Exhibit #1
Case No: 2022-0077-A

SENT VIA EMAIL
Paul M. Mayhew, Managing Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Dear Judge Mayhew:

We are responding to the April 8, 2022 letter from the Office of People's Counsel, objecting to the hearing that is scheduled for May 13, 2022. The People's Counsel urged denial of a hearing altogether, citing 11 cases in which variances were denied, which they claim were "analogous" to this case. We also address the letter submitted by the Department of Planning, stating that that office does not oppose granting a variance for up to three utility trailers on our property.

With respect to the letter submitted by the People's Counsel, we respectfully submit that not a single case cited in their letter is relevant to the issue raised in our petition. First, every case cited therein involved an appeal of a decision denying a petition for a variance; whereas our case involves first level review on the merits of the citation - not an appeal of that review. According to the People's Counsel, we would have no right at all to any review of the propriety of the citation issued, depriving us of all due process in this matter. Second, the cases cited in their letter make clear that hearings were granted at the initial review level, where the parties could call witnesses and present evidence, and that - based on the record created at this stage of the proceedings - the appellate body reviewed the decisions *de novo*. According to the People's Counsel, we would have no right to create a record for review. Third, nearly all

of the case cited by the People's Counsel involved a petition to park a commercial vehicle on a residential lot. This is our home and the utility trailers are not for commercial purposes.

Finally, and perhaps most significantly, most cases cited by the People's Counsel involved a clear violation of the zoning rules, and there was no question of statutory interpretation. However, when, as here, the issue was whether the citation was issued contrary to the zoning regulations, that legal question was properly subject to review. The People's citation of *In the Matter of the Application of Roger Brent Brown* involved such a question, and thus supports our request for a hearing. The People's Counsel included *Brown* without any effort to distinguish it from our case, or explain why that holding does not support our position.

Brown involved the statutory definition of a motorhome, and whether the Commissioner properly interpreted that term in restricting the number of such vehicles on the petitioner's property. In our case, we contend that the inspector improperly included a utility trailer within the definition of "recreational vehicle." Thus, our case, like *Brown*, alleges an improper interpretation and application of a statutory definition.

Not a single other case cited by the People's Counsel involved such a question of law. Thus, it is clear that when a petition involves a question of a statutory interpretation, the petitioner is entitled to review of that legal question by a higher authority. It is clear from all of the cases cited by the People's Counsel that we are entitled to a hearing to resolve all factual and legal questions.

As noted in our petition, we have several utility trailers that we use to transport firewood, snowmobiles, and all-terrain vehicles. We respectfully disagree with the Inspector's position that these utility trailers are "recreational vehicles." B.C.Z.R. Article 1, §101 includes the following within the regulation concerning recreational vehicles: motorhome; travel trailer; fifth-wheel trailer; truck camper; camping trailer; boat. All of these vehicles are camping/travel vehicles (excepting the boat), within which one may sleep on a temporary basis while traveling. A quick internet search of each of these terms confirms that the Inspector's interpretation of a "recreational" vehicle was overboard and incorrect. *See, e.g.*, https://www.thorindustries.com/rv-types/fifth-wheel-shop; https://www.thorindustries.com/rv-types/travel-trailer. Not a single one of these recreational vehicles included in the definition are utility trailers similar to the ones at issue in this case. We obviously do not sleep or reside in, even temporarily, a utility trailer.

Moreover, the term "recreational vehicle" is defined by Baltimore County Flood Plain regulations to mean "a vehicle built on a single chassis which is 400 square feet or less at the longest horizontal projection, self propelled or towable, and designed primarily for temporary living while traveling or camping." § 32-8-101. As noted, the utility trailers which are the subject of the instant citation, are designed and used exclusively for transporting snowmobiles and firewood, not for "temporary living while traveling or camping." One could not, under any circumstances, live in or on a utility trailer. The Inspector's attempt to classify these utility trailers as "recreational vehicles"

simply fails as a matter of law and fact, and the People's Counsel's efforts to defend such classification are misplaced.

We reviewed each of the cases cited by the People's Counsel, and fail to see any relevance, except for the afore-noted *Brown* decision which held in our favor. The People's reliance on such decisions, and their claim that they are analogous, is without merit. Below we note how each case is materially different from ours.

1. ATKINS FAMILY LIVING TRUST (DENNIS & CAROL ATKINS) - The question in this case was whether an RV could be parked close to a boundary line, and whether it was appropriate to grant a variance. There was no question that the vehicle was an RV, and that parking it near the boundary line violated the zoning laws.

2. ROBERT & ISABEL BA YNES SR. - This case involved *commercial* vehicles and whether parking them on the property created a Class II Trucking Facility. The case involved a clear violation of the zoning rules and no question of statutory interpretation.

3. BONNER-TOPPA TIC PETITIONER - The case involved a *commercial* towing operation. The question was whether there had been a change in circumstances warranting modification of a prior order.

4. KENNETH T. BOSLEY, ET UX - This case involved *commercial* vehicles. Review was granted but petition denied on the merits based on testimony *during the hearing below*.

5. THE APPLICATION OF ELLA L. & JOHN E. BROWN - The petition for a special hearing was granted. This case is of no relevance here, and supports our request for a hearing.

6. IN THE MATTER OF JOYCE GRAY - This case involved appeal of the Zoning Commission's approval, *after a hearing*, of a non-conforming use of a property. The Commissioner's approval was affirmed. This case has no relevance here.

7. IN THE MATTER OF THE APPLICATION OF MARK D. LOY - The petitioner sought to park *commercial* vehicles on his residential property. Neighbors objected. There was no question of statutory interpretation. *After a full public hearing*, the Board found there was "a direct violation of BCZR § 431," and that parking the vehicles would have a negative impact on the property values of adjoining property owners. The case is irrelevant to the question of statutory interpretation raised in our case.

8. IN THE MATTER OF THE APPLICATION OF OWEN T. MEADOWS - The question in this case was whether a *commercial* dump truck could be parked on residential property. There was no question that it was a commercial dump truck and no question of statutory interpretation.

9. IN THE MATTER OF THE APPLICATION OF FRANK D. REITTERER AND FRANCES M. LEONARD - This case involved an appeal of a decision granting a variance allowing the parking of a *commercial* vehicle on residential property. *A full hearing had been granted below*, and the appellate court considered the decision to grant a variance *de novo*, where both parties were given a chance to brief and argue the issue. There was no issue of statutory interpretation. The case highlights the petitioner's right to a hearing and to full review - *de novo* - on appeal. Here, the People's Counsel would deny us these due process rights.

10. IN THE MATTER OF THE APPLICATION OF JAKE RUBINSTEIN - The Petitioner was granted a full hearing on his petition for a variance allowing him to park a *commercial* vehicle at his home. During the hearing, he was allowed to testify and call witnesses. He then appealed the decision denying his petition, and the appellate court affirmed after considering the testimony presented at the hearing.

We respectfully submit that the request by the Petitioner's Counsel to deny us a hearing, and to deny us review of the Inspector's decision, should be denied. Although we asked for a variance in our petition, we submit that in fact the utility trailers are not recreational vehicles within the statutory definition, and that the Inspector exceeded his authority in issuing a Correction Notice. We submit that the term "recreational vehicle" is clearly defined and does not include utility vehicles. As in the *Brown* decision, the restriction should be lifted. At a minimum, there should be briefing and argument on the legal issue presented, and testimony on the factual issue presented. That is clear from the very cases included in the People's Counsel's letter.

With respect to the letter submitted by the Department of Planning, dated April 9, 2022, we appreciate that that office recommends granting our petition. However, the letter also states: "It should be noted that the number of recreational vehicles to be stored on the lot in the future should be no more than 3." As discussed above, we have found no regulation concerning the storage of utility trailers on a private property, and do not believe they are governed by the cited regulations, which only address recreational vehicles. Thus, we are unaware of any authority of the Planning Department to state that "in the future should be no more than 3" recreational vehicles. We currently have no such vehicles and do not intend to have any in the future.

Finally, as to the location of storing our utility trailers, we have spoken with our direct neighbors, Kristian and Doreen Pederson, and they do not object to our parking of the trailers on our shared boundary lines.

In light of the above, we respectfully submit that the scheduled hearing should take place, and that we be allowed to present evidence of the nature of the trailers to establish that as a matter of law, they are not “recreational vehicles,” or, alternatively, to demonstrate why a variance would be appropriate.

Respectfully submitted,

Daniel J. Salak