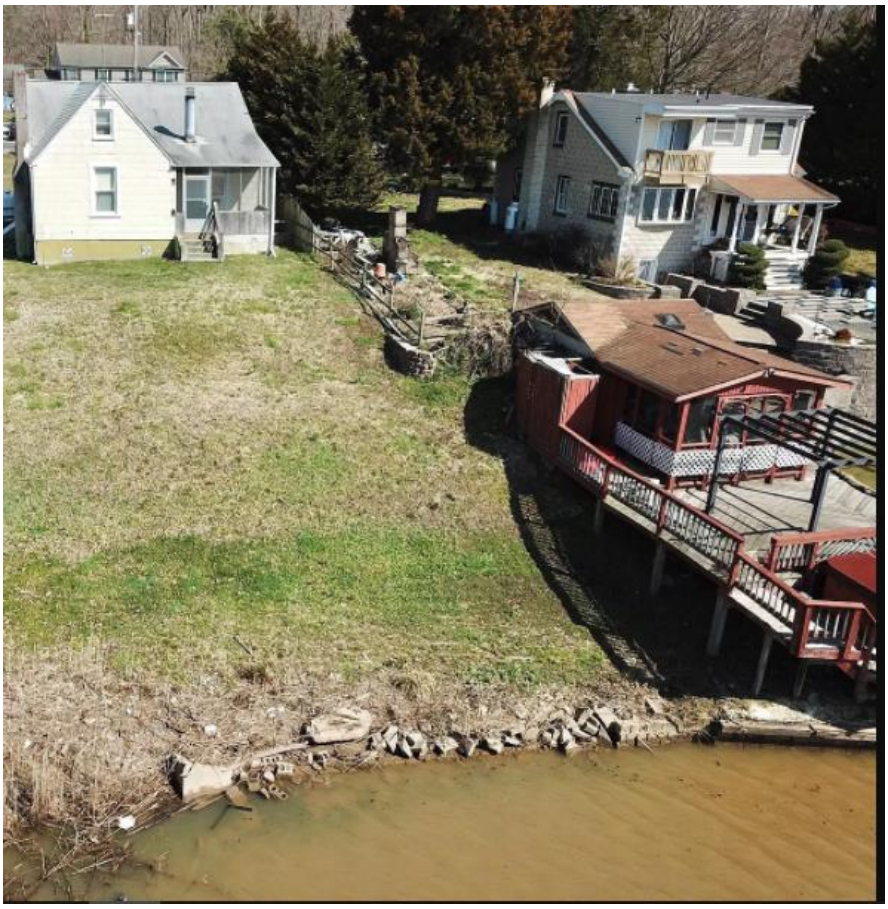


Exhibit 2 - Case No: 2021-0098-A 11307 Beach Road

Picture shows what I consider my “Front Yard” which is street side, I have a four foot fence. No houses have a 6 foot fence on the street side of houses. Precedent is that the street side of yard is our homes “Front Yards”.

Jeffrey N Perlow

From: Cheryl Welsh <cherylawelsh@aol.com>
Sent: Tuesday, June 8, 2021 11:52 AM
To: Administrative Hearings
Subject: 11307 beach rd variance

Whether looking out our kitchen window or sitting in our screen house the fence obstruct our water front view

Sent from my iPhone

Jeffrey N Perlow

From: Cheryl Welsh <cherylawelsh@aol.com>
Sent: Tuesday, June 8, 2021 11:53 AM
To: Administrative Hearings
Subject: 11307 beach rd variance

The fence creates a large area that no one can get to, to tend to it.

Sent from my iPhone

Jeffrey N Perlow

From: Cheryl Welsh <cherylawelsh@aol.com>
Sent: Tuesday, June 8, 2021 11:57 AM
To: Administrative Hearings
Subject: 11307 beach rd variance

Our Front and back adult swings view the fence not the water

Sent from my iPhone

Jeffrey N Perlow

From: Cheryl Welsh <cherylawelsh@aol.com>
Sent: Tuesday, June 8, 2021 10:27 AM
To: Administrative Hearings
Subject: 11307 variance hearing

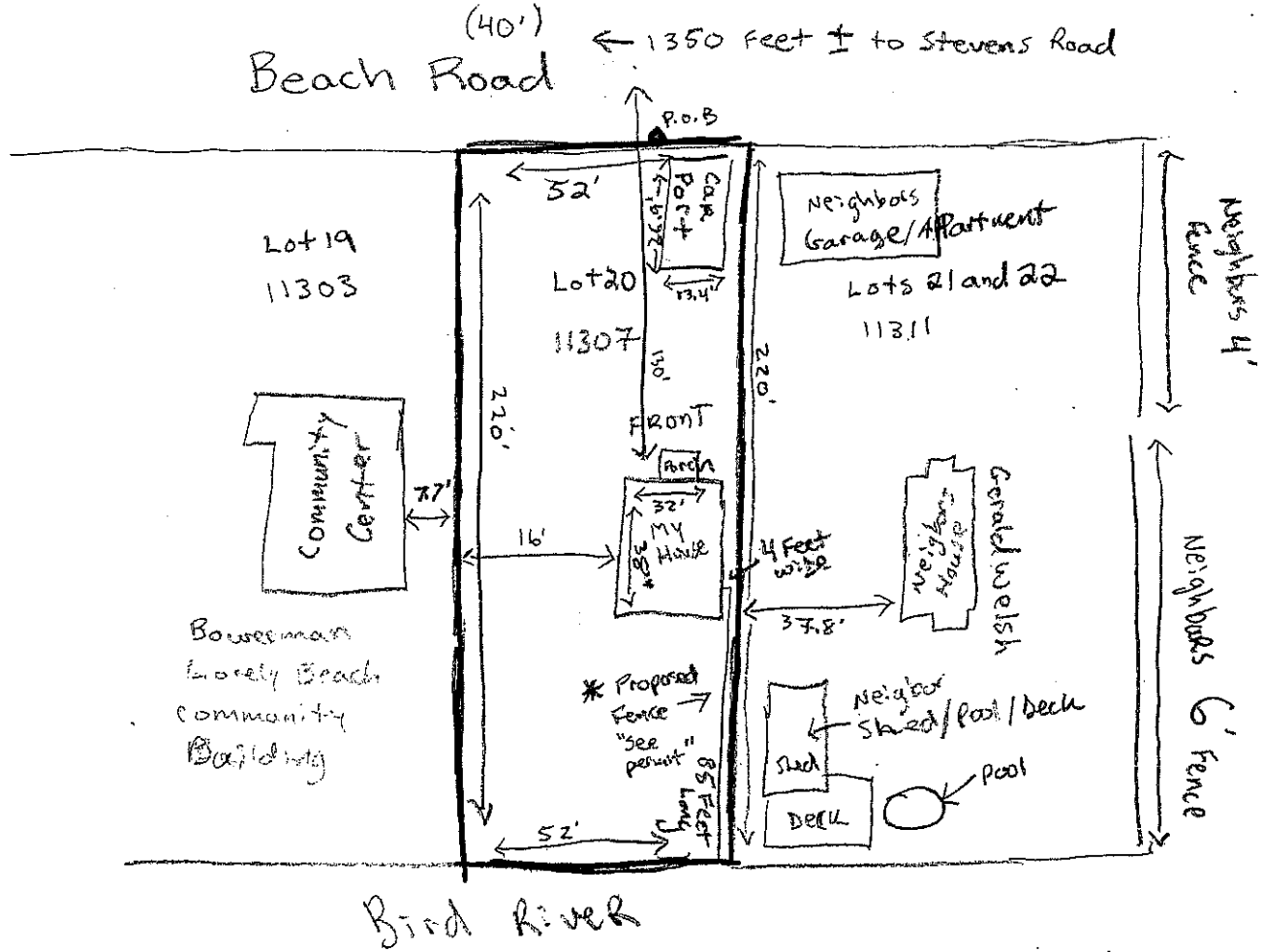
Sent from my iPhone

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

ADDRESS 11307 Beach Road OWNER(S) NAME(S) Antonio Gargiulo

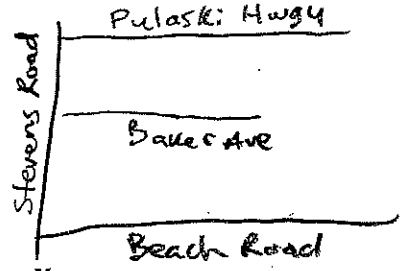
SUBDIVISION NAME Bird River Beach LOT # 20 BLOCK # SECTION #

PLAT BOOK # 4 W.B.C. FOLIO # 133 10 DIGIT TAX # 1123016880 DEED REF. # 42060/279



PLAN DRAWN BY Antonio Gargiulo DATE 3/17/21 SCALE: 1 INCH = 40 FEET

SITE VICINITY MAP



MAP IS NOT TO SCALE

ZONING MAP# 073-A3

SITE ZONED RC 2

ELECTION DISTRICT 11

COUNCIL DISTRICT 6

LOT AREA ACREAGE

OR SQUARE FEET 11,440

HISTORIC ? No

IN CBCA ? Yes

IN FLOOD PLAIN ? NO

UTILITIES ? MARK WITH X

WATER IS:

PUBLIC X PRIVATE

SEWER IS:

PUBLIC X PRIVATE

PRIOR HEARING ? NO

IF SO GIVE CASE NUMBER AND ORDER RESULT BELOW

VIOLATION CASE INFO: CC2101137

2021-0098-A