IN THE MATTER OF ROCKAWAY BEACH IMPROVEMENT ASSOCIATION, ET AL., PETITIONERS FOR SPECIAL HEARING ON THE PROPERTY KNOWN AS 717 ROCKAWAY BEACH AVENUE WILLIAM AND THERESA TUNNEY, LEGAL OWNERS 8th ELECTION DISTRICT 3RD COUNCIL DISTRICT	* * * * * * *	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY Case No.: 22-151-SPH

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OPINION

This case comes to the Board of Appeals of Baltimore County ("Board") as the result of a Petition for Special Hearing filed by Rockaway Beach Improvement Association ("RBIA"), Kevin McDonough, President; Ruth Nuth, Marcyanna and William Siegman, Scott Huffine, Kristin Miller, and JoAnn Wieland ("Petitioners"). The Petition requested a special hearing to determine whether the construction of a deck on the waterside at 717 Rockaway Beach Avenue ("subject property" or "Tunney property" or "717") violates a zoning order issued by Zoning Commissioner William J. Wiseman on June 22, 2006, in Baltimore County Zoning Case No. 2006-0501-SPHA ("the Wiseman order"). The current owners of the subject property are William and Theresa Tunney (the "owners" or the "Tunneys"). The individual petitioners are owners of nearby properties on and around Rockaway Beach Avenue. RBIA is the local community association.

The matter was first heard before Administrative Law Judge Paul M. Mayhew, who by an Order dated October 14, 2022, found that the deck, which the current owners had constructed on the subject property, violated the Wiseman order. The owners noted a timely appeal to the Board.

At the request of Petitioners, the Board held an in person hearing on May 10, 2023. The Petitioners appeared *pro se* though their spokesperson was Kevin McDonough. The Owners were represented by Jennifer R. Busse, Esquire of Rosenberg Martin Greenberg, LLP. The Office of People's Counsel for Baltimore County also entered the case. Peter M. Zimmerman, Esquire represented that Office. Following the hearing, the parties submitted memoranda. The Board held a remote public deliberation using Webex on July 18, 2023. In its deliberation, two Board members found that the deck violated the Wiseman order. One Board member dissented.

FACTUAL BACKGROUND

The background of this matter is not in dispute. The subject property is approximately 9,000 sq. ft. It is a waterfront lot at the confluence of Sue Creek and Middle River. It is zoned DR 3.5. The house itself is 4,580 sq. ft., which is much larger than any of the surrounding homes.[1] It was constructed in 2006. The construction of the house was the source of a great deal of neighborhood controversy. The house was to replace a small summer cottage on the lot. The owners were William and Maryann Rush. The community fought the construction which required variances in order to be built. In large measure, the basis of the opposition was that the house was out of proportion given the rest of the neighborhood. In addition, there was concern expressed that the house would obstruct the water view of the neighboring properties. The house was approved with certain variance relief for setbacks by Zoning Commissioner Wiseman in Case No. 05-579-A. (People's Counsel Exhibit 1B.)[2]

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[1] According to the public records at the State Department of Assessments and Taxation (SDAT), Marcyanna Siegman's property at 715 Rockaway Beach Avenue is 2117 sq. ft. and the McDonough home at 719 Rockaway Beach is 1270 sq, ft.

[2] Ruth Nuth, one of the Protestants, lived at 719 Rockaway Beach Avenue. Along with side setbacks, she was concerned about "the height and configuration" of this large house and "what impact the actual house would have on [her] property." 2005 Wiseman opinion at p. 3. This property was recently purchased by the McDonoughs.

As the house was nearing completion, it was determined that the survey that had been used to request the original variance was incorrect, and the house, as built, required an additional variance because the house was misplaced on the lot. This discovery caused additional discord and resulted in Case No. 06-501-SPHA. Ultimately, the Protestants, including the RBIA, agreed not to contest the corrected variance which, had they been successful, would have possibly required partial demolition of the already constructed house. In exchange for not contesting the new variance, the RBIA and the other Protestants sought guarantees about future development of this already outsized home not impacting the water views of the adjoining neighbors. Petitioners Exhibit 3 is an email from Robert Rush to Commissioner Wiseman indicating that the Rushes would relinquish development rights on the water side in order to protect the neighbors' water view. As Petitioners note, part of what the Rushes gave up was the right to construct a raised bulkhead that would obstruct the neighbors' view. This condition indicates that the intention of the agreement was to give up development rights for all improvements, not just those associated with or attached to the house. Petitioners' Memorandum at p. 3. Kevin McDonough, the present President of the RBIA, testified that the limitation was essential to the RBIA's concession in 06-501-A. Marcyanna Siegman, who is 78 years old, has lived at 715 Rockaway Beach for almost 25 years. Her parents owned 715 Rockaway Beach, and much of her early life was spent there. She had been a Protestant in the two earlier cases. She testified directly that the Protestants' settlement of the 2006 case was directly contingent on the restriction of **all** future development on the water side of the Rush/Tunney property.

Based on these circumstances, Commissioner Wiseman permitted the placement of the new house. (People's Counsel Ex. 1A.) At the same time, he imposed conditions, one of which is the central issue of this matter:

> 5) There shall be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s).

The RBIA and the other interested parties believed that that limitation precluded **all** future development on the waterfront side. The Rushes reconciled with the neighbors. In 2008, the Rushes sold the property to SFL, L.L.C., which, in a no consideration deed, transferred the property to Paul and Carin Smith in 2019. The Smiths had been living at the address under the corporate ownership from 2008 until they sold the property to the present owners, William and Theresa Tunney, in 2021. The Rushes and then the Smiths all lived peaceably with their neighbors and made no effort to develop the water side of 717 Rockaway Beach Avenue.

In the spring of 2022, the Tunneys sought and received a building permit to construct a deck extending from their house into the waterfront yard.[3] The testimony established that this deck extended out from the house toward the water and is between 12 and 13 inches above the ground underneath. There is no guard rail. It is essentially a raised platform. There was testimony from adjoining neighbors that the deck itself as well as activity on the deck would tend to obstruct the neighbors' water view more than activity on the sloping lawn. There was general acknowledgement that a guard rail would obstruct.[4] The Protestants' and People's Counsel's position was, first, that the deck was an obstruction *per se*. In addition, they argued that it was

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[3] The parties agreed and stipulated that the issuance of the building permit was **not** relevant to the question of whether the deck was permitted or precluded under the 2006 zoning order. Accordingly, the parties did not argue to the Board that the building permit was evidence of anything, and given the stipulation, the parties are foreclosed from making such an argument.

[4] It appears as though there is no building requirement that a deck below 30 inches in height be required to have a guard rail. Nonetheless, it would seem that as a matter of common sense it is easily foreseeable that a visitor or guest could unwittingly step back off the platform. Though it is the proverbial accident waiting to happen, the Board did not consider any safety issues in reaching its decision. There is also an aesthetic question about how a jutting raised platform appears. Again, though, this was not considered by the Board in reaching its decision except to say that sprucing up the deck with planter boxes or something akin thereto, both as a *de facto* rail and as attractive accoutrements, is easily foreseeable. *See infra* at p. 9-11.

irrational to analyze the deck without reference to the **use** of the deck. The deck would raise any waterside activity an extra 12-13" above ground level, and elevating the activity would increase its interference with the water view. The deck would undoubtedly have chairs, tables, or other such items. While those items could be placed on the grass yard, they are elevated by placement on the deck. That elevation, it was argued, would make the obstructive activity that otherwise had to be tolerated *more* obstructive.[5] Finally, the deck would lead to more use than would be associated with a grass lawn. The Petitioners also presented evidence that 717 has a higher elevation than its neighbor at 719. Because of the difference in elevation, the activity on the deck is that much more obnoxious. The Respondents' position, however, was that one could **only** look at the deck itself without any regard to activity on the deck to determine whether Condition 5 was satisfied. In other words, was the bare raised platform obstructive without regard to any activity that would occur on it or any components (like chairs, tables, grills, etc.) that may be placed on it. As a corollary, Respondents argued that elevating the activity otherwise permitted on the lawn made no meaningful difference. Further factual matters will be discussed as needed in the context of the issues discussed below.

ANALYSIS

A special hearing is effectively a declaratory judgment proceeding to determine issues of zoning law. *Antwerpen v. Baltimore County* 163 Md. App. 194, 209 (2005). It is the proper vehicle to bring this matter first before the ALJ and then this Board for a decision. The Petition in this matter seeks an answer to one question: whether the Tunneys' deck as constructed violates Commissioner Wiseman's 2006 order. The resolution of the question involves a host of interlocking and overlapping issues. However, in summary, the Board's ruling is as follows:

[5] Petitioners' Exhibit 10 are photographs of the deck after construction. Those photos show chairs and other patio items.

1. If Commissioner Wiseman's order requires an assessment of the deck without regard to its use, we find as a factual matter that the deck tends to impair the water view of the adjoining neighbors;
2. If Commissioner Wiseman's order permits an assessment that considers the use to which the deck would be put, the Board finds as a factual matter that the deck tends to impair the water view of the adjoining neighbors; and
3. The Board finds, alternatively, that Commissioner Wiseman's order prohibits any meaningful development on the water side of the Tunney property, and consequently, the deck is prohibited *per se*.

I. WHAT DOES "OBSTRUCT" MEAN?

As a first step, it is necessary to define the word "obstruct" in Condition 5. "Obstruct" is not defined in the Baltimore County Code (BCC) or the Baltimore County Zoning Regulations (BCZR). For zoning matters, BCZR § 101.1 directs that one must look to Webster's Third New International Dictionary to determine the meaning of undefined terms. Webster's generally defines "obstruct" as impede, retard, hinder, detract from, interfere with, or place obstacles in the way of. "Obstruct", as recited in Webster's, is an active verb, and therefore, it is much broader in connotation than some of its noun variances like "an obstruction" or "an obstacle". The verb "obstruct" embraces tendencies toward something and is not limited in meaning to a fixed barrier. In effect, then, "obstruct" for Condition 5 purposes means something which tends to impede or impair the water view for the adjoining property owners.

II. THE DECK OBSTRUCTS THE WATER VIEWS OF THE ADJOINING PROPERTY OWNERS.

The Respondents' position is that one can only look at the deck itself to determine whether it tends to obstruct the neighbors' water views. For reasons discussed below, this is a

problematic position to take. Nonetheless, even assuming this extreme position, the Petitioners satisfactorily demonstrated, as a factual matter, that the deck itself, without regard to any use, tends to obstruct the neighboring water views.

In support of this conclusion, there was considerable testimony from the Petitioners that the deck tended to impede the neighbors' views. Both Kevin McDonough and Marcyanna Seigman testified that the deck was the most prominent and eye-catching feature, and it altered the vista from when the yard had been all grass. Mr. McDonough and Ms. Siegman have lived in the area for decades and over the years have viewed the relative perspective from the Tunney home and from the two adjoining properties. They are intimately familiar with how the entire panorama operates. This testimony was particularly credible because over the years Mr. McDonough and Ms. Siegman had often been to the Tunney property when owned by the Rushes and the Smiths. As a result, they had clear firsthand knowledge of the situation. Their assessment was corroborated by the photographs introduced as Petitioners Exhibit 10. These showed the completed deck from the vantage point of the adjoining properties. These photographs show the only perspective that ends up mattering – the view from the neighboring properties – and these photographs demonstrate that the deck tends to impair the neighbors' water view.

In this context, the relative elevations are also important. The Petitioners established that the Tunney property is on a higher grade than the adjoining property at 719. Thus, any addition to that elevation disparity is far more significant than if the grades were the same or if the Tunney property was lower. Petitioner's Exhibit 11, the site plan prepared by Brian Dietz, shows the bare deck at 13.76 feet above sea level. Given this elevation, the 13-inch deck is at least two and

possibly as much as three feet above the 719 property.[6] (*See also* Petitioners' Exhibits 9E-H which are photographs corroborating the elevation difference.) The elevation difference is meaningful, and as Petitioners note, the fact that the Tunney home already looms over its neighbors makes even small alterations significant.

While two witnesses called by the Respondents testified that the deck was not an obstruction, that testimony was much less probative. Brian Dietz, the surveyor who designed the deck, stated that it would not impede the view, though he conceded that he was at the site only once, prior to construction, and never attempted to assess the water view from the neighboring property. Arnold Jablon, called by Respondents, testified similarly. But as with Mr. Dietz, he had only visited the property once, and Mr. Jablon also had not had the benefit of examining the situation from the neighboring property and seeing the neighbors' literal vantage point.[7] Indeed, looking at the vistas from the neighboring properties is quite possibly an indispensable component of any acceptable opinion.[8]

Respondents also seem to suggest that any normal activity on the deck is irrelevant because the same activity could occur without limitation on the grass yard. Because people could sit on lawn chairs in the yard, so the argument goes, there is no basis to preclude that same activity when 13 inches higher. Of course, if the deck itself tends to impair the view, then the deck plus chairs, planters, and tables impedes the view that much more. Of particular interest is Petitioners'

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[6] As Petitioners note in their memorandum, Mr. Dietz testified that he later amended the site plan to reduce the elevation of the deck to exactly 13 feet. He did this without re-visiting the property and without taking actual measurements. The basis for this alteration is murky. (Petitioners' Memorandum at p. 4.)

[7] Mr. Dietz was qualified as an expert in zoning as it relates to waterfront property. Mr. Jablon also testified as an expert in zoning practices. Their zoning expertise, however, is not relevant to the commonsense assessment of the extent to which the deck obstructs a view from a neighboring property. The discussion *infra* at p. 16-17 is relevant here as well.

[8] Even Mr. Jablon conceded that the placement of a rail on the deck would obstruct the neighbors' views.

Exhibit 10, which is a series of photographs of the completed deck. Several of those photos show the deck with patio furniture placed there by the Tunneys. The extra height created by the deck, the difference in elevation, plus the added elements of tables, chairs, and other such items all combine to further impair the water view for the neighboring property owners.

For all of the reasons recited above, the Board Majority concludes as a factual matter, based on credible and probative testimony and exhibits and without serious contradiction, that the deck, as built and without regard to use, tends to obstruct the water view from the adjoining properties, and as such, violates Condition 5 of Commissioner Wiseman's 2006 order.

III. WHETHER THE DECK OBSTRUCTS THE WATER VIEW SHOULD TAKE INTO ACCOUNT THE USE OF THE DECK AND THE ACTIVITY WHICH WOULD OCCUR ON THE DECK.

It is quite unrealistic to ignore the use to which that deck will be put. Even if a 13-inch platform, in and of itself, may not tend to obstruct (though we have found that it did), once there is any activity on that deck, there is far more of a tendency to impair the water view than there would have been without the deck. The concept of the bare deck without any activity on the deck ignores the fact that there is no reason to have the deck in the first place unless there is to be activity on the deck. All activity that would otherwise have been at ground level is now raised by thirteen inches. While that is not a great measure, anyone knows that there is more of a tendency to obscure a view by someone who is 6'8" tall as opposed to someone who is 5'8" tall.

As indicated above, Kevin McDonough and Marcyanna Siegman both testified. Not only did they state that the deck itself obstructed the view, but they also stated that any elevated activity on the Tunney property would also tend to impede the neighboring water views. This is particularly problematic for 719 Rockaway, owned by Mr. McDonough's parents, which is lower in elevation than 717.

It is not unreasonable to infer that the Tunneys will put planter boxes, chairs, tables (with or without umbrellas) and other accoutrements on the deck. Indeed, some of these items have already made it onto the deck as reflected in Petitioners' Exhibit 10, which are photographs of the completed deck. Some of these photographs show patio furniture on the deck. This is a compelling statement as to why a sound analysis of the question of whether there is a tendency to impair the neighbors' water view must include consideration of the activity on the deck. Patio furniture, though not permanently affixed to a deck, does tend to stay out all year except perhaps during the winter months. The same may be said of gas grills. Planter boxes, another reasonably anticipated addition, stay out all year.

While some of these items cannot be prohibited from placement in the yard, the fact that everything is elevated by thirteen inches means that the addition of those items **tends** to impede a view from the neighboring properties. Moreover, the fact of the deck also leads to the conclusion that there will be a more intensified use than the use associated with a typical grass lawn. Neither Mr. nor Mrs. Tunney testified so their ultimate plans for use, decoration, and enhancement of the deck are unknown. While we do not invoke any negative presumption on this score from the absence of their testimony,[9] it is fair to note that we have received no assurances from them regarding rails, rope guards, light poles, planter boxes with small shrubs, and the like. Mr. Jablon, called by the Tunneys, himself acknowledged that railings on the deck would run afoul of Condition 5. An 18-inch planter box with an 18-inch boxwood shrub would clearly impair the water view. A planter with that shrub it is a type of deck adornment that would not be found in a lawn.[10]

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[9] *See* Memorandum of People's Counsel at p. 8.

[10] As discussed *infra* at p. 18, "improvements" includes landscaping. This means that Condition 5 prohibits any landscaping that would obstruct the water view.

It is unreasonable to expect RBIA or the neighbors to request a special hearing to determine whether the specific type of railing or the specific type of patio furniture, or the specific planter boxes with specific plants tends to impede the water views. As discussed below, this is one reason Condition 5 should be read as precluding all meaningful development. (*See infra* at p. 12.) But it is also a strong argument as to why the activity on the deck should be considered when deciding whether the deck impedes the neighbors' water view. By acknowledging the deck's "use factor" at this juncture, one is able to decide whether this particular deck violates Condition 5 without having to have special hearings about which items on the deck are acceptable.

Once again, as a factual matter, the Board finds that consideration of the use of the deck leads to the conclusion that the deck impedes the water views of the adjoining property owners.

IV. THE WISEMAN ORDER PRECLUDES ALL MEANINGFUL DEVELOPMENT ON THE WATER SIDE OF THE TUNNEY PROPERTY.

As an alternative basis for its ruling, the Board also concludes that the Wiseman order effectively prohibits any development on the water side of the Tunney property. While it is always possible, one supposes, to conjure up some outlandish type of enhancement that might not violate the order, that there is something at the margins which might slip through, does not change the conclusion that the Wiseman order was intended to embrace all normally envisioned development, including landscaping. The argument that it is necessary to assess whether any given improvement or dwelling construction "would obstruct adjacent neighboring property owners water view(s)" is riddled with problems.

A. There Is No Standard To Measure "Obstruct"

One of the core problems is there is no standard by which to make such an assessment. In other words, can an improvement or dwelling construction obstruct a little but not a lot? And

what is "a little" and what is "a lot"? Can the view be impeded or encroached or limited without it being obstructed? Is the standard for obstruction an objective one or a subjective one? Is obstruction permitted if it has some effect on one neighbor but none on the other neighbor? After all, Condition 5 uses the phrase "neighboring property owners" not "**either** neighboring property owner", a much finer formulation that would make the writer's intention crystal clear. Without that clarity, Condition 5 could be reasonably construed as requiring an objectively identified obstruction to **both** adjoining owners. And lest one think that such a reading is too technical, how does one respond to the query that if we parse the part of Condition 5 related to "obstructs", should we not parse all of Condition 5? These are not questions that can be casually dismissed with a convenient and simplistic resort to "I know what obstructs when I see it".[11] In other words, the problem is not solved by an official statement that this particular feature just does not "feel" like something tending to obstruct. What constitutes an "obstruction" cannot be *ad hoc*.

B. Respondents' Reading of Condition 5 Would Require a Case-by-Case Assessment as to Whether Any Given "Improvement" or "Dwelling Construction" Interferes with the Neighbors' Water View.

The absence of standards to measure obstruction leads to the second difficulty: if there is a requirement to measure the obstruction in each instance, then the resolution of the obstructive impact of any given development must, of necessity, require each such improvement to be litigated on a case-by-case basis. In practical terms, the result is that either the Tunneys or the neighbors or the community association or People's Counsel must file a request for a special

[11] This, of course, is reminiscent of Justice Potter Stewart's concurring opinion in *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) in which he shrugged his judicial shoulders and gave up what appeared to him to be the impossible task of defining obscenity. He did so by resorting to the hopelessly individualistic and utterly standardless comment: "I know it when I see it". *Jacobellis* addresses far weightier issues than a deck in someone's yard in Baltimore County, Maryland, but the point is the same: in the absence of clear guiding principles, everyone is subject to the whims or sensibilities of whoever is deciding a particular matter. The fact that there is a Majority opinion and a Dissent in this very matter proves the point.

hearing before, during, or after any alteration to the water side portion of the Tunneys' property. What would happen when the Tunneys decided to put in 1-foot planter boxes to spruce up a plain wooden platform? What happens when small 6-inch plants grow? And what about the addition of furniture? At each modification, does the RBIA have to request a special hearing? Does this Board have to decide whether railing, the planter boxes, the six inch plants yet to reach maturity, the patio chairs, or the patio table with an umbrella impede the neighbors water view? There is no way that Commissioner Wiseman, nor the protestants in 2004 nor, indeed, the Rushes ever contemplated such a pointless and complicated future. After all, there had already been two special hearings, and this is now the third. The only reasonable meaning of the opinion and order is that no development and improvements were to occur on the water side at 717; this was the price for first building a home that did not belong and then screwing up the survey.

Putting aside the unhappiness of prolonged neighborhood discord, serial special hearings represent an expenditure of time, money, administrative resources, emotional energy, and sheer hassle that no one could abide. As a practical matter, one cannot help but believe that the neighbors and the RBIA would eventually just give up, left only with a bitter and cynical view that "the system" had betrayed them. It is unthinkable that Commissioner Wiseman contemplated sentencing this neighborhood to a stream of special hearings.

C. Respondents' Reading Ignores the Very Real Tension Between the Text of the Wiseman Opinion and the Order.

The third problem concerns what much of the hearing addressed: what does one do when an order appears to conflict with the opinion that it is supposed to represent? Assuming that Condition 5 requires a determination of the degree of obstruction in any given case, then Condition 5 conflicts with the language of Commissioner Wiseman's opinion and the intent of

the parties in 2006. We know this for at least three reasons. First, the language of the opinion can only be read as restricting "further improvements or dwelling construction" in their entirety:

> . . . Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unforeseen circumstances.. . . As a condition of approval, petitioners shall surrender any further construction rights to build closer to the water.

(*See* Opinion at p. 3.) This language makes clear what Commissioner Wiseman's intention was.

Second, as indicated *supra* at p. 3, Marcyanna Siegman, a protestant in both previous cases, testified directly that the intention of all the parties and Commissioner Wiseman was to preclude **any** development on the water side of the subject property. Ms. Siegman was a highly credible witness before this Board. Ms. Siegman's testimony was corroborated by Petitioners' Exhibit 3, the email exchange between Robert Rush and Commissioner Wiseman, indicating the willingness of the Rushes to surrender certain development rights on the water side because such activity "definitely obstruct our neighbor's water view". This was a concession obviously central to Commissioner Wiseman's approval of the order in 2006 amending his 2005 order.

Third, the logic of the situation is compelling support for Petitioners' understanding. Protestants had lost their attempt to block the construction of a house overly large for the neighborhood, and one of the concerns about this extra-large house was the water views of the neighbors. Then as construction neared completion, it was discovered that an incorrect survey provided the neighbors with significant leverage. This glitch would have permitted the Protestants to demand that part of the house be demolished or that the footprint be moved. And even if they failed in those drastic measures, they could have generated years more of bitter litigation. Instead, the neighbors acted with graciousness and maturity. They opted to live with a house that they believed was incongruous so long as one of their other concerns could be resolved, *i.e.*, that the water view of the adjoining properties would be forever protected. It is

illogical to believe that the Protestants would commit themselves to future serial special hearings every time some modification on the subject property's water side was contemplated. Indeed, one can infer that the then owners of the subject property were more than happy to agree to such a restriction with a huge sigh of relief. After all, they preserved their house, and they could make peace with their neighbors. Giving up the development of the water side was probably a very easy concession to make to end the controversy and to seek harmony and acceptance in this close-knit community. It is hard to believe that the Rushes understood Commissioner Wiseman's order in the fashion now urged by the Tunneys. That neither the Rushes nor the Smiths made any efforts of any kind to "improve" the water side is itself some, albeit a small, indicator as to how they interpreted the order.

As to the meaning of the all-important Condition 5, the Respondent called two witnesses with substantial experience in Baltimore County zoning activities. The first such witness was Jeffrey Perlow who is a Zoning Supervisor and has been in the County Zoning Office for over 23 years. In this instance, Mr. Perlow testified that he had noticed what he believed to be a discrepancy between the language of the order and the language of the opinion. He stated that he ignored the language of the opinion because it is the practice of the zoning office to look only at the precise language of an order in a zoning case and to ignore any conflict between that order and the authorizing opinion. The Respondents also called Arnold Jablon who is now retired from County service but is well known to the Board. He has held many different responsible positions in the County zoning apparatus and was himself Zoning Commissioner at one point. He was hired by the Tunneys for this matter, and he testified similarly to Mr. Perlow. The comment from the Department of Planning introduced as People's Counsel Exhibit 11, however, takes the

opposite view, finding that the deck is "in violation of the order in this case", a finding based on reading the Wiseman opinion as a whole.[12]

This interpretive activity is not a function of any rule, regulation, or guideline in any of the County agencies. Moreover, it is not a practice that is informed by expertise in zoning, development, or planning. It is simply an *ad hoc* practice by this zoning authority which can be followed or not in any given situation. In other words, there is nothing about the expertise of individuals well versed in Baltimore County zoning matters that bears on how an administrative or judicial order is to be interpreted. While it is proper to accord deference to an administrative agency when it is construing its own statutory and regulatory authority, that is not the case here. *See e.g. Burgin v. Office of Personnel Management*, 120 F.3d 494, 497-98 (4th Cir. 1997) (indicating that deference is not required where the administrative interpretation is not based on "expertise in the particular field" and because the issue involved interpretation of contract language under common law, there was no need nor basis to defer to an agency determination). There is nothing associated with zoning expertise (or for that matter, planning expertise) that informs in the slightest how one construes an administrative order. *Kisor v. Wiklie*, 588 U.S. ---, 139 S.Ct 2400, 2416017 (2019) (deference to agency interpretation must involve the agency's "authoritative" or "official" position and "in some way implicate [the agency's] substantive expertise"). Additionally, even where an agency is interpreting its own policies, deference is not worthy unless the interpretation is "a process of reasoned elaboration", "contested adversarial

[12] The Board and the parties have treated the Wiseman ruling as an opinion and distinct order. It is possible, though, to read the Wiseman document as one complete and unitary document, and not an opinion and order separate from each other. The order portion flows directly out of the text of the "Findings of Fact and Conclusions of Law" which is not set off from the order portion by clearly concluding language from that which has been deemed the opinion portion. Moreover, the order itself is not separately titled. On the other hand, the document is titled "Opinion and Order", though it is not clear how to read the significance of the title. Because the parties did not brief this issue and because the Board did not incorporate such an analysis in its decision, we do not address the question here. As a matter of common sense, such a reading, if correct, would seem to be additional support for the Petitioners.

proceedings", or "formal rule promulgation". *Baltimore Police Department v. Brooks, et al.,* 247 Md. App. 193, 214-15 (2020) citing *Baltimore Gas and Electric Co. v. Public Service Commission of Maryland*, 305 Md. 145, 161-62 (1986). Of course, the same logic which negates deference to the zoning authority's interpretation applies with equal force to the Planning Department comment.

Although not a common occurrence, there is some case law addressing a conflict between an order and an opinion or where the order is ambiguous. This order is both ambiguous and conflicts with the opinion. The conflict has already been described. This very case, with a majority and a dissent, is a testament to the ambiguity of the order. An additional ambiguity concerns the phrase "which would obstruct adjacent neighboring property owners water view(s)". That phrase can be understood in two different ways. It could mean, as the Tunneys argue, that an "improvement or building construction" is only prohibited if it obstructs a neighbor's view. On the other hand, the phrase could also be reasonably understood as meaning that no improvement or building construction is permitted **because** such an improvement or building construction would, of necessity, obstruct a neighbors' view. In the first interpretation, "which" means "if". In the second, "which" means "because". Whether it is necessary to obstruct both adjoining properties is another ambiguity discussed *supra* at p. 12.

The general rule is that where such a problem exists, the appellate authority should remand the matter to the judicial officer so that they can issue an amended order that resolves the issue. *In re Hann*, 711 F3ed 235, 240 (1st Cir. 2013). Where such a remand is not possible, then the reviewing court should "comb relevant parts of the record to discern the authorizing court's intention". *Camilo-Robles v. Hoyos*, 151 F.3d 1, 8 (1st Cir. 1998); *Hann, supra* at 240, quoting *Negron-Almeda v. Santiago*, 528 F.3d 15, 23 (1st Cir, 2008). *See also In re Tomlin*, 105 F.3d

933, 940 (4th Cir. 1997). Here, remand is not possible, so it is the function of the Board to construe the meaning of the Wiseman order. And, as already discussed, reference to the opinion itself clearly establishes that Commissioner Wiseman's intent, and the intent of the parties (which, of course, includes the Rushes to whom the Tunneys are in privity) was to preclude all development on the water side. (*See* Wiseman Opinion quoted *supra* at p. 14.)

Finally, the Wiseman order must have been intended to apply broadly. He used the phrase "improvements and dwelling construction". "Dwelling construction" is not defined in the BCZR. As a matter of common sense, "dwelling construction" seems straightforward. It must mean any addition to the house itself as to height, width, or length. Such a reading obviously includes the deck at issue in this matter.

The meaning of "improvements" is more expansive. There is no BCZR definition, but there is one definition in the development section of the Baltimore County Code at § 32-4-1-1(w). That is a provision related to planning, not zoning. If, however, subsection (w) is any indicator, "improvements" embraces a host of alterations to a plot of land including, for example, landscaping. *See* also *Rose v. Fox Pool Corp.*, 335 Md. 351, 376 (1994) (cataloging "improvements" that inform on the Maryland statute of repose offering protection to architects, builders, and developers); *Reisch v. State*, 107 Md. App. 464, 472 (1995) (describing a host of "improvements" that fall under the Maryland Home Improvement licensing statute). The point here is that the range of prohibited alterations by the use of the word "improvements" is broad indeed. "Dwelling construction" is not a term of art like "improvements", but it must be construed with the same breadth as the word with which it is partnered.

CONCLUSION

Respondents' interpretation of the Wiseman order would consign everyone (including this Board) to the possibility of multiple special hearings, leading to a quagmire of competing expressions of personal opinion about what does or does not tend to obstruct a view.[13] It would frustrate what was clearly the intention of all of the parties in 2006. It would result in a highly inequitable resolution for the community which acted charitably towards the Rushes in 2006. And, finally, for what it matters, it would undermine respect for the zoning process, and potentially reward what might be viewed as coy wordsmithing. Commissioner Wiseman's ruling in 2006 was intended to establish peace and stability in the Rockaway Beach community, and it must be understood in that context.

To reiterate our conclusion: (1) if a proper analysis is to ignore any **use** of the deck, we find factually that the deck tends to impair the water view of the adjoining property owners; (2) if it is proper, as we believe it is, to consider the use that can reasonably be expected to occur on the deck, we find as a factual matter that the deck tends to impair the water view of the adjoining property owners; and (3) as an alternative holding, we also find that Commissioner Wiseman's order flatly prohibits any meaningful development on the water side of the Tunney property, meaning that the deck is *per se* proscribed.

[13] Just to avoid any future misunderstanding, this case does not stand for the general proposition that there is a right to a water view. The right to a water view at issue in this matter is a function of the 2006 zoning case which created a special right to a water view applicable to these properties only.

ORDER

THEREFORE, IT IS THIS 6th day of November, 2023, by the Board of Appeals of Baltimore County,

ORDERED, that in accordance with the views expressed herein, the Petition for Special Hearing is **GRANTED** and the deck built by Respondents on the water side of 717 Rockaway Beach Avenue violates Condition 5 of the Order issued by Zoning Commissioner William J. Wiseman on June 22, 2006, in Baltimore County Zoning Case No. 06-0501-SPHA because the deck impairs the water view of the adjoining property owners without regard to any use that may occur on the deck; because the deck impairs the water view of the adjoining property owners taking into account the use to which the deck would be put; and/or because the deck is a meaningful "improvement or dwelling construction" and is *per se* prohibited.

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

BOARD OF APPEALS
OF BALTIMORE COUNTY

Andrew M. Belt, Chairman

Joseph L. Evans

IN THE MATTER OF ROCKAWAY BEACH IMPROVEMENT ASSOCIATION, ET AL., PETITIONERS FOR SPECIAL HEARING ON THE PROPERTY KNOWN AS 717 ROCKAWAY BEACH AVENUE WILLIAM AND THERESA TUNNEY, LEGAL OWNERS 8th ELECTION DISTRICT 3RD COUNCIL DISTRICT	* * * * * * *	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY Case No.: 22-151-SPH

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

DISSENTING OPINION

In this matter before the Board of Appeals for Baltimore County ("Board") I completely agree that the 2006 opinion and order contains some ambiguity and conflicts as described in the majority opinion. However, I respectfully disagree with the conclusion and therefore dissent as to the Order.

2006 OPINION

The interpretation and application of the zoning order issued by Zoning Commissioner William J. Wiseman on June 22, 2006 in Case number 06-501-SPHA ("the Order") is the focus of the analysis for this matter. The Order needs to be put in context to understand and interpret the significance of Condition 5. The property at 717 Rockaway Beach Avenue was built too close to the road side of the lot, not the water side of the lot. Because of a surveyor's error, a variance was necessary to preclude the destruction of part of the already built structure. The footprint of the structure was too close to the road. The opinion basically says: you have your structure, you will not be required to tear it down and move it back a few feet, but you cannot build any closer in the rear to obstruct the neighbor's views, which you would otherwise have a legal right to do.

The order was a settlement agreement between the community, the previous owners, and the neighbors which restricted the expansion of the footprint in the rear some eight feet as would have been allowed under the zoning regulations. In exchange, the then property owners were not required to tear down the existing misplaced structure. This settlement was about expansion of the footprint of the structure not about a one-foot-high platform (deck). (I refer to this as a platform rather than a deck because it reflects more accurately what has been built.)

OBSTRUCTION OF VIEWS

This platform is not an expansion of the footprint of the structure. Nor should it be considered a dwelling construction or improvement which would obstruct the water views of the neighboring property owners. It appears that the intent in building this platform was to keep this platform area as an even place when walking into the rear yard without obstructing their view of the water and their neighbor's views. I am mindful of the fact that these water view properties are built for the very reason – to view the water. Also, any obstruction that the neighbors may have to anything on this property would also impact, even more significantly, the owners' view of the water.

Several witnesses testified and gave evidence at the Board's hearing on this matter. Testimony of this platform obstructing neighbor's view was not convincing. On cross-examination some opponents to the platform testified that their view of the shoreline, water, etc. was not blocked. Testimony was also given on cross-examination that a grill on the property was more of an obstruction than the platform.

I am in agreement with the majority as to the proper weight given to a decision or opinion of an administrative agency. I do find the decision of Mr. Perlow in the Zoning Office insightful.

Mr. Perlow testified that in making his decision to allow the platform (deck) he reviewed the previous opinion and believed this was not an obstruction.

The majority also references the Department of Planning's legal conclusion that this platform (deck) is in violation of the Order. While I disagree with this legal conclusion and the appropriateness of a non-legal department weighing in on a legal matter, I do agree with another section of the same referenced report by the Department of Planning. The report also states "though the Department does not believe the construction of the deck will impact the waterfront view of the adjoining properties." (People's Counsel Exhibit 11.)

In reviewing the photographs submitted by all parties and all the evidence presented, it is clear that this one-foot-high platform does not obstruct the neighbor's views. The Tunneys should be able to use their water side yard in any manner they choose, similar to their neighbors. They can have grills, plant shrubs, put out lawn furniture, or invite their 6'8" friends over for a cookout. However, the Tunneys cannot expand the footprint of the current structure.

Fred M Lauer

November 6, 2023 Fred M. Lauer

Board of Appeals of Baltimore County

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

November 6, 2023

Jennifer R. Busse, Esquire
Rosenberg Martin Greenberg, LLP
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201

Kevin McDonough, President
Rockaway Beach Improvement Association
628 Rockaway Beach Avenue
Essex, Maryland 21221

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

RE: In the Matter of: *Rockaway Beach Improvement Association, et al. - Petitioners*
William and Theresa Tunney – Legal Owners
Case No.: 22-151-SPH

Dear Messrs. Busse, McDonough, Zimmerman and Demilio:

Enclosed please find a copy of the final Opinion and Order, and Dissenting Opinion, 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
Legal Administrative Secretary

KLC/taz
Enclosure
Multiple Original Cover Letters

c: See Distribution List Following

In the Matter of: Rockaway Beach Improvement Association, *et al.* – Petitioners
William and Theresa Tunney – Legal Owners
Case No.: 22-151-SPH
November 6, 2023
Distribution List

William and Theresa Tunney
Michael and Patricia McDonough
Marcyanna and William Siegman
Scott C. Huffines and Kristin Miller
JoAnn Weiland
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law

From: Appeals Board
To: Kevin McDonough
Cc: Jennifer Busse; Peter Max Zimmerman; Peoples Counsel; Carole Demilio
Bcc: Tammy Zahner (tzahner@baltimorecountymd.gov)
Subject: RE: Request for Issuance of Order - 2022-0151-SPH
Date: Monday, October 23, 2023 10:03:00 AM

Mr. McDonough,

Please be advised that the Board members are working on the decision and it will be issued when it is completed. Please also be advised that while there is no deadline for the opinion to be issued, the Board strives to get the opinions issued in a timely manner. Additionally, not only is the Board working on a Majority opinion and order, there will be a dissenting opinion in this matter, as indicated during the public deliberation.

I will advise the Board of your filing. However, the record before the Board is closed and generally, no additional filings are permitted.

Thank you for your continued patience.

Sunny

Krysundra Cannington
Legal Administrative Secretary
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

Confidentiality Statement

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From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Sunday, October 22, 2023 3:36 PM
To: Appeals Board <appealsboard@baltimorecountymd.gov>

Cc: Jennifer Busse <jbusse@rosenbergmartin.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: Request for Issuance of Order - 2022-0151-SPH

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Good Morning,

Attached for filing please find a joint submission from petitioners requesting issuance of order in the above referenced matter.

Thank you.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Association Inc.

Sent from my iPhone

From:	Kevin McDonough
To:	Appeals Board
Cc:	Jennifer Busse; Peter Max Zimmerman; Peoples Counsel; Carole Demilio
Subject:	Request for Issuance of Order - 2022-0151-SPH
Date:	Sunday, October 22, 2023 3:36:32 PM
Attachments:	Request For Issuance of Order - 2022-0151-SPH.pdf

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Good Morning,

Attached for filing please find a joint submission from petitioners requesting issuance of order in the above referenced matter.

Thank you.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Association Inc.

Sent from my iPhone

Baltimore County Board of Appeals
105 West Chesapeake Avenue
Towson, Maryland 21204
VIA E-MAIL SUBMISSION

October 21, 2023

RE: Case # 2022-0151-SPH | 717 Rockaway Beach Avenue - Essex, Maryland 21221
REQUEST FOR ISSUANCE OF ORDER

Dear Members of the Baltimore County Board of Appeals,

Petitioners, Michael & Patricia McDonough, Marcyanna & William Siegman, JoAnn Weiland, Scott Huffines & Kristin Miller and The Rockaway Beach Improvement Association Inc., hereby jointly submit this **Request for Issuance of Order** in the above referenced case which was before the Board of Appeals on an appeal filed by property owners, William & Theresa Tunney.

The matter was before the Baltimore County Board of Appeals for in-person oral arguments on May 11, 2023 and written closing memoranda were subsequently due and submitted by petitioners, Peoples Counsel for Baltimore County and counsel for the property owners at the end of June 2023. The Board of Appeals held its public deliberation on July 18, 2023 at which it rendered an oral decision in favor of the petitioners.

Since that time, three months have elapsed and an order memorializing that decision has yet to be issued. Petitioners have periodically telephoned the Board of Appeals to inquire as to the status of the order's issuance but have not been provided with an expected timeframe for completion. In the words of William Gladstone and similarly echoed by Dr. Martin Luther King Jr. in his *Letter from Birmingham Jail* – ***"Justice Delayed is Justice Denied."***

While Petitioners acknowledge that the Board hears a plethora of cases, a number of decisions have been issued in other matters in the timeframe which has elapsed. **Petitioners would respectfully request The Baltimore County Board of Appeals to issue its written decision in the above referenced matter.**

Sincerely,

The Rockaway Beach Improvement Association Inc.
Kevin McDonough, President
628 Rockaway Beach Avenue | Essex, Maryland 21221
kevinmcdonough@comcast.net | 443-768-0221

Michael & Patricia McDonough
719 Rockaway Beach Avenue | Essex, Maryland 21221
trishmcdonough@comcast.net | 410.780.0461

Marcyannna & William Siegman
715 Rockaway Beach Avenue | Essex, Maryland 21221
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Scott C. Huffines & Kristin Miller
721 Rockaway Beach Avenue | Essex, Maryland 21221
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JoAnn Weiland
2429 Beach Avenue | Essex, Maryland 21221
joannweiland@comcast.net | 410-686-0131

Certificate of Service:

I hereby certify that on this 22nd day of October 2023 a copy of the foregoing "Request for Issuance of Order" was e-mailed to the following individuals:

Jennifer Busse – jbusse@rosenbergmartin.com (Counsel for Respondents William & Theresa Tunney)

Peter Max Zimmerman – pzimmerman@baltimorecountymd.gov (Peoples Counsel for Balto. Co.)

From:	Jennifer Busse
To:	Appeals Board
Cc:	Peoples Counsel; kevinmcdonough@comcast.net
Subject:	Legal Owners" Post Hearing Memorandum in Case 2022-0151-SPH
Date:	Friday, June 30, 2023 1:13:26 PM
Attachments:	0.png 1.png 2.png 3.png 5.png Post Hearing Memorandum Tunney 4862-9813-4891 v.1.pdf

CAUTION: This message from jbusse@rosenbergmartin.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Happy Friday!

Attached is Legal Owners' Post Hearing Memorandum.

Thank you.

Jennifer Busse
Rosenberg Martin Greenberg, LLP
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201
(410) 727-6600
(410) 727-8647 Direct
(410) 727-1115 Fax

IN RE: PETITION FOR SPECIAL HEARING 717 Rockaway Beach Avenue 15th Election District 7th Council District	*	BEFORE THE COUNTY BOARD OF APPEALS FOR
William & Theresa Tunney 717 Rockaway Beach Avenue (Legal Owners)	*	BALTIMORE COUNTY CASE NO. 2022-0151-SPH
Rockaway Beach Improvement Association, *et al.* (Petitioners)	*	

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

POST-HEARING MEMORANDUM

William & Theresa Tunney, Appellants in the above-referenced case, and legal owners of the subject property (herein referred to as "Owners"), by and through their attorneys, Jennifer R. Busse and Rosenberg Martin Greenberg, LLP., respectfully submit this Post-Hearing Memorandum.

Statement of the Case

This matter was heard before the Board of Appeals of Baltimore County (the "Board") on May 11, 2023. Public deliberation is assigned for July 18, 2023. At issue in this matter is whether a deck on the waterfront side of 717 Rockaway Beach Avenue (the "Property") which is 1 foot above the natural grade constitutes a violation of Condition #5 in Case 06-501-SPH.

Petitioners presented their case first. Testimony was provided from Mr. Kevin McDonald and Ms. Maryanne Siegman. People's Counsel did not provide any testimony. Owners, being the Respondents, presented their case last and provided testimony from Mr. Brian Dietz, Mr. Jeffrey Perlow and Mr. Arnold Jablon. Mr. Dietz, acknowledged as a licensed surveyor, was accepted as an expert in the fields of land development and the unique challenges with residential waterfront development. Mr. Perlow testified as the Supervisor of Zoning Review within Baltimore County and provided testimony as to the Property's zoning and permit history as well as his office's policies and

procedures. Mr. Jablon was accepted as an expert in Baltimore County zoning and permitting, as well as an expert in zoning issues specifically affecting waterfront properties; and testified as to his experiences interpreting zoning cases, setting and interpreting zoning policies, and managing controversies relating to waterfront properties including allegations of whether water views could be and/or were blocked by others'.

Standard of Review

This is a *de novo* case before the Board pursuant to the Baltimore County Charter, §603. Unlike appeals heard "on the record", the Board hears *de novo* appeals as if being tried for the first time and takes into consideration only the evidence and testimony provided to the Board. The prior decision by the Administrative Law Judge ("ALJ") provides no precedent on which the Board may rely in its decision here.

Statement of Facts

The Property and the Existing Deck

The Property borders the Middle River and is located therefore in the Chesapeake Bay Critical Area. Due to restrictions on impervious surfaces in the Critical Area, Baltimore County Department of Environmental Protection and Sustainability ("EPS") would not permit a patio at the Property but did approve the construction of a 1 foot above ground deck on the waterside of the Property. (*See* Owner's Exhibit #7). A permit for the deck as constructed and existing at the Property was issued by Baltimore County Department of Permits, Approvals and Inspections ("PAI"). Owners' Exhibit #2, the site plan sealed by Mr. Dietz, documents the size of the deck, the height, the distance from the edge of the deck to the side and waterside property lines, as well as the relevant elevations for the Property as well as those for the adjacent properties. The only evidence introduced as to the various properties' elevations is shown on Owners' Exhibit #2 and was testified to by Mr. Dietz.

The 2005 and 2006 Orders

As specifically identified in Petitioners' zoning petition itself, at the center of this controversy are the Order, and Condition #5 in the Order, in former Zoning Commissioner William Wiseman's decision in Case 2006-501-SPH. (*See*, Petitioner's zoning petition #1.a. and #1.b. referring specifically to "the Order" and "Restriction No. 5 in the zoning order".)

Judge Wiseman issued the decision in Case 2006-501-SPH on June 22, 2006. That decision sought to amend a 2005 zoning case (2005-579-A) in which zoning setback variances were approved for the Property. The owners in 2005 and 2006 were Mr. and Mrs. Rush. Judge Wiseman's decision in the 2006 case explains that the 2005 variance approved a rear variance of 24 feet (distance to the road – waterfront properties often consider the road side as the rear and the waterfront side as the front) but that after the Rushes home was under construction, it was discovered that due to a survey error, the home was 4 feet closer to the road than approved in the 2005 variance case. Thus, a modification to the variance approved in the 2005 case was granted via the 2006 case to "legitimize existing conditions". (*See* last sentence on p. 2 of the decision in Case 2006-501-SPH).

The 2006 decision noted that the intention for the dwelling on the Property, and what was approved in the 2005 case, was a building envelope which would have left 73' from the home to the waterside property line. However, the home as constructed left more distance to the water – "[t]he home, as built, is actually 81 feet back." (*See* p. 3 of the decision in Case 2006-501-SPH).

Within the record in Case 2006-501-SPH is an email from Mr. Rush to Judge Wiseman dated June 2, 2006 (20 days before the date on the 2006 decision). This email was introduced by Petitioners and accepted into the record in this instant case as Petitioner's Exhibit #3. In the email, Mr. Rush offered to "surrender" the opportunity to add to his home so as to go as close to the water as permitted via the 2005 variance approved in Case 2005-579-A (since doing so "would definitely obstruct our neighbor's water view." *See*, Petitioner's Ex. #3.

Summary of Testimony

Kevin McDonald:

Mr. McDonald explained his relationship in the community and his family's ownership of the property at 719 Rockaway Beach, which is adjacent to the south of the Property. Mr. McDonald introduced photographs accepted as Petitioners' Exhibit #10 which he testified represent present day conditions. On cross-examination, Kevin McDonald conceded that his own photographs demonstrate that the water, shoreline and grass are all visible regardless of the deck on the Property. Specifically, when questioned on Petitioner's Exhibit 10G, showing the views looking out the window of Mr. McDonald's family's property at 719 Rockaway Beach Avenue and across the Property, Mr. McDonald testified that there is "no obstruction" of the water view. Additionally, upon questioning regarding Petitioner's Exhibit 10F, Mr. McDonald testified that in fact only the bush on the property of 715 Rockaway Beach Avenue obstructs any view of the water from the perspective of the 2nd floor of his family's home at 719 Rockaway Beach Avenue.

Marcyanna Siegman

Ms. Siegman testified that she lives at 715 Rockaway Beach, the home to the north which is directly adjacent to the Property. When questioned on what is documented via Petitioner's Exhibits 10E and 10J, Ms. Siegman testified that the Owners' deck does not obstruct views of the water but that things such as a grill and outdoor furniture thereon could.

Brian Dietz

Mr. Dietz explained his involvement with the Property on behalf of the Owners and testified as to the existing conditions at the Property using his site plan accepted into evidence as Owners' Exhibit #2. Mr. Dietz noted that he has been to the Property on a number of occasions, and explained how his site plan documents the relevant distances and elevations shown thereon. He testified that the completed deck is 1 foot higher than the natural grade. Noting the topography markings on his site

plan, Mr. Dietz explained that the grade differences between the Property at the location of the deck compared to those of the adjacent properties is minimal; but noted that the height of the deck at the Siegman's property is significant in comparison.

Jeffrey Perlow

Mr. Perlow testified that in his position as the Supervisor of Zoning, it is his responsibility to interpret zoning cases and that the office's policy has always been that a decision's Order serves as the official determination on that matter. Mr. Perlow confirmed he was aware of the Property's prior zoning history when he authorized the permit for the deck and explained his opinion as to why the deck does not violate the conditions in Case 2006-501-SPH, namely that due to the deck being only 1 foot off the ground, it would not obstruct adjacent property owners' water views. Mr. Perlow also testified that no permit is needed for items such as outdoor furniture or residentially used outdoor grills. Upon questioning by Mr. Evans, Mr. Perlow confirmed that in considering whether to issue the building permit in this case for the deck at the Property, he did not consider the deck as either a "dwelling construction or further improvement" as those terms are discussed in the 2006 decision.

Arnold Jablon

Mr. Jablon testified to his extensive experience in Baltimore County government as a County Attorney, a Zoning Commissioner and the Director of what is now PAI. He described his experiences interpreting zoning cases, setting and interpreting zoning policies, and of specific relevance to this matter, managing controversies relating to waterfront properties. Mr. Jablon explained his involvement with cases such as this wherein neighbors bring actions against each other as to whether water views are blocked.

Using both photographs he had taken of the Property and the surrounding area, as well as those provided by the Petitioners, Mr. Jablon testified as to his opinion that the deck does not violate the 2006 zoning decision. (*See*, Owners' Ex. #4 and #11, and Petitioners' Ex. #10). Upon questioning by

Mr. Belt, Mr. Jablon testified that when distinguishing between language in the body of a zoning decision and the Order, it is the Order and conditions therein which regulate the subject property and can be enforced. Mr. Jablon explained that the language within the body of a zoning decision can help to understand a judge's findings, opinion and decision impact.

Argument

The deck does not violate Condition #5 of Case 2006-501-SPH and There is no conflict between the Body of the Opinion and the Order of Case 2006-501-SPH.

The evidence in this case is uncontroverted. All the parties point to the same photographs in support of their opposing claims. Petitioners claim their own photographs show obstruction of water views and yet on cross-examination Mr. McDonough and Ms. Siegman admitted otherwise. At issue is a deck which sits on the ground and thus creates an area that is 1 foot higher than grade. The deck does not obstruct the neighbors' view of the water and therefore it does not violate the 2006 zoning decision. The other parties herein attempt to use language from the body of the decision out of context in order to claim the Order should be interpreted to be even more restrictive. Yet looking at Petitioners' own Exhibit #3, the true context of the language on page 3 of the decision is clear.

Owners respectfully submit that People's Counsel and ALJ Mr. Mayhew have prejudicially confused and clouded the questions presented by Petitioners. While Judge Mayhew correctly identified the requested relief on pages 1 and 6 of his decision, he then referred to People's Counsel's submission (letter submitted by Petitioners as their Ex. 6 before the ALJ) which focused on language in the body of the decision (*see*, page 3 of Case 2006-501-SPH). The assertion by the other parties is that *any* further construction on the waterside of the property is prohibited. In support, they point to a sentence on page 3 of the 2006 decision but when read in its entirety, it is clear that page 3 was discussing the dwelling and building footprint.

Page 3 of the body of the 2006 decision discusses how the then property owner should not be able to "benefit from these unfortunate circumstances". Namely, Judge Wiseman stated, on page 3, "As a condition of approval, Petitioners shall surrender any further construction rights closer to the water." When read in this full context, it is clear that Judge Wiseman was explaining he intended to prohibit any addition to the home which would extend the building footprint. Judge Wiseman was thinking ahead and recognized that possibly the then owner or a future owner would try and build the home as proposed on the approved plans – namely as close as 73 feet to the water.

What must be understood is that the then owner received approval for a house which would be within 73 of the water. The mistake which created the need for the variance which Judge Wiseman approved was that the home was accidentally constructed closer to the street which resulted in it being farther away (81 feet) from the water. It was the building footprint to which Judge Wiseman was referring. Nowhere in the body of the decision is there a reference to restricting the construction of a 1 foot above ground deck, or the use of / placement of outdoor furniture or grills.

Petitioner's Exhibit #3 is an email dated June 2, 2006 (20 days before the date of the 2006 Order) from the property owner in 2006 to Judge Wiseman. This document is completely instructive on this issue and fully clarifies the discussion on page 3 of the 2006 decision. The then property owner, Mr. Rush, conceded that per the 2005 variance he was granted, he could build his home 8 feet closer to the water and that doing so would block his neighbor's water view. Mr. Rush offered to "surrender" that construction right. Judge Wiseman took Mr. Rush up on that offer and he incorporated that language in the June 2, 2006 email almost word for word into page 3 of his decision.

People's Counsel would prefer to ignore Petitioner's Exhibit #3 since doing so creates confusion and allows People's Counsel to assert an incorrect interpretation of the language on page 3 of the 2006 decision. In this way, People's Counsel can mislead the Board and assert that the phrase on page 3 of the 2006 decision "surrender any further construction rights" pertains to something as trivial

as a 1 foot above ground deck. Petitioners on the other hand actually point to their Exhibit #3 and argue Mr. Rush's offer to not build his home out to the original setback or install a 80' long and 6' high retaining wall should be extrapolated to prohibit ALL construction. That is disingenuous. The email provides: "we will be willing to surrender *both* opportunities I have listed above." (Petitioner's Ex. #3, emphasis added). No where in the 2006 decision did Judge Wiseman prohibit all construction. The Order itself, via the modifier "which would obstruct adjacent neighboring property owners water view(s)" identifies the type of improvements or dwelling construction prohibited by the 2006 decision.

When the totality of the evidence is considered, it is clear that the phrase "surrender any further construction rights" on page 3 of the 2006 decision relates to the building envelope. A deck is an "open projection", and is subject to its own zoning setbacks separate and apart from a dwelling. (*See*, BCZR Section 301.1).

Perhaps the other parties are attempting to focus attention on the phrase on page 3 of the decision because they recognize the absurdity of arguing that the deck violates Condition #5, as evidenced by the uncontroverted testimony before the Board. The definition in Webster's Third New International Dictionary of "obstruct" is admittedly lengthy but the most logical and relevant to this matter one is "to cut off from sight". All the evidence (even Petitioners own photographs and testimony) confirmed the deck does not obstruct the water views. To dissect the word "obstruct" and argue that, for example, the deck will allow chairs which will then obstruct water views is ludicrous. There is absolutely no prohibition on the Property or the Petitioners at their own properties from putting chairs in their yard whether on grass or some other surface. (*See* Petitioners' Ex. #10H showing yard furniture in the McDonough yard; and Petitioners' Ex. #10C & E which show that the only things which might arguably be overlapping with any water is the flagpole and landscaping on the Siegman property.)

It is similarly absurd to argue that prohibiting landscaping was intended by Mr. Wiseman and somehow included in the language within either the body of the decision or the Order. There is no precedent on which to rely to block any of the parties from installing landscaping. In fact, due to the properties all being in the Critical Area, there are planting requirements which if not met would be enforced by the County. Depending on where exactly someone is on the McDonough property when looking to the water across the Owners' Property, arguably a bush on the Siegman property interferes with seeing the shoreline but no one is asking the Siegman's to remove that bush. While the Owners could have installed a solid screen of landscaping along their fence lines, they have not done so.

In sum, Judge Wiseman was not intending to prohibit construction such as a 1 foot above grade deck or things such as outdoor furniture. The discussion on page 3 of the decision revolved around the dwelling itself and the specific language "shall surrender any further construction rights to build closer to the water" was in reference to the dwelling itself.

Condition #5 in the Order restricts the property in a way not discussed earlier in the decision. It is not the other way around as the other parties argue. They claim the phrase "surrender any further construction rights" is broader than Condition #5 but should be considered to prohibit any construction. Yet in reality, Condition #5 provided a further restriction since the discussion on page 3 revolved around the dwelling itself as evidenced by Petitioners' Ex. #3. Condition #5 prohibits both "improvements" and "dwelling construction would obstruct adjacent neighboring property owners' water view(s)." Clearly by the language in the Condition itself, it is anticipated that some forms of construction should be prohibited but at the same time, others most certainly can be done – otherwise the Order would have stated that NO construction was permitted at all, or the sentence in Condition #5 would have ended after "(closer to the water)". The sentence however continued and includes the modifier "which would obstruct…".

Owners respectfully submit that Condition #5 is what can be enforced.[1] This Board cannot add to the restrictions in the Order. The Board cannot make its own interpretation as to Judge Wiseman's intent behind statements in the body of the decision which would result in Condition #5 being moot. Specifically, the Board cannot look to the discussion on page 3 and transfer the phrase "surrender any further construction rights" to the Order. The Order is what can be enforced, and in any event, there is no conflict between the decision and Order since page 3 of the decision was focusing on a discussion of the building footprint. There is nothing in the 2006 decision or Order which prohibits a 1 foot above ground deck (or for example yard furniture) per se. The only relevant question to be decided is whether the 1 foot above ground deck "obstruct[s] adjacent neighboring property owners' water view(s)."

It would be illogical and contrary to administrative practice to add to the Order and do as the other parties suggest – to read Condition #5 of the Order "together with the statement" in the body of the decision. To do so would restrict the property in a way not intended as evidenced by the plain language of Condition #5. The plain language in Condition #5, "which would obstruct…" would, following People's Counsel's assertion, be meaningless and such an interpretation is contrary to settled principles of statutory construction and case law. "The 'meaning of the plainest language' is controlled by the context in which it appears." *Kaczorowski v. Baltimore*, 309 Md. 505, 514 (1987).

There is no conflict between the body of the decision and the Order. The body of the decision discusses a condition the Judge intended – to prohibit the build-out of the dwelling to the originally proposed 73 feet from the water. Condition #5 went further – it prohibits construction "which would obstruct adjacent neighboring property owners' water view(s). An example of something which arguably might be prohibited by Condition #5 would be a large accessory structure or an enclosed pergola or gazebo. Any such proposal would have to be evaluated in light of the 2006 decision. In this

[1] *See*, Baltimore County Code Section 3-6-303, noting the role of the "final order" from an Administrative Law Judge in a Board's review.

matter, it is this Board's job to determine whether the 1 foot above grade deck violates Condition #5 of the Order.

Contrary to the assertion by People's Counsel and Petitioners, Owners do not seek to ignore the language in the body of the 2006 decision, and do not at all consider this matter to be a "word game". Owners agree with the other parties that there is no doubt as to the intent of Judge Wiseman. However, Owners' adamantly assert that to the opposite of the position taken by the other parties, the 2006 decision in no way prohibits the deck. Condition #5 speaks for itself, and the language on page 3 of the body of the decision does not contradict with Condition #5. Furthermore, the evidence is clear and uncontested. The witnesses for both Owners and Petitioners testified that the deck does not block the water views from the adjacent properties. Petitioners' own photographs document this fact.

Conclusion

For the reasons set forth above, Owners respectfully request this Board deny Petitioner's Petition for Special Hearing.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of June, 2023, a copy of the foregoing Post-Hearing Memorandum was sent electronically or mailed first class, postage prepaid, to:

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4862-9813-4891, v. 1

From:	Peter Max Zimmerman
To:	Krysundra Cannington; Appeals Board
Cc:	jbusse@rosenbergmartin.com; Kevin McDonough
Subject:	People"s Counsel"s Memorandum; Rockaway Beach Improvement Association case; 2022-151-SPH
Date:	Friday, June 30, 2023 12:53:37 PM
Attachments:	PC Rockaway Beach 2 - Tunney CBA Memo - 2022-151-SPH.pdf

To the Board,

The Memorandum filed yesterday inadvertently carried forward the Office of Administrative Hearings caption.

Therefore, I am resending the same memorandum text and contents with the corrected caption.

Thank you for your attention and patience.

Peter Max Zimmerman, People's Counsel, 410 887-2188

RE:	PETITION FOR SPECIAL HEARING 717 Rockaway Beach Avenue; E/S of Rockaway Beach Ave. 110' N of Beach Avenue 15th Election & 7th Councilmanic Districts Legal Owner(s): William & Theresa Tunney Petitioner(s): Rockaway Beach Improvement Association, Inc., Ruth Nuth, Scott Huffines, Kristin Miller, JoAnn Welland, Marcyanna & William Slegman	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 2022-151-SPH

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

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S POST-HEARING MEMORANDUM

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RE:	PETITION FOR SPECIAL HEARING 717 Rockaway Beach Avenue; E/S of Rockaway Beach Ave. 110' N of Beach Avenue 15th Election & 7th Councilmanic Districts Legal Owner(s): William & Theresa Tunney Petitioner(s): Rockaway Beach Improvement Association, Inc., Ruth Nuth, Scott Huffines, Kristin Miller, JoAnn Welland, Marcyanna & William Slegman	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 2022-151-SPH

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

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S POST-HEARING MEMORANDUM

On June 24, 2022, Rockaway Beach Improvement Association (RBIA), Kevin McDonough, President; Ruth Nuth, Marcyanna and William Siegman, Scott Huffine and Kristin Miller, and JoAnn Wieland filed a petition for special hearing to determine the zoning law applicable to waterside residential deck construction at 717 Rockaway Beach Avenue (RBA). Baltimore County Zoning Regulations (BCZR) Sec. 500.7.[1]

The current owners of the subject property are William and Theresa Tunney, 315 Blue Grass Lane, Hampstead, Maryland 21074. They acquired the property from Michael Paul and Carin Smith by deed dated December 6, 2021, P.C. Exh. 6. The individual petitioners are owners of nearby properties on and around the avenue.

There were also presented letters in opposition from other neighbors, the Back River Neck Peninsula Community Association and the Essex-Middle River Civic Council. Pet. Exh. 13-15.

* * *

[1] A special hearing is effectively a declaratory judgment proceeding to determine issues of zoning law. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005), Salmon, J. Pursuant to Baltimore County Charter Sec. 524.1(a)(3)(A), our office defends the comprehensive zoning maps in cases where zoning issues arise, including special hearings. People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683, 687, n.1 (1989); Marzullo v. Kahl 366 Md. 158 (2001); Geddes v. People's Counsel 2017 WL 1193781, cert. denied 455 Md. 443 (2017) and 138 S.Ct. 2683 (2018). Judge Salmon recapped in Geddes, n.2, "The People's Counsel for Baltimore County is an independent organization, separate from Baltimore County, with the "specific public interest function" of defending the comprehensive zoning maps and master plan in a variety of cases, including special hearings."

The present case relates back to and centers on Zoning Commissioner (ZC) William J. Wiseman's opinion and order in Case No. 06-501-SPH. P.C. Exh. 1A. William Rush, et ux. were then property owners. ZC Wiseman there issued a compromise approval, despite the Rushes' "indiscretions."[2] ZC Wiseman wrote on Page 3:

> "However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. **Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. …. As a condition of approval, Petitioners shall surrender any further construction rights closer to the water."** Emphasis supplied.[3]

The key condition states, Page 4:

> "5. There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s)."

ZC Wiseman also included this condition to support implementation:

> "6. When applying for any permits, the site plan filed must reference this case and set forth and address the conditions in this order."

* * *

Administrative Law Judge (ALJ) Paul M. Mayhew tried the present case. For reasons stated, ALJ Mayhew determined in his October 14, 2022 Order,

> "THEREFORE, it is ORDERED this 14th day of October, 2022 by this Administrative Law Judge that the Petition for Special Hearing is hereby GRANTED, and it is hereby DECLARED as follows:
>
> 1.) The construction of a deck on the waterfront side of the subject property:

---

[2] The "indiscretions" involved the Rushes' construction in excess of of ZC Wiseman's prior 2005 approval, discussed in more detail below.

[3] There is also a building elevation condition, the third in the Order:

> "3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the petitioners shall submit building elevations drawings of the structure to the Office of Planning for review and approval."

We have no information on satisfaction of this condition.

a.) constitutes a violation of the Order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman; and,

b.) would (does) "obstruct adjacent property owner's water views" and conflict with Restriction No. 5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH.

Having so declared, the questions posed in paragraph 2 of the Petition are therefore MOOT."[4]

The Tunneys then appealed *de novo* to the County Board of Appeals (CBA).[5]

Questions Presented

1. a. Is the purpose of ZC Wiseman's decision to forbid all future construction on the waterfront side of the property, recognizing that land use with any such construction inevitably magnifies obstruction of the neighbors' land use enjoyment?

b. Is the purpose of ZC Wiseman's 2006 decision to settle allowed construction, and foreclose later debate concerning the extent new construction "obstructs" the neighbors? Goldilocks Revisited.

2. a. Does the deck construction at issue undermine the integrity of the 2005-06 legal process and the effective compromise of the competing interests of the parties?

b. Does the parties' acceptance of ZC Wiseman's 2006 compromise effectuate a social contract which the Tunneys now violate?

3. Is the Department of Permits' perfunctory approval of the building permit irrelevant and insufficient?

4. Even if ZC Wiseman's decision is read as an invitation to review subjectively the extent of later construction and degree of "obstruction," is there obstruction from any reasonable point of view?

[4] It became moot as to whether the deck otherwise complied with the zoning regulations.

[5] The CBA reviews the appeal *de novo*. County Charter Sec. 603. Nevertheless, the essential facts are undisputed. The CBA should pay attention to ALJ Mayhew's excellent legal analysis.

Statement of Facts

The Property: Location and Description

717 RBA borders Middle River. It is zoned D.R. 3.5. ADC Map 85 and My Neighborhood Map. P.C. Exh. 2, 3. It is Lot 40, one of 72 platted on the 1915 Turkey Point Farm plat. P.C. Exh. 7. The lots are about 50' in width, with substantial depth.[6]

SDAT Real Property Data list 4580 square feet above grade living area, and land area of 9,027SF (.21 acre). P.C. Exh. 5. There are 2.5 stories and an attached garage.

The site plan and photographs show the house as 68' x 35', thus 2380 square feet (SF) ground floor area. The first story (ground level) has a two-car garage and living area facing the avenue. There are a high-ceilinged second story and partial third story, a covered porch on the waterfront side and a path to a beach, lengthy pier, with two boats.

Ownership and Zoning History

In 2005, former owners William and Maryann Rush proposed to replace the 1929 dwelling with a new home. They proposed variances for side yard setbacks of 1 feet and 11 feet, a setback sum of 12 feet, and a rear yard (street) setback of 24 feet. Case 05-579-A. See P.C. Exh. 1B. At the hearing, several citizens participated: Ruth Nuth, Jackie Nickel, and Trish McDonough. The parties compromised on approval of a setback of 4 feet on the Nuth side, 719 Rockaway Beach Avenue. The setback from Middle River was ample, ranging from about 80 to 100 feet.

But when the house was built, it was just 20 feet from the street. So the Rushes had to submit another zoning petition, mainly to get the closer rear yard setback variance. Case No. 06-501-SPH.[7] There was substantial citizen opposition. This included Jackie Nickel, then RBIA President, and Marcyann Siegman of adjacent 715 RBA.

ZC Wiseman then arrived at the further 2006 conditional compromise. The Rushes sold the property in 2008 to SFL LLC. P.C. Exh. 5. Kevin McDonough testified the

---

[6] The waterfront side of the property is typically the front for zoning purposes, and the street side the rear. See Zoning Commissioner's Policy Manual Sec. 400.2.a, Page 4-1.5.

[7] The 2006 petition also involved a porch setback variance.

corporation involved Michael Paul Smith, who moved in with his family. There was a subsequent formal transfer to Michael Paul Smith in 2019. Neither the Rushes nor Michael Paul Smith proposed or sought any construction on the waterfront side.

Then came the 2022 transfer to William and Therese Tunney. They immediately put in motion their permit application to add the deck. Despite McDonough's vigorous protest, the Department of Permits (PAI) issued the permit and has maintained its validity. There followed the petition for special hearing by the protesting community association. Meanwhile, the Tunneys went forward with construction.

The Permit Dimension: Chairman Andrew Belt Narrows the Issues

Early in the CBA hearing, Chairman Belt spotlighted the legal point that an invalid permit does not confer any rights. This is a point we made below, which ALJ Mayhew also discussed. There is no "equitable estoppel" to afford property owners rights when the government mistakenly issues a permit which conflicts with applicable zoning law. Lipsitz v. Parr 164 Md. 222, 227-28 (1933); Berwyn Heights v. Rogers 228 Md. 271, 279 (1962); Kent County v. Abel 246 Md. 395, 399-403 (1967); City of Hagerstown v. Longmeadow Shopping Center 264 Md. 481, 492-98 (1972); and, more recently, Marzullo v. Kahl 366 Md. 158, 194-99 (2001).

Counsel for the Tunneys acknowledged the point.

So, we shall dispense with the weeds of the permit history. We shall, however, identify the distinction between permit approval and zoning. PAI policy focuses narrowly on each ZC order, but disregards any conflict or perspective in the opinion. This subject came up in the testimony of Jeffrey Perlow and Arnold Jablon.

The Deck and Surroundings

The site plan shows the deck as 552Sf. It is mainly 29' x 20', but with an indentation. It is supposed to be just a foot off the ground. But there has been no recent precise measurement. McDonough produced arrays of photographs before, during, and after construction. Pet. Exh. 8-10. Arnold Jablon added several recent photographs.

There are already Adirondack chairs and what looks like a fire pit. There might in the future be more furniture, umbrellas, a bar, a grill, railing, flags, lamps, curtains and/or other improvements.[8]

While 717 RBA is much larger in size and closer to the avenue than neighboring houses 715 and 719, the front (waterside) of the dwelling lines up with and parallels them. There is also 721 RBA, where the dwelling is closer to the water and looks directly across to the 719 deck area.

McDonough in Lead Position

Kevin McDonough presented for the Petitioners. He produced an array of exhibits, including photographs before, during, and after construction. Pet. Exh. 8-10. Marcyann Siegman added her testimony. There are letters from other neighbors and the umbrella community associations. Our office contributed relevant documents.

Respondents produced surveyor Dietz. They subpoenaed Zoning Supervisor Jeff Perlow to say the zoning staff goes by the zoning order, not the opinion. He didn't perceive any obstruction but never inspected the site. Arnold Jablon opined that the Order is what counts, and the deck poses no obstruction.

The Empty Chair

The Respondents themselves, William and Theresa Tunney, were absent from the witness stand without explanation.[9] Their absence under circumstances where they would be expected to testify raises the inference that their evidence would be unfavorable as to their likely use of the deck.[10]

---

[8] We shall argue below, as this is a land use case, that it is appropriate and elementary to evaluate the present and reasonably foreseeable improvements, dimensions, scale, and use.

[9] "The Empty Chair" was the title of the iconic Untouchables S1 E 1, starring Robert Stack as Eliot Ness and Bruce Gordon as Frank Nitti.

[10] There were also the absences of the Tunneys' contractor who submitted the permit application and the county staff who reviewed it initially. While an invalid permit anyway confers no rights, the absence of the contractor and intake staff reflects unfavorably both on the incomplete application process and the superficial county review, discussed below.

The Court of Appeals addressed this situation in Brooks v. Daley 242 Md. 185, 194-95 (1966) and referred to the iconic treatises on evidence,

> "Professor Wigmore states the rule in regard to permissible inferences to be drawn from a party's failure to testify as follows:
>
> > 'It would be generally agreed, to be sure, that the mere fact of the party's failure to testify is not of itself open to inference; it is his failure when he could be a useful and natural witness * * * that is significant.' (2 Wigmore on Evidence (3rd ed.), s 289, page 173).
>
> See also McCormick on Evidence, s 249, pages 533-534."

The D.C. Court cited Brooks in Murphy v. McCloud 650 A.2d 202 (D.C. 1994),

> "Various courts have provided different characterizations of the inference to be drawn when a civil litigant fails to take the stand under circumstances in which she might ordinarily be expected to do so. *See, e.g.*, ***Brooks***, ***supra***, **218 A.2d at 189** (alluding to "the rule in regard to *permissible* inferences"); *Duratron Corp. v. Republic Stuyvesant Corp.*, 95 N.J.Super. 527, 231 A.2d 854, 856 (App.Div.1967) (referring to "the rule *permitting* adverse inferences"); *but cf. People ex rel. Borelli v. Sain*, 16 Ill.2d 321, 157 N.E.2d 417, 420 (1959) ("relator's failure to testify in his own behalf in a civil proceeding of this type detracts greatly from his position"); *Dunckelman v. T. Baker Smith & Sons, Inc.*, 447 So.2d 26, 29 (La.App. 1st Cir.1984) (party's failure to testify "creates a presumption that his testimony would be damaging to his case"). This court has also spoken in terms of a "presumption." *Namerdy v. Generalcar*, 217 A.2d 109, 112 (D.C.1966).[27] The United States Court of Appeals, in a pre–1971 case binding on us, *see M.A.P. v. Ryan*, 285 A.2d 310 (D.C.1971), has done the same. *Tendler v. Jaffe*, 92 U.S.App.D.C. 2, 7, 203 F.2d 14, 19 (1953)."

Therefore, the failure of the Tunneys to testify, where it would be natural for them to do so, raises the inference that their use of the deck will be as intense as possible and will and no doubt irritate and obstruct the neighbors as much as possible.

Zoning Advisory Committee Comments

DEPS commented on July 19, 2022, describing Chesapeake Bay Critical Area conditions: Limited Development Area lot coverage, buffer area, and afforestation requirements. P.C. Exh. 10. There was no further information as to any compliance.

On July 28, 2022, the Department of Planning (DOP) issued their ZAC Comments. P.C. Exh. 11. In paragraph 1, they quote ZC Wiseman's 2006 opinion:

> "Petitioners … shall surrender any further construction rights closer to the water."

There follows this conclusion,

> "Department of Planning concludes that the construction of deck will be in violation of the order in this case."

Yet Paragraph 2 concludes, "Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties."[11] The DOP then says zoning and compliance issues will be "… part of the permits process." Para. 3-4.

Argument

I.A. The Purpose of ZC Wiseman's 2006 Opinion and Order is to Forbid All Future Construction on the Waterfront Side of the Property.

Zoning Law and Land Use

It is elementary that zoning deals with land use. The Supreme Court covered the subject in the landmark comprehensive zoning case of Euclid v. Ambler Realty Co. 272 U.S. 365 (1926). The Maryland Court of Appeals (now Supreme Court) wrote in Board of County Comm'rs v. Gaster 285 Md. 233, at 246 (1979),

> "As we noted in Wash. Co. Taxpayers Ass'n v. Board, 269 Md. 454, 455-56, 306 A.2d 539 (1973), some confusion exists relative to the terms planning and zoning, which are not synonymous. Zoning is concerned with the use of property but planning is broader in its concept. 1 E. Yokley, Zoning Law and Practice s 1-2 (4th ed. 1978) comments: Expressing the matter in another way, let us say that zoning is almost exclusively concerned with use regulation, whereas planning is a broader term and indicates the development of a community, not only with respect to the uses of lands and buildings, but also with respect to streets, parks, civic beauty, industrial and commercial undertakings, residential developments and such other matters affecting the public convenience and welfare as may be properly embraced within the police power. (Id. at 4.)"

Gaster has been cited with approval many times.

It is wrong to focus narrowly on the building permit. Nor does it matter that county staff' rely on zoning orders to the blind and cramped exclusion of opinions. We are dealing broadly with land use. The deck inevitably facilitates and encompasses more intense land use than will occur on open grass. While recreational activity and furniture may be in an open yard, the very purpose of a deck is to enhance and intensify land use.

[11] The DOP states no basis or reason for this disbelief. It goes against their logical finding of a violation of the order.

The failure of the Tunneys to testify reinforces the major inference that their use of the deck will be have a severe adverse impact, including obstruction.

The word "obstruction" and its synonyms in any event have broad definitions. Webster's Third New International Dictionary states, in pertinent part,

> "**obstruct … *vt* …. 2** to be or come in the way of … IMPEDE, RETARD … **3** : to cut off from sight : … *vi* to place obstacles in the way : IMPEDE **syn** HINDER."
>
> "**impede** *vt* .. to interfere with or get in the way of progress of : detract from …"
>
> "**hinder** vt … **4 :** to interfere with the activity of …"

The waterside ambience and view are central. Deck activity and use are inherently obstructive. County policy sensibly assesses this side as the front for zoning purposes.

For context, ZC Wiseman's conditional prohibition of "further improvements or dwelling construction … which would obstruct adjacent neighbors' waterside view(s)," must be read together with his opinion. It is explicitly stated, on Page 3,

> "As a condition of approval, Petitioner shall surrender any further construction rights to build closer to the water."

There is no genuine dispute that the deck construction involves building closer to the water. The application for building permit concedes as much.

ZC Wiseman thus made double sure the Rushes "shall not benefit" further from their "indiscretions" and "unfortunate circumstances." This underlay his allowance to exceed the previous setback variance approval in return for strict prohibition of future waterfront side construction.

Tantamount to Statutory Construction: Context and Big Picture

Contextual analysis of an opinion and order is analogous to statutory construction. The Court of Appeals recited in Kaczorowski v. Baltimore, 309 Md. 505, 513-16 (1987) that legislation "… usually has some objective, goal, or purpose. It seeks to remedy some evil, to advance some interest, to attain some end." 309 Md., at 513,

> "Moreover, despite Kaczorowski's pleas that we examine the trees so closely that we do not see the forest, the plain-meaning rule does not force us to read legislative provisions in rote fashion and in isolation. What we are engaged in is the divination of legislative purpose or goal… The 'meaning of the plainest language' is controlled by the context in which it appears." 309 Md., at 514.

He referred to Justice Holmes' concept that "the general purpose is a more important aid than any rule which grammar or formal logic may lay down." *Ibid*. Continuing,

> "The purpose, in short, determined in light of the statute's context, is the key. And that purpose becomes the context within which we apply the plain-meaning rule. Thus 'results that are unreasonable, illogical or inconsistent with common sense should be avoided… with the real legislative intention prevailing over the intention indicated by the literal meaning.'" 309 Md., at 516.

Judge Glenn Harrell reiterated in Rockville v. Rylyns 372 Md. 514, 549-551 (2002):

> " ... if the statute is part of a general statutory scheme or system, the sections must be read together to ascertain the true intention of the Legislature." (Citations omitted).
>
> * * *
>
> "As noted, absurd results in the interpretive analysis of a statute are to be shunned. This Court stated in *D & Y, Inc. v. Winston*, 320 Md. 534, 538, 578 A.2d 1177, 1179 (1990), that "construction of a statute which is unreasonable, illogical, unjust, or inconsistent with common sense should be avoided." (citations omitted). *See also Blandon v. State*, 304 Md. 316, 319, 498 A.2d 1195, 1196 (1985) ("[R]ules of statutory construction require us to avoid construing a statute in a way which would lead to absurd results."); *Erwin and Shafer, Inc. v. Pabst Brewing Co.*, 304 Md. 302, 311, 498 A.2d 1188, 1192 (1985) ("A court must shun a construction of a statute which will lead to absurd consequences.").

The Court echoed in 75-80 Properties v. Rales, Inc. 470 Md. 598, 624-25 (2020),

> "In construing a statute, 'we avoid a construction of the statute that is unreasonable, illogical, or inconsistent with common sense.' *Bellard v. State*, 452 Md. 467, 482, 157 A.3d 272 (2017) (citations omitted). Additionally, the 'meaning of the plainest language is controlled by the context in which it appears.' *Md. Dep't of the Env't v. Cty. Comm'rs of Carroll Cty.*, 465 Md. 169, 203, 214 A.3d 61 (2019) (citations and quotations omitted). As this Court has stated,
>
> > ' [b]ecause it is part of the context, related statutes or a statutory scheme that fairly bears on the fundamental issue of legislative purpose or goal must also be considered. Thus, not only are we required to interpret the statute as a whole, but, if appropriate, in the context of the entire statutory scheme of which it is a part.'

Metaphorically, consider a Monet or Van Gogh painting at a museum. From close up, there appear blurry brush strokes. It is necessary to stand back for holistic perspective. As in Kaczorowski, the goal is avoid the mistake of "not seeing the forest for the trees."

In sum, statutory construction illustrates that legal analysis is contextual. The entire scheme must be brought to bear. The Tunneys, with PAI's misguided support, want to disconnect and isolate ZC Wiseman's Order to enable their distorted circumvention of his essential decisional purpose.

I.B. ZC Wiseman's Decision Settles Allowed Construction and Forecloses Later Debate Concerning the Extent of New Construction: Goldilocks Revisited

It is absurd to deduce ZC Wiseman's decision is a launching pad or trigger for subsequent litigation. After the problems the Rushes generated, it is absurd to suggest that he intended to open the door to subjective debates about the degree of future waterside building obstruction. It was intended definitively to close the subject.[12]

Otherwise stated, there was not to be a Goldilocks assessment of how much construction is too much, too little, or just right.[13] The three bears justifiably sent Goldilocks away, never to return. The tripartite CBA panel should similarly exorcise the deck, never for it to return.

II.A. The Deck Construction Undermines the Integrity of the Legal Process

It cannot be emphasized enough that attention must be paid to the totality of historical circumstances. The Rushes got the benefit of variances for a very large dwelling, with attendant rear and side yard setback variances. In return, they accepted the prohibition of waterside construction. They had the benefit of a porch, a large yard area, a path to the river, a beach, and a long pier to accommodate boats. There was no hardship in their acceptance of this condition. Metaphorically, the Tunneys have come out of the woodwork to disrespect and put a blight on the integrity of the legal process.

---

[12] Dr. John Faustus famously asked, upon seeing Helen of Troy: "Was this the face that launched a thousand ships and burn the topless towers of Ilium?" Christopher Marlowe, Doctor Faustus (Quarto, 1604). ZC Wiseman's was not the decision to launch a quantity of litigation.

[13] Goldilocks and the Three Bears began as an English Fairy Tale. It has evolved over the years. See, e.g. https://americanliterature.com/childrens-stories/goldilocks-and-the-three-bears.

As successors to the Rushes and later owners, the Tunneys are in privity with them and bound by ZC Wiseman's decision. The Court of Appeals long ago stated in City of Baltimore v. Poe 224 Md. 428, 433 (1961),

> "It is settled law in this State that the zoning ordinance is concerned with the use of property and not with ownership thereof nor with the purposes of the owners or occupants."

See, e.g. People's Counsel v. Surina 400 Md. 662, 701 (2007); Preston v. Zoning Board of Review of Town of Hopkinton 154 A.3d 465 (R.I. 2017).

II.B. The Parties' Acceptance of ZC Wiseman's 2006 Compromise Effectuates a Social Contract, which the Tunneys' Deck Construction Violates.

ZC Wiseman's decision, accepted by all parties, effectively puts in place a kind of social contract. The Rushes complied. Michael Paul and Carin Smith complied.

The parties' conduct at and after the making of the contract is relevant to interpretation. Judge Hall Hammond emphasized in Evergreen Amusement Co. v. Milstead 206 Md. 610, 616-17 (1955),

> "In Saul v. McIntyre, 190 Md. 31, 36, 57 A.2d 272, the Court said the conduct of the parties to a written contract may amount not only to a construction of ambiguous provisions but may even evidence a subsequent modification of its terms. In Eastern Woodworks, Inc., v. Vance, Md., 112 A.2d 231, again it was held that the construction placed on the contract by the parties themselves may be relevant." Additional citations omitted.

Judge Hammond reiterated in Solomon's Marina v. Rogers 221 Md. 194, 198 (1959),

> "Regardless of what the original bargain may have been, we think Rogers cannot now say that Titanium Ores did not acquire title as well as possession. We noted in Evergreen Amusement Corp. v. Milstead, 206 Md. 610, 616, 112 A.2d 901, 903, that in Saul v. McIntyre, 190 Md. 31, 36, 57 A.2d 272, the Court said 'the conduct of the parties to a written contract may amount not only to a construction of ambiguous provisions but may even evidence a subsequent modification of its terms.' It well may be that by their conduct Rogers and Titanium Ores have clarified whatever ambiguity there may have been in the corporate minutes or have modified their terms and effect, with the result that title to the boat passed to Titanium Ores."

The Rushes and Smiths acted in accordance with the compromise decision and reasonable expectations of neighbors that the waterfront side would have no new construction. In 2022, it's far too late now for a newcomer to claim otherwise.[14]

III. The Department of Permits' Perfunctory Approval of the Building Permit is Irrelevant and Insufficient

The Tunneys rely on PAI's issuance of the building permit. They presented Jeffrey Perlow to promote an informal policy to read the zoning order to the exclusion of the opinion. They further cite his remote and subjective conclusion that the deck does not obstruct because it lacks much height. They present former county attorney and official Arnold Jablon to back Perlow up with a legal argument on the witness stand.

Neither the Tunneys, their contractor, nor the county intake staff testified. It is obvious that their permit application disregarded the prior opinion, whether deliberately or carelessly. The county permit record outline reflects the permit application cited previous case numbers, but did not identify the restriction, much less address it. P.C. Exh. 8, I.D. PAI initially issued the permit in May, 2022 without regard to the zoning history.

Perlow did not get involved until June, when Kevin McDonough communicated his complaint about the issuance of the permit. He did not do a site inspection. He did not appear to know who was involved in the initial permit approval process. He disregarded ZC Wiseman's opinion and the scope of land use. He did not consult the dictionary. He just came to the bald conclusion that a l-inch high deck would not be an obstruction.

Perlow did not even to refer the matter for special hearing before the ALJ, the normal procedure where there is a colorable legal question. This failure illustrates the arbitrariness of the PAI activity. Instead, they placed the burden unfairly on RBIA and the citizens to incur the time and expense to initiate and process this zoning petition.

There was what amounted to a rubber-stamp building permit approval in ignorance of the 2006 zoning decision. It was left to Perlow and PAI, after the fact, to try to defend this errant performance. The main thing is that PAI engaged in tunnel vision. They were always on the wrong track.

[14] This brings to mind Carole King's iconic song in her Tapestry album (1971): "It's Too Late."

IV. Even if ZC Wiseman's decision is read as an invitation to review subjectively the extent of later construction and degree of "obstruction," there is obstruction from any reasonable perspective

The crux of it is that this is a land use case. It is not just the physical layout of the deck at issue. It is not probative to say that the deck has minimal height and ergo no obstruction. This is devoid of context. Rather, the scope of obstruction extends inevitably to the land use which the deck facilitates. It is the essential function of the deck to enable more conveniently an array of recreational and other activities.

In the course of the hearing, CBA Chair Belt noted the well understood array of potential deck activities. To support such activities, there will be furniture, including cooking facilities and umbrellas. There may be flagpoles and flags. There may be cloth canopies, tents, and curtains. There may be some kind of ring made of rope or other material. This is a subject upon which there can virtually be judicial, or quasi-judicial, notice. Suffice it to say there are a myriad of recreational activities and accoutrements which the deck enables and enhances for the Respondents and/ or their invitees. If the activities on the grass were equivalent, or just as convenient, there would be no decks.

Given that the Tunneys immediately moved ahead with deck construction despite ZC Wiseman's Order, it is inevitable they will go much further in their use of the deck.

To make a long story short, even if the CBA were to accept the interpretation that ZC Wiseman's decision sets the stage to play with subjective debates about the degree of "obstruction," the sequential commonsense conclusion is that this deck and concomitant land use obstructs, impedes, and hinders the view of several neighbors.

Conclusion

For all of the above reasons, the County Board of Appeals should approve the request for special hearing. The CBA should follow in the footsteps of ALJ Paul Mayhew's definitive Order:

> "THEREFORE, it is ORDERED this ____ day of October, 2023 by this County Board of Appeals that the Petition for Special Hearing is hereby GRANTED, and it is hereby DECLARED as follows:

1.) The construction of a deck on the waterfront side of the subject property:

a.) constitutes a violation of the Order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman; and,

b.) would (does) "obstruct adjacent property owner's water views" and conflict with Restriction No. 5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH.

Having so declared, the questions posed in paragraph 2 of the Petition are therefore MOOT.

IT IS FURTHER ORDERED that the Legal Owners/Respondents shall have thirty (30) days to remove the deck and thirty (30) additional days to then restore the yard to its previous condition."

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

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2023, a copy of the foregoing People's Counsel for Baltimore County's Post-Hearing Memorandum was emailed to Rockaway Beach Improvement Assoc., c/o Kevin McDonough, 628 Rockaway Beach Avenue, Essex, Maryland 21221, info@turkeypoint.org , Representative for Petitioner(s) and Jennifer Busse, Esquire, 25 South Charles Street, 21st Floor, Baltimore, Maryland 21201, jbusse@rosenbergmartin.com , Attorney for Property Owners.

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

Tammy Zahner

From: Appeals Board
Sent: Thursday, June 29, 2023 3:24 PM
To: Kevin McDonough
Subject: RE: Case #2022-0151-SHP (Petitioner's Joint Closing Memorandum)

Received.
Thank you.

Board of Appeals for Baltimore County
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From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Thursday, June 29, 2023 2:49 PM
To: Appeals Board <appealsboard@baltimorecountymd.gov>
Cc: jbusse@rosenbergmartin.com; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; bud@btplumbingsupply.com
Subject: Case #2022-0151-SHP (Petitioner's Joint Closing Memorandum)

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Afternoon,

Attached please find the joint closing memorandum in the above referenced case submitted by the Petitioners.

Thank you.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc. Inc.

Sent from my iPhone

Rockaway Beach Improvement Association Inc.,
Michael & Patricia McDonough, Marcyanna & William
Siegman, Scott Huffines, Kristin Miller
and JoAnn Weiland
PETITIONERS

****

William Tunney IV & Theresa Tunney,
Respondents / Appellants

Case # 2022-0151-SPH

Before the Baltimore County

Board of Appeals

****

Petitioner's Joint Closing Memorandum

The petitioners in the above referenced case, The Rockaway Beach Improvement Association Inc., Michael and Patricia McDonough, Marcyanna and William Siegman, Scott Huffines, Kristin Miller and JoAnn Weiland jointly submit the following Closing Memorandum in support of their case.

Introduction

Pending before the Baltimore County Board of Appeals is the appeal of an Administrative Law Judge decision issued by the Honorable Judge Paul Mayhew which was decided in favor of the Petitioners and found that the construction of a deck at the waterfront side of 717 Rockaway Beach Avenue | Essex, MD 21221 was in violation of a prior zoning order and the enumerated restrictions therein issued as part of a 2006 zoning case involving variances at the property. The respondents/ property owners, William and Theresa Tunney noted an appeal to the Board of Appeals.

The case centers around the construction of a deck at the waterfront side of the property at 717 Rockaway Beach Avenue and whether or not that violates the Order and Opinion issued by Zoning Commissioner William Wiseman in zoning case 06-501-SPH.

Argument:

In 2006, the prior owners of the property at issue, Maryann and William Rush sought variance relief to retroactively approve the improper placement of their home which was discovered during construction after a stop work order was issued for violations of the site plan and previous zoning relief granted for

deviation from the setbacks permitted in the DR 3.5 zone. The request at that time was met with considerable opposition from the community at large and from the adjoining property owners.

In an effort to best balance the desires of the community and adjoining neighbors for accountability and consequences as a result of the Rush's indiscretions of noncompliance, Zoning Commissioner Wiseman issued what many would call a "compromise order" that granted the variance relief sought, but with certain conditions, restrictions and stipulations. That order was admitted as Petitioner's Exhibit #2 in this immediate case.

When considering the order and opinion issued by Commissioner Wiseman, one must look at the entirety of the order must be considered to understand its full context and intention. Simply looking at the restrictions could dilute contextual matter and ignores pertinent rationale which further illuminates the spirit and intent of the order, nor would it provide guidance as to future interpretation of the order. Petitioner's assert that the intention of the order was and remains clear – to prohibit any further construction of any kind, whether that be the construction of an addition to the home, a deck, a shed, outbuilding, greenhouse, pergola, raised bulkhead, patio etc... at the waterfront side of the property, and to also prohibit any improvements or construction at the waterfront side of the property which would obstruct the adjacent property owners water views.

This assertion is grounded in two particular sections of the order, the first being page 3, paragraph 1 which states in part "*As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water.*" There should be no misconstruing that the intention of Commissioner Wiseman was to grant the requested relief but only on the premise that the property owners surrender any and all further construction rights to build closer to the water. The choice of language here is was precise and intentional in that it prohibited ANY further construction, and did not limit it only to dwelling construction – it was left open to mean any and all construction whatsoever at that side of the property.

Additionally, on page 4 of the order, attention is called to restriction # 5, which states *"There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s)."* It is important to note that Commissioner Wiseman made sure to emphasize that both improvements AND dwelling construction which would obstruct the adjoining owners views were both prohibited. Improvements would include such things as decks, pergolas, greenhouses, gazebos, sheds, bulkheads, shower stalls, certain landscaping, etc...

Testimony from Kevin McDonough, President of the Rockaway Beach Improvement Association Inc., articulated context surrounding the conditions and restrictions contained within the order by referencing an e-mail from the prior property owner (William Rush) of the subject property to Commissioner Wiseman, which was admitted as Petitioner's Exhibit #3. The email was sent by Mr. Rush during the 2006 zoning case in which the property owners at the time actually proposed the restrictions and offered to surrender their future construction rights for any further construction closer to the water, acknowledging that anything beyond the current location of the home would obstruct the adjoining property owners' water views. In his e-mail, Mr. Rush makes reference to a permit for a new raised bulkhead that would be forfeited as a result of his proposed condition. This further illustrates the spirit and intention of the order to prohibit ALL construction, not simply dwelling construction, but construction related to any kind of improvement which could obstruct the adjoining property owners' water view(s). Petitioner's would assert that that e-mail is very telling in that the property owner / builder of the home acknowledged that anything beyond what existed at that time would undoubtedly obstruct the view for the neighbors.

Extensive testimony was provided by Mr. McDonough in his capacity as President of the community association and also as the son of the owners of the adjoining property at 719 Rockaway Beach Avenue and grandson of the previous owner and by Marcyanna Siegman, who is the adjacent neighbor at 715 Rockaway Beach Avenue regarding the neighbors understanding of the order, the restrictions contained therein and most importantly about the impact that the deck at the subject property has with regard to obstruction of view for the adjoining properties on each side. Additionally, testimony articulated that it was unanimously understood by the community and the adjacent neighbors that the order was intended to finally put to bed all issues at this property and not to be a basis for future litigation as to semantics about the order and what additional building, construction or improvements might possibly be allowed given the restrictions.

Both Kevin McDonough and Ms. Siegman testified about how the deck is the first and most prominent thing observed when looking out towards the water from the neighboring properties and that it certainly does detract from and obstruct their respective views. They each articulated concerns about not only the deck, but the ancillary uses of the deck, as it will likely be improved with furniture, potted plants, barbeque grills, and a more intensified use than that of a typical grass yard. Mr. McDonough also testified as to how the obstruction caused by the deck is exacerbated by the difference in elevations between the subject property, which is at a higher elevation, and that of the adjoining property at 719

Rockaway Beach Avenue which is at a lower elevation. Petitioner's Exhibit # 11, which was admitted into evidence was a site plan prepared by Brian Dietz, a surveyor retained by the Tunney's which depicts the elevation at the Tunney property being at 12.61 feet above sea level, whereas the elevation of the adjacent property at 719 Rockaway Beach Avenue is roughly 10-11 ft above sea level. On that same site plan, Mr. Dietz certifies that the elevation of the deck is 13.76 ft above sea level, which would make it approximately 1.15 ft in height. Based on simple arithmetic, this places the deck at a nearly 3ft height advantage over the adjacent property at 719 Rockaway Beach Avenue from ground level which certainly poses an obstruction to the water view at 719 Rockaway. It is important to note that during cross examination of Mr. Dietz, it was discovered that Mr. Dietz had created an amended site plan in which the elevation of the deck was changed to 13 ft even, but that that change had been made despite him not having done an additional site visit following his initial preparation of the site plan admitted as Petitioner's Exhibit 11. Therefore, he was unable to explain how the height of the deck had changed to match the requirements of the permit despite previously certifying its true height on a 9/28/22 sealed drawing and testifying that no additional site visits were performed or measurements taken which would support his change. The aforementioned inconsistencies also cast doubt in the eyes of the Petitioners on the credibility of Mr. Deitz's testimony.

Exhibits were also submitted by the Petitioners which illustrated the importance of this issue to the community and adjacent residents who all shared their support for the position of the petitioners. Namely, Exhibits 13, 14 and 15 which were admitted into evidence were letters from various community organizations such as the Essex Middle River Civic Council, Back River Neck Peninsula Community Association and a petition signed by a vast majority of the residents of the Rockaway Beach community.

Two Baltimore County agencies also weighed in to support the stance of the petitioners, the Baltimore County Office of Peoples Counsel and the Baltimore County Department of Planning, which shared the petitioner's interpretation. Admitted as Exhibit # 16 was a copy of the Planning Department comments for this case. Perhaps the most telling of their comments is comment #1, which states in pertinent part *"... Department of Planning concludes that the construction of deck will be in violation of the order in this case."* While the staff at the department of Planning may not be attorneys or an Administrative Law Judge, they certainly read and interpreted the order with the same understanding as petitioners in this case. This further illustrates the point concerning the spirit and intention of the original order as being abundantly clear in its prohibition on further construction at 717 Rockaway Beach Avenue.

"A picture is worth a thousand words" is a common colloquialism which petitioners believe is perhaps the most telling in this case. A series of photographs depicting conditions at 717 Rockaway Beach Avenue pre construction, during construction and post construction were admitted as exhibits which clearly show the impact that the deck has, the elevation difference between the properties and the obstruction that the deck and its ancillary uses have and will continue to have an adverse impact on the adjacent owner(s) water views. Petitioners would draw the attention of the Board to the photographs admitted as exhibit 8A, 8C and 8D which show the substantial scale of the home situated at 717 Rockaway Beach Avenue to the adjacent properties. It massively towers over and dwarfs neighboring properties on either side. As a result of the disproportionate nature of the home and its extremely close positioning on the lot to each adjacent neighbor, the only view that they are able to benefit from is the water view, as no side views exist, which emphasizes the importance of Commissioner Wiseman's action to preserve that water view for the adjacent owners. Exhibits 8 E, F and G showcase the obstructions which existed prior to the construction of a deck by way of furniture – namely an umbrella, barbeque grill, etc. The installation of a deck and elevation of these items above ground level unequivocally obstructs the view of the adjoining property owners, particularly that of 719 Rockaway Beach Avenue which is positioned at a significantly lower elevation as evidenced in Petitioner's Exhibit 11. The elevation difference between the properties is clearly showcased in Petitioner's Exhibits 9E, F, G, and H.

Further photographs taken by Kevin McDonough from viewpoints at 719 Rockaway Beach Avenue and at 715 Rockaway Beach Avenue were shown, described and admitted into evidence which further depicted the obstructed view that exists as a result of the deck. Exhibits 10 A, C, G, L and M depict various furniture, objects, etc. which are currently on the deck and pose obstructions for the adjoining property owners' water views from both their yards and homes. Additionally, the future ancillary uses of the deck must also be taken into consideration, meaning that with a deck can come planters, hammocks, barbeque grills, pergolas, umbrellas, etc. which would further obstruct the views of the adjoining owners. Simply put, one cannot consider only the existence of the deck, but the more intensified use that comes with that of a deck as opposed to a grassy yard area and the obstruction that that intensified use and the uses that it affords the owner will have on the adjoining properties. Commissioner Wiseman sought to prevent that from occurring with the issuance of his order and the language which he used.

It should also be noted that the property has had more than one owner since the issuance of the order in that 2006 zoning case (See petitioner's Exhibit #17). "It is settled law in this state that the zoning

ordinance is concerned with the use of property and not with ownership thereof nor with the purposes of the owners or occupants" *(see e.g. Peoples Counsel v. Surina 400 Md. 662, 701 (2007) ; Preston v. Zoning Board of review of the Town of Hopkinton 154 A.3d 465 (R.I. 2017))* Each owner since 2006 respected the rule of law and the existence of that order and the protections that it was intended to create for their neighbors, with the exception of the most recent owners, the Tunney's. William and Maryann Rush, SFL LLC, and immediately prior to the current owners, Michael Paul and Carin Smith. At no time during the last fifteen (15) plus years was there any attempts to debate, circumvent or launch challenges to the interpretation of the order. In fact, Michael Paul Smith is a prominent attorney in Baltimore County and we believe his compliance with the prior order supports the assertions advanced herein by the Petitioners. The Tunney's instead opted to completely disregard the concerns of the adjacent owners and community when the issue of the restrictions contained within the 2006 zoning order were raised to them when it was learned they had intention to build a deck, effectively disregarding the expressed opinion of the Petitioners and the existence of the order.

Conclusion

On numerous occasions, the community and the adjoining neighbors have had to raise concerns regarding the property at 717 Rockaway Beach and its compliance with the Zoning Regulations of Baltimore County. In 2005 at the initial request for variances, during construction of the home when multiple stop work orders were issued as a result of flagrant violations, in 2006 at a subsequent zoning hearing and now again in the immediate case. One must be aware that there is the expectation that "citizens [of a given county or municipality] are entitled to strict enforcement of the existing zoning regulations" *(Sailsbury Bd. Of Zoning Appeals v. Bounds, 240 Md. 547, 555-56 (1965)).* After the 2006 zoning case, the community and adjoining neighbors believed that the issues at this property were finally laid to rest and that the order issued at that time shut the door on any future construction at the property which would cause issue for the community. However, that is not the case and what is frequently pointed to as one of the most incongruent builds in the community now continues to push the boundaries of what is acceptable and what burden its neighbors should have to endure.

The petitioners would argue that what we are not asking for punitive judgment or extreme measures, but simply general enforcement of the existing zoning regulations which apply to 717 Rockaway Beach Avenue, namely the conditions and restrictions set forth in the Order and Opinion issued by Zoning Commissioner William Wiseman in case # 06-501-SPH. Those conditions and restrictions, which required the surrender of "any further further construction rights to build closer to the water" and that *"there*

will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s). The direct language of that order is abundantly clear in its spirit, intent and its imposition. While the respondents in this case argue that it's open to interpretation and that their expert witness doesn't believe it to be applicable to a deck being constructed at the property, we would simply rebut by encouraging anyone questioning it to read the order, look at the plain language look at the context of the order and it's clear that the only just and equitable resolution to the case and the questions pending before the Baltimore County Board of Appeals are simple:

> *That the construction of a deck at the waterfront side of the subject property constitutes a violation of the order entitled "Findings of Fact and conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case # 06-501-SPH by Zoning Commissioner William Wiseman.*
>
> *AND*
>
> *That the construction of a deck at the waterfront side of the subject property does in fact "obstruct adjacent property owners water views" and therefore conflicts with and violates restriction #5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning case # 06-501-SPH.*

Petitioners respectfully request that judgment be granted in their favor in this case and that the respondents be ordered to remove the deck as it violates the aforementioned Zoning Order and enumerated restrictions.

The Rockaway Beach Improvement Association Inc.
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JoAnn Weiland
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Certificate of Service:

I hereby certify that on this 29th day of June 2023 a copy of the foregoing "Petitioner's Joint Closing Memorandum" was e-mailed to the following individuals:

Jennifer Busse – jbusse@rosenbergmartin.com (Counsel for Respondents William & Theresa Tunney)

Peter Max Zimmerman – pzimmerman@baltimorecountymd.gov (Peoples Counsel for Balto. Co.)

William & Theresa Tunney – bud@btplumbingsupply.com (Respondents)

6/29/23

Tammy Zahner

From: Appeals Board
Sent: Thursday, June 29, 2023 10:37 AM
To: Peoples Counsel
Subject: RE: William & Theresa Tunney - Rockaway Beach Improvement Association et al. - 717 Rockaway Beach Avenue - Case No.: 2022-151-SPH

Received.

Thank you.

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From: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Sent: Thursday, June 29, 2023 10:17 AM
To: Appeals Board <appealsboard@baltimorecountymd.gov>
Cc: Jennifer Busse <jbusse@rosenbergmartin.com>; Kevin McDonough <kevinmcdonough@comcast.net>; info@turkeypoint.org
Subject: William & Theresa Tunney - Rockaway Beach Improvement Association et al. - 717 Rockaway Beach Avenue - Case No.: 2022-151-SPH

Good Morning,

Attached for filing, please find People's Counsel for Baltimore County's Post-Hearing Memorandum with regard to the above-mentioned case.

Thank you for your consideration.

Rebecca M. Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
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(410) 887-2188 Office

RE:	PETITION FOR SPECIAL HEARING 717 Rockaway Beach Avenue; E/S of Rockaway Beach Ave. 110' N of Beach Avenue 15th Election & 7th Councilmanic Districts Legal Owner(s): William & Theresa Tunney Petitioner(s): Rockaway Beach Improvement Association, Inc., Ruth Nuth, Scott Huffines, Kristin Miller, JoAnn Welland, Marcyanna & William Slegman	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2022-151-SPH

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

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S POST-HEARING MEMORANDUM

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RE:	PETITION FOR SPECIAL HEARING 717 Rockaway Beach Avenue; E/S of Rockaway	*	BEFORE THE OFFICE
	Beach Ave. 110' N of Beach Avenue 15th Election & 7th Councilmanic Districts	*	OF ADMINSTRATIVE
	Legal Owner(s): William & Theresa Tunney Petitioner(s): Rockaway Beach Improvement	*	HEARINGS FOR
	Association, Inc., Ruth Nuth, Scott Huffines, Kristin Miller, JoAnn Welland, Marcyanna	*	BALTIMORE COUNTY
	& William Slegman	*	2022-151-SPH

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

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S POST-HEARING MEMORANDUM

On June 24, 2022, Rockaway Beach Improvement Association (RBIA), Kevin McDonough, President; Ruth Nuth, Marcyanna and William Siegman, Scott Huffine and Kristin Miller, and JoAnn Wieland filed a petition for special hearing to determine the zoning law applicable to waterside residential deck construction at 717 Rockaway Beach Avenue (RBA). Baltimore County Zoning Regulations (BCZR) Sec. 500.7.[1]

The current owners of the subject property are William and Theresa Tunney, 315 Blue Grass Lane, Hampstead, Maryland 21074. They acquired the property from Michael Paul and Carin Smith by deed dated December 6, 2021, P.C. Exh. 6. The individual petitioners are owners of nearby properties on and around the avenue.

There were also presented letters in opposition from other neighbors, the Back River Neck Peninsula Community Association and the Essex-Middle River Civic Council. Pet. Exh. 13-15.

* * *

[1] A special hearing is effectively a declaratory judgment proceeding to determine issues of zoning law. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005), Salmon, J. Pursuant to Baltimore County Charter Sec. 524.1(a)(3)(A), our office defends the comprehensive zoning maps in cases where zoning issues arise, including special hearings. People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683, 687, n.1 (1989); Marzullo v. Kahl 366 Md. 158 (2001); Geddes v. People's Counsel 2017 WL 1193781, cert. denied 455 Md. 443 (2017) and 138 S.Ct. 2683 (2018). Judge Salmon recapped in Geddes, n.2, "The People's Counsel for Baltimore County is an independent organization, separate from Baltimore County, with the "specific public interest function" of defending the comprehensive zoning maps and master plan in a variety of cases, including special hearings."

The present case relates back to and centers on Zoning Commissioner (ZC) William J. Wiseman's opinion and order in Case No. 06-501-SPH. P.C. Exh. 1A. William Rush, et ux. were then property owners. ZC Wiseman there issued a compromise approval, despite the Rushes' "indiscretions."[2] ZC Wiseman wrote on Page 3:

> "However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. **Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. …. As a condition of approval, Petitioners shall surrender any further construction rights closer to the water."** Emphasis supplied.[3]

The key condition states, Page 4:

> "5. There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s)."

ZC Wiseman also included this condition to support implementation:

> "6. When applying for any permits, the site plan filed must reference this case and set forth and address the conditions in this order."

* * *

Administrative Law Judge (ALJ) Paul M. Mayhew tried the present case. For reasons stated, ALJ Mayhew determined in his October 14, 2022 Order,

> "THEREFORE, it is ORDERED this 14th day of October, 2022 by this Administrative Law Judge that the Petition for Special Hearing is hereby GRANTED, and it is hereby DECLARED as follows:
>
> 1.) The construction of a deck on the waterfront side of the subject property:

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[2] The "indiscretions" involved the Rushes' construction in excess of of ZC Wiseman's prior 2005 approval, discussed in more detail below.

[3] There is also a building elevation condition, the third in the Order:

> "3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the petitioners shall submit building elevations drawings of the structure to the Office of Planning for review and approval."

We have no information on satisfaction of this condition.

a.) constitutes a violation of the Order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman; and,

b.) would (does) "obstruct adjacent property owner's water views" and conflict with Restriction No. 5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH.

Having so declared, the questions posed in paragraph 2 of the Petition are therefore MOOT."[4]

The Tunneys then appealed *de novo* to the County Board of Appeals (CBA).[5]

Questions Presented

1. a. Is the purpose of ZC Wiseman's decision to forbid all future construction on the waterfront side of the property, recognizing that land use with any such construction inevitably magnifies obstruction of the neighbors' land use enjoyment?

b. Is the purpose of ZC Wiseman's 2006 decision to settle allowed construction, and foreclose later debate concerning the extent new construction "obstructs" the neighbors? Goldilocks Revisited.

2. a. Does the deck construction at issue undermine the integrity of the 2005-06 legal process and the effective compromise of the competing interests of the parties?

b. Does the parties' acceptance of ZC Wiseman's 2006 compromise effectuate a social contract which the Tunneys now violate?

3. Is the Department of Permits' perfunctory approval of the building permit irrelevant and insufficient?

4. Even if ZC Wiseman's decision is read as an invitation to review subjectively the extent of later construction and degree of "obstruction," is there obstruction from any reasonable point of view?

[4] It became moot as to whether the deck otherwise complied with the zoning regulations.

[5] The CBA reviews the appeal *de novo*. County Charter Sec. 603. Nevertheless, the essential facts are undisputed. The CBA should pay attention to ALJ Mayhew's excellent legal analysis.

Statement of Facts

The Property: Location and Description

717 RBA borders Middle River. It is zoned D.R. 3.5. ADC Map 85 and My Neighborhood Map. P.C. Exh. 2, 3. It is Lot 40, one of 72 platted on the 1915 Turkey Point Farm plat. P.C. Exh. 7. The lots are about 50' in width, with substantial depth.[6]

SDAT Real Property Data list 4580 square feet above grade living area, and land area of 9,027SF (.21 acre). P.C. Exh. 5. There are 2.5 stories and an attached garage.

The site plan and photographs show the house as 68' x 35', thus 2380 square feet (SF) ground floor area. The first story (ground level) has a two-car garage and living area facing the avenue. There are a high-ceilinged second story and partial third story, a covered porch on the waterfront side and a path to a beach, lengthy pier, with two boats.

Ownership and Zoning History

In 2005, former owners William and Maryann Rush proposed to replace the 1929 dwelling with a new home. They proposed variances for side yard setbacks of 1 feet and 11 feet, a setback sum of 12 feet, and a rear yard (street) setback of 24 feet. Case 05-579-A. See P.C. Exh. 1B. At the hearing, several citizens participated: Ruth Nuth, Jackie Nickel, and Trish McDonough. The parties compromised on approval of a setback of 4 feet on the Nuth side, 719 Rockaway Beach Avenue. The setback from Middle River was ample, ranging from about 80 to 100 feet.

But when the house was built, it was just 20 feet from the street. So the Rushes had to submit another zoning petition, mainly to get the closer rear yard setback variance. Case No. 06-501-SPH.[7] There was substantial citizen opposition. This included Jackie Nickel, then RBIA President, and Marcyann Siegman of adjacent 715 RBA.

ZC Wiseman then arrived at the further 2006 conditional compromise. The Rushes sold the property in 2008 to SFL LLC. P.C. Exh. 5. Kevin McDonough testified the

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[6] The waterfront side of the property is typically the front for zoning purposes, and the street side the rear. See Zoning Commissioner's Policy Manual Sec. 400.2.a, Page 4-1.5.

[7] The 2006 petition also involved a porch setback variance.

corporation involved Michael Paul Smith, who moved in with his family. There was a subsequent formal transfer to Michael Paul Smith in 2019. Neither the Rushes nor Michael Paul Smith proposed or sought any construction on the waterfront side.

Then came the 2022 transfer to William and Therese Tunney. They immediately put in motion their permit application to add the deck. Despite McDonough's vigorous protest, the Department of Permits (PAI) issued the permit and has maintained its validity. There followed the petition for special hearing by the protesting community association. Meanwhile, the Tunneys went forward with construction.

The Permit Dimension: Chairman Andrew Belt Narrows the Issues

Early in the CBA hearing, Chairman Belt spotlighted the legal point that an invalid permit does not confer any rights. This is a point we made below, which ALJ Mayhew also discussed. There is no "equitable estoppel" to afford property owners rights when the government mistakenly issues a permit which conflicts with applicable zoning law. Lipsitz v. Parr 164 Md. 222, 227-28 (1933); Berwyn Heights v. Rogers 228 Md. 271, 279 (1962); Kent County v. Abel 246 Md. 395, 399-403 (1967); City of Hagerstown v. Longmeadow Shopping Center 264 Md. 481, 492-98 (1972); and, more recently, Marzullo v. Kahl 366 Md. 158, 194-99 (2001).

Counsel for the Tunneys acknowledged the point.

So, we shall dispense with the weeds of the permit history. We shall, however, identify the distinction between permit approval and zoning. PAI policy focuses narrowly on each ZC order, but disregards any conflict or perspective in the opinion. This subject came up in the testimony of Jeffrey Perlow and Arnold Jablon.

The Deck and Surroundings

The site plan shows the deck as 552Sf. It is mainly 29' x 20', but with an indentation. It is supposed to be just a foot off the ground. But there has been no recent precise measurement. McDonough produced arrays of photographs before, during, and after construction. Pet. Exh. 8-10. Arnold Jablon added several recent photographs.

There are already Adirondack chairs and what looks like a fire pit. There might in the future be more furniture, umbrellas, a bar, a grill, railing, flags, lamps, curtains and/or other improvements.[8]

While 717 RBA is much larger in size and closer to the avenue than neighboring houses 715 and 719, the front (waterside) of the dwelling lines up with and parallels them. There is also 721 RBA, where the dwelling is closer to the water and looks directly across to the 719 deck area.

McDonough in Lead Position

Kevin McDonough presented for the Petitioners. He produced an array of exhibits, including photographs before, during, and after construction. Pet. Exh. 8-10. Marcyann Siegman added her testimony. There are letters from other neighbors and the umbrella community associations. Our office contributed relevant documents.

Respondents produced surveyor Dietz. They subpoenaed Zoning Supervisor Jeff Perlow to say the zoning staff goes by the zoning order, not the opinion. He didn't perceive any obstruction but never inspected the site. Arnold Jablon opined that the Order is what counts, and the deck poses no obstruction.

The Empty Chair

The Respondents themselves, William and Theresa Tunney, were absent from the witness stand without explanation.[9] Their absence under circumstances where they would be expected to testify raises the inference that their evidence would be unfavorable as to their likely use of the deck.[10]

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[8] We shall argue below, as this is a land use case, that it is appropriate and elementary to evaluate the present and reasonably foreseeable improvements, dimensions, scale, and use.

[9] "The Empty Chair" was the title of the iconic Untouchables S1 E 1, starring Robert Stack as Eliot Ness and Bruce Gordon as Frank Nitti.

[10] There were also the absences of the Tunneys' contractor who submitted the permit application and the county staff who reviewed it initially. While an invalid permit anyway confers no rights, the absence of the contractor and intake staff reflects unfavorably both on the incomplete application process and the superficial county review, discussed below.

The Court of Appeals addressed this situation in Brooks v. Daley 242 Md. 185, 194-95 (1966) and referred to the iconic treatises on evidence,

> "Professor Wigmore states the rule in regard to permissible inferences to be drawn from a party's failure to testify as follows:
>
> > 'It would be generally agreed, to be sure, that the mere fact of the party's failure to testify is not of itself open to inference; it is his failure when he could be a useful and natural witness * * * that is significant.' (2 Wigmore on Evidence (3rd ed.), s 289, page 173).
>
> See also McCormick on Evidence, s 249, pages 533-534."

The D.C. Court cited Brooks in Murphy v. McCloud 650 A.2d 202 (D.C. 1994),

> "Various courts have provided different characterizations of the inference to be drawn when a civil litigant fails to take the stand under circumstances in which she might ordinarily be expected to do so. *See, e.g.,* ***Brooks, supra,*** **218 A.2d at 189** (alluding to "the rule in regard to *permissible* inferences"); *Duratron Corp. v. Republic Stuyvesant Corp.,* 95 N.J.Super. 527, 231 A.2d 854, 856 (App.Div.1967) (referring to "the rule *permitting* adverse inferences"); *but cf. People ex rel. Borelli v. Sain,* 16 Ill.2d 321, 157 N.E.2d 417, 420 (1959) ("relator's failure to testify in his own behalf in a civil proceeding of this type detracts greatly from his position"); *Dunckelman v. T. Baker Smith & Sons, Inc.,* 447 So.2d 26, 29 (La.App. 1st Cir.1984) (party's failure to testify "creates a presumption that his testimony would be damaging to his case"). This court has also spoken in terms of a "presumption." *Namerdy v. Generalcar,* 217 A.2d 109, 112 (D.C.1966).[27] The United States Court of Appeals, in a pre–1971 case binding on us, *see M.A.P. v. Ryan,* 285 A.2d 310 (D.C.1971), has done the same. *Tendler v. Jaffe,* 92 U.S.App.D.C. 2, 7, 203 F.2d 14, 19 (1953)."

Therefore, the failure of the Tunneys to testify, where it would be natural for them to do so, raises the inference that their use of the deck will be as intense as possible and will and no doubt irritate and obstruct the neighbors as much as possible.

Zoning Advisory Committee Comments

DEPS commented on July 19, 2022, describing Chesapeake Bay Critical Area conditions: Limited Development Area lot coverage, buffer area, and afforestation requirements. P.C. Exh. 10. There was no further information as to any compliance.

On July 28, 2022, the Department of Planning (DOP) issued their ZAC Comments. P.C. Exh. 11. In paragraph 1, they quote ZC Wiseman's 2006 opinion:

> "Petitioners … shall surrender any further construction rights closer to the water."

There follows this conclusion,

> "Department of Planning concludes that the construction of deck will be in violation of the order in this case."

Yet Paragraph 2 concludes, "Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties."[11] The DOP then says zoning and compliance issues will be "… part of the permits process." Para. 3-4.

Argument

I.A. The Purpose of ZC Wiseman's 2006 Opinion and Order is to Forbid All Future Construction on the Waterfront Side of the Property.

Zoning Law and Land Use

It is elementary that zoning deals with land use. The Supreme Court covered the subject in the landmark comprehensive zoning case of Euclid v. Ambler Realty Co. 272 U.S. 365 (1926). The Maryland Court of Appeals (now Supreme Court) wrote in Board of County Comm'rs v. Gaster 285 Md. 233, at 246 (1979),

> "As we noted in Wash. Co. Taxpayers Ass'n v. Board, 269 Md. 454, 455-56, 306 A.2d 539 (1973), some confusion exists relative to the terms planning and zoning, which are not synonymous. Zoning is concerned with the use of property but planning is broader in its concept. 1 E. Yokley, Zoning Law and Practice s 1-2 (4th ed. 1978) comments: Expressing the matter in another way, let us say that zoning is almost exclusively concerned with use regulation, whereas planning is a broader term and indicates the development of a community, not only with respect to the uses of lands and buildings, but also with respect to streets, parks, civic beauty, industrial and commercial undertakings, residential developments and such other matters affecting the public convenience and welfare as may be properly embraced within the police power. (Id. at 4.)"

Gaster has been cited with approval many times.

It is wrong to focus narrowly on the building permit. Nor does it matter that county staff' rely on zoning orders to the blind and cramped exclusion of opinions. We are dealing broadly with land use. The deck inevitably facilitates and encompasses more intense land use than will occur on open grass. While recreational activity and furniture may be in an open yard, the very purpose of a deck is to enhance and intensify land use.

[11] The DOP states no basis or reason for this disbelief. It goes against their logical finding of a violation of the order.

The failure of the Tunneys to testify reinforces the major inference that their use of the deck will be have a severe adverse impact, including obstruction.

The word "obstruction" and its synonyms in any event have broad definitions. Webster's Third New International Dictionary states, in pertinent part,

> "**obstruct … *vt* …. 2** to be or come in the way of … IMPEDE, RETARD … **3** : to cut off from sight : … *vi* to place obstacles in the way : IMPEDE **syn** HINDER."
>
> "**impede** *vt* .. to interfere with or get in the way of progress of : detract from …"
>
> "**hinder** vt … **4 :** to interfere with the activity of …"

The waterside ambience and view are central. Deck activity and use are inherently obstructive. County policy sensibly assesses this side as the front for zoning purposes.

For context, ZC Wiseman's conditional prohibition of "further improvements or dwelling construction … which would obstruct adjacent neighbors' waterside view(s)," must be read together with his opinion. It is explicitly stated, on Page 3,

> "As a condition of approval, Petitioner shall surrender any further construction rights to build closer to the water."

There is no genuine dispute that the deck construction involves building closer to the water. The application for building permit concedes as much.

ZC Wiseman thus made double sure the Rushes "shall not benefit" further from their "indiscretions" and "unfortunate circumstances." This underlay his allowance to exceed the previous setback variance approval in return for strict prohibition of future waterfront side construction.

Tantamount to Statutory Construction: Context and Big Picture

Contextual analysis of an opinion and order is analogous to statutory construction. The Court of Appeals recited in Kaczorowski v. Baltimore, 309 Md. 505, 513-16 (1987) that legislation "… usually has some objective, goal, or purpose. It seeks to remedy some evil, to advance some interest, to attain some end." 309 Md., at 513,

> "Moreover, despite Kaczorowski's pleas that we examine the trees so closely that we do not see the forest, the plain-meaning rule does not force us to read legislative provisions in rote fashion and in isolation. What we are engaged in is the divination of legislative purpose or goal… The 'meaning of the plainest language' is controlled by the context in which it appears." 309 Md., at 514.

He referred to Justice Holmes' concept that "the general purpose is a more important aid than any rule which grammar or formal logic may lay down." *Ibid*. Continuing,

> "The purpose, in short, determined in light of the statute's context, is the key. And that purpose becomes the context within which we apply the plain-meaning rule. Thus 'results that are unreasonable, illogical or inconsistent with common sense should be avoided… with the real legislative intention prevailing over the intention indicated by the literal meaning.'" 309 Md., at 516.

Judge Glenn Harrell reiterated in Rockville v. Rylyns 372 Md. 514, 549-551 (2002):

> " ... if the statute is part of a general statutory scheme or system, the sections must be read together to ascertain the true intention of the Legislature." (Citations omitted).
>
> * * *
>
> "As noted, absurd results in the interpretive analysis of a statute are to be shunned. This Court stated in *D & Y, Inc. v. Winston*, 320 Md. 534, 538, 578 A.2d 1177, 1179 (1990), that "construction of a statute which is unreasonable, illogical, unjust, or inconsistent with common sense should be avoided." (citations omitted). *See also Blandon v. State*, 304 Md. 316, 319, 498 A.2d 1195, 1196 (1985) ("[R]ules of statutory construction require us to avoid construing a statute in a way which would lead to absurd results."); *Erwin and Shafer, Inc. v. Pabst Brewing Co.*, 304 Md. 302, 311, 498 A.2d 1188, 1192 (1985) ("A court must shun a construction of a statute which will lead to absurd consequences.").

The Court echoed in 75-80 Properties v. Rales, Inc. 470 Md. 598, 624-25 (2020),

> "In construing a statute, 'we avoid a construction of the statute that is unreasonable, illogical, or inconsistent with common sense.' *Bellard v. State*, 452 Md. 467, 482, 157 A.3d 272 (2017) (citations omitted). Additionally, the 'meaning of the plainest language is controlled by the context in which it appears.' *Md. Dep't of the Env't v. Cty. Comm'rs of Carroll Cty.*, 465 Md. 169, 203, 214 A.3d 61 (2019) (citations and quotations omitted). As this Court has stated,
>
> > ' [b]ecause it is part of the context, related statutes or a statutory scheme that fairly bears on the fundamental issue of legislative purpose or goal must also be considered. Thus, not only are we required to interpret the statute as a whole, but, if appropriate, in the context of the entire statutory scheme of which it is a part.'

Metaphorically, consider a Monet or Van Gogh painting at a museum. From close up, there appear blurry brush strokes. It is necessary to stand back for holistic perspective. As in Kaczorowski, the goal is avoid the mistake of "not seeing the forest for the trees."

In sum, statutory construction illustrates that legal analysis is contextual. The entire scheme must be brought to bear. The Tunneys, with PAI's misguided support, want to disconnect and isolate ZC Wiseman's Order to enable their distorted circumvention of his essential decisional purpose.

I.B. ZC Wiseman's Decision Settles Allowed Construction and Forecloses Later Debate Concerning the Extent of New Construction: Goldilocks Revisited

It is absurd to deduce ZC Wiseman's decision is a launching pad or trigger for subsequent litigation. After the problems the Rushes generated, it is absurd to suggest that he intended to open the door to subjective debates about the degree of future waterside building obstruction. It was intended definitively to close the subject.[12]

Otherwise stated, there was not to be a Goldilocks assessment of how much construction is too much, too little, or just right.[13] The three bears justifiably sent Goldilocks away, never to return. The tripartite CBA panel should similarly exorcise the deck, never for it to return.

II.A. The Deck Construction Undermines the Integrity of the Legal Process

It cannot be emphasized enough that attention must be paid to the totality of historical circumstances. The Rushes got the benefit of variances for a very large dwelling, with attendant rear and side yard setback variances. In return, they accepted the prohibition of waterside construction. They had the benefit of a porch, a large yard area, a path to the river, a beach, and a long pier to accommodate boats. There was no hardship in their acceptance of this condition. Metaphorically, the Tunneys have come out of the woodwork to disrespect and put a blight on the integrity of the legal process.

[12] Dr. John Faustus famously asked, upon seeing Helen of Troy: "Was this the face that launched a thousand ships and burn the topless towers of Ilium?" Christopher Marlowe, Doctor Faustus (Quarto, 1604). ZC Wiseman's was not the decision to launch a quantity of litigation.

[13] Goldilocks and the Three Bears began as an English Fairy Tale. It has evolved over the years. See, e.g. https://americanliterature.com/childrens-stories/goldilocks-and-the-three-bears.

As successors to the Rushes and later owners, the Tunneys are in privity with them and bound by ZC Wiseman's decision. The Court of Appeals long ago stated in City of Baltimore v. Poe 224 Md. 428, 433 (1961),

> "It is settled law in this State that the zoning ordinance is concerned with the use of property and not with ownership thereof nor with the purposes of the owners or occupants."

See, e.g. People's Counsel v. Surina 400 Md. 662, 701 (2007); Preston v. Zoning Board of Review of Town of Hopkinton 154 A.3d 465 (R.I. 2017).

II.B. The Parties' Acceptance of ZC Wiseman's 2006 Compromise Effectuates a Social Contract, which the Tunneys' Deck Construction Violates.

ZC Wiseman's decision, accepted by all parties, effectively puts in place a kind of social contract. The Rushes complied. Michael Paul and Carin Smith complied.

The parties' conduct at and after the making of the contract is relevant to interpretation. Judge Hall Hammond emphasized in Evergreen Amusement Co. v. Milstead 206 Md. 610, 616-17 (1955),

> "In Saul v. McIntyre, 190 Md. 31, 36, 57 A.2d 272, the Court said the conduct of the parties to a written contract may amount not only to a construction of ambiguous provisions but may even evidence a subsequent modification of its terms. In Eastern Woodworks, Inc., v. Vance, Md., 112 A.2d 231, again it was held that the construction placed on the contract by the parties themselves may be relevant." Additional citations omitted.

Judge Hammond reiterated in Solomon's Marina v. Rogers 221 Md. 194, 198 (1959),

> "Regardless of what the original bargain may have been, we think Rogers cannot now say that Titanium Ores did not acquire title as well as possession. We noted in Evergreen Amusement Corp. v. Milstead, 206 Md. 610, 616, 112 A.2d 901, 903, that in Saul v. McIntyre, 190 Md. 31, 36, 57 A.2d 272, the Court said 'the conduct of the parties to a written contract may amount not only to a construction of ambiguous provisions but may even evidence a subsequent modification of its terms.' It well may be that by their conduct Rogers and Titanium Ores have clarified whatever ambiguity there may have been in the corporate minutes or have modified their terms and effect, with the result that title to the boat passed to Titanium Ores."

The Rushes and Smiths acted in accordance with the compromise decision and reasonable expectations of neighbors that the waterfront side would have no new construction. In 2022, it's far too late now for a newcomer to claim otherwise.[14]

III. The Department of Permits' Perfunctory Approval of the Building Permit is Irrelevant and Insufficient

The Tunneys rely on PAI's issuance of the building permit. They presented Jeffrey Perlow to promote an informal policy to read the zoning order to the exclusion of the opinion. They further cite his remote and subjective conclusion that the deck does not obstruct because it lacks much height. They present former county attorney and official Arnold Jablon to back Perlow up with a legal argument on the witness stand.

Neither the Tunneys, their contractor, nor the county intake staff testified. It is obvious that their permit application disregarded the prior opinion, whether deliberately or carelessly. The county permit record outline reflects the permit application cited previous case numbers, but did not identify the restriction, much less address it. P.C. Exh. 8, I.D. PAI initially issued the permit in May, 2022 without regard to the zoning history.

Perlow did not get involved until June, when Kevin McDonough communicated his complaint about the issuance of the permit. He did not do a site inspection. He did not appear to know who was involved in the initial permit approval process. He disregarded ZC Wiseman's opinion and the scope of land use. He did not consult the dictionary. He just came to the bald conclusion that a l-inch high deck would not be an obstruction.

Perlow did not even to refer the matter for special hearing before the ALJ, the normal procedure where there is a colorable legal question. This failure illustrates the arbitrariness of the PAI activity. Instead, they placed the burden unfairly on RBIA and the citizens to incur the time and expense to initiate and process this zoning petition.

There was what amounted to a rubber-stamp building permit approval in ignorance of the 2006 zoning decision. It was left to Perlow and PAI, after the fact, to try to defend this errant performance. The main thing is that PAI engaged in tunnel vision. They were always on the wrong track.

[14] This brings to mind Carole King's iconic song in her Tapestry album (1971): "It's Too Late."

IV. Even if ZC Wiseman's decision is read as an invitation to review subjectively the extent of later construction and degree of "obstruction," there is obstruction from any reasonable perspective

The crux of it is that this is a land use case. It is not just the physical layout of the deck at issue. It is not probative to say that the deck has minimal height and ergo no obstruction. This is devoid of context. Rather, the scope of obstruction extends inevitably to the land use which the deck facilitates. It is the essential function of the deck to enable more conveniently an array of recreational and other activities.

In the course of the hearing, CBA Chair Belt noted the well understood array of potential deck activities. To support such activities, there will be furniture, including cooking facilities and umbrellas. There may be flagpoles and flags. There may be cloth canopies, tents, and curtains. There may be some kind of ring made of rope or other material. This is a subject upon which there can virtually be judicial, or quasi-judicial, notice. Suffice it to say there are a myriad of recreational activities and accoutrements which the deck enables and enhances for the Respondents and/ or their invitees. If the activities on the grass were equivalent, or just as convenient, there would be no decks.

Given that the Tunneys immediately moved ahead with deck construction despite ZC Wiseman's Order, it is inevitable they will go much further in their use of the deck.

To make a long story short, even if the CBA were to accept the interpretation that ZC Wiseman's decision sets the stage to play with subjective debates about the degree of "obstruction," the sequential commonsense conclusion is that this deck and concomitant land use obstructs, impedes, and hinders the view of several neighbors.

Conclusion

For all of the above reasons, the County Board of Appeals should approve the request for special hearing. The CBA should follow in the footsteps of ALJ Paul Mayhew's definitive Order:

> "THEREFORE, it is ORDERED this ____ day of October, 2023 by this County Board of Appeals that the Petition for Special Hearing is hereby GRANTED, and it is hereby DECLARED as follows:

1.) The construction of a deck on the waterfront side of the subject property:

a.) constitutes a violation of the Order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman; and,

b.) would (does) "obstruct adjacent property owner's water views" and conflict with Restriction No. 5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH.

Having so declared, the questions posed in paragraph 2 of the Petition are therefore MOOT.

IT IS FURTHER ORDERED that the Legal Owners/Respondents shall have thirty (30) days to remove the deck and thirty (30) additional days to then restore the yard to its previous condition."

Peter Max Zimmerman
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2023, a copy of the foregoing People's Counsel for Baltimore County's Post-Hearing Memorandum was emailed to Rockaway Beach Improvement Assoc., c/o Kevin McDonough, 628 Rockaway Beach Avenue, Essex, Maryland 21221, info@turkeypoint.org , Representative for Petitioner(s) and Jennifer Busse, Esquire, 25 South Charles Street, 21st Floor, Baltimore, Maryland 21201, jbusse@rosenbergmartin.com , Attorney for Property Owners.

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

Rockaway Beach Improvement Association et al. - Petitioners
William & Theresa Tunney – Legal Owners
717 Rockaway Beach Avenue
Case No.: 2022-151-SPH

People's Counsel Exhibit List

1a. Prior Opinion – Case No 2006-501-SPH
1b. Prior Petition for Special Hearing and file documents – Case No. 2006-501-SPH including opinion in Case No. 2005-579-A
2. ADC Map
3. MyNeighborhood Zoning & Aerial Maps
4. Google Map – Street Views
5. SDAT – Real Property Information
6. Deed 4633/297
7. Plats
8. Building Permit documents ID only
9. Enforcement Correction Notice ID only
10. EIR Letter dated 4/12,/2022
11. Revised Planning Office Comment dated 9/22/2022
12. Webster's Definition of Obstruct ID only
13. Letters from Bob Bendler & Carl Maynard

5/15/23 JAG

EXHIBIT LIST

Case # 22-151-SPH (717 Rockaway Beach)

1. Brian Dietz C.V. ✓
2. Site Plan to Accompany Hearing ✓
3. Arnold Jablon C.V. ✓
4. Site Photos taken by Arnold Jablon ✓ A-G
5. Google Images
6. Building Permit R22-09666 (2 sheets) ✓ ID only
7. 9/20/22 Letter from Marie Brady at EIR
8. ZAC Comments (8 sheets)
9. Findings of Fact and Conclusions of Law in Case 06-501-SPH
10. 6/2/06 email from Bob Rush to Zoning Commissioner Wiseman
11. Photos provided by Petitioner(s) at ALJ hearing

4867-8391-5873, v. 1

5/15/23 JM

Petitioner's Exhibit List
Zoning Case # 2022-0151-SPH
May 11, 2023 at 10 am

Exhibit Name	Exhibit #	
Rule 8 Documents	1	✓
Copy of Zoning Order from 2006 Case	2	✓
E-mail from Bob Rush to Commissioner Wiseman	3	✓
Survey	4	✓
Site Plan for Deck Construction Submitted w/ Original Permit Application	5 ID only	✓
E-Mails to County Re: Conflict with Order	6 ID only	✓
E-Mails and Filings Establishing Tunney's Advised of Neighbors Concerns and Issue of Conflict Prior to Construction Commencing	7 Id only	✓
Photographs of Property Before Construction	8 A-G	✓
Photographs During Construction	9 A-L	✓
Photographs Post Construction / Present Day	10 A-J	✓
Elevation Survey	11	✓
Letter from Baltimore County Peoples Counsel	12 ID only	✓
Letter from Neighbors	13	✓
Letter from BRNPCA	14	✓
Letter from EMRCC	15	✓
Planning Dept. Comments	16	✓
Recorded Deeds for 717 Rockaway (From Rush's purchase in 2004 to current owner)	17	✓

5/15/23 Jay

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

May 15, 2023

NOTICE OF DELIBERATION

IN THE MATTER OF: William and Theresa Tunney – Legal Owners
Rockaway Beach Improvement Association, et al. – Petitioners
22-151-SPH 717 Rockaway Beach Avenue
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §500.7 for a legal determination of:

1) Whether the construction of a deck at waterfront side of the subject property:
   a) Constitutes a violation of the Order issued June 22, 2006 in Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman; and
   b) Would "obstruct adjacent property owner's water views" and conflict with Restriction No. 5; and

2) Whether the construction of a deck at the waterfront side of the subject property otherwise complies with:
   a) The Baltimore County Zoning Regulations, and
   b) All applicable policies, laws and regulations.

10/14/22 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, and DECLARED that 1) the construction of a deck on the waterfront side of the subject property a) constitutes a violation of the Order issued June 22, 2006 in Case No. 2006-0501-SPH; and b) would (does) "obstruct adjacent property owner's water views" and conflict with Restriction No. 5; and declared that the questions posed in paragraph 2 of the Petition are MOOT.

This matter having been heard and concluded on May 11, 2023, a public deliberation has been

ASSIGNED FOR: JULY 18, 2023, 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 **June 30, 2023 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
Legal Administrative Secretary

c. Counsel for Legal Owners/Appellants : Jennifer R. Busse, Esquire
Legal Owners/Appellants : William and Theresa Tunney

Petitioners, *pro se* : Rockaway Beach Improvement Association,
Michael and Patricia McDonough
Marcyanna and William Siegman
Scott Huffines and Kristin Miller
JoAnn Weiland

People's Counsel for Baltimore County : Peter M. Zimmerman, Esquire

Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law

www.turkeypoint.org

ROCKAWAY BEACH IMPROVEMENT ASSOCIATION INC.
TURKEY POINT IMPROVEMENT ASSOCIATION
RBIA~TPIA

info@turkeypoint.org

Kevin McDonough , President
443.768.0221
Kristin Paccione, Vice President

Rebecca Machin, Secretary
Karl Dudek, Treasurer
Sharon Kehnemui, Sergeant at Arms

628 Rockaway Beach Avenue
Baltimore, Maryland 21221

May 7, 2023

Re: Motion to Strike and Enter – Case # 2022-0151-SPH

Dear Members of the Baltimore County Board of Appeals,

By way of this letter, Ruth Nuth, by her power of Attorney, Patricia McDonough, is joined by Michael and Patricia McDonough (Pro-Se) and The Rockaway Beach Improvement Association Inc. who wish to jointly submit a Motion to Strike and Enter in the aforementioned case.

Please strike the appearance of Ms. Ruth Nuth, as she is no longer the owner of record of 719 Rockaway Beach Avenue |Essex, Maryland 21221, which is the adjoining property to the parcel at issue in this case. Ms. Nuth has sold the property to her daughter and son-in-law, the McDonough's.

Additionally, please enter their appearance of Michael and Patricia McDonough in the aforementioned matter, as self-represented parties. They are the new owners of record for 719 Rockaway Beach Avenue, which adjoins the parcel at issue in this case.

Mr. and Mrs. McDonough have participated in the proceedings before the Administrative Law Judge and are intimately familiar with the case, as Mrs. McDonough is the daughter and power of attorney for Ms. Nuth, who was one of the initial petitioners in this matter.

Their contact information is as follows:

Michael McDonough & Patricia McDonough
719 Rockaway Beach Avenue
Essex, Maryland 21221
410.780.0461 | trishmcdonough@comcast.net

Sincerely,

Ruth Nuth by Patricia McDonough, the Power of Attorney

Ruth Nuth (by Patricia McDonough, her Power of Attorney)
719 Rockaway Beach Avenue
Essex, Maryland 21221
410.780.0461 | trishmcdonough@comcast.net

Michael McDonough Patricia McDonough

Michael McDonough & Patricia McDonough
719 Rockaway Beach Avenue
Essex, Maryland 21212
410.780.0461 | trishmcdonough@comcast.net

The Rockaway Beach Improvement Association Inc.
Kevin McDonough, President
628 Rockaway Beach Avenue
Essex, Maryland 21221
443.768.0221 | info@turkeypoint.org

Certificate of Service:

I, Kevin McDonough, hereby certify that I hand delivered a copy of this Motion to the following parties on 5-8-23:

Marcyanna & William Siegman – 715 Rockaway Beach Avenue – Essex, Maryland 21221
Jo Ann Weiland – 2429 Beach Avenue – Essex, Maryland 21221
Scott Huffines & Kristin Miller – 721 Rockaway Beach Avenue – Essex, Maryland 21221

I further certify that I sent via e-mail a copy of this motion to:

Peoples Counsel for Baltimore County – peoplescounsel@baltimorecountymd.gov & pzimmerman@baltimorecountymd.gov
Jennifer Busse – jbusse@rosenbergmartin.com
William & Theresa Tunney – Bud@btplumbingsupply.com

www.turkeypoint.org

ROCKAWAY BEACH IMPROVEMENT ASSOCIATION INC.
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628 Rockaway Beach Avenue
Baltimore, Maryland 21221

May 7, 2023

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Additionally, please enter their appearance of Michael and Patricia McDonough in the aforementioned matter, as self-represented parties. They are the new owners of record for 719 Rockaway Beach Avenue, which adjoins the parcel at issue in this case.

Mr. and Mrs. McDonough have participated in the proceedings before the Administrative Law Judge and are intimately familiar with the case, as Mrs. McDonough is the daughter and power of attorney for Ms. Nuth, who was one of the initial petitioners in this matter.

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Michael McDonough & Patricia McDonough
719 Rockaway Beach Avenue
Essex, Maryland 21221
410.780.0461 | trishmcdonough@comcast.net

Sincerely,

Ruth Nuth by Patricia McDonough, the Power of Attorney

Ruth Nuth (by Patricia McDonough, her Power of Attorney)
719 Rockaway Beach Avenue
Essex, Maryland 21221
410.780.0461 | trishmcdonough@comcast.net

Michael McDonough Patricia McDonough

Michael McDonough & Patricia McDonough
719 Rockaway Beach Avenue
Essex, Maryland 21212
410.780.0461 | trishmcdonough@comcast.net

The Rockaway Beach Improvement Association Inc.
Kevin McDonough, President
628 Rockaway Beach Avenue
Essex, Maryland 21221
443.768.0221 | info@turkeypoint.org

Certificate of Service:

I, Kevin McDonough, hereby certify that I hand delivered a copy of this Motion to the following parties on 5-8-23:

Marcyanna & William Siegman – 715 Rockaway Beach Avenue – Essex, Maryland 21221
Jo Ann Weiland – 2429 Beach Avenue – Essex, Maryland 21221
Scott Huffines & Kristin Miller – 721 Rockaway Beach Avenue – Essex, Maryland 21221

I further certify that I sent via e-mail a copy of this motion to:

Peoples Counsel for Baltimore County – peoplescounsel@baltimorecountymd.gov & pzimmerman@baltimorecountymd.gov
Jennifer Busse – jbusse@rosenbergmartin.com
William & Theresa Tunney – Bud@btplumbingsupply.com

Tammy Zahner

From: Appeals Board
Sent: Monday, May 8, 2023 2:09 PM
To: Tracey McMullen
Subject: RE: 717 Rockaway Beach hearing on 5/11 Case No. 2022-151-SPH

Received Thank you.

Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
appealsboard@baltimorecountymd.gov
(410) 887-3180
(410) 887-3182 Fax

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From: Tracey McMullen <TMcMullen@rosenbergmartin.com>
Sent: Monday, May 8, 2023 9:56 AM
To: Appeals Board <appealsboard@baltimorecountymd.gov>
Cc: Jennifer Busse <jbusse@rosenbergmartin.com>
Subject: 717 Rockaway Beach hearing on 5/11 Case No. 2022-151-SPH

CAUTION: This message from tmcmullen@rosenbergmartin.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good morning.

On behalf of Jennifer Busse, attached please find the Exhibits for the hearing regarding 717 Rockaway Beach, Case No. 2022-151-SPH scheduled for May 11, 2023.

If you have any questions or concerns, please feel free to contact me at 410-727-8663.

Thank you.

Tracey McMullen
Legal Assistant
Rosenberg Martin Greenberg, LLP
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201

(410) 727-6600
(410) 727-1115 Fax





Tammy Zahner

From: Appeals Board
Sent: Monday, May 8, 2023 11:34 AM
To: Peoples Counsel
Subject: RE: Rockaway Beach Improvement - Tunney - Case No. 2022-151-SPH - PC Proposed Exhibits

Received. Thank you.

Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
appealsboard@baltimorecountymd.gov
(410) 887-3180
(410) 887-3182 Fax

Confidentiality Statement
This electronic mail transmission contains confidential information belonging to sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notifiy sender.

From: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Sent: Monday, May 8, 2023 10:48 AM
To: Appeals Board <appealsboard@baltimorecountymd.gov>
Subject: Rockaway Beach Improvement - Tunney - Case No. 2022-151-SPH - PC Proposed Exhibits

Good Morning,

Attached please find People's Counsel's proposed Exhibits 1 thru 13 and our exhibit list for use at the in person hearing in the above-mentioned case on May 11, 2023.

Please let me know if you have any problems opening the documents.

Thank you in advance.

Rebecca Wheatley, Legal Secretary
Office of People's Counsel
105 W. Chesapeake Avenue, Suite 204
Towson, Maryland 21204
410-887-2188

IN THE MATTER OF:	*	BEFORE THE
WILLIAM & THERESA TUNNEY	*	BOARD OF APPEALS
717 ROCKAWAY BEACH AVENUE	*	OF
	*	BALTIMORE COUNTY
	*	CASE NO.: 22-151-SPH

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

AFFIDAVIT OF SERVICE

I, the undersigned, certify that on May 3rd, 2023, I affected service of process by personally serving a Subpoena upon Mr. Jeffrey Perlow at Baltimore County Zoning Office, 111 W. Chesapeake Avenue, Room 124, Towson, Maryland 21204, to appear in-person before the Board of Appeals for Baltimore County, Hearing Room 2, Suite 206, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, MD 21204 at the hearing to be held on May 11, 2023 at 10:00 a.m. and May 17, 2023 at 10:00 a.m.

I further certify that I am over the age of 18 and am not a party to this action.

I solemnly affirm under the penalty of perjury that the contents of this Affidavit are true and correct to the best of my knowledge.

Name: Jennifer R. Busse
Firm: Rosenberg | Martin | Greenberg LLP
Address: 25 S. Charles Street, 21st Floor
Baltimore, MD 21201

IN THE MATTER OF:	*	BEFORE THE
WILLIAM & THERESA TUNNEY	*	BOARD OF APPEALS
717 ROCKAWAY BEACH AVENUE	*	OF
	*	BALTIMORE COUNTY
	*	CASE NO.: 22-151-SPH

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear in-person before the Board of Appeals of Baltimore County, Hearing Room 2, Suite 206, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, MD 21204 at the hearing for the above captioned matter currently scheduled on May 11, 2023 at 10:00 a.m. and May 17, 2023 at 10:00 a.m. continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Mr. Jeffrey Perlow
Address: Baltimore County Zoning Office
111 W. Chesapeake Avenue, Room 124
Towson, MD 21204

Requested by:

Name: Jennifer R. Busse, Esq.
Firm: Rosenberg | Martin | Greenberg LLP
Address: 25 S. Charles Street, 21st Floor
Baltimore, MD 21201

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests (_____) the Sheriff, (_____) Private Process Server, to issue the summons set forth herein.

RECEIVED
APR 2 0 2023
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
Board of Appeals for Baltimore County

IN RE: **PETITION FOR SPECIAL HEARING**	*	BEFORE THE
(717 Rockaway Beach Avenue)		
15th Election District	*	OFFICE OF
7th Council District		
William and Theresa Tunney	*	ADMINISTRATIVE HEARINGS
Legal Owners		
Rockaway Beach Improvement Association, et al.	*	FOR BALTIMORE COUNTY
Petitioners	*	**Case No. 2022-0151-SPH**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH)" as a Petition for Special Hearing filed by Rockaway Beach Improvement Association ("RBIA"), Ruth Nuth, Marcyanna Siegman, William Siegman, Scott Huffines, Kristin Miller and JoAnn Weiland. The Petition seeks a legal determination of the following questions:

"1.) Whether the construction of a deck at waterfront side of the subject property:

a.) Constitutes a violation of the Order entitled 'Findings of Fact and Conclusions of Law' issued on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman, and

b.) Would 'obstruct adjacent property owner's water views' and conflict with Restriction No. 5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH.

2.) Whether the construction of a deck at the waterfront side of the subject property otherwise complies with:

a.) The Baltimore County Zoning Regulations, and

b.) All applicable policies, laws and regulations."

The Petition was properly advertised and posted. Substantive Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP") and from the Department of Environmental Protection and Sustainability ("DEPS").

An in-person hearing was requested by Kevin M. McDonough, President of RBIA. That request was granted and the hearing was held on September 30, 2022 at 1:30 p.m. at 105 West Chesapeake Avenue, Courtroom 104. Jennifer R. Busse, Esquire of Whiteford Taylor and Preston represented the owners of the property, William Tunney, IV and his wife, Theresa Tunney. Brian Dietz, a licensed surveyor, also attended. The site plan he prepared was admitted as Tunney Exhibit 1. Mr. McDonough presented the case on behalf of RBIA. Letters in support of RBIA's position and in opposition to the deck construction were received from Carl Maynard, President of the Back River Neck Peninsula Community Association, and from Robert Bendler, President of the Essex Middle River Civic Council Inc. They were admitted as Petitioners' Exhibits 8 and 9, respectively. People's Counsel entered their appearance and also filed a letter supporting Petitioners' position and opposing the deck. It was admitted as Petitioners' Exhibit 6. Finally, a Petition in support of RBIA's position and in opposition to the deck was admitted as Petitioners' Exhibit 7. It was signed by forty-four members of the Rockaway Beach community.

HEARING EVIDENCE

The subject property is 9,027 sq. ft., and is zoned DR 3.5. It is a waterfront lot at the confluence of Sue Creek and Middle River. It is within the Chesapeake Bay Critical Area and the 100-year flood plain. It is part of the Turkey Point Farm – Rockaway Beach subdivision that was recorded in 1915. The dwelling has 4,580 square feet of living space and occupies a substantial portion of the lot. It was constructed in 2006 and replaced the original summer cottage on the property. The Tunney's purchased the property in December 2021.

The Petitioners are the RBIA and the adjoining neighbors at 715, 719 and 721 Rockaway Beach Avenue. Mr. McDonough testified at some length. He explained that the subject property has been a source of aggravation for the community since it was constructed in 2006. He explained that the community believes that it is out of scale and incompatible with the other homes. These views were echoed in the letters from the Middle River and Back River community associations. Mr. McDonough noted that the RBIA opposed the variance relief that was granted in Case No. 05-579-A (reduced setbacks) and the amended relief that was granted in Case No. 06-501-SPH (further setback reduction for street side). It is the Order in that latter case that is the subject of this case. More specifically, it is Condition No. 5 of that Order, which states as follows:

"5) There shall be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s)."

Mr. McDonough testified that RBIA decided not to appeal the relief granted in Case No. 06-501-SPH because they were satisfied that Condition No. 5 would forever bar any further construction of any kind on the waterfront side of the property. As further proof of this, he submitted an e-mail from the Petitioner in that case (William Rush) to the Zoning Commissioner in which Mr. Rush agrees to "surrender" certain rights granted in Case No. 05-579-A in exchange for the amendments he was seeking in Case No. 06-051-SPH, and where Rush asserted that he was doing so "in an effort to show good faith and reconcile this matter." *See,* Petitioners' Exhibit 2. Mr. McDonough argued that it was that concession by Mr. Rush that convinced the Zoning Commissioner to grant the requested relief in that case.

Mr. McDonough then identified and explained a series of aerial and ground level photographs of 717 Rockaway Avenue and the adjoining properties, including photos prior to

construction of the deck, and during construction. Several of the photos were taken from the adjoining property at 719 Rockaway, which is owned by Mrs. Nuth, who is Mr. McDonough's mother-in-law. These were admitted collectively as Petitioners' Exhibit 5. They show that the deck construction is nearing completion, and that the deck does obstruct the water view from 719 Rockaway, which has a lower elevation than 717.

In response to questions from the undersigned, Mr. McDonough provided a brief chronology of his interactions with Mr. Tunney concerning the deck. He explained that soon after the Tunney's purchased the property they did some interior remodeling, and that Mr. Tunney mentioned to the Seigmans – the next door neighbors at 715 Rockaway Avenue- that he was considering building a deck. In late May, Mr. McDonough contacted the County Permits office to see whether the Tunneys had applied for a permit to build a deck. He was informed that a permit had already been issued on May 18, 2022. Mr. McDonough then met with the other petitioners and the RBIA and they decided to file this Special Hearing Petition, which was submitted on June 24, 2022. Mr. McDonough further explained that he and the other Petitioners met with the Tunneys on July 23, 2022 where they voiced their opinion that the deck construction was prohibited by Condition No. 5 of the Order in Case No. 06-501-SPH. They asked the Tunneys to delay construction until after the hearing in this case. Mr. McDonough testified that Mr. Tunney declined to do so and began constructing the deck on August 30, 2022.[1] That concluded Petitioners' case.

[1] Further details of these interactions were provided in an "Emergency Motion to Stay Construction Pending Hearing" that the Petitioners filed in this case on August 31, 2022. Attached to the Motion is an email exchange between McDonough and Tunney on June 24, 2022 – the day the Special Hearing Petition was filed. Mr. McDonough explained the community's position that the deck was not allowed under the previous zoning Order. The exchange ends with Tunney stating "Baltimore county zoning has advised us to proceed with construction. Thanks for your concern." The Motion further recounts that at the end of the meeting on July 23, 2022 Mr. Tunney angrily told the community that "I'm going to build what I want. I was told it could take you all 20 years or better to make me tear it down." The undersigned informed Petitioners that I was without power to order the Tunneys to cease construction prior to the hearing in this case.

Ms. Busse then presented the Tunneys' case. She first called Brian Dietz, a licensed surveyor. He explained in general the site plan he had prepared. (Tunney Exh. 1). He specifically noted that the ground elevation at the edge of the deck is 12.61 feet and that the elevation of the top of the deck is 13.76 feet – in other words approximately a foot above ground level. Ms. Busse asked him a number of questions concerning whether he believed the deck obstructed any of the neighbors' views. The undersigned did not allow Mr. Dietz to offer this opinion. On cross-examination by Mr. McDonough, Mr. Dietz conceded that the deck was slightly higher than 1 foot in elevation. He also acknowledged that the waterside yard of Mrs. Nuth's property next door is a foot or two lower than the Tunney's yard, and therefore the deck appears higher from the Nuth property. He also acknowledged that one or more of the photos in Petitioners' Exhibit 5 seem to show that at least on the date the photos were taken that the deck was significantly higher than one foot off the ground.[2] Mr. Dietz stated that he believes modifications must have been made to the deck subsequent to the date of those photos.

Ms. Busse then called Jeff Perlow, the Supervisor of the County's Zoning Office, whom she had subpoenaed. Mr. Perlow identified three permits related to the deck construction. The first is Permit No. R-22-05031, which was issued on May 18, 2022. The application notes that the proposed deck is one foot in elevation. It also notes the two previous zoning Orders. Mr. Perlow testified that he did not personally review that permit application or issue that permit. Mr. Perlow then identified a second permit application (R-22-09415) dated September 15, 2022. He explained that he did not know why this application was made, but he stated that this permit was never issued. Mr. Perlow then identified a third permit application and the final permit that was issued for this

[2] During the hearing, it was revealed that the County Code Inspections and Enforcement office had issued a Correction Notice on June 17, 2022, which states in relevant part that the deck "cannot exceed 1 ft. (12 inches) in height measured from the lowest natural grade adjacent to the deck."

deck on September 21, 2022 (Permit No. R-22-09666). He stated that he had reviewed this application and approved this permit. He could not provide any further details about the history of the permits. He did explain that, per normal procedure, he reviewed the Order in Case No. 06-501-SPH and was aware of the restriction in Condition No. 5. He further explained that in his opinion the 1-foot high deck does not violate this Condition because it should not obstruct the neighbors' water views. When asked if he relied on any written policies to reach this decision he replied that he just used "common sense." Finally, he acknowledged that no one from the Zoning Office had visited the site before issuing any of the permits.

Ms. Busse then called Mr. Tunney, who testified very briefly. He explained that he purchased the property in December 2021 and applied for the deck permit in May 2022. He testified that they will not put a railing around the deck. Although he did not elaborate this is presumably because they realize that this would further obstruct the neighbors' views. In answer to a question from the undersigned, he stated that he was not aware of the Order in Case No. 06-501-SPH prior to applying for the permit in May.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A Special Hearing under BCZR Sec. 500.7 is effectively a request for declaratory judgment. *Antwerpen v. Baltimore County,* 163 Md. App. 194, 209 (2006). Here the Petitioners seek a declaration that the construction of the deck on the waterfront side of 717 Rockaway Avenue is prohibited by Condition No. 5 of the Order in Case No. 06-501-SPH. Based on the record evidence, I find that the deck is in fact prohibited by that prior Order.

As People's Counsel notes in their submission, prior to listing the specific conditions in the Order, the Zoning Commissioner stated that "As a condition of approval, Petitioners shall surrender *any* further construction rights to build closer to the water." (emphasis added). This

proviso must be read in conjunction with Condition No. 5 of the Order, which, if read in isolation could be interpreted to mean that further construction is only barred if it obstructs the neighbors' water views. Ms. Busse urged that this more limited restriction is the proper reading of the Order. I agree with People's Counsel's reasoning. But even if the language from the body of the Order – prohibiting *any* further construction - is ignored, I believe Condition No. 5, in and of itself, bars this deck.

Webster's Third New International Dictionary defines "obstruct" as follows: "1. To block up; stop up; or close up; place an obstacle in . . . 2. To be or come in the way of." The record evidence establishes that the neighbors' views are indeed obstructed under these definitions. Specifically, the photographs taken from Mrs. Nuth's yard (Petitioners' Exh. 5) show that the deck – still under construction and with no furniture or other objects on it – already obstructs her view of the water. Further, the surveyor, Mr. Dietz, acknowledged that Mrs. Nuth's property is a foot or two lower than the Tunneys' yard and that the deck therefore appears higher than 1 foot. In addition, the Seigmans' view is also obstructed, even though their yard and deck sit above the Tunneys' deck. Quite simply, a six hundred square foot wood and "Trex" deck is more "obstructive" to one's view than a green expanse of lawn. Indeed, when either of the adjacent neighbors looks out toward the water the first thing in their line of vision is this deck. In my view, this is the sort of "obstruction" that the Zoning Commissioner intended to prohibit when he drafted Condition No. 5.

Further, Condition No. 6 of the Order sets forth another related restriction. It states that "[w]hen applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order." This Condition is meant to flag this restriction for the person reviewing the permit application in the Zoning Office. It is undisputed that this Condition was not

complied with here. Mr. Tunney testified that at the time he first applied for the permit he was not even aware of the Order in Case No. 06-501-SPH. So clearly he could not have "set forth and addressed the restrictions of the Order" when he filed his application. Mr. Perlow testified that he had no involvement in the review or issuance of the first permit. So there is no evidence in the record that the reviewer was aware of or considered Condition No. 5 before issuing the first permit in May. By the time Mr. Perlow reviewed the third permit application in September the deck was virtually complete. At that point, it is perhaps understandable that he approved this fait accompli.

In conclusion, although the deck does not *completely* obstruct the neighbors' water views it *does* obstruct their views to a substantial degree. It therefore violates Condition No. 5 and must be removed. As People's Counsel notes, the Order in Case No. 06-501-SPH, like all zoning orders, runs with the property and extends to all successive owners. *City of Baltimore v. Poe*, 224 Md. 428, 433 (1961). And it is well established that "citizens are entitled to strict enforcement of the existing zoning regulations." *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 555-56 (1965). The Petitioners in this case are entitled to strict enforcement of Condition Nos. 5 and 6. And, as they and the other Community Associations point out, if zoning Orders are not enforced the entire purpose of the zoning regulations is undermined.

Finally, I am mindful that the Zoning Office issued a permit in this case, but the permit runs afoul of the Order in Case No. 06-501-SPH, and was therefore void *ab initio.* Petitioners asked the Tunneys to wait until this case was resolved before starting construction of the deck but the Tunneys chose to proceed. They did so at their own peril because now the deck must be removed. An invalid permit creates no vested rights. *Marzullo v. Kahl*, 366 Md. 158, 194-99 (2001).

THEREFORE, it is ORDERED this **14th** day of **October, 2022** by this Administrative Law Judge that the Petition for Special Hearing is hereby **GRANTED,** and it is hereby **DECLARED** as follows:

1.) The construction of a deck on the waterfront side of the subject property:

a.) constitutes a violation of the Order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman; and,

b.) would (does) "obstruct adjacent property owner's water views" and conflict with Restriction No. 5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH.

Having so declared, the questions posed in paragraph 2 of the Petition are therefore **MOOT.**

IT IS FURTHER ORDERED that the Legal Owners/Respondents shall have thirty (30) days to remove the deck and thirty (30) additional days to then restore the yard to its previous condition.

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

Paul M. Mayhew

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm

JOHN A. OLSZEWSKI, JR.
County Executive

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

October 14, 2022

Rockaway Beach Improvement Assoc. – info@turkeypoint.org
c/o Kevin McDonough, President, RBIA – kevinmcdonough@comcast.net

RE: Petition for Special Hearing
Case No. 2022-0151-SPH
Property: 717 Rockaway Beach Avenue
Owners: William and Theresa Tunney

Dear Mr. McDonough:

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

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm
Enclosure

c: Jennifer R. Busse, Esq. – jbusse@wtplaw.com
William & Theresa Tunney – bud@btplumbingsupply.com
Bob Bendler – shoreperfect@comcast.net
Ruth Nuth by Patricia McDonough– trishmcdonough@comcast.net
William & Marcyanna Siegman – msrockaway2@aol.com
Scott Huffines – shuffin1@gmail.com; scott@atomicteevee.com
Kristin Miller – knmiller08@gmail.com
JoAnn Weiland – joannweiland@comcast.net
Miriam Puhl – mpuhl@qes.net
Mike McDonough – mikemcdonough@gmail.com
Lauren McDonough – laurinmcdonough@gmail.com
Cecilia Yazigi – ceciliayazigi@hotmail.com
People's Counsel – peoplescounsel@baltimorecountymd.gov
PAI Code Enforcement – paienforce@baltimorecountymd.gov

IN RE: **PETITION FOR SPECIAL HEARING** E/S Rockaway Beach Avenue, 110' N of the c/l Beach Avenue **(717 Rockaway Beach Avenue)** 15th Election District 6th Council District William Rush, et ux Petitioners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 06-501-SPH

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, William Rush, and his wife, Maryann Rush. The Petitioners request a special hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were William (Bob) and Maryann Rush, property owners, and Kenneth J. Wells, the Surveyor who prepared the site plan for this property. Appearing as Protestants were William and Denise Woutila, adjacent property owners, Marcyanna Siegman, Janice Vincent, and Jackie Nickel, President of the Rockaway Beach Improvement Association, Inc., all nearby residents of the area.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped waterfront lot located south of Turkey Point Road on the east side of Rockaway Beach Avenue, with frontage on Middle River. The property is approximately 50 feet wide and 185 feet deep, and contains a gross area of 9,027 sq.ft. (.21 acres) more or less, zoned D.R.3.5. The Petitioners purchased the property approximately two years ago and used the summer home that existed at that time for about one year before they had the house razed. In this regard, the

ORDER RECEIVED FOR FILING
Date 6-22-06
By

PC Exh 1A

property was the subject of prior Case No. 05-579-A in which the Petitioners sought variance relief from Section 1B02.3.C.1 of the B.C.Z.R. to allow a proposed replacement dwelling with reduced setbacks. By his Order dated July 13, 2005, Deputy Zoning Commissioner John V. Murphy granted the requests, subject to compliance with relevant County agency recommendations and Chesapeake Bay Critical Areas requirements. The Petitioners now come before me seeking an amendment as set forth above to reflect a further reduction in the front (street) setback distance provided.

In this regard, testimony and evidence offered indicated that the Petitioners intended to construct a home 35' x 68' in dimension, with side yard setbacks of 4 feet and 11 feet and followed the information received in the packet from the builder to determine measurements and setback distances. The house was to be setback 81 feet from the water and 24 feet from the road; however, after construction of the home commenced, it was discovered that the front property line was 4 feet further inside of the original measurement. Thus, only a 20-foot setback from the road can be provided.

As noted above, several residents from the surrounding community appeared in opposition to the request. They argued that the survey performed by Mr. Wells conflicts with a survey the Protestants had prepared. They also believe that the Petitioners are trying to take advantage of the County's system and that their (the Rush's) attitude about the process is offensive. Ms. Nickels and Ms. Woutila point out that any further request for an amendment to the variance relief received must be denied on the grounds that "it was incumbent upon the Petitioners to obtain an accurate survey of the property before commencing construction" . . . "that any hardship or practical difficulty they now claim was self inflicted." In response to the Protestant's concerns, Mr. Wells testified that his boundary locations are accurate and were taken from monuments found and the location of the original house. Apparently, the original measurements taken by Mr Rush at the outset were taken from an old concrete parking pad located near the road. In any event, special hearing relief is requested as set forth above to amend the prior relief granted and legitimize existing conditions

ORDER RECEIVED FOR FILING
Date
By

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. As noted above, construction of the house is nearly completed and to require its demolition and reconstruction to eliminate a 4-foot discrepancy along the road would be an unnecessary hardship and unduly burdensome upon the Petitioners. Moreover, because the new home has been constructed in *essentially* the same location as originally proposed and is only 4 feet closer to the road than previously approved, I find that the amended relief will not adversely impact the adjacent property or surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. It was mentioned during the hearing that according to the approval granted in prior Case No. 05-579-A and the resulting Baltimore County Permit No. B605354, Petitioners were permitted to construct the home within 73 feet of the waterside property line. The home, as built, is actually 81 feet back. As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water. Moreover, but for the amended relief granted herein, all other terms and conditions of the prior Order are adopted herein and made a part hereof, including, but not limited to, compliance with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, as well as all building and fire code requirements.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of June 2006 that the Petition for Special Hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning

ORDER RECEIVED FOR FILING
Date 6-22-06
By [illegible]

Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments, dated June 22, 2006 and April 26, 2006, respectively, have been attached hereto and made a part hereof.

3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the Petitioners shall submit building elevation drawings of the structure to the Office of Planning for review and approval.

4) Compliance with all Building and Fire Code regulations.

5) There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s).

6) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

But for the amended relief set forth above, all other terms and conditions of the Order issued in prior Case No. 05-579-A shall remain in full force and effect.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

ORDER RECEIVED FOR FILING
Date 6-22-06
By

CBCA

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 717 ROCKAWAY BEACH AVE
which is presently zoned DR 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve AN AMENDMENT TO THE ORDER AND SITE PLAN APPROVED IN ZONING CASE # 05-579-A ~~ER~~ TO ALLOW REAR SETBACKS ~~OF~~ PERSUANT TO SECTIONS 1B02.3.C.1 AND 301.1 ~~OF~~ BCZR, OF 20 FT. IN LIEU OF 30 FT. FOR A DWELLING AND 20FT. IN LIEU OF 22½ FT. FOR AN OPEN PORCH RESPECTIVELY (THE PREVIOUS VARIANCE WAS GRANTED FOR 24 FT) MLR

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, 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.

I/We do 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 Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

x William Rush
Name - Type or Print

x William Rush
Signature

x Maryann Rush
Name - Type or Print

x Maryann Rush
Signature

x 1907 Cranbourne Rd. 443-791-0800
Address Telephone No.

x Timonium x Md x 21093
City State Zip Code

Representative to be Contacted:

Name

Address Telephone No.

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 HRS

UNAVAILABLE FOR HEARING —

Reviewed By JL/WCR Date 4/11/06

Case No. 06 501 SPH

REV 9/15/98

PC Exh. 1B

PLAT TO ACCOMPANY PETITION FOR ZONING ☐ VARIANCE ☒ SPECIAL HEARING

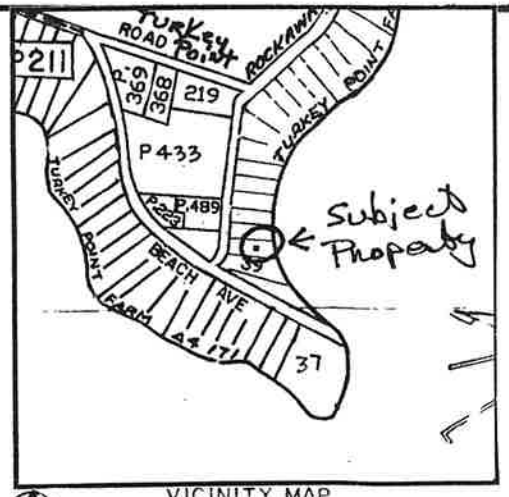
PROPERTY ADDRESS 717 Rockaway Beach Ave SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Rockaway Beach

PLAT BOOK # 4 FOLIO # 171 LOT # 40 SECTION # N/A

OWNER William and Maryann Rush

X See attached Sealed Survey by KjWells Inc.



VICINITY MAP

SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 15

COUNCILMANIC DISTRICT 6

1"=200' SCALE MAP # SW1-K

ZONING DR 3.5

LOT SIZE .21 ACREAGE 9,027 SQUARE FEET

	PUBLIC	PRIVATE
SEWER	☑	☐
WATER	☑	☐

	YES	NO
CHESAPEAKE BAY CRITICAL AREA	☑	☐
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/ BUILDING	☐	☒

PRIOR ZONING HEARING 05-579-A

NORTH

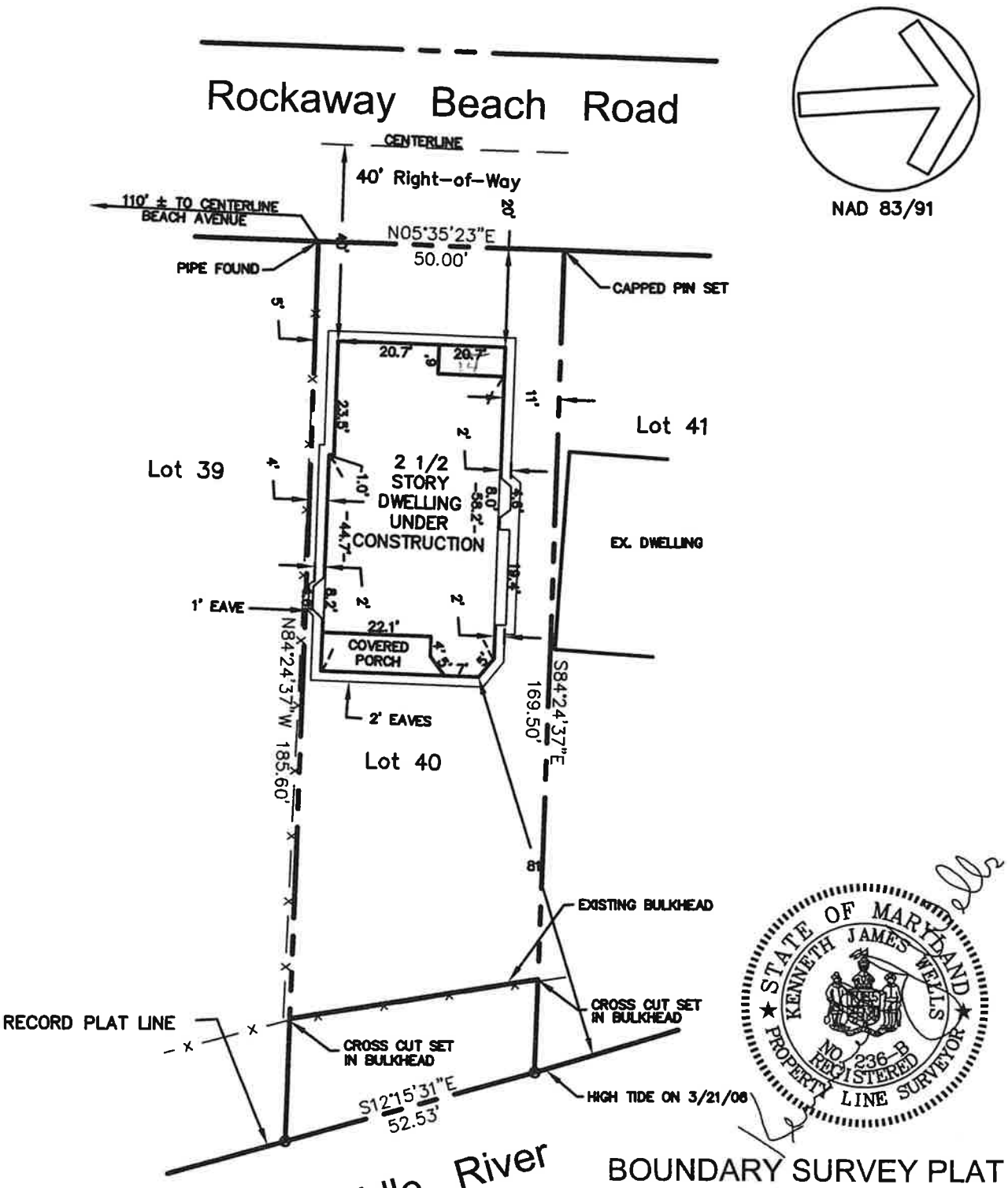
PREPARED BY Bob Rush

SCALE OF DRAWING: 1" = 30'

ZONING OFFICE USE ONLY

REVIEWED BY	ITEM #	CASE #
JL/WCR	501	

-15-



BOUNDARY SURVEY PLAT
717 ROCHAWAY BEACH ROAD
LOT 40 "ROCKAWAY BEACH"

SCALE: 1" = 30' DATED: 6/13/2005
REVISION DATE: 3/21/2006

LEGEND:

DWELLING PROJECTIONS

DEED REFERENCE: 20302/208
PLAT REFERENCE: 4/171

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District -** 15 **Account Number -** 1523504960

Owner Information

Owner Name:	RUSH WILLIAM R RUSH MARYANN L	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	1907 CRANBOURNE RD LUTH-TIMONIUM MD 21093-7017	**Deed Reference:**	1) /20302/ 208 2)

Location & Structure Information

Premises Address
717 ROCKAWAY BEACH AVE

Legal Description
717 ROCKAWAY BEACH AVE
ROCKAWAY BEACH
WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	
98	15	211					40	3	Plat Ref:	4/ 171

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		9,027.00 SF	34

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2006	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	97,020	239,500		
Improvements:	9,460	18,330		
Total:	106,480	257,830	106,480	156,930
Preferential Land:	0	0	0	0

Transfer Information

Seller:	BONOMO DONALD J	**Date:**	06/24/2004	**Price:**	$450,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/20302/ 208	**Deed2:**	
Seller:	PRETL STEPHEN A,SR	**Date:**	04/30/1986	**Price:**	$80,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 7146/ 132	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2005	07/01/2006
County	000	0	0
State	000	0	0
Municipal	000	0	0

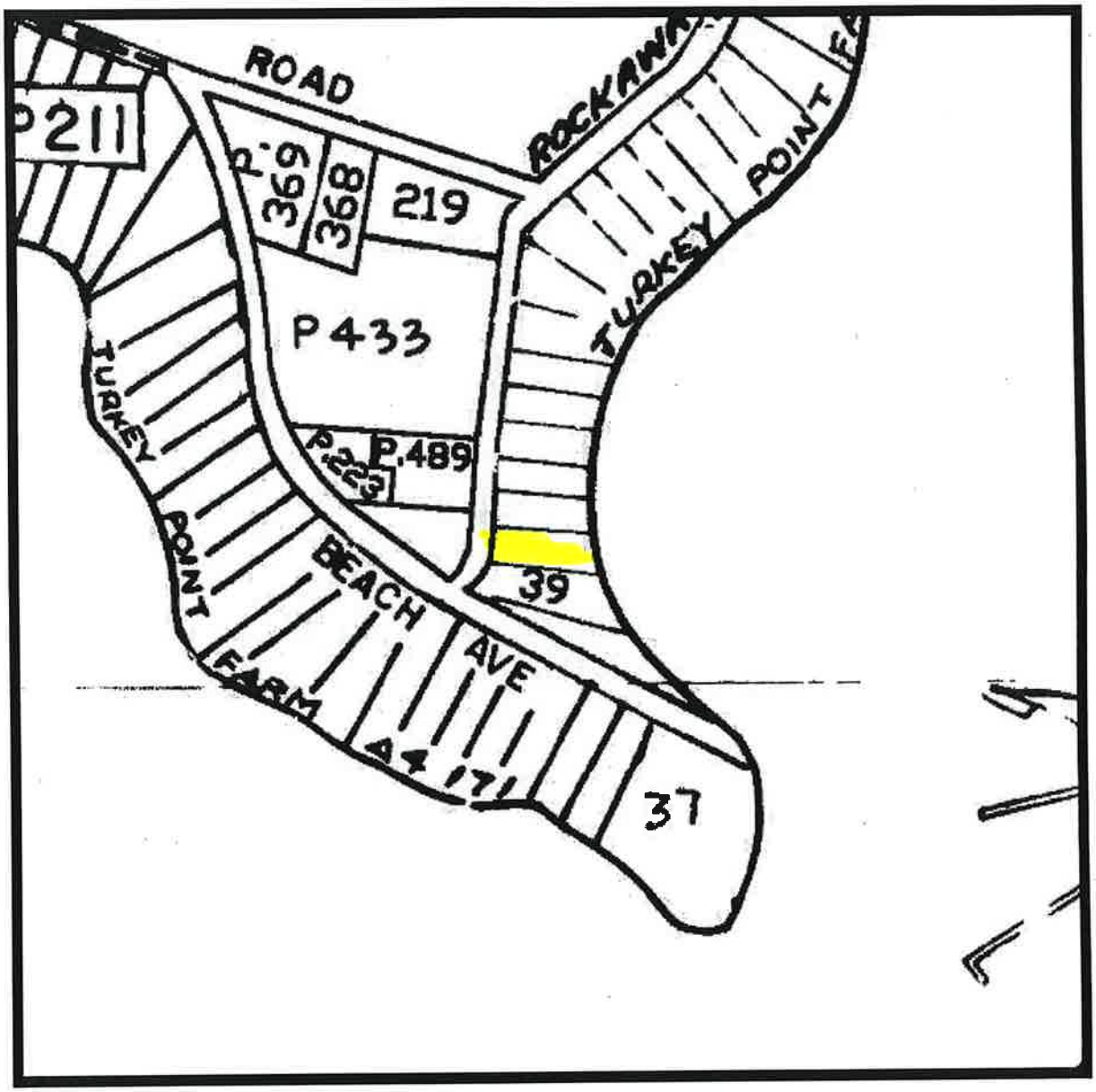
Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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New Search

District - 15**Account Number** - 1523504960



Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html

IN RE: PETITION FOR VARIANCE E/S of Rockaway Beach Avenue, 427 ft. S centerline of Turkey Point Road 15th Election District 6th Councilmanic District **(717 Rockaway Beach Avenue)** Maryann & William R. Rush *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY CASE NO. 05-579-A

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Maryann and William R. Rush. The Petitioners are requesting variance relief for property located at 717 Rockaway Beach Road in the eastern area of Baltimore County. Variance relief is requested from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed replacement single-family dwelling with a side yard of 1 ft., a rear yard of 24 ft., a sum of side yards of 12 ft. on a lot having a width of 50 ft. in lieu of the required 10 ft., 30 ft., 25 ft. and 70 ft. respectively.

The property was posted with Notice of Hearing on June 14, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 23, 2005 to notify any interested persons of the scheduled hearing date.

Amended Petition

The Petitioners indicated that as the result of negotiations with their neighbors, they amended their request to allow a 4 ft. side yard setback on the Nuth side of the property rather than the 1 ft. previously requested. Ten feet is required. As a result of this change, they are now also requesting to allow a sum of the side yard setbacks of 15 ft. in lieu of the 25 ft. required by the regulations.

Applicable Law

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

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. 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 the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Bureau of Development Plans Review dated May 25, 2005, a copy of which is attached hereto and made a part hereof. In addition, the Office of Planning submitted a ZAC comment dated June 6, 2005, a copy of which is attached hereto and made a part hereof. Finally, a ZAC comment was received from the Department of Environmental Protection & Resource Management (DEPRM) dated June 14, 2005 stating that the Petitioners must comply with the Chesapeake Bay Critical Area Regulations, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance request were Bob and Maryann Rush, Petitioners. Ruth Nuth, Jackie Nickel and Trish McDonough attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

This property is zoned D.R. 3.5 and is 9,027 sq. ft. in area. This is a 50 ft. wide waterfront lot known as Lot 40 of the "Rockaway Beach " subdivision which was recorded among the Land

Records of Baltimore County in 1915 with most lots, such as here, 50 ft. wide. The Petitioners propose to replace the existing home on the property, which was built in 1929 with a modern 2 1/2 story home. Originally, the garage attached to the new home was proposed to be built virtually on the south property line. See Petitioners' Exhibit 1. However, Ms Nuth, the neighbor to the south, objected and a compromise was reached so that the garage would be 4 ft. from the property line. See Petitioners' Exhibit 2. The sum of the side yards would then be 15 ft. in lieu of the required 25 ft. The Petitioners are also requesting that they be allowed to build their home 24 ft. from the rear property line (the road side) in lieu of the required 30 ft.

The Petitioners indicated that they purchased the property in 2004 and intend to raze the existing cottage, garage and shed so as to build a new home (as a permanent home) that would be large enough to accommodate the Petitioners' four children and a mother-in-law. The Petitioners presented photographs, which showed many other homes in the neighborhood that had little or no setbacks to property lines. See Petitioners' Exhibit 4. They opined that the proposed house would improve the neighborhood and that the 11 ft. side yard would allow emergency vehicles to have access to the water.

The Protestants were concerned about the side yard setback, but Ms. Nuth indicated that she was satisfied with the compromise reached. They also wanted to see the height and configuration of the new home to determine what impact the actual home would have on Ms. Nuth's property. As mentioned at the hearing, the Planning Office will review the design for compatibility as indicated in the Planning Office comment. No variance is requested for height.

Findings of Fact and Conclusions of Law

I find that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This is a subdivision which was recorded among the Land Records of Baltimore County in 1915 many years before the DR regulations were imposed on

this property. Consequently, I find that the zoning regulations impact this property in a way different from those lots not on the water and created after the DR regulations were imposed.

I find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Obviously, if strictly enforced the Petitioner cannot build a home to accommodate their large family. There is an existing home presently situated on the property now, so no increase in density will result.

Furthermore, I find that these variances can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. I am sure that if the neighbors will follow the subsequent review of the proposed building with the Planning Office, the new home will be compatible with the neighborhood and adjoining homes.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance requests should be granted.

THEREFORE, IT IS ORDERED, this 13th day of July, 2005, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed replacement single-family dwelling with a side yard of 4 ft., a rear yard of 24 ft., a sum of side yards of 15 ft. on a lot having a width of 50 ft. in lieu of the required 10 ft., 30 ft., 25 ft. and 70 ft. respectively, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;

2. Compliance with the ZAC comments made by the Bureau of Development Plans Review dated May 25, 2005, a copy of which is attached hereto and made a part hereof;

3. Compliance with the ZAC comments made by the Office of Planning dated June 6, 2005, a copy of which is attached hereto and made a part hereof;

4. Compliance with the ZAC comments made by DEPRM dated June 14, 2005, a copy of which is attached hereto and made a part hereof;

5. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

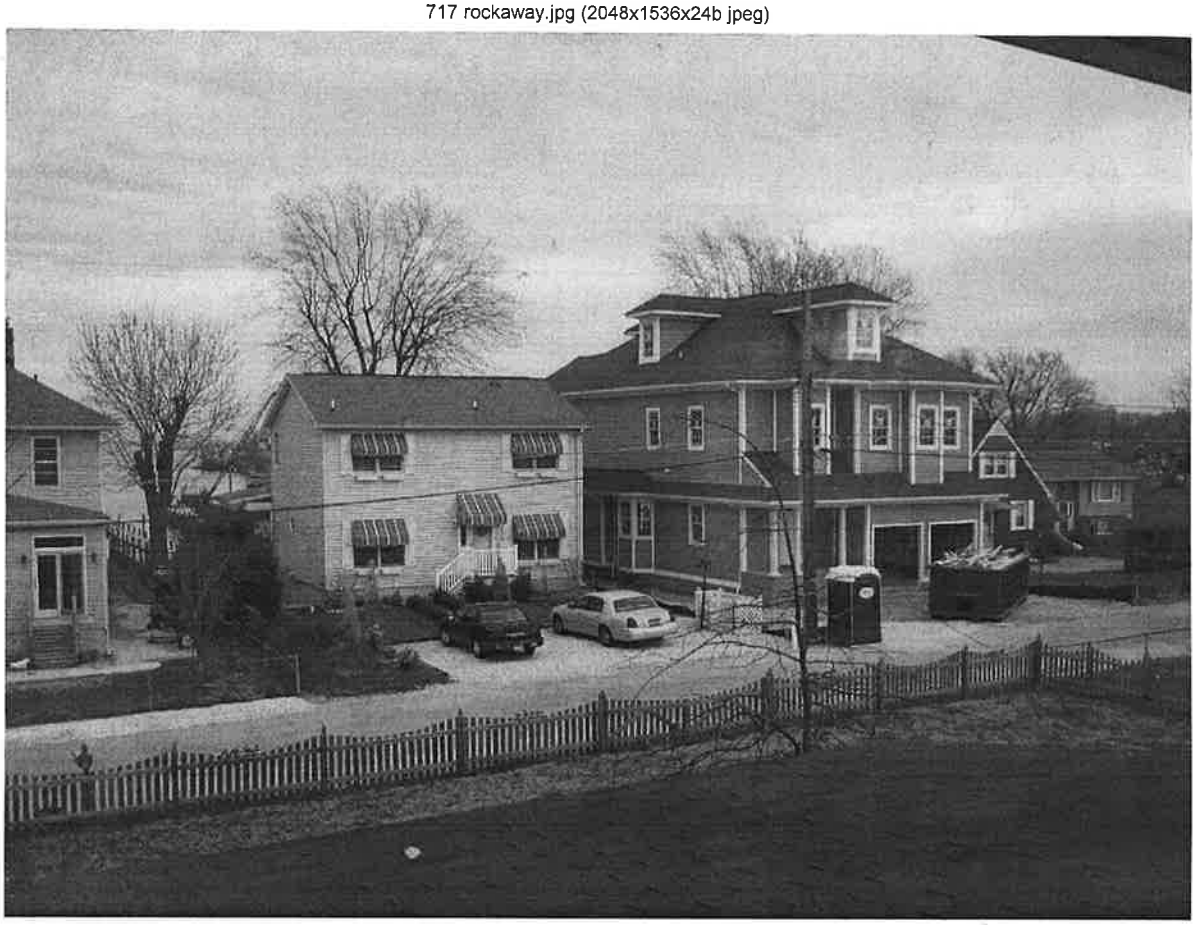
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

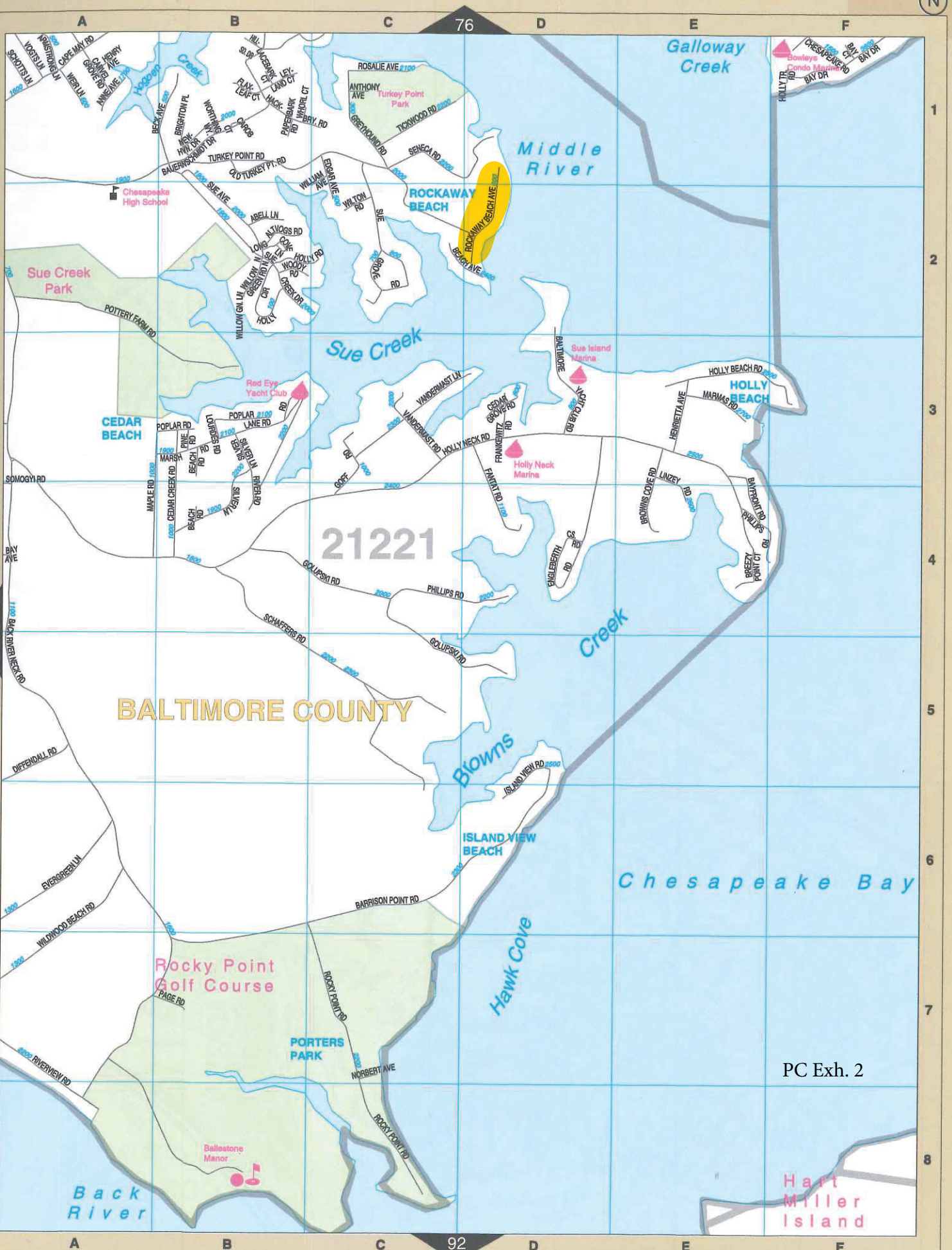
SIGNED
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

From: Jackie nickel <jackienickel@comcast.net>
To: Pete Zimmerman <peoplescounsel@co.ba.md.us>
Date: 05/03/2006 9:24 AM
Subject: 717 Rockaway Beach Ave. - Rush

717 rockaway.jpg (2048x1536x24b jpeg)

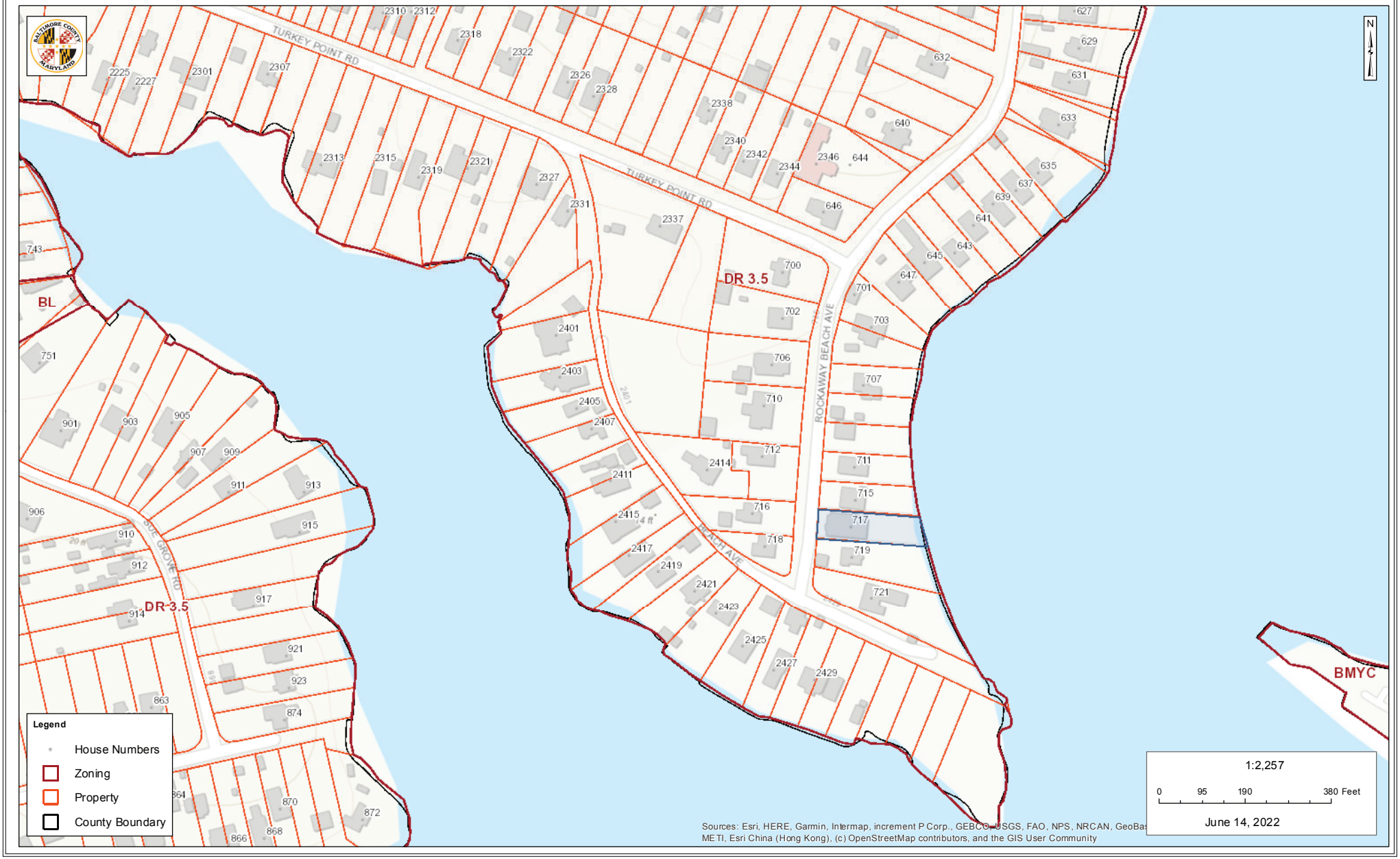




PC Exh. 2

© Kappa Map Group, LLC

Baltimore County - My Neighborhood



PC Exh. 3

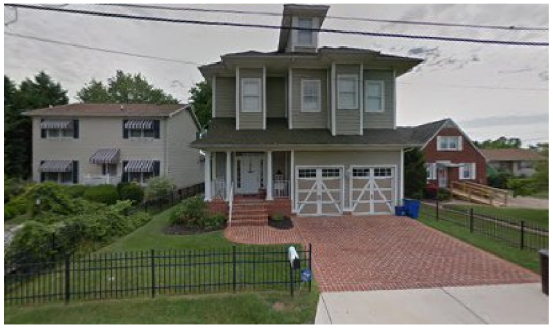
Baltimore County - My Neighborhood



Google Maps 717 Rockaway Beach Ave



Map data ©2022 , Map data ©2022 20 ft



717 Rockaway Beach Ave
Building

PC Exh 4

Google Maps 717 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

717 Rockaway Beach Ave

All Street View & 360°

Google Maps 718 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

717 Rockaway Beach Ave

All Street View & 360°

Google Maps 715 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

717 Rockaway Beach Ave

All Street View & 360°

Real Property Data Search ( )
Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Special Tax Recapture: None

Account Identifier: **District -** 15 **Account Number -** 1523504960

Owner Information

Owner Name:	TUNNEY WILLIAM EDWARD IV TUNNEY THERESA MARIE	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	315 BLUE GRASS LN HAMPSTEAD MD 21074-	**Deed Reference:**	/46333/ 00297

Location & Structure Information

Premises Address:	717 ROCKAWAY BEACH AVE ESSEX 21221-1813 Waterfront	**Legal Description:**	717 ROCKAWAY BEACH AVE ROCKAWAY BEACH

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0098	0015	0211	15080075.04	0000			40	2021	**Plat Ref:** 0004/ 0171

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2006	4,580 SF		9,027 SF	34

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	FRAME/	5	4 full/ 1 half	1 Attached	

Value Information

	Base Value	Value As of 01/01/2021	Phase-in Assessments As of 07/01/2021	 As of 07/01/2022
Land:	201,000	201,000		
Improvements	488,300	520,100		
Total:	689,300	721,100	699,900	710,500
Preferential Land:	0	0		

Transfer Information

Seller: SMITH MICHAEL PAUL	**Date:** 02/02/2022	**Price:** $1,475,000
Type: ARMS LENGTH IMPROVED	**Deed1:** /46333/ 00297	**Deed2:**
Seller: S F L LLC	**Date:** 12/10/2019	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /42214/ 00367	**Deed2:**
Seller: RUSH WILLIAM R	**Date:** 09/16/2008	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /27326/ 00556	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2021	07/01/2022
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

PC Exh. 5

Baltimore County

New Search (https://sdat.dat.maryland.gov/RealProperty)

District: 15 Account Number: 1523504960



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

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

Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at **http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx (http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx)**.

Crown Title Corporation
File No. **115401-21CKL**
Tax ID # **15-1523504960**

This Deed, made this 6th day of **December, 2021**, by and between **Michael Paul Smith** and **Carin Smith**, husband and wife, GRANTORS, and **William Edward Tunney, IV** and **Theresa Marie Tunney**, husband and wife, GRANTEES.

- Witnesseth -

That in consideration of the sum of One Million Four Hundred Seventy-Five Thousand And 00/100 Dollars ($1,475,000.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said Grantees, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever, in all that lot of ground situate in the County of Baltimore, State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171.

(ADDRESS REFERENCE IS FOR INFORMATIONAL PURPOSES ONLY)
The improvements thereon being known as 717 Rockaway Beach Avenue, Essex, MD 21221.

BEING all and the same lot of ground which by Deed dated November 15, 2019, and recorded December 10, 2019 among the Land Records of Baltimore County, Maryland, in Liber 42214, Folio 367, was granted and conveyed by S.F.L., LLC, a forfeited Maryland limited liability company, unto Michael Paul Smith and Carin Smith.

Tax Account No. 15-1523504960

```
CR - Deed (w Taxes)
Recording only ST20.00
Name: TUNNEY IV
Ref:
CR - Deed (with Taxes)
Surcharge          40.00
CR - Deed State
Transfer Tax   7,375.00
CR - NR Tax - Ikd 0.00
=====================
SubTotal:      7,435.00
=====================
Total:         7,435.00
02/02/2022  10:39
                   CC03-SLF
#15845326 CC0301 -
Baltimore
County/CC03.01.17 -
Register 17
```

By the execution of this Deed, the Grantors hereby certify under the penalties of perjury that the actual consideration paid or to be paid, including the amount of any Mortgage or Deed of Trust outstanding, is as hereinbefore set forth.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

To Have and To Hold the said described lot of ground and premises to the said William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever.

And the said Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0297, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

Witness the hands and seals of the said Grantors.

WITNESS:
Debra L. Daskins
Debra L. Daskins

(Seal)
Michael Paul Smith

(Seal)
Carin Smith

STATE OF MARYLAND }
COUNTY OF BALTIMORE } ss

On this the 6th day of December, 2021, before me, a Notary Public, in the jurisdiction aforesaid, the undersigned Officer, personally appeared Michael Paul Smith and Carin Smith, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same in my presence for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

RICHARD DOUGLAS LIBERTO NOTARY PUBLIC HARFORD COUNTY, MD

Notary Public
My commission expires 5/25/24

William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, parties of the second part in the within Deed, hereby certify under the penalties of perjury that the land conveyed in said Deed is residentially improved, owner-occupied, real property and that the residence will be occupied only by us.

WITNESS:

(SEAL)
William Edward Tunney, IV

(SEAL)
Theresa Marie Tunney

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Carol K. Lisman, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Crown Title Corporation
1 Sanford Avenue
Baltimore, MD 21228

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0298, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor: Michael Paul Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Michael Paul Smith — 12/6/21
Name — **Date

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0299, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Carin Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Carin Smith — 12/6/21
Name — **Date

Carin Smith
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0300, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

BOOK: 46333 PAGE: 301

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

X Deed / Deed of Trust	☐ Mortgage / Lease	☐ Other	☐ Other

2 Conveyance Type Check Box

X Improved Sale Arms-Length *[1]*	☐ Unimproved Sale Arms-Length *[2]*	☐ Multiple Accounts Arms-Length *[3]*	☐ Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if applicable) Cite or Explain Authority

Recordation	
State Transfer	Deed
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 1,475,000.00	Transfer Tax Consideration	$ 22125.00
Any New Mortgage	$	X ( ) % =	$
Balance of Existing Mortgage	$	Less Exemption Amount −	$
Other:	$	Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$
Full Cash Value:	$	X ( ) per $500 =	$ 7375.00
		TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 40.00	$
State Recordation Tax	$ 7,375.00	$
State Transfer Tax	$ 7,375.00	$
County Transfer Tax	$ 22,125.00	$
Other	$	$
Other	$	$

Agent:

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	42214/367			☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
				42214/367	

Location/Address of Property Being Conveyed (2): 717 Rockaway Beach Avenue, Essex, MD 21221

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: N/A

Partial Conveyance? [ ] Yes [X] No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Michael Paul Smith	
Carin Smith	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
William Edward Tunney, IV	CASH
Theresa Marie Tunney	

New Owner's (Grantee) Mailing Address: 315 Blue Grass Lane, Hampstead, MD 21074

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Darletta Bostic

Firm: Crown Title Corporation

Address: 1 Sanford Avenue

Baltimore, MD 21228 Phone: (410) 719-0200

☐ Return to Contact Person

☐ Hold for Pickup

☒ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTCOPY MUST ACCOMPANY EACH TRANSFER

[ ] Yes [X] No Will the property being conveyed be the grantee's principal residence?

[ ] Yes [X] No Does transfer include personal property? If yes, identify:

[ ] Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only – Do Not Write Below This Line

Terminal Verification . Agricultural Verification . Whole . Part . Tran. Process Verification

Transfer Number Date Received: Deed Reference: Assigned Property No.:

Year	20	20	Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS

Space for Circuit Court Clerk Recording Validation

Baltimore County, Maryland
Dept 7 20 RECORDATION TAXES
ACCOUNT 1523504960
$ 29,500.00 CA
.00
>>RECEIPT # 0669 2/01/2022 OPLN
REG WSOZ WAIVED M57
2/01/2022 13:05:19 2
ACTUAL TIME DRW
BUSINESS
2/02/2022

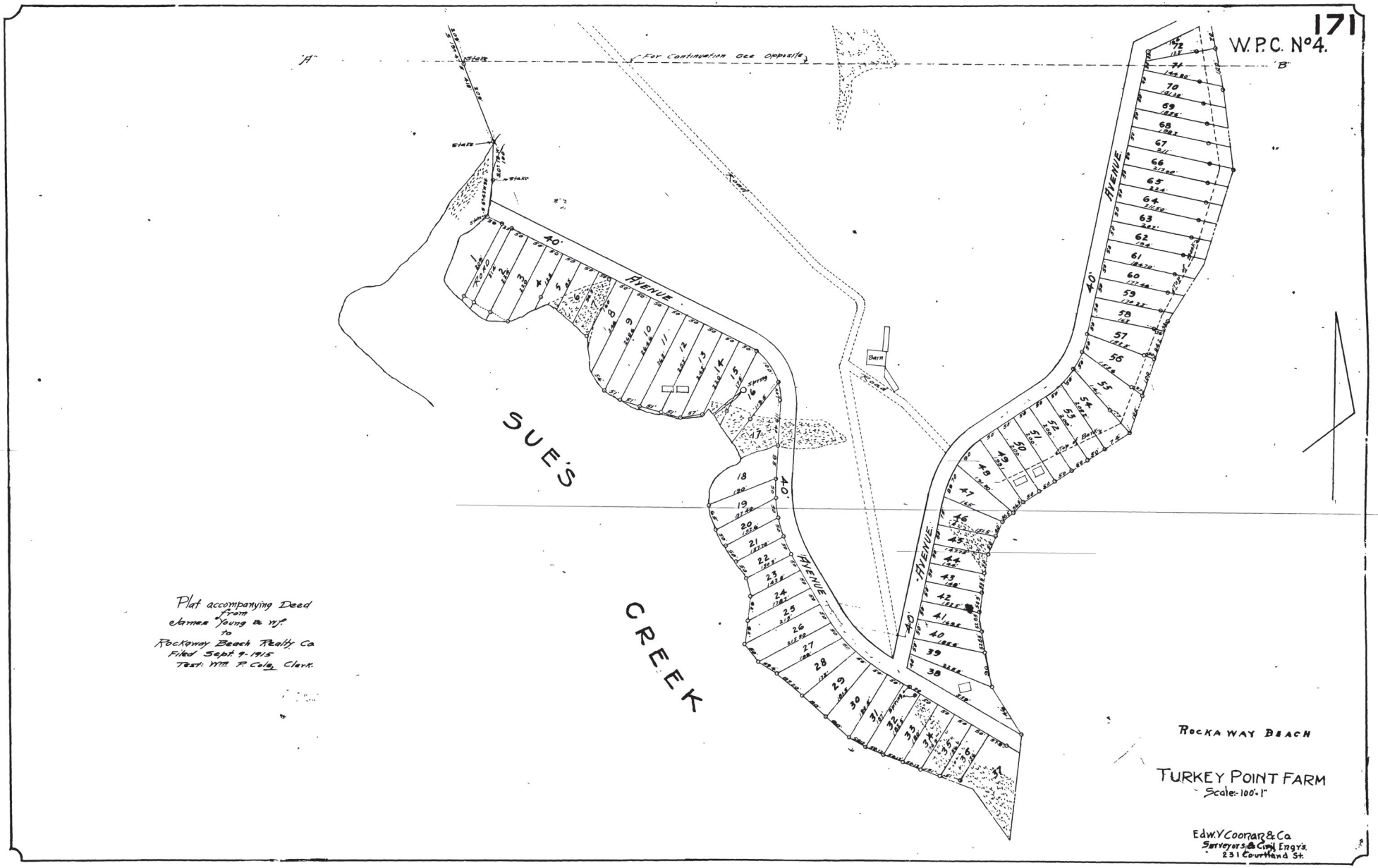
DUPLICATE PAID RECEIPT

Distribution: ☐ Clerk's Office ☐ Office of Finance ☐ SDAT ☐ Preparer

AOC-CC-300 (5/2007)

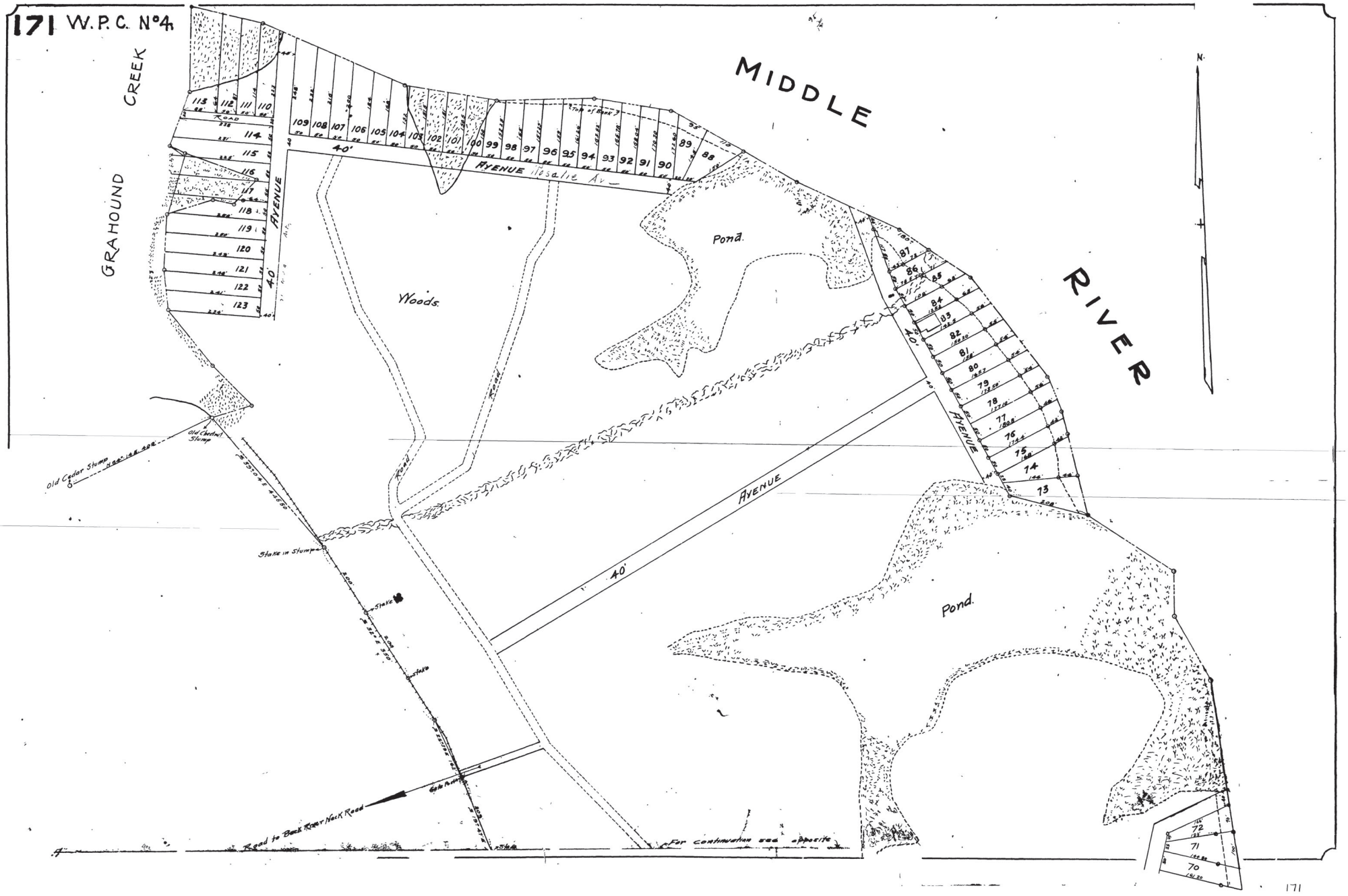
115401-21CKL

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0301, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.



BALTIMORE COUNTY CIRCUIT COURT (Plats) Plat Book WPC 4, p. 171, MSA_C2136_4898. Date available 1915/09/09. Printed 08/11/2022.

PC Exh. 7



BALTIMORE COUNTY CIRCUIT COURT (Plats) Plat Book WPC-4, p. 171, MSA_C2136_4898. Date available 1915/09/09. Printed 08/11/2022.

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Property Information

Property Address: 717 ROCKAWAY BEACH AVE

City, State, Zip: ESSEX, MD, 21221

Tax ID: 1523504960

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: YES

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 30.00

Set Backs - Rear Yard: 20.00

Set Backs - Right Side Yard: 10.60

Set Backs - Left Side Yard: 12.50

Owner Information

Owner: WILLIAM E TUNNEY

Owner Address: 315 BLUE GRASS LN, HAMPSTEAD, MD, 21074

Tenant:

Applicant: WILLIAM E TUNNEY

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

PC Exh. 8

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD / USING BALTO ,CO. DECK GUIDELINES,TK. Dwelling is not in 100 yr floodplain per AB

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

JOHN A. OLSZEWSKI, JR.
County Executive

DAVID V. LYKENS, *Director*
Department of Environmental Protection and Sustainability

April 12 2022

William Tunney
315 Blue Grass Lane
Hampstead, MD 21074

RE: Deck Permit - #R22-05031
717 Rockaway Beach Ave

Dear Mr. Tunney:

Environmental Impact Review (EIR) completed an evaluation of the above referenced property and deck permit application for 717 Rockaway Beach Ave. The 9,027 square foot property is located within a Limited Development Area (LDA) and Modified Buffer Area (MBA) in the Chesapeake Bay Critical Area (CBCA) and must comply with all requirements of Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

The property does not comply with the CBCA Regulations. In order to bring the property into compliance, you must complete the items listed in the table below.

Lot Coverage
Existing Lot Coverage: = 3,100 square feet or 34.3%. Current LDA regulations restrict the lot coverage on this property to 25% (2,256 square feet) or a maximum of 31.25% (2,821 square feet), with mitigation for the amount over 25%. The lot coverage present exceeds the maximum allowed. As the proposed open wood deck (with dirt/grass below) does not count as lot coverage, there is no lot coverage mitigation required. However, please be aware that no future lot coverage will be permitted without equal amount of lot coverage removal. Contact EIR to discuss permit and CBCA requirements for any future construction on site. Lot coverage includes gravel.
Forest Cover
15% minimum forest requirement: A minimum of three trees must be on-site at all times. As no trees currently exist on site, three Maryland native, deciduous trees at least 5-feet tall will need to be planted on the property. Three shrubs may be substituted for each required tree, if desired.
Modified Buffer Area
Properties within the MBA have a 100-foot buffer from tidal waters. Structures are not allowed in the buffer unless the property owner performs on-site mitigation or pays a fee-in-lieu. The proposed deck is within the 100-foot MBA. Mitigation for the 552 square feet of impact may be satisfied through: Payment of a fee-in-lieu of $1.50 per square-foot of disturbance. Tree planting to satisfy the Forest Cover requirement may also be used to address the MBA mitigation; therefore, fee-in-lieu payment would be reduced to $678.15.

*Note no manmade structures are allowed within 25 feet of tidal waters.
Summary of Mitigation Requirements: 1. Plant a minimum of three (3) Maryland native deciduous canopy trees on-site to meet forest cover requirements. 2. MBA mitigation: pay $678.15 fee-in-lieu.

Once you sign this letter, return it to our office indicating your acceptance of the mitigation requirements, and pay the appropriate fee-in-lieu amount, EIR will release the permit. Inspections will be conducted to determine compliance with all Critical Area requirements that pertain to this property. If you have any questions regarding this correspondence, please contact me at mbrady1@baltimorecountymd.gov or 410-887-3980.

Sincerely,

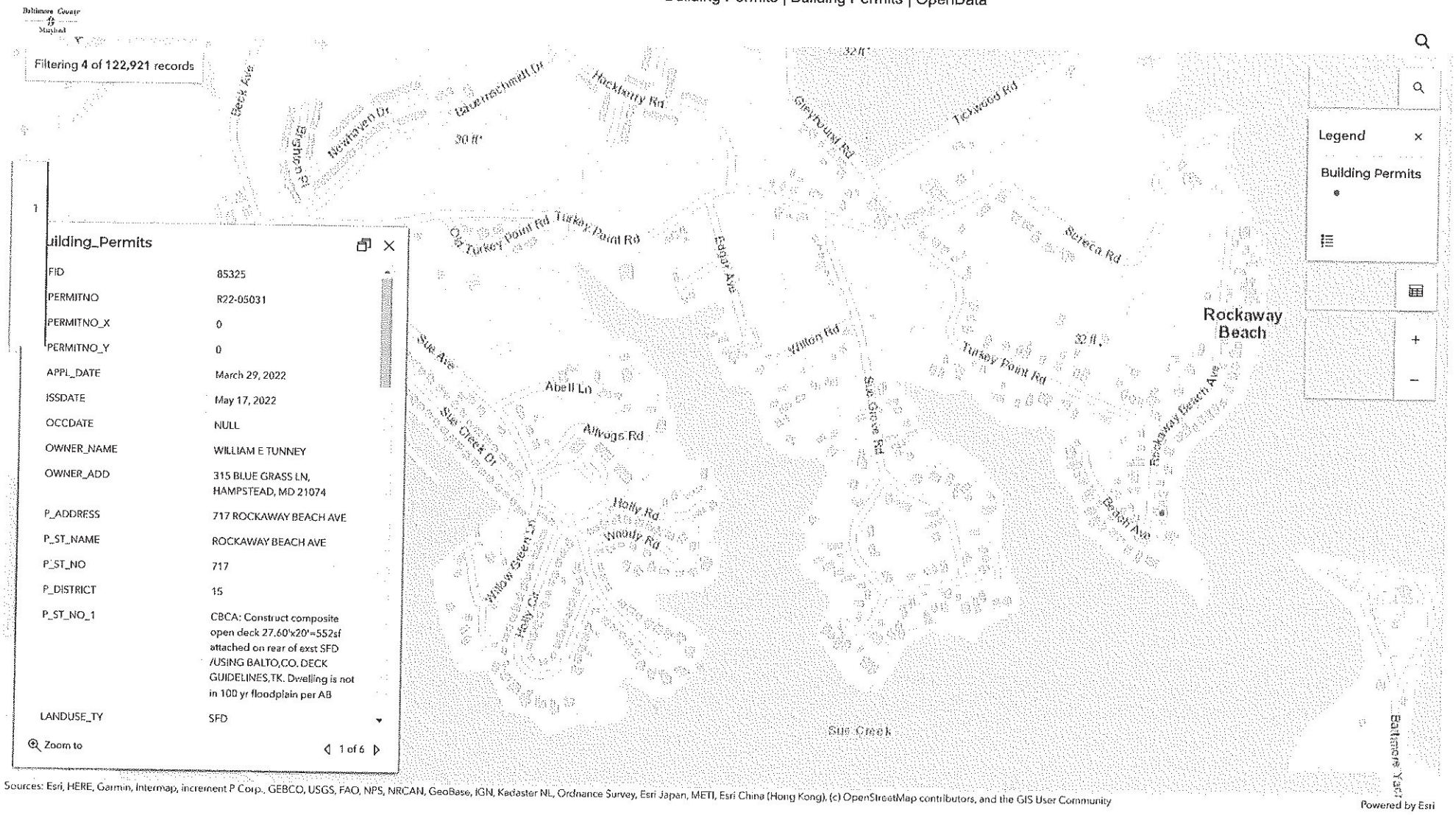
Marie Brady
Environmental Impact Review

I/We agree to meet the requirements outlined in this letter to bring the referenced property in to compliance with Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection:

Property Owner(s) Signature(s) Date

Printed Name of Property Owner(s)

S:\EPS\EIR\Marie\Permit Review\CBCA\Rockaway Beach 717- MBA+for.docx



uilding_Permits

FID	85325
PERMITNO	R22-05031
PERMITNO_X	0
PERMITNO_Y	0
APPL_DATE	March 29, 2022
ISSDATE	May 17, 2022
OCCDATE	NULL
OWNER_NAME	WILLIAM E TUNNEY
OWNER_ADD	315 BLUE GRASS LN, HAMPSTEAD, MD 21074
P_ADDRESS	717 ROCKAWAY BEACH AVE
P_ST_NAME	ROCKAWAY BEACH AVE
P_ST_NO	717
P_DISTRICT	15
P_ST_NO_1	CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD /USING BALTO.CO. DECK GUIDELINES.TK. Dwelling is not in 100 yr floodplain per AB
LANDUSE_TY	SFD

Zoom to 1 of 6

Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Report Generated On:
3/31/2022

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays / Contact Agency	Instructions: Begin review process with Zoning Review, Room 111. Potential Overlay Issues. Growth Tier 1: Served by public sewer and inside URDL	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
Planning Jefferson Building Room 101 Phone: 410-887-3211	Bowleys Quarters-Back River Neck Area	X												
EPS-Dev. Coord. County Office Building Room 319 Phone: 410-887-3733	Chesapeake Bay Critical Area	X		X	X	X	X	X	X	X				
	100 Year Flood Zone	X		X	X	X		X	X	X				
	Possible Flood Hazard - Water Body Present	X		X	X	X		X	X	X				
PAI-Sed. Control Insp. County Office Building Room G-21 Phone: 410-887-3226	Chesapeake Bay Critical Area	X						X		X				
	100 Year Flood Zone	X						X		X				
	Possible Flood Hazard - Water Body Present	X						X		X				
PAI-Public Services County Office Building Room 119 Phone: 410-887-3751	Bowleys Quarters-Back River Neck Area	X						X						OK To File
	100 Year Flood Zone	X	X	X	X	X		X	X			X		OK To File
	Possible Flood Hazard - Water Body Present	X	X	X	X	X		X	X			X		OK To File
	InFill Lot Review	X												OK To File
	Verify Water Service Size.	X												
	Possible Replacement Dwelling. Permit # B599298 Appl. Date: Not Entered	X												
Zoning Review County Office Building Room 111 Phone: 410-887-3391	Bowleys Quarters-Back River Neck Area	X												
	Zoning Cases: 2006-0501-SPH; 2005-0579-A	X		X	X	X	X							

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.
Form171R

Permit Processing Residential Permit & Development Report

Property Information

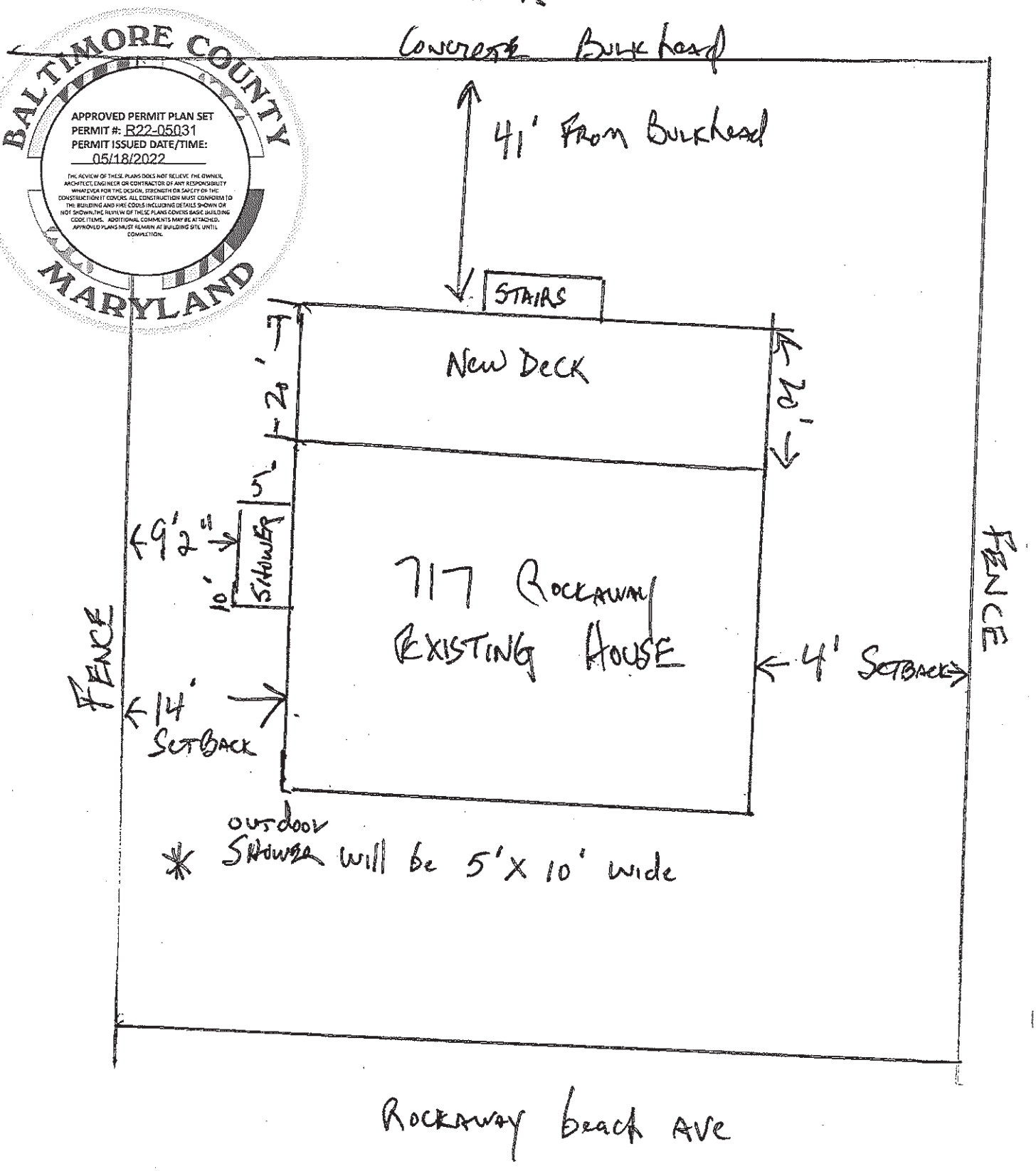
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MD Aviation Administration Division of Airport Facilities Planning P.O. Box 8766 BWI Marshall Airport,MD 21240-0766 Phone: 410-859-7692 or 410-859-7070	Martin State Aiport Zoning Area	X		X	X		X	X	X	X				OK To File
Building Plans Review County Office Building Room 120 Phone: 410-887-3987	100 Year Flood Zone	X	X	X	X	X			X	X				
	Possible Flood Hazard - Water Body Present	X	X	X	X	X			X	X				
Dev. Management County Office Building Room 123 Phone: 410-887-3321	Impact Fee: EXEMPT Details: ComRevitalDist=Not Exempt; CountyOwned=Not Exempt; DNROwned=Not Exempt; EnterpriseZone=Not Exempt; FedOwned=Not Exempt; MarylandTOD=Not Exempt; MDOpportunityZone=Not Exempt; StateOwned=Not Exempt; VestedPlat=Exempt Note: DNROwned,FedOwned and MDOpportunityZone may require further review due to spatial discrepancies between datasets.	X												

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.



BALTIMORE COUNTY MARYLAND

APPROVED PERMIT PLAN SET
PERMIT #: R22-05031
PERMIT ISSUED DATE/TIME: 05/18/2022

THE REVIEW OF THESE PLANS DOES NOT RELIEVE THE OWNER, ARCHITECT, ENGINEER OR CONTRACTOR OF ANY RESPONSIBILITY WHATEVER FOR THE DESIGN, STRENGTH OR SAFETY OF THE CONSTRUCTION IT COVERS. ALL CONSTRUCTION MUST CONFORM TO THE BUILDING AND FIRE CODES INCLUDING DETAILS SHOWN OR NOT SHOWN. THE REVIEW OF THESE PLANS COVERS BASIC BUILDING CODE ITEMS. ADDITIONAL COMMENTS MAY BE ATTACHED. APPROVED PLANS MUST REMAIN AT BUILDING SITE UNTIL COMPLETION.

2022-0151-SPH

Zoning Hearing Plan for Variance ____ for Special Hearing X Mark Type Requested with (X)

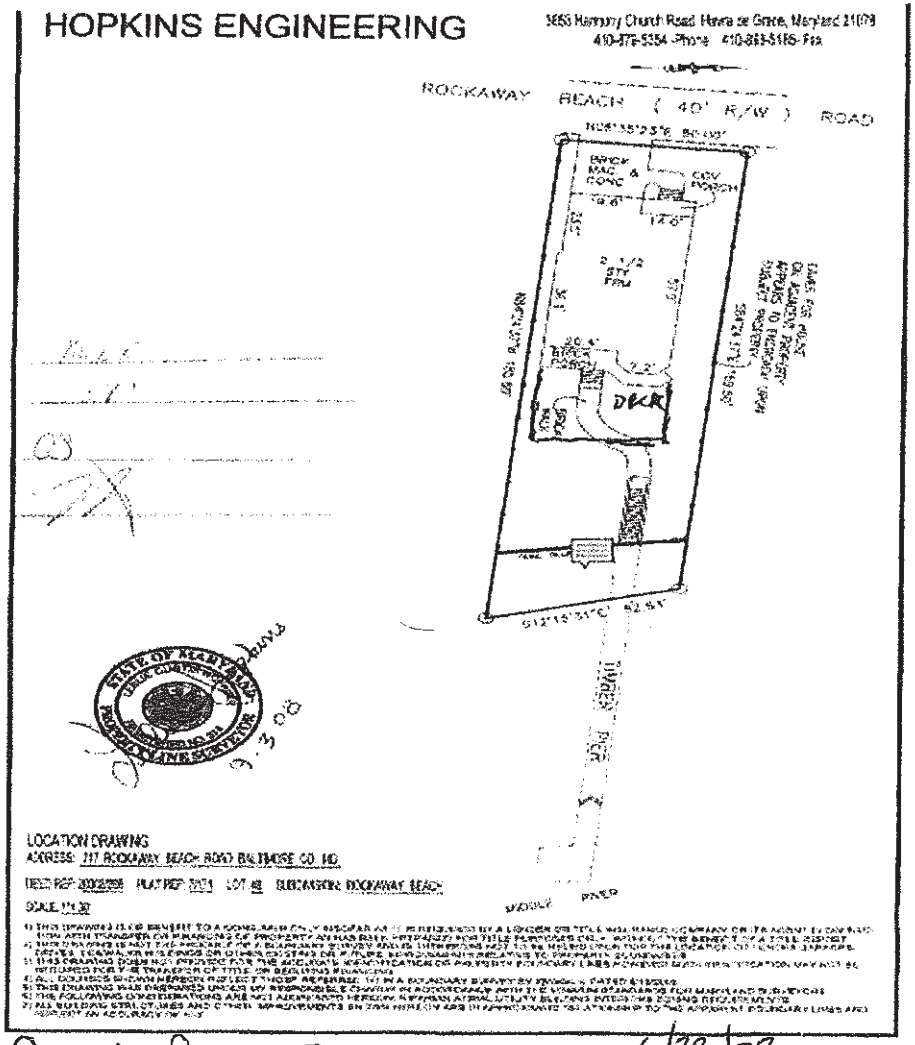
Address 717 Rockaway Beach Ave Owners(s) Name(s) William + Theresa Tunney

Subdivision Name Rockaway Beach Lot # 40 Block # — Section # —

Plat Book # 4 Folio # 171 10 Digit Tax # 1523504960 Deed Reference# 46333/00297

HOPKINS ENGINEERING

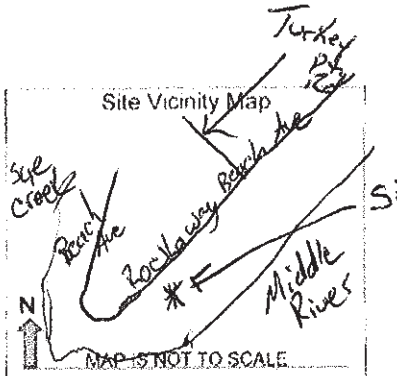
3655 Harmony Church Road Havre de Grace, Maryland 21078
410-879-5354 Phone 410-893-5185 Fax



N

Plan Drawn By Copied from Owner's Date 6/23/22 Scale: 1 inch = 30 Feet

Site Vicinity Map



Zoning Map # ____

Zoning DR 3.5

Election District 15

Council District 7

Lot Area Acreage 0.20

Lot Square Footage 9,027

Historic (Yes or No) No

CBCA (Yes or No) Yes

Flood Plain (Yes or No) Yes

Utilities – Mark with (X)

Water is.

Public X Private ____

Sewer is:

Public X Private ____

Prior Hearing (Yes or No) Yes

If (Yes) list Case Number(s)

and order result(s) below

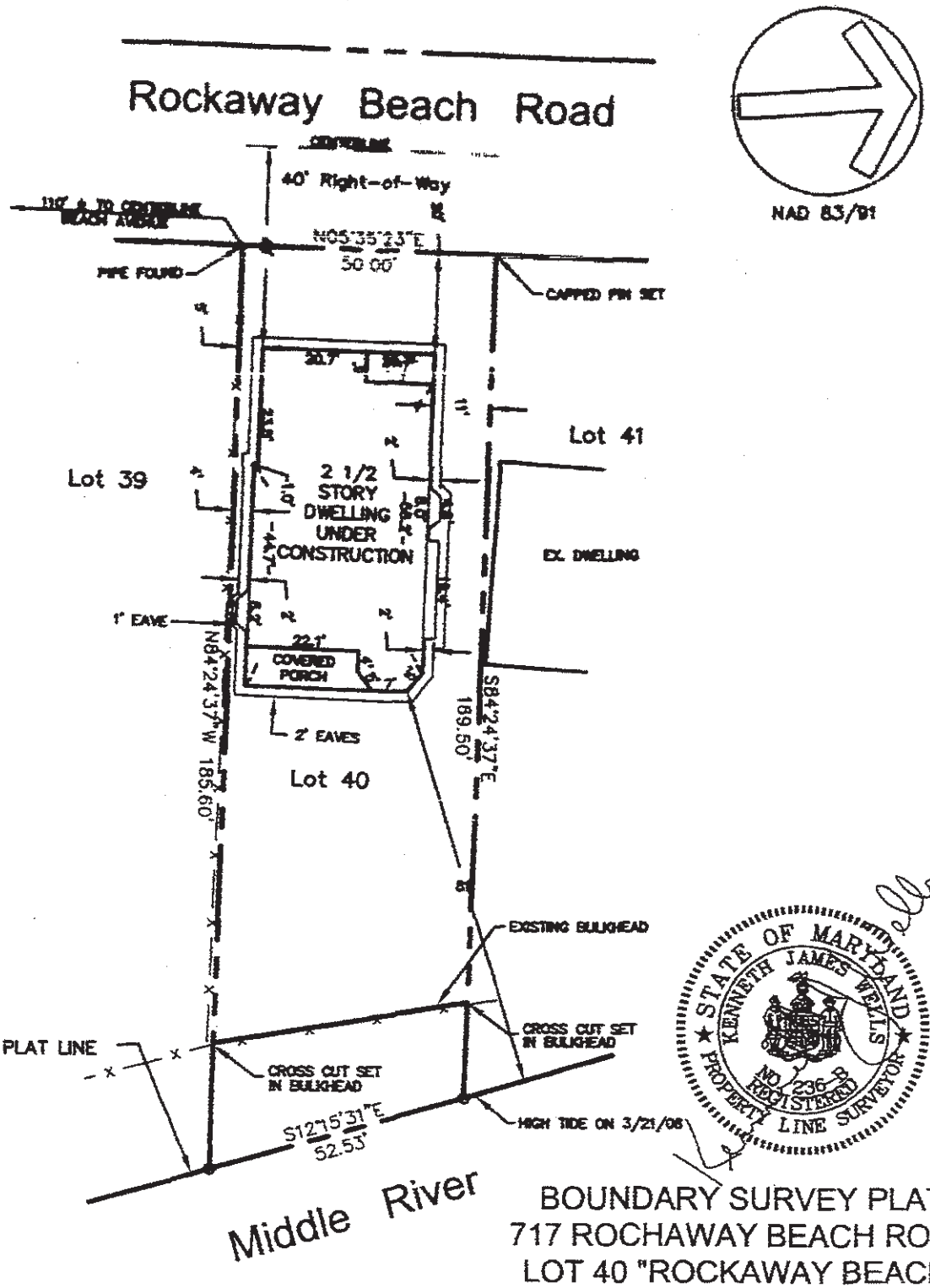
~~2005-0579-SPH~~ → GRANTED

2005-0579-A

2006-0501-SPH → GRANTED

Violation Case Number(s)

Permit Application. Info on Form Completed by Kevin McDonough, Rockaway Beach Imp. Assoc.



BOUNDARY SURVEY PLAT
717 ROCHAWAY BEACH ROAD
LOT 40 "ROCKAWAY BEACH"

SCALE: 1" = 30' DATED: 6/13/2005
REVISION DATE: 3/21/2006

LEGEND:

DWELLING PROJECTIONS

DEED REFERENCE: 20302/208
PLAT REFERENCE: 4/171

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Baltimore County
Permits, Approvals
And Inspections

OFFICE HOURS 7:30 am - 3:30 pm

Building Inspection: 410-887-3953

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation Case No. R22-05031 Property No. 1523504960 Zoning:

Name(s): TUNNEY WILLIAM EDWARD IV, TUNNEY THERESA MARIE

Address: 315 BLUE GRASS LN HAMPSTEAD MD 21074

Violation Location: 717 ROCKAWAY BEACH AVE ESSEX MD 21221

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

PROPOSED DECK TO BE CONSTRUCTED UNDER PERMIT R22-05031 CANNOT EXCEED 1' (12") IN HEIGHT MEASURED FROM THE LOWEST NATURAL GRADE ADJACENT TO DECK. ANY QUESTIONS REGARDING THIS REQUIREMENT PLEASE CONTACT THE BALTIMORE COUNTY ZONING DEPARTMENT AT 410-887-3391

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

ON OR BEFORE: 7/17/22 OR COMPLETION OF DECK DATE ISSUED: 6/17/22

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1,000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

INSPECTOR: [signature] PRINT NAME: MATTHEW CRAWLEY

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NO LATER THAN:

ON OR BEFORE: _____ DATE ISSUED: _____

INSPECTOR: _____ PRINT NAME: _____

COPIES: PINK – AGENCY, YELLOW - VIOLATION SITE, GOLD – DEFENDANT, WHITE – INSPECTOR

PAI BI 11

REVISED 9/16

PC Exh. 9

JOHN A. OLSZEWSKI, JR.
County Executive

DAVID V. LYKENS, *Director*
Department of Environmental Protection and Sustainability

April 12 2022

William Tunney
315 Blue Grass Lane
Hampstead, MD 21074

RE: Deck Permit - #R22-05031
717 Rockaway Beach Ave

Dear Mr. Tunney:

Environmental Impact Review (EIR) completed an evaluation of the above referenced property and deck permit application for 717 Rockaway Beach Ave. The 9,027 square foot property is located within a Limited Development Area (LDA) and Modified Buffer Area (MBA) in the Chesapeake Bay Critical Area (CBCA) and must comply with all requirements of Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

The property does not comply with the CBCA Regulations. In order to bring the property into compliance, you must complete the items listed in the table below.

Lot Coverage
Existing Lot Coverage: = 3,100 square feet or 34.3%. Current LDA regulations restrict the lot coverage on this property to 25% (2,256 square feet) or a maximum of 31.25% (2,821 square feet), with mitigation for the amount over 25%. The lot coverage present exceeds the maximum allowed. As the proposed open wood deck (with dirt/grass below) does not count as lot coverage, there is no lot coverage mitigation required. However, please be aware that no future lot coverage will be permitted without equal amount of lot coverage removal. Contact EIR to discuss permit and CBCA requirements for any future construction on site. Lot coverage includes gravel.
Forest Cover
15% minimum forest requirement: A minimum of three trees must be on-site at all times. As no trees currently exist on site, three Maryland native, deciduous trees at least 5-feet tall will need to be planted on the property. Three shrubs may be substituted for each required tree, if desired.
Modified Buffer Area
Properties within the MBA have a 100-foot buffer from tidal waters. Structures are not allowed in the buffer unless the property owner performs on-site mitigation or pays a fee-in-lieu. The proposed deck is within the 100-foot MBA. Mitigation for the 552 square feet of impact may be satisfied through: Payment of a fee-in-lieu of $1.50 per square-foot of disturbance. Tree planting to satisfy the Forest Cover requirement may also be used to address the MBA mitigation; therefore, fee-in-lieu payment would be reduced to $678.15.

*Note no manmade structures are allowed within 25 feet of tidal waters.
Summary of Mitigation Requirements: 1. Plant a minimum of three (3) Maryland native deciduous canopy trees on-site to meet forest cover requirements. 2. MBA mitigation: pay $678.15 fee-in-lieu.

Once you sign this letter, return it to our office indicating your acceptance of the mitigation requirements, and pay the appropriate fee-in-lieu amount, EIR will release the permit. Inspections will be conducted to determine compliance with all Critical Area requirements that pertain to this property. If you have any questions regarding this correspondence, please contact me at mbrady1@baltimorecountymd.gov or 410-887-3980.

Sincerely,

Marie Brady
Environmental Impact Review

I/We agree to meet the requirements outlined in this letter to bring the referenced property in to compliance with Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection:

_____ _____
Property Owner(s) Signature(s) Date

_____
Printed Name of Property Owner(s)

S:\EPS\EIR\Marie\Permit Review\CBCA\Rockaway Beach 717- MBA+for.docx

RECEIVED JUL 19 2022

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: July 19, 2022

SUBJECT: DEPS Comment for Zoning Item # 2022-0151-SPH
Address: 717 Rockaway Beach Avenue
(Tunney Property)

Zoning Advisory Committee Meeting of **July 11, 2022**

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

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

   The subject property is located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) and is subject to Critical Area requirements. The applicant is seeking a special hearing to determine whether the construction of a deck on the property complies with the Baltimore County Zoning Regulations including a previous zoning order as well all applicable policies, laws, and regulations. The proposed deck construction must meet LDA requirements and the 15% afforestation requirement. If the proposed deck construction can comply with the lot coverage restrictions and the 15% afforestation requirement, the proposed deck construction can result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

   This is a waterfront lot with a 100-foot Critical Area buffer extending onto the property from Middle River. The proposed deck will be located within the Critical Area buffer and will require compliance with the MBA Regulations.

Meeting the MBA requirements, lot coverage requirements, and the 15% afforestation requirement will aid in the conservation of fish, plant, and wildlife habitat in the watershed.

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.

   If the proposed deck construction can be designed to meet the MBA, lot coverage, and afforestation requirements, the proposed deck construction will be consistent with established land-use policies.

Additional Comments:

Reviewer: Gris Batchelder

JOHN A. OLSZEWSKI, JR.
County Executive

DAVID V. LYKENS, *Director*
Department of Environmental Protection and Sustainability

September 20, 2022

William Tunney
315 Blue Grass Lane
Hampstead, MD 21074

RE: Deck Permit - #R22-09666
717 Rockaway Beach Ave

Dear Mr. Tunney:

Environmental Impact Review (EIR) completed an evaluation of the above referenced property and deck permit application for 717 Rockaway Beach Ave. We understand that the previously-issued permit (R22-05031) was cancelled and this permit (R22-09666) replaces it. As the new permit does not change the proposed deck, the same permit requirements exist as previously stated in the April 12, 2022 letter. The deck is the subject of a special zoning hearing, 2022-0151-SPH.

The 9,027 square foot property is located within a Limited Development Area (LDA) and Modified Buffer Area (MBA) in the Chesapeake Bay Critical Area (CBCA) and must comply with all requirements of Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

Lot Coverage

Existing Lot Coverage: = 3,100 square feet or 34.3%.
Current LDA regulations restrict the lot coverage on this property to 25% (2,256 square feet) or a maximum of 31.25% (2,821 square feet), with mitigation for the amount over 25%. The lot coverage present exceeds the maximum allowed.

As the proposed open wood deck (with dirt/grass below) does not count as lot coverage, there is no lot coverage mitigation required. However, please be aware that no future lot coverage will be permitted without equal amount of lot coverage removal. Contact EIR to discuss permit and CBCA requirements for any future construction on site. Lot coverage includes gravel.

Forest Cover

15% minimum forest requirement: A minimum of three trees must be on-site at all times. As no trees currently exist on site, three Maryland native, deciduous trees at least 5-feet tall will need to be planted on the property. Three shrubs may be substituted for each required tree, if desired.

Modified Buffer Area

Properties within the MBA have a 100-foot buffer from tidal waters. Structures are not allowed in the buffer unless the property owner performs on-site mitigation or pays a fee-in-lieu. The proposed deck is within the 100-foot MBA. Mitigation for the 552 square feet of impact was satisfied through payment of a fee-in-lieu of $1.50 per square-foot of disturbance and the agreement to plant three trees (or equivalent shrubs).

Payment of $678.15 was received by check on April 20, 2022.

*Note no manmade structures are allowed within 25 feet of tidal waters.
Summary of Mitigation Requirements: 1. Plant a minimum of three (3) Maryland native deciduous canopy trees on-site to meet forest cover requirements by spring 2023. 2. MBA mitigation: pay $678.15 fee-in-lieu **(Paid).**

Once you sign this letter, return it to our office indicating your acceptance of the mitigation requirements, and pay the appropriate fee-in-lieu amount, EIR will release the permit. Inspections will be conducted to determine compliance with all Critical Area requirements that pertain to this property. If you have any questions regarding this correspondence, please contact me at mbrady1@baltimorecountymd.gov or 410-887-3980.

Sincerely,

Marie Brady
Environmental Impact Review

I/We agree to meet the requirements outlined in this letter to bring the referenced property in to compliance with Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

Property Owner(s) Signature(s) — Date: 9/20/2022

William Tunney

Printed Name of Property Owner(s)

RECEIVED AUG 0 1 2022

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 7/28/2022

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 2022-151

INFORMATION:
Property Address: 717 Rockaway Beach Ave
Petitioner: Rockaway Beach Improvement Association & Neighbors
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition to determine if a Special Hearing is necessary to conclude:

1. Whether the construction of a deck at waterfront side of the subject property constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
2. Whether the construction of a deck at the waterfront side of the subject property would "obstruct adjacent property owners' water views" and conflict with restriction #5 in the zoning order issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
3. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with the Baltimore County Zoning Regulations; and
4. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with all applicable policies, laws, and regulations.

The subject site is currently zoned as DR 3.5. The site is considered to be a Chesapeake Bay Critical Area Designation. The subject site is surrounded by other single-family dwellings with the rear of the dwelling facing toward the water and the front of the dwelling is facing toward Rockaway Beach Avenue.

The subject property is located within the boundaries of the following community plans: Eastern Baltimore County Revitalization Strategy, Eastern Baltimore County Pedestrian and Bicycle Access Plan, and Greater Dundalk-Edgemere Community Conservation Plan. This proposed structure and the request for this petition, does not impact the recommendations provided in these plans.

The Department of Planning concludes the following as it relates to the petitioner's concerns:

1. The subject property was a part of Zoning Xase #2006-0501-SPH. As a part of the order, there was a condition to approval granted to the petitioners. This condition stated "Petitioners [William Rush and Maryann Rush] shall surrender any further construction rights to build closer to the

PC Exh. 11

RECEIVED AUG 0 1 2022

water." Department of Planning concludes that the construction of deck will be in violation of the order in this case.

2. The subject property was a part of Zoning Case #2006-0501-SPH which ordered the following restriction: "There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water views(s)." Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties.

3. The specifics of the compliance to various Baltimore County Zoning regulations will be a part of the permits process that has already been initiated by the property owner. All necessary zoning regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

4. The specifics of the compliance to policies, laws, and regulations will be a part of the permits process that has already been initiated by the property owner. All necessary policies, and laws, and regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

The Department has no further objections or comments on the request. For further information concerning the matters stated herein, please contact April Smith at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

SL/JGN/KP/

c: April Smith
Rockaway Beach Improvement Association, c/o Kevin McDonough
Office of Administrative Hearings
People's Counsel for Baltimore County

From: Henry Ayakwah
To: April Smith; Debra Wiley; Donna Mignon; PAI Zoning Advisory Committee; Peter Max Zimmerman
Subject: 2022-0151 Revision
Date: Thursday, September 22, 2022 1:23:19 PM
Attachments: 22-151 Revision.pdf

Good afternoon,

Please be advised that the attached zoning comments for cases 2022-0151 is the COMPLETE recommendation of the Department of Planning (Revision made to comment number 2 as wording to the last statement was cutoff). If further information is needed, please contact the planner listed at the bottom of the recommendation.

Sincerely,

Henry a

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald **DATE:** 9/22/2022
Director, Department of Permits, Approvals and Inspections

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS - AMENDED
Case Number**:** 2022-0151 SPH

INFORMATION:
Property Address: 717 Rockaway Beach Ave
Petitioner: Rockaway Beach Improvement Association & Neighbors
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition to determine if a Special Hearing is necessary to conclude:

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1. The subject property was a part of Zoning Case #2006-0501-SPH. As a part of the order, there was a condition to approval granted to the petitioners. This condition stated "Petitioners [William Rush and Maryann Rush] shall surrender any further construction rights to build closer to the

water." Department of Planning concludes that the construction of deck will be in violation of the order in this case.

2. The subject property was a part of Zoning Case #2006-0501-SPH which ordered the following restriction: "There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water views(s)." Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties, it will be considered an enhancement.

3. The specifics of the compliance to various Baltimore County Zoning regulations will be a part of the permits process that has already been initiated by the property owner. All necessary zoning regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

4. The specifics of the compliance to policies, laws, and regulations will be a part of the permits process that has already been initiated by the property owner. All necessary policies, and laws, and regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

The Department has no further objections or comments on the request. For further information concerning the matters stated herein, please contact April Smith at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

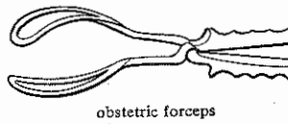
SL/JGN/KP/

c: April Smith
Rockaway Beach Improvement Association, c/o Kevin McDonough
Office of Administrative Hearings
People's Counsel for Baltimore County

hind legs the strings of eggs laid by the female and carries them about until they hatch

ob·stet·ri·cate \ˈ=ə=trəˌkāt\ *vb* -ED/-ING/-S [LL *obstetricatus*, past part. of *obstetricare* to act as midwife, fr. L *obstetric-*, *obstetrix* midwife] *vi, archaic* : to function as a midwife ~ *vt, obs* : to attend (a woman) as a midwife at childbirth

obstetric forceps *n* : a forceps for grasping the fetal head or other part to facilitate delivery in difficult labor



obstetric forceps

ob·ste·tri·cian \ˌäbzˌtəˈtrishən, ˌäbˌst-, -bztə=-, -bstə-\ *n* -S [*obstetrics* + *-an*] : a physician or veterinary specializing in obstetrics

ob·stet·rics \əbzˈtə·triks, -bˈst-; äbzˈt-, -bˈst-\ *n pl but sing or pl in constr* [*obstetric* + *-s*, pl. suffix] : a branch of medical science that deals with birth and with its antecedents and sequels

ob·stet·rist \-rəst\ *n* -S [*obstetrics* + *-ist*] : OBSTETRICIAN

ob·sti·na·cy \ˈäbztənəsē, -bst-, -si\ *n* -ES [ME, fr. ML *obstinatia*, fr. L *obstinatus* (past part. of *obstinare* to be set upon, be obstinate) + *-ia* -y] **1 a** : the quality or state of being obstinate : fixedness in will, opinion, or resolution : firm and usu. unreasonable adherence to an opinion, purpose, or system : STUBBORNNESS, PERTINACITY, PERSISTENCY **b** : the quality or state of being difficult to remedy, relieve, or subdue ⟨the ~ of tuberculosis⟩ ⟨the ~ of this evil⟩ **2** : an instance of being obstinate : an obstinate action or stand ⟨irritated by his neighbor's petty *obstinacies*⟩

ob·sti·nance \-nən(t)s\ *or* **ob·sti·nan·cy** \-nənsē\ *n, pl* **obstinances** *or* **obstinancies** [ML *obstinantia*, fr. *obstinant-*, *obstinans* (pres. part. of *obstinare*) + *-ia* -y] : OBSTINACY

1ob·sti·nate \-nət, *usu* -ədˌ+V\ *adj* [ME *obstinat*, fr. L *obstinatus*, past part. of *obstinare* to be set upon, be obstinate, fr. *ob-* to, over + *-stinare* (akin to *stare* to stand) — more at OB-, STAND] **1** : pertinaciously adhering to an opinion, purpose, or course : not yielding to reason, arguments, or other means **2** : not yielding readily : not easily subdued or removed ⟨~ fever⟩ ⟨these ~ obstructions⟩

syn OBSTINATE, DOGGED, STUBBORN, PERTINACIOUS, MULISH, STIFF-NECKED, PIGHEADED, and BULLHEADED can mean, in common, fixed or unyielding in one's course, purpose, opinion, and so on. OBSTINATE implies persistent adherence to an opinion, purpose, or course, suggesting unreasonableness or perversity rather than steadfastness ⟨a man so *obstinate* as to resist the strongest arguments can never be brought to repentance, for he can never be persuaded of his errors —Leslie Stephen⟩ ⟨so stupid and so *obstinate* that it was impossible to get him to do or understand anything —Anthony Trollope⟩ ⟨not courageous, only quarrelsome; not determined, only *obstinate;* not masterful, only domineering —G.B. Shaw⟩ DOGGED adds the idea of downright or tenacious persistence, usu. connoting stolid determination or unwavering purpose ⟨the immense amount of planning, of *dogged* study; the tireless, constant activity, the ability to get what he was after —Adria Langley⟩ ⟨the dull, *dogged*, unspectacular heroism which was needed for fighting filth and ignorance and disease —Louis Bromfield⟩ ⟨*dogged* hope and resolution for a peaceful union of nations —Laurence Stapleton⟩ STUBBORN implies the unyielding adherence of OBSTINATE and the stolid determination of DOGGED, carrying strongly the idea of fixedness of character, in a person, that resists attempts to change his purpose, course, or opinion or, in a thing, that makes it hard to work with or manipulate ⟨the *stubborn* resistance which he met showed that the temper of the people was not easily broken —J.R.Green⟩ ⟨his *stubborn* refusal to accept the consequences of his own discoveries —J.B.Conant⟩ ⟨she was so *stubborn* that she wouldn't adjust her opinions —Sinclair Lewis⟩ ⟨man and beast joined against *stubborn* nature and her grudging soil —Ann F. Wolfe⟩ PERTINACIOUS stresses a sticking to a chosen pursuit, purpose, and so on, with an unusual, often annoying, persistence ⟨a *pertinacious* newsman⟩ ⟨a *pertinacious* mosquito⟩ MULISH suggests the unreasonable obstinacy of a mule ⟨in refusing to accept ardent suitors who were urged upon her, she was obstinately *mulish* —*Fashion Digest*⟩ ⟨a *mulish* determination to make the worst of everything —T.S.Eliot⟩ ⟨there is a *mulish* quality about vellum that renders it difficult to cope with —Edith Diehl⟩ STIFF-NECKED, even more than OBSTINATE or STUBBORN, stresses inflexibility, suggesting a haughtiness or arrogance that will not be directed ⟨*stiff-necked* in his determination to wage a national campaign rather than a series of local campaigns —*Newsweek*⟩ ⟨the *stiff-necked* secretaries of Cromwell's army who had been glad to stand in pillories and suffer their ears to be cropped rather than put bread in the mouths of priests —V.W.Brooks⟩ PIGHEADED and BULLHEADED, terms of severe reproach, suggest a particularly perverse or stupid kind of obstinacy, PIGHEADED stressing rather imperviousness to reason, BULLHEADED stressing rather headstrong determination ⟨too . . . *pigheaded* to listen to reason —Dashiell Hammett⟩ ⟨a *pigheaded* refusal to budge from an untenable political position⟩ ⟨a *bullheaded* driving at a private goal no matter who else is hurt along the way⟩

2ob·sti·nate \-ˌnāt\ *vt* -ED/-ING/-S [ME *obstinaten*, fr. L *obstinatus*, past part. of *obstinare* to be obstinate] : to make obstinate

ob·sti·nate·ly *adv* [ME *obstinatly*, fr. *1obstinat* + *-ly*] : in an obstinate manner : with obstinacy

ob·sti·nate·ness *n* -ES : the quality or state of being obstinate

ob·sti·na·tion \ˌäbztəˈnāshən, -bat-\ *n* -S [ME *obstinacioun*, fr. MF *obstination*, fr. L *obstination-*, *obstinatio*, fr. *obstinatus* (past part. of *obstinare*) + *-ion-*, *-io* -ion] : OBSTINACY

ob·sti·pate \ˈäbztəˌpāt, -bst-\ *vt* -ED/-ING/-S [back-formation fr. *obstipation*] : to bind up : constipate severely

ob·sti·pa·tion \ˌ=ˈpāshən\ *n* -S [LL *obstipation-*, *obstipatio* close pressure, fr. L *ob-* + *stipare* to press together + *-ion-*, *-io* -ion — more at STIFF] : BLOCKAGE ⟨~ of a body passage⟩; *specif* : severe and obstinate constipation

ob·strep·er·ate \əbˈstrepəˌrāt, äb-, -bˈst-\ *vi* -ED/-ING/-S [*obstreperous* + *-ate*] *archaic* : to make a noise

ob·strep·er·ous \-p(ə)rəs\ *adj* [L *obstreperus*, fr. *obstrepere* to make noise against, fr. *ob-* to, against + *strepere* make noise; akin to OE *thræft* quarrel, discord, MLG *drevelinge* vain chatter, ON *thrapt* chatter; all of imit. origin — more at OB-] **1** : marked by or engaging in aggressive noisiness : LOUD, CLAMOROUS ⟨~ roaring⟩ **2** : stubbornly defiant : resisting control or restraint often with a show of noisy disorder : TURBULENT, UNMANAGEABLE ⟨an ~ crew⟩ ⟨~ elephants —Faubion Bowers⟩ **syn** see VOCIFEROUS

ob·strep·er·ous·ly *adv* : in a loud, clamorous, or disorderly manner : REBELLIOUSLY

ob·strep·er·ous·ness *n* -ES : the quality or state of being obstreperous

obstriction *n* -S [LL *obstriction-*, *obstrictio*, fr. L *obstrictus* (past part. of *obstringere* to bind, obligate, fr. *ob-* to, over + *stringere* to draw tight, bind) + *-ion-*, *-io* -ion — more at OB-, STRAIN] *obs* : the condition of being obligated : OBLIGATION

ob·strop·o·lous \əbzˈträpələs, äb-, -bˈst-\ *dial var of* OBSTREPEROUS

ob·struct \əbzˈtrəkt, äb-, -bˈst-\ *vb* -ED/-ING/-S [L *obstructus*, past part. of *obstruere* to build against, block up, fr. *ob-* to, against + *struere* to pile up, build — more at OB-, STRUCTURE] *vt* **1** : to block up : stop up or close up : place an obstacle in or fill with obstacles or impediments to passing ⟨traffic ~*ing* the street⟩ ⟨veins ~*ed* by clots⟩ **2** : to be or come in the way of : hinder from passing, action, or operation : IMPEDE, RETARD ⟨unwise rules ~ legislation⟩ ⟨constant interruptions ~ our progress⟩ **3** : to cut off from sight : shut out ⟨the high wall ~*ed* the view⟩ ~ *vi* : to place obstacles in the way : IMPEDE **syn** see HINDER

ob·struc·tion \-kshən\ *n* -S [L *obstruction-*, *obstructio* fr. *obstructus* (past part. of *obstruere* to obstruct) + *-ion-*, *-io* -ion] **1** : an act of obstructing or the condition of being obstructed: as **a** : a condition of being clogged or blocked ⟨intestinal ~⟩ ⟨respiratory ~ due to thyroid disease⟩ **b** *obs* : arrest of vital functions : DEATH **c** : a delay or attempted delay of business by dilatory parliamentary tactics in a deliberative body (as a legislature) — compare FILIBUSTER 2 **d** : the illegal hindrance of the progress of an opponent in a game (as soccer) by remaining in the path he wants to follow **2** : something that obstructs or impedes : IMPEDIMENT, HINDRANCE ⟨removing ~s from the path⟩ ⟨this was the major ~ to the success of our plan⟩ **syn** see OBSTACLE

ob·struc·tion·ism \-ˌnizəm\ *n* -S [*obstructionist* + *-ism*] : the practice of an obstructionist : deliberate interference with progress or business

ob·struc·tion·ist \-nəst\ *n* -S *often attrib* : one that hinders progress : one that deliberately and often by indirect or delaying tactics obstructs business (as in a legislative body) — **ob·struc·tion·is·tic** \ˌ=ˈ=ˈnistik\ *adj*

1ob·struc·tive \əbzˈtrəktiv, äb-, -bˈst-, -ēv *also* -ov\ *adj* [L *obstructus* + E *-ive*] **1** : tending to obstruct : presenting obstacles : HINDERING **2** : of, relating to, or characterized by obstruction — **ob·struc·tive·ly** \-təvlē\ *adv* — **ob·struc·tive·ness** \-tivnəs, -tēv- *also* -təv-\ *n* -ES

2obstructive \ˈ\ *n* -S : an obstructive person or thing

obstructive jaundice *n* : jaundice due to obstruction of the biliary passages (as by gallstones or tumor)

ob·struc·tor \əbzˈtrəktə(r), äb-, -bˈst-\ *n* -S : one that obstructs

1ob·stru·ent \ˈäbztrəwənt -bst-\ *adj* [L *obstruent-*, *obstruens*, pres. part. of *obstruere* to obstruct — more at OBSTRUCT] **1** *archaic* : causing obstruction : blocking up **2** *phonetics* : characterized by stoppage or friction

2obstruent \ˈ\ *n* -S : a speech sound in the articulation of which the breath passage is obstructed completely or to the point of producing friction : STOP, FRICATIVE — compare RESONANT

obstruse *adj* [L *obstrusus*, MS var. of *abstrusus* concealed — more at ABSTRUSE] *obs* : ABSTRUSE

ob·stu·pe·fy \äbzˈt(y)üpəˌfī, -bˈst-\ *vt* [L *obstupefacere*, fr. *ob-* to, against, over + *stupefacere* to stupefy — more at OB-, STUPEFY] : STUPEFY

obt *abbr* **1** obedient **2** [L *obiit*] he died

ob·tain \əbˈtān-, äb-\ *vb* -ED/-ING/-S [ME *obteinen*, fr. MF & L; MF *obtenir*, fr. L *obtinēre* to take hold of, fr. *ob-* to, completely + *-tinēre* (fr. *tenēre* to hold) — more at OB-, THIN] *vt* **1 a** : to gain or attain possession or disposal of usu. by some planned action or method ⟨ability to doubt until evidence is ~*ed* —John Dewey⟩ ⟨*~ing* the information easily⟩ **b** : to bring about or call into being : EFFECT ⟨~ quiet for their annual meetings —*Amer: Guide Series: N.Y.City*⟩ **2** *obs* : HOLD, KEEP, POSSESS, OCCUPY ⟨he who ~*s* the monarchy of heaven —John Milton⟩ **3** *obs* : to arrive at : ATTAIN, REACH ~ *vi* **1** *archaic* : SUCCEED **2** *obs* : ATTAIN, ARRIVE — used with *to* or *unto* **3** : to have a firm footing : become recognized or established ⟨be prevalent or general ⟨the custom ~*s* of going to the sea⟩ ⟨be prevalent or general ⟨the custom ~*s* of going to the seashore in summer⟩ ⟨a greater degree of free expression than usually ~*s* in film production —Roger Manvell⟩ **syn** see GET

ob·tain·able \-nəbəl\ *adj* : capable of being obtained : AVAILABLE

ob·tain·al \-ənᵊl\ *n* -S [*obtain* + *-al*] : OBTAINMENT

ob·tain·er \-nə(r)\ *n* -S : one that obtains

ob·tain·ment \-mənt\ *n* -S **1** : the act or process of obtaining **2** : something that is obtained

obtd *abbr* obtained

ob·tect \əbˈtekt\ *also* **ob·tect·ed** \-təd\ *adj* [*obtect* fr. L *obtectus*, past part. of *obtegere* to cover up, fr. *ob-* to, over + *tegere* to cover; *obtected* fr. L *obtectus* + E *-ed* — more at OB-, THATCH] : enclosed in or characterized by enclosure in a firm chitinous case or covering ⟨an ~ pupa⟩ ⟨~ metamorphosis⟩ — compare EXARATE

ob·tem·per \əbˈtempər\ *vt* [MF *obtemperer*, fr. L *obtemperare*, fr. *ob-* to, over + *temperare* to temper, mingle properly — more at OB-, TEMPER] *Scots law* : SUBMIT, COMPLY, OBEY

ob·tem·per·ate \-rāt\ *vt* [ME *obtemperat*, fr. L *obtemperatus*, past part. of *obtemperare* to comply, obey] *archaic* : OBEY

obtend *vt* [L *obtendere* to stretch before, draw out, pretend, fr. *ob-* to, toward + *tendere* to stretch — more at OB-, TEND] 1 *obs* : to offer as a reason : PRETEND **2** *obs* : OPPOSE

ob·ten·e·brate \äbˈtenəˌbrāt\ *vt* -ED/-ING/-S [LL *obtenebratus*, past part. of *obtenebrare* to darken, fr. L *ob-* to, toward, over + *tenebrare* to darken, fr. *tenebrae* darkness — more at OB-, TEMERITY] : to darken by or as if by shadowing

ob·ten·tion \əbˈtenchən, äb-\ *n* -S [F, fr. L *obtentus* (past part. of *obtinēre* to take hold of) + F *-ion* — more at OBTAIN] : an act or instance of obtaining : OBTAINMENT

ob·test \äbˈtest, əb-\ *vb* [MF *obtester*, fr. L *obtestari*, fr. *ob-* to, toward + *testari* to be a witness — more at OB-, TESTAMENT] *vt* **1** : BESEECH, SUPPLICATE **2** : to call to witness : invoke as a witness ~ *vi* **1** : SUPPLICATE **2** : PROTEST

ob·tes·ta·tion \ˌäbˌtesˈtāshən\ *n* -S [L *obtestation-*, *obtestatio*, fr. *obtestatus* (past part. of *obtestari*) + *-ion-*, *-io* -ion] : an act of obtesting : solemn supplication or adjuration

obtrect *vt* -ED/-ING/-S [L *obtrectare* to detract from, fr. *ob-* + *-trectare* (fr. *tractare* to draw, handle, manage, treat) — more at TREAT] *obs* : SLANDER — **obtrectation** *n* -S *obs* — **obtrectator** *or* **obtrector** *n* -S *obs*

ob·trude \əbˈtrüd, äb-\ *vb* -ED/-ING/-S [L *obtrudere*, fr. *ob-* to, toward, against + *trudere* to thrust — more at OB-, THREAT] *vt* **1** : to thrust out : push or extend into sight : EXTRUDE ⟨the snail slowly *obtruded* his tentacle⟩ **2** : to thrust forward, present, or call to notice without warrant or request ⟨not a man to ~ his beliefs casually⟩ ⟨forced to ~ ourselves into their party⟩ ~ *vi* : to thrust oneself or some other matter upon attention : INTRUDE ⟨do what we may our childhood background will ~⟩

ob·trud·er \-də(r)\ *n* -S : one that obtrudes

ob·truncate \(ˌ)äbˈ+\ *vt* [L *obtruncatus*, past part. of *obtruncare* to cut off, fr. *ob-* toward, against, over + *truncare* to cut off, fr. *truncus* trunk — more at OB-, TRUNCATE] : to cut the head or top from

ob·tru·sion \əbˈtrüzhən, äb-\ *n* -S [LL *obtrusion-*, *obtrusio* fr. L *obtrusus* (past part. of *obtrudere* to obtrude) + *-ion-*, *-io* -ion] **1** : an act of obtruding : a thrusting upon others by force or unsolicited **2** : something that is obtruded

ob·tru·sive \əbˈtrüsiv, (ˌ)äbˈt-, -üzi, -ēv *also* -əv\ *adj* [L *obtrusus* + E *-ive*] **1** : thrust out : PROTRUDING ⟨a sharp ~ edge⟩ **2 a** : disposed to obtrude : FORWARD, PUSHING, INTRUSIVE ⟨~ behavior⟩ **b** : undesirably or unattractively noticeable or showy ⟨hats will be less ~ this season⟩ ⟨the propaganda was occasionally ~⟩ **syn** see IMPERTINENT

ob·tru·sive·ly \-sivlē, -li\ *adv* : in an obtrusive manner : so as to be obtrusive

ob·tru·sive·ness \-sivnəs, -ēv *also* -əv-\ *n* -ES : the quality or state of being obtrusive

ob·tund \əbˈtənd\ *vt* -ED/-ING/-S [ME *obtunden*, fr. L *obtundere* to beat against, to dull — more at OBTUSE] : to reduce the edge or violence of : DULL, BLUNT ⟨~*ed* reflexes⟩ ⟨agents that ~ pain⟩

1ob·tund·ent \(ˌ)=ˈtəndənt\ *adj* [L *obtundent-*, *obtundens*, pres. part. of *obtundere*] : blunting irritation or lessening pain

2obtundent \ˈ\ *n* -S : an agent that blunts pain or dulls sensibility

ob·tu·rate \ˈäbt(y)əˌrāt\ *vt* -ED/-ING/-S [L *obturatus*, past part. of *obturare* to stop up, fr. *ob-* toward, over + *-turare* (akin to *tumēre* to swell) — more at OB-, THUMB] : OBSTRUCT, CLOSE; *esp* : to stop (a gun breech) so as to prevent the escape of gas in firing — **ob·tu·ra·tion** \ˌ=ˈrāshən\ *n* -S

ob·tu·ra·tor \ˈ=ˌrād-ə(r)\ *n* -S *often attrib* [NL, fr. L *obturatus* + *-or*] : one that closes or stops up an opening: **a** : either of two muscles arising from the obturator membrane and adjacent bony surfaces: (1) *or* **obturator ex·ter·nus** \-ekˈstərnəs\ : a muscle arising from the outer surface of the membrane and being inserted into the trochanteric fossa of the femur (2) *or* **obturator in·ter·nus** \-inˈtərnəs\ : a muscle arising from the inner surface of the membrane and being inserted into the greater trochanter of the femur **b** : a prosthetic device that usu. has the form of a plate and is designed to bridge an unnatural opening (as a fissure of the palate) **c** : a device for preventing the escape of gas through the breech mechanism of a breech-loading gun **d** : a hooded swelling of the placenta that fits over the nucellus in some plants

obturator artery *n* : an artery that passes out through the obturator canal and dividing into two branches is distributed to the muscles and fasciae of the hip and thigh

obturator canal *n* : the small patent opening of the obturator foramen through which nerves and vessels pass

obturator foramen *n* : an opening that is situated between the pubic and ischial parts of the innominate bone and that is largely closed by the obturator membrane — see OBTURATOR CANAL

obturator membrane *n* : a firm fibrous membrane covering most of the obturator foramen and serving as origin of the obturator muscles

obturator nerve *n* : a branch of the lumbar plexus arising from the second, third, and fourth lumbar nerves and supplying the hip and knee joints, adductor muscles of the thigh, and skin

obturator vein *n* : a tributary of the internal iliac vein that accompanies the obturator artery

ob·turbinate \(ˌ)äbˈ+\ *adj* [ISV *ob-* + *turbinate*] : inversely turbinate

ob·tuse \əbˈt(y)üs, (ˌ)äbˈ-\ *adj, sometimes* -ER/-EST [L *obtusus*, past part. of *obtundere* to beat against, to dull, fr. *ob-* to, against + *tundere* to beat — more at OB-, STUTTER] **1** : lacking acuity of sensibility or perceptions : having neither delicate feelings nor alert awareness : DENSE ⟨too ~ to take a hint⟩ ⟨a dull ~ person⟩ **2 a** *of an angle* : exceeding 90 degrees but being less than 180 degrees — see ANGLE illustration **b** : not pointed or acute : BLUNT ⟨an ~ contour⟩ **c** *of a leaf* : blunt or rounded at the free end **d** : OBTUSE-ANGLED **3** : not causing an acute impression : MILD ⟨an ~ pain⟩ **syn** see DULL

obtuse-angled \-ˈ=ˌ=\ *also* **obtuse-angular** \-ˈ=ˌ=ə=\ *adj* : having one or more angles that are obtuse

obtuse bisectrix *n* : the bisectrix of the obtuse angle formed by the axes of a biaxial crystal — called also *second mean line*

ob·tuse·ly *adv* : in an obtuse manner : so as to be obtuse

ob·tuse·ness *n* -ES : the quality or state of being obtuse

obtusi- *comb form* [NL, fr. L *obtusus*, past part.] : obtusely ⟨*obtusirostrate*⟩ ⟨*obtusifolious*⟩

ob·tu·sion \äbˈt(y)üzhən\ *n* -S [LL *obtusion-*, *obtusio*, fr. L *obtusus* (past part. of *obtundere*) + *-ion-*, *-io* -ion] : a blunting or a condition of being blunted

ob·tu·si·ty \-üsədē\ *n* -ES [ML *obtusitas*, fr. L *obtusus* + *-itas* -ity] : OBTUSENESS; *esp* : human density and insensitivity

ob–ugrian \(ˌ)äbˈ+\ *n* -S *usu cap O&U* [*Ob*, river in Siberia + *Ugrian*] : a member of an Ostyak and Vogul people of Siberia that is of Finno-Ugrian ethnic classification, has a primitive hunting and fishing economy, and is closest linguistic ally to the Magyar peoples

ob·um·brant \(ˌ)äˈbəmbrənt\ *adj* [L *obumbrant-*, *obumbrans*, pres. part. of *obumbrare* to overshadow] : OVERHANGING ⟨~ hackle feathers⟩

1obumbrate *adj* [L *obumbratus*, past part. of *obumbrare* to overshadow, fr. *ob-* to, over + *umbrare* to shade, fr. *umbra* shadow — more at OB-, UMBRAGE] *obs* : darkened by or as if by shadow

2ob·um·brate \äˈbəmˌbrāt\ *vt* -ED/-ING/-S [L *obumbratus*, past part. of *obumbrare*] **1** : SHADE, DARKEN, CLOUD **2** *archaic* : ADUMBRATE — **ob·um·bra·tion** \ˌäˌbəmˈbrāshən\ *n* -S

obus \ōbüs, -ez; ˈōbəs\ *n, pl* **obus** \ˈ\ *or* **obus·es** \ˈōbəsəz\ [F, fr. G *haubitze* howitzer — more at HOWITZER] : an artillery shell

obv *abbr* obverse

ob·vallate \(ˌ)äbˈ+\ *adj* [L *obvallatus*, past part. of *obvallare* to surround with a wall, fr. *ob-* toward, over + *vallare* to surround with a wall, fr. *vallum* wall, rampart — more at OB-, WALL] : surrounded by or as if by a wall ⟨~ papillae⟩

ob·ve·la·tion \ˌäbvəˈlāshən\ *n* -S [LL *obvelare* to cover over, hide (fr. *ob-* toward, over + *velare* to cover, fr. *velum* covering, veil) + E *-ation* — more at OB-] : VEILING, CONCEALING — compare REVELATION

ob·ven·tion \äbˈvenchən\ *n* -S [ME *obvencioun*, fr. MF *obvention*, fr. L *obvention-*, *obventio* income, revenue, fr. L *obventus* (past part. of *obvenire* to come about, fr. *ob-* to, toward + *venire* to come) + *-ion-*, *-io* -ion — more at OB-, COME] : something that comes casually (as an incidental advantage or an occasional religious offering)

1ob·verse \əbˈvərs, (ˌ)äbˈv-, -vās, -vəis\ *adj* [L *obversus*, past part. of *obvertere* to turn towards] **1** : facing the observer or opponent — opposed to *reverse* **2** : having the base or end next the attachment narrower than the top or free end ⟨an ~ tool⟩ ⟨an ~ leaf⟩ **3** : constituting a counterpart or complement — **ob·verse·ly** *adv*

2ob·verse \ˈäbˌvərs, äbˈvərs, -vās, -vəis\ *n* -S [L *obversus*, past part. of *obvertere*] **1 a** : the side of a coin, token, medal, or currency note that is considered the front and that bears the principal device and lettering; *broadly* : a front or principal surface **b** : the more conspicuous of two possible sides, things, or cases ⟨the ~ of this situation⟩ **2 a** : a counterpart necessarily involved in or answering to a fact or truth **b** *logic* : a proposition which may be inferred immediately from another and in which the quality of the given proposition is changed, the subject term remains unaltered, and the predicate is the negative of that which is given ⟨the ~ of "all *A* is *B*" is "no *A* is not *B*"⟩ **syn** see CONVERSE

ob·ver·sion \äbˈvərzhən, -vəzh-, -vəizh- *also* -shən\ *n* -S [LL *obversion-*, *obversio*, fr. *obversus* (past part. of *obvertere*) + *-ion-*, *-io* -ion] *logic* : the operation of immediate inference that gives the obverse

ob·vert \ˌ=ˈvərt, -vōt, -vəit\ *vt* -ED/-ING/-S [L *obvertere* to turn towards, fr. *ob-* to, toward + *vertere* to turn — more at OB-, WORTH] **1** : to turn so as to present a different surface to view : to change the appearance or seeming of **2** : to subject (a proposition in logic) to obversion

ob·ver·tend \ˈäbvə(r),tend\ *n* -S [L *obvertendus*, gerundive of *obvertere* to obvert] : a proposition upon which the operation of obversion is performed

ob·vi·a·ble \ˈäbvēəbəl\ *adj* [*obviate* + *-able*] : capable of being obviated

ob·vi·ate \ˈäbvēˌāt, *usu* -ād-+V\ *vt* -ED/-ING/-S [LL *obviatus*, past part. of *obviare* to meet, withstand, oppose, fr. L *obviam* in the way] **1** : to meet or anticipate and dispose of : make unnecessary ⟨~ the necessity of going⟩ **2** *obs* : OPPOSE **syn** see PREVENT

ob·vi·a·tion \ˌ=ˈāshən\ *n* -S [ME *obviacioun*, fr. LL *obviation-*, *obviatio*, fr. *obviatus* + *-ion-*, *-io* -ion] : an act or instance of obviating or being obviated

1ob·vi·a·tive \ˈäbvēˌād-iv\ *adj* [*obviate* + *-ive*] *of a grammatical form* : denoting the second of two third persons referred to in a context (as in the construction in some languages corresponding to "he held *his* [another's] horse") — compare PROXIMATE

2obviative \ˈ\ *n* -S : an obviative grammatical form

ob·vi·ous \ˈäbvēəs *in rapid speech often* ˈäbvē-\ *adj* [L *obvius*, fr. *obviam* in the way, towards, about to, fr. *ob* to, before, against + *viam*, accus. of *via* way, road — more at EPI-, VIA] **1 a** *obs* : presenting itself in the way : occurring often **b** *archaic* : being in the way or to the front : OPPOSITE, FRONTING **c** : so placed as to be easily or inevitably perceived or noticed ⟨an ~ light switch⟩ **2** *archaic* : liable or exposed to some effect (as injury or mockery) : OPEN, SUBJECT **3** : capable of easy perception: **a** : readily perceived by the senses : hard not to perceive, sense, or grasp ⟨the invisible as opposed to the ~ —M.R.Cohen⟩ **b** : readily and easily perceived by the sensibilities or mind : requiring very little insight or reflection to perceive, recognize, or comprehend ⟨all was taken in at a glance; the fell purpose . . . was ~ —Herman Melville⟩ **c** : easily understood : requiring no thought or consideration to understand or analyze : so simple and clear as to be unmistakable ⟨poetry, in fact, whatever else it may or may not be, must be poetry—a sound, if ~, conclusion —C.D.Lewis⟩ **d** : disappointingly simple and easy to discover or interpret : wanting in any challenging or interesting complexity or ingenuity ⟨the devices . . . are rather too ~ —Henry Adams⟩ **syn** see EVIDENT

ob·vi·ous·ly *adv* : in an obvious manner : CERTAINLY

ob·vi·ous·ness *n* -ES : the quality or state of being obvious

ob·vo·lute \ˈäbvəˌlüt *also* -əlˌyüt, *usu* -üd-+V\ *adj* [L *obvolutus*, past part. of *obvolvere*] : OVERLAPPING, CONTORTED, CONVOLUTE

ob·volve \äbˈvälv\ *vt* -ED/-ING/-S [L *obvolvere* to roll around, wrap around, fr. *ob-* to, over + *volvere* to roll — more at OB-, VOLUBLE] *archaic* : ENWRAP

OC *abbr* ocean

OC *abbr* **1** of course **2** office copy **3** officer candidate

PC Exh. 12

Essex Middle River Civic Council Inc.

Judge Paul Mayhew – Managing Administrative Law Judge
Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case # 2022-0151-SPH 717 Rockaway Beach Avenue | Essex, Maryland 21221

September 18, 2022

Dear Judge Mayhew,

The Essex Middle River Civic Council is an umbrella community group representing 19 community associations in Eastern Baltimore County. At our organization's recent general membership meeting on September 7, 2022 we were made aware of the zoning case referenced above which pertains to 717 Rockaway Beach Avenue and the issue of compliance with a 2006 Order and Opinion issued in zoning case # 2006-0501-SPH by then Zoning Commissioner William Wiseman.

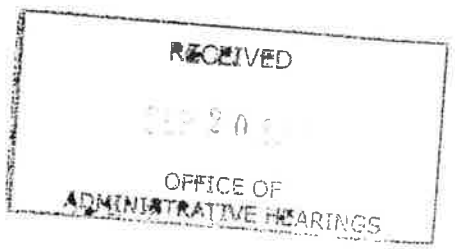
The Essex Middle River Civic Council wishes to express our support for the position of the Rockaway Beach Improvement Association and the other named petitioners. It is abundantly clear that the spirit and intent of the order issued by the Zoning Commissioner was to prevent any further construction at the property as a condition of the approval of the variances sought in the 2006 zoning case.

Our organization recognizes the importance of such restrictions being included in orders issued in zoning cases, as they are contained therein to prevent undue harm, hardship and/or adverse consequences from negatively impacting the surrounding neighbors and community as a result of such relief being granted.

The upholding of the restrictions within such orders is essential to maintaining the integrity of our communities and most importantly the integrity of the zoning process.

Respectfully,

Robert Bendler
President
Essex Middle River Civic Council



PC Exh. 13

Back River Neck Peninsula Community Association Inc.

Judge Paul Mayhew, Managing Administrative Law Judge
Baltimore County Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Zoning Case # 2022-0151-SPH Petition for Special Hearing Regarding 717 Rockaway Beach Avenue

September 28, 2022

Dear Judge Mayhew,

The Back River Neck Peninsula Community Association is an umbrella community association which represents the Lower Back River Neck Peninsula in Essex and includes the communities located on the Holly Neck Peninsula, Cape May Peninsula, Turkey Point Peninsula, and the Back River Neck Peninsula. Over the last several decades our organization has been involved in a number of development and zoning cases concerning our community.

Our organization was aware of and closely followed the original zoning cases pertaining to this property in 2005 and 2006. Since the decisions rendered in each of those respective cases, this property has frequently been cited as an example of egregious development, abuse of the variance process and an example of incompatible development with the surrounding community. We recently became aware of the Petition for Special Hearing which was flied by several adjoining property owners and the Rockaway Beach Improvement Association regarding alleged conflict with the zoning order passed in the 2006 zoning case concerning this property by then zoning commissioner, William Wiseman when the owners sought permits to construct a 552sqft deck at the waterside of the property. The Back River Neck Peninsula Community Association wishes to articulate its support for the position of the petitioners in this case who argue that the construction of a proposed deck at the subject property would violate the 2006 zoning order. We would concur that construction of a deck, and more broadly, construction of any structure at the waterside of this property would constitute a violation of the zoning order. Furthermore, such a structure, regardless of height and size would obstruct the views of the adjoining neighbors and would also violate the order.

The 2006 order issued by Commissioner Wiseman took into consideration the facts, evidence and lengthy history of this property concerning the property's prior owners who built the property's disregard for the zoning laws of Baltimore County. The order included a provision which required, as a condition of approval, that the petitioners (Mr. and Mrs. Rush, who were the former owners of the property) surrender any further construction rights at the waterfront side of the property. The property owners at that time willingly agreed to that condition in order to legalize the location of their home and to prevent unjust enrichment through further construction ability because of additional land now available at the waterfront resulting from the incorrect location of the home. Additionally, the order included a further restriction that there shall be no further improvements at the waterfront side of the property that would obstruct the water views of the adjoining neighbors. Again, this was a condition to which the prior owners willingly agreed. Such restrictions were knowingly perpetual in nature and would run and bind with the land regardless of owner, as do any zoning restrictions passed in orders issued by

the Zoning Commissioner, or presently since the restructuring of the duties of the zoning commissioner, by the Administrative Law Judge.

The immediate case will determine precedent for our community regarding the integrity of zoning orders and the restrictions contained therein. If the restrictions contained within the zoning order pertaining to this property are not upheld, then what is to prevent the same from occurring at any property where such an order exists across Baltimore County? Failure to protect the integrity of the zoning order in this case will erode away at the zoning process and at the powers of Baltimore County to protect the communities it has jurisdiction over.

We would respectfully request that you uphold the zoning order issued in the 2006 case and find that the construction of a deck at this property would in fact violate the order.

Sincerely,

Carl Maynard

Carl Maynard
President
Back River Neck Peninsula Community Association

EXHIBIT LIST

Case # 22-151-SPH (717 Rockaway Beach)

1. Brian Dietz C.V.
2. Site Plan to Accompany Hearing
3. Arnold Jablon C.V.
4. Site Photos taken by Arnold Jablon
5. Google Images
6. Building Permit R22-09666 (2 sheets)
7. 9/20/22 Letter from Marie Brady at EIR
8. ZAC Comments (8 sheets)
9. Findings of Fact and Conclusions of Law in Case 06-501-SPH
10. 6/2/06 email from Bob Rush to Zoning Commissioner Wiseman
11. Photos provided by Petitioner(s) at ALJ hearing

Brian R. Dietz
brian@dietzsurveying.net
8119 Oakleigh Road, Parkville, Maryland 21234
Phone: 410-661-3160, Fax 410-661-3163

LICENSING

State of Maryland, Department of Labor, Licensing and Regulation
Board of Professional Land Surveyors:
License Received, January 17, 2001. Lic. #21080

EDUCATION

Catonsville Community College: Baltimore, MD
Associated Arts Degree, Engineering-May 21, 1995

CONTINUING EDUCATION

Maryland Society of Surveyors Sponsored Seminars Continuing Education Studies:
24 credits required every 2 years; 1997-Present,
Drainage design, Fundamentals of Storm Water Management and Water Quality, Control Networks, Baltimore City Boundary Retracements, Principals and Practices, SurCADD XML Training, Conveyance of Real Property, Baltimore County Land Division.

EXPERIENCE

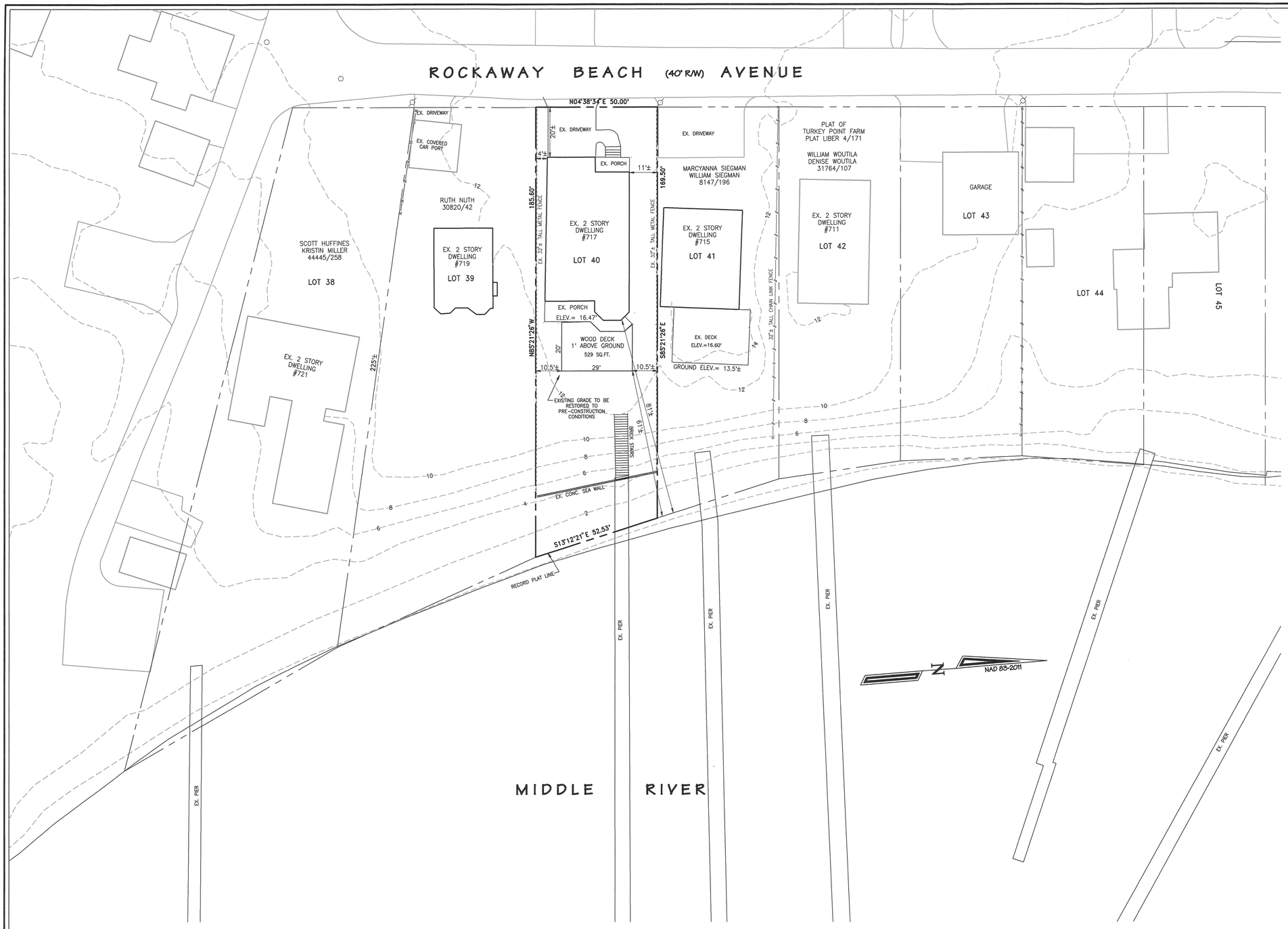
Dietz Surveying: Baltimore, MD January 2002-Present
Principal and Land Surveyor performing residential and commercial surveying services. Including; Subdivisions, Plats to Accompany Zoning Petitions, Site Plans, Development Plans, Easement Plats and descriptions, Lot Line Adjustments.

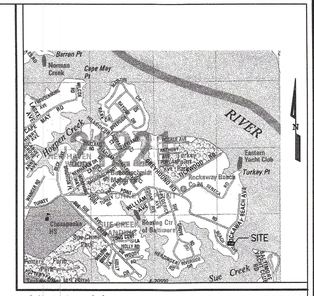
ACTIVITIES & INTEREST

Past Chairman of the Howard County Chapter of the Maryland of Society of Surveyors, 2004 to 2008

PUBLICATIONS

The Maryland Surveyor, Surveying and Maryland Law, May 2004





Vicinity Map Scale: 1" = 2000'

Notes

1. Owner: William Tunney
   Theresa Tunney
   315 Bluegrass Lane
   Hanover MD. 21074
2. Zoned: DR 3.5
3. This site is in the Chesapeake Bay Critical Area.
4. This site is in the 100 year flood plain.
5. There are no underground fuel tanks.
6. This is not a historic property/building.
7. This site is serviced by public sewer and water.
8. Prior Zoning Hearings:
   2005-0579-A
   2006-051-SPH

GRAPHIC SCALE 1"=20'
0 20 40 60

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS SURVEY HAS BEEN PREPARED BY ME, OR UNDER MY DIRECT SUPERVISION AND IS IN ACCORDANCE WITH THE "MINIMUM STANDARDS OF PRACTICE FOR PROFESSIONAL LAND SURVEYORS" AS ADOPTED BY THE STATE OF MARYLAND.

BRIAN R. DIETZ
PROFESSIONAL LAND SURVEYOR NO. 21080
LICENSE EXPIRES 2-12-2025

STATE OF MARYLAND · BRIAN R. DIETZ · No. 21080 · PROFESSIONAL LAND SURVEYOR

PLAT TO ACCOMPANY A SPECIAL HEARING of the TUNNEY PROPERTY

717 ROCKAWAY BEACH AVENUE
Baltimore County, Maryland
Tax Map 98, Grid 15, Parcel 211
15th Election District, 7th Councilmanic District
Scale: 1"=20' Date: September 22, 2022

Dietz Surveying Inc.
Land Surveying and Land Planning
8119 Oakleigh Road Baltimore MD 21234
Ph 410-661-3160, Fax 410-661-3163
www. dietzsurveying.net

Revisions	Date	Plot Date: 5/1/2023	FIELD: BRD	DRAWN: BRD	Job No. 22348
Removed "proposed" from deck	5-1-23				

File Name: Z:\Rockaway Beach Avenue, 717 Job# 22348\717 ROCKAWAY BEACH.pic

ARNOLD E. JABLON
3717 Lanamer Road
Randallstown, Maryland 21133

Admitted to Practice: Court of Appeals of Maryland
Court of Appeals of District of Columbia
United States Court of Military Appeals
United States District Court for District of Maryland
United States District Court for District of Columbia
United States Supreme Court

Work Experience:

Private Practice of law, 2022-present

Venable, LLC, 2019-2022

Private practice of law--State and local Government/Land Use

Deputy Administrative Officer and Director of Permits, Approvals and Inspections, Baltimore County, Maryland: 2011-2019

Venable, LLC, 2003-2011

Private practice of law—State and local Government/Land Use

Director, Department of Permits and Development Management, Baltimore County: 1994-2003

Director, Office of Zoning Administration and Development Management: 1991- 1994

County Attorney for Baltimore County: 1987-1991

Zoning Commissioner for Baltimore County: 1983-1987

General Counsel to Board of Education of Baltimore County and Community Colleges: 1978-1983

Education:

BA State University of New York at Albany

MA University of Maryland, College Park

JD University of Maryland School of Law

1975 San Diego State University (post graduate program)


SIGNALS
520836







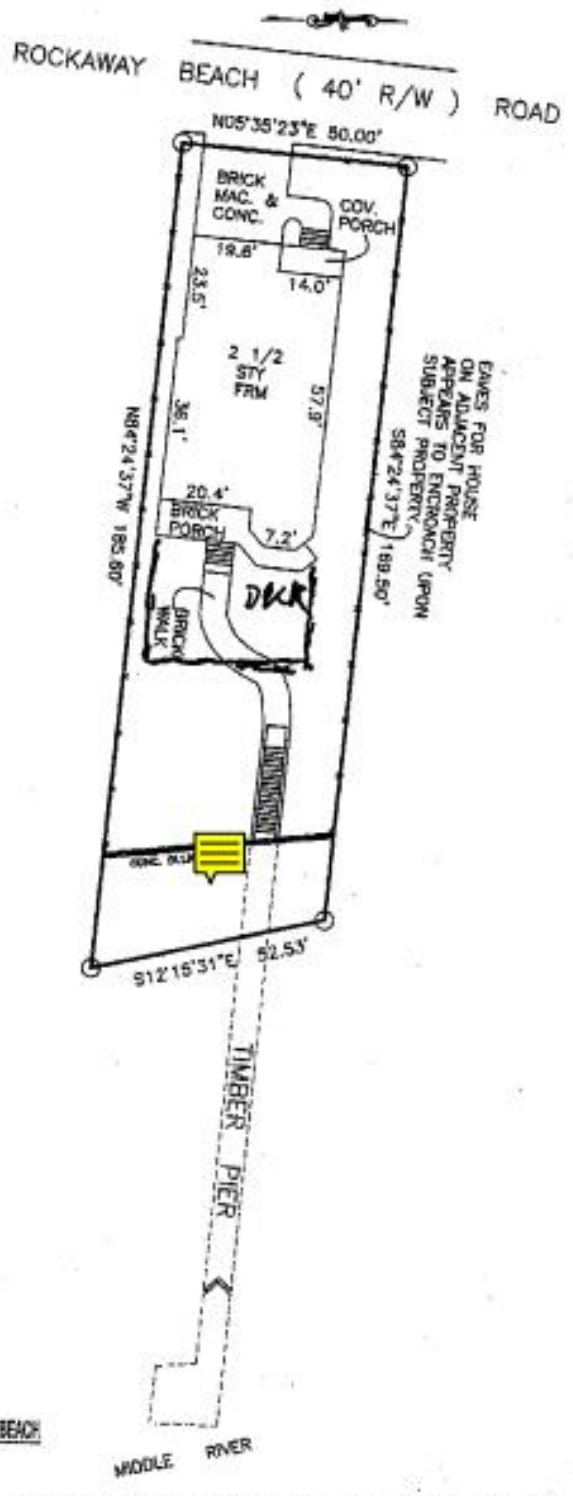






HOPKINS ENGINEERING

3653 Harmony Church Road Havre de Grace, Maryland 21078
410-879-5354 -Phone 410-893-5185- Fax



M.L.R.

1.6'

9-3-08

LOCATION DRAWING

ADDRESS: 717 ROCKAWAY BEACH ROAD BALTIMORE CO. MD.

DEED REF: 20302/288 PLAT REF: 7/171 LOT: 48 SUBDIVISION: ROCKAWAY BEACH

SCALE: 1"= 30'

1) THIS DRAWING IS OF BENEFIT TO A CONSUMER ONLY INSOFAR AS IT IS REQUIRED BY A LENDER OR TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH TRANSFER OR FINANCING OF PROPERTY AN HAS BEEN PREPARED FOR TITLE PURPOSES ONLY, WITHOUT THE BENEFIT OF A TITLE REPORT.
2) THIS DRAWING IS NOT THE PRODUCT OF A BOUNDARY SURVEY AND IS THEREFORE NOT TO BE RELIED UPON FOR THE LOCATION OF FENCES,GARAGES, DRIVES, SIDEWALKS,BUILDINGS OR OTHER EXISTING OR FUTURE IMPROVISMENTS,RELATIVE TO PROPERTY BOUNDARIES.
3) THIS DRAWING DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES,HOWEVER SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING.
4) ALL COURSES SHOWN HEREON REFLECT THOSE REFERRED TO IN A BOUNDARY SURVEY BY KWallace DATED 6/13/2005.
5) THIS DRAWING WAS PREPARED UNDER MY RRSPONSIBLE CHARGE IN ACCORDANCE WITH THE MINIMUM STANDARDS FOR MARYLAND SURVEYORS.
6) THE FOLLOWING CONSIDERATIONS ARE NOT ADDRESSED HEREON: RIPARIAN,AERIAL,UTILITY,BUILDING INTERIORS,ZONING REQUIREMENTS.
7) ALL BUILDING STRUCTURES AND OTHER IMPROVEMENTS SHOWN HEREON ARE IN APPROXIMATE RELATIONSHIP TO THE APPARENT BOUNDARY LINES AND REFLECT AN ACCURACY OF +/-3'

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-09666

Permit Type: Residential New

Sub Type: Deck

Date Issued: 09/21/2022

Expiration Date: 09/20/2023

Property Information

Property Address: 717 ROCKAWAY BEACH AVE

City, State, Zip: ESSEX, MD, 21221

Tax ID: 1523504960

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: YES

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 80.00

Set Backs - Rear Yard: 40.00

Set Backs - Right Side Yard: 10.00

Set Backs - Left Side Yard: 10.00

Owner Information

Owner: WILLIAM E TUNNEY

Owner Address: 315 BLUE GRASS LN, HAMPSTEAD, MD, 21074

Tenant:

Applicant: WILLIAM E TUNNEY

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

*Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.

09/21/2022

EXHIBIT 6

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-09666

Permit Type: Residential New

Sub Type: Deck

Date Issued: 09/21/2022

Expiration Date: 09/20/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: Construct open wood framed deck attached to water side of sfd 27.5'x20'=550sf. This permit cancels and replaces R22-05031, change in construction and setbacks and expires 5/17/23. Refer to for R22-09415 proposed outdoor shower / deck. /USING BALTO,CO DECK GUIDELINES--DECK ONLY,TK

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

From: Kevin McDonough kevinmcdonough@comcast.net
Subject: Emergency Motion - Case 2022-0151-SPH
Date: Aug 30, 2022 at 8:58:52 PM
To: Paul Mayhew pmayhew@baltimorecountymd.gov, Administrative Hearings administrativehearings@baltimorecountymd.gov
Cc: Debra Wiley dwiley@baltimorecountymd.gov, Peoples Counsel peoplescounsel@baltimorecountymd.gov, Trish McDonough trishmcdonough@comcast.net, Jack & JoAnn Weiland joannweiland@comcast.net, Scott Huffines scott@atomicteevee.com, Kristin Miller kn.miller08@gmail.com, Marcy & Rick Siegman msrockaway2@aol.com, kim goodwin kgoodwin.rbiatpia@gmail.com, Dad michael.mcdonough@ngc.com, Carole Demilio cdemilio@baltimorecountymd.gov
Bcc: Kevin McDonough kmcdonough29@gmail.com

Good Evening,

Attached to this email please find an emergency motion for filing in the above referenced case concerning 717 Rockaway Beach Avenue.

The case has a hearing set for 9/30/22 before the Office of Administrative Hearings.

A certificate of service indicating mailing to the property owners is attached with our filing.

Please let me know if there is still a need for us to hand file the original with OAH.

Thank you.

We appreciate your consideration.

Thank you.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc. Inc.

Cc:
Peter Max Zimmerman, Esq. & Carole Demilio, Esq - People's Counsel

Petitioners

Sent from my iPhone




pdf
Exhibit 1.pdf
101 KB


pdf
Exhibit 2.pdf
131 KB

Baltimore County Office of Administrative Hearings
Attn: Judge Paul Mayhew, Managing Judge
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Zoning Case 2022-0151-SPH – EMERGENCY MOTION TO STAY CONSTRUCTION PENDING HEARING

August 30, 2022

Dear Judge Mayhew,

The petitioners in the above referenced case filed a petition for special hearing on June 24, 2022 with the Baltimore County Zoning Office to determine whether construction of a proposed deck would violate the order and opinion issued by Zoning Commissioner William Wiseman in 2006 in zoning case #2006-0501-SPH, among other questions of law which are enumerated within the petition.

Baltimore County has scheduled the zoning hearing on this matter for September 30, 2022 before the Office of Administrative Hearings. Petitioners have taken the necessary steps to have notice published in a newspaper of general circulation and to have the property posted in accordance with Baltimore County requirements.

On August 30, 2022 construction of the structure at issue in the immediate zoning case began at 717 Rockaway Beach Avenue. By way of this letter, Petitioners are filing an **Emergency Motion to Stay Construction at the Property Pending Outcome of the Scheduled Hearing.**

The property owners in this case are aware of the zoning hearing, aware of the issues of law that the community and adjoining neighbors have petitioned to have adjudicated but have opted to proceed with construction despite that. The petitioners in this case fear that the construction of the deck could unfairly prejudice their case. While we understand that the property owner's construction of the deck while a zoning hearing is pending concerning the legality of said structure may be ill advised, it is at their own risk and peril in that should the case be decided in petitioner's favor, the deck would be ordered to be removed. **Petitioners would contend that in order to prevent hardship on any party or to unfairly prejudice the case, construction of the deck should be stayed by court order pending the outcome of the upcoming hearing.**

Petitioners would request that Your Honor take into consideration the following facts regarding the property owner's advance notice of the hearing, the petition, and their disregard for the law, the process and the authority of this office and of Baltimore County:

Immediately after submitting the petition for filing, petitioner, Rockaway Beach Improvement Association Inc., by way of its President, Kevin McDonough e-mailed a PDF copy of the petition in its entirety with the filing date stamp to the property owner, William Edward Tunney IV (Exhibit A). Within 8 minutes of receiving a copy of the 31 page filing, Mr. Tunney responded back acknowledging receipt of the petition and stating "Baltimore County has advised us to proceed with construction. Thanks for your concern." (Exhibit 2).

On the evening of June 24, 2022 Mr. And Mrs. Tunney approached petitioner, Mr. William (Rick) Siegman regarding the case and Mr. Siegman suggested they reach out to Mr. McDonough, as he had

been designated as the spokesman for the collective petitioners. A copy of the filing was also mailed via USPS, first class mail postage prepaid to the address of record for the property owners, Mr. and Mrs. Tunney to advise them as to the filing of the petition.

On July 17, 2022 Mr. Tunney called to Mr. McDonough while he was in the yard of his family's property next door to the property at issue in this immediate case, and inquired as to the pending zoning case. Mr. McDonough, at Mr. Tunney's request arranged a meeting of all petitioners and Mr. and Mrs. Tunney on July 23, 2022 at 10:00 a.m. at 719 Rockaway Beach Avenue. At that meeting, petitioners advised Mr. and Mrs. Tunney of our concerns, of the zoning history with that property and of our position regarding the issues at hand. The meeting ended abruptly with Mr. and Mrs. Tunney storming off and Mr. Tunney shouting "I'm going to build what I want. I was told it could take you all 20 years or better to make me tear it down". To which the petitioners indicated to Mr. Tunney that such an action would be at his own risk and peril.

Baltimore County mailed notice of the zoning hearing to Mr. and Mrs. Tunney via USPS first class mail on August 24, 2022. That notice would have been received prior to construction having begun.

Petitioners would request an Emergency Order to Stay Construction at 717 Rockaway Beach Avenue be issued so that the case of the petitioners may not be unfairly prejudiced.

We sincerely appreciate your consideration of this request.

The Rockaway Beach Improvement Association Inc.
Kevin McDonough, President

Ruth Nuth by Patricia McDonough (POA)

Ruth Nuth, by Patricia McDonough her Power of Attorney

William J. Siegman
Marcyanna S. Siegman

Marcyanna & William Siegman

Scott Huffines & Kristin Miller

Scott Huffines Kristin N Miller

JoAnn Weiland

JoAnn Weiland

Certificate of Service:

I hereby further certify that a copy of this document was mailed first class mail, postage prepaid to:
William & Theresa Tunney
315 Blue Grass Lane - Hampstead, MD 21074

I hereby further certify that a copy of the aforegoing document was also e-mailed to The Baltimore County Office of Peoples Counsel- Peter Max Zimmerman, Esq. via e-mail to:

pzimmerman@baltimorecountymd.gov

peoplescounsel@baltimorecountymd.gov

On this 31st day of August, 2022.

x: _____ 8/31/22

Gmail **Kevin McDonough <kmcdonough29@gmail.com>**

Fwd: Petition for Special Hearing - Rockaway Beach

1 message

Kevin McDonough <kevinmcdonough@comcast.net> Tue, Aug 30, 2022 at 8:49 PM
To: Kevin McDonough <kmcdonough29@gmail.com>

Regards,

Kevin M. McDonough

Sent from my iPhone

Begin forwarded message:

From: Bud Tunney <bud@btplumbingsupply.com>
Date: June 24, 2022 at 2:19:43 PM EDT
To: Kevin McDonough <kevinmcdonough@comcast.net>
Subject: Re: Petition for Special Hearing - Rockaway Beach

Baltimore county zoning has advised us to proceed with construction.
Thanks for your concern.

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Friday, June 24, 2022 2:11 PM
To: Bud Tunney <bud@btplumbingsupply.com>
Cc: kim goodwin <kgoodwin.rbiatpia@gmail.com>
Subject: Petition for Special Hearing - Rockaway Beach

Bud & Terry,

This email is being sent as a courtesy on behalf of the Rockaway Beach Improvement Association, as the association has joined with several of your nearby neighbors who have filed a Petition for Special Hearing with the Baltimore County Office of Zoning regarding the construction of a proposed deck at your home located at 717 Rockaway Beach Avenue. In 2006 a zoning order issued by the Zoning Commissioner at that time placed a restriction on the property at 717 Rockaway Beach Avenue regarding construction and improvements at the waterfront, of which the community association was a party to that case following a unanimous vote from its membership at that time along with several of your surrounding neighbors.

Attached please find a copy of the petition submitted for filing, accompanied by the supporting exhibits. A copy has also been mailed to your primary residence.

We regret that this is our first interaction since your purchase of a home in our community. Please note that the zoning history and the restrictions therein ordered by the Zoning Commissioner predate your ownership but nevertheless runs and binds with the land and confers to any current and future owners of the property in perpetuity.

The community association prides itself on having open lines of communication on issues impacting our community. In the event you wish to reach out concerning this issue, please do not hesitate to do so.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc. Inc.

Sent from my iPhone

Your message is ready to be sent with the following file or link attachments:

717rockawaySPHHRNG

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

717 ROCKAWAY BEACH AVENUE
PRE CONSTRUCTION PHOTOGRAPHS



AERIAL VIEW OF PROPERTY



AERIAL VIEW OF PROPERTY



SIDE VIEW OF PROPERTY ADJACENT TO 719 ROCKAWAY BEACH AVE

VIEW OF 717 ROCKAWAY BEACH AVE FROM ROAD





CONDITIONS OF WATERFRONT YARD PRIOR TO DECK



CONDITIONS OF WATERFRONT YARD PRIOR TO DECK



CONDITIONS OF WATERFRONT YARD PRIOR TO DECK

Photographs During Construction
717 Rockaway Beach Ave













Elevation of Deck













Post Construction / Present
717 Rockaway Beach Avenue





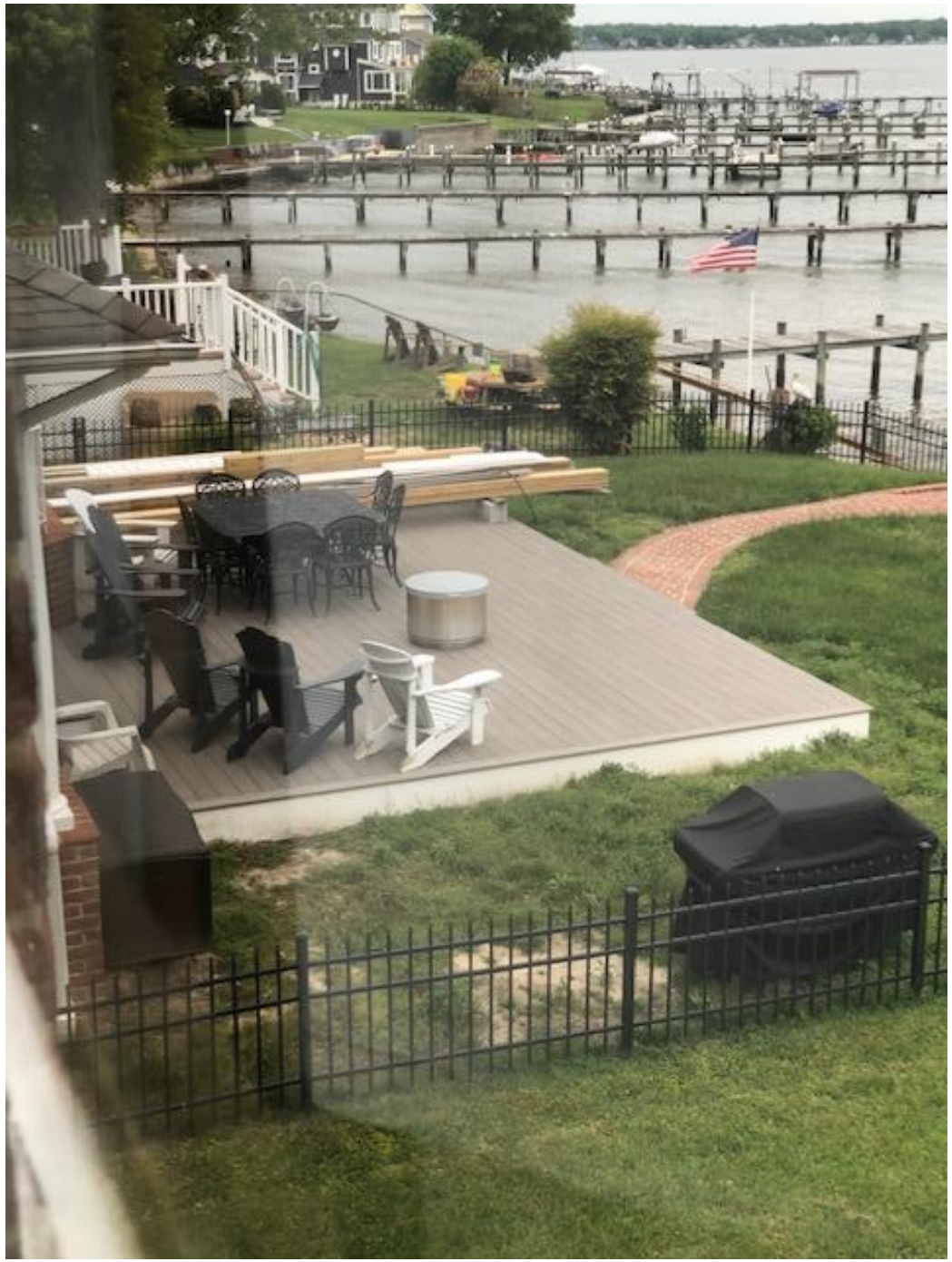






















ROCKAWAY BEACH (40' R/W) AVENUE

N04°38'54"E 50.00'

EX. DRIVEWAY

EX. DRIVEWAY

EX. DRIVEWAY

EX. PORCH

EX. DRIVEWAY

EX. COVERED CAR PORT

RUTH NUTH
30820/42

SCOTT HUFFINES
KRISTIN MILLER
44445/258

LOT 38

EX. 2 STORY DWELLING #719

LOT 39

EX. 2 STORY DWELLING #717

LOT 40

MARCYANNA SIEGMAN
WILLIAM SIEGMAN
8147/196

EX. 2 STORY DWELLING #715

LOT 41

PLAT OF
TURKEY POINT FARM
PLAT LIBER 4/171

WILLIAM WOUTILA
DENISE WOUTILA
31764/107

EX. 2 STORY DWELLING #711

LOT 42

GARAGE

LOT 43

LOT 44

LOT 45

EX. 2 STORY DWELLING #721

EX. PORCH
ELEV.= 16.47

PROPOSED WOOD DECK
UNDER CONSTRUCTION
1'± ABOVE GROUND
SIM 10 FT
ELEV.= 13.76'

GROUND ELEV.=12.61'

EX. DECK
ELEV.=16.60'

GROUND ELEV.= 13.98'

EX. CONC. SEA WALL

S31°12'21"E 51.51'

RECORD PLAT LINE

EX. PIER

EX. PIER

EX. PIER

EX. PIER

EX. PIER

MIDDLE RIVER

RAD-03-2011

Vicinity Map

Scale: 1" = 2000'

Notes

1. Owner: William Tunney
   Theresa Tunney
   315 Bluegrass Lane
   Hanover MD. 21074
2. Zoned: DR 3.5
3. This site is in the Chesapeake Bay Critical Area.
4. This site is in the 100 year flood plain.
5. There are no underground fuel tanks.
6. This is not a historic property/building.
7. This site is serviced by public sewer and water.
8. Prior Zoning Hearings:
   2005-0579-A
   2006-051-SPH

GRAPHIC SCALE 1"=20'

0 20 40 60

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS SURVEY HAS BEEN PREPARED BY ME, OR UNDER MY DIRECT SUPERVISION AND IS IN ACCORDANCE WITH THE MINIMUM STANDARDS OF PRACTICE FOR PROFESSIONAL LAND SURVEYORS AS ADOPTED BY THE STATE OF MARYLAND.

BRIAN R. DIETZ 9-23-22

PROFESSIONAL LAND SURVEYOR NO. 21082
LICENSE EXPIRES 2-12-2023

PLAT TO ACCOMPANY A
SPECIAL HEARING
of the

TUNNEY PROPERTY

717 ROCKAWAY BEACH AVENUE
Baltimore County, Maryland
Tax Map 98, Grid 15, Parcel 211
15th Election District, 7th Councilmanic District
Scale: 1"=20' Date: September 22, 2022

Dietz Surveying Inc.
Land Surveying and Land Planning
8119 Oakleigh Road Baltimore MD 21234
Ph 410-661-3160, Fax 410-66[illegible]
www. dietzsurveying.net

File Name: Z:\Rockaway Beach Avenue, 717 Job# 2[illegible]

Revisions	Date	Plat Date: 9/28/2022	FIELD: BRD	DRAWN: BRD

EXHIBIT 1

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
410-887-2188
Fax 410-823-4236

PETER MAX ZIMMERMAN
pzimmerman@baltimorecountymd.gov
People's Counsel

CAROLE S. DEMILIO
cdemilio@baltimorecountymd.gov
Deputy People's Counsel

September 7, 2022

SENT VIA EMAIL TO AdministrativeHearings@baltimorecountymd.gov
Paul M. Mayhew, Managing Administrative Law Judge
Maureen E. Murphy, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RE: Rockaway Beach Improvement Association et al. - Petitioners
William & Theresa Tunney – Legal Owners
717 Rockaway Beach Avenue
Case No.: 2022-151-SPH
Hearing Date: September 30, 2022 at 1:30am

Dear Judges Mayhew and Murphy:

Kevin McDonough, Rockaway Beach Improvement Association (RBIA) President, brought this matter to our office's attention. On June 24, 2022, RBIA, Ruth Nuth, Marcyanna and William Siegman, Scott Huffine and Kristin Miller, and JoAnn Wieland filed a petition for special hearing to determine the zoning law applicable to waterside residential deck construction at 717 Rockaway Beach Avenue ("717 RBA").[1]

[1] A special hearing is effectively a declaratory judgment proceeding to determine issues of zoning law. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005), Salmon, J. Pursuant to Baltimore County Charter Sec. 524.1(a)(3)(A), our office defends the comprehensive zoning maps in cases where zoning issues arise, including special hearings. People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683, 687, n.1 (1989); Marzullo v. Kahl 366 Md. 158 (2001); Geddes v. People's Counsel 2017 WL 1193781, cert. denied 455 Md. 443 (2017) and 138 S.Ct. 2683 (2018). Judge Salmon recapped in Geddes, n.2, "The People's Counsel for Baltimore County is an independent organization, separate from Baltimore County, with the "specific public interest function" of defending the comprehensive zoning maps and master plan in a variety of cases, including special hearings."

The owners of the subject property are William and Theresa Tunney, 315 Blue Grass Lane, Hampstead, Maryland 21074. They acquired the property from Michael Paul and Carin Smith by deed dated December 6, 2021, attached.[2] The individual petitioners are owners of adjacent properties on the avenue.

The question presented is whether the deck exceeds and/or conflicts with the fifth condition of Zoning Commissioner (ZC) William J. Wiseman's opinion and order in Case No. 06-501-SPH, conditionally approving setbacks, after the fact, for a sizable dwelling built after razing a summer house. William Rush, et ux. were then property owners. The pertinent condition states, Page 4:

> "5. There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s)."

ZC Wiseman effectively issued a compromise approval, despite Petitioners' "indiscretions" described in the opinion. ZC Wiseman wrote on Page 3:

> "However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. **Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. …. As a condition of approval, Petitioners shall surrender any further construction rights closer to the water."** Emphasis supplied.[3]

[2] Additional relevant documents are also attached, beginning with the key 2006 zoning case.

[3] The building elevation condition is the third in the Order:

> "3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the petitioners shall submit building elevations drawings of the structure to the Office of Planning for review and approval."

We have no information on satisfaction of this condition. There is also Condition 2, pertinent to Chesapeake Bay Critical Area and other environmental regulations.

The Property: Location and Description

717 RBA is a Middle River waterfront property at the end of a peninsula between Middle River and Sue Creek. It is zoned D.R. 3.5 and in the Chesapeake Bay Critical Area (CBCA). See ADC Map 85 and the My Neighborhood Map.

SDAT Real Property Data show the property is lot 40 on the 1915 Turkey Point Farm, Rockaway Beach subdivision plat. It occupies 9,027 square feet (.21 acre), with a 2.5 story residential structure and attached garage built in 2006. There are 4850SF above-grade living area. The lot width is 50 feet, standard for the subdivision lots. The lengths, respectively, are 185' and 169'. We include aerial and street level photographs to provide perspective.

Photographs show the dwelling spanning close to half the lot area. The two-car garage faces the avenue. Fences surround the side and part of the front areas. There is a pier which looks to be close to 200' in length, and a path from dwelling to pier.

The Building Permit for the Deck

The Tunneys' permit application and approval for a deck on the waterfront side led the RBIA to raise the zoning issue. They raised it with the PAI Department and then via this petition. The special hearing petition includes a virtual site plan with a copy of the deck drawing shown on the building permit application. We received from the PAI department some other record documents. These show Permit R22-05031 was issued on May 18, 2022, subject to Chesapeake Bay Critical Area conditions and potential flood zone issues.

The PAI Department information describes the dimensions as 27.60' x 20' = 552sf." However, a building permit application plan shows side setbacks of 4' and 14' feet respectively. This would compute to a width of 23', based on the 50' lot width.

The building permit plan shows a distance of 41' from the deck to the bulkhead. But ZC Wiseman's opinion describes the dwelling as 81' distant from the waterside property line, Page 3. So, it looks like the deck may be 40' in depth, not 27.60'.[4]

It is indicated the proposed deck is 1' foot in height. There will be stairs and a shower to the side of the building. There will likely be furniture, plants, and/or an outdoor grill. There might in the future be perimeter fencing, barrier, pergola, canopy, and/or other improvement.

[4] The building permit plan does not clearly show the depth or width of the deck. So far as we can tell, it is not prepared by a licensed surveyor or engineer.

Under these circumstances, it will be appropriate to evaluate the present and reasonably foreseeable improvements, dimensions, scale, and use.

Land Use

The main point is the land use impact. The deck will be an area for general, recreational, and entertainment use. The deck will be available for use and gatherings for family and friends, likely most frequent in the good weather. The uses will likely be more intense than in an open yard.

Zoning Advisory Committee Comments

As for Zoning Advisory Committee (ZAC) review, DEPS issued their correspondence on July 19, 2022, setting forth various CBCA conditions, including Limited Development Area (LDA) lot coverage, buffer area, and afforestation requirements. We do not have any details yet on further review.

Then, on July 28, 2022, the Department of Planning (DOP) issued their ZAC Comments. In their concluding paragraphs, they make several key points.

In paragraph 1, they quote ZC Wiseman's 2006 opinion and language quoted above:

> "Petitioners … shall surrender any further construction rights closer to the water."

There follows this conclusion,

> "Department of Planning concludes that the construction of deck will be in violation of the order in this case."

Yet in Paragraph 2 concludes, "Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties." They do not state the basis for this disbelief. DOP's disbelief goes against their logical finding of a violation of the order. The DOP proceeds in Paragraphs 3 and 4 to say the zoning and compliance issues will be "… part of the permits process."

Meanwhile, after PAI's May 18, 2022 permit approval, their enforcement division nevertheless issued a correction notice on June 17, 2022, with a July 17, 2022 deadline. The citation refers to the building permit, R22-05031. Inspector Matthew Gawel signed the notice. We have no information on what happened with this case.

Discussion

ZC Wiseman's Order runs with the property and extends to all successive owners. The Court of Appeals long ago stated in City of Baltimore v. Poe 224 Md. 428, 433 (1961),

> "It is settled law in this State that the zoning ordinance is concerned with the use of property and not with ownership thereof nor with the purposes of the owners or occupants."

See, e.g. People's Counsel v. Surina 400 Md. 662, 701 (2007); Preston v. Zoning Board of Review of Town of Hopkinton 154 A.3d 465 (R.I. 2017).

To repeat, ZC Wiseman's fifth condition, prohibiting improvements or dwelling construction "…which would obstruct adjacent neighbors' waterside view(s)," must be read together with the statement in his opinion that,

> "Petitioners … shall surrender any further construction rights closer to the water."

Moreover, ZC Wiseman cut the Rush petitioners some slack when he approved the 717 RBA setback variances, after the fact, to accept construction of their sizable dwelling. He underlined that "… by virtue of Petitioners' indiscretions" [they] … shall not … benefit from these unfortunate circumstances." He then imposed the condition based on a strict point of view, which carries forward to the present case.

Before the present owners acquired the property, William Rush and successive owners recognized and complied with the prohibition. There was no new waterside construction. But the current owners moved very quickly with their deck construction program.

Even if ZC Wiseman's Order stood alone, independent of the opinion, the word "obstruct" has a broad meaning. Webster's Third New International Dictionary states, in pertinent part,

> "**obstruct … *vt* …. 2** to be or come in the way of … IMPEDE, RETARD … **3** : to cut off from sight : … *vi* to place obstacles in the way : IMPEDE **syn** HINDER."

We could add the dictionary definitions of "impede" and "hinder," but it seems unnecessary. The deck activity will surely impede and hinder the waterside view of adjacent neighbors. There is a reasonable perception of the adverse practical impact of the land use. The proposed deck thus conflicts with the language and purpose of the 2006 zoning opinion and order.

Meanwhile, PAI approved the permit despite the stated prohibition.[5] It should be kept in mind there is no reliance, immunity, or "equitable estoppel" which furnishes property owners rights by virtue of a permit which conflicts with zoning law. Lipsitz v. Parr 164 Md. 222, 227-28 (1933); Berwyn Heights v. Rogers 228 Md. 271, 279 (1962); Kent County v.

[5] At least, PAI should have required the property owner to file a petition for special hearing to resolve the legal issue, instead of placing the burden on RBIA and adjacent property owners. Ironically, as in 2006, the case arrives again in after-the-fact mode to resolve legitimacy.

Abel 246 Md. 395, 399-403 (1967); City of Hagerstown v. Longmeadow Shopping Center 264 Md. 481, 492-98 (1972); Marzullo v. Kahl 366 Md. 158, 194-99 (2001).

Petitioners' Emergency Motion to Stay Construction

Petitioners have recently filed a Motion to Stay Construction. According to their motion, construction has begun. If so, the case law negating equitable estoppel is consequential. Any deck construction proceeds with the assumption of legal risk, dependent on the final outcome in this case.

Conclusion

For all these reasons, it appears the RBIA petition for special hearing should be approved or sustained. There should be a declaration and determination that the deck at issue conflicts with ZC Wiseman's 2006 Opinion and Order.

Because of a scheduling conflict involving travel, People's Counsel cannot attend the hearing. Anyway, our office's main contribution is to provide this analysis. We leave it there at this time and trust to the usual careful review and resolution by your office.

Sincerely,



Peter Max Zimmerman
People's Counsel for Baltimore County

Enclosures
cc: Rockaway Beach Improvement Association, Petitioners, info@turkeypoint.org
William & Theresa Tunney, Legal Owners, bud@btplumbingsupply.com
Ruth Nuth, by Patricia McDonough, trishmcdonough@comcast.net
Scott Huffines & Kristin Miller, scott@atomicteevee.com
JoAnn Weiland, joannweiland@comcast.net
Marcyanna & William Slegman, msrockaway2@aol.com
Stephen Lafferty, Director, Dept. of Planning, slafferty@baltimorecountymd.gov
Jenifer Nugent, Division Chief, jnugent@baltimorecountymd.gov
April Smith, Department of Planning, asmith3@baltimorecountymd.gov
Jeffrey Perlow, Zoning Supervisor, jperlow@baltimorecountymd.gov
C. Pete Gutwald, PAI Director, cpgutwald@baltmorecountymd.gov
David Lykens, DEPS Director, dlykens@baltimorecountymd.gov
Jeffrey Livingston, DEPS Dev. Coordination, jlivingston@baltimorecountymd.gov

Crown Title Corporation
File No. **115401-21CKL**
Tax ID # **15-1523504960**

This Deed, made this 6th day of **December, 2021**, by and between **Michael Paul Smith** and **Carin Smith**, husband and wife, GRANTORS, and **William Edward Tunney, IV** and **Theresa Marie Tunney**, husband and wife, GRANTEES.

- Witnesseth -

That in consideration of the sum of One Million Four Hundred Seventy-Five Thousand And 00/100 Dollars ($1,475,000.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said Grantees, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever, in all that lot of ground situate in the County of Baltimore, State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171.

(ADDRESS REFERENCE IS FOR INFORMATIONAL PURPOSES ONLY)
The improvements thereon being known as 717 Rockaway Beach Avenue, Essex, MD 21221.

BEING all and the same lot of ground which by Deed dated November 15, 2019, and recorded December 10, 2019 among the Land Records of Baltimore County, Maryland, in Liber 42214, Folio 367, was granted and conveyed by S.F.L., LLC, a forfeited Maryland limited liability company, unto Michael Paul Smith and Carin Smith.

Tax Account No. 15-1523504960

```
CR Deed (w Taxes)
Recording only ST20.00
Name: TUNNEY IV
Ref:
OR Deed (with Taxes)
Surcharge          40.00
CR Deed State
Transfer Tax   7,375.00
CR NR Tax - Ikd    0.00
=====================
SubTotal:      7,435.00
=====================
Total:         7,435.00
02/02/2022  10:39
                CC03-SLF
#15845326 CC0301 -
Baltimore
County/CC03.01.17 -
Register 17
```

By the execution of this Deed, the Grantors hereby certify under the penalties of perjury that the actual consideration paid or to be paid, including the amount of any Mortgage or Deed of Trust outstanding, is as hereinbefore set forth.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

To Have and To Hold the said described lot of ground and premises to the said William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever.

And the said Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0297, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

Witness the hands and seals of the said Grantors.

WITNESS:
Debra L. Daskins
Debra L. Daskins

(Seal)
Michael Paul Smith

(Seal)
Carin Smith

STATE OF MARYLAND }
COUNTY OF BALTIMORE } ss

On this the 6th day of December, 2021, before me, a Notary Public, in the jurisdiction aforesaid, the undersigned Officer, personally appeared Michael Paul Smith and Carin Smith, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same in my presence for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

RICHARD DOUGLAS LIBERTO NOTARY PUBLIC HARFORD COUNTY, MD

Notary Public
My commission expires 5/25/24

William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, parties of the second part in the within Deed, hereby certify under the penalties of perjury that the land conveyed in said Deed is residentially improved, owner-occupied, real property and that the residence will be occupied only by us.

WITNESS:

(SEAL)
William Edward Tunney, IV

(SEAL)
Theresa Marie Tunney

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Carol K. Lisman, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Crown Title Corporation
1 Sanford Avenue
Baltimore, MD 21228

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0298, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor: Michael Paul Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Michael Paul Smith — 12/6/21
Name — **Date

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0299, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Carin Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Carin Smith — 12/6/21
Name — **Date

Carin Smith
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0300, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

BOOK: 46333 PAGE: 301

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

X Deed / Deed of Trust	☐ Mortgage / Lease	☐ Other	☐ Other

2 Conveyance Type Check Box

X Improved Sale Arms-Length *[1]*	☐ Unimproved Sale Arms-Length *[2]*	☐ Multiple Accounts Arms-Length *[3]*	☐ Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if applicable) Cite or Explain Authority

Recordation	
State Transfer	Deed
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 1,475,000.00	Transfer Tax Consideration	$ 22125.00
Any New Mortgage	$	X ( ) % =	$
Balance of Existing Mortgage	$	Less Exemption Amount −	$
Other:	$	Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$
Full Cash Value:	$	X ( ) per $500 =	$ 7375.00
		TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 40.00	$
State Recordation Tax	$ 7,375.00	$
State Transfer Tax	$ 7,375.00	$
County Transfer Tax	$ 22,125.00	$
Other	$	$
Other	$	$

Agent:

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	42214/367			☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
				42214/367	

Location/Address of Property Being Conveyed (2): 717 Rockaway Beach Avenue, Essex, MD 21221

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: N/A

Partial Conveyance? [ ] Yes [X] No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Michael Paul Smith	
Carin Smith	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
William Edward Tunney, IV	CASH
Theresa Marie Tunney	

New Owner's (Grantee) Mailing Address: 315 Blue Grass Lane, Hampstead, MD 21074

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Darletta Bostic

Firm: Crown Title Corporation

Address: 1 Sanford Avenue

Baltimore, MD 21228 Phone: (410) 719-0200

☐ Return to Contact Person

☐ Hold for Pickup

☒ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTCOPY MUST ACCOMPANY EACH TRANSFER

[ ] Yes [X] No Will the property being conveyed be the grantee's principal residence?

[ ] Yes [X] No Does transfer include personal property? If yes, identify:

[ ] Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only – Do Not Write Below This Line

Terminal Verification . Agricultural Verification . Whole . Part . Tran. Process Verification

Transfer Number Date Received: Deed Reference: Assigned Property No.:

Year	20	20	Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS

Space for Circuit Court Clerk Recording Validation

Baltimore County, Maryland
Dept 7 20 RECORDATION TAXES
ACCOUNT 1523504960
$ 29,500.00 CA
.00
>>RECEIPT # 0669 2/01/2022 OPLN
REG WSOZ WAIVED M57
2/01/2022 13:05:19 2
ACTUAL TIME DRW
BUSINESS
2/02/2022

DUPLICATE PAID RECEIPT

Distribution: ☐ Clerk's Office ☐ Office of Finance ☐ SDAT ☐ Preparer

AOC-CC-300 (5/2007)

115401-21CKL

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0301, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
E/S Rockaway Beach Avenue, 110' N of
the c/l Beach Avenue * ZONING COMMISSIONER
(717 Rockaway Beach Avenue)
15th Election District * OF BALTIMORE COUNTY
6th Council District

* Case No. 06-501-SPH

William Rush, et ux
Petitioners *

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, William Rush, and his wife, Maryann Rush. The Petitioners request a special hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were William (Bob) and Maryann Rush, property owners, and Kenneth J. Wells, the Surveyor who prepared the site plan for this property. Appearing as Protestants were William and Denise Woutila, adjacent property owners, Marcyanna Siegman, Janice Vincent, and Jackie Nickel, President of the Rockaway Beach Improvement Association, Inc., all nearby residents of the area.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped waterfront lot located south of Turkey Point Road on the east side of Rockaway Beach Avenue, with frontage on Middle River. The property is approximately 50 feet wide and 185 feet deep, and contains a gross area of 9,027 sq.ft. (.21 acres) more or less, zoned D.R.3.5. The Petitioners purchased the property approximately two years ago and used the summer home that existed at that time for about one year before they had the house razed. In this regard, the

ORDER RECEIVED FOR FILING
Date 6-22-06
By

property was the subject of prior Case No. 05-579-A in which the Petitioners sought variance relief from Section 1B02.3.C.1 of the B.C.Z.R. to allow a proposed replacement dwelling with reduced setbacks. By his Order dated July 13, 2005, Deputy Zoning Commissioner John V. Murphy granted the requests, subject to compliance with relevant County agency recommendations and Chesapeake Bay Critical Areas requirements. The Petitioners now come before me seeking an amendment as set forth above to reflect a further reduction in the front (street) setback distance provided.

In this regard, testimony and evidence offered indicated that the Petitioners intended to construct a home 35' x 68' in dimension, with side yard setbacks of 4 feet and 11 feet and followed the information received in the packet from the builder to determine measurements and setback distances. The house was to be setback 81 feet from the water and 24 feet from the road; however, after construction of the home commenced, it was discovered that the front property line was 4 feet further inside of the original measurement. Thus, only a 20-foot setback from the road can be provided.

As noted above, several residents from the surrounding community appeared in opposition to the request. They argued that the survey performed by Mr. Wells conflicts with a survey the Protestants had prepared. They also believe that the Petitioners are trying to take advantage of the County's system and that their (the Rush's) attitude about the process is offensive. Ms. Nickels and Ms. Woutila point out that any further request for an amendment to the variance relief received must be denied on the grounds that "it was incumbent upon the Petitioners to obtain an accurate survey of the property before commencing construction" . . . "that any hardship or practical difficulty they now claim was self inflicted." In response to the Protestant's concerns, Mr. Wells testified that his boundary locations are accurate and were taken from monuments found and the location of the original house. Apparently, the original measurements taken by Mr Rush at the outset were taken from an old concrete parking pad located near the road. In any event, special hearing relief is requested as set forth above to amend the prior relief granted and legitimize existing conditions

ORDER RECEIVED FOR FILING
Date
By

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. As noted above, construction of the house is nearly completed and to require its demolition and reconstruction to eliminate a 4-foot discrepancy along the road would be an unnecessary hardship and unduly burdensome upon the Petitioners. Moreover, because the new home has been constructed in *essentially* the same location as originally proposed and is only 4 feet closer to the road than previously approved, I find that the amended relief will not adversely impact the adjacent property or surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. It was mentioned during the hearing that according to the approval granted in prior Case No. 05-579-A and the resulting Baltimore County Permit No. B605354, Petitioners were permitted to construct the home within 73 feet of the waterside property line. The home, as built, is actually 81 feet back. As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water. Moreover, but for the amended relief granted herein, all other terms and conditions of the prior Order are adopted herein and made a part hereof, including, but not limited to, compliance with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, as well as all building and fire code requirements.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of June 2006 that the Petition for Special Hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning

ORDER RECEIVED FOR FILING
Date 6-22-06
By [illegible]

Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments, dated June 22, 2006 and April 26, 2006, respectively, have been attached hereto and made a part hereof.

3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the Petitioners shall submit building elevation drawings of the structure to the Office of Planning for review and approval.

4) Compliance with all Building and Fire Code regulations.

5) There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s).

6) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

But for the amended relief set forth above, all other terms and conditions of the Order issued in prior Case No. 05-579-A shall remain in full force and effect.

ORDER RECEIVED FOR FILING
Date 6-22-06
By [signature]

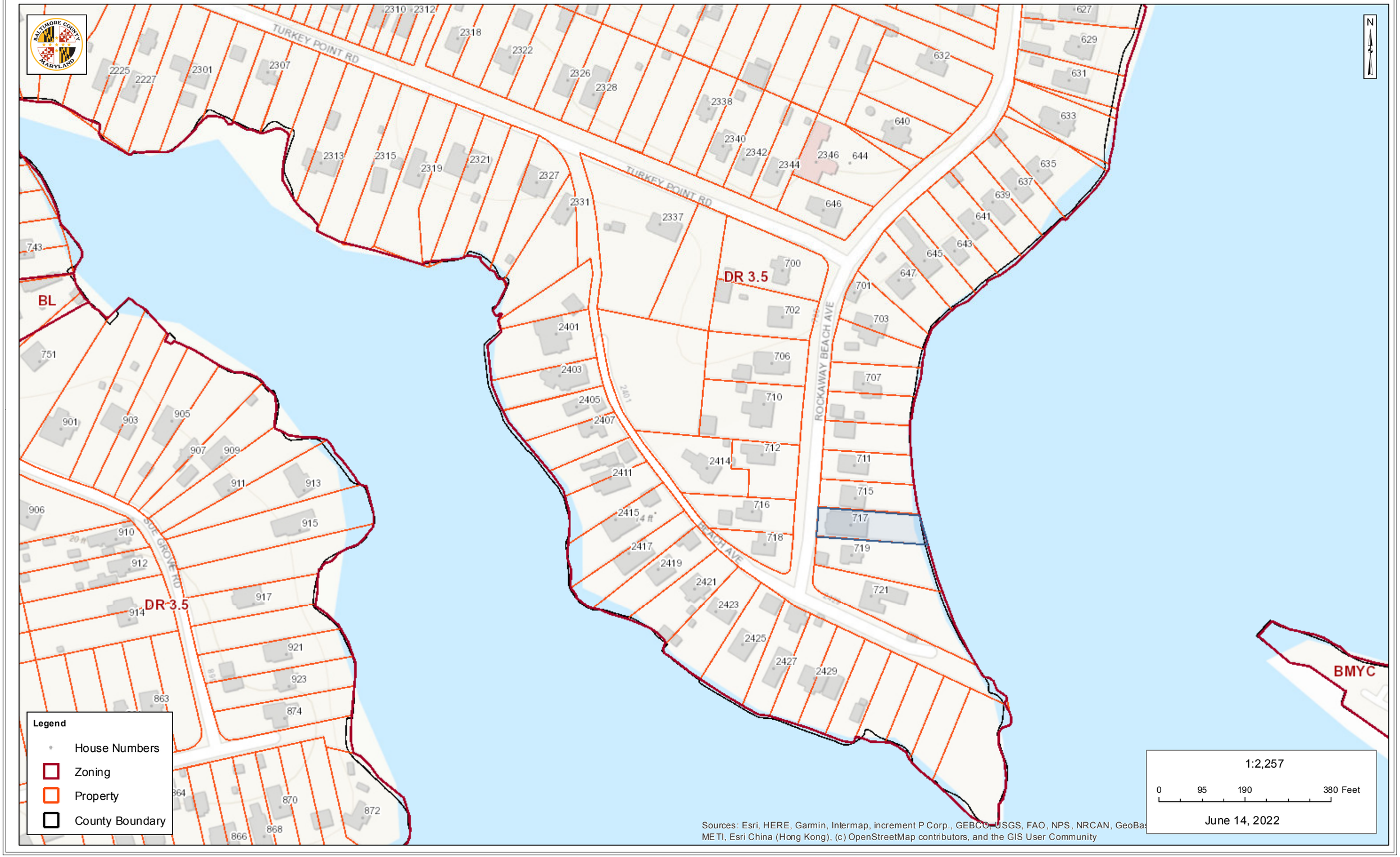
WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County



© Kappa Map Group, LLC

Baltimore County - My Neighborhood



Baltimore County Government, Harford County Government, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA |

Baltimore County - My Neighborhood



Real Property Data Search ( )
Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Special Tax Recapture: None

Account Identifier: **District -** 15 **Account Number -** 1523504960

Owner Information

Owner Name:	TUNNEY WILLIAM EDWARD IV TUNNEY THERESA MARIE	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	315 BLUE GRASS LN HAMPSTEAD MD 21074-	**Deed Reference:**	/46333/ 00297

Location & Structure Information

Premises Address:	717 ROCKAWAY BEACH AVE ESSEX 21221-1813 Waterfront	**Legal Description:**	717 ROCKAWAY BEACH AVE ROCKAWAY BEACH

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0098	0015	0211	15080075.04	0000			40	2021	**Plat Ref:** 0004/ 0171

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2006	4,580 SF		9,027 SF	34

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	FRAME/	5	4 full/ 1 half	1 Attached	

Value Information

	Base Value	Value As of 01/01/2021	Phase-in Assessments As of 07/01/2021	 As of 07/01/2022
Land:	201,000	201,000		
Improvements	488,300	520,100		
Total:	689,300	721,100	699,900	710,500
Preferential Land:	0	0		

Transfer Information

Seller: SMITH MICHAEL PAUL	**Date:** 02/02/2022	**Price:** $1,475,000
Type: ARMS LENGTH IMPROVED	**Deed1:** /46333/ 00297	**Deed2:**
Seller: S F L LLC	**Date:** 12/10/2019	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /42214/ 00367	**Deed2:**
Seller: RUSH WILLIAM R	**Date:** 09/16/2008	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /27326/ 00556	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2021	07/01/2022
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

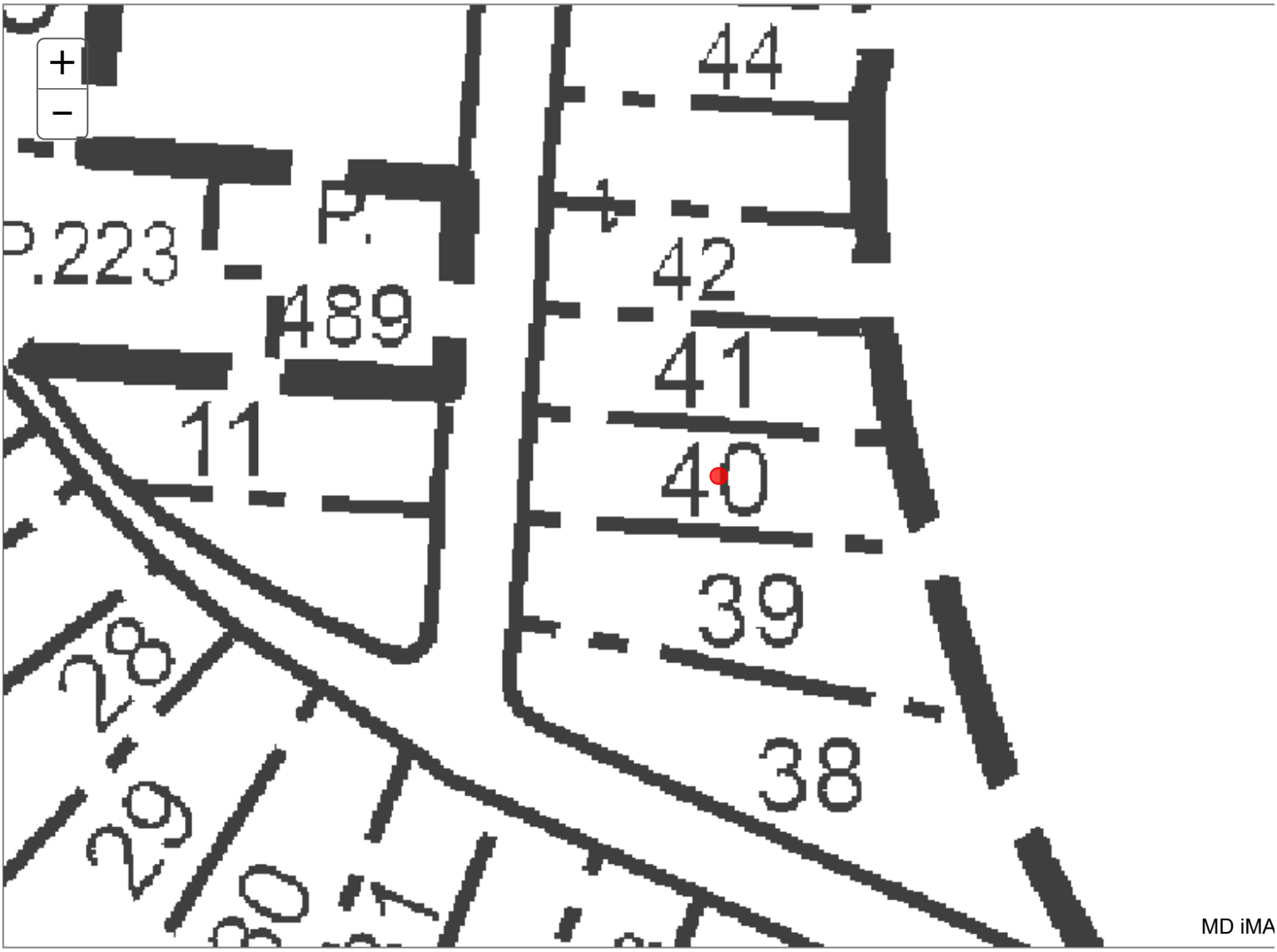
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Baltimore County

New Search (https://sdat.dat.maryland.gov/RealProperty)

District: 15 Account Number: 1523504960



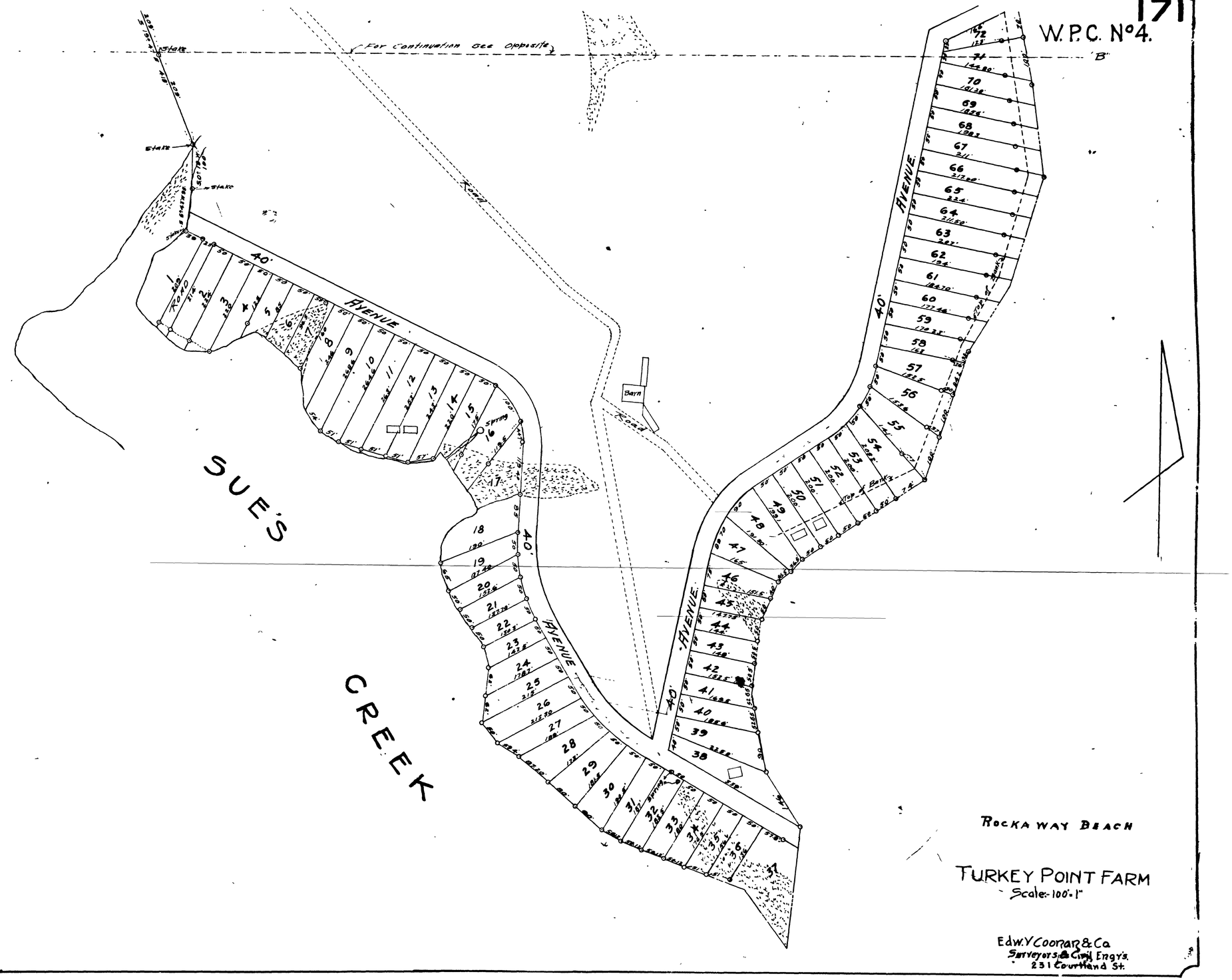
The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

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

Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at **http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx (http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx)**.

W.P.C. No 4.

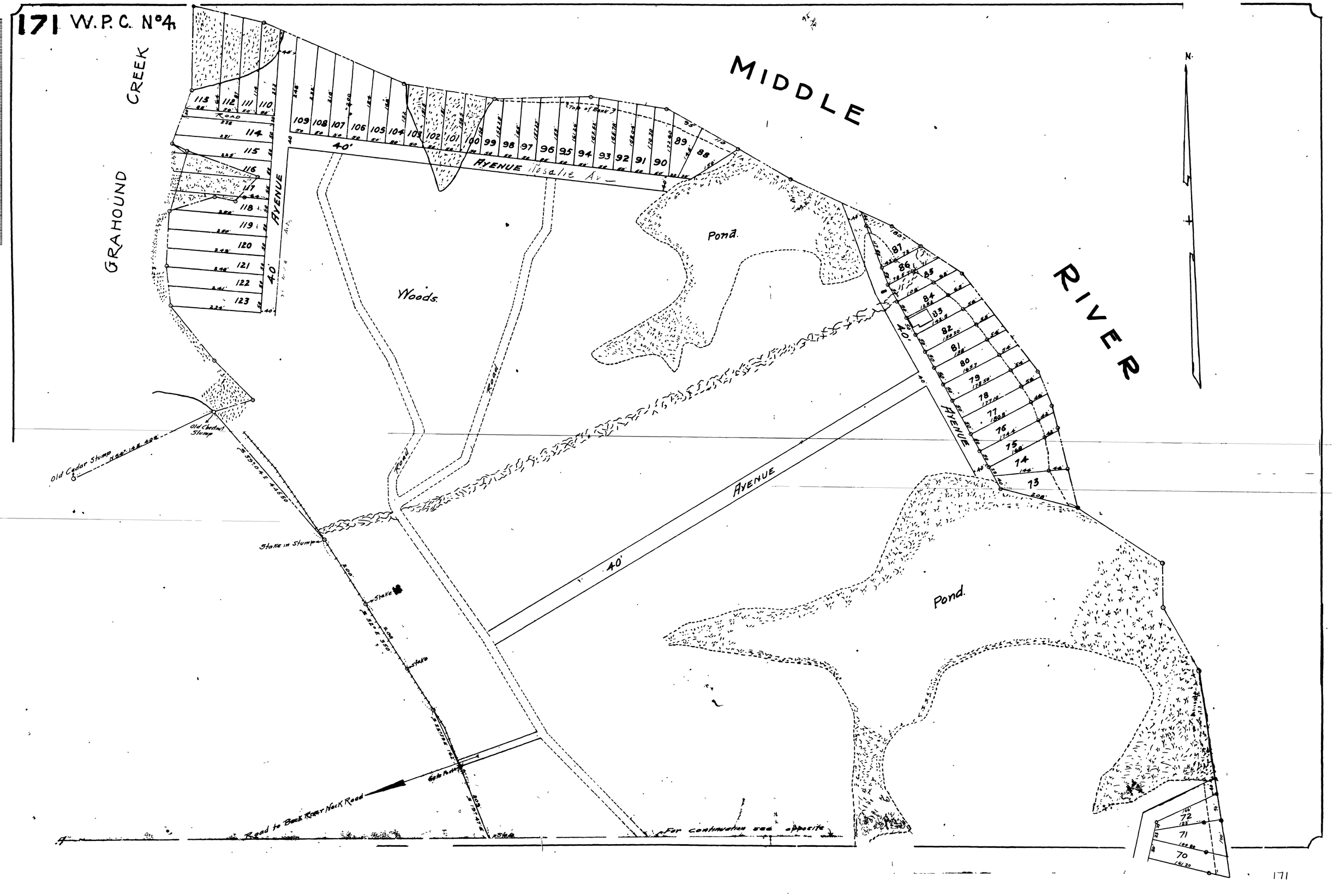


Plat accompanying Deed
from
James Young & wf.
to
Rockaway Beach Realty Co
Filed Sept. 9-1915
Test: Wm. P. Coles, Clerk.

Edw. V. Cooper & Co
Surveyors & Civil Engrs.
231 Courtland St.

BALTIMORE COUNTY CIRCUIT COURT (Plats) Plat Book WPC 4, p. 171, MSA_C2136_4998. Date available 1915/09/09. Printed 08/11/2022.

171 W.P.C. No 4

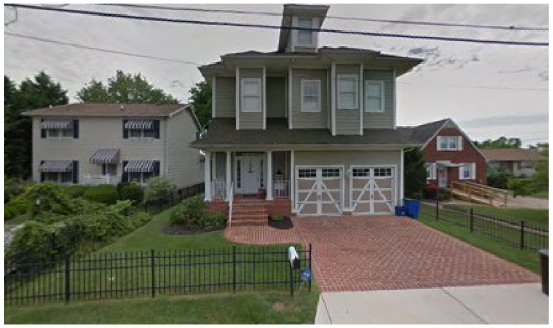


BALTIMORE COUNTY CIRCUIT COURT (Plats) Plat Book WPC 4, p. 171, MSA_C2136_4898. Date available 1915/09/09. Printed 08/11/2022.

Google Maps 717 Rockaway Beach Ave



Map data ©2022 , Map data ©2022 20 ft



717 Rockaway Beach Ave

Building

Google Maps 715 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

717 Rockaway Beach Ave

All Street View & 360°

Google Maps 717 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

717 Rockaway Beach Ave

All Street View & 360°

Google Maps 718 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

717 Rockaway Beach Ave

All Street View & 360°

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Property Information

Property Address: 717 ROCKAWAY BEACH AVE

City, State, Zip: ESSEX, MD, 21221

Tax ID: 1523504960

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: YES

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 30.00

Set Backs - Rear Yard: 20.00

Set Backs - Right Side Yard: 10.60

Set Backs - Left Side Yard: 12.50

Owner Information

Owner: WILLIAM E TUNNEY

Owner Address: 315 BLUE GRASS LN, HAMPSTEAD, MD, 21074

Tenant:

Applicant: WILLIAM E TUNNEY

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD / USING BALTO ,CO. DECK GUIDELINES,TK. Dwelling is not in 100 yr floodplain per AB

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

JOHN A. OLSZEWSKI, JR.
County Executive

DAVID V. LYKENS, *Director*
Department of Environmental Protection and Sustainability

April 12 2022

William Tunney
315 Blue Grass Lane
Hampstead, MD 21074

RE: Deck Permit - #R22-05031
717 Rockaway Beach Ave

Dear Mr. Tunney:

Environmental Impact Review (EIR) completed an evaluation of the above referenced property and deck permit application for 717 Rockaway Beach Ave. The 9,027 square foot property is located within a Limited Development Area (LDA) and Modified Buffer Area (MBA) in the Chesapeake Bay Critical Area (CBCA) and must comply with all requirements of Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

The property does not comply with the CBCA Regulations. In order to bring the property into compliance, you must complete the items listed in the table below.

Lot Coverage
Existing Lot Coverage: = 3,100 square feet or 34.3%. Current LDA regulations restrict the lot coverage on this property to 25% (2,256 square feet) or a maximum of 31.25% (2,821 square feet), with mitigation for the amount over 25%. The lot coverage present exceeds the maximum allowed. As the proposed open wood deck (with dirt/grass below) does not count as lot coverage, there is no lot coverage mitigation required. However, please be aware that no future lot coverage will be permitted without equal amount of lot coverage removal. Contact EIR to discuss permit and CBCA requirements for any future construction on site. Lot coverage includes gravel.
Forest Cover
15% minimum forest requirement: A minimum of three trees must be on-site at all times. As no trees currently exist on site, three Maryland native, deciduous trees at least 5-feet tall will need to be planted on the property. Three shrubs may be substituted for each required tree, if desired.
Modified Buffer Area
Properties within the MBA have a 100-foot buffer from tidal waters. Structures are not allowed in the buffer unless the property owner performs on-site mitigation or pays a fee-in-lieu. The proposed deck is within the 100-foot MBA. Mitigation for the 552 square feet of impact may be satisfied through: Payment of a fee-in-lieu of $1.50 per square-foot of disturbance. Tree planting to satisfy the Forest Cover requirement may also be used to address the MBA mitigation; therefore, fee-in-lieu payment would be reduced to $678.15.

*Note no manmade structures are allowed within 25 feet of tidal waters.
Summary of Mitigation Requirements: 1. Plant a minimum of three (3) Maryland native deciduous canopy trees on-site to meet forest cover requirements. 2. MBA mitigation: pay $678.15 fee-in-lieu.

Once you sign this letter, return it to our office indicating your acceptance of the mitigation requirements, and pay the appropriate fee-in-lieu amount, EIR will release the permit. Inspections will be conducted to determine compliance with all Critical Area requirements that pertain to this property. If you have any questions regarding this correspondence, please contact me at mbrady1@baltimorecountymd.gov or 410-887-3980.

Sincerely,

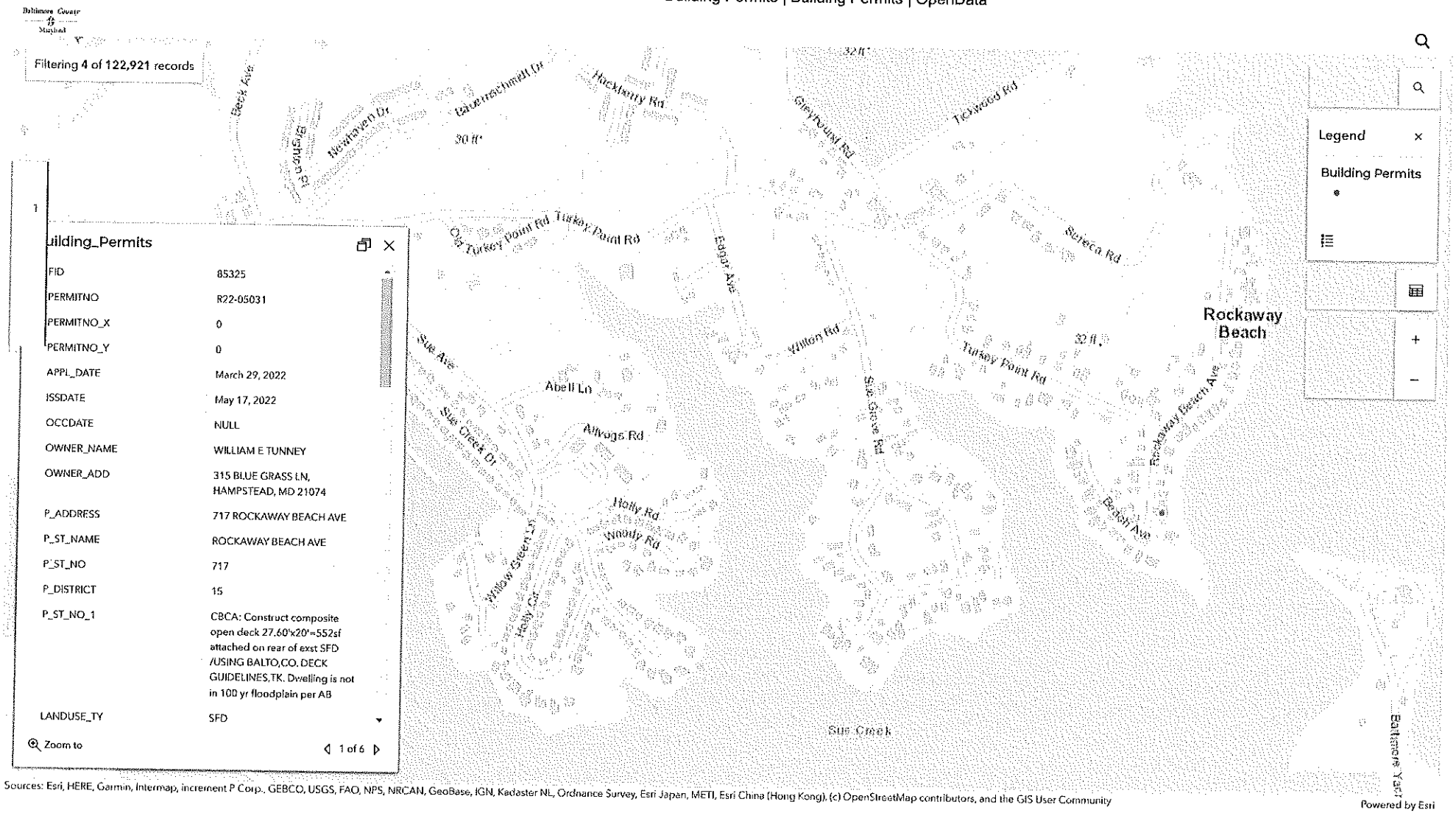
Marie Brady
Environmental Impact Review

I/We agree to meet the requirements outlined in this letter to bring the referenced property in to compliance with Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection:

Property Owner(s) Signature(s) Date

Printed Name of Property Owner(s)

S:\EPS\EIR\Marie\Permit Review\CBCA\Rockaway Beach 717- MBA+for.docx


Filtering 4 of 122,921 records
Legend
Building Permits
uilding_Permits
FID 85325
PERMITNO R22-05031
PERMITNO_X 0
PERMITNO_Y 0
APPL_DATE March 29, 2022
ISSDATE May 17, 2022
OCCDATE NULL
OWNER_NAME WILLIAM E TUNNEY
OWNER_ADD 315 BLUE GRASS LN, HAMPSTEAD, MD 21074
P_ADDRESS 717 ROCKAWAY BEACH AVE
P_ST_NAME ROCKAWAY BEACH AVE
P_ST_NO 717
P_DISTRICT 15
P_ST_NO_1 CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD /USING BALTO.CO. DECK GUIDELINES,TK. Dwelling is not in 100 yr floodplain per AB
LANDUSE_TY SFD
Zoom to
1 of 6
Old Turkey Point Rd
Turkey Point Rd
Eggis Ave
Bureca Rd
Wilton Rd
Sue Ave
Sue Creek Dr
Abell Ln
Allwgs Rd
Holly Rd
Woody Rd
Willow Green Ln
Holly Ct
Sue Grove Rd
Rockaway Beach Ave
Beach Ave
Rockaway Beach
Sue Creek
Hackberry Rd
Glenwood Rd
Tickwood Rd
Beech Ave
Beechwood Dr
Beechwood Ln
Baltimore Count
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community
Powered by Esri

Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Report Generated On:
3/31/2022

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Instructions: Begin review process with Zoning Review, Room 111.

Contact Agency	Potential Overlay Issues **Growth Tier 1:** Served by public sewer and inside URDL	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
Planning Jefferson Building Room 101 Phone: 410-887-3211	Bowleys Quarters-Back River Neck Area	X												
EPS-Dev. Coord. County Office Building Room 319 Phone: 410-887-3733	Chesapeake Bay Critical Area	X		X	X	X	X	X	X	X				
	100 Year Flood Zone	X		X	X	X		X	X	X				
	Possible Flood Hazard - Water Body Present	X		X	X	X		X	X	X				
PAI-Sed. Control Insp. County Office Building Room G-21 Phone: 410-887-3226	Chesapeake Bay Critical Area	X						X		X				
	100 Year Flood Zone	X						X		X				
	Possible Flood Hazard - Water Body Present	X						X		X				
PAI-Public Services County Office Building Room 119 Phone: 410-887-3751	Bowleys Quarters-Back River Neck Area	X						X						OK To File
	100 Year Flood Zone	X	X	X	X	X		X	X			X		OK To File
	Possible Flood Hazard - Water Body Present	X	X	X	X	X		X	X			X		OK To File
	InFill Lot Review	X												OK To File
	Verify Water Service Size.	X												
	Possible Replacement Dwelling. Permit # B599298 Appl. Date: Not Entered	X												
Zoning Review County Office Building Room 111 Phone: 410-887-3391	Bowleys Quarters-Back River Neck Area	X												
	Zoning Cases: 2006-0501-SPH; 2005-0579-A	X		X	X	X	X							

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.
Form171R

Permit Processing Residential Permit & Development Report

Property Information

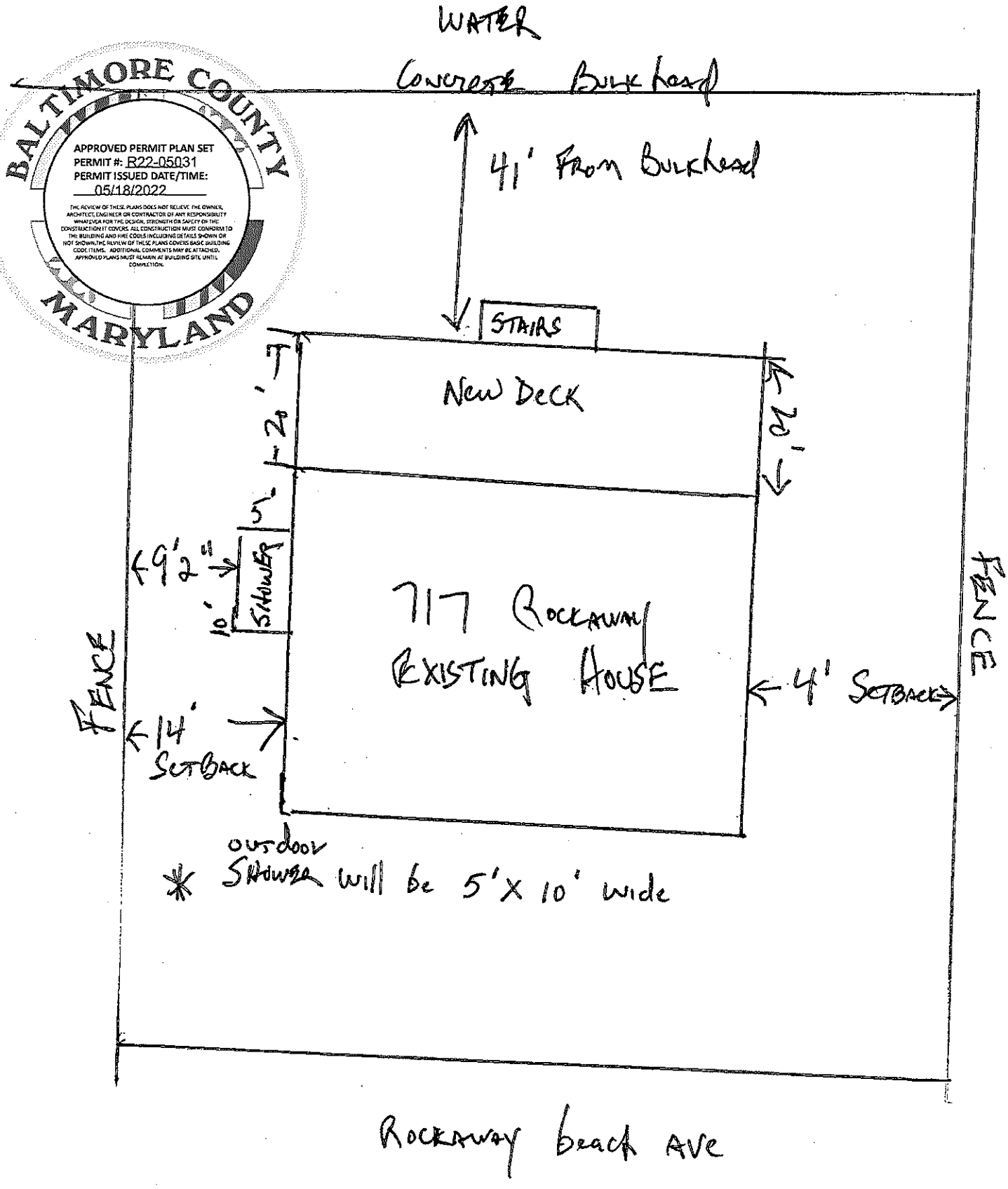
Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays / Contact Agency	Instructions: Begin review process with Zoning Review, Room 111. Potential Overlay Issues — Growth Tier 1: Served by public sewer and inside URDL	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
MD Aviation Administration Division of Airport Facilities Planning P.O. Box 8766 BWI Marshall Airport,MD 21240-0766 Phone: 410-859-7692 or 410-859-7070	Martin State Aiport Zoning Area	X		X	X		X	X	X	X				OK To File
Building Plans Review County Office Building Room 120 Phone: 410-887-3987	100 Year Flood Zone	X	X	X	X	X			X	X				
	Possible Flood Hazard - Water Body Present	X	X	X	X	X			X	X				
Dev. Management County Office Building Room 123 Phone: 410-887-3321	Impact Fee: EXEMPT Details: ComRevitalDist=Not Exempt; CountyOwned=Not Exempt; DNROwned=Not Exempt; EnterpriseZone=Not Exempt; FedOwned=Not Exempt; MarylandTOD=Not Exempt; MDOpportunityZone=Not Exempt; StateOwned=Not Exempt; VestedPlat=Exempt Note: DNROwned,FedOwned and MDOpportunityZone may require further review due to spatial discrepancies between datasets.	X												

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.



BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: R22-05031
PERMIT ISSUED DATE/TIME:
05/18/2022
THE REVIEW OF THESE PLANS DOES NOT RELIEVE THE OWNER, ARCHITECT, ENGINEER OR CONTRACTOR OF ANY RESPONSIBILITY WHATSOEVER FOR THE DESIGN, STRENGTH OR SAFETY OF THE CONSTRUCTION IT COVERS. ALL CONSTRUCTION MUST CONFORM TO THE BUILDING AND FIRE CODES INCLUDING DETAILS SHOWN OR NOT SHOWN. THE REVIEW OF THESE PLANS COVERS BASIC BUILDING CODE ITEMS. ADDITIONAL COMMENTS MAY BE ATTACHED. APPROVED PLANS MUST REMAIN AT BUILDING SITE UNTIL COMPLETION.

2022-0151-SPH

Zoning Hearing Plan for Variance ____ for Special Hearing X Mark Type Requested with (X)

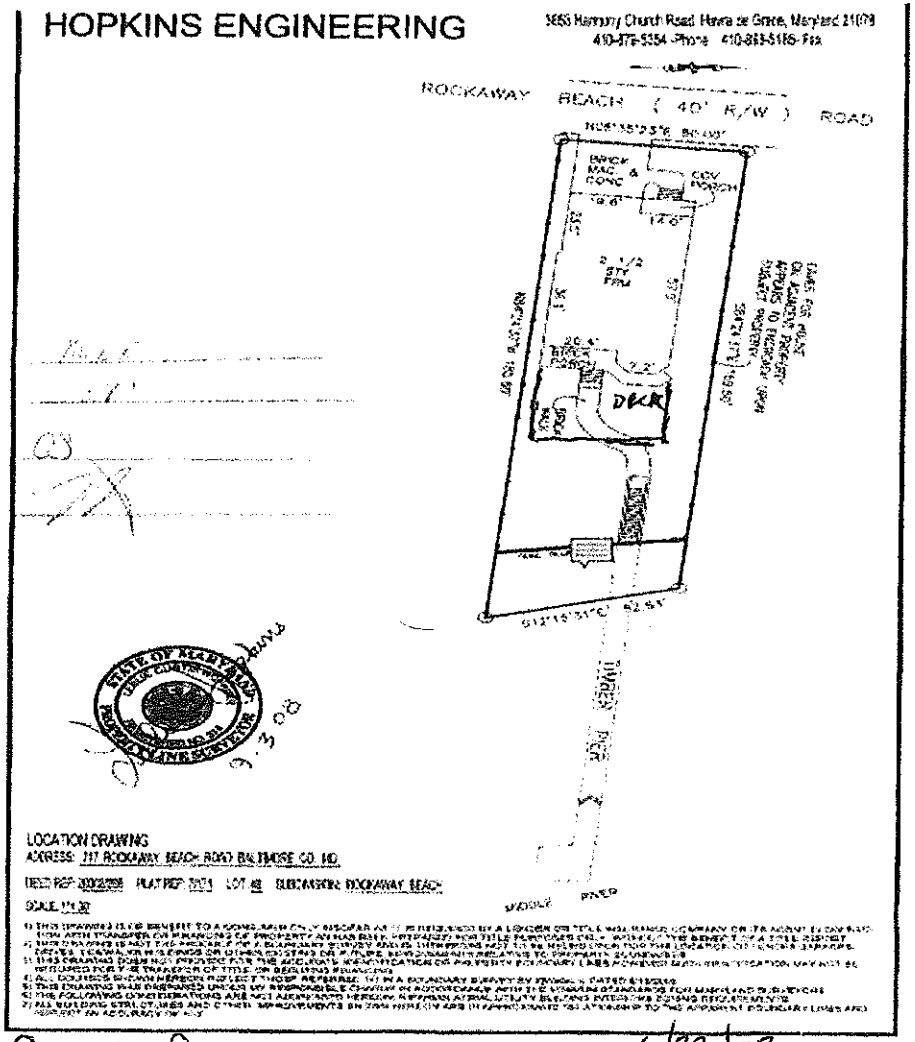
Address 717 Rockaway Beach Ave Owners(s) Name(s) William + Theresa Tunney

Subdivision Name Rockaway Beach Lot # 40 Block # — Section # —

Plat Book # 4 Folio # 171 10 Digit Tax # 1523504960 Deed Reference# 46333/00297

HOPKINS ENGINEERING

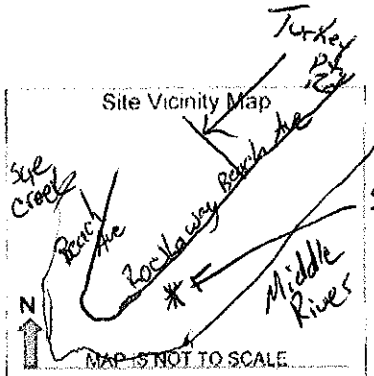
5655 Harmony Church Road Havre de Grace, Maryland 21078
410-378-5354 Phone 410-893-5185 Fax



N

Plan Drawn By Copied from Owner's Date 6/23/22 Scale: 1 inch = 30 Feet

Permit Application. Info on
Form Completed by Kevin McDonough, Rockaway Beach Imp. Assoc.



Zoning Map # ____

Zoning DR 3.5

Election District 15

Council District 7

Lot Area Acreage 0.20

Lot Square Footage 9,027

Historic (Yes or No) NO

CBCA (Yes or No) Yes

Flood Plain (Yes or No) Yes

Utilities – Mark with (X)

Water is.

Public X Private ____

Sewer is:

Public X Private ____

Prior Hearing (Yes or No) Yes

If (Yes) list Case Number(s)

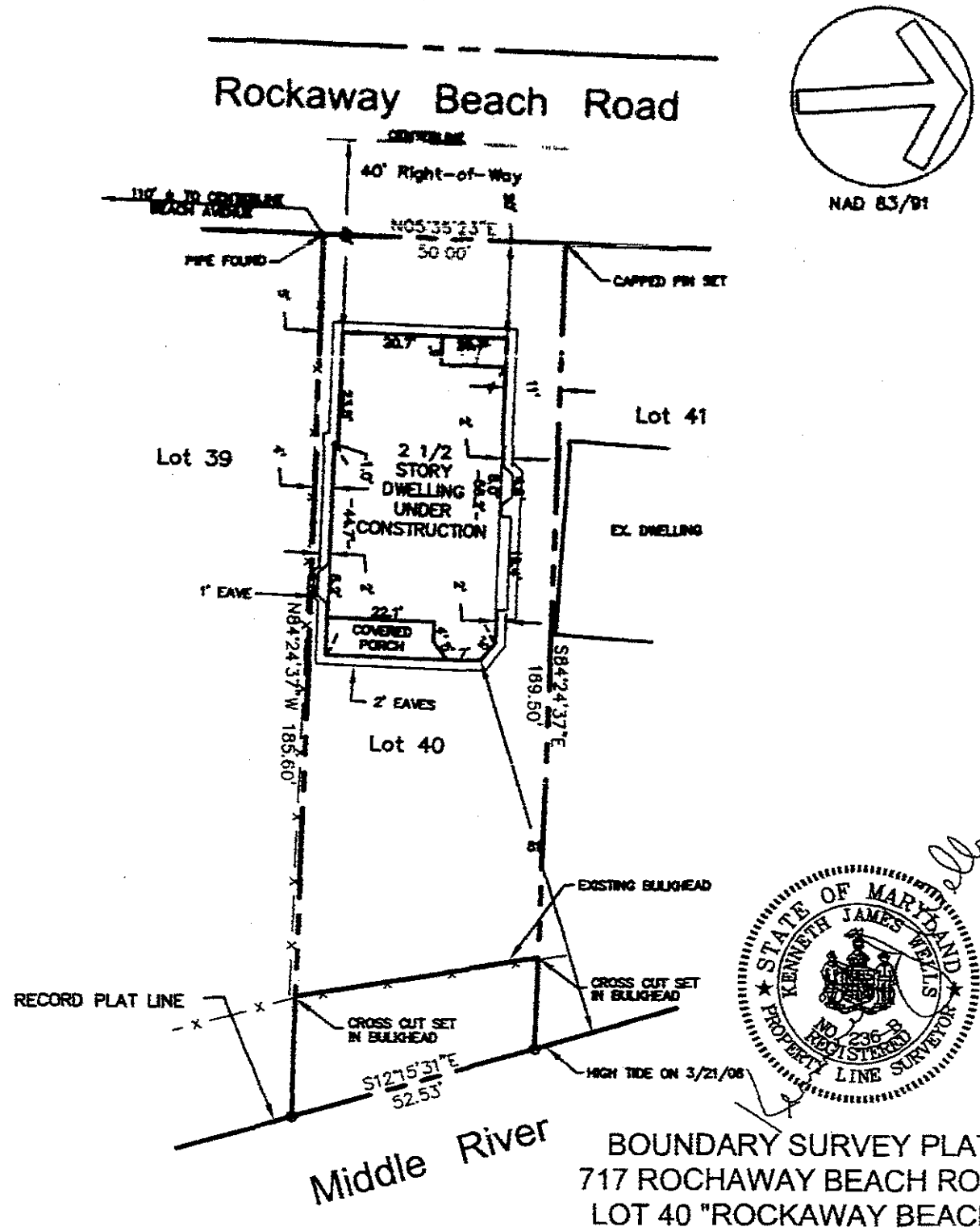
and order result(s) below

~~2005-0579-SPH~~ → GRANTED

2005-0579-A

2006-0501-SPH → GRANTED

Violation Case Number(s)



NAD 83/91

STATE OF MARYLAND
KENNETH JAMES WELLS
NO. 236
REGISTERED
PROPERTY LINE SURVEYOR

BOUNDARY SURVEY PLAT
717 ROCHAWAY BEACH ROAD
LOT 40 "ROCKAWAY BEACH"

SCALE: 1" = 30' DATED: 6/13/2005
REVISION DATE: 3/21/2006

LEGEND:

DWELLING PROJECTIONS

DEED REFERENCE: 20302/208
PLAT REFERENCE: 4/171

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Baltimore County
Permits, Approvals
And Inspections

OFFICE HOURS 7:30 am - 3:30 pm

Building Inspection: 410-887-3953

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation Case No. R22-05031 Property No. 1523504960 Zoning:

Name(s): TUNNEY WILLIAM EDWARD IV, TUNNEY THERESA MARIE

Address: 315 BLUE GRASS LN HAMPSTEAD MD 21074

Violation Location: 717 ROCKAWAY BEACH AVE ESSEX MD 21221

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

PROPOSED DECK TO BE CONSTRUCTED UNDER PERMIT B22-05031 CANNOT EXCEED 1' (12") IN HEIGHT MEASURED FROM THE LOWEST NATURAL GRADE ADJACENT TO DECK. ANY QUESTIONS REGARDING THIS REQUIREMENT PLEASE CONTACT THE BALTIMORE COUNTY ZONING DEPARTMENT AT 410-887-3391

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

ON OR BEFORE: 7/17/22 OR COMPLETION OF DECK DATE ISSUED: 6/17/22

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1,000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

INSPECTOR: [signature] PRINT NAME: MATTHEW GAWLER

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NO LATER THAN:

ON OR BEFORE: _____ DATE ISSUED: _____

INSPECTOR: _____ PRINT NAME: _____

COPIES: PINK – AGENCY, YELLOW - VIOLATION SITE, GOLD – DEFENDANT, WHITE – INSPECTOR

PAI BI 11 REVISED 9/16

Baltimore County Office of Administrative Hearings
Attn: Judge Paul Mayhew, Managing Administrative Law Judge
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Petition for Special Hearing - 717 Rockaway Beach Avenue - Case # 2022-0151-SPH

Dear Judge Mayhew,

We the undersigned are property owners and/or residents in the Rockaway Beach community and reside within close proximity to the property at issue- 717 Rockaway Beach Avenue. We are aware of the lengthy history that this particular property has with regard to Baltimore County Zoning and the restriction that was placed on the property as a result of zoning proceedings in 2006 – the prohibition of any further construction at the waterfront side of the property.

We are writing to express our support for the petitioners; Ms. Nuth, Mr. and Mrs. Siegman, Mr. Huffines, Ms. Miller, Mrs. Weiland the Rockaway Beach Improvement Association Inc. and their argument that the construction of a deck, regardless of height or size, would violate the order issued by Zoning Commissioner William Wiseman in 2006.

The home at 717 Rockaway Beach Avenue already exceeds the legally permissible lot coverage allowances, has flagrantly violated the county zoning laws by previously seeking multiple variances and is pointed to as the community's example of the kind of development we do not wish to see occur in our community again as it negatively impacts the quality of life for residents and is not in keeping with the character of our waterfront community.

The order issued by Zoning Commissioner William Wiseman in 2006 is abundantly clear in that any further construction at the property was to be prohibited. It is respectfully requested that the order be enforced and upheld and that it be determined that the construction of a deck would in fact violate the order and additionally would obstruct the views of the adjacent neighbors.

Sincerely,

Name: MIRIAM C PUHL
Address: 646 Rockaway Beach Av
Signature: Miriam C Puhl
Date: 8/26/21 ***Phone:*** (410) - 686-4675

Name: R TERRY GERARD
Address: 2417 BEACH AV
Signature: Terry Gerard
Date: 8/26/21 ***Phone:*** (410) - 391-9251

Name: Mary Gerard
Address: 2417 Beach Ave
Signature: Mary Gerard
Date: 8/26/22 Phone: (410) - 391 - 9251

Name: Megan Averse
Address: 2417 Beach Ave
Signature: Megan Averse
Date: 8/26/22 Phone: (410) - 391 - 9251

Name: John Kubicias
Address: 710 Rockaway
Signature: John Kubicias
Date: 8-26-22 Phone: (419) - 299-7054

Name: Pamela J Anderson
Address: 710 Rockaway Beach Ave
Signature: Pamela J Anderson
Date: 8-26-22 Phone: (410) - 238 - 3169

Name: PAUL R SCHATZ
Address: 641 ROCKAWAY BEACH AVE
Signature: Paul R Schatz
Date: 8-26-22 Phone: (281) - 881 - 4592

Name: STEPHEN J. MULLAN
Address: 623 ROCKAWAY BEACH AVE
Signature: Stephen J Mullan
Date: 8-26-2022 Phone: (410) - 746-1842

Name: William J. Goodwin JR
Address: 619 Rockaway Beach AVE
Signature: William J. Goodwin Jr
Date: 8/26/22 Phone: (410) - 391 - 7595

Name: Anita L. Goodwin
Address: 619 Rockaway Beach AVE
Signature: Anita L. Goodwin
Date: 8/26/2022 Phone: (410) - 391 - 7595

Name: Marguerite Watts
Address: 635 Rockaway Beach Ave.
Signature: Marguerite Watts
Date: 8/26/22 Phone: (410) - 688-7187

Name: Larry Lewis
Address: 605 Rockaway Beach Ave
Signature: Larry E Lewis
Date: Aug 27 Phone: (410) - 382 - 1291

Name: Jacob Weiland
Address: 2429 Beach Ave.
Signature: Jacob J Weiland
Date: Aug 27, 2022 Phone: (410) - 686 - 0131

Name: Tyrone Ring
Address: 2419 Beach Ave
Signature: Tyrone Ring
Date: 8/27/2022 Phone: (410) - 207-6936

Name: Jody Lamp
Address: 702 Rockaway Beach Ave
Signature: Jody Lamp
Date: 8-27-2022 Phone: (410) - 377 - 5881

Name: Mary Groom Mary GRoom
Address: 707 Rockaway Beach Ave
Signature: Mary Groom
Date: 8.27.22 Phone: (410) - 382 - 4968

Name: William R. Wadsila
Address: 711 Rockaway Beach Ave
Signature: William R Wadsila
Date: 8/26/22 Phone: (410 687-4611

Name: LAREESE NOJIGOTO
Address: 700 ROCKAWAY BEACH AV
Signature: ~~Dan-Dr~~
Date: ~~8/27/22~~ Phone: (410 467-1051

Name: Cecilia Yazigi
Address: 637 Rockaway Beach Ave
Signature: Cecilia Yazigi
Date: 8/27/22 Phone: (410) - 960-5643

Name: Ricardo Yazigi
Address: 637 Rockaway Beach Ave
Signature:
Date: 8/27/22 Phone: (410) - 960 5546

Name: Gloria Merzbacher
Address: 718 Rockaway Beach Ave
Signature: Gloria Merzbacher
Date: Sept 9, 2022 Phone: (443) - 600 - 4183

Name: George F Dietsch
Address: 632 Rockaway Beach Ave
Signature: George F Dietsch
Date: 9/9/2022 Phone: (410) - 443 970 9

Name: Raymond Fochakolb
Address: 627 Rockaway Beach Ave
Signature: Raymond Fochakolb
Date: 9-9-22 Phone: (410) - 687-9191

Name: James J Gebrish
Address: 626 Rockaway Beach Av.
Signature: James J Gebrish
Date: 9-9-2022 Phone: (410) - 978 - 8628

Name: Geraldine M. Taylor
Address: 2337 Turkey Point Rd
Signature: Geraldine M. Taylor
Date: 9/10/2022 Phone: (410) - 687 - 7084

Name: Sandy Strejcek
Address: 2344 Turkey Pt. Rd. 21221
Signature: Sandy Strejcek
Date: 9/10/22 Phone: (302) - 542-7050

Name: Louis Cowl

Address: 640 Rockaway Beach Ave

Signature: Louis Cowl

Date: 9-10-22 Phone: (410) - 687 - 1771

Name: Chris Howell

Address: 2415 Beach Ave Essex, MD 21221

Signature: Chris Howell

Date: 10 Sept. 22 Phone: (443) - 784 - 5567

Name: Sarah Howell

Address: 2415 Beach Ave. Essex, MD 21221

Signature: Sarah Howell

Date: 10-5-22 Phone: (318) - 572 - 7090

Name: LILLIAN CRUSH

Address: 2425 BEACH AVE

Signature: Lillian Crush

Date: 9-10-22 Phone: (410) - 218 - 4188

Name: JONATHAN BRODA

Address: 716 ROCKAWAY BEACH Ave.

Signature: Jonathan Broda

Date: 9-17-22 Phone: (___) - _____ - _____

Name: Darlene Baubler

Address: 615 Rockaway Beach Ave

Signature: Darlene Baubler

Date: 9-17-22 Phone: (410) - 391 - 3825

Name: David Baugher

Address: 615 Rockaway Beach Ave 21221

Signature: [signature]

Date: Sept 17, 22 Phone: (____) - _____ - _____

Name: Andy Roberts

Address: 706 Rockaway Beach Ave

Signature: Andy Roberts

Date: Sept 17, 22 Phone: (____) - _____ - _____

Name: Sue Roberts

Address: 706 Rockaway Beach Ave

Signature: Sue Roberts

Date: Sept 17, 22 Phone: (____) - _____ - _____

Name: Frederick Hoehn

Address: 2227 Turkey Point Road

Signature: [signature]

Date: 9-17-22 Phone: (410) - 461-8677

Name: Paul W. Ferro

Address: 2313 Turkey Point Road

Signature: Paul W Ferro

Date: 9/17/2022 Phone: (410) - 687-1403

Name: Robin Ferro

Address: 2313 Turkey Pt Rd

Signature: Robin Ferro

Date: 9/17/2022 Phone: (410) - 687 - 1403

Name: Jennifer Dunkle
Address: 613 Rockaway Beach Ave.
Signature: Jennifer Dunkle
Date: 9/18/2022 Phone: (419) - 608 - 0289

Name: STEVEN BAKER
Address: 703 ROCKAWAY BEACH AVENUE ESSEX MD
Signature: S Baker
Date: 9/19/22 Phone: 443 - 421 - 3097

Name: Deborah Harris
Address: 2423 Beach Ave
Signature: Deborah M Harris
Date: 9/24/2022 Phone: (443) - 834 - 3554

Name: JOYCE HOWELL
Address: 2423 BEACH AVE
Signature: Joyce Howell
Date: 9-24-22 Phone: (443) - 834 - 3555

Name: Dianne Hamme
Address: 712 Rockaway Beach Ave Essex MD 21224
Signature: Dianne Hamme
Date: 9/25/22 Phone: (410) - 484 - 3393

Name: Tom Hamme
Address: 712 Rockaway Beach Ave Balt MD 21224
Signature: Tom Hamme
Date: 9/25/22 Phone: (410) - 937 - 8383

Back River Neck Peninsula Community Association Inc.

Judge Paul Mayhew, Managing Administrative Law Judge
Baltimore County Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Zoning Case # 2022-0151-SPH Petition for Special Hearing Regarding 717 Rockaway Beach Avenue

September 28, 2022

Dear Judge Mayhew,

The Back River Neck Peninsula Community Association is an umbrella community association which represents the Lower Back River Neck Peninsula in Essex and includes the communities located on the Holly Neck Peninsula, Cape May Peninsula, Turkey Point Peninsula, and the Back River Neck Peninsula. Over the last several decades our organization has been involved in a number of development and zoning cases concerning our community.

Our organization was aware of and closely followed the original zoning cases pertaining to this property in 2005 and 2006. Since the decisions rendered in each of those respective cases, this property has frequently been cited as an example of egregious development, abuse of the variance process and an example of incompatible development with the surrounding community. We recently became aware of the Petition for Special Hearing which was flied by several adjoining property owners and the Rockaway Beach Improvement Association regarding alleged conflict with the zoning order passed in the 2006 zoning case concerning this property by then zoning commissioner, William Wiseman when the owners sought permits to construct a 552sqft deck at the waterside of the property. The Back River Neck Peninsula Community Association wishes to articulate its support for the position of the petitioners in this case who argue that the construction of a proposed deck at the subject property would violate the 2006 zoning order. We would concur that construction of a deck, and more broadly, construction of any structure at the waterside of this property would constitute a violation of the zoning order. Furthermore, such a structure, regardless of height and size would obstruct the views of the adjoining neighbors and would also violate the order.

The 2006 order issued by Commissioner Wiseman took into consideration the facts, evidence and lengthy history of this property concerning the property's prior owners who built the property's disregard for the zoning laws of Baltimore County. The order included a provision which required, as a condition of approval, that the petitioners (Mr. and Mrs. Rush, who were the former owners of the property) surrender any further construction rights at the waterfront side of the property. The property owners at that time willingly agreed to that condition in order to legalize the location of their home and to prevent unjust enrichment through further construction ability because of additional land now available at the waterfront resulting from the incorrect location of the home. Additionally, the order included a further restriction that there shall be no further improvements at the waterfront side of the property that would obstruct the water views of the adjoining neighbors. Again, this was a condition to which the prior owners willingly agreed. Such restrictions were knowingly perpetual in nature and would run and bind with the land regardless of owner, as do any zoning restrictions passed in orders issued by

the Zoning Commissioner, or presently since the restructuring of the duties of the zoning commissioner, by the Administrative Law Judge.

The immediate case will determine precedent for our community regarding the integrity of zoning orders and the restrictions contained therein. If the restrictions contained within the zoning order pertaining to this property are not upheld, then what is to prevent the same from occurring at any property where such an order exists across Baltimore County? Failure to protect the integrity of the zoning order in this case will erode away at the zoning process and at the powers of Baltimore County to protect the communities it has jurisdiction over.

We would respectfully request that you uphold the zoning order issued in the 2006 case and find that the construction of a deck at this property would in fact violate the order.

Sincerely,

Carl Maynard

Carl Maynard
President
Back River Neck Peninsula Community Association

From: shoreperfect@comcast.net
Subject: 717 Rockaway Beach Road
Date: Sep 20, 2022 at 3:42:37 PM
To: administrativehearings@baltimorecountymd.gov
Cc: Bendler, Bob Shoreperfect@comcast.net, Beverly Moyer bcmkp@comcast.net, Biddinger, Leah leahmbiddinger@gmail.com, Conrad, Dave conradsruthvilla@gmail.com, Thomas Germroth gigi10317@gmail.com, Glenn, Purnell pglenn@logiwarellc.net, Joan Mealey-Kruger brrnafyi@yahoo.com, Rocky Jones 16redrose@comcast.net, Edward Kramer eakramer3@ymail.com, McDonough, Kevin kevinmcdonough@comcast.net, Muneses, Requel rockyblbca@gmail.com, Ray Reiner kathymartin@comcast.net, Ron Walper ronwalper@gmail.com

---

Dear Judge Mayhew: I have attached a letter outlining the EMRCC's position regarding case# 2022-0151-SPH. The EMRCC adopted this position at their September general meeting after being briefed on the history and background of this matter. Thank you, Robert Bendler President, Essex Middle River Civic Council



Essex Middle River Civic Council Inc.

Judge Paul Mayhew – Managing Administrative Law Judge
Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204
RE: Case # 2022-0151-SPH 717 Rockaway Beach Avenue | Essex, Maryland 21221

September 18, 2022

Dear Judge Mayhew,

The Essex Middle River Civic Council is an umbrella community group representing 19 community associations in Eastern Baltimore County. At our organization's recent general membership meeting on September 7, 2022 we were made aware of the zoning case referenced above which pertains to 717 Rockaway Beach Avenue and the issue of compliance with a 2006 Order and Opinion issued in zoning case # 2006-0501-SPH by then Zoning Commissioner William Wiseman.

The Essex Middle River Civic Council wishes to express our support for the position of the Rockaway Beach Improvement Association and the other named petitioners. It is abundantly clear that the spirit and intent of the order issued by the Zoning Commissioner was to prevent any further construction at the property as a condition of the approval of the variances sought in the 2006 zoning case.

Our organization recognizes the importance of such restrictions being included in orders issued in zoning cases, as they are contained therein to prevent undue harm, hardship and/or adverse consequences from negatively impacting the surrounding neighbors and community as a result of such relief being granted.

The upholding of the restrictions within such orders is essential to maintaining the integrity of our communities and most importantly the integrity of the zoning process.

Respectfully,

Robert Bendler
President
Essex Middle River Civic Council

RECEIVED
SEP 22 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

DATE: 9/22/2022

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

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS - AMENDED**
Case Number: 2022-0151 SPH

INFORMATION:
Property Address: 717 Rockaway Beach Ave
Petitioner: Rockaway Beach Improvement Association & Neighbors
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition to determine if a Special Hearing is necessary to conclude:

1. Whether the construction of a deck at waterfront side of the subject property constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
2. Whether the construction of a deck at the waterfront side of the subject property would "obstruct adjacent property owners' water views" and conflict with restriction #5 in the zoning order issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
3. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with the Baltimore County Zoning Regulations; and
4. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with all applicable policies, laws, and regulations.

The subject site is currently zoned as DR 3.5. The site is considered to be a Chesapeake Bay Critical Area Designation. The subject site is surrounded by other single-family dwellings with the rear of the dwelling facing toward the water and the front of the dwelling is facing toward Rockaway Beach Avenue.

The subject property is located within the boundaries of the following community plans: Eastern Baltimore County Revitalization Strategy, Eastern Baltimore County Pedestrian and Bicycle Access Plan, and Greater Dundalk-Edgemere Community Conservation Plan. This proposed structure and the request for this petition, does not impact the recommendations provided in these plans.

The Department of Planning concludes the following as it relates to the petitioner's concerns:

1. The subject property was a part of Zoning Case #2006-0501-SPH. As a part of the order, there was a condition to approval granted to the petitioners. This condition stated "Petitioners [William Rush and Maryann Rush] shall surrender any further construction rights to build closer to the

water." Department of Planning concludes that the construction of deck will be in violation of the order in this case.

2. The subject property was a part of Zoning Case #2006-0501-SPH which ordered the following restriction: "There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water views(s)." Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties, it will be considered an enhancement.

3. The specifics of the compliance to various Baltimore County Zoning regulations will be a part of the permits process that has already been initiated by the property owner. All necessary zoning regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

4. The specifics of the compliance to policies, laws, and regulations will be a part of the permits process that has already been initiated by the property owner. All necessary policies, and laws, and regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

The Department has no further objections or comments on the request. For further information concerning the matters stated herein, please contact April Smith at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

SL/JGN/KP/

c: April Smith
Rockaway Beach Improvement Association, c/o Kevin McDonough
Office of Administrative Hearings
People's Counsel for Baltimore County

Best Title & Processing, LLC 0020302 208
File No. **04-1300/William R. Rush**
Tax ID # **15-1523504960**

This Deed, made this 9th day of June, 2004, by and between Donald J Bonomo and Mary Joan Bonomo, parties of the first part, Grantors; and William R. Rush and Maryann L. Rush, parties of the second part, Grantees.

- Witnesseth -

That for and in consideration of the sum of Four Hundred Fifty Thousand And 00/100 Dollars ($450,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said William R. Rush and Maryann L. Rush, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple, all that lot of ground situate in the County of Baltimore, State of Maryland and described as follows, that is to say:

All that lot of ground situate in Baltimore County, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the Land Records of Baltimore County, in Plat Book W.P.C. No. 4, folio 171. The improvements thereon being known as No. 717 Rockaway Beach Avenue.

Being the same lot of ground by Deed dated 04/30/86 and recorded 05/01/86 in Deed Book 15721, page 104, among the land records of Baltimore County, Maryland was granted and conveyed by Mildred A. Pretl unto Donald J. & Mary Joan Bonomo.

The Buyer/Grantee hereby swears or affirms under the penalty of perjury that the property herein conveyed is intended to be used as my principal residence by actually occupying the residence for at least 7 of the next 12 months.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said William R. Rush and Maryann L. Rush, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

As Witness the hands and seals of said Grantors, the day and year first above written.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0208, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

WITNESS:

_____ Donald J Bonomo {Seal}
Donald J Bonomo

_____ Mary Joan Bonomo {Seal}
Mary ~~Jane~~ Bonomo
JOAN, MJB

STATE OF MARYLAND, COUNTY OF Baltimore, to wit:

I hereby certify that on this 9th day of June, 2004, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Donald J Bonomo and Mary Jane Bonomo, the Grantors herein, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

SHERRI MICHAELS NOTARY PUBLIC BALTIMORE COUNTY, MD MY COMMISSION EXPIRES FEB 28 2005

_____
Notary Public
My commission expires: 2/28/2005

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

_____
Attorney

AFTER RECORDING, PLEASE RETURN TO:
Best Title & Processing, LLC
1730-B East Joppa Road
Baltimore, Md. 21234

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0209, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0210, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

AFFIDAVIT AS TO TOTAL PAYMENT
PURSUANT TO SECTION 10-912(B)(2) OF THE TAX-GENERAL
ARTICLE OF THE ANNOTATED CODE OF MARYLAND

File Number: **04-1300**

Property: **717 Rockaway Beach Avenue, Baltimore, MD 21221**

The undersigned make(s) oath, in due form of law and under the penalties of perjury, that the following is true to the best of my/our knowledge, information and belief, in accordance with Section 10-912(b)(2) of the Tax-General Article of the Annotated Code of Maryland (the "withholding law"):

1. I/we am/are the transferor(s) of that real property described in the accompanying deed (the "property").
2. I/we have examined the settlement statement prepared in connection with the transfer of the property, including both the gross amounts due to me/us and the listing of expenses and adjustments which result in a reduction in the net proceeds due to me/us.
3. With respect to the determination of "total payment," stated below, for the purpose of the withholding law:
   (a) The "total payment" includes the fair market value of any property transferred to me/us as part of the sale.
   (b) In calculating the deductions from gross proceeds, "debts incurred in contemplation of sale" (meaning debts secured by the property that were incurred within 6 months of the sale, such as loan funds received from a financing or a previous or new line of credit within the past 6 months prior to the sale of the property) were not deducted from gross proceeds.
   (c) In calculating the deductions from gross proceeds, only my/our expenses arising out of the sale or exchange of the property have been deducted.
4. The amount of "total payment" for the purpose of the withholding law is $ **-0-**.

Dated this 9th day of June, 2004.

Donald J Bonomo

Mary ~~Jane~~ Bonomo

STATE OF MARYLAND, COUNTY OF Baltimore, to wit:

Sworn and subscribed to before the undersigned this 9th day of June, 2004.

SEAL:

Notary Public
My commission expires 10/28/2005

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0211, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

0020302 211

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: **04-1300**

Property: **717 Rockaway Beach Avenue, Baltimore, MD 21221**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of Maryland's Tax General Article. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that affects a change in ownership of real property is recorded. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residency or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor

Mary ~~Jane~~ JOAN Bonomo

2. Reason for Exemption

Resident Status	☑	I, Transferor, am a resident of the State of Maryland.
	☐	Transferor is a resident entity under § 10-912(A)(4) of Maryland's Tax General Article. I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐	Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

JOAN, Mgr
Mary ~~Jane~~ Bonomo
Name

Mary Joan Bonomo
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By:

Name

Title

0020302 212

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: **04-1300**

Property: **717 Rockaway Beach Avenue, Baltimore, MD 21221**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of Maryland's Tax General Article. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that affects a change in ownership of real property is recorded. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residency or certification that the transferred property is the transferor's principal residence.

1. Transferor Information
Name of Transferor **Donald J Bonomo**

2. Reason for Exemption		
Resident Status	☑	I, Transferor, am a resident of the State of Maryland.
	☐	Transferor is a resident entity under § 10-912(A)(4) of Maryland's Tax General Article. I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐	Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Donald J Bonomo
Name

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By:

Name

Title

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0212, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

0020302 · 218

State of Maryland Land Instrument Intake Sheet

[ ] Baltimore City [X] County: Baltimore

Information provided is for the use of the Clerk's Office and State Department of Assessments and Taxation, and the County Finance Office only.

(Type or Print in Black Ink Only All Copies Must Be Legible)

IMP FD SURE $ 20.00
RECORDING FEE 20.00
TR TAX STATE 2,250.00
TOTAL 2,250.00
Rcpt # 82048
Blk # 4853
Jun 24, 2004 11:02 am

1 Type(s) of Instruments ([ ] Check Box if Addendum Intake Form is Attached.)

1	Deed		Mortgage		Other		Other
2	Deed of Trust		Lease				

2 Conveyance Check Box

X	Improved Sale Arms-Length *[1]*		Unimproved Sale Arms-Length *[2]*		Multiple Arms Length *[3]*		Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if Applicable) Cite or Explain Authority

Recordation	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration	Amount
Purchase Price/Consideration	$ 450,000.00
Any New Mortgage	$ 360,000.00
Balance of Existing Mortgage	$
Other:	$
Other:	$
Full Cash Value	$ 450,000.00

Finance Office Use Only Transfer and Recordation Tax Consideration	
Transfer Tax Consideration	$
x ( ) % =	$
Less Exemption Amount -	$
Total Transfer Tax =	$
Recordation Tax Consideration	$
x ( ) per $500 =	$
TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 35.00	$ 35.00
Surcharge	$ 5.00	$ 5.00
State Recordation Tax	$ 2,250.00	$ 0.00
State Transfer Tax	$ 2,250.00	$ 0.00
County Transfer Tax	$ 6,750.00	$ 0.00
Other	$	$
Other	$	$

Agent:
Tax Bill:
C.B. Credit:
Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No.(1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	/			[ ] (5)

Subdivision Name	Lot (3a)	Block(3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage(4)

Location/Address of Property Being Conveyed (2)
717 Rockaway Beach Avenue, Baltimore, MD 21221

Other Property Identifiers (if applicable)	Water Meter Account No.

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: $N/A

Partial Conveyance? [ ] Yes [X] No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Donald J Bonomo	William R. Rush
Mary Joan Bonomo	Maryann L. Rush
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
William R. Rush	
Maryann L. Rush	

New Owner's (Grantee) Mailing Address
6 Timberpark Court, Luth -Timonium, MD 21093-1111

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)
	First American Funding Inc.

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Preferred Customer
Firm: Best Title & Processing, LLC
Address: 1730-B East Joppa Road Baltimore, Md. 21234
Phone:

[X] Return to Contact Person
[ ] Hold for Pickup
[ ] Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

[X] Yes [ ] No Will the property being conveyed be the grantee's principal residence?
[ ] Yes [X] No Does transfer include personal property? If yes, identify:
[ ] Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)

Assessment Use Only - Do Not Write Below This Line

[ ] Terminal Verification [ ] Agricultural Verification [ ] Whole [ ] Part [ ] Tran. Process Verification

Transfer Number:	Date Received:	Deed Reference:	Assigned Property No.:

Year			Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS:

DUPLICATE PAID RECEIPT
REVAN INNATION
6/22/2004 15:05:00 TIME ACTUAL
KFOR KEP
6/23/2004 OFLN
RECEIPT # 04254 CONSIDERATION TAXES
$9,000.00
$.00 CA
County, Maryland

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0213, MSA_CE62_2015. Date available 08/19/2004. Printed 09/24/2022.

NO TITLE EXAM
NO TITLE INSURANCE
NO CONSIDERATION
TAX I.D. #15-23-504960

830

This Deed, made this 13th day of Sept., 2008, by and between **William R. Rush and Maryann L. Rush,** GRANTORS, and **S.F.L., LLC,** a Maryland limited liability company, GRANTEE.

- Witnesseth -

That for and in consideration of the sum of No Dollars 00/100 ($.00), the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said S.F.L., LLC, its successors and assigns, in fee simple, all that lot of ground situate in the County of Baltimore, State of Maryland and described as follows, that is to say:

> BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171. The improvements thereon being known as No. 717 Rockaway Beach Avenue.
>
> BEING the fee simple property which, by Deed dated June 9, 2004, and recorded in the Land Records of the County of Baltimore, Maryland, in Liber 20302, Folio 208, was granted and conveyed by Donald J. Bonomo and Mary Joan Bonomo unto William R. Rush and Maryann L. Rush, the within Grantors.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said S.F.L., LLC its successors and assigns, in fee simple.

And the Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0556, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

As Witness the hands and seals of said Grantors, the day and year first above written.

WITNESS:

William R. Rush (Seal)

Maryann L. Rush (Seal)

STATE OF MARYLAND
COUNTY OF Harford } ss

I hereby certify that on this 13th day of September, 2008, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared **William R. Rush**, the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be his act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

LORRAINE J. BROOKS NOTARY PUBLIC HARFORD COUNTY, MD. MY COMMISSION EXPIRES MAY 1 2010

Notary Public
My commission expires 5/1/10

STATE OF MARYLAND
COUNTY OF Harford } ss

I hereby certify that on this 13th day of September 2008, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared **Maryann L. Rush**, the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

LORRAINE J. BROOKS NOTARY PUBLIC HARFORD COUNTY, MD. MY COMMISSION EXPIRES MAY 1 2010

Notary Public
My commission expires 5/1/10

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Christopher W. Keelty Attorney

AFTER RECORDING, PLEASE RETURN TO:
Lawyers Choice Title, LLC
21 W. Susquehanna Avenue
Suite 210
Towson, MD 21204

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0557, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

AFFIDAVIT PURSUANT TO TP-12-108(bb) & TP-13-207(a)(18)
EXEMPTION FROM TRANSFER AND RECORDATION TAXES

The Grantors and Grantee of the foregoing Deed swear and affirm under the penalties of perjury that the following statements are true and correct:

The foregoing transfer represents a transfer that is an exempt transaction pursuant to Sections 12-108(bb), 13-207(a)(18) and 13-405(c) of the Tax-Property Article of the Annotated Code of Maryland. (the "Statute").

I. Grantors own the property as tenants by the entireties.

II. Grantors are principally involved in buying, selling, leasing and managing real property.

III. Grantors are a "Real estate enterprise" (hereinafter "REE") as defined in TP-12-108(bb).

IV. The foregoing Deed transfer is for no consideration other than the issuance of membership interests in the Grantee limited liability company (hereinafter "Grantee LLC").

V. The members of the Grantee LLC are identical to the owners of the REE.

VI. The members of the Grantee LLC have the identical allocation of profit and loss as that member's allocation of profit and loss under the REE.

VII. The foregoing Deed transfer is part of a discontinuation of the REE.

VIII. All real property owned by the Grantors and used in the conduct of any REE is being conveyed to a single limited liability company, and Grantors' REE's and other business interests, if any, are unrelated to the REE.

WITNESS:

GRANTORS:

William R. Rush 9/13/08
William R. Rush Date

Maryann L. Rush 9/13/08
Maryann L. Rush Date

GRANTEE:

S.F.L., LLC

By: _____ Date

Name: William R. Rush.

Title: President

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0558, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: 20008.0151MPS

Property: 717 Rockaway Beach Road, Essex, MD 21221

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that affects a change in ownership of real property is presented for recordation. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor

William R. Rush

2. Reason for Exemption

Resident Status	☑ I, Transferor, am a resident of the State of Maryland. ☐ Transferor is a resident entity under § 10-912(A)(4) of the Tax-General Article of the Annotated Code of Maryland, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121 and is recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

William R. Rush
Name

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By:

Name

Title

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0559, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0560, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: **20008.0151MPS**

Property: **717 Rockaway Beach Road, Essex, MD 21221**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that affects a change in ownership of real property is presented for recordation. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor

Maryann L. Rush

2. Reason for Exemption

Resident Status	☑ I, Transferor, am a resident of the State of Maryland. ☐ Transferor is a resident entity under § 10-912(A)(4) of the Tax-General Article of the Annotated Code of Maryland, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121 and is recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Maryann L. Rush
Name

Maryann Rush
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By:

Name

Title

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0561, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

AFFIDAVIT AS TO TOTAL PAYMENT
PURSUANT TO SECTION 10-912(B)(2) OF THE TAX-GENERAL
ARTICLE OF THE ANNOTATED CODE OF MARYLAND

File Number: 20008.0151MPS

Property: 717 Rockaway Beach Road, Essex, MD 21221

The undersigned make(s) oath, in due form of law and under the penalties of perjury, that the following is true to the best of my/our knowledge, information and belief, in accordance with Section 10-912(b)(2) of the Tax-General Article of the Annotated Code of Maryland (the "withholding law"):

1. I/we am/are the transferor(s) of that real property described in the accompanying deed (the "property").
2. I/we have examined the settlement statement prepared in connection with the transfer of the property, including both the gross amounts due to me/us and the listing of expenses and adjustments which result in a reduction in the net proceeds due to me/us.
3. With respect to the determination of "total payment," stated below, for the purpose of the withholding law:
   (a) The "total payment" includes the fair market value of any property transferred to me/us as part of the sale.
   (b) In calculating the deductions from gross proceeds, "debts incurred in contemplation of sale" (meaning debts secured by the property that were incurred within 90 days of the sale, such as loan funds received from a financing or a previous or new line of credit within the past 90 days prior to the sale of the property) were not deducted from gross proceeds.
   (c) In calculating the deductions from gross proceeds, only my/our expenses arising out of the sale or exchange of the property have been deducted.
4. The amount of "total payment" for the purpose of the withholding law is $_____.

Dated this 13th day of Sept, 2008.

William R. Rush

Maryann L. Rush

STATE OF MARYLAND, COUNTY OF Harford, to wit:

Sworn and subscribed to before the undersigned this 13th day of Sept, 2008.

SEAL:

LORRAINE J. BROOKS
MY COMMISSION EXPIRES
MAY 1 2010
HARFORD COUNTY, MD.
NOTARY PUBLIC

Lorraine J. Brooks
Notary Public
My commission expires 5/1/10

0027326 562

IMP FD SURE $ 20.00
RECORDING FEE 20.00
TOTAL 40.00
Recpt # 44261 Blk # 301
CR 11:38 am

State of Maryland Land Instrument Intake Sheet

[ ] Baltimore City [X] County: Baltimore

Information provided is for the use of the Clerk's Office and State Department of Assessments and Taxation, and the County Finance Office only.

(Type or Print in Black Ink Only All Copies Must Be Legible)

1 Type(s) of Instruments ([ ] Check Box if Addendum Intake Form is Attached)

1	Deed		Mortgage		Other		Other
	Deed of Trust		Lease				

2 Conveyance Check Box

	Improved Sale Arms-Length *[1]*		Unimproved Sale Arms-Length *[2]*		Multiple Arms Length *[3]*		Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if Applicable) Cite or Explain Authority

Recordation	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration		Amount
Purchase Price/Consideration	$	.00
Any New Mortgage	$	.00
Balance of Existing Mortgage	$	
Other:	$	
Other:	$	
Full Cash Value	$	0.00

Finance Office Use Only	
Transfer and Recordation Tax Consideration	
Transfer Tax Consideration	$
x ( ) % =	$
Less Exemption Amount -	$
Total Transfer Tax =	$
Recordation Tax Consideration	$
x ( ) per $500 =	$
TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 40.00	$
Surcharge	$ 0.00	$
State Recordation Tax	$ 0.00	$
State Transfer Tax	$ 0.00	$
County Transfer Tax	$ 0.00	$
Other	$	$
Other	$	$

Agent:

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No.(1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
15	1523504960	20302/208			[ ] (5)

Subdivision Name	Lot (3a)	Block(3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage(4)

Location/Address of Property Being Conveyed (2)

717 Rockaway Beach Road, Essex, MD 21221

Other Property Identifiers (if applicable)	Water Meter Account No.

Residential [X] or Non-Residential [ ]	Fee Simple [X] or Ground Rent [ ]	Amount: $N/A
Partial Conveyance? [ ] Yes [X] No	Description/Amt. of SqFt/Acreage Transferred:	N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
William R. Rush	
Maryann L. Rush	
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
S.F.L., LLC	

New Owner's (Grantee) Mailing Address

717 Rockaway Beach Road, Essex, MD 21221

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person	
Name:	Carol Stultz
Firm:	Lawyers Choice Title, LLC
Address:	29 West Susquehanna Avenue, Suite 210, Towson, Md. 21204-5279
Phone:	Telephone: 443-901-0800 Fax:443-901-0802

[ ] Return to Contact Person

[ ] Hold for Pickup

[X] Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

[X] Yes [ ] No Will the property being conveyed be the grantee's principal residence?

[ ] Yes [X] No Does transfer include personal property? If yes, identify:

[ ] Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)

TAX NOTE: **Assessment Use Only - Do Not Write Below This Line**

[ ] Terminal [ ] Director of Agricultural Verification [ ] Whole [ ] Part [ ] Tran. Process Verification

Transfer Number: BALTIMORE COUNTY Date Received: Deed Reference: Assigned Property No.

Year			Geo.		Map	Sub	Block
Land		COUNTY TRANSFER TAX	Zoning		Grid	Plat	Lot
Buildings			Use		Parcel	Section	Occ. Cd.
Total			Town Cd.		Ex. St.	Ex. Cd.	

RECORDATION TAX

Par

Date

T.P.

20008.0151MPS

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0562, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

BOOK: 42214 PAGE: 367

Crown Title Corporation
File No. **103603-19CKL**
Tax ID # **15-1523504960**

LR - Deed (No-Taxes) 20.00
Recording Fee
Name: SMITH
Ref:
LR - Deed (No-Taxes) 40.00
Surcharge
SubTotal: 60.00
Total: 60.00
12/10/2019 02:10 CC03-NR
#13108670 CC0301 -
Baltimore
County/CC03.01.16 -
Register 16

This Deed, made this 15 day of November, 2019, by and between **S.F.L., LLC**, a forfeited Maryland limited liability company, GRANTOR, and **Michael Paul Smith** and **Carin Smith**, sole members of the Grantor, GRANTEES.

- Witnesseth -

That for NO consideration and **pursuant to the dissolution or liquidation of a limited liability company and the transfer of real property to the original members of the limited liability company,** the receipt whereof is hereby acknowledged, which transfer is exempt from recordation tax pursuant to **Section 12-108(q) – Limited liability company conveyance** - of the Tax-Property Article of the Annotated Code of the State of Maryland, the said GRANTOR does grant and convey to the said Michael Paul Smith and Carin Smith, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever, all that lot of ground situate in Baltimore County, Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171.

(ADDRESS REFERENCE IS FOR INFORMATIONAL PURPOSES ONLY)
The improvements thereon being known as 717 Rockaway Beach Avenue, Essex, MD 21221.

BEING all and the same lot of ground which by Deed dated September 13, 2008, and recorded September 16, 2008 among the Land Records of Baltimore County, Maryland, in Liber 27326, Folio 556, was granted and conveyed by William R. Rush and Maryann L. Rush unto S.F.L., LLC, a Maryland limited liability company.

Tax Account No. 15-1523504960

The charter of the Grantor LLC was forfeited by the State Department of Assessments and Taxation on October 3, 2011.

By the execution of this Deed, the Grantor hereby certifies under the penalties of perjury that the actual consideration paid or to be paid, including the amount of any Mortgage or Deed of Trust outstanding, is as hereinbefore set forth.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

To Have and To Hold the said described lot of ground and premises to the said Michael Paul Smith and Carin Smith, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever.

And the said Grantor hereby covenant that has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that will warrant specially the property hereby granted; and that will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42214, p. 0367, MSA_CE62_42071. Date available 12/12/2019. Printed 09/24/2022.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42214, p. 0368, MSA_CE62_42071. Date available 12/12/2019. Printed 09/24/2022.

Witness the hand and seal of the said Grantor.

WITNESS:

Debra L. Gaskins

Debra L. Gaskins

S.F.L., LLC, a forfeited limited liability company

BY: Carin Smith (Seal)
CARIN SMITH

BY: _____ (Seal)
MICHAEL PAUL SMITH

STATE OF MARYLAND }
COUNTY OF Baltimore } ss

On this the 15th day of November, 2019, before me, a Notary Public, in the jurisdiction aforesaid, the undersigned Officer, personally appeared CARIN SMITH and MICHAEL PAUL SMITH, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same in my presence for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

RICHARD DONALD LIBERTO NOTARY PUBLIC HARFORD COUNTY, MD

Notary Public
My commission expires 5/25/20

Michael Paul Smith and Carin Smith, husband and wife, parties of the second part in the within Deed, hereby certify under the penalties of perjury that the land conveyed in said Deed is residentially improved, owner-occupied, real property and that the residence will be occupied only by us.

WITNESS:

Debra L. Gaskins

Debra L. Gaskins

_____ (SEAL)
Michael Paul Smith

Carin Smith (SEAL)
Carin Smith

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

David L. Thurston, Attorney
DAVID L. THURSTON

~~AFTER RECORDING, PLEASE RETURN TO:~~

BOOK: 42214 PAGE: 369

AFTER RECORDING, PLEASE RETURN TO:
Crown Title Corporation
1 Sanford Avenue
Baltimore, MD 21228

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42214, p. 0369, MSA_CE62_42071. Date available 12/12/2019. Printed 09/24/2022.

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

BOOK: 22 PAGE 370

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

X	Deed / Deed of Trust	☐	Mortgage / Lease	☐	Other	☐	Other

2 Conveyance Type Check Box

☐	Improved Sale Arms-Length *[1]*	☐	Unimproved Sale Arms-Length *[2]*	☐	Multiple Accounts Arms-Length *[3]*	☐	Not an Arms-Length Sale *[9]*

3 Tax Exemptions (If applicable) Cite or Explain Authority

Recordation	Exempt pursuant to Section 12-108 (q)
State Transfer	Exempt pursuant to Section 12-108 (q)
County Transfer	Exempt pursuant to Section 12-108 (q)

4 Consideration and Tax Calculations

Consideration Amount	
Purchase Price/Consideration	$ 0.00
Any New Mortgage	$
Balance of Existing Mortgage	$
Other:	$
Other:	$
Full Cash Value:	$

Finance Office Use Only
Transfer and Recordation Tax Consideration

Transfer Tax Consideration		$
X ( ) %	=	$
Less Exemption Amount	–	$
Total Transfer Tax	=	$ Exempt
Recordation Tax Consideration		$
X ( ) per $500	=	$
TOTAL DUE		$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 40.00	$
State Recordation Tax	$	$
State Transfer Tax	$	$
County Transfer Tax	$	$
Other	$	$
Other	$	$

Agent: KP

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	27326/556			☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
Plat of Turkey Point Farm	40			4/171	

Location/Address of Property Being Conveyed (2): 717 Rockaway Beach Avenue, Essex, MD 21221

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: N/A

Partial Conveyance? [ ] Yes [X] No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
S.F.L., LLC	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
Michael Paul Smith	
Carin Smith	

New Owner's (Grantee) Mailing Address: 717 Rockaway Beach Avenue, Essex, MD 21221

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Darletta Bostic

Firm: Crown Title Corporation

Address: 1 Sanford Avenue

Baltimore, MD 21228 Phone: (410) 719-0200

☒ Return to Contact Person ☐ Hold for Pickup ☐ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTCOPY MUST ACCOMPANY EACH TRANSFER

X	Yes	☐	No	Will the property being conveyed be the grantee's principal residence?
☐	Yes	X	No	Does transfer include personal property? If yes, identify:
☐	Yes	X	No	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Space Reserved for County Validation

Assessment Use Only – Do Not Write Below This Line

Terminal Verification | Agricultural Verification | Whole | Part | Tran. Process Verification

Transfer Number | Date Received: | Deed Reference: | Assigned Property No.:

Year	20	20
Land		
Buildings		
Total		

Geo.		Map		SD	Block
Zoning		Grid		Plat	Lot
Use		Parcel		Sect/AR	Occ. Cd.
Town Cd.		Ex. St.		Ex. Cd.	

REMARKS:

TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND

☑ COUNTY TRANSFER TAX Per ✓ ART 11 TITLE 3 SUBTITLE 2, 11-3-202

☑ RECORDATION TAX Per KP T.P./ART 12-108

Date 12/10/19

Distribution: ☐ Clerk's Office ☐ Office of Finance ☐ SDAT ☐ Preparer

AOC-CC-300 (5/2007)

103603-19CKL

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42214, p. 0370, MSA CE62_42071. Date available 12/12/2019. Printed 09/24/2022.

Crown Title Corporation
File No. **115401-21CKL**
Tax ID # **15-1523504960**

This Deed, made this 6th day of **December, 2021**, by and between **Michael Paul Smith** and **Carin Smith**, husband and wife, GRANTORS, and **William Edward Tunney, IV** and **Theresa Marie Tunney**, husband and wife, GRANTEES.

- Witnesseth -

That in consideration of the sum of One Million Four Hundred Seventy-Five Thousand And 00/100 Dollars ($1,475,000.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said Grantees, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever, in all that lot of ground situate in the County of Baltimore, State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171.

(ADDRESS REFERENCE IS FOR INFORMATIONAL PURPOSES ONLY)
The improvements thereon being known as 717 Rockaway Beach Avenue, Essex, MD 21221.

BEING all and the same lot of ground which by Deed dated November 15, 2019, and recorded December 10, 2019 among the Land Records of Baltimore County, Maryland, in Liber 42214, Folio 367, was granted and conveyed by S.F.L., LLC, a forfeited Maryland limited liability company, unto Michael Paul Smith and Carin Smith.

Tax Account No. 15-1523504960

```
CR  Deed (w Taxes)
Recording only ST20.00
Name: TUNNEY IV
Ref:
OR  Deed (with Taxes)
Surcharge          40.00
CR  Deed State
Transfer Tax    7,375.00
CR  NR Tax - Ikd    0.00
                ========
SubTotal:       7,435.00
                ========
Total:          7,435.00
02/02/2022  10:39
                CC03-SLF
#15845326 CC0301 -
Baltimore
County/CC03.01.17 -
Register 17
```

By the execution of this Deed, the Grantors hereby certify under the penalties of perjury that the actual consideration paid or to be paid, including the amount of any Mortgage or Deed of Trust outstanding, is as hereinbefore set forth.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

To Have and To Hold the said described lot of ground and premises to the said William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever.

And the said Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0297, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

Witness the hands and seals of the said Grantors.

WITNESS:
Debra L. Daskins
Debra L. Daskins

_____(Seal)
Michael Paul Smith

_____(Seal)
Carin Smith

STATE OF MARYLAND }
COUNTY OF BALTIMORE } ss

On this the 6th day of December, 2021, before me, a Notary Public, in the jurisdiction aforesaid, the undersigned Officer, personally appeared Michael Paul Smith and Carin Smith, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same in my presence for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

RICHARD DOUGLAS LIBERTO NOTARY PUBLIC HARFORD COUNTY, MD

_____
Notary Public
My commission expires 5/25/24

William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, parties of the second part in the within Deed, hereby certify under the penalties of perjury that the land conveyed in said Deed is residentially improved, owner-occupied, real property and that the residence will be occupied only by us.

WITNESS:

_____ _____(SEAL)
William Edward Tunney, IV

_____ _____(SEAL)
Theresa Marie Tunney

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

_____
Carol K. Lisman, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Crown Title Corporation
1 Sanford Avenue
Baltimore, MD 21228

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0298, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor: Michael Paul Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Michael Paul Smith — 12/6/21
Name — **Date

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0299, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Carin Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Carin Smith — 12/6/21
Name — **Date

Carin Smith
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0300, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

BOOK: 46333 PAGE: 301

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

X Deed / Deed of Trust	☐ Mortgage / Lease	☐ Other	☐ Other

2 Conveyance Type Check Box

X Improved Sale Arms-Length *[1]*	☐ Unimproved Sale Arms-Length *[2]*	☐ Multiple Accounts Arms-Length *[3]*	☐ Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if applicable) Cite or Explain Authority

Recordation	
State Transfer	Deed
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 1,475,000.00	Transfer Tax Consideration	$ 22125.00
Any New Mortgage	$	X ( ) % =	$
Balance of Existing Mortgage	$	Less Exemption Amount −	$
Other:	$	Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$ 7375.00
Full Cash Value:	$	X ( ) per $500 =	$
		TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 40.00	$
State Recordation Tax	$ 7,375.00	$
State Transfer Tax	$ 7,375.00	$
County Transfer Tax	$ 22,125.00	$
Other	$	$
Other	$	$

Agent:

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	42214/367			☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
				42214/367	

Location/Address of Property Being Conveyed (2): 717 Rockaway Beach Avenue, Essex, MD 21221

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: N/A

Partial Conveyance? ☐ Yes ☒ No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Michael Paul Smith	
Carin Smith	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
William Edward Tunney, IV	CASH
Theresa Marie Tunney	

New Owner's (Grantee) Mailing Address: 315 Blue Grass Lane, Hampstead, MD 21074

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Darletta Bostic

Firm: Crown Title Corporation

Address: 1 Sanford Avenue

Baltimore, MD 21228 Phone: (410) 719-0200

☐ Return to Contact Person

☐ Hold for Pickup

☒ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTCOPY MUST ACCOMPANY EACH TRANSFER

☐ Yes [X] No Will the property being conveyed be the grantee's principal residence?

☐ Yes [X] No Does transfer include personal property? If yes, identify:

☐ Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only – Do Not Write Below This Line

Terminal Verification . Agricultural Verification . Whole . Part . Tran. Process Verification

Transfer Number Date Received: Deed Reference: Assigned Property No.:

Year	20	20	Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS

Space for Circuit Court Clerk Recording Validation

Baltimore County, Maryland
Dept 7 20:
RECORDATION TAXES
>>RECEIPT # 0696 2/01/2022
MSJ
REG W50Z WAIVER
2/02/2022
BUSINESS
ACTUAL TIME DRW
2/01/2022 13:05:19 2
29,500.00
CA .00
DUPLICATE PAID RECEIPT

Distribution: ☐ Clerk's Office ☐ Office of Finance ☐ SDAT ☐ Preparer

AOC-CC-300 (5/2007)

115401-21CKL

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0301, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

Petitioner's Exhibit List
Zoning Case # 2022-0151-SPH
May 11, 2023 at 10 am

Exhibit Name	Exhibit #
Rule 8 Documents	1
Copy of Zoning Order from 2006 Case	2
E-mail from Bob Rush to Commissioner Wiseman	3
Survey	4
Site Plan for Deck Construction Submitted w/ Original Permit Application	5
E-Mails to County Re: Conflict with Order	6
E-Mails and Filings Establishing Tunney's Advised of Neighbors Concerns and Issue of Conflict Prior to Construction Commencing	7
Photographs of Property Before Construction	8
Photographs During Construction	9
Photographs Post Construction / Present Day	10
Elevation Survey	11
Letter from Baltimore County Peoples Counsel	12
Letter from Neighbors	13
Letter from BRNPCA	14
Letter from EMRCC	15
Planning Dept. Comments	16
Recorded Deeds for 717 Rockaway (From Rush's purchase in 2004 to current owner)	17

Resolution of the Rockaway Beach Improvement Association Inc.
Resolution# 2023-01

A resolution concerning the position of the Rockaway Beach Improvement Association Inc. as it pertains to the review for all zoning matters for 2023 being placed in the Board of Directors .

WHEREAS the Rockaway Beach Improvement Association is a community association representing the interests of the residents and property owners of the Rockaway Beach community, Turkey Point Peninsula and Cape May Peninsula.

WHEREAS the Rockaway Beach Improvement Association Inc., has, consistently since 1955, been an advocate on behalf of the community regarding issues such as but not limited to zoning, development, county code compliance, public policy and quality of life.

NOW THEREFORE BE IT RESOLVED that the responsibility for review and action on all zoning matters for the 2023 fiscal year be placed in the organization's Board of Directors.

BE IT FURTHER RESOLVED that this resolution takes effect immediately.

It is therefore this 3rd day of February 2023 certified that the foregoing is a true and accurate act of the Rockaway Beach Improvement Association Inc. by authorization of its membership by way of unanimous vote at its February 3, 2023 General Meeting.

X Kevin M. McDonough 2/3/23 *(SEAL)*
Kevin M. McDonough, President – Rockaway Beach Improvement Association Inc.

X Rebecca Machin 02/03/2023 *(SEAL)*
Rebecca Machin, Secretary – Rockaway Beach Improvement Association Inc.

Resolution of the Rockaway Beach Improvement Association Inc.
Resolution# 2023-02

A resolution concerning the position of the Rockaway Beach Improvement Association Inc. as it pertains to the review for all zoning matters for 2023 being placed in the Board of Directors .

WHEREAS the Rockaway Beach Improvement Association Inc. has joined as a petitioner on a Petition for Special Hearing, along with several adjoining property owners, concerning the property at 717 Rockaway Beach Avenue |Essex, Maryland 21221 and its compliance with regard to a prior Order Issued by the Baltimore County Zoning Commissioner (Case #06-501-SPH) and whether construction of a deck on the property would violate that order along with other questions of law to be determined.

WHEREAS the case number of the present case is 2022-0151-SPH.

THREFORE BE IT RESOLVED that in accordance with a unanimous vote of its membership taken on February 3, 2023 it is the official position of the organization that the construction of a deck or any structure at the waterfront side of the property at 717 Rockaway Beach Avenue does in fact violate and conflict with the zoning order issued in zoning case # 06-501-SPH.

BE IT FURTHER RESOLVED that in accordance with another unanimous vote of its membership, the organization has designated its President, Kevin McDonough, to articulate that position and present the organization's case. Mr. McDonough has extensive knowledge of the case and of the association's membership and boundaries as is required by Rule 8 of the Board of Appeals Rules of Practice and Procedure.

BE IT FURTHER RESOLVED that this resolution takes effect immediately.

It is therefore this 3rd day of February 2023 certified that the foregoing is a true and accurate act of the Rockaway Beach Improvement Association Inc. by authorization of its membership by way of unanimous vote at its February 3, 2023 General Meeting.

x Kevin M. McDonough 2/3/23 *(SEAL)*
Kevin M. McDonough, President – Rockaway Beach Improvement Association Inc.

x Rebecca Machin 02/03/2023 *(SEAL)*
Rebecca Machin, Secretary – Rockaway Beach Improvement Association Inc.

Affidavit of Kevin McDonough, President of The Rockaway Beach Improvement Association Inc.

I, Kevin McDonough hereby declare and affirm under the penalties of perjury that the following is true and accurate:

I currently serve as the duly elected President of The Rockaway Beach Improvement Association Inc. for the 2023 Fiscal year.

I am a member of the Organization's Board of Directors which is responsible for review of all Zoning and Development Matters.

I have been designated by the membership of the association to represent the Board of Directors in Zoning and Development Cases.

I have an accurate and thorough knowledge of the organization's membership and its boundaries.

Kevin M. McDonough 2/3/23 **Kevin McDonough, President**
The Rockaway Beach Improvement Assoc. Inc.

Attest: Rebecca Machin 02, 03, 2023
Rebecca Machin, Secretary – The Rockaway Beach Improvement Assoc. Inc.

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
E/S Rockaway Beach Avenue, 110' N of
the c/l Beach Avenue * ZONING COMMISSIONER
(717 Rockaway Beach Avenue)
15th Election District * OF BALTIMORE COUNTY
6th Council District

* Case No. 06-501-SPH

William Rush, et ux
Petitioners *

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, William Rush, and his wife, Maryann Rush. The Petitioners request a special hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were William (Bob) and Maryann Rush, property owners, and Kenneth J. Wells, the Surveyor who prepared the site plan for this property. Appearing as Protestants were William and Denise Woutila, adjacent property owners, Marcyanna Siegman, Janice Vincent, and Jackie Nickel, President of the Rockaway Beach Improvement Association, Inc., all nearby residents of the area.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped waterfront lot located south of Turkey Point Road on the east side of Rockaway Beach Avenue, with frontage on Middle River. The property is approximately 50 feet wide and 185 feet deep, and contains a gross area of 9,027 sq.ft. (.21 acres) more or less, zoned D.R.3.5. The Petitioners purchased the property approximately two years ago and used the summer home that existed at that time for about one year before they had the house razed. In this regard, the

ORDER RECEIVED FOR FILING
Date 6-22-06
By

property was the subject of prior Case No. 05-579-A in which the Petitioners sought variance relief from Section 1B02.3.C.1 of the B.C.Z.R. to allow a proposed replacement dwelling with reduced setbacks. By his Order dated July 13, 2005, Deputy Zoning Commissioner John V. Murphy granted the requests, subject to compliance with relevant County agency recommendations and Chesapeake Bay Critical Areas requirements. The Petitioners now come before me seeking an amendment as set forth above to reflect a further reduction in the front (street) setback distance provided.

In this regard, testimony and evidence offered indicated that the Petitioners intended to construct a home 35' x 68' in dimension, with side yard setbacks of 4 feet and 11 feet and followed the information received in the packet from the builder to determine measurements and setback distances. The house was to be setback 81 feet from the water and 24 feet from the road; however, after construction of the home commenced, it was discovered that the front property line was 4 feet further inside of the original measurement. Thus, only a 20-foot setback from the road can be provided.

As noted above, several residents from the surrounding community appeared in opposition to the request. They argued that the survey performed by Mr. Wells conflicts with a survey the Protestants had prepared. They also believe that the Petitioners are trying to take advantage of the County's system and that their (the Rush's) attitude about the process is offensive. Ms. Nickels and Ms. Woutila point out that any further request for an amendment to the variance relief received must be denied on the grounds that "it was incumbent upon the Petitioners to obtain an accurate survey of the property before commencing construction" . . . "that any hardship or practical difficulty they now claim was self inflicted." In response to the Protestant's concerns, Mr. Wells testified that his boundary locations are accurate and were taken from monuments found and the location of the original house. Apparently, the original measurements taken by Mr. Rush at the outset were taken from an old concrete parking pad located near the road. In any event, special hearing relief is requested as set forth above to amend the prior relief granted and legitimize existing conditions.

ORDER RECEIVED FOR FILING
Date
By

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. As noted above, construction of the house is nearly completed and to require its demolition and reconstruction to eliminate a 4-foot discrepancy along the road would be an unnecessary hardship and unduly burdensome upon the Petitioners. Moreover, because the new home has been constructed in *essentially* the same location as originally proposed and is only 4 feet closer to the road than previously approved, I find that the amended relief will not adversely impact the adjacent property or surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. It was mentioned during the hearing that according to the approval granted in prior Case No. 05-579-A and the resulting Baltimore County Permit No. B605354, Petitioners were permitted to construct the home within 73 feet of the waterside property line. The home, as built, is actually 81 feet back. As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water. Moreover, but for the amended relief granted herein, all other terms and conditions of the prior Order are adopted herein and made a part hereof, including, but not limited to, compliance with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, as well as all building and fire code requirements.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of June 2006 that the Petition for Special Hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning

ORDER RECEIVED FOR FILING
Date 6-22-06
By

Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments, dated June 22, 2006 and April 26, 2006, respectively, have been attached hereto and made a part hereof.

3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the Petitioners shall submit building elevation drawings of the structure to the Office of Planning for review and approval.

4) Compliance with all Building and Fire Code regulations.

5) There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s).

6) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

But for the amended relief set forth above, all other terms and conditions of the Order issued in prior Case No. 05-579-A shall remain in full force and effect.

ORDER RECEIVED FOR FILING
Date 9-22-06
By

WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

From: "Bob Rush" <brush@mcdonogh.org>
To: <wwiseman@co.ba.md.us>
Date: 06/02/06 2:45:20 PM
Subject: 717 Rockaway Beach Ave.

Dear Mr. Wiseman,

Thank you for offering us your card to email you concerning the variance request at 717 Rockaway Beach Ave.

According to Baltimore County Permit # B600049 we have been given permission to construct a retaining wall 80' long and 6' high to be placed at the waterfront of our property. According to the stamped plans we submitted for this permit we would then backfill to make our property level. This would definately block the view of the neighbors and change the look of the neighborhood at the waters edge.

Also, according to Zoning Variance # 05-579 and Baltimore County Permit # B605354 we are permitted to construct our home within 73' of our waterside property line. Our home "as built" is actually 81' back. It is my understanding that we can construct our home or part of our home 8' closer to the water which would definitely obstruct our neighbor's water view.

In an effort to show good faith and reconcile this matter we will be willing to surrender both opportunities I have listed above.

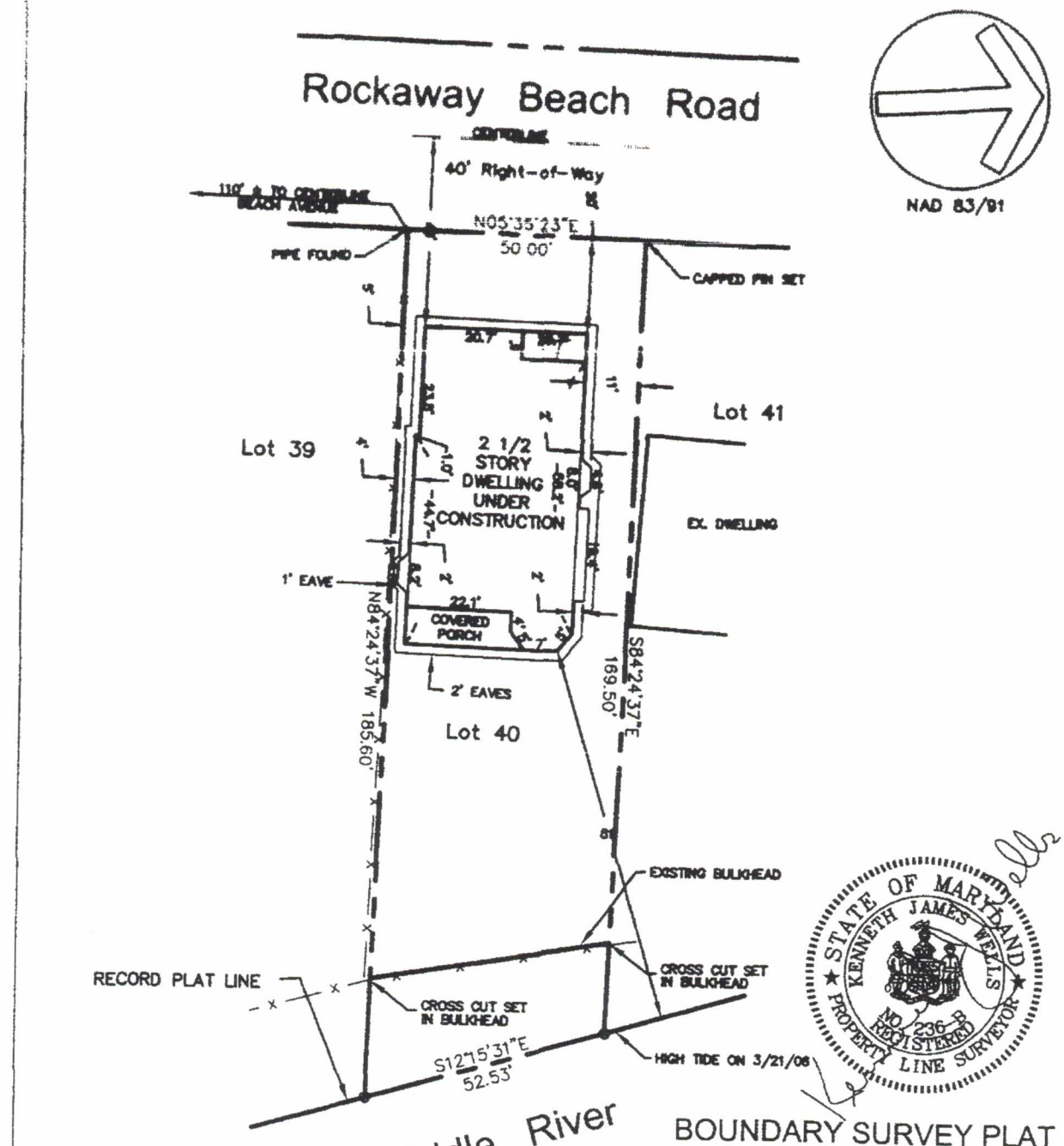
I attempted to make this offer verbally to Ms. Nickel, Ms. Seigman and Ms. Woutila to no avail.

Sincerely,

Bob Rush

cc
Tim Kotroco
Carl Richards
Vernon Boozer

CC: <tkotroco@co.ba.md.us>, <crichards@co.ba.md.us>, <gab@cablaw.com>, <marush@comcast.net>



BOUNDARY SURVEY PLAT
717 ROCHAWAY BEACH ROAD
LOT 40 "ROCKAWAY BEACH"

SCALE: 1" = 30' DATED: 6/13/2005
REVISION DATE: 3/21/2006

LEGEND:

DWELLING PROJECTIONS

DEED REFERENCE: 20302/208
PLAT REFERENCE: 4/171

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Gmail Kevin McDonough <kmcdonough29@gmail.com>

Fwd: 717 Rockaway Beach Avenue

1 message

Kevin McDonough <kevinmcdonough@comcast.net> Mon, Jun 20, 2022 at 4:26 PM
To: Kevin McDonough <kmcdonough29@gmail.com>

Regards,

Kevin M. McDonough

Sent from my iPhone

Begin forwarded message:

From: Kevin McDonough <kevinmcdonough@comcast.net>
Date: June 12, 2022 at 4:36:21 PM EDT
To: Peter Gutwald <cpgutwald@baltimorecountymd.gov>, Jeffrey Perlow <JPerlow@baltimorecountymd.gov>
Cc: kim goodwin <kgoodwin.rbiatpia@gmail.com>, Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>, Trish McDonough <trishmcdonough@comcast.net>, Marcy & Rick Siegman <msrockaway2@aol.com>
Subject: 717 Rockaway Beach Avenue

Mr. Gutwald & Mr. Perlow,

I am reaching out on behalf of the Rockaway Beach Improvement Association Inc, to inquire as to a property in our community – 717 Rockaway Beach Avenue |Essex, MD 21221. The community association has recently received inquiries from the adjoining neighbors on each side of the property after they were recently informed of the new owner's desire to construct a deck in their yard at the waterside of the property.

The property at issue has a rather "storied" zoning history in that the original individuals who constructed the home sought variance relief to build the proposed home and after staunch neighborhood opposition reached a "begrudging compromise" to reduce the variance request for the side yard setbacks. The variance request was subsequently granted and construction on the home began. During construction, the owners built the home in the incorrect location and had to then seek a second variance. That second variance was addressed in zoning case# 2006-051-SPH. The zoning issues at this property have frequently been pointed to by the community as the prime example of what kind of egregious building residents do not want to see happen ever again in the community.

As a part of the order issued by the Zoning Commissioner in that 2006 case, a restriction was placed on the property which prohibited any further building on the property at the water side.

The language in the order on page 3, paragraph 1 states: "As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water." The restriction is then re-stated again on page 4 of the Zoning Commissioner's order.

It is our understanding that a permit application may currently be pending for the construction of a outdoor deck at the waterfront of this property. The community and adjacent neighbors would like to seek clarity from the Department of Permits, Approvals and Inspections along with the Zoning Review Office that our interpretation of the Zoning Commissioner's Order would prohibit such an improvement from being permitted to occur on the property. Would you be able to confirm?

Additionally, in reviewing the old Zoning case files online, I've struggled to find a site plan which shows the impervious lot coverage for this property. Would you be able to share that with us as well, as we are of the belief that there is very little, if any impervious area allowance remaining at the property because of the size of the home and existing improvements at the property.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc. Inc.

Cc: Peter Max Zimmerman, Peoples Counsel for Baltimore County

Kimberly Goodwin-Maigetter, President Emeritus Rockaway Beach Improvement Assoc. Inc.

Marcyanna (Marcy) & Rick Siegman, Owners, 715 Rockaway Beach Ave

Trish McDonough, POA for Ruth Nuth, Owner, - 719 Rockaway Beach Avenue

Sent from my iPhone

IN THE MATTER OF:	*	BEFORE THE
WILLIAM & THERESA TUNNEY	*	BOARD OF APPEALS
717 ROCKAWAY BEACH AVENUE	*	OF
	*	BALTIMORE COUNTY
	*	CASE NO.: 22-151-SPH

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

AFFIDAVIT OF SERVICE

I, the undersigned, certify that on May 3rd, I affected service of process by personally serving a Subpoena upon Mr. Jeffrey Perlow at Baltimore County Zoning Office, 111 W. Chesapeake Avenue, Room 124, Towson, Maryland 21204, to appear in-person before the Board of Appeals for Baltimore County, Hearing Room 2, Suite 206, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, MD 21204 at the hearing to be held on May 11, 2023 at 10:00 a.m. and May 17, 2023 at 10:00 a.m.

I further certify that I am over the age of 18 and am not a party to this action.

I solemnly affirm under the penalty of perjury that the contents of this Affidavit are true and correct to the best of my knowledge.

Name: Jennifer R. Busse
Firm: Rosenberg | Martin | Greenberg LLP
Address: 25 S. Charles Street, 21st Floor
Baltimore, MD 21201

IN THE MATTER OF:	*	BEFORE THE
WILLIAM & THERESA TUNNEY	*	BOARD OF APPEALS
717 ROCKAWAY BEACH AVENUE	*	OF
	*	BALTIMORE COUNTY
	*	CASE NO.: 22-151-SPH

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

SUBPOENA

Please issue a Subpoena to the following named witness to appear in-person before the Board of Appeals of Baltimore County, Hearing Room 2, Suite 206, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, MD 21204 at the hearing for the above captioned matter currently scheduled on May 11, 2023 at 10:00 a.m. and May 17, 2023 at 10:00 a.m. continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Mr. Jeffrey Perlow
Address: Baltimore County Zoning Office
111 W. Chesapeake Avenue, Room 124
Towson, MD 21204

Requested by:

Name: Jennifer R. Busse, Esq.
Firm: Rosenberg | Martin | Greenberg LLP
Address: 25 S. Charles Street, 21st Floor
Baltimore, MD 21201

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests (_____) the Sheriff, (_____) Private Process Server, to issue the summons set forth herein.

RECEIVED
APR 2 0 2023
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
Board of Appeals for Baltimore County

From: Jennifer Busse
To: Appeals Board
Cc: Tracey McMullen
Subject: FW: Updated Affidavit & Subpoena
Date: Thursday, April 20, 2023 3:29:16 PM
Attachments: 0.png
1.png
2.png
3.png
5.png
Subpoena.docx
Affidavit.docx

CAUTION: This message from jbusse@rosenbergmartin.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Hi Sunny and Tammy – can you let us know if these are correctly drafted?
If so am I correct that I come get these from your office and once I serve Jeff Perlow I return the Certificate of Service to you?
Thanks!

Jennifer Busse
Rosenberg Martin Greenberg, LLP
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201
(410) 727-6600
Direct
(410) 727-1115 Fax

From: Tracey McMullen <TMcMullen@rosenbergmartin.com>
Sent: Thursday, April 20, 2023 11:28 AM
To: Jennifer Busse <jbusse@rosenbergmartin.com>
Subject: Updated Affidavit & Subpoena

Rosenberg Martin Greenberg LLP

Jennifer R. Busse
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201
P: (410) 727-8647/F: (410) 727-1115
jbusse@rosenbergmartin.com

April 19, 2023

VIA ELECTRONIC MAIL
Krysundra Cannington
Administrator,
Board of Appeals of Baltimore County
Jefferson Building
2nd Floor, Suite 203
105 West Chesapeake Ave.
Towson, Maryland 21204

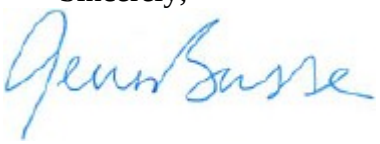
Re: Entry of Appearance
Case No. 22-151-SPH

Dear Ms. Cannington :

As I have recently moved my practice from WTP to Rosenberg Martin Greenberg LLP, please accept the attached Entry of Appearance and note my new contact information moving forward. I am mailing a copy of this letter and Entry of Appearance to the parties listed below.

Thank you for your assistance.

Sincerely,



Jennifer R. Busse
Attorney for Owners, William & Theresa Tunney

cc: Sent via first class mail:
Peter Max Zimmerman, Esq. (EMAIL ONLY)
Ruth Nuth, by Patricia McDonough, her Power of Attorney
The Rockaway Beach Improvement Association, Inc.
Marcyanna Siegman & William Siegman
Scott C. Hussines & Kristin Miller
JoAnn Weiland

4892-5272-7902, v. 1

IN RE: PETITION FOR SPECIAL HEARING (717 Rockaway Beach Avenue) 15th Election District 7th Council District	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR
William & Theresa Tunney 171 Rockaway Beach Avenue (410) 876-2118 bud@btplumbingsuply.com (Owners)	*	BALTIMORE COUNTY CASE NO. 2022-0151-SPH
Rockaway Beach Improvement Association et al. (Petitioners)	*	

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

ENTRY OF APPEARANCE

On behalf of William & Theresa Tunney, owners and respondents in the above-referenced Special Hearing, please accept this Entry of Appearance to document my updated contact information noted below. Thank you.

Respectfully submitted,

Jennifer R. Busse
Rosenberg Martin Greenberg, LLP
25 S. Charles Street, 21st Floor
Baltimore, Maryland 21201-3305
410-727-8647
FAX 410-727-1115
jbusse@rosenbergmartin.com

Attorney for Owners, William & Theresa Tunney

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of April 2023, a copy of the foregoing Notice of Appeal was mailed first class, postage prepaid to:

Peter Max Zimmerman, Esq. (EMAIL ONLY)
People's Counsel for Baltimore County
The Jefferson Building
105 W. Chesapeake Avenue, Suite 204
Towson, Maryland 21204

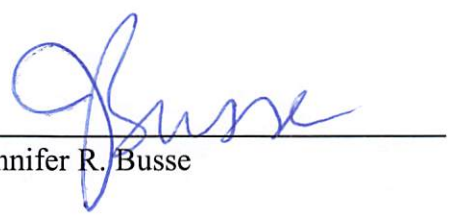
Ruth Nuth, by Patricia McDonough, her Power of Attorney
719 Rockaway Beach Avenue
Essex, MD 21221

The Rockaway Beach Improvement Association, Inc.
Kevin McDonough, President
628 Rockaway Beach Avenue
Essex, MD 21221

Marcyanna Siegman & William Siegman
715 Rockaway Beach Avenue
Essex, MD 21221

Scott C. Huffines & Kristin Miller
721 Rockaway Beach Avenue
Essex, MD 21221

JoAnn Weiland
2429 Beach Avenue
Essex, MD 21221



Jennifer R. Busse

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

March 1, 2023

NOTICE OF POSTPONEMENT AND REASSIGNMENT

IN THE MATTER OF: William and Theresa Tunney – Legal Owners
Rockaway Beach Improvement Association, et al. – Petitioners
22-151-SPH 717 Rockaway Beach Avenue
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §500.7 for a legal determination of:

1) Whether the construction of a deck at waterfront side of the subject property:
   a) Constitutes a violation of the Order issued June 22, 2006 in Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman; and
   b) Would "obstruct adjacent property owner's water views" and conflict with Restriction No. 5; and

2) Whether the construction of a deck at the waterfront side of the subject property otherwise complies with:
   a) The Baltimore County Zoning Regulations, and
   b) All applicable policies, laws and regulations.

10/14/22 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, and DECLARED that 1) the construction of a deck on the waterfront side of the subject property a) constitutes a violation of the Order issued June 22, 2006 in Case No. 2006-0501-SPH; and b) would (does) "obstruct adjacent property owner's water views" and conflict with Restriction No. 5; and declared that the questions posed in paragraph 2 of the Petition are MOOT.

This matter was assigned for hearing on March 8, 2023 and was postponed by request of Counsel. By agreement of the parties, this matter has been

REASSIGNED FOR: MAY 11, 2023, AT 10:00 A.M., Day 1
and MAY 17, 2023, AT 10:00 A.M., Day 2

The above scheduled hearing will be held **in-person.** Parties, witnesses, and attorneys, please make arrangements to attend in-person.

Location for in-person:

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

Any interested person can watch the hearing online or listen by telephone and *will not* be able to participate. Call-in information and a link to the hearing online will be posted on our web calendar the night before. Our web calendar is located at www.baltimorecountymd.gov/departments/appeals.

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. Counsel for Legal Owners/Appellants : Jennifer R. Busse, Esquire
: Derek J. Baumgardner, Esquire

Legal Owners/Appellants : William and Theresa Tunney

Petitioners, *pro se* : Rockaway Beach Improvement Association,
Ruth Nuth c/o Patricia McDonough
Marcyanna and William Siegman
Scott Huffines and Kristin Miller
JoAnn Weiland

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

www.turkeypoint.org ROCKAWAY BEACH IMPROVEMENT ASSOCIATION INC. info@turkeypoint.org
TURKEY POINT IMPROVEMENT ASSOCIATION
RBIA~TPIA

Kevin McDonough , President
443.768.0221
Kristin Paccione, Vice President

Rebecca Machin, Secretary
Karl Dudek, Treasurer
Sharon Kehnemui, Sergeant at Arms

628 Rockaway Beach Avenue
Baltimore, Maryland 21221

Baltimore County Board of Appeals
105 W. Chesapeake Avenue – Suite 203
Towson, Maryland 21204

CASE # 2022-0151-SPH (717 Rockaway Beach Avenue)

February 25, 2023

RE: Response to Request for Postponement Filed on 2/24/2023

Dear Members of the Baltimore County Board of Appeals,

Petitioners in this case are in receipt of a Request for Postponement filed by Jennifer Busse, Esq., counsel for Mr. and Mrs. Tunney who are respondents /appellants in the above referenced matter. That request for postponement is grounded in the unavailability of one of their witnesses, Mr. Arnold Jablon due to an impending surgery and required recovery time.

By way of this letter, petitioners, Rockaway Beach Improvement Association Inc., Ruth Nuth (by her power of attorney, Patricia McDonough), Marcyanna & William Siegman, JoAnn Weiland, Scott Huffines and Kristin Miller are responding to the Request for Postponement of the hearing scheduled for March 8, 2023 before the Baltimore County Board of Appeals and state that they do not have any objection to said request due to its medical nature and it being a result of circumstances beyond the control of the parties.

We would however, request that the new date for the proceedings be set at such time that is mutually agreeable by all parties in this matter and that all parties involved in the case be consulted for availability concerning the new hearing date to prevent the need for future postponements and to accommodate the schedules of all involved.

Sincerely,

The Rockaway Beach Improvement Association Inc.
Kevin McDonough, President
628 Rockaway Beach Avenue
Essex, Maryland 21221
kevinmcdonough@comcast.net | (443)-768-0221

Ruth Nuth, by Patricia McDonough her Power of Attorney
719 Rockaway Beach Avenue
Essex, Maryland 21221
trishmcdonough@comcast.net | (443)-683-7956

Marcyanna & William Siegman
715 Rockaway Beach Avenue
Essex, Maryland 21221
msrockaway2@aol.com | (410)-682-4995

Scott Huffines & Kristin Miller
721 Rockaway Beach Avenue
Essex, Maryland 21221
shuffin1@gmail.com kn.miller08@gmail.com | (410)-687-0397

JoAnn Weiland
2429 Beach Avenue
Essex, Maryland 21221
joannweiland@comcast.net | (410)-686-0131

Certificate of Service:

I hereby certify that a copy of the foregoing Response to Postponement Request was mailed, postage prepaid on this 25th day of February 2023 to:

William Edward Tunney IV & Theresa Tunney - 315 Blue Grass Ln| Hampstead, MD 21074
Jennifer Busse, Esq. – Whiteford, Taylor Preston - 1 West Pennsylvania Ave – Towson Commons, Ste 300 | Towson, Maryland 21204

A copy of the foregoing Motion for In Person Proceedings was also sent electronically via e-mail to:

Peter Max Zimmerman, Esq. (Baltimore County Office of Peoples Counsel) – pzimmerman@baltimorecountymd.gov

Jennifer Busse, Esq. – Counsel for Appellants / Respondents – jbusse@wtplaw.com

WHITEFORD, TAYLOR & PRESTON L.L.P.

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

DELAWARE*
DISTRICT OF COLUMBIA
KENTUCKY
MARYLAND
MICHIGAN
NEW YORK
PENNSYLVANIA
VIRGINIA

WWW.WTPLAW.COM
(800) 987-8705

JENNIFER R. BUSSE
DIRECT LINE (410) 832-2077
DIRECT FAX (410) 339-4027
jbusse@wtplaw.com

February 24, 2023

VIA ELECTRONIC MAIL
Ms. Krysundra "Sunny" Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, MD 21204

Re: 717 Rockaway Beach Avenue
Case No. 22-151-SPH

Dear Ms. Cannington:

I learned this morning that one of our expert witnesses, Mr. Arnold Jablon, fell and is now scheduled for shoulder surgery on Thursday, March 2, 2023. The hearing in this matter is set for March 8th, less than a week after Mr. Jablon's surgery. Due to this unfortunate and unexpected circumstance, we are respectfully requesting a postponement of the hearing.

I reached out to Mr. McDonough to inquire whether the Rockaway Beach Improvement Association would agree to this request and have not heard back yet. There are a number of other parties in this case so in the interest of efficiency, I am sending this request and copying each of them. Thank you to you and the Board for consideration of this request.

Sincerely,

Jennifer Busse Hdm

Jennifer R. Busse

cc: *all sent via email*
William & Theresa Tunney
Rockaway Beach Improvement Association,

Whiteford, Taylor & Preston L.L.P. is a limited liability partnership. Our Delaware offices are operated under a separate Delaware limited liability company, Whiteford, Taylor & Preston L.L.C.

c/o Kevin McDonough, President – info@turkeypoint.org; kevinmcdonough@comcast.net
Ruth Nuth c/o Patricia McDonogh – trishmcdonough@comcast.net
Marcyanna and William Siegman – msrockaway2@aol.com
Scott Huffines and Kristin Miller – scott@atomicteevee.com
Joann Weiland – joannweiland@comcast.net
People's Counsel for Baltimore County – pzimmerman@baltimorecountymd.gov

12782770

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 1, 2022

NOTICE OF ASSIGNMENT

IN THE MATTER OF: William and Theresa Tunney – Legal Owners
Rockaway Beach Improvement Association, et al. – Petitioners
22-151-SPH 717 Rockaway Beach Avenue
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §500.7 for a legal determination of:

1) Whether the construction of a deck at waterfront side of the subject property:
   a) Constitutes a violation of the Order issued June 22, 2006 in Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman; and
   b) Would "obstruct adjacent property owner's water views" and conflict with Restriction No. 5; and

2) Whether the construction of a deck at the waterfront side of the subject property otherwise complies with:
   a) The Baltimore County Zoning Regulations, and
   b) All applicable policies, laws and regulations.

10/14/22 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, and DECLARED that 1) the construction of a deck on the waterfront side of the subject property a) constitutes a violation of the Order issued June 22, 2006 in Case No. 2006-0501-SPH; and b) would (does) "obstruct adjacent property owner's water views" and conflict with Restriction No. 5; and declared that the questions posed in paragraph 2 of the Petition are MOOT.

ASSIGNED FOR: MARCH 8, 2023, AT 10:00 A.M.

The above scheduled hearing will be held **in-person.** Parties, witnesses, and attorneys, please make arrangements to attend in-person.

Location for in-person:
Hearing Room #2, Second Floor, Suite 206,
Jefferson Building, 105 W. Chesapeake Avenue, Towson

Any interested person can watch the hearing online or listen by telephone and *will not* be able to participate. Call-in information and a link to the hearing online will be posted

on our web calendar the night before. Our web calendar is located at www.baltimorecountymd.gov/departments/appeals.

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. Counsel for Legal Owners/Appellants : Jennifer R. Busse, Esquire
: Derek J. Baumgardner, Esquire

Legal Owners/Appellants : William and Theresa Tunney

Petitioners, *pro se* : Rockaway Beach Improvement Association,
Ruth Nuth c/o Patricia McDonough
Marcyanna and William Siegman
Scott Huffines and Kristin Miller
JoAnn Weiland

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

IN RE: PETITION FOR SPECIAL HEARING (717 Rockaway Beach Avenue) 15th Election District 7th Council District	*	BEFORE THE
	*	OFFICE OF ADMINISTRATIVE
	*	HEARINGS FOR
William & Theresa Tunney 717 Rockaway Beach Avenue (410) 876-2118 bud@btplumbingsupply.com (Owners)	*	BALTIMORE COUNTY
	*	CASE NO. 2022-0151-SPH
Rockaway Beach Improvement Association, *et al.* (Petitioners)	*	

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

NOTICE OF APPEAL

William & Theresa Tunney, owners and respondents in the above-referenced Special Hearing, with an address of 717 Rockaway Beach Avenue, Essex, MD 21221 ("Owners"), by and through their attorneys, Derek J. Baumgardner, Jennifer R. Busse and Whiteford, Taylor and Preston, L.L.P., feeling aggrieved by the Opinion and Order of the Administrative Law Judge in the above-referenced matter dated October 14, 2022, hereby file this Appeal to the County Board of Appeals from the Opinion and Order. Owners were parties in the case before the Administrative Law Judge and fully participated in the proceedings.

Filed concurrently with this Notice of Appeal is a check made payable to Baltimore County to cover costs.

Respectfully submitted,

Jennifer R. Busse
Derek J. Baumgardner
Whiteford, Taylor & Preston, LLP
1 W. Pennsylvania Avenue, Suite 300
Towson, Maryland 21204
Phone: (410) 347-9473
Facsimile (410) 234-2352
dbaumgardner@wtplaw.com
Attorneys for Owners, William & Theresa Tunney

RECEIVED
NOV 04 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of November, 2022, a copy of the foregoing Notice of Appeal was mailed first class, postage prepaid, to:

Peter Max Zimmerman, Esq.
People's Counsel for Baltimore County
The Jefferson Building
105 W. Chesapeake Avenue, Suite 204
Towson, Maryland 21204

Ruth Nuth, by Patricia McDonough, her Power of Attorney
719 Rockaway Beach Avenue
Essex, MD 21221

The Rockaway Beach Improvement Association, Inc.
Kevin McDonough, President
628 Rockaway Beach Avenue
Essex, MD 21221

Marcyanna Siegman & William Siegman
715 Rockaway Beach Avenue
Essex, MD 21221

Scott C. Huffines & Kristin Miller
721 Rockaway Beach Avenue
Essex, MD 21221

JoAnn Weiland
2429 Beach Avenue
Essex, MD 21221

Jennifer R. Busse

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

No. 203953

Date: 11/4/22

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:

For: Office of Admin. Hearings
Case No: 2022-0151-SPH
Address: 717 Rockaway Beach Ave
Hearing Date: 9/30/22 CD-Links
Check #1675641 In person Appeal

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

CASHIER'S VALIDATION

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
11/09/2022	11/07/2022	11:41:22	3

REG TRO3 WALKIN CAM
>>RECEIPT # 025216 11/07/2022 OFLN
Dept 5 528 ZONING VERIFICATION
203953
Rcpt Tot $ 300.00
300.00 CK .00 CA
Baltimore County, Maryland

WHITEFORD, TAYLOR & PRESTON LL.P.

CHECK NO. **167564** VENDOR ID **662-15** REQUESTOR **T.MARTIN** CHECK DATE **11/**

INVOICE NO.	INV.DATE	INV.AMOUNT	REFERENCE NO.	DESCRIPTION
110222BC	11/02/22	300.00	104054.00001 01-02001-00-00000-000 330898	BALTIMORE COUNTY, MARYLAND - FILING FEE / TUNNEY

TOTAL	$300.00	DISCNT	$0.00	NET	$30

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW. DO NOT CASH IF NOT PRESENT VOID AFTER 90 DAYS

WHITEFORD, TAYLOR & PRESTON
BALTIMORE OPERATING
SEVEN SAINT PAUL STREET
BALTIMORE,MD 21202-1636

Wells Fargo
65-320
550

CHECK NO. 167564

DATE 11/02/2022

CHECK AMOUNT **$300.00**

PAY THREE HUNDRED AND 00/100 DOLLAR(S)

TO THE ORDER OF BALTIMORE COUNTY, MD

SUPER SAFETY+ ANTI-FRAUD PROTECTION

FORM NO. 9703B

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

No. 203953

Date: 11/4/22

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:

For: Office of Admin. Hearings
Case No: 2022-0151-SPH
Address: 717 Rockaway Beach Ave
Hearing Date: 9/30/22
Check # 167564 In person CO-LINK Appeal

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

CASHIER'S VALIDATION

IN RE: **PETITION FOR SPECIAL HEARING** **(717 Rockaway Beach Avenue)**	*	BEFORE THE
15th Election District	*	OFFICE OF
7th Council District		
William and Theresa Tunney	*	ADMINISTRATIVE HEARINGS
Legal Owners		
Rockaway Beach Improvement Association, et al.	*	FOR BALTIMORE COUNTY
Petitioners	*	**Case No. 2022-0151-SPH**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH)" as a Petition for Special Hearing filed by Rockaway Beach Improvement Association ("RBIA"), Ruth Nuth, Marcyanna Siegman, William Siegman, Scott Huffines, Kristin Miller and JoAnn Weiland. The Petition seeks a legal determination of the following questions:

"1.) Whether the construction of a deck at waterfront side of the subject property:

a.) Constitutes a violation of the Order entitled 'Findings of Fact and Conclusions of Law' issued on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman, and

b.) Would 'obstruct adjacent property owner's water views' and conflict with Restriction No. 5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH.

2.) Whether the construction of a deck at the waterfront side of the subject property otherwise complies with:

a.) The Baltimore County Zoning Regulations, and

b.) All applicable policies, laws and regulations."

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Date 10-14-22
By

The Petition was properly advertised and posted. Substantive Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP") and from the Department of Environmental Protection and Sustainability ("DEPS").

An in-person hearing was requested by Kevin M. McDonough, President of RBIA. That request was granted and the hearing was held on September 30, 2022 at 1:30 p.m. at 105 West Chesapeake Avenue, Courtroom 104. Jennifer R. Busse, Esquire of Whiteford Taylor and Preston represented the owners of the property, William Tunney, IV and his wife, Theresa Tunney. Brian Dietz, a licensed surveyor, also attended. The site plan he prepared was admitted as Tunney Exhibit 1. Mr. McDonough presented the case on behalf of RBIA. Letters in support of RBIA's position and in opposition to the deck construction were received from Carl Maynard, President of the Back River Neck Peninsula Community Association, and from Robert Bendler, President of the Essex Middle River Civic Council Inc. They were admitted as Petitioners' Exhibits 8 and 9, respectively. People's Counsel entered their appearance and also filed a letter supporting Petitioners' position and opposing the deck. It was admitted as Petitioners' Exhibit 6. Finally, a Petition in support of RBIA's position and in opposition to the deck was admitted as Petitioners' Exhibit 7. It was signed by forty-four members of the Rockaway Beach community.

HEARING EVIDENCE

The subject property is 9,027 sq. ft., and is zoned DR 3.5. It is a waterfront lot at the confluence of Sue Creek and Middle River. It is within the Chesapeake Bay Critical Area and the 100-year flood plain. It is part of the Turkey Point Farm – Rockaway Beach subdivision that was recorded in 1915. The dwelling has 4,580 square feet of living space and occupies a substantial portion of the lot. It was constructed in 2006 and replaced the original summer cottage on the property. The Tunney's purchased the property in December 2021.

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The Petitioners are the RBIA and the adjoining neighbors at 715, 719 and 721 Rockaway Beach Avenue. Mr. McDonough testified at some length. He explained that the subject property has been a source of aggravation for the community since it was constructed in 2006. He explained that the community believes that it is out of scale and incompatible with the other homes. These views were echoed in the letters from the Middle River and Back River community associations. Mr. McDonough noted that the RBIA opposed the variance relief that was granted in Case No. 05-579-A (reduced setbacks) and the amended relief that was granted in Case No. 06-501-SPH (further setback reduction for street side). It is the Order in that latter case that is the subject of this case. More specifically, it is Condition No. 5 of that Order, which states as follows:

"5) There shall be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s)."

Mr. McDonough testified that RBIA decided not to appeal the relief granted in Case No. 06-501-SPH because they were satisfied that Condition No. 5 would forever bar any further construction of any kind on the waterfront side of the property. As further proof of this, he submitted an e-mail from the Petitioner in that case (William Rush) to the Zoning Commissioner in which Mr. Rush agrees to "surrender" certain rights granted in Case No. 05-579-A in exchange for the amendments he was seeking in Case No. 06-051-SPH, and where Rush asserted that he was doing so "in an effort to show good faith and reconcile this matter." *See,* Petitioners' Exhibit 2. Mr. McDonough argued that it was that concession by Mr. Rush that convinced the Zoning Commissioner to grant the requested relief in that case.

Mr. McDonough then identified and explained a series of aerial and ground level photographs of 717 Rockaway Avenue and the adjoining properties, including photos prior to

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By DW

construction of the deck, and during construction. Several of the photos were taken from the adjoining property at 719 Rockaway, which is owned by Mrs. Nuth, who is Mr. McDonough's mother-in-law. These were admitted collectively as Petitioners' Exhibit 5. They show that the deck construction is nearing completion, and that the deck does obstruct the water view from 719 Rockaway, which has a lower elevation than 717.

In response to questions from the undersigned, Mr. McDonough provided a brief chronology of his interactions with Mr. Tunney concerning the deck. He explained that soon after the Tunney's purchased the property they did some interior remodeling, and that Mr. Tunney mentioned to the Seigmans – the next door neighbors at 715 Rockaway Avenue- that he was considering building a deck. In late May, Mr. McDonough contacted the County Permits office to see whether the Tunneys had applied for a permit to build a deck. He was informed that a permit had already been issued on May 18, 2022. Mr. McDonough then met with the other petitioners and the RBIA and they decided to file this Special Hearing Petition, which was submitted on June 24, 2022. Mr. McDonough further explained that he and the other Petitioners met with the Tunneys on July 23, 2022 where they voiced their opinion that the deck construction was prohibited by Condition No. 5 of the Order in Case No. 06-501-SPH. They asked the Tunneys to delay construction until after the hearing in this case. Mr. McDonough testified that Mr. Tunney declined to do so and began constructing the deck on August 30, 2022.[1] That concluded Petitioners' case.

---

[1] Further details of these interactions were provided in an "Emergency Motion to Stay Construction Pending Hearing" that the Petitioners filed in this case on August 31, 2022. Attached to the Motion is an email exchange between McDonough and Tunney on June 24, 2022 – the day the Special Hearing Petition was filed. Mr. McDonough explained the community's position that the deck was not allowed under the previous zoning Order. The exchange ends with Tunney stating "Baltimore county zoning has advised us to proceed with construction. Thanks for your concern." The Motion further recounts that at the end of the meeting on July 23, 2022 Mr. Tunney angrily told the community that "I'm going to build what I want. I was told it could take you all 20 years or better to make me tear it down." The undersigned informed Petitioners that I was without power to order the Tunneys to cease construction prior to the hearing in this case.

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Ms. Busse then presented the Tunneys' case. She first called Brian Dietz, a licensed surveyor. He explained in general the site plan he had prepared. (Tunney Exh. 1). He specifically noted that the ground elevation at the edge of the deck is 12.61 feet and that the elevation of the top of the deck is 13.76 feet – in other words approximately a foot above ground level. Ms. Busse asked him a number of questions concerning whether he believed the deck obstructed any of the neighbors' views. The undersigned did not allow Mr. Dietz to offer this opinion. On cross-examination by Mr. McDonough, Mr. Dietz conceded that the deck was slightly higher than 1 foot in elevation. He also acknowledged that the waterside yard of Mrs. Nuth's property next door is a foot or two lower than the Tunney's yard, and therefore the deck appears higher from the Nuth property. He also acknowledged that one or more of the photos in Petitioners' Exhibit 5 seem to show that at least on the date the photos were taken that the deck was significantly higher than one foot off the ground.[2] Mr. Dietz stated that he believes modifications must have been made to the deck subsequent to the date of those photos.

Ms. Busse then called Jeff Perlow, the Supervisor of the County's Zoning Office, whom she had subpoenaed. Mr. Perlow identified three permits related to the deck construction. The first is Permit No. R-22-05031, which was issued on May 18, 2022. The application notes that the proposed deck is one foot in elevation. It also notes the two previous zoning Orders. Mr. Perlow testified that he did not personally review that permit application or issue that permit. Mr. Perlow then identified a second permit application (R-22-09415) dated September 15, 2022. He explained that he did not know why this application was made, but he stated that this permit was never issued. Mr. Perlow then identified a third permit application and the final permit that was issued for this

[2] During the hearing, it was revealed that the County Code Inspections and Enforcement office had issued a Correction Notice on June 17, 2022, which states in relevant part that the deck "cannot exceed 1 ft. (12 inches) in height measured from the lowest natural grade adjacent to the deck."

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By DW

deck on September 21, 2022 (Permit No. R-22-09666). He stated that he had reviewed this application and approved this permit. He could not provide any further details about the history of the permits. He did explain that, per normal procedure, he reviewed the Order in Case No. 06-501-SPH and was aware of the restriction in Condition No. 5. He further explained that in his opinion the 1-foot high deck does not violate this Condition because it should not obstruct the neighbors' water views. When asked if he relied on any written policies to reach this decision he replied that he just used "common sense." Finally, he acknowledged that no one from the Zoning Office had visited the site before issuing any of the permits.

Ms. Busse then called Mr. Tunney, who testified very briefly. He explained that he purchased the property in December 2021 and applied for the deck permit in May 2022. He testified that they will not put a railing around the deck. Although he did not elaborate this is presumably because they realize that this would further obstruct the neighbors' views. In answer to a question from the undersigned, he stated that he was not aware of the Order in Case No. 06-501-SPH prior to applying for the permit in May.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A Special Hearing under BCZR Sec. 500.7 is effectively a request for declaratory judgment. *Antwerpen v. Baltimore County,* 163 Md. App. 194, 209 (2006). Here the Petitioners seek a declaration that the construction of the deck on the waterfront side of 717 Rockaway Avenue is prohibited by Condition No. 5 of the Order in Case No. 06-501-SPH. Based on the record evidence, I find that the deck is in fact prohibited by that prior Order.

As People's Counsel notes in their submission, prior to listing the specific conditions in the Order, the Zoning Commissioner stated that "As a condition of approval, Petitioners shall surrender *any* further construction rights to build closer to the water." (emphasis added). This

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By DW

proviso must be read in conjunction with Condition No. 5 of the Order, which, if read in isolation could be interpreted to mean that further construction is only barred if it obstructs the neighbors' water views. Ms. Busse urged that this more limited restriction is the proper reading of the Order. I agree with People's Counsel's reasoning. But even if the language from the body of the Order – prohibiting *any* further construction - is ignored, I believe Condition No. 5, in and of itself, bars this deck.

Webster's Third New International Dictionary defines "obstruct" as follows: "1. To block up; stop up; or close up; place an obstacle in . . . 2. To be or come in the way of." The record evidence establishes that the neighbors' views are indeed obstructed under these definitions. Specifically, the photographs taken from Mrs. Nuth's yard (Petitioners' Exh. 5) show that the deck – still under construction and with no furniture or other objects on it – already obstructs her view of the water. Further, the surveyor, Mr. Dietz, acknowledged that Mrs. Nuth's property is a foot or two lower than the Tunneys' yard and that the deck therefore appears higher than 1 foot. In addition, the Seigmans' view is also obstructed, even though their yard and deck sit above the Tunneys' deck. Quite simply, a six hundred square foot wood and "Trex" deck is more "obstructive" to one's view than a green expanse of lawn. Indeed, when either of the adjacent neighbors looks out toward the water the first thing in their line of vision is this deck. In my view, this is the sort of "obstruction" that the Zoning Commissioner intended to prohibit when he drafted Condition No. 5.

Further, Condition No. 6 of the Order sets forth another related restriction. It states that "[w]hen applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order." This Condition is meant to flag this restriction for the person reviewing the permit application in the Zoning Office. It is undisputed that this Condition was not

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Date 10-14-22
By

complied with here. Mr. Tunney testified that at the time he first applied for the permit he was not even aware of the Order in Case No. 06-501-SPH. So clearly he could not have "set forth and addressed the restrictions of the Order" when he filed his application. Mr. Perlow testified that he had no involvement in the review or issuance of the first permit. So there is no evidence in the record that the reviewer was aware of or considered Condition No. 5 before issuing the first permit in May. By the time Mr. Perlow reviewed the third permit application in September the deck was virtually complete. At that point, it is perhaps understandable that he approved this fait accompli.

In conclusion, although the deck does not *completely* obstruct the neighbors' water views it *does* obstruct their views to a substantial degree. It therefore violates Condition No. 5 and must be removed. As People's Counsel notes, the Order in Case No. 06-501-SPH, like all zoning orders, runs with the property and extends to all successive owners. *City of Baltimore v. Poe*, 224 Md. 428, 433 (1961). And it is well established that "citizens are entitled to strict enforcement of the existing zoning regulations." *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 555-56 (1965). The Petitioners in this case are entitled to strict enforcement of Condition Nos. 5 and 6. And, as they and the other Community Associations point out, if zoning Orders are not enforced the entire purpose of the zoning regulations is undermined.

Finally, I am mindful that the Zoning Office issued a permit in this case, but the permit runs afoul of the Order in Case No. 06-501-SPH, and was therefore void *ab initio.* Petitioners asked the Tunneys to wait until this case was resolved before starting construction of the deck but the Tunneys chose to proceed. They did so at their own peril because now the deck must be removed. An invalid permit creates no vested rights. *Marzullo v. Kahl*, 366 Md. 158, 194-99 (2001).

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Date 10-14-22
By DW

THEREFORE, it is ORDERED this **14th** day of **October, 2022** by this Administrative Law Judge that the Petition for Special Hearing is hereby **GRANTED,** and it is hereby **DECLARED** as follows:

1.) The construction of a deck on the waterfront side of the subject property:

a.) constitutes a violation of the Order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH by Zoning Commissioner William Wiseman; and,

b.) would (does) "obstruct adjacent property owner's water views" and conflict with Restriction No. 5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning Case No. 2006-0501-SPH.

Having so declared, the questions posed in paragraph 2 of the Petition are therefore **MOOT.**

IT IS FURTHER ORDERED that the Legal Owners/Respondents shall have thirty (30) days to remove the deck and thirty (30) additional days to then restore the yard to its previous condition.

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

Paul M. Mayhew

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm

ORDER RECEIVED FOR FILING
Date 10-14-22
By

JOHN A. OLSZEWSKI, JR.
County Executive

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

October 14, 2022

Rockaway Beach Improvement Assoc. – info@turkeypoint.org
c/o Kevin McDonough, President, RBIA – kevinmcdonough@comcast.net

RE: Petition for Special Hearing
Case No. 2022-0151-SPH
Property: 717 Rockaway Beach Avenue
Owners: William and Theresa Tunney

Dear Mr. McDonough:

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

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm
Enclosure

c: Jennifer R. Busse, Esq. – jbusse@wtplaw.com
William & Theresa Tunney – bud@btplumbingsupply.com
Bob Bendler – shoreperfect@comcast.net
Ruth Nuth by Patricia McDonough– trishmcdonough@comcast.net
William & Marcyanna Siegman – msrockaway2@aol.com
Scott Huffines – shuffin1@gmail.com; scott@atomicteevee.com
Kristin Miller – knmiller08@gmail.com
JoAnn Weiland – joannweiland@comcast.net
Miriam Puhl – mpuhl@qes.net
Mike McDonough – mikemcdonough@gmail.com
Lauren McDonough – laurinmcdonough@gmail.com
Cecilia Yazigi – ceciliayazigi@hotmail.com
People's Counsel – peoplescounsel@baltimorecountymd.gov
PAI Code Enforcement – paienforce@baltimorecountymd.gov

RECEIVED
SEP 22 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 9/22/2022

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS - AMENDED**
Case Number: 2022-0151 SPH

INFORMATION:
Property Address: 717 Rockaway Beach Ave
Petitioner: Rockaway Beach Improvement Association & Neighbors
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition to determine if a Special Hearing is necessary to conclude:

1. Whether the construction of a deck at waterfront side of the subject property constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
2. Whether the construction of a deck at the waterfront side of the subject property would "obstruct adjacent property owners' water views" and conflict with restriction #5 in the zoning order issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
3. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with the Baltimore County Zoning Regulations; and
4. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with all applicable policies, laws, and regulations.

The subject site is currently zoned as DR 3.5. The site is considered to be a Chesapeake Bay Critical Area Designation. The subject site is surrounded by other single-family dwellings with the rear of the dwelling facing toward the water and the front of the dwelling is facing toward Rockaway Beach Avenue.

The subject property is located within the boundaries of the following community plans: Eastern Baltimore County Revitalization Strategy, Eastern Baltimore County Pedestrian and Bicycle Access Plan, and Greater Dundalk-Edgemere Community Conservation Plan. This proposed structure and the request for this petition, does not impact the recommendations provided in these plans.

The Department of Planning concludes the following as it relates to the petitioner's concerns:

1. The subject property was a part of Zoning Case #2006-0501-SPH. As a part of the order, there was a condition to approval granted to the petitioners. This condition stated "Petitioners [William Rush and Maryann Rush] shall surrender any further construction rights to build closer to the

water." Department of Planning concludes that the construction of deck will be in violation of the order in this case.

2. The subject property was a part of Zoning Case #2006-0501-SPH which ordered the following restriction: "There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water views(s)." Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties, it will be considered an enhancement.

3. The specifics of the compliance to various Baltimore County Zoning regulations will be a part of the permits process that has already been initiated by the property owner. All necessary zoning regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

4. The specifics of the compliance to policies, laws, and regulations will be a part of the permits process that has already been initiated by the property owner. All necessary policies, and laws, and regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

The Department has no further objections or comments on the request. For further information concerning the matters stated herein, please contact April Smith at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

SL/JGN/KP/

c: April Smith
Rockaway Beach Improvement Association, c/o Kevin McDonough
Office of Administrative Hearings
People's Counsel for Baltimore County

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-09666

Permit Type: Residential New

Sub Type: Deck

Date Issued: 09/21/2022

Expiration Date: 09/20/2023

Property Information

Property Address: 717 ROCKAWAY BEACH AVE

City, State, Zip: ESSEX, MD, 21221

Tax ID: 1523504960

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: YES

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 80.00

Set Backs - Rear Yard: 40.00

Set Backs - Right Side Yard: 10.00

Set Backs - Left Side Yard: 10.00

Owner Information

Owner: WILLIAM E TUNNEY

Owner Address: 315 BLUE GRASS LN, HAMPSTEAD, MD, 21074

Tenant:

Applicant: WILLIAM E TUNNEY

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-09666

Permit Type: Residential New

Sub Type: Deck

Date Issued: 09/21/2022

Expiration Date: 09/20/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: Construct open wood framed deck attached to water side of sfd 27.5'x20'=550sf. This permit cancels and replaces R22-05031, change in construction and setbacks and expires 5/17/23. Refer to for R22-09415 proposed outdoor shower / deck. /USING BALTO,CO DECK GUIDELINES--DECK ONLY,TK

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

Type/SubType: R-NEW - DECK Number: R22-09666 Status: ISSUED

Main

Case Description: Residential New

Status Code: ISSUE

Sub Type Desc: Deck

Location: 717 ROCKAWAY BEACH AVE

Tag: deck

Initiated By: BUD@BTPLUMBINGSUPPLY.COM 9/15/2022

Expiration: 9/20/2023

X, Y: 1481992.89803, 591942.32989

Map Layer	Map Layer Field	Value
LURA PERMIT REVIEW PARCELS	TAXPIN	1523504960
LURA PERMIT REVIEW PARCELS	GIS_LU_CODE	SFD
LURA PERMIT REVIEW PARCELS	DISTRICT	15
LURA PERMIT REVIEW PARCELS	FLOOD_100YR_ZONE	YES
LURA PERMIT REVIEW PARCELS	BSM_FAILING_TRAFFIC_SHEDS	NO
LURA PERMIT REVIEW PARCELS	BQBNR_AREA	YES
LURA PERMIT REVIEW PARCELS	CBCA	YES
LURA PERMIT REVIEW PARCELS	COMM_REVITALIZATION	NO
LURA PERMIT REVIEW PARCELS	INFILL_LOT	PLAT BOOK:004;PLAT PAGE:171
LURA PERMIT REVIEW PARCELS	LANDMARK_LIST	NO
LURA PERMIT REVIEW PARCELS	MARTINST_AIRPORT_RESTR	NO
LURA PERMIT REVIEW PARCELS	MIDDLER_BIRD_AREA_PLAN	NO
LURA PERMIT REVIEW PARCELS	PATTERN_BOOK	NO
LURA PERMIT REVIEW PARCELS	POSSIBLE_FLOOD_HZRD	YES
LURA PERMIT REVIEW PARCELS	S_PERRYHALL_AREA	NO
LURA PERMIT REVIEW PARCELS	DOWNTOWN_TOWSON	NO
LURA PERMIT REVIEW PARCELS	MICROWAVE_TOWER_PATH	NO
LURA PERMIT REVIEW PARCELS	URDL	URBAN
LURA PERMIT REVIEW PARCELS	ZONING_HISTORY_CASES	2006-0501-SPH;2005-0579-A

Permit Card

Add Comment Sort ▲

no comments

ObjectId	Case Number	Case Type	Case Status	Link Type
363150	R22-05031	R-NEW	ISSUED	Parent
383794	R22-09415	R-NEW	PENDING	Parent

View Documents | Import Documents | Open OnBase Plan Review

Address

Object	Asset Type	Asset ID	Address
7524	ADDRESS POINTS	65467A	717 ROCKAWAY BEACH AVE

Size: 10 Go | 1 | Found: 1 | Displaying: 1 to 1

People

Role Code	Name	City
APPLICANT	WILLIAM E TUNNEY	HAMPSTEAD
CONTACT	WILLIAM E TUNNEY	HAMPSTEAD
OWNER	WILLIAM E TUNNEY	HAMPSTEAD

Size: 10 Go | 1 | Found: 3 | Displaying: 1 to 3

Contractor

No Entries Found

Data Group

Grand Sum: 0

R-DECK : **Residential Deck Info** **Group Sum** **Sum Flag**

Describe Proposed Work and Use of Space.

Comment: Construct open wood framed deck attached to water side of sfd 27.5'x20'=550sf. This permit cancels and replaces R22-05031, change in construction and setbacks and expires 5/17/23. Refer to for R22-09415 proposed outdoor shower / deck. /USING BALTO,CO DECK GUIDELINES--DECK ONLY,TK

What is the existing use? sfd

What is the proposed use? sfd and deck

Estimated Materials and Labor Cost 500.00

Is this permit application related to an existing permit? Y

If the permit application is related, please provide the permit number(s).

Comment: R2205031

What is the Size of the Deck (SQ FT)? 600.00

Where will the Proposed Deck be located on the existing structure? Back

Width: What is the width of the deck (FT)? 30.00

Depth: What is the depth of the deck (FT)? 20.00

Height: What is the height of the deck (FT)? 1.00

Front Set Back - Provide the distance from the edge of the deck to the property line (FT) 80.00

Left Side Set Back - Provide the distance from the edge of the deck to the property line (FT) 10.00

Right Side Set Back - Provide the distance from the edge of the deck to the property line (FT) 10.00

Rear Set Back - Provide the distance from the edge of the deck to the property line (FT) 40.00

What type of Structure is the Deck Attached to? House

Is this Deck Freestanding? N

Is this a Second Floor Deck? N

Is this a New Deck, Repair or Replacement? New

If Repair, will you be Repairing the Steps? Yes

If Repair, will you be Repairing the Floor Boards? No

If Repair, will you be Repairing the Railings? No

Will the Deck be Covered? N

Type of Construction Wood Frame

Type of Sewage Disposal for the property Public

Is the Sewage Disposal Existing or Proposed? Existing

If the property is currently on Private Sewage (Septic), will it be converted to Public? N

Type of Water Supply for the property Public

Is the Water Supply Existing or Proposed? Existing

If property is currently on Private Water (Well), will it be converted to Public? N

Is the Property Under Private or Public Ownership? Private

What is the Ownership Use of the Property? Owner-occupied

Residential Category Detached

Corner Lot N

Is this property a Baltimore County Landmark or within a Baltimore County Historic District? N

Is this property Located within 25ft of a Floodplain? N

Are the Baltimore County Deck Design Plans being used for this permit? Y

Workflow

All | Yes | No | All | Yes | No | All | Waive

Description	Result	Target End	Completed	M
Intake Application	RESUBMIT ✔	9/29/22 2P	9/15/22 4P	1
Intake Application	ACCEPT ✔	9/29/22 4P	9/16/22 11A	1
Fees Paid?	COMPLETE ✔	9/15/22 4P	9/16/22 11A	2
PAI - Zoning Review	APPROVED ✔	10/4/22 12A	9/16/22 12P	3
PAI - Building Plan Review	APPROVED ✔	10/4/22 12A	9/21/22 9A	3
PAI - Development Plan Revi...	APPROVED ✔	10/4/22 12A	9/21/22 10A	3
EPS - GWM Review	WAIVE ✔	10/4/22 12A	9/16/22 2P	3
PLN - General Planning Revi...	WAIVE ✔	10/4/22 12A	9/16/22 11A	3
PLN - Historic Review	WAIVE ✔	10/4/22 12A	9/16/22 11A	3
DPW - Flood Plain Review	WAIVE ✔	10/4/22 12A	9/16/22 11A	3
EPS - Development Coordinat...	APPROVED ✔	10/4/22 12A	9/16/22 2P	3
EPS - Environmental Impact ...	APPROVED ✔	10/4/22 12A	9/20/22 4P	3
All Technical Reviews Resul...	APPROVED ✔	10/5/22 10A	9/21/22 12P	4
Issue Permit	ISSUED ✔	10/5/22 12P	9/21/22 12P	5
Deck Footing Inspection				6
Partial Framing Inspection				6
Final Framing Inspection				6
Completed Deck Inspection				6
General - Information Inspe...				6

Size: 100 Go | 1 | Found: 19 | Displaying: 1 to 19

InspReq

No Entries Found

Condition

No Entries Found

Flags

No Entries Found

Attachments

Add attachment... | Remove all attachments

GIS_717 ROCKAWAY BEACH AVE.pdf 89.88 KB

Attached by **abailey@baltimorecountymd.gov** 09/15/2022 4:09 PM

EIR letter signed.pdf 90.83 KB

Attached by **mbrady1@baltimorecountymd.gov** 09/20/2022 4:02 PM

R22-09666_Approved Plan Set.pdf Attached by **cwapi**	3.28 MB 09/21/2022 12:27 PM	
Issued_Permit.pdf Attached by **PLLADMIN**	77.11 KB 09/21/2022 12:28 PM	

Fees

Code	Fee Description	✔	Amount	Paid
REVISION	Revision Fee		21.00	21.00
	Re-Calculate Fees		**21.00**	**21.00**

Size: 25 Go — 1 — Found: 1 — Displaying: 1 to 1

Payment

Tender	Reference	Fee Code	Deposit Code	Date	Paid
EPAYMENT	AP0A7D8AC9FC	REVISION		9/16/2022	21.00
					21.00

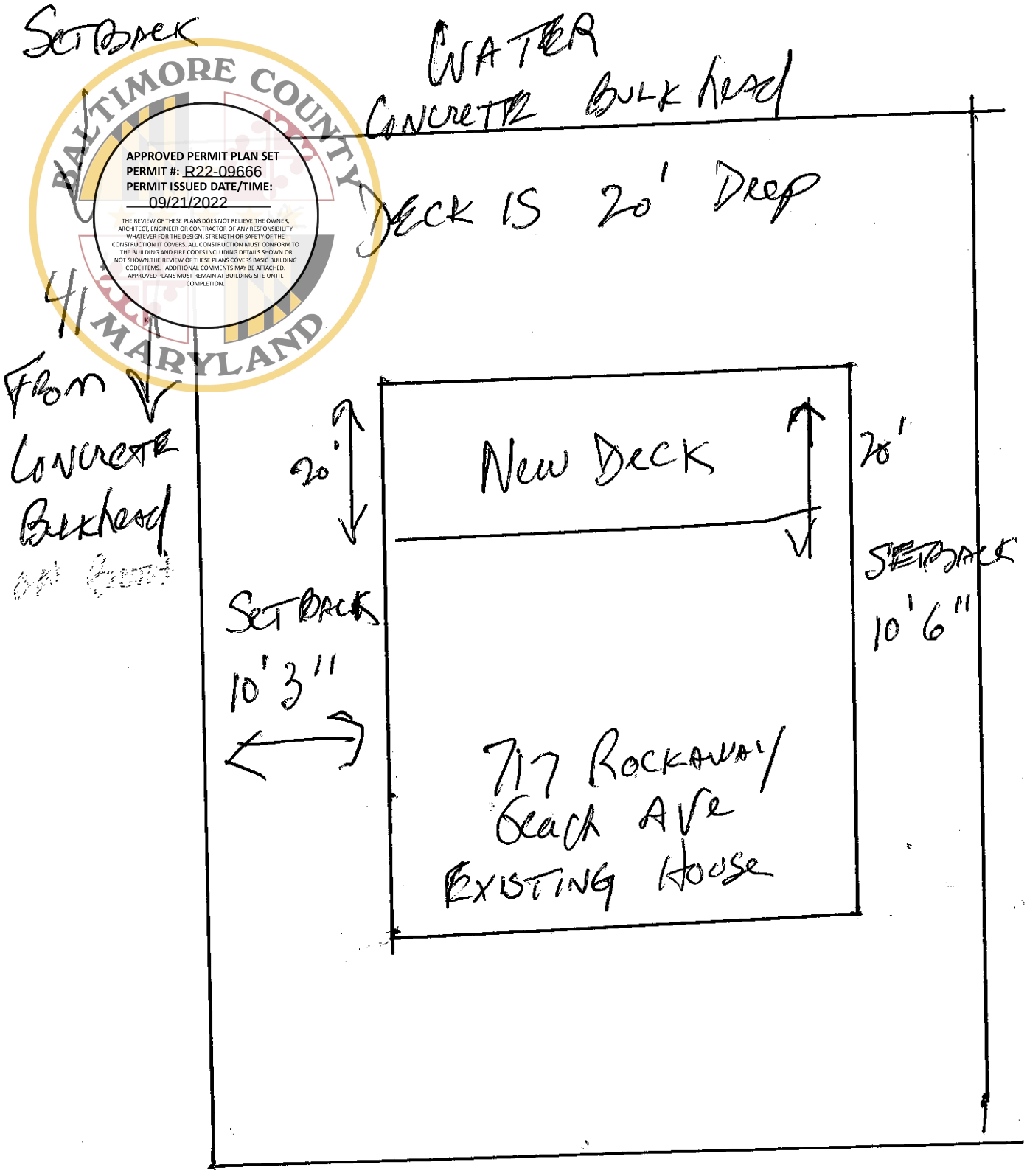
Size: 10 Go — 1 — Found: 1 — Displaying: 1 to 1

Notes

Code	Notes	Created	Modified
	This permit cancels and replaces R22-05031, whic...	9/15/2022	9/20/2022
	updated scope of work from: Deck	9/15/2022	
	Good afternoon, The site plan submitted does no...	9/15/2022	
	Please also include the waterfront deck on the n...	9/15/2022	
	Okay to disburse with a sealed site plan per MG ...	9/16/2022	
	EIR: This permit is for the same proposed condit...	9/19/2022	9/20/2022

Size: 10 Go — 1 — Found: 6 — Displaying: 1 to 6

BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: R22-09666
PERMIT ISSUED DATE/TIME:
09/21/2022
THE REVIEW OF THESE PLANS DOES NOT RELIEVE THE OWNER, ARCHITECT, ENGINEER OR CONTRACTOR OF ANY RESPONSIBILITY WHATEVER FOR THE DESIGN, STRENGTH OR SAFETY OF THE CONSTRUCTION IT COVERS. ALL CONSTRUCTION MUST CONFORM TO THE BUILDING AND FIRE CODES INCLUDING DETAILS SHOWN OR NOT SHOWN. THE REVIEW OF THESE PLANS COVERS BASIC BUILDING CODE ITEMS. ADDITIONAL COMMENTS MAY BE ATTACHED. APPROVED PLANS MUST REMAIN AT BUILDING SITE UNTIL COMPLETION.

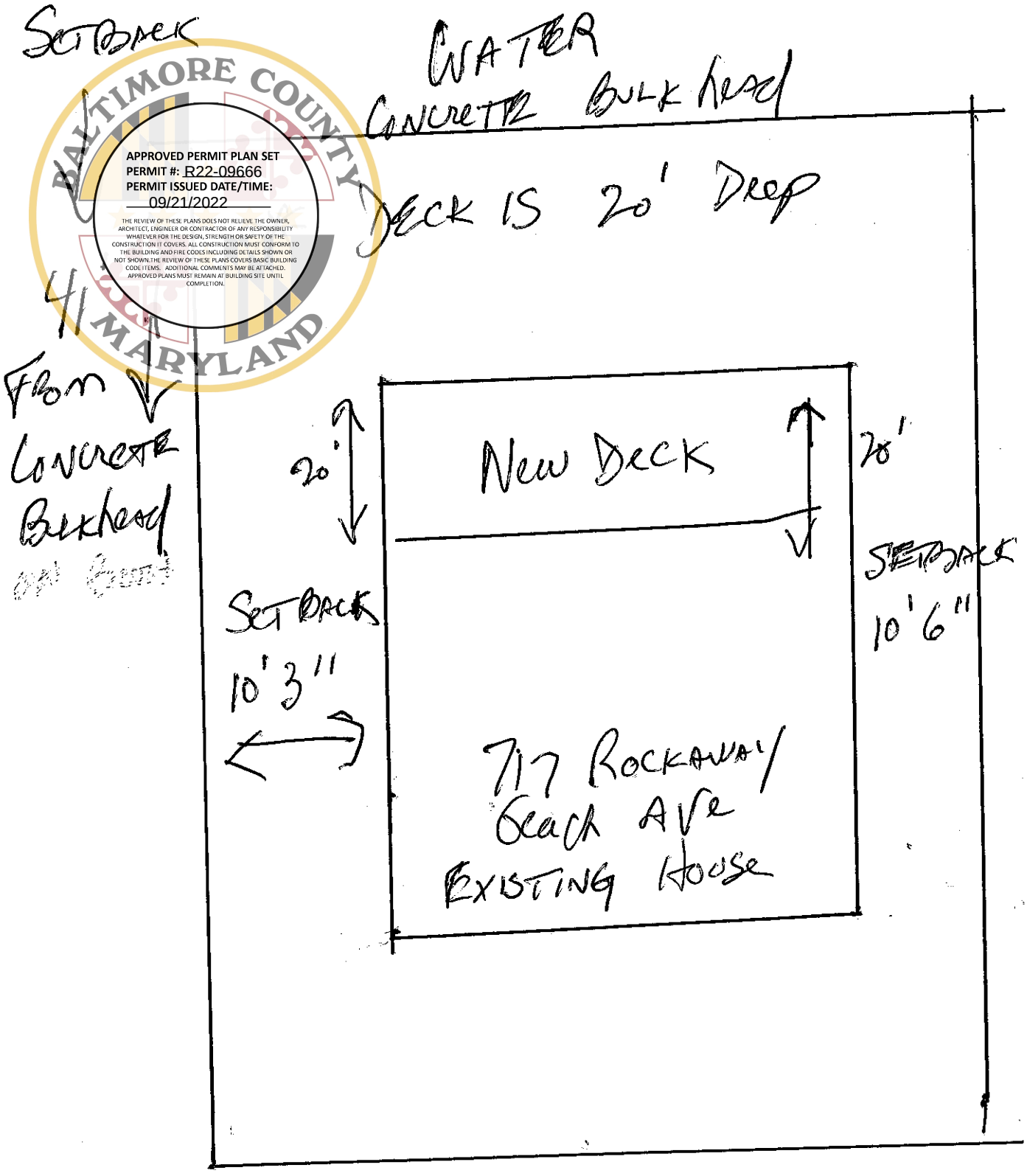


PERMIT # R 22 05031

9/15/2022

* SETBACKS ARE 10'3" FROM LEFT FACING WATER
* SETBACKS ARE 10'6" FROM RIGHT

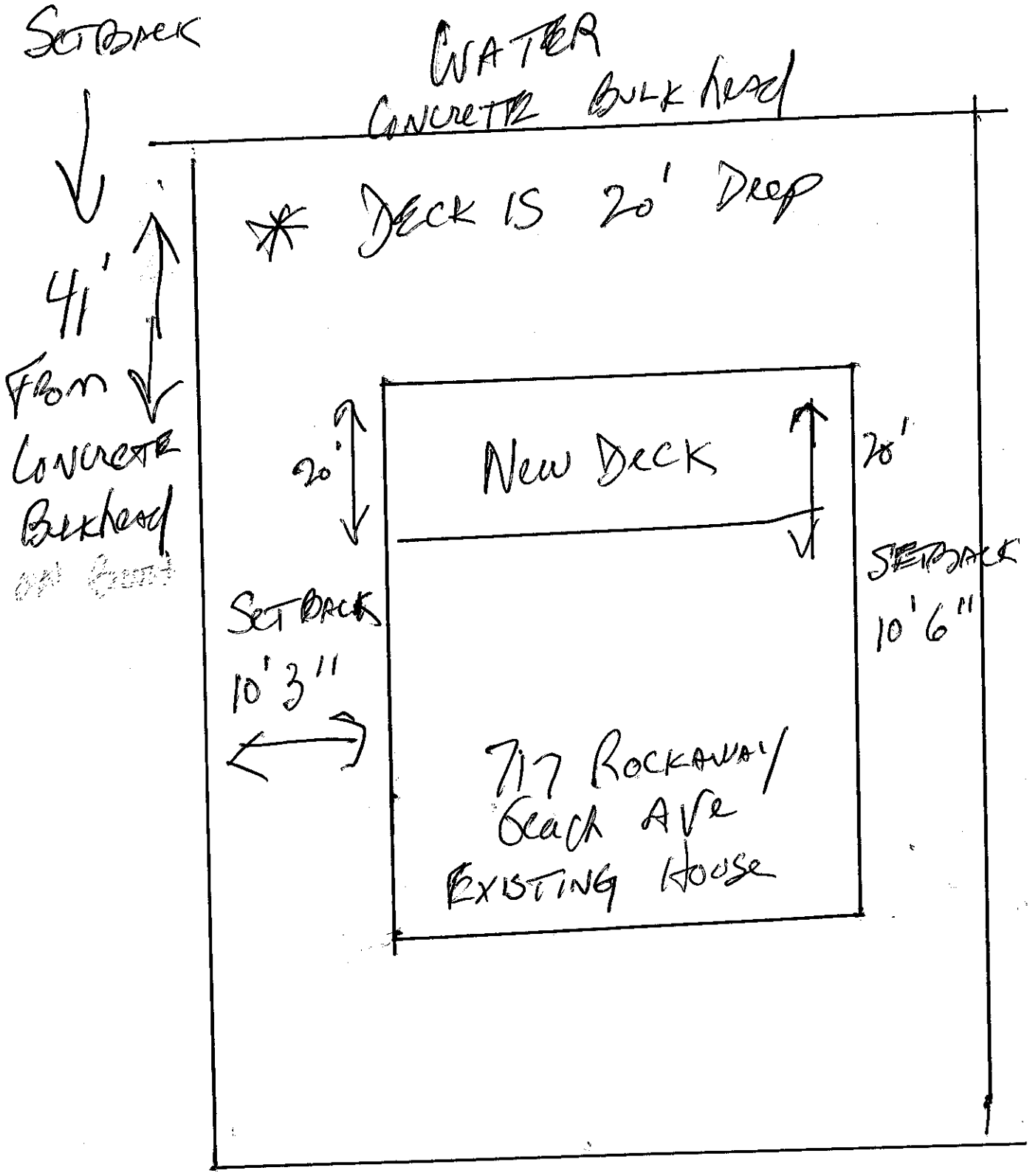
BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: R22-09666
PERMIT ISSUED DATE/TIME:
09/21/2022
THE REVIEW OF THESE PLANS DOES NOT RELIEVE THE OWNER, ARCHITECT, ENGINEER OR CONTRACTOR OF ANY RESPONSIBILITY WHATEVER FOR THE DESIGN, STRENGTH OR SAFETY OF THE CONSTRUCTION IT COVERS. ALL CONSTRUCTION MUST CONFORM TO THE BUILDING AND FIRE CODES INCLUDING DETAILS SHOWN OR NOT SHOWN. THE REVIEW OF THESE PLANS COVERS BASIC BUILDING CODE ITEMS. ADDITIONAL COMMENTS MAY BE ATTACHED. APPROVED PLANS MUST REMAIN AT BUILDING SITE UNTIL COMPLETION.



PERMIT # R 22 05031

9/15/2022

* SETBACKS ARE 10'3" FROM LEFT FACING WATER
* SETBACKS ARE 10'6" FROM RIGHT



PERMIT # Q 22 05031

9/15/2022

* SETBACKS ARE 10'3" FROM LEFT FACING WATER
* SETBACKS ARE 10'6" FROM RIGHT

JOHN A. OLSZEWSKI, JR.
County Executive

DAVID V. LYKENS, *Director*
Department of Environmental Protection and Sustainability

September 20, 2022

William Tunney
315 Blue Grass Lane
Hampstead, MD 21074

RE: Deck Permit - #R22-09666
717 Rockaway Beach Ave

Dear Mr. Tunney:

Environmental Impact Review (EIR) completed an evaluation of the above referenced property and deck permit application for 717 Rockaway Beach Ave. We understand that the previously-issued permit (R22-05031) was cancelled and this permit (R22-09666) replaces it. As the new permit does not change the proposed deck, the same permit requirements exist as previously stated in the April 12, 2022 letter. The deck is the subject of a special zoning hearing, 2022-0151-SPH.

The 9,027 square foot property is located within a Limited Development Area (LDA) and Modified Buffer Area (MBA) in the Chesapeake Bay Critical Area (CBCA) and must comply with all requirements of Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

Lot Coverage

Existing Lot Coverage: = 3,100 square feet or 34.3%.
Current LDA regulations restrict the lot coverage on this property to 25% (2,256 square feet) or a maximum of 31.25% (2,821 square feet), with mitigation for the amount over 25%. The lot coverage present exceeds the maximum allowed.

As the proposed open wood deck (with dirt/grass below) does not count as lot coverage, there is no lot coverage mitigation required. However, please be aware that no future lot coverage will be permitted without equal amount of lot coverage removal. Contact EIR to discuss permit and CBCA requirements for any future construction on site. Lot coverage includes gravel.

Forest Cover

15% minimum forest requirement: A minimum of three trees must be on-site at all times. As no trees currently exist on site, three Maryland native, deciduous trees at least 5-feet tall will need to be planted on the property. Three shrubs may be substituted for each required tree, if desired.

Modified Buffer Area

Properties within the MBA have a 100-foot buffer from tidal waters. Structures are not allowed in the buffer unless the property owner performs on-site mitigation or pays a fee-in-lieu. The proposed deck is within the 100-foot MBA. Mitigation for the 552 square feet of impact was satisfied through payment of a fee-in-lieu of $1.50 per square-foot of disturbance and the agreement to plant three trees (or equivalent shrubs).

Payment of $678.15 was received by check on April 20, 2022.

*Note no manmade structures are allowed within 25 feet of tidal waters.
Summary of Mitigation Requirements: 1. Plant a minimum of three (3) Maryland native deciduous canopy trees on-site to meet forest cover requirements by spring 2023. 2. MBA mitigation: pay $678.15 fee-in-lieu **(Paid).**

Once you sign this letter, return it to our office indicating your acceptance of the mitigation requirements, and pay the appropriate fee-in-lieu amount, EIR will release the permit. Inspections will be conducted to determine compliance with all Critical Area requirements that pertain to this property. If you have any questions regarding this correspondence, please contact me at mbrady1@baltimorecountymd.gov or 410-887-3980.

Sincerely,

Marie Brady
Environmental Impact Review

I/We agree to meet the requirements outlined in this letter to bring the referenced property in to compliance with Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

Property Owner(s) Signature(s) Date 9/20/2022

William Tunney

Printed Name of Property Owner(s)

S:\EPS\EIR\Marie\Permit Review\CBCA\Rockaway Beach 717-EIR Letter-REV.docx

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays

Instructions: Begin review process with Zoning Review, Room 111.

Contact Agency

Potential Overlay Issues

Growth Tier 1: Served by public sewer and inside URDL

Contact Agency	Potential Overlay Issues	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
Planning Jefferson Building Room 101 Phone: 410-887-3211	Bowleys Quarters-Back River Neck Area	X												
EPS-Dev. Coord. County Office Building Room 319 Phone: 410-887-3733	Chesapeake Bay Critical Area	X		X	X	X	X	X	X	X				
	100 Year Flood Zone	X		X	X	X		X	X	X				
	Possible Flood Hazard - Water Body Present	X		X	X	X		X	X	X				
PAI-Sed. Control Insp. County Office Building Room G-21 Phone: 410-887-3226	Chesapeake Bay Critical Area	X						X		X				
	100 Year Flood Zone	X						X		X				
	Possible Flood Hazard - Water Body Present	X						X		X				
PAI-Public Services County Office Building Room 119 Phone: 410-887-3751	Bowleys Quarters-Back River Neck Area	X						X						OK To File
	100 Year Flood Zone	X	X	X	X	X		X	X			X		OK To File
	Possible Flood Hazard - Water Body Present	X	X	X	X	X		X	X			X		OK To File
	InFill Lot Review	X												OK To File
	Verify Water Service Size.	X												
	Possible Replacement Dwelling. Permit # B599298 Appl. Date: Not Entered	X												
Zoning Review County Office Building Room 111 Phone: 410-887-3391	Bowleys Quarters-Back River Neck Area	X												
	Zoning Cases: 2006-0501-SPH; 2005-0579-A	X		X	X	X	X							

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.
Form171R

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays

Instructions: Begin review process with Zoning Review, Room 111.

Potential Overlay Issues

Growth Tier 1: Served by public sewer and inside URDL

Contact Agency		New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
MD Aviation Administration Division of Airport Facilities Planning P.O. Box 8766 BWI Marshall Airport,MD 21240-0766 Phone: 410-859-7692 or 410-859-7070	Martin State Aiport Zoning Area	X		X	X		X	X	X	X				OK To File
Building Plans Review County Office Building Room 120 Phone: 410-887-3987	100 Year Flood Zone	X	X	X	X	X			X	X				
	Possible Flood Hazard - Water Body Present	X	X	X	X	X			X	X				
Dev. Management County Office Building Room 123 Phone: 410-887-3321	Impact Fee: EXEMPT Details: ComRevitalDist=Not Exempt; CountyOwned=Not Exempt; DNROwned=Not Exempt; EnterpriseZone=Not Exempt; FedOwned=Not Exempt; MarylandTOD=Not Exempt; MDOpportunityZone=Not Exempt; StateOwned=Not Exempt; VestedPlat=Exempt Note: DNROwned,FedOwned and MDOpportunityZone may require further review due to spatial discrepancies between datasets.	X												

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.

Type/SubType: R-NEW - DECK Number: R22-09415 Status: PENDING

Main

Case Description: Residential New

Status Code: OPEN

Sub Type Desc: Deck

Location: 717 ROCKAWAY BEACH AVE, ESSEX, MD, 21221

Tag: 717 ROCKAWAY BEACH AVE ESSEX MD 21221 OUTDOOR SHOWER

Initiated By: BUD@BTPLUMBINGSUPPLY.COM 9/6/2022

Expiration: 9/6/2023

X, Y: 1481992.37719, 591945.17315

Map Layer	Map Layer Field	Value
LURA PERMIT REVIEW PARCELS	TAXPIN	1523504960
LURA PERMIT REVIEW PARCELS	GIS_LU_CODE	SFD
LURA PERMIT REVIEW PARCELS	DISTRICT	15
LURA PERMIT REVIEW PARCELS	FLOOD_100YR_ZONE	YES
LURA PERMIT REVIEW PARCELS	BSM_FAILING_TRAFFIC_SHEDS	NO
LURA PERMIT REVIEW PARCELS	BQBNR_AREA	YES
LURA PERMIT REVIEW PARCELS	CBCA	YES
LURA PERMIT REVIEW PARCELS	COMM_REVITALIZATION	NO
LURA PERMIT REVIEW PARCELS	INFILL_LOT	PLAT BOOK:004;PLAT PAGE:171
LURA PERMIT REVIEW PARCELS	LANDMARK_LIST	NO
LURA PERMIT REVIEW PARCELS	MARTINST_AIRPORT_RESTR	NO
LURA PERMIT REVIEW PARCELS	MIDDLER_BIRD_AREA_PLAN	NO
LURA PERMIT REVIEW PARCELS	PATTERN_BOOK	NO
LURA PERMIT REVIEW PARCELS	POSSIBLE_FLOOD_HZRD	YES
LURA PERMIT REVIEW PARCELS	S_PERRYHALL_AREA	NO
LURA PERMIT REVIEW PARCELS	DOWNTOWN_TOWSON	NO
LURA PERMIT REVIEW PARCELS	MICROWAVE_TOWER_PATH	NO
LURA PERMIT REVIEW PARCELS	URDL	URBAN
LURA PERMIT REVIEW PARCELS	ZONING_HISTORY_CASES	2006-0501-SPH;2005-0579-A

Permit Card

Add Comment Sort ▲

nmorgan@baltimorecountymd.gov **09/15/2022 3:40 PM**

remove intake accept and return this application to pending status. new permit type likely needed for Outdoor Shower/ R-Add/Alt. nm

ObjectId	Case Number	Case Type	Case Status	Link Type
363150	R22-05031	R-NEW	ISSUED	Parent
384996	R22-09666	R-NEW	ISSUED	Child

View Documents | Import Documents | Open OnBase Plan Review

Address

Object	Asset Type	Asset ID	Address
7524	ADDRESS POINTS	65467A	717 ROCKAWAY BEACH AVE

Size: 10 Go 1 Found: 1 Displaying: 1 to 1

People

Role Code	Name	City
APPLICANT	WILLIAM E TUNNEY	HAMPSTEAD
OWNER	WILLIAM E TUNNEY	HAMPSTEAD

Size: 10 Go 1 Found: 2 Displaying: 1 to 2

Contractor

No Entries Found

Data Group

Grand Sum: 0

R-DECK : **Residential Deck Info** **Group Sum** **Sum Flag**

Describe Proposed Work and Use of Space.

Comment: CONSTRUCT OPEN WOOD FRAME DECK ON SIDE OF SFD. 5'X10'= 50 SF TO BE USED AS OUTDOOR SHOWER. REFER TO R22-09666 FOR ADDITIONAL WORK.

Is this permit application related to an existing permit? Y

If the permit application is related, please provide the permit number(s).

Comment: R22-05031

What is the Size of the Deck (SQ FT)? 50.00

Where will the Proposed Deck be located on the existing structure? Side

Width: What is the width of the deck (FT)? 5.00

Depth: What is the depth of the deck (FT)? 10.00

Height: What is the height of the deck (FT)? 1.00

Front Set Back - Provide the distance from the edge of the deck to the property line (FT) 50.00

Left Side Set Back - Provide the distance from the edge of the deck to the property line (FT) 9.00

Right Side Set Back - Provide the distance from the edge of the deck to the property line (FT) 50.00

Rear Set Back - Provide the distance from the edge of the deck to the property line (FT) 46.00

What type of Structure is the Deck Attached to? House

Is this Deck Freestanding? N

Is this a Second Floor Deck? N

Is this a New Deck, Repair or Replacement? New

If Repair, will you be Repairing the Steps? NA

If Repair, will you be Repairing the Floor Boards? NA

If Repair, will you be Repairing the Railings? NA

Will the Deck be Covered? N

Type of Construction Wood Frame

Type of Sewage Disposal for the property Public

Is the Sewage Disposal Existing or Proposed? Existing

If the property is currently on Private Sewage (Septic), will it be converted to Public? N

Type of Water Supply for the property Public

Is the Water Supply Existing or Proposed? Existing

If property is currently on Private Water (Well), will it be converted to Public? N

Estimated Materials and Labor Cost 500.00

Is the Property Under Private or Public Ownership? Private

What is the Ownership Use of the Property? Owner-occupied

Residential Category Detached

Corner Lot N

Is this property a Baltimore County Landmark or within a Baltimore County Historic District? N

Is this property Located within 25ft of a Floodplain? N

Are the Baltimore County Deck Design Plans being used for this permit? Y

Workflow

All | Yes | No | All | Yes | No | All | Waive

Description	Result	Target End	Completed	M
		9/20/22 2P	9/15/22 4P	1

Intake Application	RESUBMIT ✔			
Intake Application		9/29/22 4P		1
Fees Paid?				2
PAI - Zoning Review				3
PAI - Building Plan Review				3
PAI - Development Plan Revi...				3
EPS - GWM Review				3
PLN - General Planning Revi...				3
PLN - Historic Review				3
DPW - Flood Plain Review				3
EPS - Development Coordinat...				3
EPS - Environmental Impact ...				3
All Technical Reviews Resul...				4
Issue Permit				5
Deck Footing Inspection				6
Partial Framing Inspection				6
Final Framing Inspection				6
Completed Deck Inspection				6
General - Information Inspe...				6

Size: 100 Go 1 Found: 19 Displaying: 1 to 19

InspReq

No Entries Found

Condition

No Entries Found

Flags

No Entries Found

Attachments

Add attachment... Remove all attachments

GIS_717 ROCKAWAY BEACH AVE.pdf 89.89 KB

Attached by **Michael.neubeck@kci.com** 09/9/2022 3:36 PM

Fees

Code	Fee Description		Amount	Paid
R-DECK	Residential Deck Fee		85.00	0.00
		Re-Calculate Fees	**85.00**	**0.00**

Size: 25 Go 1 Found: 1 Displaying: 1 to 1

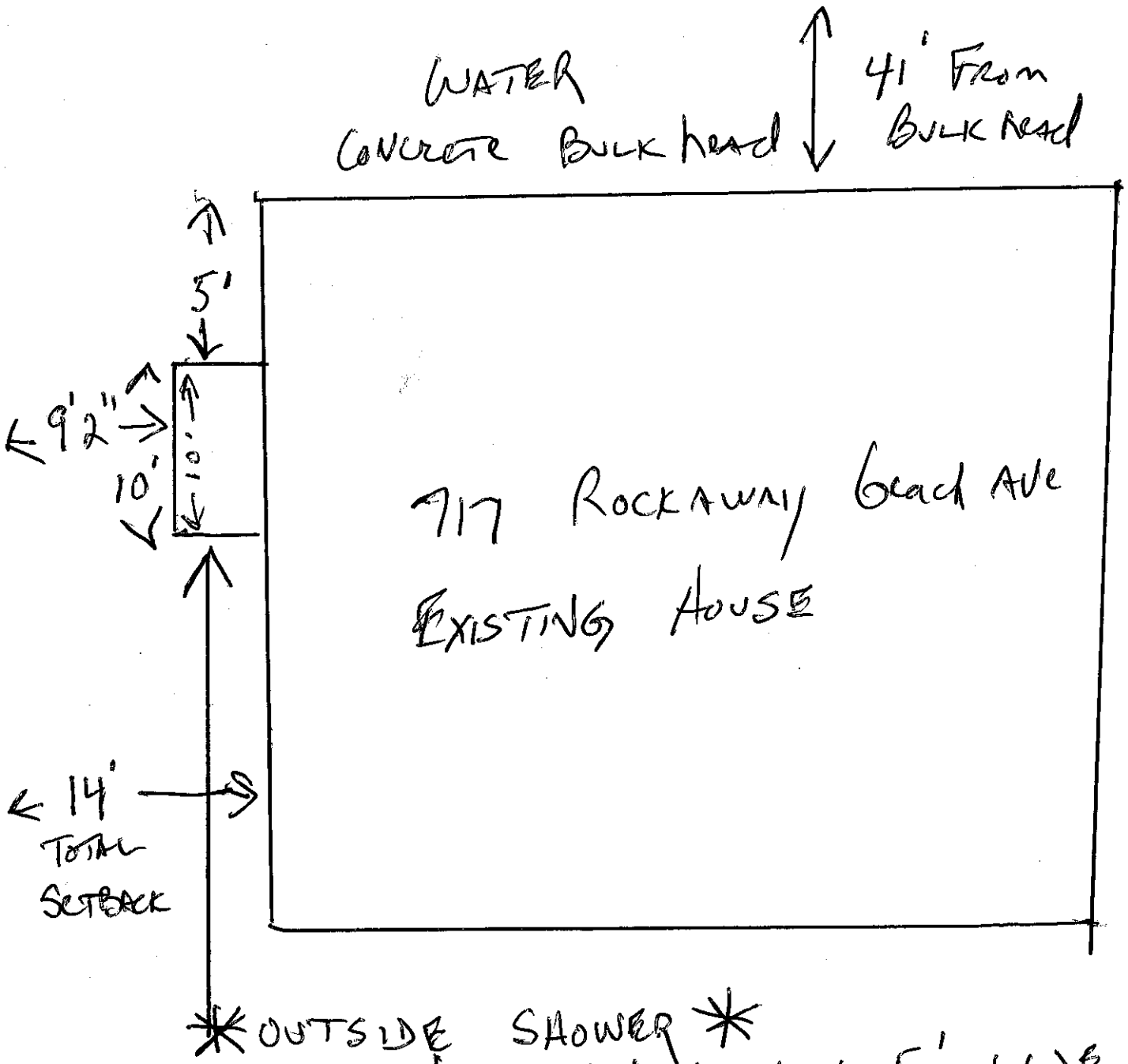
Payment

No Entries Found

Notes

Code	Notes	Created	Modified
	ORIGINAL SCOPE OF WORK: 10'X5' OUTDOOR SHOWER	9/9/2022	
	UPDATED "Is this Deck Freestanding?" FROM YES TO...	9/9/2022	
	Remove intake accept and return this application...	9/15/2022	
	Two open related applications are assigned to AB...	9/15/2022	
	Good afternoon, The site plan submitted does no...	9/15/2022	
	Please also include the waterfront deck on the ...	9/15/2022	9/15/2022

Size: 10 Go 1 Found: 6 Displaying: 1 to 6



* OUTSIDE SHOWER *
* WILL BE 10' LONG X 5' WIDE
WITH NO ROOF

* NEW APPLICATION REFER TO EXISTING PERMIT # R 22 05031

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Instructions: Begin review process with Zoning Review, Room 111.

Contact Agency	Potential Overlay Issues **Growth Tier 1:** Served by public sewer and inside URDL	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
Planning Jefferson Building Room 101 Phone: 410-887-3211	Bowleys Quarters-Back River Neck Area	X												
EPS-Dev. Coord. County Office Building Room 319 Phone: 410-887-3733	Chesapeake Bay Critical Area	X		X	X	X	X	X	X	X				
	100 Year Flood Zone	X		X	X	X		X	X	X				
	Possible Flood Hazard - Water Body Present	X		X	X	X		X	X	X				
PAI-Sed. Control Insp. County Office Building Room G-21 Phone: 410-887-3226	Chesapeake Bay Critical Area	X						X		X				
	100 Year Flood Zone	X						X		X				
	Possible Flood Hazard - Water Body Present	X						X		X				
PAI-Public Services County Office Building Room 119 Phone: 410-887-3751	Bowleys Quarters-Back River Neck Area	X						X						OK To File
	100 Year Flood Zone	X	X	X	X	X		X	X			X		OK To File
	Possible Flood Hazard - Water Body Present	X	X	X	X	X		X	X			X		OK To File
	InFill Lot Review	X												OK To File
	Verify Water Service Size.	X												
	Possible Replacement Dwelling. Permit # B599298 Appl. Date: Not Entered	X												
Zoning Review County Office Building Room 111 Phone: 410-887-3391	Bowleys Quarters-Back River Neck Area	X												
	Zoning Cases: 2006-0501-SPH; 2005-0579-A	X		X	X	X	X							

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.
Form171R

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays

Instructions: Begin review process with Zoning Review, Room 111.

Potential Overlay Issues

Growth Tier 1: Served by public sewer and inside URDL

Contact Agency		New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
MD Aviation Administration Division of Airport Facilities Planning P.O. Box 8766 BWI Marshall Airport,MD 21240-0766 Phone: 410-859-7692 or 410-859-7070	Martin State Aiport Zoning Area	X		X	X		X	X	X	X				OK To File
Building Plans Review County Office Building Room 120 Phone: 410-887-3987	100 Year Flood Zone	X	X	X	X	X			X	X				
	Possible Flood Hazard - Water Body Present	X	X	X	X	X			X	X				
Dev. Management County Office Building Room 123 Phone: 410-887-3321	Impact Fee: EXEMPT Details: ComRevitalDist=Not Exempt; CountyOwned=Not Exempt; DNROwned=Not Exempt; EnterpriseZone=Not Exempt; FedOwned=Not Exempt; MarylandTOD=Not Exempt; MDOpportunityZone=Not Exempt; StateOwned=Not Exempt; VestedPlat=Exempt Note: DNROwned,FedOwned and MDOpportunityZone may require further review due to spatial discrepancies between datasets.	X												

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.
Form171R

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Property Information

Property Address: 717 ROCKAWAY BEACH AVE

City, State, Zip: ESSEX, MD, 21221

Tax ID: 1523504960

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: YES

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 30.00

Set Backs - Rear Yard: 20.00

Set Backs - Right Side Yard: 10.60

Set Backs - Left Side Yard: 12.50

Owner Information

Owner: WILLIAM E TUNNEY

Owner Address: 315 BLUE GRASS LN, HAMPSTEAD, MD, 21074

Tenant:

Applicant: WILLIAM E TUNNEY

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD / USING BALTO ,CO. DECK GUIDELINES,TK. Dwelling is not in 100 yr floodplain per AB

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

Type/SubType: R-NEW - DECK Number: R22-05031 Status: ISSUED

Main

Case Description: Residential New

Status Code: ISSUE

Sub Type Desc: Deck

Location: 717 ROCKAWAY BEACH AVE

Tag: 717 rockaway beach ave Essex md 21221

Initiated By: BUD@BTPLUMBINGSUPPLY.COM 3/30/2022

Expiration: 5/17/2023

X, Y: 1481992.89803, 591942.32989

Map Layer	Map Layer Field	Value
LURA PERMIT REVIEW PARCELS	TAXPIN	1523504960
LURA PERMIT REVIEW PARCELS	GIS_LU_CODE	SFD
LURA PERMIT REVIEW PARCELS	DISTRICT	15
LURA PERMIT REVIEW PARCELS	FLOOD_100YR_ZONE	YES
LURA PERMIT REVIEW PARCELS	BSM_FAILING_TRAFFIC_SHEDS	NO
LURA PERMIT REVIEW PARCELS	BQBNR_AREA	YES
LURA PERMIT REVIEW PARCELS	CBCA	YES
LURA PERMIT REVIEW PARCELS	COMM_REVITALIZATION	NO
LURA PERMIT REVIEW PARCELS	INFILL_LOT	PLAT BOOK:004;PLAT PAGE:171
LURA PERMIT REVIEW PARCELS	LANDMARK_LIST	NO
LURA PERMIT REVIEW PARCELS	MARTINST_AIRPORT_RESTR	NO
LURA PERMIT REVIEW PARCELS	MIDDLER_BIRD_AREA_PLAN	NO
LURA PERMIT REVIEW PARCELS	PATTERN_BOOK	NO
LURA PERMIT REVIEW PARCELS	POSSIBLE_FLOOD_HZRD	YES
LURA PERMIT REVIEW PARCELS	S_PERRYHALL_AREA	NO
LURA PERMIT REVIEW PARCELS	DOWNTOWN_TOWSON	NO
LURA PERMIT REVIEW PARCELS	MICROWAVE_TOWER_PATH	NO
LURA PERMIT REVIEW PARCELS	URDL	URBAN
LURA PERMIT REVIEW PARCELS	ZONING_HISTORY_CASES	2006-0501-SPH;2005-0579-A

Permit Card

Add Comment Sort ▲

no comments

ObjectId	Case Number	Case Type	Case Status	Link Type
383794	R22-09415	R-NEW	PENDING	Child
384996	R22-09666	R-NEW	ISSUED	Child

View Documents | Import Documents | Open OnBase Plan Review

Address

Object	Asset Type	Asset ID	Address
12474	ADDRESS POINTS	65467A	717 ROCKAWAY BEACH AVE
340731	PROPERTY	1523504960	Null

Size: 10 Go 1 Found: 2 Displaying: 1 to 2

People

Role Code	Name	City
APPLICANT	WILLIAM E TUNNEY	HAMPSTEAD
CONTRACTOR	WILLIAM E TUNNEY	
OWNER	WILLIAM E TUNNEY	HAMPSTEAD

Size: 10 Go 1 Found: 3 Displaying: 1 to 3

Contractor

No Entries Found

Data Group

Grand Sum: 0

R-DECK : **Residential Deck Info** **Group Sum** **Sum Flag**

Describe Proposed Work and Use of Space.

Comment: CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD /USING BALTO,CO. DECK GUIDELINES,TK. Dwelling is not in 100 yr floodplain per AB

Is this permit application related to an existing permit?N

If the permit application is related, please provide the permit number(s).

Comment:

What is the Size of the Deck (SQ FT)?552.00

Where will the Proposed Deck be located on the existing structure?Back

Width: What is the width of the deck (FT)?27.60

Depth: What is the depth of the deck (FT)?20.00

Height: What is the height of the deck (FT)?1.00

Front Set Back - Provide the distance from the edge of the deck to the property line (FT) 30.00

Left Side Set Back - Provide the distance from the edge of the deck to the property line (FT) 12.50

Right Side Set Back - Provide the distance from the edge of the deck to the property line (FT) 10.60

Rear Set Back - Provide the distance from the edge of the deck to the property line 20.00

(FT)

What type of Structure is the Deck Attached to? Other

Is this Deck Freestanding? Y

Is this a Second Floor Deck? N

Is this a New Deck, Repair or Replacement? New

If Repair, will you be Repairing the Steps? NA

If Repair, will you be Repairing the Floor Boards? NA

If Repair, will you be Repairing the Railings? NA

Will the Deck be Covered? N

Type of Construction Wood Frame

Type of Sewage Disposal for the property Public

Is the Sewage Disposal Existing or Proposed? Existing

If the property is currently on Private Sewage (Septic), will it be converted to Public? N

Type of Water Supply for the property Public

Is the Water Supply Existing or Proposed? Existing

If property is currently on Private Water (Well), will it be converted to Public? N

Estimated Materials and Labor Cost 8000.00

Is the Property Under Private or Public Ownership? Private

What is the Ownership Use of the Property? Owner-occupied

Residential Category Detached

Corner Lot N

Is this property a Baltimore County Landmark or within a Baltimore County Historic District? N

Is this property Located within 25ft of a Floodplain? Y

Are the Baltimore County Deck Design Plans being used for this permit? Y

Workflow

All | Yes | No | All | Yes | No | All | Waive

Description	Result	Target End	Completed	M
Intake Application	ACCEPT	4/13/22 1P	3/31/22 10A	1
Fees Paid?	COMPLETE	3/31/22 10A	4/1/22 4P	2
PAI - Zoning Review	RESUBMIT	4/18/22 12A	4/6/22 1P	3
PAI - Building Plan Review	APPROVED	4/18/22 12A	4/11/22 9A	3
PAI - Development Plan Revi...	WAIVE	4/18/22 12A	4/4/22 11A	3
EPS - GWM Review	WAIVE	4/18/22 12A	4/4/22 11A	3
PLN - General Planning Revi...	WAIVE	4/18/22 12A	4/1/22 4P	3
PLN - Historic Review	WAIVE	4/18/22 12A	4/1/22 4P	3
DPW - Flood Plain Review	APPROVED	4/18/22 12A	4/5/22 11A	3
EPS - Development Coordinat...	APPROVED	4/18/22 12A	4/4/22 11A	3
EPS - Environmental Impact ...	RESUBMIT	4/18/22 12A	4/12/22 2P	3
All Technical Reviews Resul...	RESUBMIT	4/26/22 2P	4/17/22 5P	4
Intake Application Resubmit...	ACCEPT	4/29/22 5P	4/19/22 8P	5
PAI - Zoning Review	RESUBMIT	5/6/22 12A	4/21/22 9A	6
PAI - Building Plan Review	WAIVE	5/6/22 12A	4/19/22 8P	6
PAI - Development Plan Revi...	WAIVE	5/6/22 12A	4/19/22 8P	6
EPS - GWM Review	WAIVE	5/6/22 12A	4/20/22 10A	6
PLN - General Planning Revi...	WAIVE	5/6/22 12A	4/19/22 8P	6
PLN - Historic Review	WAIVE	5/6/22 12A	4/19/22 8P	6
DPW - Flood Plain Review	WAIVE	5/6/22 12A	4/19/22 8P	6
EPS - Development Coordinat...	APPROVED	5/6/22 12A	4/20/22 10A	6
EPS - Environmental Impact ...	APPROVED	5/6/22 12A	4/21/22 2P	6
All Technical Reviews Resul...	RESUBMIT	5/5/22 2P	4/26/22 8P	7
Intake Application Resubmit...	ACCEPT	5/10/22 8P	5/16/22 9P	8
PAI - Zoning Review	APPROVED	6/2/22 12A	5/17/22 9A	9
PAI - Building Plan Review	WAIVE	6/2/22 12A	5/16/22 9P	9
PAI - Development Plan Revi...	WAIVE	6/2/22 12A	5/16/22 9P	9
EPS - GWM Review	APPROVED	6/2/22 12A	5/17/22 9A	9
PLN - General Planning Revi...	WAIVE	6/2/22 12A	5/16/22 9P	9
PLN - Historic Review	WAIVE	6/2/22 12A	5/16/22 9P	9
DPW - Flood Plain Review	WAIVE	6/2/22 12A	5/16/22 9P	9
EPS - Development Coordinat...	APPROVED	6/2/22 12A	5/17/22 11A	9
EPS - Environmental Impact ...	APPROVED	6/2/22 12A	5/18/22 11A	9
All Technical Reviews Resul...	APPROVED	6/2/22 11A	5/18/22 11A	10
Issue Permit	ISSUED	6/2/22 11A	5/18/22 11A	11
Deck Footing Inspection	PASS	9/2/22 10A	9/2/22 11A	12
Partial Framing Inspection				12
Final Framing Inspection				12
Completed Deck Inspection				12
General - Information Inspe...				12
EPS - EIR CBCA - Final/Re-F...				12

Size: 100 Go 1 Found: 41 Displaying: 1 to 41

InspReq

Requester Name	Source	Requested	Status
WILLIAM E TUNNEY	PORTAL	08/31/22 02:14PM	Completed

Size: 10 Go | 1 | Found: 1 | Displaying: 1 to 1

Condition

Complete

Code	Description	Applied	Completed
DESCPAI	Description of Work Update - PAI	4/4/2022	4/22/2022

Size: 10 Go | 1 | Found: 1 | Displaying: 1 to 1

Flags

No Entries Found

Attachments

Add attachment... | Remove all attachments

GIS_717 ROCKAWAY BEACH AVE.pdf	89.88 KB	
Attached by **pthapa@baltimorecountymd.gov**	03/31/2022 10:29 AM	
Rockaway Beach 717-EIR Letter.pdf	117.49 KB	
Attached by **mbrady1@baltimorecountymd.gov**	04/12/2022 2:38 PM	
Issued_Permit.pdf	77.35 KB	
Attached by **PLLADMIN**	05/18/2022 11:57 AM	
R22-05031 Approved Plan Set.pdf	4.98 MB	
Attached by **kllewis@baltimorecountymd.gov**	05/18/2022 12:01 PM	
Approved Plan Set.pdf	4.98 MB	
Attached by **cwapi**	05/18/2022 1:51 PM	
CN R22-05031.pdf	61.22 KB	
Attached by **mgawel@baltimorecountymd.gov**	06/17/2022 10:35 AM	
R22-05031 Approved Plan Set.pdf	4.98 MB	
Attached by **JPerlow@baltimorecountymd.gov**	07/11/2022 2:24 PM	

Fees

Code	Fee Description	✔	Amount	Paid

R-DECK	Residential Deck Fee			85.00	85.00
		Re-Calculate Fees		**85.00**	**85.00**

Size: 25 Go | 1 | Found: 1 | Displaying: 1 to 1

Payment

Tender	Reference	Fee Code	Deposit Code	Date	Paid
EPAYMENT	AI0AA5E8DCE2	R-DECK		3/31/2022	85.00
					85.00

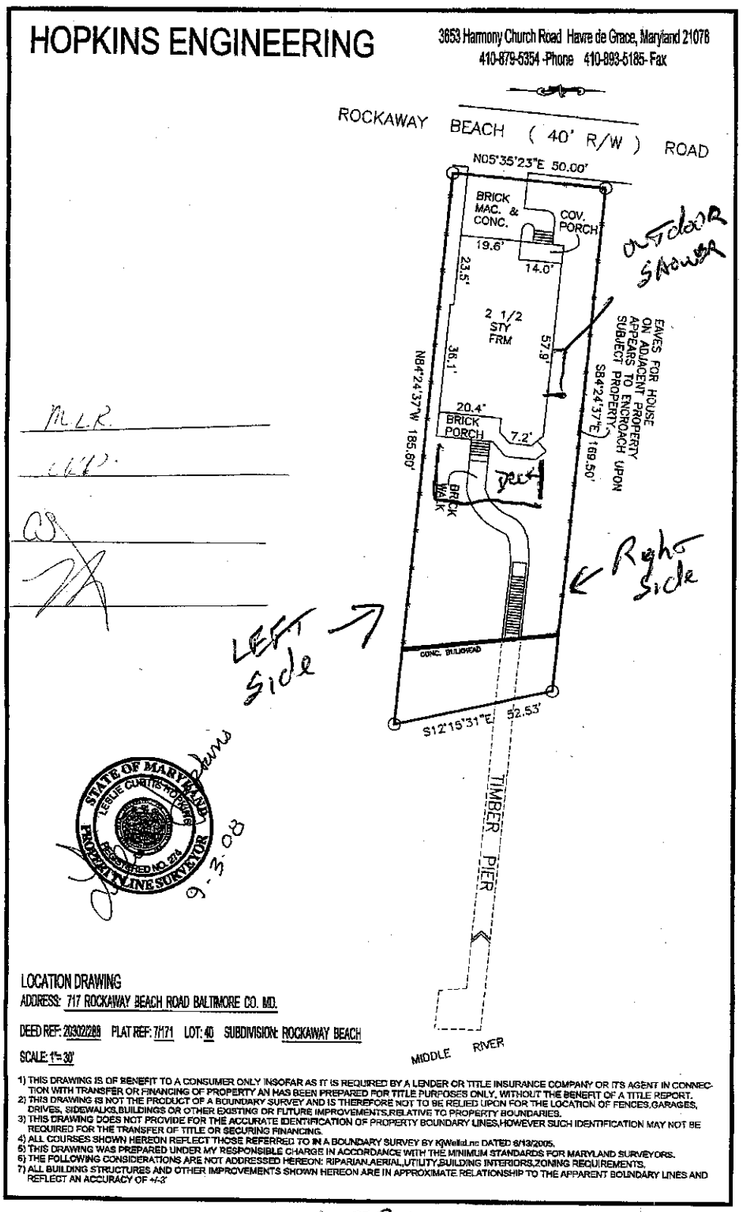
Size: 10 Go | 1 | Found: 1 | Displaying: 1 to 1

Notes

Code	Notes	Created	Modified
	Listed property owner as contractor. EDW	5/18/2022	
	Please send back to Zoning. Approved in error	9/13/2022	
	Permit is the source of special hearing (2022-01...	9/15/2022	

Size: 10 Go | 1 | Found: 3 | Displaying: 1 to 3

HOPKINS ENGINEERING
3653 Harmony Church Road Havre de Grace, Maryland 21078
410-879-5354 -Phone 410-893-5185- Fax



LOCATION DRAWING
ADDRESS: 717 ROCKAWAY BEACH ROAD BALTIMORE CO. MD.

DEED REF: 20302269 PLAT REF: 7/171 LOT: 40 SUBDIVISION: ROCKAWAY BEACH

SCALE: 1"= 30'

1) THIS DRAWING IS OF BENEFIT TO A CONSUMER ONLY INSOFAR AS IT IS REQUIRED BY A LENDER OR TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH TRANSFER OR FINANCING OF PROPERTY AN HAS BEEN PREPARED FOR TITLE PURPOSES ONLY, WITHOUT THE BENEFIT OF A TITLE REPORT.
2) THIS DRAWING IS NOT THE PRODUCT OF A BOUNDARY SURVEY AND IS THEREFORE NOT TO BE RELIED UPON FOR THE LOCATION OF FENCES,GARAGES, DRIVES, SIDEWALKS,BUILDINGS OR OTHER EXISTING OR FUTURE IMPROVEMENTS,RELATIVE TO PROPERTY BOUNDARIES.
3) THIS DRAWING DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES,HOWEVER SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING.
4) ALL COURSES SHOWN HEREON REFLECT THOSE REFERRED TO IN A BOUNDARY SURVEY BY KQWeld,inc DATED 6/13/2005.
5) THIS DRAWING WAS PREPARED UNDER MY RESPONSIBLE CHARGE IN ACCORDANCE WITH THE MINIMUM STANDARDS FOR MARYLAND SURVEYORS.
6) THE FOLLOWING CONSIDERATIONS ARE NOT ADDRESSED HEREON: RIPARIAN,AERIAL,UTILITY,BUILDING INTERIORS,ZONING REQUIREMENTS.
7) ALL BUILDING STRUCTURES AND OTHER IMPROVEMENTS SHOWN HEREON ARE IN APPROXIMATE RELATIONSHIP TO THE APPARENT BOUNDARY LINES AND REFLECT AN ACCURACY OF +/-3'

#5916

Deck AND outdoor SHOWER

Left Side of Property Line

4' Set BACK

Right side of Property Line

14' Set BACK

Deck Will be 20' Deep From THE BRICK PORCH.

THE FINISHED Deck will be 41' From THE CONCRETE BULKHEAD.

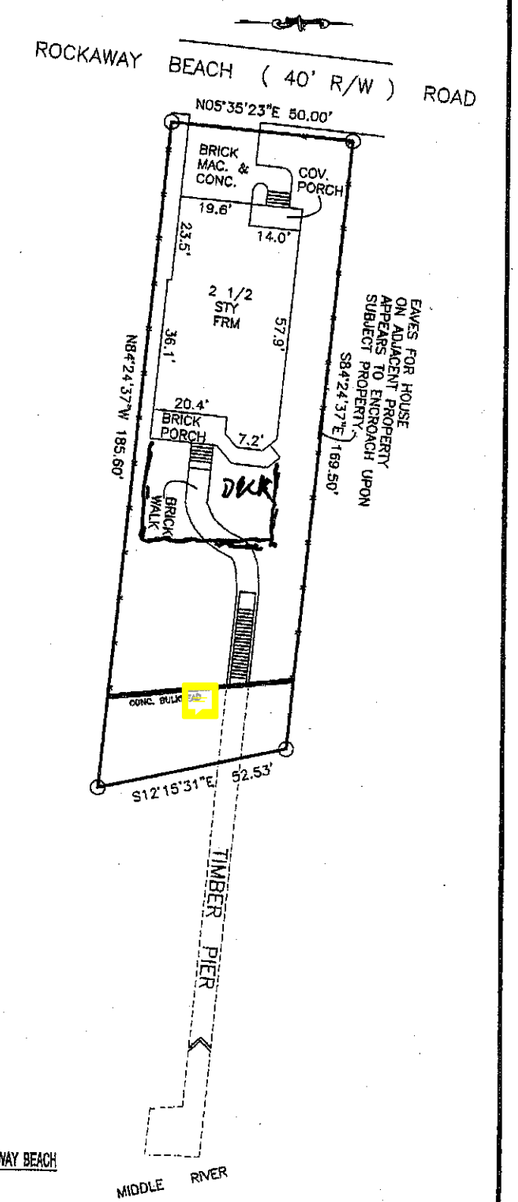
AN OUTdoor SHOWER will be ON THE Right Side will be 9' 2" From Property LINE, outdoor SHOWER Will be 5' X 10' wide

Side Measurements ARE From THE EXISTING FENCE ON BOTH SIDES.

BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: R22-05031
PERMIT ISSUED DATE/TIME:
05/18/2022
THE REVIEW OF THESE PLANS DOES NOT RELIEVE THE OWNER, ARCHITECT, ENGINEER OR CONTRACTOR OF ANY RESPONSIBILITY WHATEVER FOR THE DESIGN, STRENGTH OR SAFETY OF THE CONSTRUCTION IT COVERS. ALL CONSTRUCTION MUST CONFORM TO THE BUILDING AND FIRE CODES INCLUDING DETAILS SHOWN OR NOT SHOWN. THE REVIEW OF THESE PLANS COVERS BASIC BUILDING CODE ITEMS. ADDITIONAL COMMENTS MAY BE ATTACHED. APPROVED PLANS MUST REMAIN AT BUILDING SITE UNTIL COMPLETION.

HOPKINS ENGINEERING

3653 Harmony Church Road Havre de Grace, Maryland 21078
410-879-5354 -Phone 410-893-5185- Fax



M.L.R.

STATE OF MARYLAND
LESLIE CURTIS HOPKINS
REGISTERED NO. 574
PROPERTY LINE SURVEYOR
9.3.08

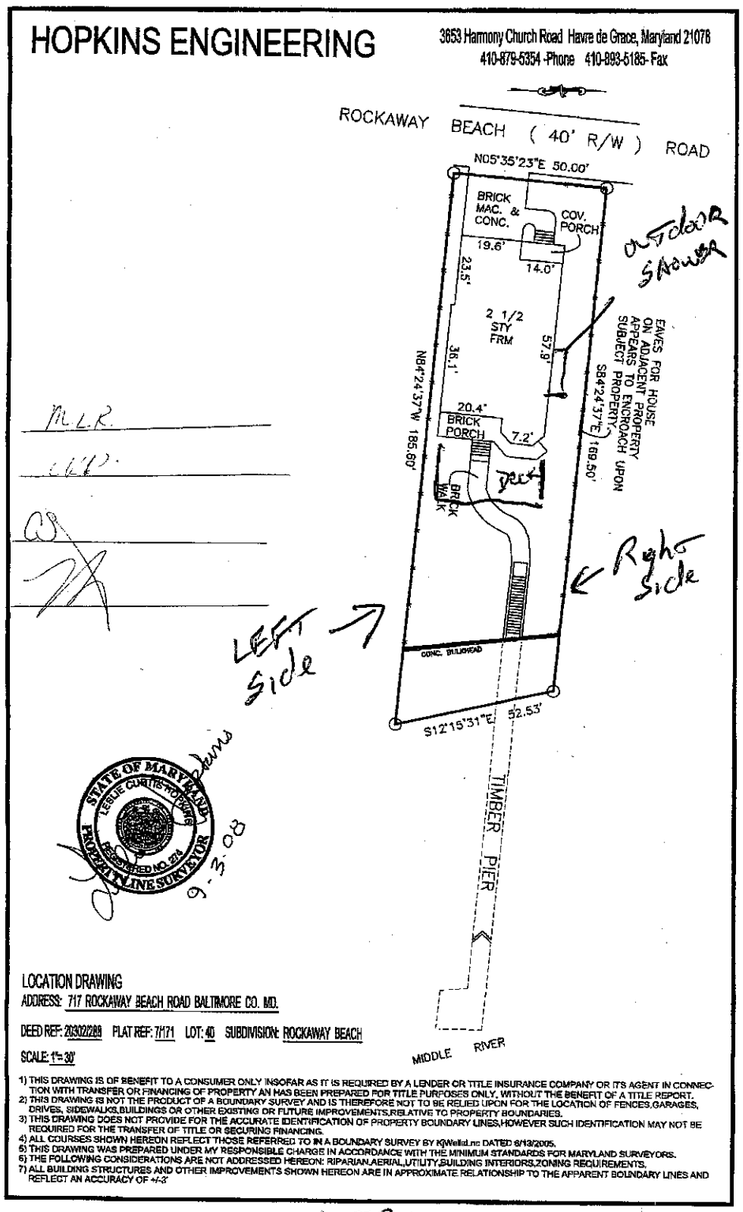
LOCATION DRAWING
ADDRESS: 717 ROCKAWAY BEACH ROAD BALTIMORE CO. MD.

DEED REF: 20302/286 PLAT REF: 7/171 LOT: 40 SUBDIVISION: ROCKAWAY BEACH

SCALE: 1"= 30'

1) THIS DRAWING IS OF BENEFIT TO A CONSUMER ONLY INSOFAR AS IT IS REQUIRED BY A LENDER OR TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH TRANSFER OR FINANCING OF PROPERTY AN HAS BEEN PREPARED FOR TITLE PURPOSES ONLY, WITHOUT THE BENEFIT OF A TITLE REPORT.
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4) ALL COURSES SHOWN HEREON REFLECT THOSE REFERRED TO IN A BOUNDARY SURVEY BY KJWallaLinc DATED 6/13/2005.
5) THIS DRAWING WAS PREPARED UNDER MY RESPONSIBLE CHARGE IN ACCORDANCE WITH THE MINIMUM STANDARDS FOR MARYLAND SURVEYORS.
6) THE FOLLOWING CONSIDERATIONS ARE NOT ADDRESSED HEREON: RIPARIAN,AERIAL,UTILITY,BUILDING INTERIORS,ZONING REQUIREMENTS.
7) ALL BUILDING STRUCTURES AND OTHER IMPROVEMENTS SHOWN HEREON ARE IN APPROXIMATE RELATIONSHIP TO THE APPARENT BOUNDARY LINES AND REFLECT AN ACCURACY OF +/-3'

HOPKINS ENGINEERING
3653 Harmony Church Road Havre de Grace, Maryland 21078
410-879-5354 -Phone 410-893-5185- Fax



LOCATION DRAWING
ADDRESS: 717 ROCKAWAY BEACH ROAD BALTIMORE CO. MD.

DEED REF: 20302269 PLAT REF: 7/171 LOT: 40 SUBDIVISION: ROCKAWAY BEACH

SCALE: 1"= 30'

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6) THE FOLLOWING CONSIDERATIONS ARE NOT ADDRESSED HEREON: RIPARIAN,AERIAL,UTILITY,BUILDING INTERIORS,ZONING REQUIREMENTS.
7) ALL BUILDING STRUCTURES AND OTHER IMPROVEMENTS SHOWN HEREON ARE IN APPROXIMATE RELATIONSHIP TO THE APPARENT BOUNDARY LINES AND REFLECT AN ACCURACY OF +/-3'

#5916

Deck and outdoor Shower

Left Side of Property Line

4' Set Back

Right side of Property Line

14' Set Back

Deck will be 20' Deep

From the Brick Porch.

The Finished Deck will be

41' From the Concrete Bulkhead.

An outdoor Shower will be

on the Right Side will be

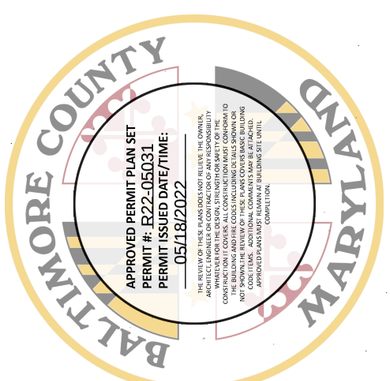
9' 2" From Property Line, outdoor

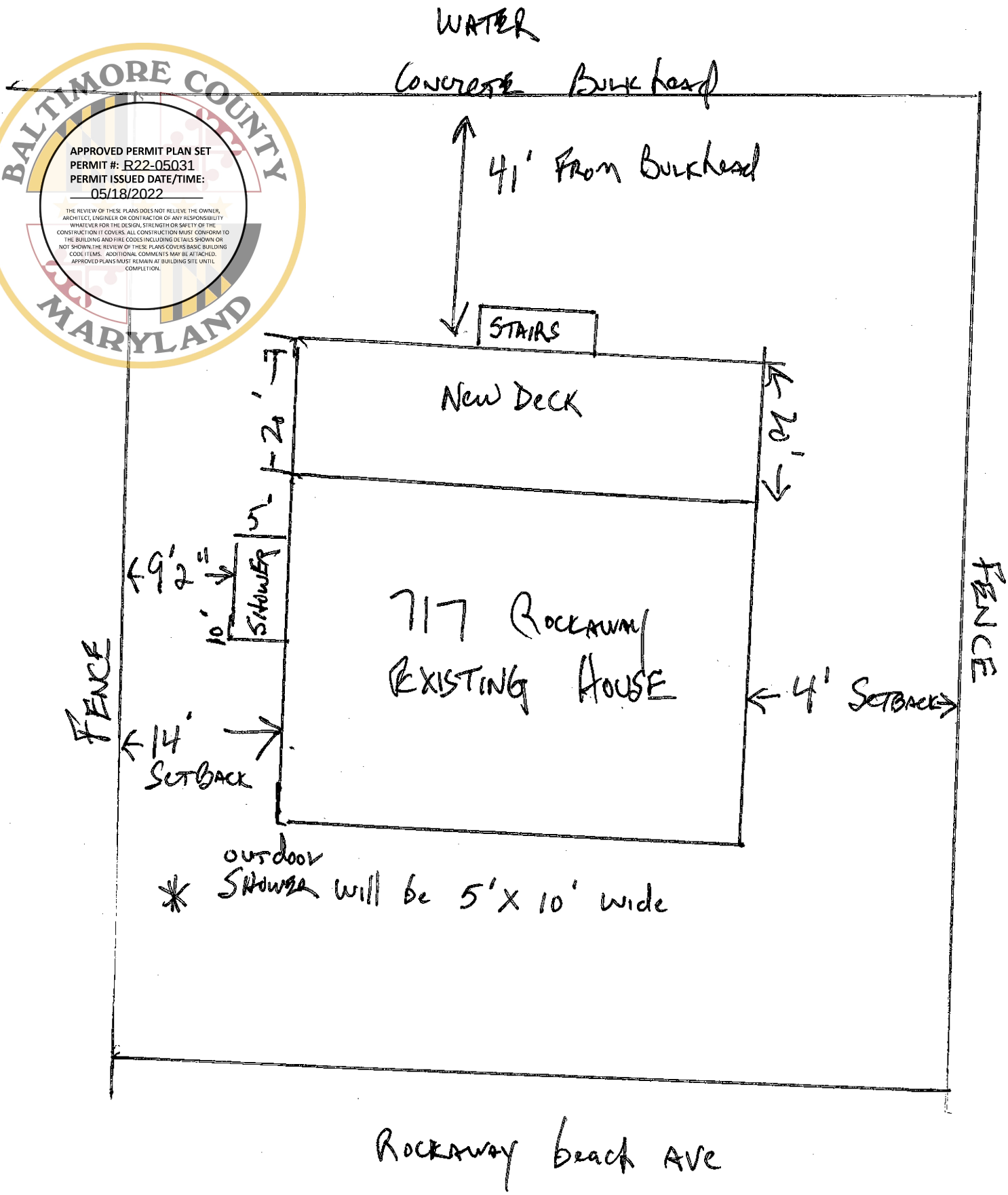
Shower will be 5' X 10' wide

Side Measurements are from

the existing fence on both

sides.

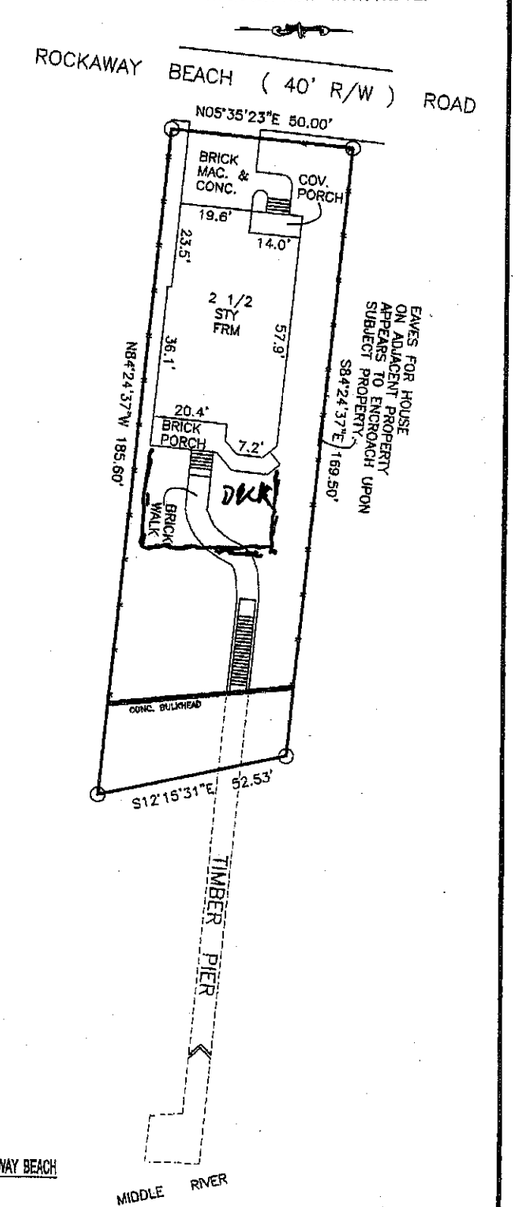




BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: R22-05031
PERMIT ISSUED DATE/TIME:
05/18/2022
THE REVIEW OF THESE PLANS DOES NOT RELIEVE THE OWNER, ARCHITECT, ENGINEER OR CONTRACTOR OF ANY RESPONSIBILITY WHATEVER FOR THE DESIGN, STRENGTH OR SAFETY OF THE CONSTRUCTION IT COVERS. ALL CONSTRUCTION MUST CONFORM TO THE BUILDING AND FIRE CODES INCLUDING DETAILS SHOWN OR NOT SHOWN.THE REVIEW OF THESE PLANS COVERS BASIC BUILDING CODE ITEMS. ADDITIONAL COMMENTS MAY BE ATTACHED. APPROVED PLANS MUST REMAIN AT BUILDING SITE UNTIL COMPLETION.

HOPKINS ENGINEERING

3653 Harmony Church Road Havre de Grace, Maryland 21078
410-879-5354 -Phone 410-893-5185- Fax



M.L.R.

.LL.

STATE OF MARYLAND
LESLIE CURTIS HOPKINS
REGISTERED NO. 274
PROFESSIONAL LAND SURVEYOR

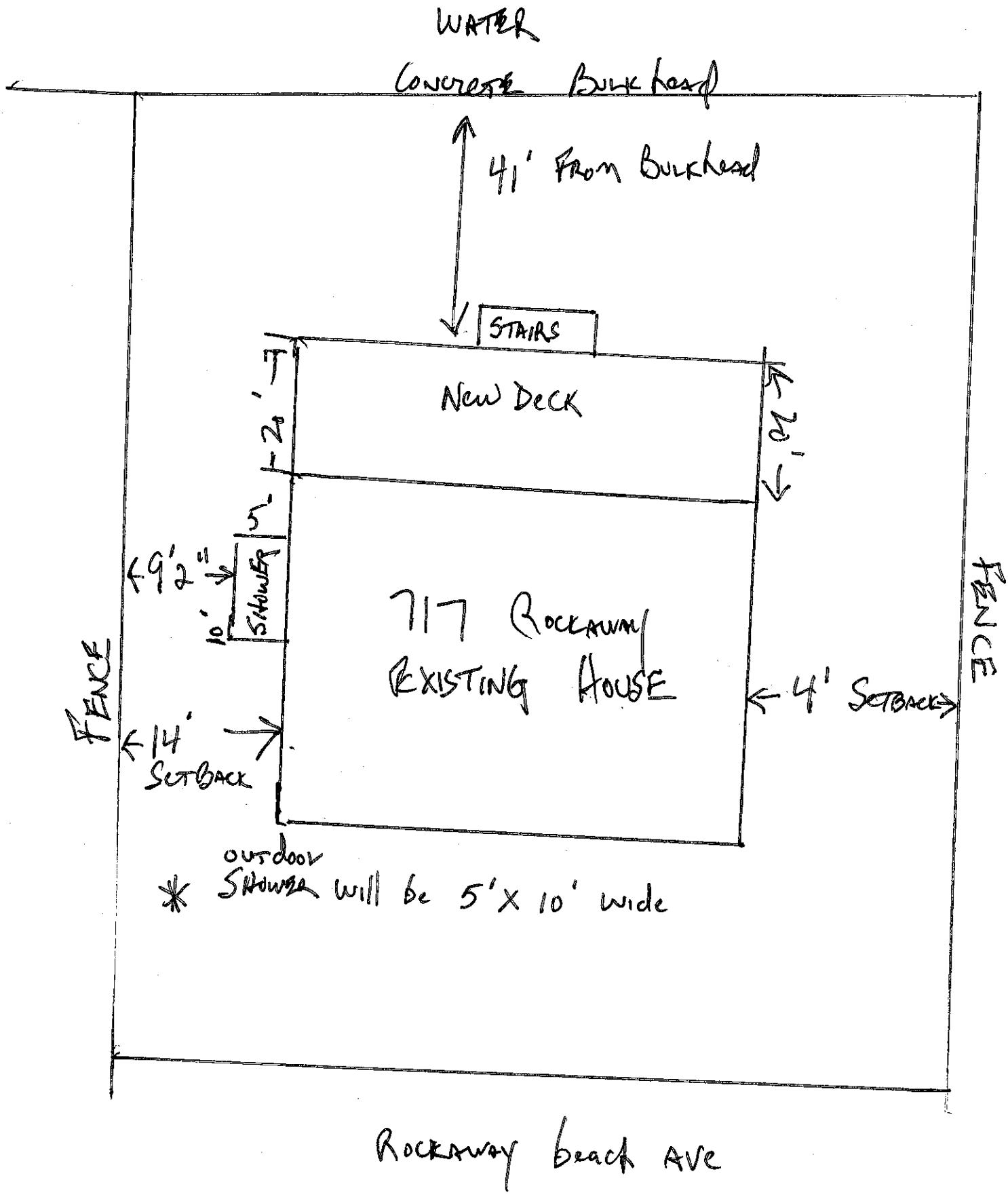
9.3.08

LOCATION DRAWING
ADDRESS: 717 ROCKAWAY BEACH ROAD BALTIMORE CO. MD.

DEED REF: 20302/286 PLAT REF: 7/171 LOT: 40 SUBDIVISION: ROCKAWAY BEACH

SCALE: 1"= 30'

1) THIS DRAWING IS OF BENEFIT TO A CONSUMER ONLY INSOFAR AS IT IS REQUIRED BY A LENDER OR TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH TRANSFER OR FINANCING OF PROPERTY AN HAS BEEN PREPARED FOR TITLE PURPOSES ONLY, WITHOUT THE BENEFIT OF A TITLE REPORT.
2) THIS DRAWING IS NOT THE PRODUCT OF A BOUNDARY SURVEY AND IS THEREFORE NOT TO BE RELIED UPON FOR THE LOCATION OF FENCES,GARAGES, DRIVES, SIDEWALKS,BUILDINGS OR OTHER EXISTING OR FUTURE IMPROVEMENTS,RELATIVE TO PROPERTY BOUNDARIES.
3) THIS DRAWING DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES,HOWEVER SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING.
4) ALL COURSES SHOWN HEREON REFLECT THOSE REFERRED TO IN A BOUNDARY SURVEY BY KJWallaLinc DATED 6/13/2005.
5) THIS DRAWING WAS PREPARED UNDER MY RESPONSIBLE CHARGE IN ACCORDANCE WITH THE MINIMUM STANDARDS FOR MARYLAND SURVEYORS.
6) THE FOLLOWING CONSIDERATIONS ARE NOT ADDRESSED HEREON: RIPARIAN,AERIAL,UTILITY,BUILDING INTERIORS,ZONING REQUIREMENTS.
7) ALL BUILDING STRUCTURES AND OTHER IMPROVEMENTS SHOWN HEREON ARE IN APPROXIMATE RELATIONSHIP TO THE APPARENT BOUNDARY LINES AND REFLECT AN ACCURACY OF +/-3'


WATER
CONCRETE BULKHEAD
41' FROM BULKHEAD
STAIRS
NEW DECK
2'
7'
2'
5'
9'2"
10'
SHOWER
717 ROCKAWAY
EXISTING HOUSE
FENCE
FENCE
14'
SETBACK
4' SETBACK
OUTDOOR
* SHOWER WILL BE 5' X 10' WIDE
ROCKAWAY BEACH AVE

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays

Instructions: Begin review process with Zoning Review, Room 111.

Contact Agency

Potential Overlay Issues

Growth Tier 1: Served by public sewer and inside URDL

Contact Agency	Potential Overlay Issues	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
Planning Jefferson Building Room 101 Phone: 410-887-3211	Bowleys Quarters-Back River Neck Area	X												
EPS-Dev. Coord. County Office Building Room 319 Phone: 410-887-3733	Chesapeake Bay Critical Area	X		X	X	X	X	X	X	X				
	100 Year Flood Zone	X		X	X	X		X	X	X				
	Possible Flood Hazard - Water Body Present	X		X	X	X		X	X	X				
PAI-Sed. Control Insp. County Office Building Room G-21 Phone: 410-887-3226	Chesapeake Bay Critical Area	X						X		X				
	100 Year Flood Zone	X						X		X				
	Possible Flood Hazard - Water Body Present	X						X		X				
PAI-Public Services County Office Building Room 119 Phone: 410-887-3751	Bowleys Quarters-Back River Neck Area	X						X						OK To File
	100 Year Flood Zone	X	X	X	X	X		X	X			X		OK To File
	Possible Flood Hazard - Water Body Present	X	X	X	X	X		X	X			X		OK To File
	InFill Lot Review	X												OK To File
	Verify Water Service Size.	X												
	Possible Replacement Dwelling. Permit # B599298 Appl. Date: Not Entered	X												
Zoning Review County Office Building Room 111 Phone: 410-887-3391	Bowleys Quarters-Back River Neck Area	X												
	Zoning Cases: 2006-0501-SPH; 2005-0579-A	X		X	X	X	X							

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.
Form171R

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays

Instructions: Begin review process with Zoning Review, Room 111.

Potential Overlay Issues

Growth Tier 1: Served by public sewer and inside URDL

Contact Agency		New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
MD Aviation Administration Division of Airport Facilities Planning P.O. Box 8766 BWI Marshall Airport,MD 21240-0766 Phone: 410-859-7692 or 410-859-7070	Martin State Aiport Zoning Area	X		X	X		X	X	X	X				OK To File
Building Plans Review County Office Building Room 120 Phone: 410-887-3987	100 Year Flood Zone	X	X	X	X	X			X	X				
	Possible Flood Hazard - Water Body Present	X	X	X	X	X			X	X				
Dev. Management County Office Building Room 123 Phone: 410-887-3321	Impact Fee: EXEMPT Details: ComRevitalDist=Not Exempt; CountyOwned=Not Exempt; DNROwned=Not Exempt; EnterpriseZone=Not Exempt; FedOwned=Not Exempt; MarylandTOD=Not Exempt; MDOpportunityZone=Not Exempt; StateOwned=Not Exempt; VestedPlat=Exempt Note: DNROwned,FedOwned and MDOpportunityZone may require further review due to spatial discrepancies between datasets.	X												

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.

JOHN A. OLSZEWSKI, JR.
County Executive

DAVID V. LYKENS, *Director*
Department of Environmental Protection and Sustainability

April 12 2022

William Tunney
315 Blue Grass Lane
Hampstead, MD 21074

RE: Deck Permit - #R22-05031
717 Rockaway Beach Ave

Dear Mr. Tunney:

Environmental Impact Review (EIR) completed an evaluation of the above referenced property and deck permit application for 717 Rockaway Beach Ave. The 9,027 square foot property is located within a Limited Development Area (LDA) and Modified Buffer Area (MBA) in the Chesapeake Bay Critical Area (CBCA) and must comply with all requirements of Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

The property does not comply with the CBCA Regulations. In order to bring the property into compliance, you must complete the items listed in the table below.

Lot Coverage
Existing Lot Coverage: = 3,100 square feet or 34.3%. Current LDA regulations restrict the lot coverage on this property to 25% (2,256 square feet) or a maximum of 31.25% (2,821 square feet), with mitigation for the amount over 25%. The lot coverage present exceeds the maximum allowed. As the proposed open wood deck (with dirt/grass below) does not count as lot coverage, there is no lot coverage mitigation required. However, please be aware that no future lot coverage will be permitted without equal amount of lot coverage removal. Contact EIR to discuss permit and CBCA requirements for any future construction on site. Lot coverage includes gravel.
Forest Cover
15% minimum forest requirement: A minimum of three trees must be on-site at all times. As no trees currently exist on site, three Maryland native, deciduous trees at least 5-feet tall will need to be planted on the property. Three shrubs may be substituted for each required tree, if desired.
Modified Buffer Area
Properties within the MBA have a 100-foot buffer from tidal waters. Structures are not allowed in the buffer unless the property owner performs on-site mitigation or pays a fee-in-lieu. The proposed deck is within the 100-foot MBA. Mitigation for the 552 square feet of impact may be satisfied through: Payment of a fee-in-lieu of $1.50 per square-foot of disturbance. Tree planting to satisfy the Forest Cover requirement may also be used to address the MBA mitigation; therefore, fee-in-lieu payment would be reduced to $678.15.

*Note no manmade structures are allowed within 25 feet of tidal waters.
Summary of Mitigation Requirements: 1. Plant a minimum of three (3) Maryland native deciduous canopy trees on-site to meet forest cover requirements. 2. MBA mitigation: pay $678.15 fee-in-lieu.

Once you sign this letter, return it to our office indicating your acceptance of the mitigation requirements, and pay the appropriate fee-in-lieu amount, EIR will release the permit. Inspections will be conducted to determine compliance with all Critical Area requirements that pertain to this property. If you have any questions regarding this correspondence, please contact me at mbrady1@baltimorecountymd.gov or 410-887-3980.

Sincerely,

Marie Brady
Environmental Impact Review

I/We agree to meet the requirements outlined in this letter to bring the referenced property in to compliance with Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection:

_____ _____
Property Owner(s) Signature(s) Date

_____
Printed Name of Property Owner(s)

S:\EPS\EIR\Marie\Permit Review\CBCA\Rockaway Beach 717- MBA+for.docx

Baltimore County
Permits, Approvals
And Inspections

OFFICE HOURS 7:30 am - 3:30 pm

Building Inspection: 410-887-3953

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation Case No. R22-05031 Property No. 1523504960 Zoning:

Name(s): TUNNEY WILLIAM EDWARD IV, TUNNEY THERESA MARIE

Address: 315 BLUE GRASS LN HAMPSTEAD MD 21074

Violation Location: 717 ROCKAWAY BEACH AVE ESSEX MD 21221

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

PROPOSED DECK TO BE CONSTRUCTED UNDER PERMIT R22-05031 CANNOT EXCEED 1' (12") IN HEIGHT MEASURED FROM THE LOWEST NATURAL GRADE ADJACENT TO DECK. ANY QUESTIONS REGARDING THIS REQUIREMENT PLEASE CONTACT THE BALTIMORE COUNTY ZONING DEPARTMENT AT 410-887-3391

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

ON OR BEFORE: 7/17/22 OR COMPLETION OF DECK DATE ISSUED: 6/17/22

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1,000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

INSPECTOR: _____ PRINT NAME: MATTHEW GAWLER

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NO LATER THAN:

ON OR BEFORE: _____ DATE ISSUED: _____

INSPECTOR: _____ PRINT NAME: _____

COPIES: PINK – AGENCY, YELLOW - VIOLATION SITE, GOLD – DEFENDANT, WHITE – INSPECTOR

PAI BI 11 REVISED 9/16

JOHN A. OLSZEWSKI, JR.
County Executive

C. PETE GUTWALD, AICP, *Director*
Department of Permits, Approvals & Inspections

September 19, 2022

Rockaway Beach Improvement Association C/O: Kevin McDonough
628 Rockaway Beach Ave.
Essex, MD 21221

RE: Case Number: 2022-0151-SPH 717 Rockaway Beach Ave.

To Whom It May Concern:

The above referenced petition was accepted for processing ONLY by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on June 28,2022. This letter is not an approval, but only a NOTIFICATION.

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

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

Very truly yours,

Jeffrey Perlow

Jeff Perlow
Supervisor
Department of Zoning

lw
Enclosures: William and Theresa Tunney

RECEIVED JUL 19 2022

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: July 19, 2022

SUBJECT: DEPS Comment for Zoning Item # 2022-0151-SPH
Address: 717 Rockaway Beach Avenue
(Tunney Property)

Zoning Advisory Committee Meeting of **July 11, 2022**

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

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

   The subject property is located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) and is subject to Critical Area requirements. The applicant is seeking a special hearing to determine whether the construction of a deck on the property complies with the Baltimore County Zoning Regulations including a previous zoning order as well all applicable policies, laws, and regulations. The proposed deck construction must meet LDA requirements and the 15% afforestation requirement. If the proposed deck construction can comply with the lot coverage restrictions and the 15% afforestation requirement, the proposed deck construction can result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

   This is a waterfront lot with a 100-foot Critical Area buffer extending onto the property from Middle River. The proposed deck will be located within the Critical Area buffer and will require compliance with the MBA Regulations.

Meeting the MBA requirements, lot coverage requirements, and the 15% afforestation requirement will aid in the conservation of fish, plant, and wildlife habitat in the watershed.

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.

   If the proposed deck construction can be designed to meet the MBA, lot coverage, and afforestation requirements, the proposed deck construction will be consistent with established land-use policies.

Additional Comments:

Reviewer: Gris Batchelder

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BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: July 11, 2022

FROM: EFC for VKD
Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 11, 2022
Item Nos. 2022-0145-A, 0150-SPHA, 0151-SPH, 0152-SPHA & 0153-A

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

* * * * *

VKD: cen
cc: file

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BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 7/28/2022

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 2022-151

INFORMATION:
Property Address: 717 Rockaway Beach Ave
Petitioner: Rockaway Beach Improvement Association & Neighbors
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition to determine if a Special Hearing is necessary to conclude:

1. Whether the construction of a deck at waterfront side of the subject property constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
2. Whether the construction of a deck at the waterfront side of the subject property would "obstruct adjacent property owners' water views" and conflict with restriction #5 in the zoning order issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
3. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with the Baltimore County Zoning Regulations; and
4. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with all applicable policies, laws, and regulations.

The subject site is currently zoned as DR 3.5. The site is considered to be a Chesapeake Bay Critical Area Designation. The subject site is surrounded by other single-family dwellings with the rear of the dwelling facing toward the water and the front of the dwelling is facing toward Rockaway Beach Avenue.

The subject property is located within the boundaries of the following community plans: Eastern Baltimore County Revitalization Strategy, Eastern Baltimore County Pedestrian and Bicycle Access Plan, and Greater Dundalk-Edgemere Community Conservation Plan. This proposed structure and the request for this petition, does not impact the recommendations provided in these plans.

The Department of Planning concludes the following as it relates to the petitioner's concerns:

1. The subject property was a part of Zoning Xase #2006-0501-SPH. As a part of the order, there was a condition to approval granted to the petitioners. This condition stated "Petitioners [William Rush and Maryann Rush] shall surrender any further construction rights to build closer to the

RECEIVED AUG 0 1 2022

water." Department of Planning concludes that the construction of deck will be in violation of the order in this case.

2. The subject property was a part of Zoning Case #2006-0501-SPH which ordered the following restriction: "There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water views(s)." Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties.

3. The specifics of the compliance to various Baltimore County Zoning regulations will be a part of the permits process that has already been initiated by the property owner. All necessary zoning regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

4. The specifics of the compliance to policies, laws, and regulations will be a part of the permits process that has already been initiated by the property owner. All necessary policies, and laws, and regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

The Department has no further objections or comments on the request. For further information concerning the matters stated herein, please contact April Smith at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

SL/JGN/KP/

c: April Smith
Rockaway Beach Improvement Association, c/o Kevin McDonough
Office of Administrative Hearings
People's Counsel for Baltimore County

Debra Wiley

From: shoreperfect@comcast.net
Sent: Tuesday, September 20, 2022 3:43 PM
To: Administrative Hearings
Cc: Bendler, Bob; Beverly Moyer; Biddinger, Leah; Conrad, Dave; Thomas Germroth; Glenn, Purnell; Joan Mealey-Kruger; Rocky Jones; Edward Kramer; McDonough, Kevin; Muneses, Requel; Ray Reiner; Ron Walper
Subject: 717 Rockaway Beach Road
Attachments: EMRCC Letter - 717 Rockaway.docx

CAUTION: This message from shoreperfect@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Dear Judge Mayhew: I have attached a letter outlining the EMRCC's position regarding case# 2022-0151-SPH. The EMRCC adopted this position at their September general meeting after being briefed on the history and background of this matter. Thank you, Robert Bendler President, Essex Middle River Civic Council



Essex Middle River Civic Council Inc.

Judge Paul Mayhew – Managing Administrative Law Judge
Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case # 2022-0151-SPH 717 Rockaway Beach Avenue | Essex, Maryland 21221

September 18, 2022

Dear Judge Mayhew,

The Essex Middle River Civic Council is an umbrella community group representing 19 community associations in Eastern Baltimore County. At our organization's recent general membership meeting on September 7, 2022 we were made aware of the zoning case referenced above which pertains to 717 Rockaway Beach Avenue and the issue of compliance with a 2006 Order and Opinion issued in zoning case # 2006-0501-SPH by then Zoning Commissioner William Wiseman.

The Essex Middle River Civic Council wishes to express our support for the position of the Rockaway Beach Improvement Association and the other named petitioners. It is abundantly clear that the spirit and intent of the order issued by the Zoning Commissioner was to prevent any further construction at the property as a condition of the approval of the variances sought in the 2006 zoning case.

Our organization recognizes the importance of such restrictions being included in orders issued in zoning cases, as they are contained therein to prevent undue harm, hardship and/or adverse consequences from negatively impacting the surrounding neighbors and community as a result of such relief being granted.

The upholding of the restrictions within such orders is essential to maintaining the integrity of our communities and most importantly the integrity of the zoning process.

Respectfully,

Robert Bendler
President
Essex Middle River Civic Council



Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
410-887-2188
Fax 410-823-4236

PETER MAX ZIMMERMAN
pzimmerman@baltimorecountymd.gov
People's Counsel

CAROLE S. DEMILIO
cdemilio@baltimorecountymd.gov
Deputy People's Counsel

September 7, 2022

SENT VIA EMAIL TO AdministrativeHearings@baltimorecountymd.gov
Paul M. Mayhew, Managing Administrative Law Judge
Maureen E. Murphy, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RE: Rockaway Beach Improvement Association et al. - Petitioners
William & Theresa Tunney – Legal Owners
717 Rockaway Beach Avenue
Case No.: 2022-151-SPH
Hearing Date: September 30, 2022 at 1:30am

Dear Judges Mayhew and Murphy:

Kevin McDonough, Rockaway Beach Improvement Association (RBIA) President, brought this matter to our office's attention. On June 24, 2022, RBIA, Ruth Nuth, Marcyanna and William Siegman, Scott Huffine and Kristin Miller, and JoAnn Wieland filed a petition for special hearing to determine the zoning law applicable to waterside residential deck construction at 717 Rockaway Beach Avenue ("717 RBA").[1]

[1] A special hearing is effectively a declaratory judgment proceeding to determine issues of zoning law. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005), Salmon, J. Pursuant to Baltimore County Charter Sec. 524.1(a)(3)(A), our office defends the comprehensive zoning maps in cases where zoning issues arise, including special hearings. People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683, 687, n.1 (1989); Marzullo v. Kahl 366 Md. 158 (2001); Geddes v. People's Counsel 2017 WL 1193781, cert. denied 455 Md. 443 (2017) and 138 S.Ct. 2683 (2018). Judge Salmon recapped in Geddes, n.2, "The People's Counsel for Baltimore County is an independent organization, separate from Baltimore County, with the "specific public interest function" of defending the comprehensive zoning maps and master plan in a variety of cases, including special hearings."

The owners of the subject property are William and Theresa Tunney, 315 Blue Grass Lane, Hampstead, Maryland 21074. They acquired the property from Michael Paul and Carin Smith by deed dated December 6, 2021, attached.[2] The individual petitioners are owners of adjacent properties on the avenue.

The question presented is whether the deck exceeds and/or conflicts with the fifth condition of Zoning Commissioner (ZC) William J. Wiseman's opinion and order in Case No. 06-501-SPH, conditionally approving setbacks, after the fact, for a sizable dwelling built after razing a summer house. William Rush, et ux. were then property owners. The pertinent condition states, Page 4:

> "5. There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s)."

ZC Wiseman effectively issued a compromise approval, despite Petitioners' "indiscretions" described in the opinion. ZC Wiseman wrote on Page 3:

> "However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. **Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. .... As a condition of approval, Petitioners shall surrender any further construction rights closer to the water."** Emphasis supplied.[3]

---

[2] Additional relevant documents are also attached, beginning with the key 2006 zoning case.

[3] The building elevation condition is the third in the Order:

> "3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the petitioners shall submit building elevations drawings of the structure to the Office of Planning for review and approval."

We have no information on satisfaction of this condition. There is also Condition 2, pertinent to Chesapeake Bay Critical Area and other environmental regulations.

The Property: Location and Description

717 RBA is a Middle River waterfront property at the end of a peninsula between Middle River and Sue Creek. It is zoned D.R. 3.5 and in the Chesapeake Bay Critical Area (CBCA). See ADC Map 85 and the My Neighborhood Map.

SDAT Real Property Data show the property is lot 40 on the 1915 Turkey Point Farm, Rockaway Beach subdivision plat. It occupies 9,027 square feet (.21 acre), with a 2.5 story residential structure and attached garage built in 2006. There are 4850SF above-grade living area. The lot width is 50 feet, standard for the subdivision lots. The lengths, respectively, are 185' and 169'. We include aerial and street level photographs to provide perspective.

Photographs show the dwelling spanning close to half the lot area. The two-car garage faces the avenue. Fences surround the side and part of the front areas. There is a pier which looks to be close to 200' in length, and a path from dwelling to pier.

The Building Permit for the Deck

The Tunneys' permit application and approval for a deck on the waterfront side led the RBIA to raise the zoning issue. They raised it with the PAI Department and then via this petition. The special hearing petition includes a virtual site plan with a copy of the deck drawing shown on the building permit application. We received from the PAI department some other record documents. These show Permit R22-05031 was issued on May 18, 2022, subject to Chesapeake Bay Critical Area conditions and potential flood zone issues.

The PAI Department information describes the dimensions as 27.60' x 20' = 552sf." However, a building permit application plan shows side setbacks of 4' and 14' feet respectively. This would compute to a width of 23', based on the 50' lot width.

The building permit plan shows a distance of 41' from the deck to the bulkhead. But ZC Wiseman's opinion describes the dwelling as 81' distant from the waterside property line, Page 3. So, it looks like the deck may be 40' in depth, not 27.60'.[4]

It is indicated the proposed deck is 1' foot in height. There will be stairs and a shower to the side of the building. There will likely be furniture, plants, and/or an outdoor grill. There might in the future be perimeter fencing, barrier, pergola, canopy, and/or other improvement.

---

[4] The building permit plan does not clearly show the depth or width of the deck. So far as we can tell, it is not prepared by a licensed surveyor or engineer.

Under these circumstances, it will be appropriate to evaluate the present and reasonably foreseeable improvements, dimensions, scale, and use.

Land Use

The main point is the land use impact. The deck will be an area for general, recreational, and entertainment use. The deck will be available for use and gatherings for family and friends, likely most frequent in the good weather. The uses will likely be more intense than in an open yard.

Zoning Advisory Committee Comments

As for Zoning Advisory Committee (ZAC) review, DEPS issued their correspondence on July 19, 2022, setting forth various CBCA conditions, including Limited Development Area (LDA) lot coverage, buffer area, and afforestation requirements. We do not have any details yet on further review.

Then, on July 28, 2022, the Department of Planning (DOP) issued their ZAC Comments. In their concluding paragraphs, they make several key points.

In paragraph 1, they quote ZC Wiseman's 2006 opinion and language quoted above:

> "Petitioners … shall surrender any further construction rights closer to the water."

There follows this conclusion,

> "Department of Planning concludes that the construction of deck will be in violation of the order in this case."

Yet in Paragraph 2 concludes, "Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties." They do not state the basis for this disbelief. DOP's disbelief goes against their logical finding of a violation of the order. The DOP proceeds in Paragraphs 3 and 4 to say the zoning and compliance issues will be "… part of the permits process."

Meanwhile, after PAI's May 18, 2022 permit approval, their enforcement division nevertheless issued a correction notice on June 17, 2022, with a July 17, 2022 deadline. The citation refers to the building permit, R22-05031. Inspector Matthew Gawel signed the notice. We have no information on what happened with this case.

Discussion

ZC Wiseman's Order runs with the property and extends to all successive owners. The Court of Appeals long ago stated in City of Baltimore v. Poe 224 Md. 428, 433 (1961),

> "It is settled law in this State that the zoning ordinance is concerned with the use of property and not with ownership thereof nor with the purposes of the owners or occupants."

See, e.g. People's Counsel v. Surina 400 Md. 662, 701 (2007); Preston v. Zoning Board of Review of Town of Hopkinton 154 A.3d 465 (R.I. 2017).

To repeat, ZC Wiseman's fifth condition, prohibiting improvements or dwelling construction "...which would obstruct adjacent neighbors' waterside view(s)," must be read together with the statement in his opinion that,

> "Petitioners ... shall surrender any further construction rights closer to the water."

Moreover, ZC Wiseman cut the Rush petitioners some slack when he approved the 717 RBA setback variances, after the fact, to accept construction of their sizable dwelling. He underlined that "... by virtue of Petitioners' indiscretions" [they] ... shall not ... benefit from these unfortunate circumstances." He then imposed the condition based on a strict point of view, which carries forward to the present case.

Before the present owners acquired the property, William Rush and successive owners recognized and complied with the prohibition. There was no new waterside construction. But the current owners moved very quickly with their deck construction program.

Even if ZC Wiseman's Order stood alone, independent of the opinion, the word "obstruct" has a broad meaning. Webster's Third New International Dictionary states, in pertinent part,

> "**obstruct** ... *vt* .... **2** to be or come in the way of ... IMPEDE, RETARD ... **3** : to cut off from sight : ... *vi* to place obstacles in the way : IMPEDE **syn** HINDER."

We could add the dictionary definitions of "impede" and "hinder," but it seems unnecessary. The deck activity will surely impede and hinder the waterside view of adjacent neighbors. There is a reasonable perception of the adverse practical impact of the land use. The proposed deck thus conflicts with the language and purpose of the 2006 zoning opinion and order.

Meanwhile, PAI approved the permit despite the stated prohibition.[5] It should be kept in mind there is no reliance, immunity, or "equitable estoppel" which furnishes property owners rights by virtue of a permit which conflicts with zoning law. Lipsitz v. Parr 164 Md. 222, 227-28 (1933); Berwyn Heights v. Rogers 228 Md. 271, 279 (1962); Kent County v.

[5] At least, PAI should have required the property owner to file a petition for special hearing to resolve the legal issue, instead of placing the burden on RBIA and adjacent property owners. Ironically, as in 2006, the case arrives again in after-the-fact mode to resolve legitimacy.

Abel 246 Md. 395, 399-403 (1967); City of Hagerstown v. Longmeadow Shopping Center 264 Md. 481, 492-98 (1972); Marzullo v. Kahl 366 Md. 158, 194-99 (2001).

Petitioners' Emergency Motion to Stay Construction

Petitioners have recently filed a Motion to Stay Construction. According to their motion, construction has begun. If so, the case law negating equitable estoppel is consequential. Any deck construction proceeds with the assumption of legal risk, dependent on the final outcome in this case.

Conclusion

For all these reasons, it appears the RBIA petition for special hearing should be approved or sustained. There should be a declaration and determination that the deck at issue conflicts with ZC Wiseman's 2006 Opinion and Order.

Because of a scheduling conflict involving travel, People's Counsel cannot attend the hearing. Anyway, our office's main contribution is to provide this analysis. We leave it there at this time and trust to the usual careful review and resolution by your office.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Enclosures

cc: Rockaway Beach Improvement Association, Petitioners, info@turkeypoint.org
William & Theresa Tunney, Legal Owners, bud@btplumbingsupply.com
Ruth Nuth, by Patricia McDonough, trishmcdonough@comcast.net
Scott Huffines & Kristin Miller, scott@atomicteevee.com
JoAnn Weiland, joannweiland@comcast.net
Marcyanna & William Slegman, msrockaway2@aol.com
Stephen Lafferty, Director, Dept. of Planning, slafferty@baltimorecountymd.gov
Jenifer Nugent, Division Chief, jnugent@baltimorecountymd.gov
April Smith, Department of Planning, asmith3@baltimorecountymd.gov
Jeffrey Perlow, Zoning Supervisor, jperlow@baltimorecountymd.gov
C. Pete Gutwald, PAI Director, cpgutwald@baltmorecountymd.gov
David Lykens, DEPS Director, dlykens@baltimorecountymd.gov
Jeffrey Livingston, DEPS Dev. Coordination, jlivingston@baltimorecountymd.gov

Crown Title Corporation
File No. **115401-21CKL**
Tax ID # **15-1523504960**

This Deed, made this 6th day of **December, 2021**, by and between **Michael Paul Smith** and **Carin Smith**, husband and wife, GRANTORS, and **William Edward Tunney, IV** and **Theresa Marie Tunney**, husband and wife, GRANTEES.

- Witnesseth -

That in consideration of the sum of One Million Four Hundred Seventy-Five Thousand And 00/100 Dollars ($1,475,000.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said Grantees, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever, in all that lot of ground situate in the County of Baltimore, State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171.

(ADDRESS REFERENCE IS FOR INFORMATIONAL PURPOSES ONLY)
The improvements thereon being known as 717 Rockaway Beach Avenue, Essex, MD 21221.

BEING all and the same lot of ground which by Deed dated November 15, 2019 and recorded December 10, 2019 among the Land Records of Baltimore County, Maryland, in Liber 42214, Folio 367, was granted and conveyed by S.F.L., LLC, a forfeited Maryland limited liability company, unto Michael Paul Smith and Carin Smith.

Tax Account No. 15-1523504960

Deed (w Taxes)
Recording only ST20.00
Name: TUNNEY IV
Ref:
Deed (with Taxes)
Surcharge 40.00
Deed State
Transfer Tax 7,375.00
NR Tax - Ikd 0.00
SubTotal: 7,435.00
Total: 7,435.00
02/02/2022 10:39
CC03-SLF
#15845326 CC0301 -
Baltimore
County/CC03.01.17 -
Register 17

By the execution of this Deed, the Grantors hereby certify under the penalties of perjury that the actual consideration paid or to be paid, including the amount of any Mortgage or Deed of Trust outstanding, is as hereinbefore set forth.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

To Have and To Hold the said described lot of ground and premises to the said William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever.

And the said Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0297, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

Witness the hands and seals of the said Grantors.

WITNESS:
Debra L. Haskins
Debra L. Haskins

_____(Seal)
Michael Paul Smith

_____(Seal)
Carin Smith

STATE OF MARYLAND }
COUNTY OF BALTIMORE } ss

On this the 6th day of December, 2021, before me, a Notary Public, in the jurisdiction aforesaid, the undersigned Officer, personally appeared Michael Paul Smith and Carin Smith, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same in my presence for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

RICHARD D. LIBERTO NOTARY PUBLIC HARFORD COUNTY, MD

_____
Notary Public
My commission expires 5/25/24

William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, parties of the second part in the within Deed, hereby certify under the penalties of perjury that the land conveyed in said Deed is residentially improved, owner-occupied, real property and that the residence will be occupied only by us.

WITNESS:

_____ _____(SEAL)
William Edward Tunney, IV

_____ _____(SEAL)
Theresa Marie Tunney

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

_____
Carol K. Lisman, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Crown Title Corporation
1 Sanford Avenue
Baltimore, MD 21228

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0298, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Michael Paul Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Michael Paul Smith — 12/6/21
Name — **Date

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

21-49

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0299, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

MARYLAND FORM
WH-AR

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Carin Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Carin Smith 12/6/21
Name **Date

Carin Smith
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

21-49

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0300, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

BOOK: 46333 PAGE: 301

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

X Deed / Deed of Trust	☐ Mortgage / Lease	☐ Other	☐ Other

2 Conveyance Type Check Box

X Improved Sale Arms-Length *(1)*	☐ Unimproved Sale Arms-Length *(2)*	☐ Multiple Accounts Arms-Length *(3)*	☐ Not an Arms-Length Sale *(9)*

3 Tax Exemptions (if applicable) Cite or Explain Authority

Recordation	
State Transfer	Deed
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 1,475,000.00	Transfer Tax Consideration	$ 22125.00
Any New Mortgage	$	X ( ) % =	$
Balance of Existing Mortgage	$	Less Exemption Amount −	$
Other:	$	Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$ 7375.00
		X ( ) per $500 =	$
Full Cash Value:	$	TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 40.00	$
State Recordation Tax	$ 7,375.00	$
State Transfer Tax	$ 7,375.00	$
County Transfer Tax	$ 22,125.00	$
Other	$	$
Other	$	$

Agent:

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	42214/367			☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
				42214/367	

Location/Address of Property Being Conveyed (2)

717 Rockaway Beach Avenue, Essex, MD 21221

Other Property Identifiers (if applicable) | Water Meter Account No.

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: N/A

Partial Conveyance? ☐ Yes ☒ No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Michael Paul Smith	
Carin Smith	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
William Edward Tunney, IV	CASH
Theresa Marie Tunney	

New Owner's (Grantee) Mailing Address

315 Blue Grass Lane, Hampstead, MD 21074

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Darletta Bostic

Firm Crown Title Corporation

Address: 1 Sanford Avenue

Baltimore, MD 21228 Phone: (410) 719-0200

☐ Return to Contact Person

☐ Hold for Pickup

☒ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTCOPY MUST ACCOMPANY EACH TRANSFER

☐ Yes ☒ No Will the property being conveyed be the grantee's principal residence?

☐ Yes ☒ No Does transfer include personal property? If yes, identify:

☐ Yes ☒ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only – Do Not Write Below This Line

Terminal Verification | Agricultural Verification | Whole | Part | Tran. Process Verification

Transfer Number | Date Received: | Deed Reference: | Assigned Property No.:

Year	20	20	Geo.	Map	Sub	Block
Zoning			Grid		Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS:

Dept. # 20 RECORDATION TAXES

RECEIPT # 0[illegible]6 2/01/2022 DRAWN

REG WSOZ MAIL M51

2/02/2022 BUSINESS 2/01/2022 13:05:19 ACTUAL TIME DRAWN

Distribution: ☐ Clerk's Office ☐ Office of Finance ☐ SDAT ☐ Preparer

AOC-CC-300 (5/2007)

115401-21CKL

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0301, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
E/S Rockaway Beach Avenue, 110' N of
the c/l Beach Avenue * ZONING COMMISSIONER
(717 Rockaway Beach Avenue)
15th Election District * OF BALTIMORE COUNTY
6th Council District

* Case No. 06-501-SPH

William Rush, et ux
Petitioners *

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, William Rush, and his wife, Maryann Rush. The Petitioners request a special hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were William (Bob) and Maryann Rush, property owners, and Kenneth J. Wells, the Surveyor who prepared the site plan for this property. Appearing as Protestants were William and Denise Woutila, adjacent property owners, Marcyanna Siegman, Janice Vincent, and Jackie Nickel, President of the Rockaway Beach Improvement Association, Inc., all nearby residents of the area.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped waterfront lot located south of Turkey Point Road on the east side of Rockaway Beach Avenue, with frontage on Middle River. The property is approximately 50 feet wide and 185 feet deep, and contains a gross area of 9,027 sq.ft. (.21 acres) more or less, zoned D.R.3.5. The Petitioners purchased the property approximately two years ago and used the summer home that existed at that time for about one year before they had the house razed. In this regard, the

ORDER RECEIVED FOR FILING
Date 6-22-06
By

property was the subject of prior Case No. 05-579-A in which the Petitioners sought variance relief from Section 1B02.3.C.1 of the B.C.Z.R. to allow a proposed replacement dwelling with reduced setbacks. By his Order dated July 13, 2005, Deputy Zoning Commissioner John V. Murphy granted the requests, subject to compliance with relevant County agency recommendations and Chesapeake Bay Critical Areas requirements. The Petitioners now come before me seeking an amendment as set forth above to reflect a further reduction in the front (street) setback distance provided.

In this regard, testimony and evidence offered indicated that the Petitioners intended to construct a home 35' x 68' in dimension, with side yard setbacks of 4 feet and 11 feet and followed the information received in the packet from the builder to determine measurements and setback distances. The house was to be setback 81 feet from the water and 24 feet from the road; however, after construction of the home commenced, it was discovered that the front property line was 4 feet further inside of the original measurement. Thus, only a 20-foot setback from the road can be provided.

As noted above, several residents from the surrounding community appeared in opposition to the request. They argued that the survey performed by Mr. Wells conflicts with a survey the Protestants had prepared. They also believe that the Petitioners are trying to take advantage of the County's system and that their (the Rush's) attitude about the process is offensive. Ms. Nickels and Ms. Woutila point out that any further request for an amendment to the variance relief received must be denied on the grounds that "it was incumbent upon the Petitioners to obtain an accurate survey of the property before commencing construction" . . . "that any hardship or practical difficulty they now claim was self inflicted." In response to the Protestant's concerns, Mr. Wells testified that his boundary locations are accurate and were taken from monuments found and the location of the original house. Apparently, the original measurements taken by Mr. Rush at the outset were taken from an old concrete parking pad located near the road. In any event, special hearing relief is requested as set forth above to amend the prior relief granted and legitimize existing conditions.

ORDER RECEIVED FOR FILING
Date
By

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. As noted above, construction of the house is nearly completed and to require its demolition and reconstruction to eliminate a 4-foot discrepancy along the road would be an unnecessary hardship and unduly burdensome upon the Petitioners. Moreover, because the new home has been constructed in *essentially* the same location as originally proposed and is only 4 feet closer to the road than previously approved, I find that the amended relief will not adversely impact the adjacent property or surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. It was mentioned during the hearing that according to the approval granted in prior Case No. 05-579-A and the resulting Baltimore County Permit No. B605354, Petitioners were permitted to construct the home within 73 feet of the waterside property line. The home, as built, is actually 81 feet back. As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water. Moreover, but for the amended relief granted herein, all other terms and conditions of the prior Order are adopted herein and made a part hereof, including, but not limited to, compliance with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, as well as all building and fire code requirements.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of June 2006 that the Petition for Special Hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning

ORDER RECEIVED FOR FILING
Date 6-22-06
By

Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments, dated June 22, 2006 and April 26, 2006, respectively, have been attached hereto and made a part hereof.

3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the Petitioners shall submit building elevation drawings of the structure to the Office of Planning for review and approval.

4) Compliance with all Building and Fire Code regulations.

5) There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s).

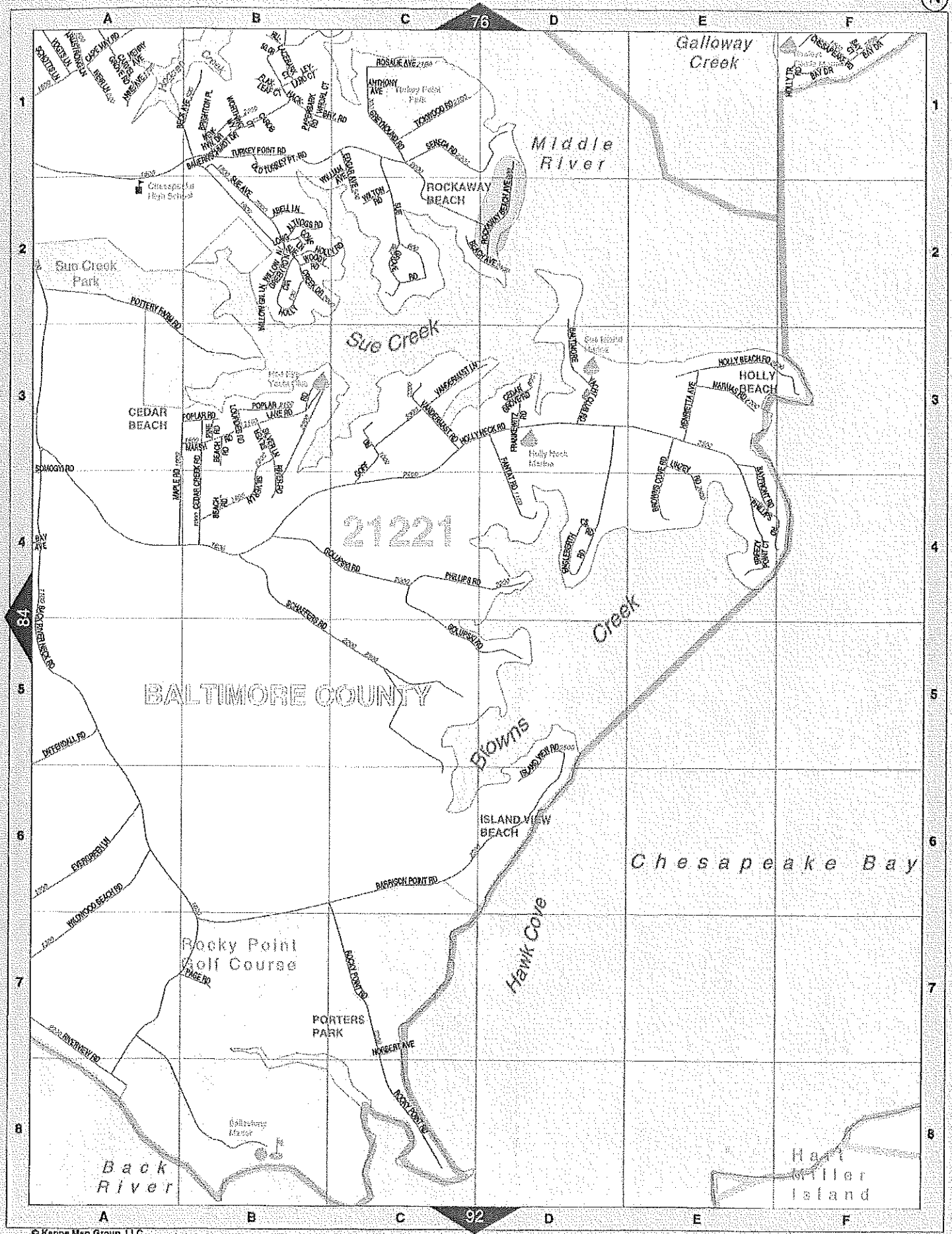
6) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

But for the amended relief set forth above, all other terms and conditions of the Order issued in prior Case No. 05-579-A shall remain in full force and effect.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

ORDER RECEIVED FOR FILING
Date 9-22-06
By

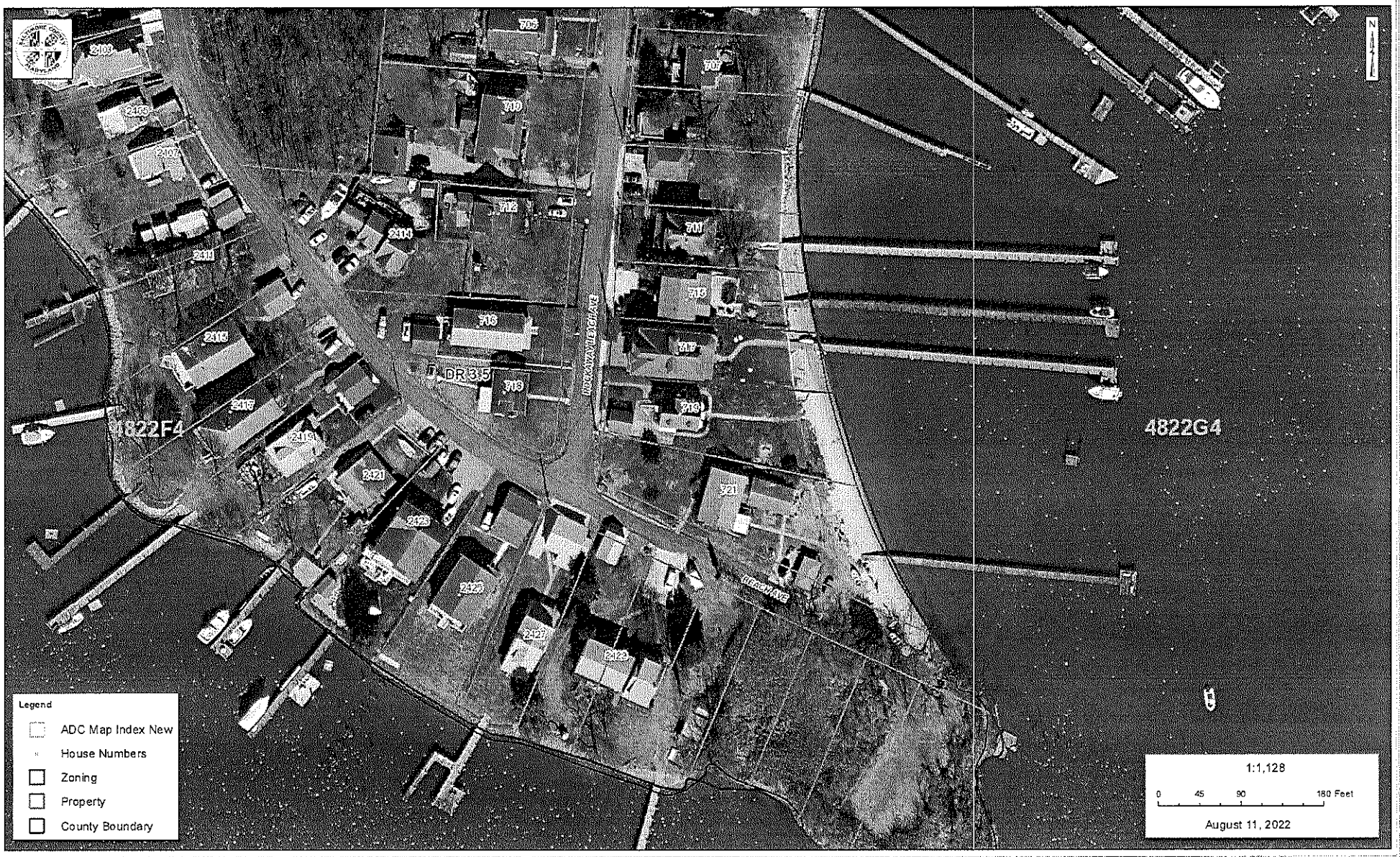

Scale 1:24,000
1 in = 2,000 ft
0 ft 1,000 2,000 3,000 4,000 5,000 1 mi
0 m 200 400 600 800 1 km
76
92
84
A
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7
8
Galloway Creek
Middle River
Sue Creek
Creek
Blowns Creek
Hawk Cove
Chesapeake Bay
Back River
Hart Miller Island
Sue Creek Park
Rocky Point Golf Course
Holly Neck Marina
Bay Head Yacht Basin
Turkey Point Park
Chesapeake High School
ROCKAWAY BEACH
CEDAR BEACH
HOLLY BEACH
ISLAND VIEW BEACH
PORTERS PARK
BALTIMORE COUNTY
21221
TURKEY POINT RD
OLD TURKEY PT RD
SUE LN
POTTERY FARM RD
SOMOGYI RD
POPLAR RD
POPLAR ROAD LANE RD
CEDAR BEACH RD
MAPLE RD
PINE BEACH RD
OLD CEDAR BEACH RD
SILVERLEA RD
BAY AVE
GOULDSKI RD
PHILLIPS RD
SCHAEFERS RD
DATEWOOD RD
ENTERPRISE LN
WILKINSON BEACH RD
RIVERVIEW RD
PAGE RD
BACK RIVER NECK RD
HOBART AVE
ROCKY POINT RD
DARYSON POINT RD
ISLAND VIEW RD
HOLLY BEACH RD
MARINA RD
VANDERHAST LN
VANDERHAST RD
HOLLYHOCK RD
CEDAR GROVE RD
FRANKENHEITZ RD
FANTAIL RD
GISELEGATE RD
GISELE DR
HONEYSETT AVE
BROWNS COVE RD
LINDEY RD
SUNTHORP RD
PHILLIPS RD
ROSALIE AVE
ANTHONY AVE
TICONDEROGA RD
SENECA RD
ROCKAWAY BEACH AVE
BEACH AVE
WILLIAM AVE
EDGAR AVE
WILTON RD
SUE LN
ALTOONA RD
LONG LN
ELM LN
WOODY RD
HOLLY RD
GREEN GLEN RD
WILLOW GLEN LN
OAK LN
HOLLY LN
CRESCENT RD
BAY DR
HOLLY TR
SUE CREEK DR
SUE CREEK CT
PLEASANTBERRY CT
LIVELY LEY CT
HACKBERRY CT
PARK LEY CT
ROSALIE AVE
BRIGHTON PL
NORTHAMPTON RD
HUNTINGTON RD
BRYL RD
BALTIMORE HUNT TER
HUNT DR
HUNT CT
CROSS RD
RIDGE RD
ROLLING RD
ROLLING CT
ROLLING TER
ROLLING CIR
ROLLING WAY
ROLLING VIEW RD
ROLLING VIEW CT
ROLLING VIEW TER
ROLLING VIEW CIR
ROLLING VIEW WAY
ROLLING VIEW PL
ROLLING VIEW LN
ROLLING VIEW DR
ROLLING VIEW AVE
ROLLING VIEW ROAD
ROLLING VIEW STREET
ROLLING VIEW BOULEVARD
ROLLING VIEW PARKWAY
ROLLING VIEW TERRACE
ROLLING VIEW CIRCLE
ROLLING VIEW WAY
ROLLING VIEW PLACE
ROLLING VIEW LANE
ROLLING VIEW DRIVE
ROLLING VIEW AVENU

Baltimore County - My Neighborhood



Baltimore County Government, Harford County Government, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA

Baltimore County - My Neighborhood



Real Property Data Search ( )
Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 15 Account Number - 1523504960

Owner Information

Owner Name:	TUNNEY WILLIAM EDWARD IV TUNNEY THERESA MARIE	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	315 BLUE GRASS LN HAMPSTEAD MD 21074-	**Deed Reference:**	/46333/ 00297

Location & Structure Information

Premises Address:	717 ROCKAWAY BEACH AVE ESSEX 21221-1813 Waterfront	**Legal Description:**	717 ROCKAWAY BEACH AVE ROCKAWAY BEACH

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0098	0015	0211	15080075.04	0000			40	2021	Plat Ref: 0004/ 0171

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2006	4,580 SF		9,027 SF	34

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	FRAME/ 5		4 full/ 1 half	1 Attached	

Value Information

	Base Value	Value As of 01/01/2021	Phase-in Assessments As of 07/01/2021	As of 07/01/2022
Land:	201,000	201,000		
Improvements	488,300	520,100		
Total:	689,300	721,100	699,900	710,500
Preferential Land:	0	0		

Transfer Information

Seller: SMITH MICHAEL PAUL	**Date:** 02/02/2022	**Price:** $1,475,000
Type: ARMS LENGTH IMPROVED	**Deed1:** /46333/ 00297	**Deed2:**
Seller: S F L LLC	**Date:** 12/10/2019	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /42214/ 00367	**Deed2:**
Seller: RUSH WILLIAM R	**Date:** 09/16/2008	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /27326/ 00556	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2021	07/01/2022
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

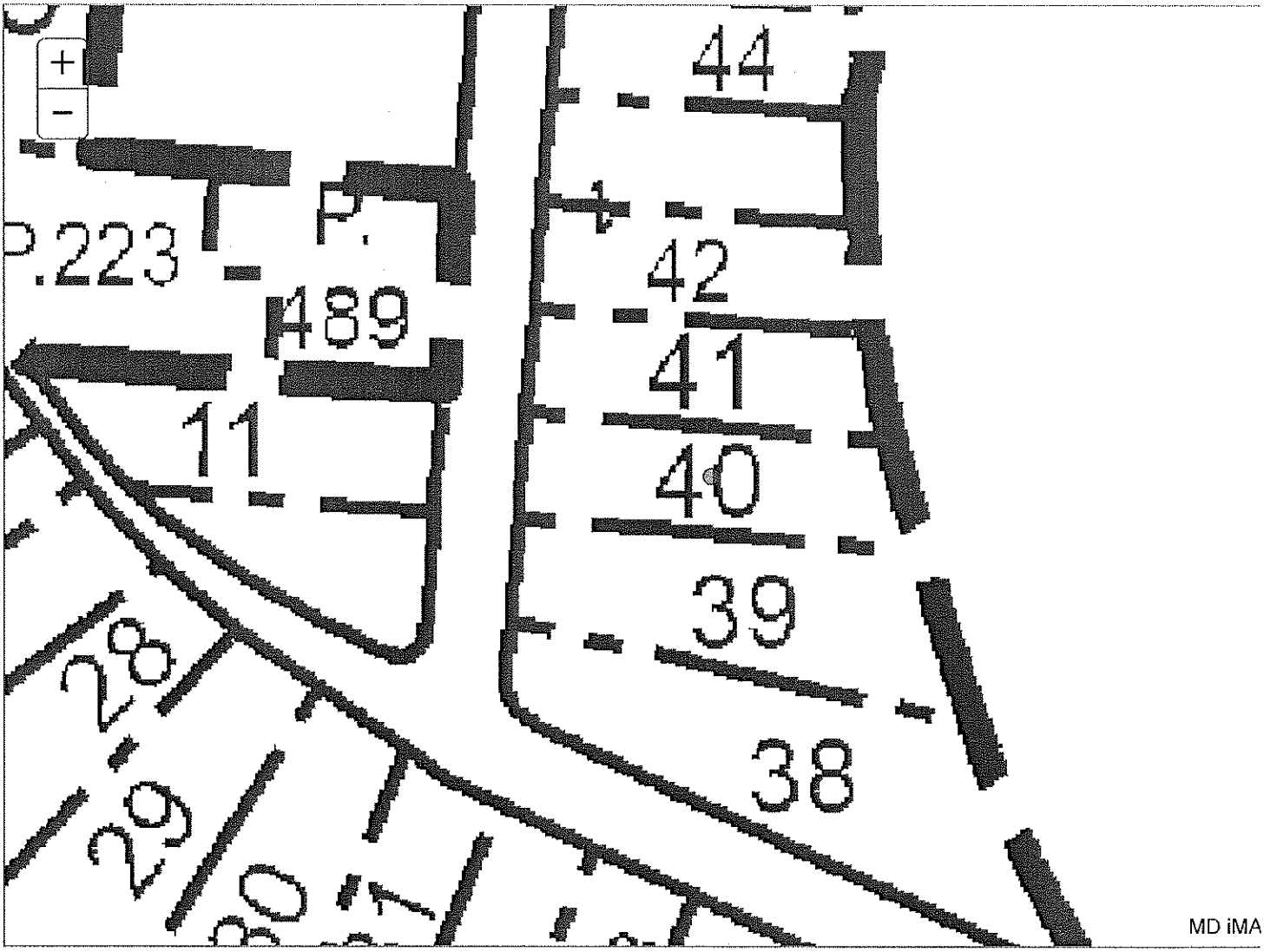
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Baltimore County

New Search (https://sdat.dat.maryland.gov/RealProperty)

District: **15** Account Number: **1523504960**



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

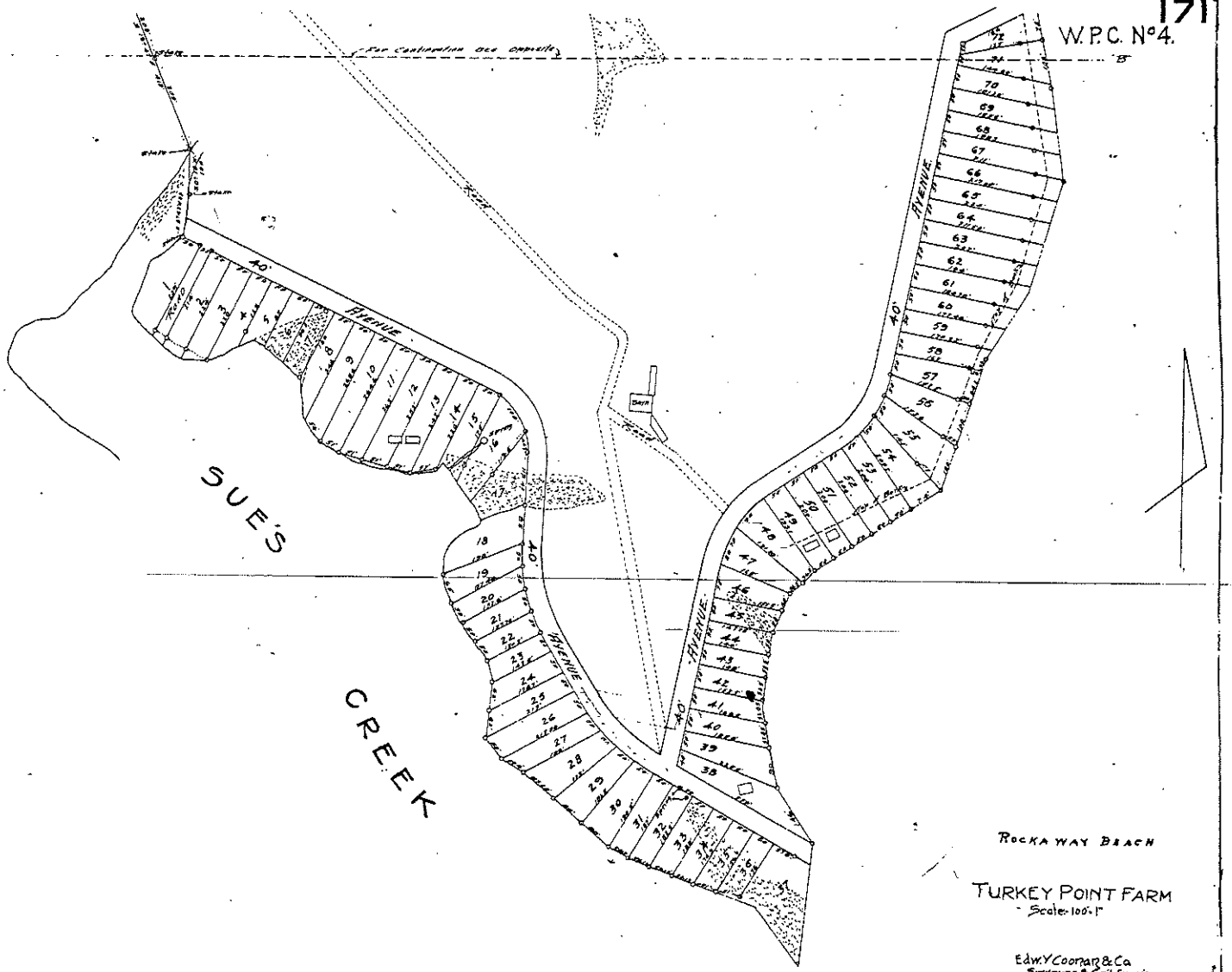
If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at **www.plats.net (http://www.plats.net)**.

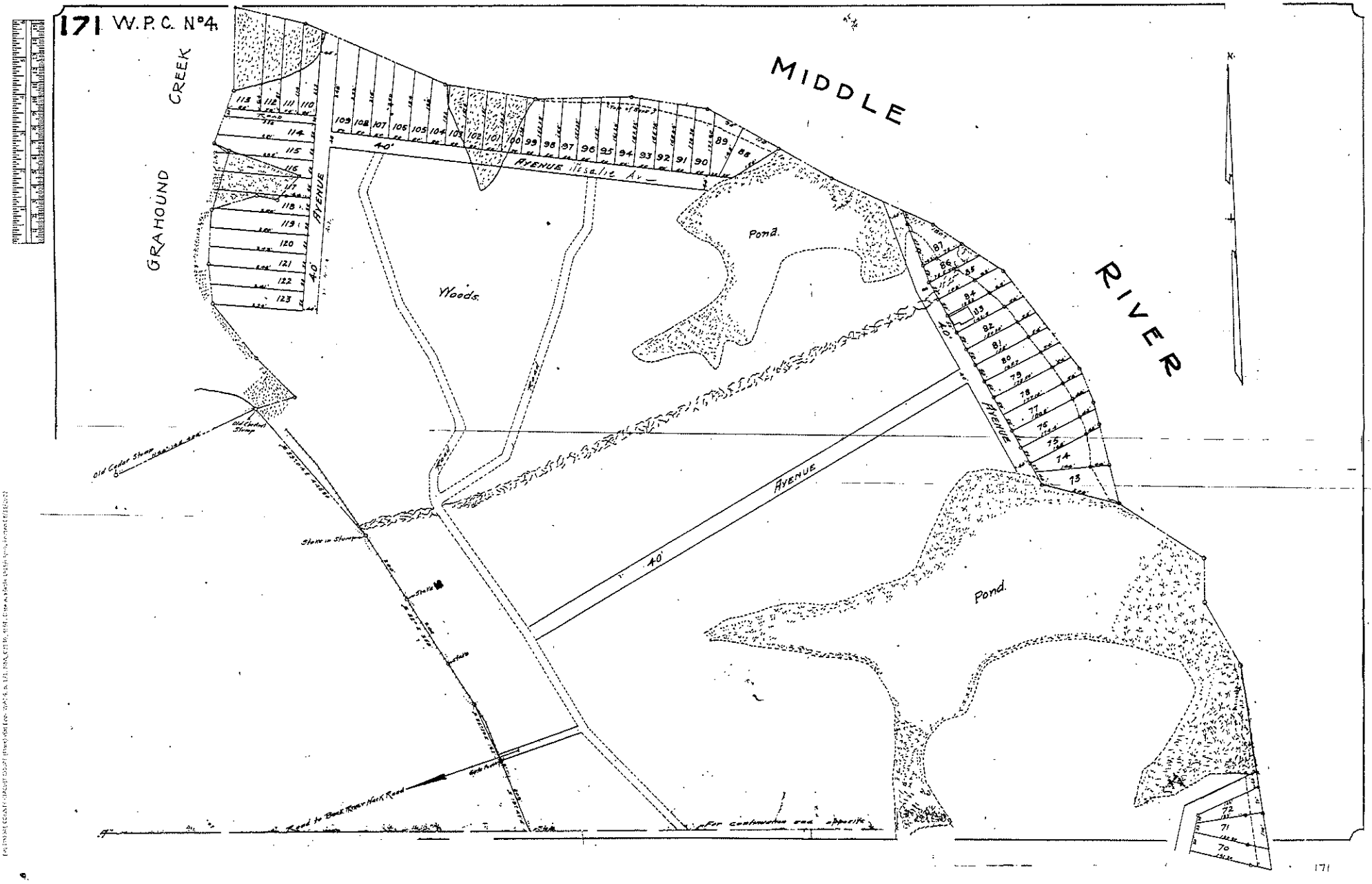
Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at **http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx (http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx)**.

171

W.P.C. No 4.

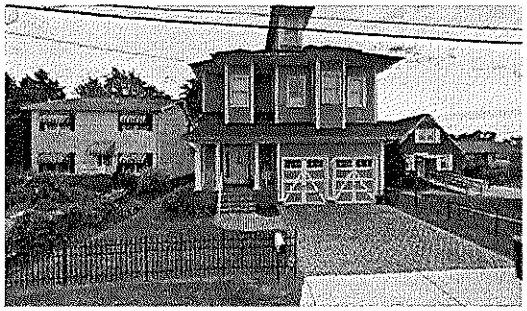

SUE'S
CREEK
40' Avenue
40' Avenue
40' Avenue
40' Avenue
Plat accompanying Deed
from
Herman Young & wf.
to
Rockaway Beach Realty Co
Filed Sept 4-1918
Test: Wm. F. Cole Clerk.
ROCKAWAY BEACH
TURKEY POINT FARM
Scale-100'=1"
Edw. Y. Coonan & Co
Surveyors & Civil Engrs.
231 Courtland St.


171 W.P.C. N°4
GRAHOUND CREEK
MIDDLE RIVER
Avenue Nesaline Av.
40'
Avenue
Woods
Pond.
Pond.
Old Cedar Stump
Stone in Stump
Road to Back River Neck Road
for continuation see opposite
171

Google Maps 717 Rockaway Beach Ave



Map data ©2022 , Map data ©2022 20 ft



717 Rockaway Beach Ave
Building

Google Maps 715 Rockaway Beach Ave

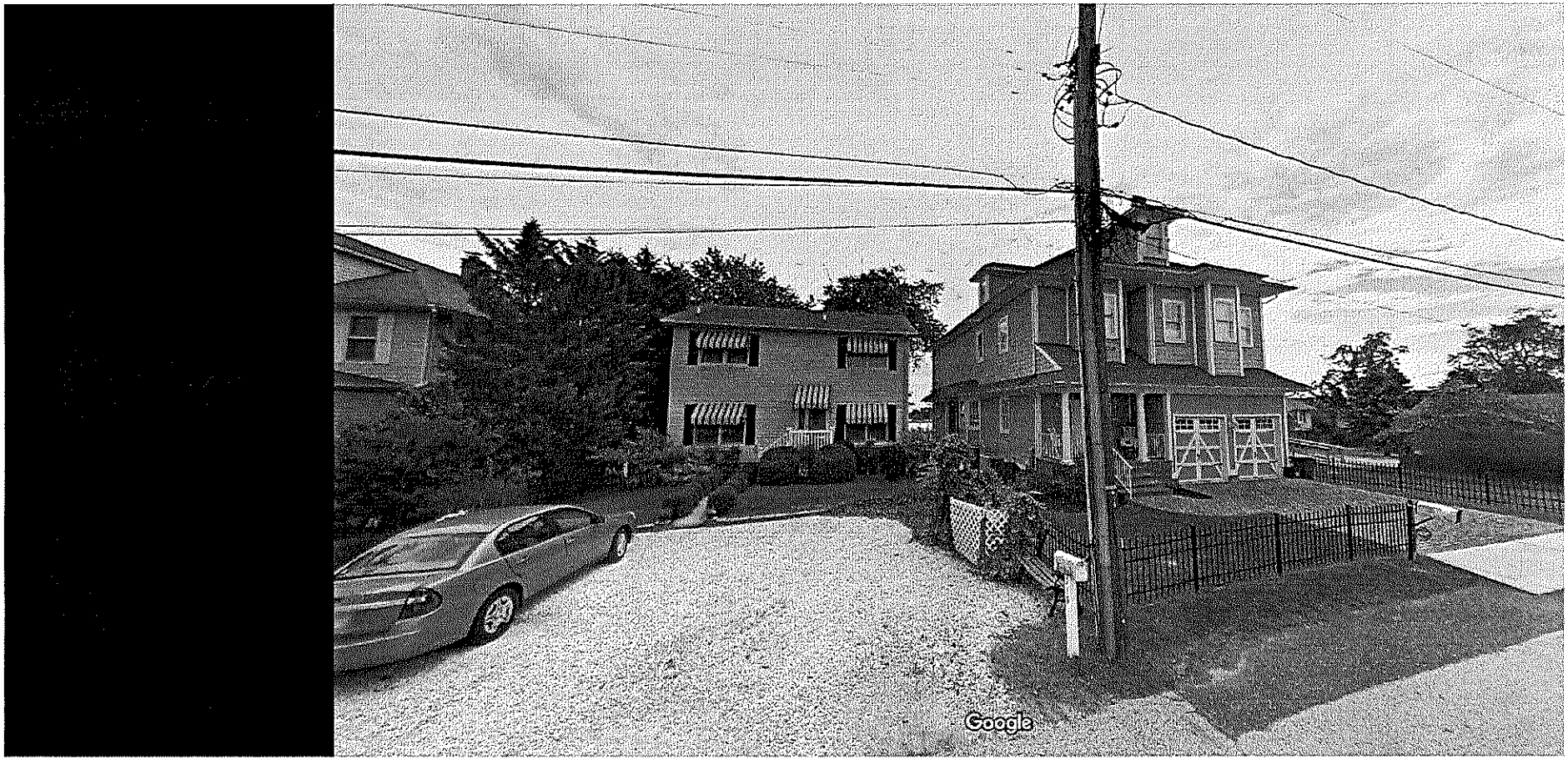


Image capture: Jul 2016 © 2022 Google

← 717 Rockaway Beach Ave

All Street View & 360°

Google Maps 717 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

← 717 Rockaway Beach Ave

All Street View & 360°

Google Maps 718 Rockaway Beach Ave

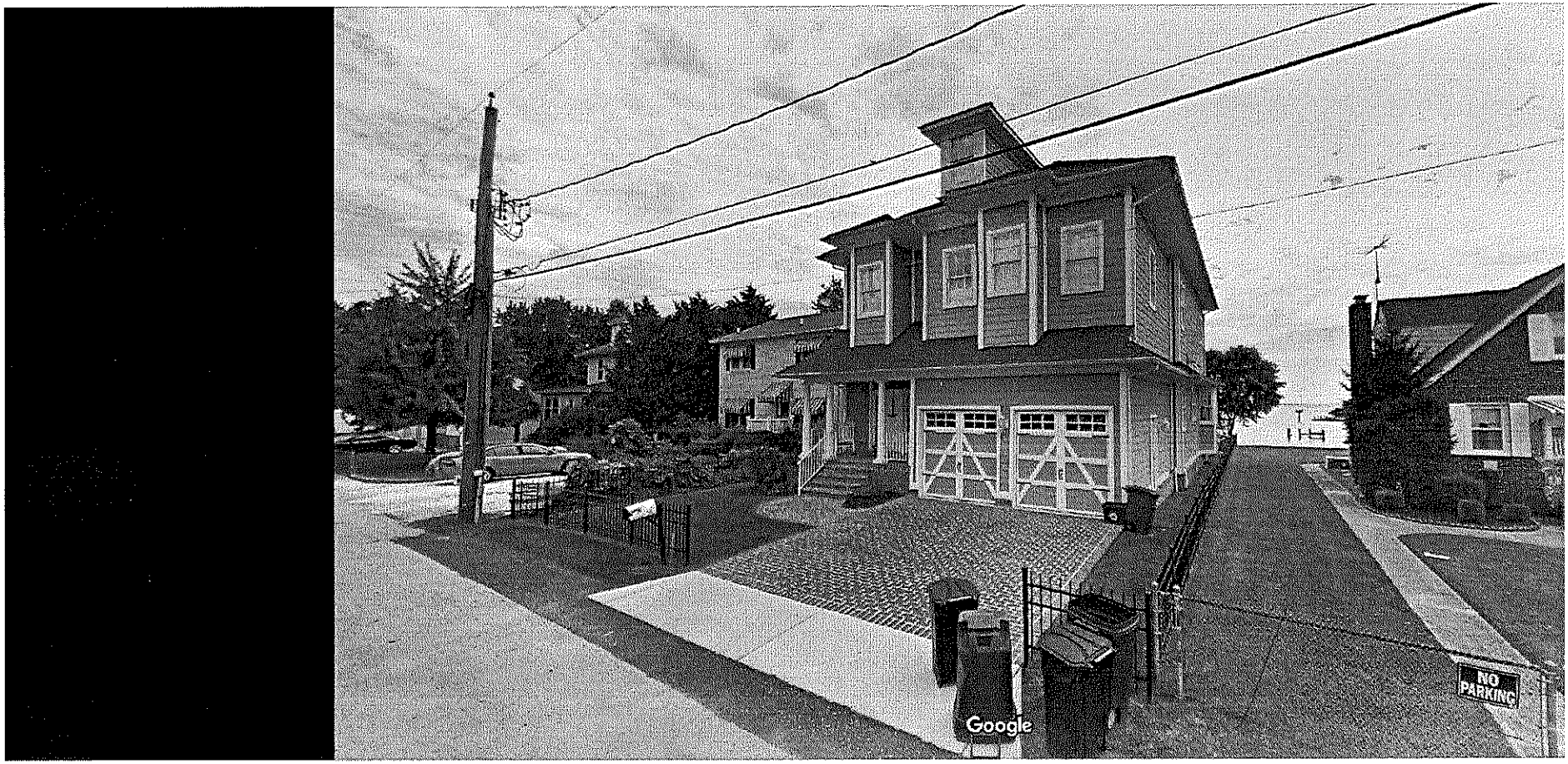


Image capture: Jul 2016 © 2022 Google

← 717 Rockaway Beach Ave

All Street View & 360°

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Property Information	*Lot Size and Setbacks*
Property Address: 717 ROCKAWAY BEACH AVE	**Size:**
City, State, Zip: ESSEX, MD, 21221	**Set Backs - Front Yard:** 30.00
Tax ID: 1523504960	**Set Backs - Rear Yard:** 20.00
District: 15	**Set Backs - Right Side Yard:** 10.60
Existing Use:	**Set Backs - Left Side Yard:** 12.50
Proposed Use:	
Is this property located in a Floodplain: YES	
Sprinkler to be Installed?:	
Plumbing Work?:	
Electrical Work?:	

Owner Information

Owner: WILLIAM E TUNNEY

Owner Address: 315 BLUE GRASS LN, HAMPSTEAD, MD, 21074

Tenant:

Applicant: WILLIAM E TUNNEY

C. Pete Gutwald, ALCP, Director

E. John Bryan, Building Engineer

*Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD / USING BALTO ,CO. DECK GUIDELINES,TK. Dwelling is not in 100 yr floodplain per AB

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

*Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.

JOHN A. OLSZEWSKI, JR.
County Executive

DAVID V. LYKENS, *Director*
Department of Environmental Protection and Sustainability

April 12 2022

William Tunney
315 Blue Grass Lane
Hampstead, MD 21074

RE: Deck Permit - #R22-05031
717 Rockaway Beach Ave

Dear Mr. Tunney:

Environmental Impact Review (EIR) completed an evaluation of the above referenced property and deck permit application for 717 Rockaway Beach Ave. The 9,027 square foot property is located within a Limited Development Area (LDA) and Modified Buffer Area (MBA) in the Chesapeake Bay Critical Area (CBCA) and must comply with all requirements of Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

The property does not comply with the CBCA Regulations. In order to bring the property into compliance, you must complete the items listed in the table below.

Lot Coverage
Existing Lot Coverage: = 3,100 square feet or 34.3%. Current LDA regulations restrict the lot coverage on this property to 25% (2,256 square feet) or a maximum of 31.25% (2,821 square feet), with mitigation for the amount over 25%. The lot coverage present exceeds the maximum allowed. As the proposed open wood deck (with dirt/grass below) does not count as lot coverage, there is no lot coverage mitigation required. However, please be aware that no future lot coverage will be permitted without equal amount of lot coverage removal. Contact EIR to discuss permit and CBCA requirements for any future construction on site. Lot coverage includes gravel.
Forest Cover
15% minimum forest requirement: A minimum of three trees must be on-site at all times. As no trees currently exist on site, three Maryland native, deciduous trees at least 5-feet tall will need to be planted on the property. Three shrubs may be substituted for each required tree, if desired.
Modified Buffer Area
Properties within the MBA have a 100-foot buffer from tidal waters. Structures are not allowed in the buffer unless the property owner performs on-site mitigation or pays a fee-in-lieu. The proposed deck is within the 100-foot MBA. Mitigation for the 552 square feet of impact may be satisfied through: Payment of a fee-in-lieu of $1.50 per square-foot of disturbance. Tree planting to satisfy the Forest Cover requirement may also be used to address the MBA mitigation; therefore, fee-in-lieu payment would be reduced to $678.15.

*Note no manmade structures are allowed within 25 feet of tidal waters.
Summary of Mitigation Requirements: 1. Plant a minimum of three (3) Maryland native deciduous canopy trees on-site to meet forest cover requirements. 2. MBA mitigation: pay $678.15 fee-in-lieu.

Once you sign this letter, return it to our office indicating your acceptance of the mitigation requirements, and pay the appropriate fee-in-lieu amount, EIR will release the permit. Inspections will be conducted to determine compliance with all Critical Area requirements that pertain to this property. If you have any questions regarding this correspondence, please contact me at mbrady1@baltimorecountymd.gov or 410-887-3980.

Sincerely,

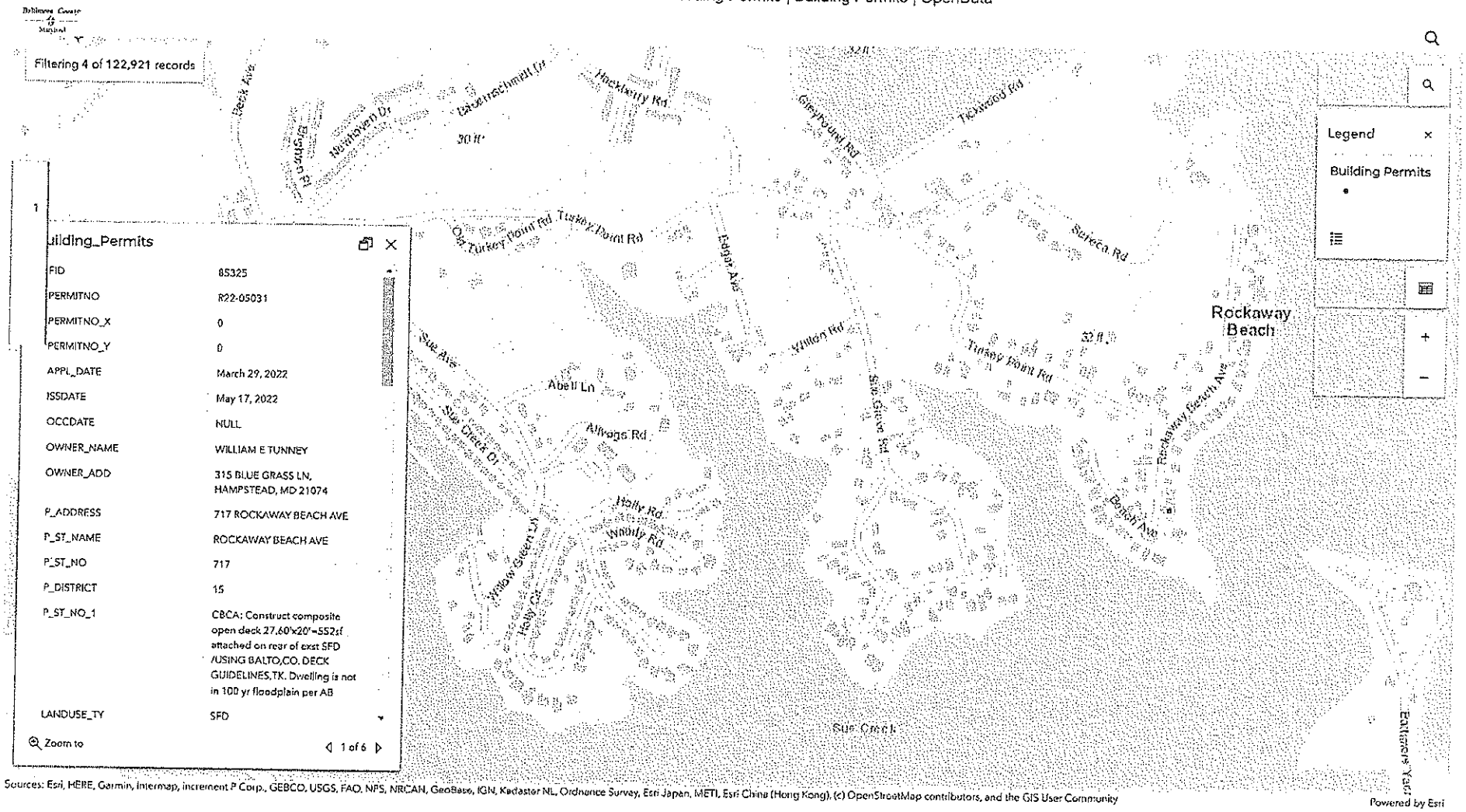
Marie Brady
Environmental Impact Review

I/We agree to meet the requirements outlined in this letter to bring the referenced property in to compliance with Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection:

Property Owner(s) Signature(s) Date

Printed Name of Property Owner(s)

S:\EPS\EIR\Marie\Permit Review\CBCA\Rockaway Beach 717- MBA+for.docx


Filtering 4 of 122,921 records
Legend
Building Permits
Building_Permits
FID 85325
PERMITNO R22-05031
PERMITNO_X 0
PERMITNO_Y 0
APPL_DATE March 29, 2022
ISSDATE May 17, 2022
OCCDATE NULL
OWNER_NAME WILLIAM E TUNNEY
OWNER_ADD 315 BLUE GRASS LN, HAMPSTEAD, MD 21074
P_ADDRESS 717 ROCKAWAY BEACH AVE
P_ST_NAME ROCKAWAY BEACH AVE
P_ST_NO 717
P_DISTRICT 15
P_ST_NO_1 CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD /USING BALTO,CO. DECK GUIDELINES,TK. Dwelling is not in 100 yr floodplain per AB
LANDUSE_TY SFD
Zoom to
1 of 6
Rockaway Beach
Sue Creek
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community
Powered by Esri

Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Report Generated On:
3/31/2022

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays / Contact Agency	Instructions: Begin review process with Zoning Review, Room 111. Potential Overlay Issues	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
	Growth Tier 1: Served by public sewer and inside URDL													
Planning Jefferson Building Room 101 Phone: 410-887-3211	Bowleys Quarters-Back River Neck Area	X												
EPS-Dev. Coord. County Office Building Room 319 Phone: 410-887-3733	Chesapeake Bay Critical Area	X		X	X	X	X	X	X	X				
	100 Year Flood Zone	X		X	X	X		X	X	X				
	Possible Flood Hazard - Water Body Present	X		X	X	X		X	X	X				
PAI-Sed. Control Insp. County Office Building Room G-21 Phone: 410-887-3226	Chesapeake Bay Critical Area	X						X		X				
	100 Year Flood Zone	X						X		X				
	Possible Flood Hazard - Water Body Present	X						X		X				
PAI-Public Services County Office Building Room 119 Phone: 410-887-3751	Bowleys Quarters-Back River Neck Area	X						X						OK To File
	100 Year Flood Zone	X	X	X	X	X		X	X			X		OK To File
	Possible Flood Hazard - Water Body Present	X	X	X	X	X		X	X			X		OK To File
	InFill Lot Review	X												OK To File
	Verify Water Service Size.	X												
	Possible Replacement Dwelling. Permit # B599298 Appl. Date: Not Entered	X												
Zoning Review County Office Building Room 111 Phone: 410-887-3391	Bowleys Quarters-Back River Neck Area	X												
	Zoning Cases: 2006-0501-SPH; 2005-0579-A	X		X	X	X	X							

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.
Form171R

Permit Processing Residential Permit & Development Report

Property Information

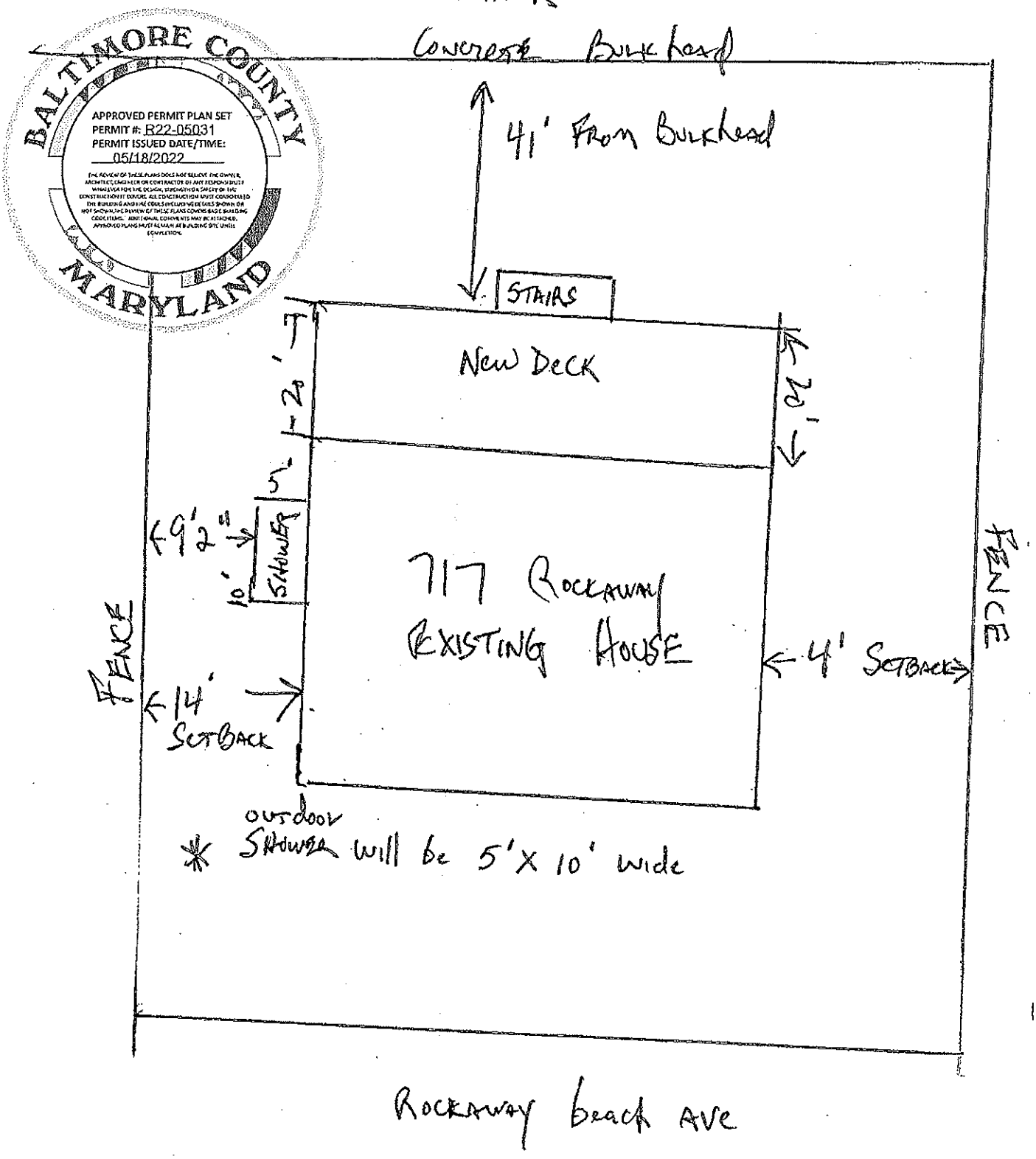
Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays / Contact Agency	Instructions: Begin review process with Zoning Review, Room 111. **Potential Overlay Issues** — Growth Tier 1: Served by public sewer and inside URDL	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
MD Aviation Administration Division of Airport Facilities Planning P.O. Box 8766 BWI Marshall Airport,MD 21240-0766 Phone: 410-859-7692 or 410-859-7070	Martin State Aiport Zoning Area	X		X	X		X	X	X	X				OK To File
Building Plans Review County Office Building Room 120 Phone: 410-887-3987	100 Year Flood Zone	X	X	X	X	X			X	X				
	Possible Flood Hazard - Water Body Present	X	X	X	X	X			X	X				
Dev. Management County Office Building Room 123 Phone: 410-887-3321	Impact Fee: EXEMPT Details: ComRevitalDist=Not Exempt; CountyOwned=Not Exempt; DNROwned=Not Exempt; EnterpriseZone=Not Exempt; FedOwned=Not Exempt; MarylandTOD=Not Exempt; MDOpportunityZone=Not Exempt; StateOwned=Not Exempt; VestedPlat=Exempt Note: DNROwned,FedOwned and MDOpportunityZone may require further review due to spatial discrepancies between datasets.	X												

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.


WATER
Concrete Bulkhead
41' From Bulkhead
STAIRS
New Deck
12'
2'
5'
9' 2"
10'
SHOWER
717 Rockaway
Existing House
4' SETBACK
FENCE
FENCE
14'
SETBACK
outdoor
* Shower will be 5' X 10' wide
Rockaway Beach Ave
APPROVED PERMIT PLAN SET
PERMIT #: R22-05031
PERMIT ISSUED DATE/TIME:
05/18/2022
BALTIMORE COUNTY
MARYLAND

2022-0151-SPH

Zoning Hearing Plan for Variance _____ for Special Hearing X Mark Type Requested with (X)

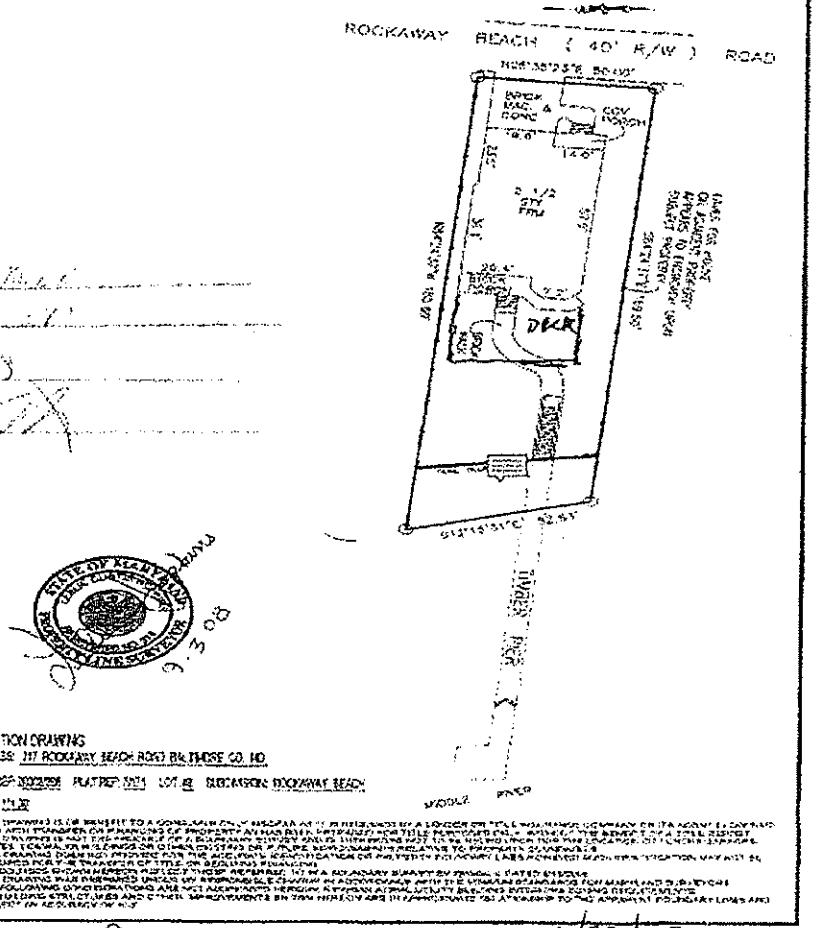
Address 717 Rockaway Beach Ave Owners(s) Name(s) William + Theresa Tunney

Subdivision Name Rockaway Beach Lot # 40 Block # — Section # —

Plat Book # 4 Folio # 171 10 Digit Tax # 1523504960 Deed Reference# 46333/00297

HOPKINS ENGINEERING

3655 Harmony Church Road, Ellicott City, Maryland 21043
410-379-9554 Phone 410-313-5185 Fax

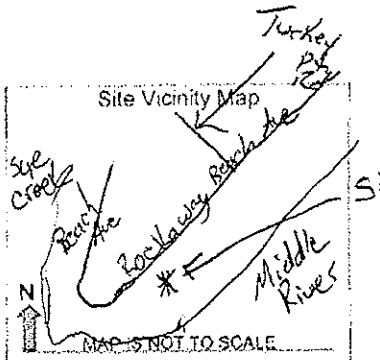


LOCATION DRAWING
ADDRESS 717 ROCKAWAY BEACH ROAD BALTIMORE CO. MD.
SCALE: 1"=30'

N

Plan Drawn By Copied from Owner's Date 6/23/22 Scale: 1 inch = 30 Feet

Site Vicinity Map



Zoning Map # _____

Zoning DR 3.5

Election District 15

Council District 7

Lot Area Acreage 0.20

Lot Square Footage 9,027

Historic (Yes or No) NO

CBCA (Yes or No) Yes

Flood Plain (Yes or No) Yes

Utilities – Mark with (X)

Water is.

Public X Private ____

Sewer is:

Public X Private ____

Prior Hearing (Yes or No) Yes

If (Yes) list Case Number(s)

and order result(s) below

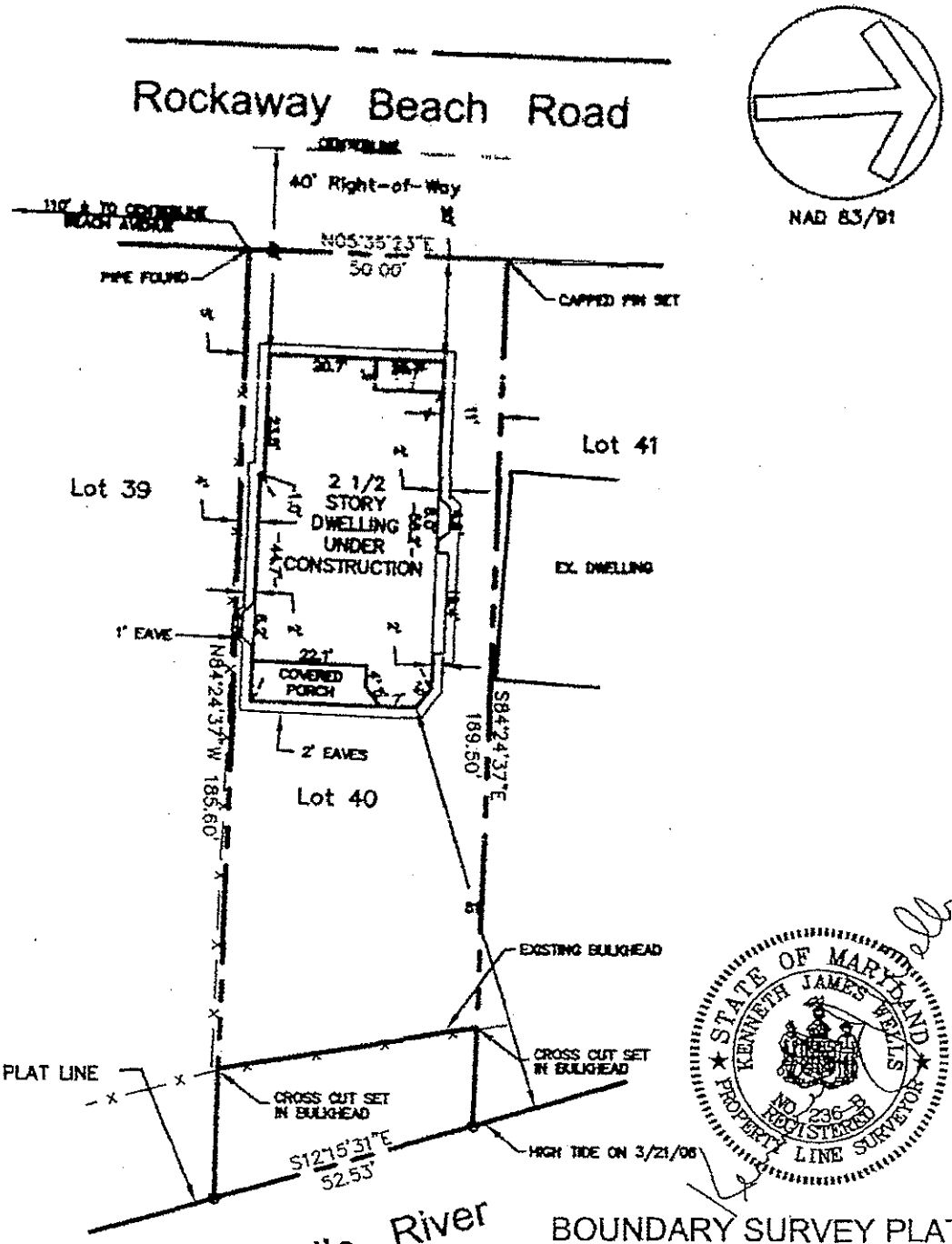
~~2004-0579-SPH~~ → GRANTED

2005-0579-A

2006-0501-SPH → GRANTED

Violation Case Number(s)

Permit Application. Info on form completed by Kevin McDonough, Rockaway Beach Imp. Assoc.



STATE OF MARYLAND
KENNETH JAMES WELLS
NO. 236 R
REGISTERED
PROPERTY LINE SURVEYOR

BOUNDARY SURVEY PLAT
717 ROCHAWAY BEACH ROAD
LOT 40 "ROCKAWAY BEACH"

SCALE: 1" = 30' DATED: 6/13/2005
REVISION DATE: 3/21/2006

LEGEND:

DWELLING PROJECTIONS

DEED REFERENCE: 20302/208
PLAT REFERENCE: 4/171

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Baltimore County
Permits, Approvals
And Inspections

OFFICE HOURS 7:30 am - 3:30 pm

Building Inspection: 410-887-3953

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation Case No. R22-05031 Property No. 1523504960 Zoning:

Name(s): TUNNEY WILLIAM EDWARD IV, TUNNEY THERESA MARIE

Address: 315 BLUE GRASS LN HAMPSTEAD MD 21074

Violation Location: 717 ROCKAWAY BEACH AVE ESSEX MD 21221

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

PROPOSED DECK TO BE CONSTRUCTED UNDER PERMIT R22-05031 CANNOT EXCEED 1' (12") IN HEIGHT MEASURED FROM THE LOWEST NATURAL GRADE ADJACENT TO DECK. ANY QUESTIONS REGARDING THIS REQUIREMENT PLEASE CONTACT THE BALTIMORE COUNTY ZONING DEPARTMENT AT 410-887-3391

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

ON OR BEFORE: 7/17/22 OR COMPLETION OF DECK DATE ISSUED: 6/17/22

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1,000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

INSPECTOR: [signature] PRINT NAME: MATTHEW GAMLER

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NO LATER THAN:

ON OR BEFORE: _____ DATE ISSUED: _____

INSPECTOR: _____ PRINT NAME: _____

COPIES: PINK – AGENCY, YELLOW - VIOLATION SITE, GOLD – DEFENDANT, WHITE – INSPECTOR

PAI BI 11 REVISED 9/16

Donna Mignon

From: Peoples Counsel
Sent: Wednesday, September 7, 2022 2:02 PM
To: Administrative Hearings
Cc: info@turkeypoint.org; bud@btplumbingsupply.com; trishmcdonough@comcast.net; scott@atomicteevee.com; joannweiland@comcast.net; msrockaway2@aol.com; Steve Lafferty; Jenifer G. Nugent; April Smith; Jeffrey N Perlow; cpgutwald@baltmorecountymd.gov; David V. Lykens; Jeffery Livingston
Subject: Rockaway Beach Improvement Ass'n - William & Theresa Tunney –717 Rockaway Beach Ave - Case No.: 2022-151-SPH
Attachments: Ltr to ALJ on Rockaway Beach Improv - Tommey - 2022-151-SPH.pdf

Good Afternoon,

Attached for filing, please find a letter from our office relating to the above-mentioned case.

Thank you for your consideration.

Rebecca M. Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2189 Direct Dial
(410) 887-2188 Office

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections
To the Office of Administrative Hearings for Baltimore County for the property located at:

Address 717 Rockaway Beach Ave - Essex, MD 21221 **Currently Zoned** DR-3.5

Deed Reference 46333 / 00297 **10 Digit Tax Account #** 1523504960

Owner(s) Printed Name(s) William Edward Tunney IV + Theresa Marie Tunney

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

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

SEE ATTACHED

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

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

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

Property is to be posted and advertised as prescribed by the zoning regulations.
I/ we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound 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).

Owners
William Edward Tunney IV + Theresa Marie Tunney
Name - Type or Print

Signature

315 Blue Grass Ln - Hampstead, MD
Mailing Address City State

21074 410-446-9833 / bud@btplumbingsupply.com
Zip Code Telephone # Email Address

Legal Owners (Petitioners):

SEE ATTACHED
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

Mailing Address City State

Zip Code / Telephone #'s (Cell and Home) / Email Address

Attorney for Petitioner:

ORDER RECEIVED FOR FILING
Name - Type or Print

10-14-22
Date

Signature

By

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

Rockaway Beach Improvement Assoc. c/o: Kevin McDonnell
Name – Type or Print

Kevin M. McDonnell, President
Signature

628 Rockaway Beach Ave | Essex, MD
Mailing Address City State

21221 / 443-768-0221 / info@fortkeypoint.
Zip Code Telephone # Email Address

CASE NUMBER 2022-0151-SPH **Filing Date** 6/28/22 **Do Not Schedule Dates** ____ **Reviewer** SMC

3/2022

Petition for Special Hearing
717 Rockaway Beach Avenue | Essex, Maryland 21221

Petition for Special Hearing to Determine:

1. Whether the construction of a deck at waterfront side of the subject property constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman?

2. Whether the construction of a deck at the waterfront side of the subject property would "obstruct adjacent property owners water views" and conflict with restriction #5 in the zoning order issued by Zoning Commissioner William Wiseman on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH

3. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with the Baltimore County Zoning Regulations?

4. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with all applicable policies, laws and regulations?

Petitioners:

Ruth Nuth by Patricia McDonough (POA)

Ruth Nuth, By Patricia McDonough, her Power of Attorney
719 Rockaway Beach Avenue
Essex, Maryland 21221
443-683-7956 | trishmcdonough@comcast.net

Kevin M. McDonough

The Rockaway Beach Improvement Association Inc.
Kevin McDonough, President
628 Rockaway Beach Avenue
Essex, Maryland 21221
443-768-0221 | info@turkeypoint.org

Marcyanna Siegman William Siegman

Marcyanna Siegman & William Siegman
715 Rockaway Beach Avenue
Essex, Maryland 21221
410-682-4995 | msrockaway2@aol.com

Petitioner's Continued:

Scott C. Huffines & Kristin Miller
721 Rockaway Beach Avenue
Essex, Maryland 21221
410-402-0141 | scott@atomicteevee.com

JoAnn Weiland
2429 Beach Avenue
Essex, Maryland 21221
410-686-0131 | joannweiland@comcast.net

Petitioner's Continued:

Scott C. Huffines & Kristin Miller
721 Rockaway Beach Avenue
Essex, Maryland 21221
410-402-0141 | scott@atomicteevee.com

JoAnn Weiland

JoAnn Weiland
2429 Beach Avenue
Essex, Maryland 21221
410-686-0131 | joannweiland@comcast.net

Zoning Description for 717 Rockaway Beach Avenue | Essex, Maryland 21221
Obtained from Zoning Case# 06-501-SPH

Beginning at a point on the East side of Rockaway Beach Avenue, which is 20 feet wide at the distance of 110 feet north of the centerline of the nearest improved intersecting street, Beach Avenue which is 40 feet wide. Being Lot #40, Map #98, Grid #15, Parcel #211 in the Subdivision of Rockaway Beach as recorded in Baltimore County Plat Book #4, Folio #171, containing 9,027 square feet and/or 0.21 acres. Also known as 717 Rockaway Beach Avenue and located in the 15th Election District, 7th Councilmanic District.

Z022-0151-SPH

Certificate of Service

I hereby certify that on this 24th day of June, 2022 a copy of this Petition for Special Hearing was mailed via first class mail, postage prepaid to William & Theresa Tunney at 315 Blue Grass Lane – Hampstead, MD 21074.

X_____

Kevin McDonough, President – Rockaway Beach Improvement Association Inc.

JOHN A. OLSZEWSKI, JR.
County Executive

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

November 4, 2022

Jennifer R. Busse, Esquire
Whiteford, Taylor and Preston
1 W. Pennsylvania Avenue, Suite 300
Towson, MD 21204

RECEIVED
NOV 07 2022
BALTIMORE COUNTY
BOARD OF APPEALS

RE: **APPEAL TO BOARD OF APPEALS**
Petition for Special Hearing
Case No. 2022-00151- SPH
Property: 717 Rockaway Beach Avenue

Dear Ms. Busse:

Please be advised that an appeal of the above-referenced case was filed in this Office on November 4, 2022. 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

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm
Attachment

c: ✓ Board of Appeals
People's Counsel

Rockaway Beach Improvement Assoc. – info@turkeypoint.org
c/o Kevin McDonough, President, RBIA – kevinmcdonough@comcast.net
William & Theresa Tunney – bud@btplumbingsupply.com
Bob Bendler – shoreperfect@comcast.net
Ruth Nuth by Patricia McDonough– trishmcdonough@comcast.net
William & Marcyanna Siegman – msrockaway2@aol.com
Scott Huffines – shuffin1@gmail.com; scott@atomicteevee.com
Kristin Miller – knmiller08@gmail.com
JoAnn Weiland – joannweiland@comcast.net
Miriam Puhl – mpuhl@qes.net
Mike McDonough – mikemcdonough@gmail.com
Lauren McDonough – laurinmcdonough@gmail.com
PAI Code Enforcement – paienforce@baltimorecountymd.gov

APPEAL

Petition for Special Hearing
Case No.: 2022-0151-SPH
717 Rockaway Beach Avenue
15th Election District, 7th Council District

Petition for Special Hearing filed by Petitioners and Rockaway Beach Improvement Assoc. – 6/28/22

Zoning Description of Property (1 page)

In person Hearing – set for September 30, 2022 at 1:30 – see emails and letter dated 8/24/22

Certification of Publication – *The Daily Record* Newspaper – 9/9/2022

Certification of Posting by Martin Ogle – September 7, 2022 and September 24, 2022

Entry of Appearance by People's Counsel – July 6, 2022

Attendance Sheets -2

Zoning Advisory Committee Comments-
DOP dated 7/28/22 – Amended - 9/22/22
DEPS dated 7/19/22
DPR – July 11, 2022

Petitioner's Exhibits – Owners and Rockaway Beach Improvement Assoc.

Exhibit Name	Exhibit #
Copy of Zoning Order from 2006 Case	1
E-mail from Bob Rush to Commissioner Wiseman	2
Survey	3
Site Plan for Deck Construction Submitted w/ Permit Application	4
Photographs of Property	5
Letter from Baltimore County Peoples Counsel	6
Letter from Neighbors	7
Letter from BRNPCA	8
Letter from EMRCC	9

Planning Dept. Comments	10
Recorded Deeds for 717 Rockaway (From Rush's purchase in 2004 to current owner)	11a, 11b, 11c, 11d

Exhibits from Owners: William and Theresa Tunney

1) Site Plan (1 sheet)

2) Google Images (4 sheets)

3) Pictures of 717 Rockaway Beach Ave. (8 sheets)

4) Pictures of 715 Rockaway Beach Ave. (6 sheets)

5) Pictures of 719 Rockaway Beach Ave. (4 sheets)

6) Building Permit R22-09666 (2 sheets)

7) 9/20/22 Letter from Marie Brady at EIR

8) ZAC Comments (8 sheets)

9) Findings of Fact and Conclusions of Law in Case 06-501-SPH

People's Counsels Filing on

Miscellaneous: Emails, previous Order, SDAT, ZAC Agenda, Emergency Petition, Building Permits, Subpoenas, Opposition Letters

Cover Letter and Administrative Law Judge's Opinion and Order – October 14, 2022 (BY JUDGE MAYHEW)

Notice of Appeal & Check No. 167564for $600 - Received on 11/4//22 from Jen Busse, Esquire

Cashier's Receipt No. 203953 – $300

Materials Sent to BOA Folder on 11/4/22

Debra Wiley

From: Debra Wiley
Sent: Friday, October 14, 2022 11:38 AM
To: Rockaway Beach Improvement Assoc. –; c/o Kevin McDonough, President, RBIA –
Cc: Jennifer R. Busse, Esq. –; William & Theresa Tunney –; Bob Bendler –; Ruth Nuth by Patricia McDonough–; William & Marcyanna Siegman –; Scott Huffines –; scott@atomicteevee.com; Kristin Miller –; JoAnn Weiland –; Miriam Puhl –; Mike McDonough –; Lauren McDonough –; Cecilia Yazigi –; Peoples Counsel; PAI Enforce; Donna Mignon; County Council; Henry Ayakwah; Jeffery Livingston; Jenifer G. Nugent; PAI Zoning; Vishnubhai K Desai
Subject: Decision - Case No. 2022-0151-SPH - 717 Rockaway Beach Avenue - Tunney
Attachments: 0260_001.pdf

Good Morning,

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

Have a great and safe weekend.

From: adminhearingcopier@baltimorecountymd.gov <adminhearingcopier@baltimorecountymd.gov>
Sent: Friday, October 14, 2022 11:32 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Attached Image

Debra Wiley

From: Debra Wiley
Sent: Friday, October 14, 2022 11:43 AM
To: 'Lauren McDonough -'
Subject: FW: Decision - Case No. 2022-0151-SPH - 717 Rockaway Beach Avenue - Tunney
Attachments: 0260_001.pdf

From: Debra Wiley
Sent: Friday, October 14, 2022 11:38 AM
To: Rockaway Beach Improvement Assoc. – <info@turkeypoint.org>; c/o Kevin McDonough, President, RBIA – <kevinmcdonough@comcast.net>
Cc: Jennifer R. Busse, Esq. – <jbusse@wtplaw.com>; William & Theresa Tunney – <bud@btplumbingsupply.com>; Bob Bendler – <shoreperfect@comcast.net>; Ruth Nuth by Patricia McDonough– <trishmcdonough@comcast.net>; William & Marcyanna Siegman – <msrockaway2@aol.com>; Scott Huffines – <shuffin1@gmail.com>; scott@atomicteevee.com; Kristin Miller – <knmiller08@gmail.com>; JoAnn Weiland – <joannweiland@comcast.net>; Miriam Puhl – <mpuhl@qes.net>; Mike McDonough – <mikemcdonough@gmail.com>; Lauren McDonough – <laurinmcdonough@gmail.com>; Cecilia Yazigi – <ceciliayazigi@hotmail.com>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; PAI Enforce <paienforce@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; County Council <countycouncil@baltimorecountymd.gov>; Henry Ayakwah <hayakwah@baltimorecountymd.gov>; Jeffery Livingston <jlivingston@baltimorecountymd.gov>; Jenifer G. Nugent <jnugent@baltimorecountymd.gov>; PAI Zoning <paizoning@baltimorecountymd.gov>; Vishnubhai K Desai <vdesai@baltimorecountymd.gov>
Subject: Decision - Case No. 2022-0151-SPH - 717 Rockaway Beach Avenue - Tunney

Good Morning,

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

Have a great and safe weekend.

From: adminhearingcopier@baltimorecountymd.gov <adminhearingcopier@baltimorecountymd.gov>
Sent: Friday, October 14, 2022 11:32 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Attached Image

Debra Wiley

From: Mail Delivery System <postmaster@baltimorecountymd.gov>
To: laurinmcdonough@gmail.com
Sent: Friday, October 14, 2022 11:38 AM
Subject: Undeliverable: Decision - Case No. 2022-0151-SPH - 717 Rockaway Beach Avenue - Tunney

The following message to <laurinmcdonough@gmail.com> was undeliverable.
The reason for the problem:
5.1.0 - Unknown address error 550-"5.1.1 The email account that you tried to reach does not exist. Please try\n5.1.1 double-checking the recipient's email address for typos or\n5.1.1 unnecessary spaces. Learn more at\n5.1.1 https://support.google.com/mail/?p=NoSuchUser 9-20020a0562140d4900b004a195757f9dsi1760626qvr.491 - gsmtp"

PLEASE PRINT CLEARLY

CASE NAME 717 Rockaway Beach Ave.
CASE NUMBER 2022-0451-SPH
DATE 9-30-22 @ 1:30 pm

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Kevin McDonough (RBA)	628 Rockaway Beach Ave	Essex, MD 21221	Kevinmcdonough@Comcast.net
Scott Huffines	721 Rockaway Beach Ave	Essex MD 21221	shuffin1@gmail.com
Kristin Miller	721 Rockaway Beach Ave	Essex MD 21221	ka.miller08@gmail.com
JoAnn Weiland	2429 Beach Ave.	Essex Md. 21221	joannweiland@Comcast.net
Jeremy Purvis	646 Rockaway Beach Rd	Essex MD 21221	mpurvis@gis.net
Mike McDonough	2023 New Haven Dr	Essex, MD 21221	MikeMcDonough@Comcast.net
Lauren Mcdonough	2023 Newhaven Dr.	essex, md 21221	laurnmcdonough@gmail.com
Ruth Nash by Patricia McDonough	717 Rockaway Beach Ave	Essex MD 21221	trshmcdonough@comcast.net
William Siegman	715 Rockaway Beach Ave	Essex, MD 21221	Mr. Rockaway2@AOL.com
MARCYANNA SIEGMAN	715 Rockaway Beach AVE	Essex, MD 21221	" " "
Cecilia Yazigi	367 Rockaway Beach ave	Essex MD 20221	ceciliayazigi@hotmail.com

PLEASE PRINT CLEARLY

(Tunney)

CASE NAME 717 Rockaway Beach Ave.
CASE NUMBER 2022-0151-SPH
DATE 9-30-22 @ 1:30 PM

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Jason Busse - WTP	1 W. Pennsylvania Ave Ste. 300	Towson MD	jbusse@wtplaw.com
Theresa Tunney	315 Blue Grass Ln.	Hampstead MD	
William Tunney	315 Blue Grass Ln	Hampstead MD	Bud@BTRunbySupply.com

Debra Wiley

From: Paul Mayhew
Sent: Friday, September 30, 2022 12:02 PM
To: Debra Wiley
Subject: FW: 717 Rockaway Beach Ave - deck permit
Attachments: Matthew Gawel.vcf; CN R22-05031.pdf

Can you please print this

Paul M. Mayhew
Managing Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
pmayhew@baltimorecountymd.gov

From: Matt F. Gawel <mgawel@baltimorecountymd.gov>
Sent: Friday, September 30, 2022 11:45 AM
To: Dave Goodwich <goodwidp@gmail.com>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Cc: Adam Whitlock <awhitlock@baltimorecountymd.gov>
Subject: RE: 717 Rockaway Beach Ave - deck permit

Attached is a copy of the correction notice issued at the request of the Zoning Department to make the owner aware that the deck cannot exceed 1' in height from the lowest natural grade. This was based on the information submitted on the building permit application submitted by the owner.

Matthew Gawel
Baltimore County
Chief Building Inspector

(410) 887-3953 Work
mgawel@baltimorecountymd.gov

From: Dave Goodwich <goodwidp@gmail.com>
Sent: Friday, September 30, 2022 11:39 AM
To: Paul Mayhew <pmayhew@baltimorecountymd.gov>
Cc: Adam Whitlock <awhitlock@baltimorecountymd.gov>; Matt F. Gawel <mgawel@baltimorecountymd.gov>
Subject: Re: 717 Rockaway Beach Ave - deck permit

CAUTION: This message from goodwidp@gmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

We cannot access those documents in Accela, so they would have to be provided by Matt. I can swing downstairs to grab a copy from Matt and bring it over to the hearing, if necessary.

Thanks, all.

On Fri, Sep 30, 2022 at 11:15 AM Paul Mayhew <pmayhew@baltimorecountymd.gov> wrote:

All:

At 1:30 today I am have a Special Hearing regarding the above property. On May 18 PAI issued a permit (R22-05031) to build a deck, but subsequently issued a correction notice on June 17 with a compliance date of July 17. Can one of you send me a copy of that notice and any notes in the file? Subsequently another permit (R22-09666) was issued on 9/21.

I am trying to understand what happened here. Thanks

If it's easier feel free to call me at the number below. thanks

Paul M. Mayhew

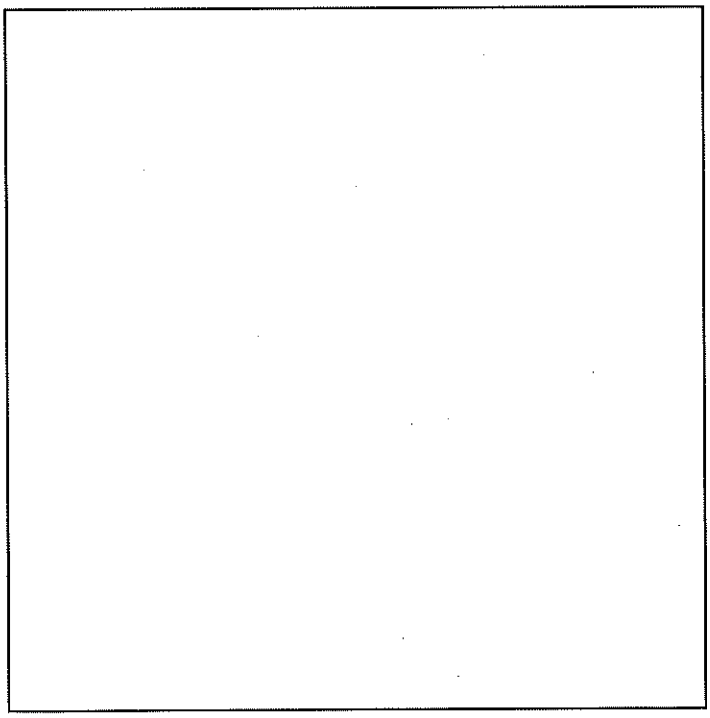
Managing Administrative Law Judge

105 West Chesapeake Ave., Suite 103

Towson, Maryland 21204

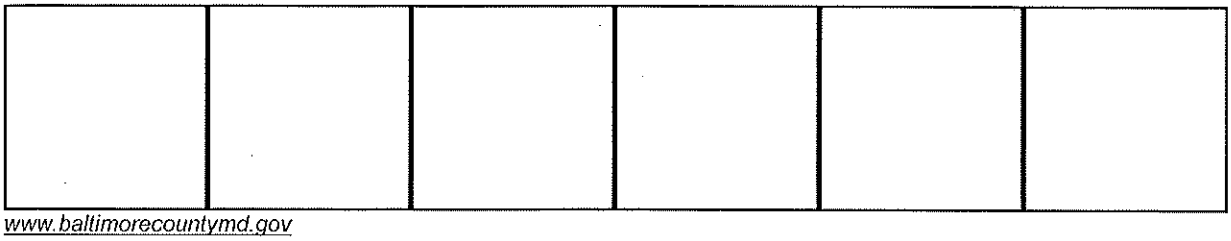
410-887-3868

pmayhew@baltimorecountymd.gov



Get your COVID-19 vaccine today.

CONNECT WITH BALTIMORE COUNTY



www.baltimorecountymd.gov

Baltimore County
Permits, Approvals
And Inspections

OFFICE HOURS 7:30 am - 3:30 pm

Building Inspection: 410-887-3953

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation Case No. R22-05031 Property No. 1523504960 Zoning:

Name(s): TUNNEY WILLIAM EDWARD IV, TUNNEY THERESA MARIE

Address: 315 BLUE GRASS LN HAMPSTEAD MD 21074

Violation Location: 717 ROCKAWAY BEACH AVE ESSEX MD 21221

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

PROPOSED DECK TO BE CONSTRUCTED UNDER PERMIT R22-05031 CANNOT EXCEED 1' (12") IN HEIGHT MEASURED FROM THE LOWEST NATURAL GRADE ADJACENT TO DECK. ANY QUESTIONS REGARDING THIS REQUIREMENT PLEASE CONTACT THE BALTIMORE COUNTY ZONING DEPARTMENT AT 410-887-3391

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

ON OR BEFORE: 7/17/22 OR COMPLETION OF DECK DATE ISSUED: 6/17/22

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1,000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

INSPECTOR: _____ PRINT NAME: MATTHEW GAWLER

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NO LATER THAN:

ON OR BEFORE: _____ DATE ISSUED: _____

INSPECTOR: _____ PRINT NAME: _____

COPIES: PINK – AGENCY, YELLOW - VIOLATION SITE, GOLD – DEFENDANT, WHITE – INSPECTOR

PAI BI 11 REVISED 9/16

Donna Mignon

From: Jeffrey N Perlow
Sent: Friday, September 30, 2022 9:19 AM
To: Donna Mignon
Cc: Debra Wiley; Paul Mayhew; Maureen E Murphy; Peter Gutwald
Subject: RE: 717 Rockaway Beach Avenue - Case No: 2022-0151-SPH
Attachments: Issued Permit R22-09666 (717 Rockaway Beach Avenue).pdf; Unissued Permit R22-09415 (717 Rockaway Beach Avenue).pdf; Canceled Permit R22-05031 (717 Rockaway Beach Road).pdf

Good Morning Donna,
Attached are the three building permits related to the above referenced property and today's zoning hearing, including the final issued permit R22-09666. I also included the earlier unissued permit and the earlier canceled permit because the final issued permit makes reference to these two earlier permits. If you have any questions, I can be reached at extension 0672 or 3391. Thanks!
Jeff

Jeffrey Perlow
Zoning Supervisor
Baltimore County Zoning Review Office
Department of Permits, Approvals & Inspections
410-887-3391

From: Donna Mignon <dmignon@baltimorecountymd.gov>
Sent: Thursday, September 29, 2022 2:59 PM
To: Peter Gutwald <cpgutwald@baltimorecountymd.gov>; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Subject: 717 Rockaway Beach Avenue - Case No: 2022-0151-SPH

Good Afternoon,
Can you please email the building permit that was issued on the above-referenced matter. We have this case coming up tomorrow at 1:30 p.m., and Judge Mayhew would like to review same.

Thank you. Have a great day.

Donna L. 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: Thursday, September 29, 2022 2:59 PM
To: Peter Gutwald; Jeffrey N Perlow
Cc: Debra Wiley; Paul Mayhew
Subject: 717 Rockaway Beach Avenue - Case No: 2022-0151-SPH

Good Afternoon,
Can you please email the building permit that was issued on the above-referenced matter. We have this case coming up tomorrow at 1:30 p.m., and Judge Mayhew would like to review same.

Thank you. Have a great day.

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

Debra Wiley

From: Debra Wiley
Sent: Tuesday, September 27, 2022 2:22 PM
To: To: Kevin McDonough; Busse, Jennifer R.
Cc: Tammy Martin -; Donna Mignon
Subject: REMINDER - Exhibits for Case No: 2022-0151-SPH 717 Rockaway Beach Avenue

Importance: High

Good Afternoon Mr. McDonough and Ms. Busse,

Please be reminded that it is essential we receive (both via email and hard copy) any exhibits or papers that you're planning to present at Friday's in-person hearing, which are due at least two full business days before scheduled hearing.

Please see link below for exhibit requirements and timelines.

https://www.baltimorecountymd.gov/departments/adminhearings/zoning-dev-hearings

Thank you.

From: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Sent: Tuesday, September 27, 2022 1:36 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Case No: 2022-0151-SPH 717 Rockaway Beach Avenue

From: Administrative Hearings
Sent: Monday, September 19, 2022 8:12 AM
To: Kevin McDonough <kevinmcdonough@comcast.net>; Busse, Jennifer R. <jbusse@wtplaw.com>
Cc: Martin, Tammy <TMartin@wtplaw.com>; Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon (dmignon@baltimorecountymd.gov) <dmignon@baltimorecountymd.gov>
Subject: Case No: 2022-0151-SPH 717 Rockaway Beach Avenue

Good Morning:

As you are aware, an In Person Hearing has been scheduled for September 30th, 2022 at 1:30 p.m. Even though this will be an in person hearing we are requiring all exhibits to be sent in as if it was a virtual hearing.

Please email any and all hearing exhibits, documents, site plans, photographs or evidence of any kind that you wish to present at the hearing to our office . The documents must be submitted in PDF format at **least two full 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 full business days before the hearing date.

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

9/30

Donna Mignon

From: ad <mert1114@aol.com>
Sent: Monday, September 26, 2022 7:46 AM
To: Administrative Hearings
Subject: 2nd set of certificates
Attachments: Rockaway Beach 717 1 A.docx; Rockaway Beach 717 2 A.docx; WTP 10801 Pulaski Highway 1 A.docx; WTP 10801 Pulaski Highway 2 A.docx

CAUTION: This message from mert1114@aol.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good morning, take care, Martin Ogle.

CERTIFICATE OF POSTING



CASE NO. 2022-0151-SPH

PETITIONER/DEVELOPER

Rockaway Beach Improvement Association

DATE OF HEARING/CLOSING

September 30, 2022

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

717 Rockaway Beach Avenue Sign 2

THE SIGN(S) POSTED ON September 7, 2022 September 25, 2022
(MONTH, DAY, YEAR)

SINCERLEY,

MARTIN OGLE Martin Ogle

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

Debra Wiley

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Thursday, September 22, 2022 9:58 AM
To: Jennifer R. Busse; Peter Gutwald; Steve Lafferty; Peter Max Zimmerman; Peoples Counsel; James R. Benjamin Jr.
Cc: Administrative Hearings
Subject: REVISED Subpoena - 2022-0151-SPH
Attachments: Zoning Subpoena - 2022-0151-SPH.pdf

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Morning All-

Attached please find an executed subpoena for Ms. April Smith from the Planning Dept for the above referenced case.

Thank you.

RECEIVED
SEP 22 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc.

Sent from my iPhone

www.baltimorecountymd.gov

IN RE:	*	BEFORE THE OFFICE OF
717 Rockaway Beach Ave Petition for Special Hearing	*	ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
	*	CASE NO. 2022-0151-SPH

* * * * * * * * *

SUBPOENA

TO: April Smith, Baltimore County Dept. of Planning

You are hereby summoned and commanded to be and appear at an **in person hearing** before the Administrative Law Judge for Baltimore County on Friday, the 30th day of September, 2022, at 1:30PM in The Jefferson Building at 105 W. Chesapeake Avenue – Towson, MD 21204 (Room 104), regarding the above captioned matter, for the purposes of testifying at the request of The Rockaway Beach Improvement Association Inc., et al.

Private Process Server:

Please process in accordance with Rule 4(c) of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County.

PAUL M. MAYHEW
MANAGING ADMINISTRATIVE LAW JUDGE
FOR BALTIMORE COUNTY

Issued:

RECEIVED
SEP 19 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

c: James Benjamin, County Attorney, Baltimore County Office of Law, 400 Washington Avenue, Second Floor, Towson, Maryland 21204
Jennifer Busse, Esq.
C. Peter Gutwald, Director of Permits, Approvals
Steve Lafferty, Director of Planning
Peoples Counsel – Peter Max Zimmerman, Esq.

(Revised January, 2021)

IN RE:	*	BEFORE THE OFFICE OF
717 Rockaway Beach Ave Petition for Special Hearing	*	ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
	*	CASE NO. 2022-0151-SPH

* * * * * * * * *

SUBPOENA

TO: April Smith, Baltimore County Dept. of Planning

You are hereby summoned and commanded to be and appear at an **in person hearing** before the Administrative Law Judge for Baltimore County on Friday, the 30th day of September, 2022, at 1:30PM in The Jefferson Building at 105 W. Chesapeake Avenue – Towson, MD 21204 (Room 104), regarding the above captioned matter, for the purposes of testifying at the request of The Rockaway Beach Improvement Association Inc., et al.

Private Process Server:

Please process in accordance with Rule 4(c) of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County.

PAUL M. MAYHEW
MANAGING ADMINISTRATIVE LAW JUDGE
FOR BALTIMORE COUNTY

Issued:

RECEIVED
SEP 19 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

c: James Benjamin, County Attorney, Baltimore County Office of Law, 400 Washington Avenue, Second Floor, Towson, Maryland 21204
Jennifer Busse, Esq.
C. Peter Gutwald, Director of Permits, Approvals
Steve Lafferty, Director of Planning
Peoples Counsel – Peter Max Zimmerman, Esq.

(Revised January, 2021)

Donna Mignon

From: Administrative Hearings
Sent: Monday, September 19, 2022 8:12 AM
To: Kevin McDonough; Busse, Jennifer R.
Cc: Martin, Tammy; Debra Wiley; Donna Mignon
Subject: Case No: 2022-0151-SPH 717 Rockaway Beach Avenue

Good Morning:

As you are aware, an In Person Hearing has been scheduled for September 30th, 2022 at 1:30 p.m. Even though this will be an in person hearing we are requiring all exhibits to be sent in as if it was a virtual hearing.

Please email any and all hearing exhibits, documents, site plans, photographs or evidence of any kind that you wish to present at the hearing to our office . The documents must be submitted in PDF format at **least two full 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 full business days before the hearing date.

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

Debra Wiley

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Sunday, September 18, 2022 7:28 PM
To: Administrative Hearings
Cc: kim goodwin; Trish McDonough; Dad
Subject: REVISED Subpoena - 2022-0151-SPH
Attachments: 717 Rockaway Subpoena .docx

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Morning-

Attached please find a (revised to reflect it being an in person hearing) completed subpoena form for our upcoming zoning case on 9/30/22. We would request that it be date stamped and validated by the Judge and returned to us via email so we may have it served.

Once date stamped and signed, I will forward copies to opposing counsel and all other interested parties by email.

Thank you!

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc.

Begin forwarded message:

> **From:** Kevin McDonough <kmcdonough29@gmail.com>
> **Date:** September 18, 2022 at 7:24:54 PM EDT
> **To:** Kevin McDonough <kevinmcdonough@comcast.net>
> **Subject: Subpoena - 2022-0151-SPH**
>
> --
> All the Best,
>
> Kevin M. McDonough
>
> kevinmcdonough@comcast.net
> KMcDonough29@gmail.com

Debra Wiley

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Saturday, September 17, 2022 9:24 AM
To: Administrative Hearings
Cc: Trish McDonough; Dad; kim goodwin
Subject: 2022-0151-SPH Subpoena Form
Attachments: 717 Rockaway Subpoena .docx

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Morning-

Attached please find a completed subpoena form for our upcoming zoning case on 9/30/22. We would request that it be date stamped and validated by the Judge and returned to us via email so we may have it served.

Once date stamped and signed, I will forward copies to opposing counsel and all other interested parties by email.

Thank you!

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc. Inc.

Sent from my iPhone

Begin forwarded message:

> **From:** Kevin McDonough <kmcdonough29@gmail.com>
> **Date:** September 17, 2022 at 9:22:09 AM EDT
> **To:** Kevin McDonough <kevinmcdonough@comcast.net>
> **Subject: 2022-0151-SPH Subpoena Form**
>
> --
> All the Best,
>
> Kevin M. McDonough
>
> kevinmcdonough@comcast.net
> KMcDonough29@gmail.com

IN RE:	*	BEFORE THE OFFICE OF
717 Rockaway Beach Ave Petition for Special Hearing	*	ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
	*	CASE NO. 2022-0151-SPH

* * * * * * * * *

SUBPOENA

TO: April Smith, Baltimore County Dept. of Planning

You are hereby summoned and commanded to be and appear at a **Virtual WebEx Hearing** before the Administrative Law Judge for Baltimore County on Friday, the 30th day of September, 2022, at 1:30PM, regarding the above captioned matter, for the purposes of testifying at the request of The Rockaway Beach Improvement Association Inc., et al.

Private Process Server:

Please process in accordance with Rule 4(c) of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County.

PAUL M. MAYHEW
MANAGING ADMINISTRATIVE LAW JUDGE
FOR BALTIMORE COUNTY

Issued: _____

c: James Benjamin, County Attorney, Baltimore County Office of Law, 400 Washington Avenue, Second Floor, Towson, Maryland 21204
Jennifer Busse, Esq.
C. Peter Gutwald, Director of Permits, Approvals
Steve Lafferty, Director of Planning
Peoples Counsel – Peter Max Zimmerman, Esq.

(Revised January, 2021)

IN RE:	*	BEFORE THE OFFICE OF
717 Rockaway Beach Ave Petition for Special Hearing	*	ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
	*	CASE NO. 2022-0151-SPH

* * * * * * * * *

SUBPOENA

TO: April Smith, Baltimore County Dept. of Planning

You are hereby summoned and commanded to be and appear at an **in person hearing** before the Administrative Law Judge for Baltimore County on Friday, the 30th day of September, 2022, at 1:30PM in The Jefferson Building at 105 W. Chesapeake Avenue – Towson, MD 21204 (Room 104), regarding the above captioned matter, for the purposes of testifying at the request of The Rockaway Beach Improvement Association Inc., et al.

Private Process Server:

Please process in accordance with Rule 4(c) of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County.

PAUL M. MAYHEW
MANAGING ADMINISTRATIVE LAW JUDGE
FOR BALTIMORE COUNTY

Issued: _____

c: James Benjamin, County Attorney, Baltimore County Office of Law, 400 Washington Avenue, Second Floor, Towson, Maryland 21204
Jennifer Busse, Esq.
C. Peter Gutwald, Director of Permits, Approvals
Steve Lafferty, Director of Planning
Peoples Counsel – Peter Max Zimmerman, Esq.

(Revised January, 2021)

Donna Mignon

From: Administrative Hearings
Sent: Wednesday, September 14, 2022 2:08 PM
To: Kevin McDonough; Administrative Hearings
Subject: RE: Request for Subpoena Form
Attachments: Subpoena WEBEX VIRTUAL HEARINGS.doc; Subpoena Duces Tecum WEBEX VIRTUAL HEARING.doc; Subpoena Notice Instructions for WebEx Hearings.doc

Dear Mr. McDonough,

Please find attached our subpoena information and forms. Even though the forms have been revised to reflect virtual hearings, you can update accordingly since this is an in-person hearing.

Thank you. If you have any questions, please feel free to contact our office.
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204
410-887-3868

-----Original Message-----
From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Wednesday, September 14, 2022 1:59 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: Request for Subpoena Form

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Afternoon-

We have a hearing before the ALJ on 9/30 and would like to request a subpoena form to subpoena someone to testify.

Thank you!

Regards,

Kevin M. McDonough

Sent from my iPhone

Donna Mignon

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Wednesday, September 14, 2022 1:59 PM
To: Administrative Hearings
Subject: Request for Subpoena Form

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Afternoon-

We have a hearing before the ALJ on 9/30 and would like to request a subpoena form to subpoena someone to testify.

Thank you!

Regards,

Kevin M. McDonough

Sent from my iPhone

Debra Wiley

From: Martin, Tammy <TMartin@wtplaw.com>
Sent: Wednesday, September 14, 2022 1:18 PM
To: Administrative Hearings
Subject: FW: AFFIDAVIT OF SERVICE - PERLOW (TUNNEY)
Attachments: CopitrakScan.PDF

CAUTION: This message from prvs=2256beef8e=tmartin@wtplaw.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Affidavit of Service attached. Thank you.

Whiteford | Taylor | Preston LLP

Tammy D. Martin, Legal Administrative Assistant to
George S. Lawler, Esq.
John B. Gontrum, Esq.
Jennifer R. Busse, Esq.
Whiteford, Taylor & Preston LLP
One W. Pennsylvania Avenue, Suite 300
Towson, MD 21204
Direct Dial - 410-832-2122
Direct Fax – 410-339-4016
tmartin@wtplaw.com

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LEXWORK INTERNATIONAL PANGEA NET

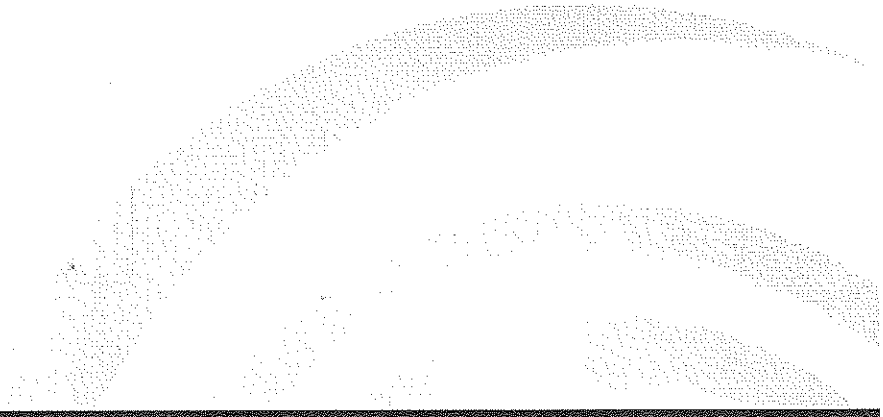
RECEIVED
SEP 14 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

From: Martin, Tammy <TMartin@wtplaw.com>
Sent: Wednesday, September 14, 2022 1:17 PM
To: Martin, Tammy <TMartin@wtplaw.com>
Subject: AFFIDAVIT OF SERVICE - PERLOW (TUNNEY)

Copitrak Scan Notification

copitrak

Your Scan File Is Attached



This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

This transmission contains information from the law firm of Whiteford, Taylor & Preston LLP which may be confidential and/or privileged. The information is intended to be for the exclusive use of the planned recipient. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately.

IN RE:	*	BEFORE THE OFFICE OF
WILLIAM & THERESA TUNNEY 717 ROCKAWAY BEACH AVENUE	*	ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
	*	CASE NO. 2022-0151-SPH

* * * * * * * * *

AFFIDAVIT OF SERVICE

I, the undersigned, certify that on September 14, 2022, I affected service of process by personally serving a Subpoena upon Jeffrey Perlow at Baltimore County Zoning Office, 111 W. Chesapeake Avenue, Room 111, Towson, Maryland 21204, to appear before the Administrative Law Judge for Baltimore County for a hearing to be held on September 30, 2022 at 1:30 p.m.

I further certify that I am over the age of 18 and am not a party to this action.

I solemnly affirm under the penalty of perjury that the contents of this Affidavit are true and correct to the best of my knowledge.

Name: Jennifer R. Busse
Firm: Whiteford, Taylor & Preston LLP
Address: One W. Pennsylvania Avenue
Suite 300
Towson, MD 21204

IN RE:	*	BEFORE THE OFFICE OF
WILLIAM & THERESA TUNNEY 717 ROCKAWAY BEACH AVENUE	*	ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
	*	CASE NO. 2022-0151-SPH

* * * * * * * * *

SUBPOENA

TO: Jeffrey Perlow

You are hereby summoned and commanded to be and appear at a Hearing at the Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson, MD 21204, before the Administrative Law Judge for Baltimore County on Friday, the 30th day of September, 2022, at 1:30 PM, regarding the above captioned matter, for the purposes of testifying at the request of Jennifer R. Busse, Esq.

Private Process Server:

Please process in accordance with Rule 4(c) of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County.

Issued

RECEIVED
SEP 14 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

PAUL M. MAYHEW
MANAGING ADMINISTRATIVE LAW JUDGE
FOR BALTIMORE COUNTY

cc: County Attorney, Baltimore County Office of Law, 400 Washington Avenue, Second Floor, Towson, Maryland 21204
People's Counsel
C. Peter Gutwald
Kevin McDonough

(Revised January, 2021)

IN RE:	*	BEFORE THE OFFICE OF
WILLIAM & THERESA TUNNEY 717 ROCKAWAY BEACH AVENUE	*	ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
	*	CASE NO. 2022-0151-SPH

* * * * * * * * *

SUBPOENA

TO: Jeffrey Perlow

You are hereby summoned and commanded to be and appear at a Hearing at the Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson, MD 21204, before the Administrative Law Judge for Baltimore County on Friday, the 30th day of September, 2022, at 1:30 PM, regarding the above captioned matter, for the purposes of testifying at the request of Jennifer R. Busse, Esq.

Private Process Server:

Please process in accordance with Rule 4(c) of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County.

Issued

RECEIVED
SEP 14 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

PAUL M. MAYHEW
MANAGING ADMINISTRATIVE LAW JUDGE
FOR BALTIMORE COUNTY

cc: County Attorney, Baltimore County Office of Law, 400 Washington Avenue, Second Floor, Towson, Maryland 21204
People's Counsel
C. Peter Gutwald
Kevin McDonough

(Revised January, 2021)

Debra Wiley

From: Debra Wiley
Sent: Wednesday, September 14, 2022 11:29 AM
To: Busse, Jennifer R.; Martin, Tammy
Cc: Donna Mignon; Administrative Hearings
Subject: Subpoena - Case No. 2022-0151-SPH
Attachments: 0179_001.pdf

Good Morning,

Please find attached the Subpoena in reference to the above matter.

Have a great and safe day.

From: adminhearingcopier@baltimorecountymd.gov <adminhearingcopier@baltimorecountymd.gov>
Sent: Wednesday, September 14, 2022 11:32 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Attached Image

Debra Wiley

From: Peter Gutwald
Sent: Monday, September 12, 2022 9:16 AM
To: Jennifer R. Busse
Cc: Kevin McDonough –; Peoples Counsel; Donna Mignon; Kristen L Lewis; Jeffrey N Perlow; Paul Mayhew; Debra Wiley; Julie Sanders
Subject: RE: Postponement Request - Case No. 2022-0151-SPH - 9/30/22
Attachments: 717 Rockaway Beach pp request.pdf

Ms. Busse

Please see attached regarding the postponement request.

C. Pete Gutwald, Director
Permits, Approvals and Inspections

RECEIVED
SEP 12 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Friday, September 9, 2022 12:28 PM
To: Jennifer R. Busse <jbusse@wtplaw.com>
Cc: Peter Gutwald <cpgutwald@baltimorecountymd.gov>; Kevin McDonough – <kevinmcdonough@comcast.net>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: Postponement Request - Case No. 2022-0151-SPH - 9/30/22

Good Afternoon,

Please find attached correspondence in reference to your postponement request in the above matter.

Thank you.

From: adminhearingcopier@baltimorecountymd.gov <adminhearingcopier@baltimorecountymd.gov>
Sent: Friday, September 9, 2022 12:30 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Attached Image

JOHN A. OLSZEWSKI, JR.
County Executive

C. PETE GUTWALD, AICP, *Director*
Department of Permits, Approvals & Inspections

Jennifer R. Busse Esq.
Whiteford, Taylor & Preston LLP
One West Pennsylvania Ave
Towson, MD 21204

RECEIVED
SEP 12 2022
OFFICE OF ADMINISTRATIVE HEARINGS

RE: 717 Rockaway Beach
Case no. 2022-0151-SPH

Dear Ms. Busse

I am in receipt of Judge Mayhew's email and correspondence regarding the request for a postponement of the above mentioned case. I concur with Judge Mayhew's views and therefore am denying the request for a postponement.

If you have any further questions please feel free to contact me at 410-887-3020.

Sincerely
cpete gutwald
C. Pete Gutwald
Director Permits, Approvals and Inspections

Copy: Hon. Paul M. Mayhew, Office of Administrative Hearings
Kevin McDonough
People's Counsel
Jeff Perlow, Zoning office
Kristen Lewis, Zoning Office

The Daily Record

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

Order #: 12154163
Case #: 2022-0151-SPH
Description:

NOTICE OF ZONING HEARING - CASE NUMBER: 2022-0151-SPH

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:

9/9/2022

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 an in-person hearing on the property identified herein as follows:

CASE NUMBER: 2022-0151-SPH

717 Rockaway Beach Avenue

East side of Rockaway Beach Avenue at a distance of 110 feet north of Beach Avenue

15th Election District - 7th Councilmanic District

Legal Owners: William & Theresa Tunney

Petitioners: Rockaway Beach Improvement Association, Ruth Nuth, William & Maryanna Siegman, Scott Huffines, Kristin Miller, JoAnn Weiland

Special Hearing to determine whether the construction of a deck at waterfront side of the subject property (a.) constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006, in Baltimore County Zoning Case 2006-0501-SPH by Zoning Commissioner William Wiseman; (b) would obstruct adjacent property owners water views" and conflict with restriction #5 in the Zoning Order issued by Zoning Commissioner, William Wiseman on June 22, 2006 in Baltimore County Zoning Case 2006-0501-SPH. To determine whether the construction of a deck at the waterfront side of the subject property otherwise complies with (a) the Baltimore County Zoning Regulations; (b) complies with all applicable policies, laws and regulations.

Hearing: Friday, September 30, 2022 at 1:30 p.m., Jefferson Building, 105 W. Chesapeake Avenue, Rm. 104, Towson, MD 21204

For information on how to participate in the hearings you may call 410-887-3868, ext. 0.

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

s9

TO: THE DAILY RECORD
Friday, September 9, 2022 - Issue

Please forward billing to:
Kevin McDonough 443-468-0221
Rockaway Beach Improvement Association
628 Rockaway Beach Avenue
Essex, MD 21221

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: 2022-0151-SPH
717 Rockaway Beach Avenue
East side of Rockaway Beach Avenue at a distance of 110 feet north of Beach Avenue
15th Election District – 7th Councilmanic District
Legal Owners: William & Theresa Tunney
Petitioners: Rockaway Beach Improvement Association, Ruth Nuth, William & Marcyanna Siegman, Scott Huffines, Kristin Miller, JoAnn Weiland

Special Hearing to determine whether the construction of a deck at waterfront side of the subject property (a.) constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006, in Baltimore County Zoning Case 2006-0501-SPH by Zoning Commissioner William Wiseman; (b) would obstruct adjacent property owners water views" and conflict with restriction #5 in the Zoning Order issued by Zoning Commissioner, William Wiseman on June 22, 2006 in Baltimore County Zoning Case 2006-0501-SPH. To determine whether the construction of a deck at the waterfront side of the subject property otherwise complies with (a) the Baltimore County Zoning Regulations; (b) complies with all applicable policies, laws and regulations.

Hearing: Friday, September 30, 2022 at 1:30 p.m., Jefferson Building,
105 W. Chesapeake Avenue, Rm. 104, Towson, MD 21204

For information on how to participate in the hearings you may call 410-887-3868, ext. 0.

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

Debra Wiley

From: Debra Wiley
Sent: Friday, September 9, 2022 12:28 PM
To: Jennifer R. Busse
Cc: Peter Gutwald; Kevin McDonough –; Peoples Counsel; Donna Mignon; Kristen L Lewis
Subject: Postponement Request - Case No. 2022-0151-SPH - 9/30/22
Attachments: 0155_001.pdf

Good Afternoon,

Please find attached correspondence in reference to your postponement request in the above matter.

Thank you.

From: adminhearingcopier@baltimorecountymd.gov <adminhearingcopier@baltimorecountymd.gov>
Sent: Friday, September 9, 2022 12:30 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Attached Image

JOHN A. OLSZEWSKI, JR.
County Executive

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

September 9, 2022

Jennifer R. Busse, Esq. – jbusse@wtplaw.com
Whiteford, Taylor & Preston, LLLP

RE: Postponement Request – Case No. 2022-0151-SPH – 9/30/22

Dear Ms. Busse:

I received your entry of appearance dated September 7, 2022. In addition to entering your firm's appearance, you requested a postponement of the hearing in this case which is currently scheduled for September 30, 2022. Pursuant to Appendix G, Rule G of the Baltimore County Zoning Regulations, postponement requests made more than five (5) business days from the hearing date must be submitted to the Director of the Department of Permits, Approvals and Inspections ("PAI"). To save you the trouble of re-submitting your request, I have copied Mr. Gutwald on this letter and have attached your original letter. I have also attached Mr. McDonough's opposition to the postponement request for Mr. Gutwald to consider.

Although it is his decision, I feel it is appropriate to share my view of your request. Given the significant logistical effort that has been made to schedule and set up for the scheduled hearing, and the scheduling conflicts that would be created for everyone else who already has this date on their calendars, I do not believe the postponement should be granted. The rules require that "extraordinary circumstances" must be shown in order to justify a postponement. Your clients have had ample time to secure counsel prior to now. When they chose to retain you on September 7, 2022, I trust that you had informed them of your scheduling conflict. As such, they assumed the risk that your postponement request would not be granted. And, I assume, there are other members of your firm that could handle the matter on the scheduled date. But again, this is Mr. Gutwald's decision.

Sincerely,

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlw
Attachments

c: Peter Gutwald
Kevin McDonough
People's Counsel

Debra Wiley

From: Administrative Hearings
Sent: Friday, September 9, 2022 7:24 AM
To: Kevin McDonough; Administrative Hearings
Cc: Peoples Counsel; Peter Max Zimmerman; Carole Demilio; kim goodwin; Jennifer R. Busse
Subject: RE: Case #2022-0151-SPH (717 Rockaway Beach Ave) Petitioner's Response in Opposition to Counsel's Postponement Request

Good Morning,

Your email has been received and will be given to the judge for their review.

Thank you.

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Thursday, September 8, 2022 9:06 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Carole Demilio <cdemilio@baltimorecountymd.gov>; kim goodwin <kgoodwin.rbiatpia@gmail.com>; Jennifer R. Busse <jbusse@wtplaw.com>
Subject: Case #2022-0151-SPH (717 Rockaway Beach Ave) Petitioner's Response in Opposition to Counsel's Postponement Request

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Evening,

Attached for filing please find a copy of Petitioner's Response in Opposition to Counsel's Request / Motion for Postponement in the above referenced case.

Counsel for the property owner and Peoples counsel, who has also entered their appearance in the case are copied on this submission.

Thank you.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Association Inc.



Sent from my iPhone

Debra Wiley

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Thursday, September 8, 2022 9:06 PM
To: Administrative Hearings
Cc: Peoples Counsel; Peter Max Zimmerman; Carole Demilio; kim goodwin; Jennifer R. Busse
Subject: Case #2022-0151-SPH (717 Rockaway Beach Ave) Petitioner's Response in Opposition to Counsel's Postponement Request
Attachments: Petitioner's Response To Counsel's Request For Postponement (#2022-0151-SPH).pdf

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

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Counsel for the property owner and Peoples counsel, who has also entered their appearance in the case are copied on this submission.

Thank you.



Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Association Inc.

Sent from my iPhone

Baltimore County Office of Administrative Hearings
Attn: Judge Paul Mayhew & Judge Maureen Murphy
105 W. Chesapeake Avenue
Towson, Maryland 21204

VIA E-MAIL

RE: Case # 2022-0151 -SPH - Petitioner's Response and Objection to Counsel's Request / Motion for Postponement

September 8, 2022

Dear Judge Mayhew & Judge Murphy,

The Rockaway Beach Improvement Association Inc., Ruth Nuth (by Patricia McDonough her power of attorney), Marcyanna and William Siegman, Scott Huffines, Kristin Miller and JoAnn Weiland are the petitioners in the above referenced case and are in receipt of the recent Entry of Appearance and Motion / Request for Postponement filed by counsel, Jennifer Busse Esq., on behalf of Mr. & Mrs. Tunney which was forwarded to Mr. McDonough by the Office of Administrative Hearings. Preliminary, petitioners would raise concerns that the filing submitted by counsel was deficient in that it lacked a required certificate of service and copies were not sent to petitioners or Peoples Counsel. **That aside, Petitioners wish to articulate their strong objection to the Request for Postponement based on the following:**

Prior to the scheduling of the case at issue, petitioners submitted a Motion for In-Person Hearing, which was subsequently granted by the Honorable Judge Paul Mayhew. In order to accommodate that request, it is our understanding that considerable efforts were undertaken by County Government to facilitate training for staff, reservation of a hearing room and allocation of appropriate resources as well as staff to attend and facilitate the hearing as such proceeding would be the first in-person zoning hearing since the COVID 19 pandemic. We would assert that a postponement would prove burdensome on county government, and on the petitioners who have already made great efforts to ensure that the hearing could occur on the date specified. Additionally, petitioners have already published the required notice in The Daily Record and have had the property posted, both of which have required the payment of fees by the petitioners.

The Tunney's have had ample knowledge of the proceedings and of the issues at hand in this case. Notice was provided to Mr. Tunney via e-mail with a copy of the complete case filing on 6/28/22 within minutes after its filing with Baltimore County Zoning. A copy of the complete case filing was also mailed to Mr. and Mrs. Tunney at their address of record in Hampstead, Maryland. Mr. Tunney had also discussed the issue previously in July with Mr. McDonough (July 17, 2022) and subsequently at a meeting with all petitioners listed above on July 23, 2022. Because of that notice, the Tunney's had ample opportunity to obtain counsel, have them enter their appearance in the case in a timely manner and to prevent any unfair or undue burdens regarding adjudication of the matter.

Comments were made by Mr. Tunney to Mr. McDonough on July 17, 2022 and again to all petitioners on July 23, 2022 asserting the fact that the Tunney's had already made efforts to seek counsel regarding this issue. Petitioners would assert that Mr. and Mrs. Tunney have had ample opportunity to seek

counsel and that their choice to obtain counsel who is unavailable on the scheduled hearing date is not the fault of the petitioners who have provided them with ample notice throughout the entire process.

To that same end, despite knowledge of the case and its potential ramifications regarding the ability for their deck to be declared in violation of the 2006 zoning order, Mr. and Mrs. Tunney have begun construction of the deck at their property. This has shown a willful disregard for the law, for the zoning process and respect for the authority of the Administrative Law Judge regarding this issue. Petitioners fear that any further delays of the hearing will allow for time that the deck could be completed, which could prove prejudicial to their case. Additionally, due to the currently in-progress construction which is occurring at the property, there is now more than ever a time sensitive nature that surrounds this case and the issues which have been brought forth by the petitioners for adjudication. Failure to address them in a timely manner will result in undue hardship being experienced by the petitioners and loss of peaceful enjoyment of their properties through failure to enforce zoning restrictions.

Petitioners would also articulate that counsel's motion simply states that she has a scheduling conflict, but provides no further details or documentation as to the nature of such scheduling conflict. The seven petitioners in this case have made a concerted effort to each clear their schedules to make themselves available for this hearing. That included taking time off from work, re-arranging prior engagements, etc. Matching up the schedules of 7 individuals is no easy feat, and we would also request that that be taken into consideration.

In the event that Your Honor is inclined to grant counsel's request for postponement in this case, despite petitioner's objections, we would respectfully request consideration of the following:

Since construction has been occurring at the property, and petitioners fear that further construction could be prejudicial to their case, we would request that there be a stay of construction at the property until the hearing can take place and the issue at hand adjudicated.

The required legal notice in a newspaper of general circulation and posting of the property have already taken place and have been paid for by petitioners, totaling several hundred dollars. We would request that any postponement allow for a waiver of the required notice and posting of the property, as all interested parties are clearly aware of the proceedings and have been for some time. In the event that the notice requirements are unable to be waived, we would respectfully request that Mr. and Mrs. Tunney be required to pay and coordinate posting and notice or reimburse petitioners for doing a second time if it is required. Requiring petitioners to re post and publish notice again would be an undue hardship and burden as petitioners have already once met their burden regarding notice.

Petitioners would also request that a future date, in the event a postponement is granted despite our objection be set at such time and date that is mutually agreed upon by all parties and counsel in addition to the Baltimore County Office of Peoples Counsel who has also entered their appearance in this case.

We sincerely appreciate your consideration of our position regarding this request.

Sincerely,

The Rockaway Beach Improvement Association Inc.
Kevin McDonough, President

Marcyanna and William Siegman

Scott Haffines & Kristin Miller

JoAnn Weiland

Ruth Nuth (by Patricia McDonough, her Power of Attorney)

We sincerely appreciate your consideration of our position regarding this request.

Sincerely,

The Rockaway Beach Improvement Association Inc.
Kevin McDonough, President

Marcyanna and William Siegman

Scott Huffines & Kristin Miller

JoAnn Welland

Ruth Nuth by Patricia L. McDonough (POA)

Ruth Nuth (by Patricia McDonough, her Power of Attorney)

Certificate of Service:

I hereby certify that on this 8th day of September 2022, I Kevin McDonough, a copy of the foregoing document, entitled "Petitioner's Response and Opposition to Counsel's Request / Motion for Postponement" was sent via e-mail to:

Jennifer Busse, Esq. – Counsel for Property Owner Mr. & Mrs. Tunney at her e-mail address of record: jbusse@wtplaw.com

Baltimore County Office of Peoples Counsel – C/o Peter Max Zimmerman, Esq. pzimmerman@baltimorecountymd.gov

Additionally, a copy of the foregoing document was also mailed postage prepaid via USPS First class mail to:

William & Theresa Tunney – 315 Blue Grass Lane – Hampstead, MD 21074

X _____ Kevin McDonough, President
Rockaway Beach Improvement Association Inc.

Donna Mignon

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Thursday, September 8, 2022 10:27 AM
To: Busse, Jennifer R.
Cc: Administrative Hearings; Martin, Tammy; kim goodwin
Subject: Re: [EXTERNAL] Re: 717 ROCKAWAY BEACH AVENUE - TUNNEY
Attachments: ENTRY OF APPEARANCE.PDF; REQUEST FOR POSTPONEMENT.PDF

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Morning,

The petitioners in the case (Rockaway Beach Improvement Assoc. Inc., et al) are in receipt of your entry of appearance and request / motion for postponement in the case referenced in the subject line of this email.

We will be filing a response to that request and wanted to inform OAH that a response was forthcoming from the petitioners in the case.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc.

Sent from my iPhone

> On Sep 8, 2022, at 9:57 AM, Busse, Jennifer R. <jbusse@wtplaw.com> wrote:
>
> Hello. What motion?
>
> Jennifer Busse
>
> > On Sep 8, 2022, at 7:46 AM, Kevin McDonough <kevinmcdonough@comcast.net> wrote:
> >
> > Thank you.
> >
> > Petitioners will be filing a response to the motion in the next day or so.
> >
> > Regards,
> >
> > Kevin M. McDonough

Sent from my iPhone

On Sep 8, 2022, at 7:43 AM, Administrative Hearings <administrativehearings@baltimorecountymd.gov> wrote:

Good Morning Mr. McDonough,
Please find the attached in regard to the above case.
Thank you.

Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204
410-887-3868

From: Martin, Tammy <TMartin@wtplaw.com>
Sent: Wednesday, September 7, 2022 4:58 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: FW: 717 ROCKAWAY BEACH AVENUE - TUNNEY

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BCPL email system. Hover over any links before clicking and use caution opening attachments.

Please see the attached Entry of Appearance and Request for Postponement from Jennifer Busse.

Please acknowledge receipt and let me know if you need anything else. Thanks so much.

Tammy D. Martin, Legal Administrative Assistant to
George S. Lawler, Esq.
John B. Gontrum, Esq.
Jennifer R. Busse, Esq.
Whiteford, Taylor & Preston LLP
One W. Pennsylvania Avenue, Suite 300
Towson, MD 21204
Direct Dial - 410-832-2122
Direct Fax – 410-339-4016
tmartin@wtplaw.com

From: Martin, Tammy <TMartin@wtplaw.com>
Sent: Wednesday, September 7, 2022 4:55 PM
To: Martin, Tammy <TMartin@wtplaw.com>
Subject: 717 ROCKAWAY BEACH AVENUE - TUNNEY

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9-8 Per McDonough Ltr. to file a Response to Motion to PP in next day or so.

Debra Wiley

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Thursday, September 8, 2022 7:45 AM
To: Administrative Hearings
Cc: Busse, Jennifer R.; Martin, Tammy
Subject: Re: 717 ROCKAWAY BEACH AVENUE - TUNNEY
Attachments: ENTRY OF APPEARANCE.PDF; REQUEST FOR POSTPONEMENT.PDF

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Thank you.

Petitioners will be filing a response to the motion in the next day or so.

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ADMINISTRATIVE HEARINGS

Regards,

Kevin M. McDonough

Sent from my iPhone

On Sep 8, 2022, at 7:43 AM, Administrative Hearings <administrativehearings@baltimorecountymd.gov> wrote:

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Please find the attached in regard to the above case.
Thank you.

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410-887-3868

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Please see the attached Entry of Appearance and Request for Postponement from Jennifer Busse.

Please acknowledge receipt and let me know if you need anything else. Thanks so much.

Whiteford | Taylor | Preston

Tammy D. Martin, Legal Administrative Assistant to
George S. Lawler, Esq.
John B. Gontrum, Esq.
Jennifer R. Busse, Esq.
Whiteford, Taylor & Preston LLP
One W. Pennsylvania Avenue, Suite 300
Towson, MD 21204
Direct Dial - 410-832-2122
Direct Fax – 410-339-4016
tmartin@wtplaw.com

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Sent: Wednesday, September 7, 2022 4:55 PM
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Subject: 717 ROCKAWAY BEACH AVENUE - TUNNEY

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Sent McDonough
Copy of PP Req.

Donna Mignon

From: Administrative Hearings
Sent: Thursday, September 8, 2022 7:43 AM
To: Kevin McDonough
Cc: Busse, Jennifer R.; Martin, Tammy
Subject: FW: 717 ROCKAWAY BEACH AVENUE - TUNNEY
Attachments: ENTRY OF APPEARANCE.PDF; REQUEST FOR POSTPONEMENT.PDF

Importance: High

Good Morning Mr. McDonough,
Please find the attached in regard to the above case.
Thank you.

Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204
410-887-3868

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SEP 08 2022
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Please acknowledge receipt and let me know if you need anything else. Thanks so much.

Whiteford | Taylor | Preston

Tammy D. Martin, Legal Administrative Assistant to
George S. Lawler, Esq.
John B. Gontrum, Esq.
Jennifer R. Busse, Esq.
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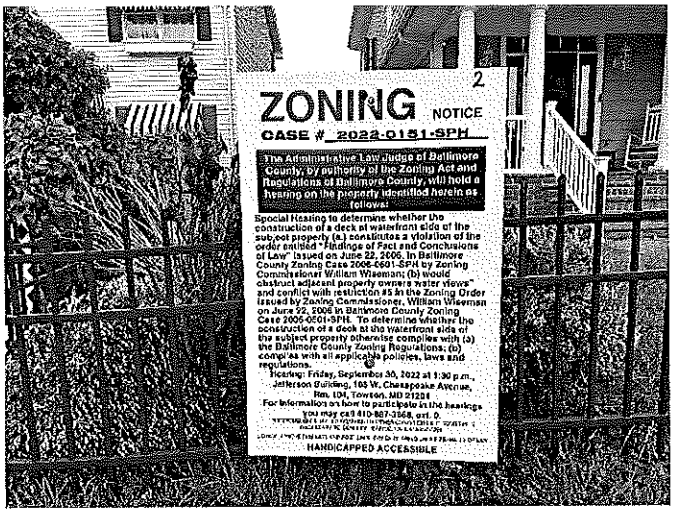
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CERTIFICATE OF POSTING

RECEIVED SEP 08 2022



CASE NO. 2022-0151-SPH

PETITIONER/DEVELOPER

Rockaway Beach Improvement Association

DATE OF HEARING/CLOSING

September 30, 2022

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

717 Rockaway Beach Avenue Sign 2

THE SIGN(S) POSTED ON September 7, 2022
(MONTH, DAY, YEAR)

SINCERLEY,

MARTIN OGLE Martin Ogle

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

Donna Mignon 2022-0151-SPH

From: Martin, Tammy <TMartin@wtplaw.com>
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To: Administrative Hearings
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Please acknowledge receipt and let me know if you need anything else. Thanks so much.

Whiteford | Taylor | Preston

Tammy D. Martin, Legal Administrative Assistant to
George S. Lawler, Esq.
John B. Gontrum, Esq.
Jennifer R. Busse, Esq.
Whiteford, Taylor & Preston LLP
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Direct Fax – 410-339-4016
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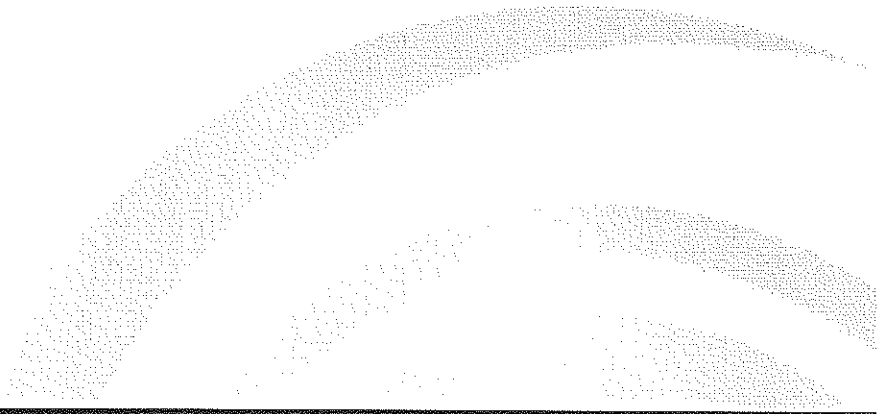
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MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

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NEW YORK
PENNSYLVANIA
VIRGINIA

WWW.WTPLAW.COM
(800) 987-8705

JENNIFER R. BUSSE
DIRECT LINE (410) 832-2077
DIRECT FAX (410) 339-4027
jbusse@wtplaw.com

September 7, 2022

Sent via email – administrativehearings@baltimorecountymd.gov
The Honorable Paul M. Mayhew
Administrative Law Judge
Baltimore County Office of Administrative Hearings
105 W. Chesapeake Avenue
Jefferson Building
Suite 103
Towson, Maryland 21204

Re: 717 Rockaway Beach Avenue
Case No.: 2022-0151-SPH

Dear Judge Mayhew:

Please accept this letter as my entry of appearance in the above-referenced matter on behalf of William & Theresa Tunney. My phone number and address are as stated above.

Thank you for your attention to this matter.

Sincerely,

Jennifer Busse /tdm
Jennifer R. Busse

JRB:tdm
12455977
cc: William & Theresa Tunney

Whiteford, Taylor & Preston L.L.P. is a limited liability partnership. Our Delaware offices are operated under a separate Delaware limited liability company, Whiteford, Taylor & Preston L.L.C.

WHITEFORD, TAYLOR & PRESTON L.L.P.

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ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

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WWW.WTPLAW.COM
(800) 987-8705

JENNIFER R. BUSSE
DIRECT LINE (410) 832-2077
DIRECT FAX (410) 339-4027
jbusse@wtplaw.com

September 7, 2022

VIA ELECTRONIC MAIL
Honorable Paul M. Mayhew, Administrative Law Judge
Office of Administrative Hearings
Jefferson Building, Suite 103
105 W. Chesapeake Avenue
Towson, Maryland 21204

Re: 717 Rockaway Beach Avenue
Case No. 2022-0151-SPH

Dear Judge Mayhew:

As of today, this firm represents the owner and applicant in the above referenced matter. We are respectfully requesting a postponement of the hearing set for September 30, 2022 due to a prior commitment wherein I am scheduled to be out-of-town (more than 3 hours away).

Thank you for your assistance in this regard. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

Jennifer Busse Hdm

Jennifer R. Busse

JRB:tdm
Enclosures
12455992
cc: William & Theresa Tunney

Whiteford, Taylor & Preston L.L.P. is a limited liability partnership. Our Delaware offices are operated under a separate Delaware limited liability company, Whiteford, Taylor & Preston L.L.C.

Donna Mignon

From: Administrative Hearings
Sent: Wednesday, August 31, 2022 7:11 AM
To: Kevin McDonough; Paul Mayhew; Administrative Hearings; Debra Wiley
Cc: Debra Wiley; Peoples Counsel; Trish McDonough; Jack & JoAnn Weiland; Scott Huffines; Kristin Miller; Marcy & Rick Siegman; kim goodwin; Dad; Carole Demilio
Subject: RE: Emergency Motion - Case 2022-0151-SPH

RECEIVED
AUG 31 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

Good Morning,
We received the Emergency Motion, however Exhibit 1 and Exhibit 2, could not be opened. Please resend and once we receive the Exhibits, I will give to the Judge for their review.

Thank you.

Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204
410-887-3868

Paul, See Attached. Emergency Motion & Exhibits

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Tuesday, August 30, 2022 8:59 PM
To: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Trish McDonough <trishmcdonough@comcast.net>; Jack & JoAnn Weiland <joannweiland@comcast.net>; Scott Huffines <scott@atomicteevee.com>; Kristin Miller <kn.miller08@gmail.com>; Marcy & Rick Siegman <msrockaway2@aol.com>; kim goodwin <kgoodwin.rbiatpia@gmail.com>; Dad <michael.mcdonough@ngc.com>; Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: Emergency Motion - Case 2022-0151-SPH

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Evening,

Attached to this email please find an emergency motion for filing in the above referenced case concerning 717 Rockaway Beach Avenue.

The case has a hearing set for 9/30/22 before the Office of Administrative Hearings.

A certificate of service indicating mailing to the property owners is attached with our filing.

Please let me know if there is still a need for us to hand file the original with OAH.

Thank you.

We appreciate your consideration.

Thank you.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc. Inc.

Cc:
Peter Max Zimmerman, Esq. & Carole Demilio, Esq - People's Counsel

Petitioners

Sent from my iPhone
>
>

>

Donna Mignon

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Tuesday, August 30, 2022 8:59 PM
To: Paul Mayhew; Administrative Hearings
Cc: Debra Wiley; Peoples Counsel; Trish McDonough; Jack & JoAnn Weiland; Scott Huffines; Kristin Miller; Marcy & Rick Siegman; kim goodwin; Dad; Carole Demilio
Subject: Emergency Motion - Case 2022-0151-SPH
Attachments: Emergency Motion To Stay Construction.pdf; Exhibit 1.pdf; Exhibit 2.pdf

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

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Petitioners

Sent from my iPhone
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Baltimore County Office of Administrative Hearings
Attn: Judge Paul Mayhew, Managing Judge
105 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
AUG 31 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

RE: Zoning Case 2022-0151-SPH – EMERGENCY MOTION TO STAY CONSTRUCTION PENDING HEARING

August 30, 2022

Dear Judge Mayhew,

The petitioners in the above referenced case filed a petition for special hearing on June 24, 2022 with the Baltimore County Zoning Office to determine whether construction of a proposed deck would violate the order and opinion issued by Zoning Commissioner William Wiseman in 2006 in zoning case #2006-0501-SPH, among other questions of law which are enumerated within the petition.

Baltimore County has scheduled the zoning hearing on this matter for September 30, 2022 before the Office of Administrative Hearings. Petitioners have taken the necessary steps to have notice published in a newspaper of general circulation and to have the property posted in accordance with Baltimore County requirements.

On August 30, 2022 construction of the structure at issue in the immediate zoning case began at 717 Rockaway Beach Avenue. By way of this letter, Petitioners are filing an **Emergency Motion to Stay Construction at the Property Pending Outcome of the Scheduled Hearing.**

The property owners in this case are aware of the zoning hearing, aware of the issues of law that the community and adjoining neighbors have petitioned to have adjudicated but have opted to proceed with construction despite that. The petitioners in this case fear that the construction of the deck could unfairly prejudice their case. While we understand that the property owner's construction of the deck while a zoning hearing is pending concerning the legality of said structure may be ill advised, it is at their own risk and peril in that should the case be decided in petitioner's favor, the deck would be ordered to be removed. **Petitioners would contend that in order to prevent hardship on any party or to unfairly prejudice the case, construction of the deck should be stayed by court order pending the outcome of the upcoming hearing.**

Petitioners would request that Your Honor take into consideration the following facts regarding the property owner's advance notice of the hearing, the petition, and their disregard for the law, the process and the authority of this office and of Baltimore County:

Immediately after submitting the petition for filing, petitioner, Rockaway Beach Improvement Association Inc., by way of its President, Kevin McDonough e-mailed a PDF copy of the petition in its entirety with the filing date stamp to the property owner, William Edward Tunney IV (Exhibit A). Within 8 minutes of receiving a copy of the 31 page filing, Mr. Tunney responded back acknowledging receipt of the petition and stating "Baltimore County has advised us to proceed with construction. Thanks for your concern." (Exhibit 2).

On the evening of June 24, 2022 Mr. And Mrs. Tunney approached petitioner, Mr. William (Rick) Siegman regarding the case and Mr. Siegman suggested they reach out to Mr. McDonough, as he had

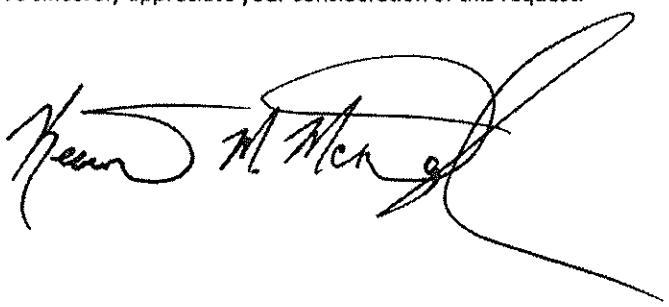
been designated as the spokesman for the collective petitioners. A copy of the filing was also mailed via USPS, first class mail postage prepaid to the address of record for the property owners, Mr. and Mrs. Tunney to advise them as to the filing of the petition.

On July 17, 2022 Mr. Tunney called to Mr. McDonough while he was in the yard of his family's property next door to the property at issue in this immediate case, and inquired as to the pending zoning case. Mr. McDonough, at Mr. Tunney's request arranged a meeting of all petitioners and Mr. and Mrs. Tunney on July 23, 2022 at 10:00 a.m. at 719 Rockaway Beach Avenue. At that meeting, petitioners advised Mr. and Mrs. Tunney of our concerns, of the zoning history with that property and of our position regarding the issues at hand. The meeting ended abruptly with Mr. and Mrs. Tunney storming off and Mr. Tunney shouting "I'm going to build what I want. I was told it could take you all 20 years or better to make me tear it down". To which the petitioners indicated to Mr. Tunney that such an action would be at his own risk and peril.

Baltimore County mailed notice of the zoning hearing to Mr. and Mrs. Tunney via USPS first class mail on August 24, 2022. That notice would have been received prior to construction having begun.

Petitioners would request an Emergency Order to Stay Construction at 717 Rockaway Beach Avenue be issued so that the case of the petitioners may not be unfairly prejudiced.

We sincerely appreciate your consideration of this request.



The Rockaway Beach Improvement Association Inc.
Kevin McDonough, President

Ruth Nuth by Patricia McDonough (POA)

Ruth Nuth, by Patricia McDonough her Power of Attorney

William F. Siegman
Marcyanna S. Siegman

Marcyanna & William Siegman

Scott Huffines & Kristin Miller

JoAnn Weiland
JoAnn Weiland

Certificate of Service:

I hereby further certify that a copy of this document was mailed first class mail, postage prepaid to:
William & Theresa Tunney
315 Blue Grass Lane - Hampstead, MD 21074

I hereby further certify that a copy of the aforegoing document was also e-mailed to The Baltimore County Office of Peoples Counsel- Peter Max Zimmerman, Esq. via e-mail to:

pzimmerman@baltimorecountymd.gov

peoplescounsel@baltimorecountymd.gov

On this 31st day of August, 2022.

X: _____ 8/31/22

JOHN A. OLSZEWSKI, JR.
Executive

C. PETE GUTWALD, AICP
Director, Department of Permits, Approvals and Inspections

County

August 24, 2022

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: 2022-0151-SPH
717 Rockaway Beach Avenue
East side of Rockaway Beach Avenue at a distance of 110 feet north of Beach Avenue
15th Election District – 7th Councilmanic District
Legal Owners: William & Theresa Tunney
Petitioners: Rockaway Beach Improvement Association, Ruth Nuth, William & Marcyanna Siegman, Scott Huffines, Kristin Miller, JoAnn Weiland

Special Hearing to determine whether the construction of a deck at waterfront side of the subject property (a.) constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006, in Baltimore County Zoning Case 2006-0501-SPH by Zoning Commissioner William Wiseman; (b) would obstruct adjacent property owners water views" and conflict with restriction #5 in the Zoning Order issued by Zoning Commissioner, William Wiseman on June 22, 2006 in Baltimore County Zoning Case 2006-0501-SPH. To determine whether the construction of a deck at the waterfront side of the subject property otherwise complies with (a) the Baltimore County Zoning Regulations; (b) complies with all applicable policies, laws and regulations.

Hearing: Friday, September 30, 2022 at 1:30 p.m., Jefferson Building, 105 W. Chesapeake Avenue, Rm. 104, Towson, MD 21204

For information on how to participate in the hearings you may call 410-887-3868, ext. 0.

Pete Gutwald
Director

PW/kl

C: Mr. & Mrs. Tunney, 315 Blue Grass Lane, Hampstead 21074
Rockaway Beach Improv. Assoc., 628 Rockaway Beach Ave., Essex 21221

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SAT., SEPT. 10, 2022.**

Donna Mignon

From: David Goodwich
Sent: Wednesday, August 24, 2022 1:50 PM
To: Kristen L Lewis; Debra Wiley; Donna Mignon
Cc: Paul Mayhew
Subject: RE: Hearing 2022-0151-SPH

Thanks for the update.

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Wednesday, August 24, 2022 9:33 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Cc: David Goodwich <dgoodwich@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Subject: Hearing 2022-0151-SPH

Good morning,

This email is to confirm that 2022-0151-SPH has been set in for an in-person hearing on Friday, September 30, 2022 at 1:30 p.m. in Room 104. Please add to your calendar. Thank you.

Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

Donna Mignon

From: Kristen L Lewis
Sent: Wednesday, August 24, 2022 9:33 AM
To: Debra Wiley; Donna Mignon
Cc: David Goodwich; Paul Mayhew
Subject: Hearing 2022-0151-SPH

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,

This email is to confirm that 2022-0151-SPH has been set in for an in-person hearing on Friday, September 30, 2022 at 1:30 p.m. in Room 104. Please add to your calendar. Thank you.

Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

Donna Mignon

From: Debra Wiley
Sent: Monday, August 22, 2022 1:42 PM
To: David Goodwich; Kristen L Lewis; Paul Mayhew
Cc: Donna Mignon
Subject: RE: In-person Zoning Hearing 2022-0151-SPH

Good Afternoon,

I've just clarified with ALJ Mayhew that this is strictly an in-person hearing – nothing virtual.

Kristen – Please make sure the sign poster is aware to create a sign with the information (i.e., JB., 1st Floor, Room 104, etc.) just like we did in the old days pre-Covid.

Thank you all !

From: David Goodwich <dgoodwich@baltimorecountymd.gov>
Sent: Monday, August 22, 2022 1:19 PM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: In-person Zoning Hearing 2022-0151-SPH

I am available for an in-person hearing on 9/30. I can also create a virtual link, just in case, if you like.

Thank you,

Dave Goodwich

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Monday, August 22, 2022 9:18 AM
To: David Goodwich <dgoodwich@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: In-person Zoning Hearing 2022-0151-SPH

Good morning David,

I am ready to set in the case that was requesting an in-person hearing before Judge Mayhew. I wanted to double check to make sure you were available as well for Friday, Sep. 30, 2022 at 1:30 p.m. Please let me know and then I can proceed with sending out notifications. Also, I am not sure if we will also be having the virtual link set up for those that need that option on this case as well. Thank you.

Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

Donna Mignon

From: Kristen L Lewis
Sent: Monday, August 22, 2022 9:09 AM
To: Donna Mignon; Debra Wiley
Cc: Paul Mayhew; Maureen E Murphy
Subject: In-person Hearing

Good morning,

The rep for case 2022-0151-SPH, Rockaway Beach, Kevin McDonough, that requested to have an in-person hearing, is ready to move forward. The only date that worked for all parties involved was, Friday, September 30, 2022 at 1:30 p.m. Please advise if all is ready to go for then on the in-person hearing, which I believe on this date would be before Judge Mayhew. Thank you.

Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

Debra Wiley

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Tuesday, August 9, 2022 6:26 PM
To: Paul Mayhew
Cc: Administrative Hearings; kim goodwin; Trish McDonough; Peoples Counsel; Peter Max Zimmerman; Kristen L Lewis; Debra Wiley
Subject: Re: Request for In-Person Administrative Hearing Regarding Petition for Special Hearing

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Thank you your Honor.

I will reach out to Ms. Lewis and get on the schedule.

Regards,

Kevin M. McDonough

Sent from my iPhone

> On Aug 9, 2022, at 12:52 PM, Paul Mayhew <pmayhew@baltimorecountymd.gov> wrote:
>
> Mr. McDonough:
> I am happy to inform you that it appears we will be able to honor your request for an in-person hearing. Our IT department is providing training to OAH staff next week and we have a courtroom that is now equipped to handle these hearings again. You will have to work out scheduling with Ms. Lewis.
> Please note that requests for in-person hearings will only be granted upon a showing of good cause, as Covid 19 variants continue to make in-person gatherings a health risk.
>
> Paul M. Mayhew
> Managing Administrative Law Judge
> 105 West Chesapeake Ave., Suite 103
> Towson, Maryland 21204
> 410-887-3868
> pmayhew@baltimorecountymd.gov
>
> -----Original Message-----
> From: Kevin McDonough <kevinmcdonough@comcast.net>
> Sent: Monday, August 8, 2022 1:26 PM
> To: Paul Mayhew <pmayhew@baltimorecountymd.gov>
> Cc: Administrative Hearings <administrativehearings@baltimorecountymd.gov>; kim goodwin <kgoodwin.rbiatpia@gmail.com>; Trish McDonough <trishmcdonough@comcast.net>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Kristen

L Lewis <klewis@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>
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>> I am trying to ascertain whether we can get the required technical equipment and staffing in place to accommodate your request for an in-person hearing. I hope to be able to provide you an answer by week's end.
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>> Managing Administrative Law Judge
>> 105 West Chesapeake Ave., Suite 103
>> Towson, Maryland 21204
>> 410-887-3868
>> pmayhew@baltimorecountymd.gov
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>> -----Original Message-----
>> From: Kevin McDonough <kevinmcdonough@comcast.net>
>> Sent: Sunday, August 7, 2022 2:36 PM
>> To: Paul Mayhew <pmayhew@baltimorecountymd.gov>
>> Cc: Administrative Hearings <administrativehearings@baltimorecountymd.gov>; kim goodwin <kgoodwin.rbiatpia@gmail.com>; Trish McDonough <trishmcdonough@comcast.net>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
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>> I just wanted to follow up to my below email to inquire as to if you have rendered a decision regarding our request for in person hearing in lieu of virtual?
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>> We wanted to get back in touch with the zoning office to schedule the hearing once a determination was made.
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>> Thank you.
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>> Regards,
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>> President
>> Rockaway Beach Improvement Assoc.
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>> Sent from my iPhone
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>>>> On Jul 26, 2022, at 4:26 PM, Kevin McDonough <kevinmcdonough@comcast.net> wrote:
>>>
>>> Good Afternoon Judge Mayhew,
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>>> My name is Kevin McDonough and I serve as the President of the Rockaway Beach Improvement Association, which is a community association in Essex.
>>>
>>> Our organization joined with several neighbors adjacent to a property in our community and filed a Petition for Special Hearing.
>>>
>>> I have been in touch with Kristin Lewis in the Zoning Office to attempt to schedule the hearing date for our case. However, I have been told that all hearings are conducted virtually. When I expressed the petitioner's collective request was that an in person hearing was preferred, I was advised to contact the Office of Administrative Hearings to see if such a request could be honored. Upon speaking with the administrative assistant via telephone this afternoon, she advised that my request must be put in writing and sent to your Honor for consideration.
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>>> The petitioners in this case are respectfully requesting an in person hearing in lieu of a virtual hearing. Several of the petitioners in the case are elderly, are self represented and are not technologically savvy. Having them attempt to participate virtually would put them at a disadvantage and would prejudice their case and would negatively impact their ability to participate in this public hearing. The remaining petitioners in the case are supportive of the in person request to be able to accommodate those who are not technologically inclined.
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>> [https://www.baltimorecountymd.gov/sebin/q/v/signature-cancel-covid.gif]<https://www.baltimorecountymd.gov/vaccine>
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>> Get your COVID-19 vaccine today.<https://www.baltimorecountymd.gov/vaccine>
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>> Connect with Baltimore County
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>> [https://www.baltimorecountymd.gov/sebin/x/g/social-icon-facebook.png]<https://www.facebook.com/baltcogov> [https://www.baltimorecountymd.gov/sebin/p/o/social-icon-twitter.png] <https://twitter.com/BaltCoGov> [https://www.baltimorecountymd.gov/sebin/z/n/social-icon-news.png] <https://www.baltimorecountymd.gov/News/BaltimoreCountyNow> [https://www.baltimorecountymd.gov/sebin/b/d/social-icon-youtube.png] <https://www.youtube.com/user/BaltimoreCounty> [https://www.baltimorecountymd.gov/sebin/l/y/social-icon-flickr.png] <https://www.flickr.com/photos/baltimorecounty> [https://www.baltimorecountymd.gov/sebin/t/q/social-icon-linkedin.png] <https://www.linkedin.com/company/baltimore-county-government>
>> www.baltimorecountymd.gov<https://www.baltimorecountymd.gov>
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Donna Mignon

From: Paul Mayhew
Sent: Tuesday, August 9, 2022 12:52 PM
To: Kevin McDonough
Cc: Administrative Hearings; kim goodwin; Trish McDonough; Peoples Counsel; Peter Max Zimmerman; Kristen L Lewis; Debra Wiley
Subject: RE: Request for In-Person Administrative Hearing Regarding Petition for Special Hearing

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> Connect with Baltimore County
>
> [https://www.baltimorecountymd.gov/sebin/x/g/social-icon-facebook.png]<https://www.facebook.com/baltcogov> [https://www.baltimorecountymd.gov/sebin/p/o/social-icon-twitter.png] <https://twitter.com/BaltCoGov> [https://www.baltimorecountymd.gov/sebin/z/n/social-icon-news.png] <https://www.baltimorecountymd.gov/News/BaltimoreCountyNow> [https://www.baltimorecountymd.gov/sebin/b/d/social-icon-youtube.png] <https://www.youtube.com/user/BaltimoreCounty> [https://www.baltimorecountymd.gov/sebin/l/y/social-icon-flickr.png] <https://www.flickr.com/photos/baltimorecounty> [https://www.baltimorecountymd.gov/sebin/t/q/social-icon-linkedin.png] <https://www.linkedin.com/company/baltimore-county-government>
> www.baltimorecountymd.gov<https://www.baltimorecountymd.gov>

Donna Mignon

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Tuesday, August 9, 2022 7:33 PM
To: Administrative Hearings; PAI Zoning
Cc: Peter Max Zimmerman; Peoples Counsel; Tim Kotroco
Subject: Fwd: Entry of Appearence - Case # 2022-0183-SPHA
Attachments: Entry of appearence - Case #2022-183-SPHA .pdf

CAUTION: This message from kevinmcdonough@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Evening,

Attached please find an entry of appearance for the Rockaway Beach Improvement Association in the above referenced case pertaining to 604 Carvel Grove Road.

Thank you.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc.

Sent from my iPhone

Begin forwarded message:

> **From:** Kevin McDonough <kmcdonough29@gmail.com>
> **Date:** August 9, 2022 at 7:31:13 PM EDT
> **To:** Kevin McDonough <kevinmcdonough@comcast.net>
> **Subject: Entry of Appearence - Case # 2022-0183-SPHA**
>
> --
> All the Best,
>
> Kevin M. McDonough
>
> kevinmcdonough@comcast.net
> KMcDonough29@gmail.com

RECEIVED JUL 06 2022

RE: PETITION FOR SPECIAL HEARING 717 Rockaway Beach Avenue; E/S of Rockaway Beach Ave. 110' N of Beach Avenue 15th Election & 7th Councilmanic Districts Legal Owner(s): William & Theresa Tunney Petitioner(s): Rockaway Beach Improvement Association, Inc., Ruth Nuth, Scott Huffines, Kristin Miller, JoAnn Welland, Marcyanna & William Slegman	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2022-151-SPH

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

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 6th day of July, 2022, a copy of the foregoing Entry of Appearance was mailed to Rockaway Beach Improvement Assoc. , c/o Kevin McDonough, 628 Rockaway Beach Avenue, Essex, Maryland 21221, info@turkeypoint.org , Representative for Petitioner(s).

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

Gmail Kevin McDonough <kmcdonough29@gmail.com>

Fwd: Petition for Special Hearing - Rockaway Beach

1 message

Kevin McDonough <kevinmcdonough@comcast.net> Tue, Aug 30, 2022 at 8:48 PM
To: Kevin McDonough <kmcdonough29@gmail.com>

Regards,

Kevin M. McDonough

Sent from my iPhone

Begin forwarded message:

From: Kevin McDonough <kevinmcdonough@comcast.net>
Date: June 24, 2022 at 2:11:03 PM EDT
To: bud@btplumbingsupply.com
Cc: kim goodwin <kgoodwin.rbiatpia@gmail.com>
Subject: Petition for Special Hearing - Rockaway Beach

Bud & Terry,

This email is being sent as a courtesy on behalf of the Rockaway Beach Improvement Association, as the association has joined with several of your nearby neighbors who have filed a Petition for Special Hearing with the Baltimore County Office of Zoning regarding the construction of a proposed deck at your home located at 717 Rockaway Beach Avenue. In 2006 a zoning order issued by the Zoning Commissioner at that time placed a restriction on the property at 717 Rockaway Beach Avenue regarding construction and improvements at the waterfront, of which the community association was a party to that case following a unanimous vote from its membership at that time along with several of your surrounding neighbors.

Attached please find a copy of the petition submitted for filing, accompanied by the supporting exhibits. A copy has also been mailed to your primary residence.

We regret that this is our first interaction since your purchase of a home in our community. Please note that the zoning history and the restrictions therein ordered by the Zoning Commissioner predate your ownership but nevertheless runs and binds with the land and confers to any current and future owners of the property in perpetuity.

The community association prides itself on having open lines of communication on issues impacting our community. In the event you wish to reach out concerning this issue, please do not hesitate to do so.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc. Inc.

Sent from my iPhone

Your message is ready to be sent with the following file or link attachments:

717rockawaySPHHRNG

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

717rockawaySPHHRNG.pdf
11655K

Gmail Kevin McDonough <kmcdonough29@gmail.com>

Fwd: Petition for Special Hearing - Rockaway Beach

1 message

Kevin McDonough <kevinmcdonough@comcast.net> Tue, Aug 30, 2022 at 8:49 PM
To: Kevin McDonough <kmcdonough29@gmail.com>

Regards,

Kevin M. McDonough

Sent from my iPhone

Begin forwarded message:

From: Bud Tunney <bud@btplumbingsupply.com>
Date: June 24, 2022 at 2:19:43 PM EDT
To: Kevin McDonough <kevinmcdonough@comcast.net>
Subject: Re: Petition for Special Hearing - Rockaway Beach

Baltimore county zoning has advised us to proceed with construction.
Thanks for your concern.

From: Kevin McDonough <kevinmcdonough@comcast.net>
Sent: Friday, June 24, 2022 2:11 PM
To: Bud Tunney <bud@btplumbingsupply.com>
Cc: kim goodwin <kgoodwin.rbiatpia@gmail.com>
Subject: Petition for Special Hearing - Rockaway Beach

Bud & Terry,

This email is being sent as a courtesy on behalf of the Rockaway Beach Improvement Association, as the association has joined with several of your nearby neighbors who have filed a Petition for Special Hearing with the Baltimore County Office of Zoning regarding the construction of a proposed deck at your home located at 717 Rockaway Beach Avenue. In 2006 a zoning order issued by the Zoning Commissioner at that time placed a restriction on the property at 717 Rockaway Beach Avenue regarding construction and improvements at the waterfront, of which the community association was a party to that case following a unanimous vote from its membership at that time along with several of your surrounding neighbors.

Attached please find a copy of the petition submitted for filing, accompanied by the supporting exhibits. A copy has also been mailed to your primary residence.

We regret that this is our first interaction since your purchase of a home in our community. Please note that the zoning history and the restrictions therein ordered by the Zoning Commissioner predate your ownership but nevertheless runs and binds with the land and confers to any current and future owners of the property in perpetuity.

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Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc. Inc.

Sent from my iPhone

Your message is ready to be sent with the following file or link attachments:

717rockawaySPHHRNG

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Gmail **Kevin McDonough <kmcdonough29@gmail.com>**

Fwd: 717 Rockaway Beach Avenue

1 message

Kevin McDonough <kevinmcdonough@comcast.net> Mon, Jun 20, 2022 at 4:26 PM
To: Kevin McDonough <kmcdonough29@gmail.com>

Regards,

Kevin M. McDonough

Sent from my iPhone

Begin forwarded message:

From: Kevin McDonough <kevinmcdonough@comcast.net>
Date: June 12, 2022 at 4:36:21 PM EDT
To: Peter Gutwald <cpgutwald@baltimorecountymd.gov>, Jeffrey Perlow <JPerlow@baltimorecountymd.gov>
Cc: kim goodwin <kgoodwin.rbiatpia@gmail.com>, Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>, Trish McDonough <trishmcdonough@comcast.net>, Marcy & Rick Siegman <msrockaway2@aol.com>
Subject: 717 Rockaway Beach Avenue

Mr. Gutwald & Mr. Perlow,

I am reaching out on behalf of the Rockaway Beach Improvement Association Inc, to inquire as to a property in our community – 717 Rockaway Beach Avenue |Essex, MD 21221. The community association has recently received inquiries from the adjoining neighbors on each side of the property after they were recently informed of the new owner's desire to construct a deck in their yard at the waterside of the property.

The property at issue has a rather "storied" zoning history in that the original individuals who constructed the home sought variance relief to build the proposed home and after staunch neighborhood opposition reached a "begrudging compromise" to reduce the variance request for the side yard setbacks. The variance request was subsequently granted and construction on the home began. During construction, the owners built the home in the incorrect location and had to then seek a second variance. That second variance was addressed in zoning case# 2006-051-SPH. The zoning issues at this property have frequently been pointed to by the community as the prime example of what kind of egregious building residents do not want to see happen ever again in the community.

As a part of the order issued by the Zoning Commissioner in that 2006 case, a restriction was placed on the property which prohibited any further building on the property at the water side.

The language in the order on page 3, paragraph 1 states: "As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water." The restriction is then re-stated again on page 4 of the Zoning Commissioner's order.

It is our understanding that a permit application may currently be pending for the construction of a outdoor deck at the waterfront of this property. The community and adjacent neighbors would like to seek clarity from the Department of Permits, Approvals and Inspections along with the Zoning Review Office that our interpretation of the Zoning Commissioner's Order would prohibit such an improvement from being permitted to occur on the property. Would you be able to confirm?

Additionally, in reviewing the old Zoning case files online, I've struggled to find a site plan which shows the impervious lot coverage for this property. Would you be able to share that with us as well, as we are of the belief that there is very little, if any impervious area allowance remaining at the property because of the size of the home and existing improvements at the property.

Regards,

Kevin M. McDonough
President
Rockaway Beach Improvement Assoc. Inc.

Cc: Peter Max Zimmerman, Peoples Counsel for Baltimore County

Kimberly Goodwin-Maigetter, President Emeritus Rockaway Beach Improvement Assoc. Inc.

Marcyanna (Marcy) & Rick Siegman, Owners, 715 Rockaway Beach Ave

Trish McDonough, POA for Ruth Nuth, Owner, - 719 Rockaway Beach Avenue

Sent from my iPhone

Gmail

Kevin McDonough <kmcdonough29@gmail.com>

Fwd: 717 Rockaway Beach Avenue

1 message

Kevin McDonough <kevinmcdonough@comcast.net> Mon, Jun 20, 2022 at 4:17 PM
To: Kevin McDonough <kmcdonough29@gmail.com>

Regards,

Kevin M. McDonough

Sent from my iPhone

Begin forwarded message:

From: Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Date: June 14, 2022 at 3:37:46 PM EDT
To: Peter Gutwald <cpgutwald@baltimorecountymd.gov>, Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>
Cc: Kevin McDonough <kevinmcdonough@comcast.net>, kgoodwin.rbiatpia@gmail.com, John Bryan <JBryan@baltimorecountymd.gov>, "David V. Lykens" <dlykens@baltimorecountymd.gov>, Brady Locher <blocher@baltimorecountymd.gov>
Subject: 717 Rockaway Beach Avenue

Dear Mr. Gutwald (Pete) and Mr. Perlow (Jeff),

A couple of days ago, on June 12, Kevin McDonough, President of the Rockaway Beach Improvement Association, sent us a copy of his e-mail to you expressing concerns about a building permit application for an outdoor deck on the waterside of the property at 717 Rockaway Beach Avenue. He refers to a condition in zoning case 06-051-SPH, which precludes further construction closer to the water. He also expresses concerns about the impervious lot coverage situation in this Chesapeake Bay waterfront area.

We located the opinion and are attaching it to this e-mail for your review. It was issued by Zoning Commissioner William Wiseman on June 22, 2006. The petition at that time was filed by William Rush, et ux., Petitioners. There were setback variances approved, but with conditions. There was no appeal, so the decision became final.

Consistent with the opinion's statement on Page 3, the Order incorporates, on Page 4, Condition 5, which states,

"5) There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s)."

As for the impervious surface coverage situation, the opinion also incorporates the then DEPRM comment in Condition 2, which refers to the attached Chesapeake Bay Critical Area limits and other environmental regulations. So we are sending a copy of this e-mail also to David L:ykens, now DEPS Director. then DEPRM Development coordinator, and to Brady Locher, now Deputy Director.

The My Neighborhood Zoning is attached. The property is still zoned D.R. 3.5.

According to attached SDAT Real Property Data, the property has been sold three times since the Rushes owned the property. Most recently, there is recorded the transfer from Michael Paul Smith to William and Theresa Tunney with a transfer date of February 2, 2022. The zoning conditions run with the property and so are applicable to successive owners.

We then looked for the permit status and obtained the attached record on Permit No. R22-05031 for a composite open deck issued to William Tunney (with an additional owner address of 315 Blue Grass Lane, Hampstead, Maryland 21074). There appears to be recorded an application date of March 29, 2022 and Issuance date of May 17, 2022. There is no mention in this record of the prior zoning case and/or history.

We do not at this time have a copy of the permit application, and assume it is available to you.

I hope you find this information helpful in your review of the situation.

Peter Max Zimmerman, People's Counsel, 410 887-2188



Get your COVID-19 vaccine today.

CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

3 attachments

2006-501-SPH.pdf
150K

Permit Info.pdf
94K

SDAT & Myneighborhood.pdf
965K

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/ neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.*

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

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

For Newspaper Advertising:

Case Number: 2022-0151-SPH

Property Address: 717 Rockaway Beach Ave., 21221

(Petitioners): Rockaway Beach Improvement Association
c/o Kevin McDonough, President

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Kevin McDonough
Address: 628 Rockaway Beach Avenue, 21221

Telephone Number: 443.768.0221

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a $250.00 rescheduling fee may be required after two failed advertisings and/or postings.

Legal Owners: Edward & Theresa Tunney

Revised 3/2022

Real Property Data Search ( )
Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 15 Account Number - 1523504960

Owner Information

Owner Name:	TUNNEY WILLIAM EDWARD IV TUNNEY THERESA MARIE	Use:	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	315 BLUE GRASS LN HAMPSTEAD MD 21074-	Deed Reference:	/46333/ 00297

Location & Structure Information

Premises Address:	717 ROCKAWAY BEACH AVE ESSEX 21221-1813 Waterfront	Legal Description:	717 ROCKAWAY BEACH AVE ROCKAWAY BEACH

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0098	0015	0211	15080075.04	0000			40	2021	Plat Ref: 0004/ 0171

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2006	4,580 SF		9,027 SF	34

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	FRAME/ 5		4 full/ 1 half	1 Attached	

Value Information

	Base Value	Value As of 01/01/2021	Phase-in Assessments As of 07/01/2022	As of 07/01/2023
Land:	201,000	201,000		
Improvements	488,300	520,100		
Total:	689,300	721,100	710,500	721,100
Preferential Land:	0	0		

Transfer Information

Seller: SMITH MICHAEL PAUL	Date: 02/02/2022	Price: $1,475,000
Type: ARMS LENGTH IMPROVED	Deed1: /46333/ 00297	Deed2:
Seller: S F L LLC	Date: 12/10/2019	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /42214/ 00367	Deed2:
Seller: RUSH WILLIAM R	Date: 09/16/2008	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /27326/ 00556	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2022	07/01/2023
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

List of Exhibits
Case 2022-0151-SPH
717 Rockaway Beach Avenue
Hearing Date – 9/30/22

1) **Site Plan (1 sheet)**

2) **Google Images (4 sheets)**

3) **Pictures of 717 Rockaway Beach Ave. (8 sheets)**

4) **Pictures of 715 Rockaway Beach Ave. (6 sheets)**

5) **Pictures of 719 Rockaway Beach Ave. (4 sheets)**

6) **Building Permit R22-09666 (2 sheets)**

7) **9/20/22 Letter from Marie Brady at EIR**

8) **ZAC Comments (8 sheets)**

9) **Findings of Fact and Conclusions of Law in Case 06-501-SPH**

12496024

ROCKAWAY BEACH (40' R/W) AVENUE

N04°38'54"E 50.00'

EX. DRIVEWAY

EX. DRIVEWAY

EX. DRIVEWAY

EX. PORCH

EX. DRIVEWAY

EX. COVERED CAR PORT

RUTH NUTH
30820/42

SCOTT HUFFINES
KRISTIN MILLER
44445/258

LOT 38

EX. 2 STORY DWELLING #719

LOT 39

EX. 2 STORY DWELLING #717

LOT 40

MARCYANNA SIEGMAN
WILLIAM SIEGMAN
8147/196

EX. 2 STORY DWELLING #715

LOT 41

PLAT OF
TURKEY POINT FARM
PLAT LIBER 4/171

WILLIAM WOUTILA
DENISE WOUTILA
31764/107

EX. 2 STORY DWELLING #711

LOT 42

GARAGE

LOT 43

LOT 44

LOT 45

EX. 2 STORY DWELLING #721

EX. PORCH
ELEV.= 16.47

PROPOSED WOOD DECK
UNDER CONSTRUCTION
1'± ABOVE GROUND
SIM 10 FT
ELEV.= 13.76'

GROUND ELEV.=12.61'

EX. DECK
ELEV.=16.60'

GROUND ELEV.= 13.98'

EX. CONC. SEA WALL

S31°12'21"E 51.51'

RECORD PLAT LINE

EX. PIER

EX. PIER

EX. PIER

EX. PIER

EX. PIER

MIDDLE RIVER

RAD-03-2011

Vicinity Map

Scale: 1" = 2000'

Notes

1. Owner: William Tunney
   Theresa Tunney
   315 Bluegrass Lane
   Hanover MD. 21074
2. Zoned: DR 3.5
3. This site is in the Chesapeake Bay Critical Area.
4. This site is in the 100 year flood plain.
5. There are no underground fuel tanks.
6. This is not a historic property/building.
7. This site is serviced by public sewer and water.
8. Prior Zoning Hearings:
   2005-0579-A
   2006-051-SPH

GRAPHIC SCALE 1"=20'

0 20 40 60

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS SURVEY HAS BEEN PREPARED BY ME, OR UNDER MY DIRECT SUPERVISION AND IS IN ACCORDANCE WITH THE MINIMUM STANDARDS OF PRACTICE FOR PROFESSIONAL LAND SURVEYORS AS ADOPTED BY THE STATE OF MARYLAND.

BRIAN R. DIETZ 9-23-22

PROFESSIONAL LAND SURVEYOR NO. 21082
LICENSE EXPIRES 2-12-2023

PLAT TO ACCOMPANY A
SPECIAL HEARING
of the

TUNNEY PROPERTY

717 ROCKAWAY BEACH AVENUE
Baltimore County, Maryland
Tax Map 98, Grid 15, Parcel 211
15th Election District, 7th Councilmanic District
Scale: 1"=20' Date: September 22, 2022

Dietz Surveying Inc.
Land Surveying and Land Planning
8119 Oakleigh Road Baltimore MD 21234
Ph 410-661-3160, Fax 410-66[illegible]
www. dietzsurveying.net

File Name: Z:\Rockaway Beach Avenue, 717 Job# 2[illegible]

Revisions	Date	Plat Date: 9/28/2022	FIELD: BRD	DRAWN: BRD

EXHIBIT 1


Untitled Map
Write a description for your map.
Legend
717 Rockaway Beach Ave
Essex Home Improvement
Essex Home Improvement
Rockaway Beach Ave
Beach Ave
717 Rockaway Beach Ave
Sue Creek
EXHIBIT
2
N
400 ft
Google Earth

Google Maps



Imagery ©2022 Maxar Technologies, Map data ©2022 50 ft

Google Maps



Map data ©2022 , Map data ©2022 20 ft

Google Maps 2429 Beach Ave



Image capture: Jul 2016 © 2022 Google

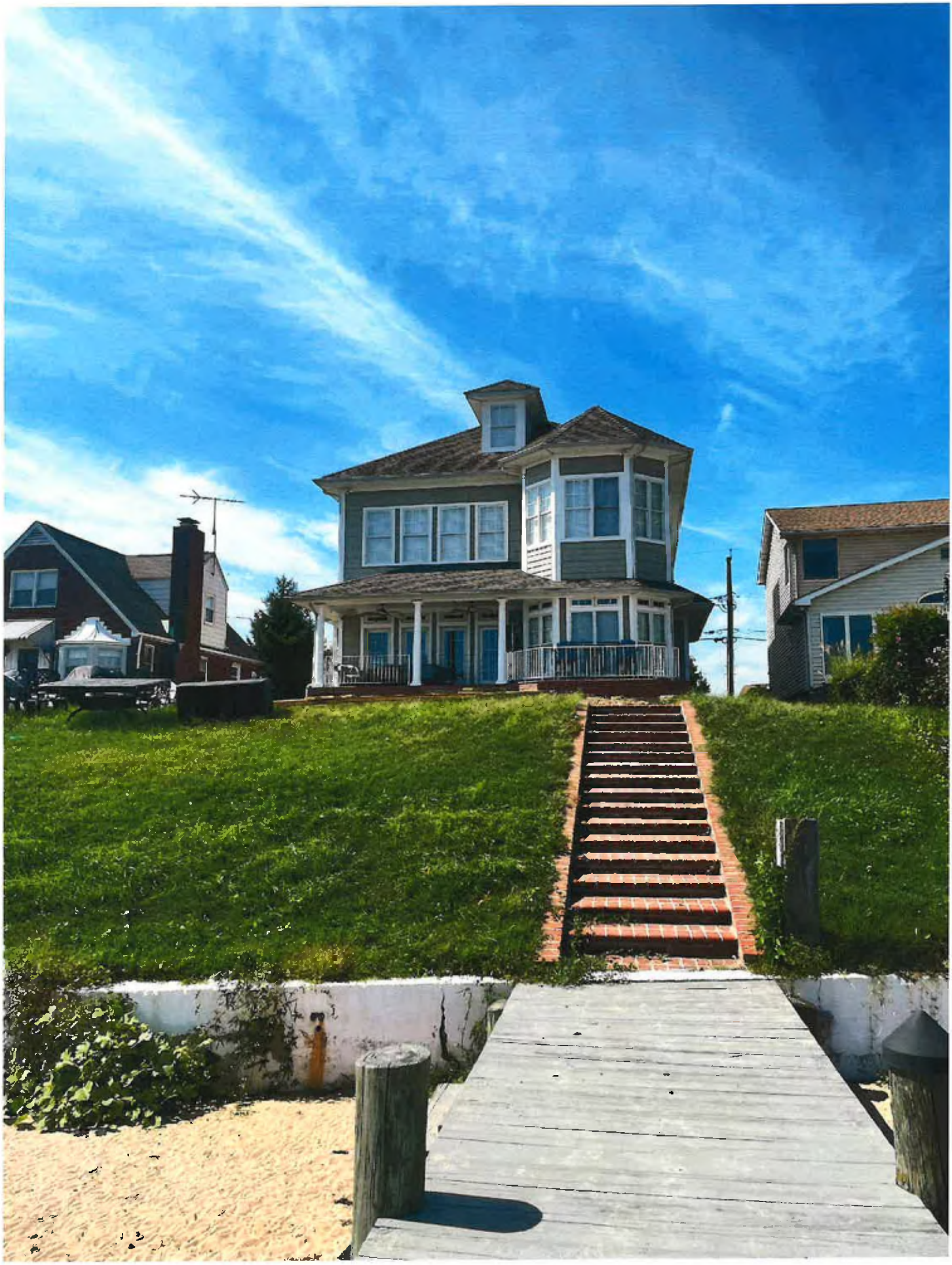
Essex, Maryland

Google

Street View - Jul 2016



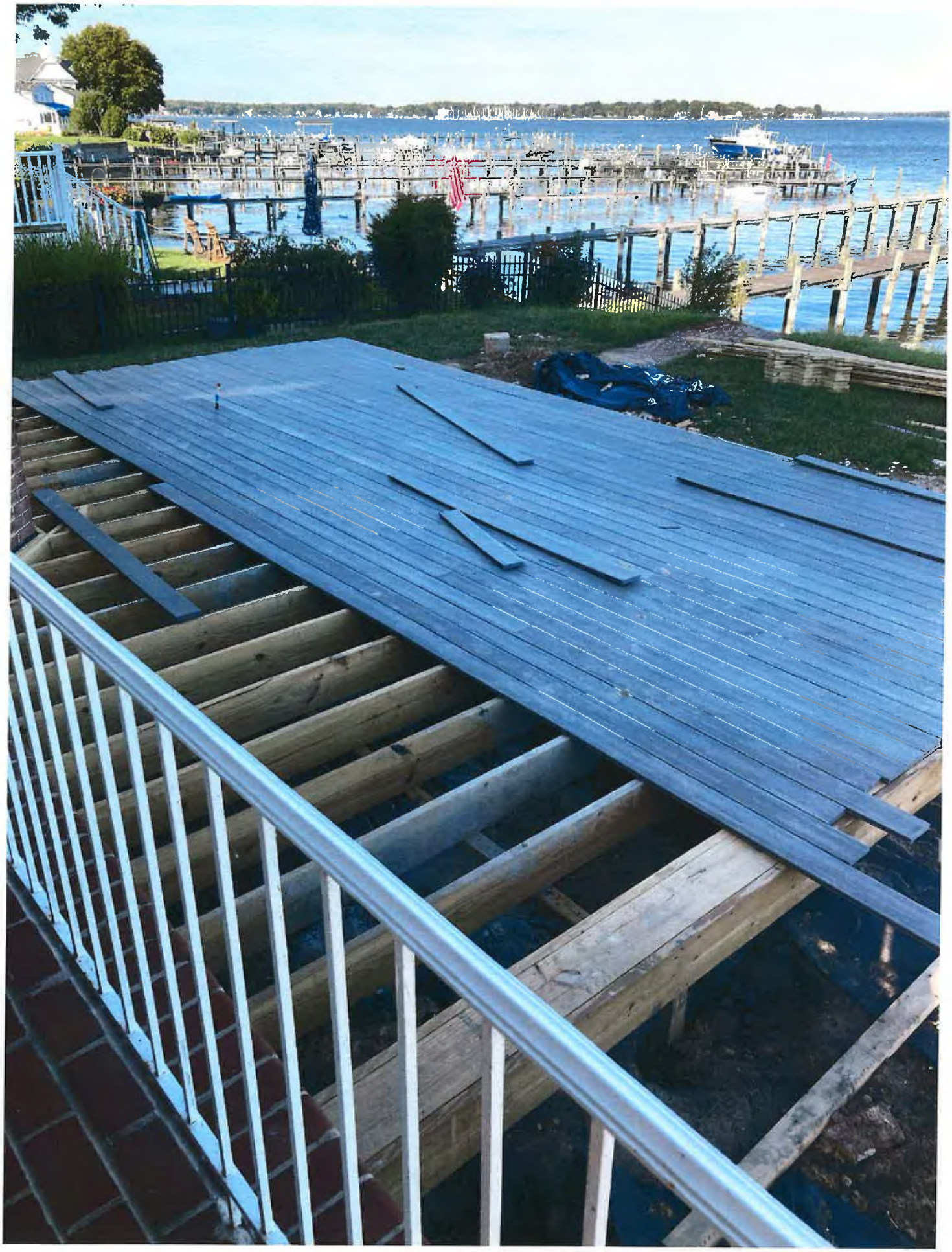
EXHIBIT
3











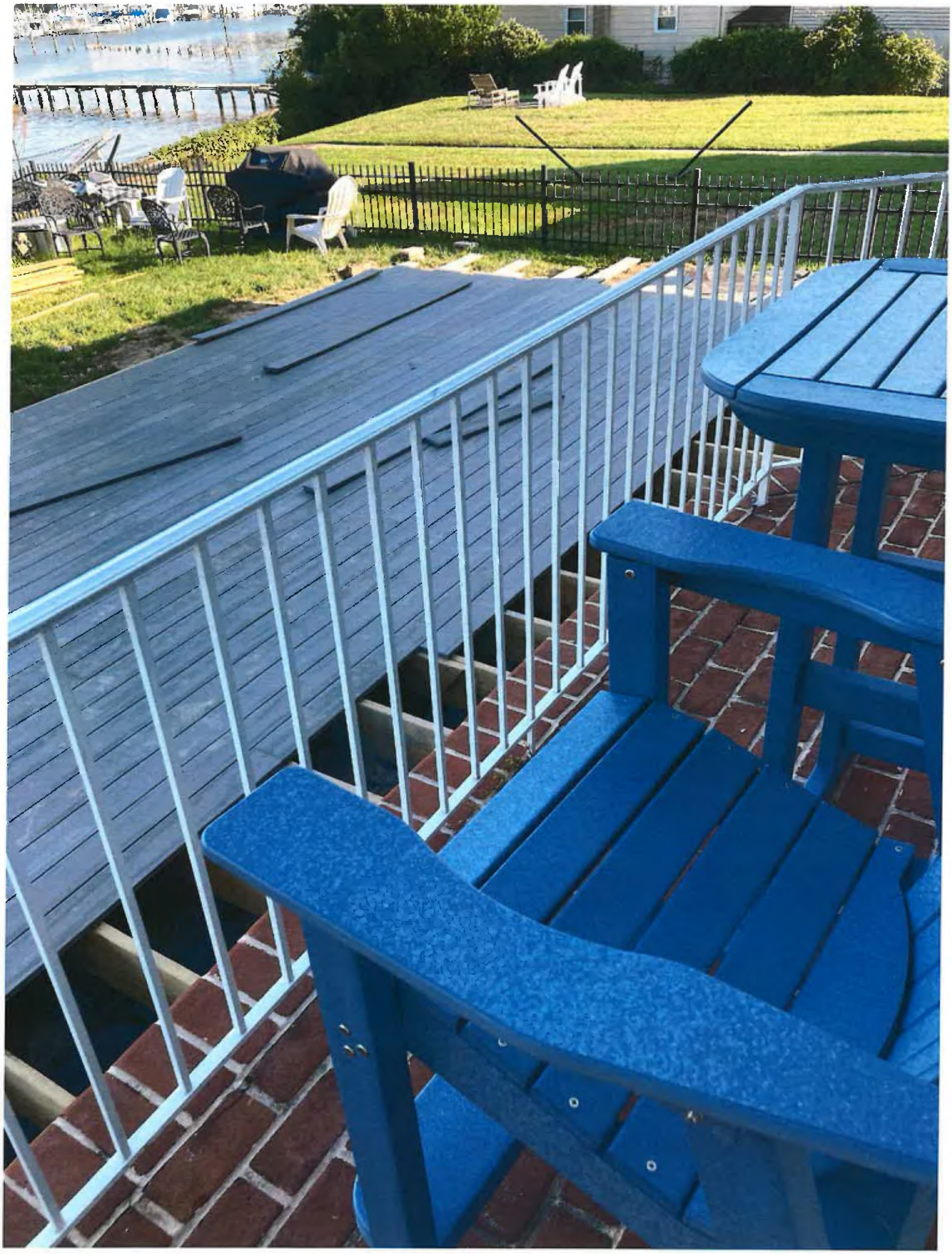






EXHIBIT
4





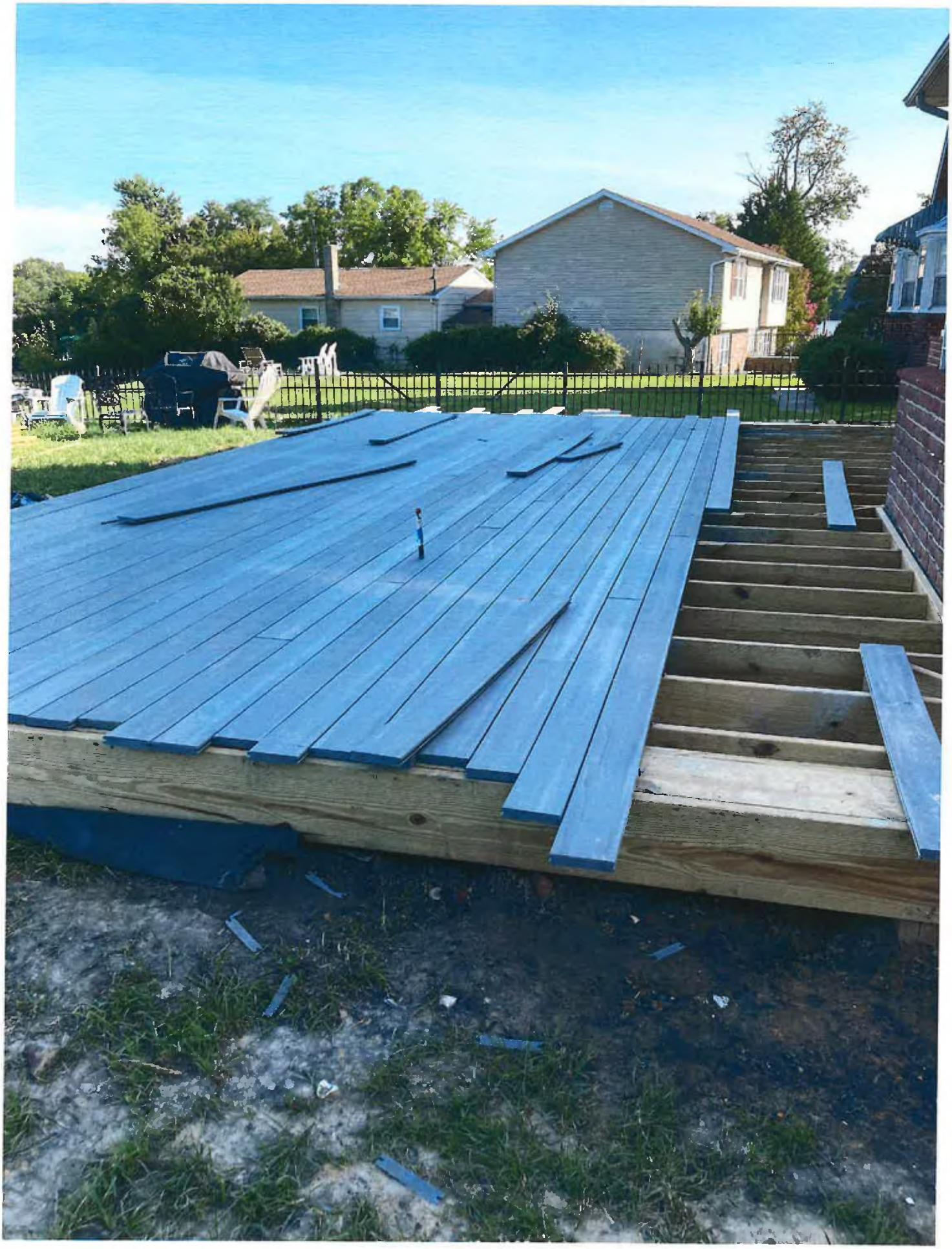








EXHIBIT
5







Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-09666

Permit Type: Residential New

Sub Type: Deck

Date Issued: 09/21/2022

Expiration Date: 09/20/2023

Property Information

Property Address: 717 ROCKAWAY BEACH AVE

City, State, Zip: ESSEX, MD, 21221

Tax ID: 1523504960

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: YES

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 80.00

Set Backs - Rear Yard: 40.00

Set Backs - Right Side Yard: 10.00

Set Backs - Left Side Yard: 10.00

Owner Information

Owner: WILLIAM E TUNNEY

Owner Address: 315 BLUE GRASS LN, HAMPSTEAD, MD, 21074

Tenant:

Applicant: WILLIAM E TUNNEY

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

*Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.

EXHIBIT 6

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-09666

Permit Type: Residential New

Sub Type: Deck

Date Issued: 09/21/2022

Expiration Date: 09/20/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: Construct open wood framed deck attached to water side of sfd 27.5'x20'=550sf. This permit cancels and replaces R22-05031, change in construction and setbacks and expires 5/17/23. Refer to for R22-09415 proposed outdoor shower / deck. /USING BALTO,CO DECK GUIDELINES--DECK ONLY,TK

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

*Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.

09/21/2022

JOHN A. OLSZEWSKI, JR.
County Executive

DAVID V. LYKENS, *Director*
Department of Environmental Protection and Sustainability

September 20, 2022

William Tunney
315 Blue Grass Lane
Hampstead, MD 21074

RE: Deck Permit - #R22-09666
717 Rockaway Beach Ave

Dear Mr. Tunney:

Environmental Impact Review (EIR) completed an evaluation of the above referenced property and deck permit application for 717 Rockaway Beach Ave. We understand that the previously-issued permit (R22-05031) was cancelled and this permit (R22-09666) replaces it. As the new permit does not change the proposed deck, the same permit requirements exist as previously stated in the April 12, 2022 letter. The deck is the subject of a special zoning hearing, 2022-0151-SPH.

The 9,027 square foot property is located within a Limited Development Area (LDA) and Modified Buffer Area (MBA) in the Chesapeake Bay Critical Area (CBCA) and must comply with all requirements of Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

Lot Coverage

Existing Lot Coverage: = 3,100 square feet or 34.3%.
Current LDA regulations restrict the lot coverage on this property to 25% (2,256 square feet) or a maximum of 31.25% (2,821 square feet), with mitigation for the amount over 25%. The lot coverage present exceeds the maximum allowed.

As the proposed open wood deck (with dirt/grass below) does not count as lot coverage, there is no lot coverage mitigation required. However, please be aware that no future lot coverage will be permitted without equal amount of lot coverage removal. Contact EIR to discuss permit and CBCA requirements for any future construction on site. Lot coverage includes gravel.

Forest Cover

15% minimum forest requirement: A minimum of three trees must be on-site at all times. As no trees currently exist on site, three Maryland native, deciduous trees at least 5-feet tall will need to be planted on the property. Three shrubs may be substituted for each required tree, if desired.

Modified Buffer Area

Properties within the MBA have a 100-foot buffer from tidal waters. Structures are not allowed in the buffer unless the property owner performs on-site mitigation or pays a fee-in-lieu. The proposed deck is within the 100-foot MBA. Mitigation for the 552 square feet of impact was satisfied through payment of a fee-in-lieu of $1.50 per square-foot of disturbance and the agreement to plant three trees (or equivalent shrubs).

Payment of $678.15 was received by check on April 20, 2022.

EXHIBIT 7

*Note no manmade structures are allowed within 25 feet of tidal waters.

Summary of Mitigation Requirements:

1. Plant a minimum of three (3) Maryland native deciduous canopy trees on-site to meet forest cover requirements by spring 2023.
2. MBA mitigation: pay $678.15 fee-in-lieu **(Paid).**

Once you sign this letter, return it to our office indicating your acceptance of the mitigation requirements, and pay the appropriate fee-in-lieu amount, EIR will release the permit. Inspections will be conducted to determine compliance with all Critical Area requirements that pertain to this property. If you have any questions regarding this correspondence, please contact me at mbrady@baltimorecountymd.gov or 410-887-3980.

Sincerely,

Marie Brady
Environmental Impact Review

I/We agree to meet the requirements outlined in this letter to bring the referenced property in to compliance with Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

Property Owner(s) Signature(s) — Date: 9/20/2022

William Tunney

Printed Name of Property Owner(s)

S:\EPS\EIR\Marie\Permit Review\CBCA\Rockaway Beach 717-EIR Letter-REV.docx

JOHN A. OLSZEWSKI, JR.
County Executive

C. PETE GUTWALD, AICP, *Director*
Department of Permits, Approvals & Inspections

September 19, 2022

Rockaway Beach Improvement Association C/O: Kevin McDonough
628 Rockaway Beach Ave.
Essex, MD 21221

RE: Case Number: 2022-0151-SPH 717 Rockaway Beach Ave.

To Whom It May Concern:

The above referenced petition was accepted for processing ONLY by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on June 28,2022. This letter is not an approval, but only a NOTIFICATION.

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

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

Very truly yours,

Jeffrey Perlow

Jeff Perlow
Supervisor
Department of Zoning

lw
Enclosures: William and Theresa Tunney

EXHIBIT 8

RECEIVED JUL 14 2022

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: July 11, 2022

EPC for VKD

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 11, 2022
Item Nos. 2022-0145-A, 0150-SPHA, 0151-SPH, 0152-SPHA & 0153-A

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

* * * * *

VKD: cen
cc: file

RECEIVED JUL 19 2022

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: July 19, 2022

SUBJECT: DEPS Comment for Zoning Item # 2022-0151-SPH
Address: 717 Rockaway Beach Avenue
(Tunney Property)

Zoning Advisory Committee Meeting of **July 11, 2022**

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

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

   The subject property is located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) and is subject to Critical Area requirements. The applicant is seeking a special hearing to determine whether the construction of a deck on the property complies with the Baltimore County Zoning Regulations including a previous zoning order as well all applicable policies, laws, and regulations. The proposed deck construction must meet LDA requirements and the 15% afforestation requirement. If the proposed deck construction can comply with the lot coverage restrictions and the 15% afforestation requirement, the proposed deck construction can result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

   This is a waterfront lot with a 100-foot Critical Area buffer extending onto the property from Middle River. The proposed deck will be located within the Critical Area buffer and will require compliance with the MBA Regulations.

Meeting the MBA requirements, lot coverage requirements, and the 15% afforestation requirement will aid in the conservation of fish, plant, and wildlife habitat in the watershed.

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.

   If the proposed deck construction can be designed to meet the MBA, lot coverage, and afforestation requirements, the proposed deck construction will be consistent with established land-use policies.

Additional Comments:

Reviewer: Gris Batchelder

RECEIVED
SEP 22 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 9/22/2022

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS - AMENDED**
Case Number: 2022-0151 SPH

INFORMATION:
Property Address: 717 Rockaway Beach Ave
Petitioner: Rockaway Beach Improvement Association & Neighbors
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition to determine if a Special Hearing is necessary to conclude:

1. Whether the construction of a deck at waterfront side of the subject property constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
2. Whether the construction of a deck at the waterfront side of the subject property would "obstruct adjacent property owners' water views" and conflict with restriction #5 in the zoning order issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
3. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with the Baltimore County Zoning Regulations; and
4. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with all applicable policies, laws, and regulations.

The subject site is currently zoned as DR 3.5. The site is considered to be a Chesapeake Bay Critical Area Designation. The subject site is surrounded by other single-family dwellings with the rear of the dwelling facing toward the water and the front of the dwelling is facing toward Rockaway Beach Avenue.

The subject property is located within the boundaries of the following community plans: Eastern Baltimore County Revitalization Strategy, Eastern Baltimore County Pedestrian and Bicycle Access Plan, and Greater Dundalk-Edgemere Community Conservation Plan. This proposed structure and the request for this petition, does not impact the recommendations provided in these plans.

The Department of Planning concludes the following as it relates to the petitioner's concerns:

1. The subject property was a part of Zoning Case #2006-0501-SPH. As a part of the order, there was a condition to approval granted to the petitioners. This condition stated "Petitioners [William Rush and Maryann Rush] shall surrender any further construction rights to build closer to the

water." Department of Planning concludes that the construction of deck will be in violation of the order in this case.

2. The subject property was a part of Zoning Case #2006-0501-SPH which ordered the following restriction: "There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water views(s)." Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties, it will be considered an enhancement.

3. The specifics of the compliance to various Baltimore County Zoning regulations will be a part of the permits process that has already been initiated by the property owner. All necessary zoning regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

4. The specifics of the compliance to policies, laws, and regulations will be a part of the permits process that has already been initiated by the property owner. All necessary policies, and laws, and regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

The Department has no further objections or comments on the request. For further information concerning the matters stated herein, please contact April Smith at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

SL/JGN/KP/

c: April Smith
Rockaway Beach Improvement Association, c/o Kevin McDonough
Office of Administrative Hearings
People's Counsel for Baltimore County

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BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 7/28/2022

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 2022-151

INFORMATION:
Property Address: 717 Rockaway Beach Ave
Petitioner: Rockaway Beach Improvement Association & Neighbors
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition to determine if a Special Hearing is necessary to conclude:

1. Whether the construction of a deck at waterfront side of the subject property constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
2. Whether the construction of a deck at the waterfront side of the subject property would "obstruct adjacent property owners' water views" and conflict with restriction #5 in the zoning order issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
3. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with the Baltimore County Zoning Regulations; and
4. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with all applicable policies, laws, and regulations.

The subject site is currently zoned as DR 3.5. The site is considered to be a Chesapeake Bay Critical Area Designation. The subject site is surrounded by other single-family dwellings with the rear of the dwelling facing toward the water and the front of the dwelling is facing toward Rockaway Beach Avenue.

The subject property is located within the boundaries of the following community plans: Eastern Baltimore County Revitalization Strategy, Eastern Baltimore County Pedestrian and Bicycle Access Plan, and Greater Dundalk-Edgemere Community Conservation Plan. This proposed structure and the request for this petition, does not impact the recommendations provided in these plans.

The Department of Planning concludes the following as it relates to the petitioner's concerns:

1. The subject property was a part of Zoning Xase #2006-0501-SPH. As a part of the order, there was a condition to approval granted to the petitioners. This condition stated "Petitioners [William Rush and Maryann Rush] shall surrender any further construction rights to build closer to the

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water." Department of Planning concludes that the construction of deck will be in violation of the order in this case.

2. The subject property was a part of Zoning Case #2006-0501-SPH which ordered the following restriction: "There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water views(s)." Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties.

3. The specifics of the compliance to various Baltimore County Zoning regulations will be a part of the permits process that has already been initiated by the property owner. All necessary zoning regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

4. The specifics of the compliance to policies, laws, and regulations will be a part of the permits process that has already been initiated by the property owner. All necessary policies, and laws, and regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

The Department has no further objections or comments on the request. For further information concerning the matters stated herein, please contact April Smith at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

SL/JGN/KP/

c: April Smith
Rockaway Beach Improvement Association, c/o Kevin McDonough
Office of Administrative Hearings
People's Counsel for Baltimore County

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
E/S Rockaway Beach Avenue, 110' N of
the c/l Beach Avenue * ZONING COMMISSIONER
(717 Rockaway Beach Avenue)
15th Election District * OF BALTIMORE COUNTY
6th Council District

* Case No. 06-501-SPH

William Rush, et ux
Petitioners *

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, William Rush, and his wife, Maryann Rush. The Petitioners request a special hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were William (Bob) and Maryann Rush, property owners, and Kenneth J. Wells, the Surveyor who prepared the site plan for this property. Appearing as Protestants were William and Denise Woutila, adjacent property owners, Marcyanna Siegman, Janice Vincent, and Jackie Nickel, President of the Rockaway Beach Improvement Association, Inc., all nearby residents of the area.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped waterfront lot located south of Turkey Point Road on the east side of Rockaway Beach Avenue, with frontage on Middle River. The property is approximately 50 feet wide and 185 feet deep, and contains a gross area of 9,027 sq.ft. (.21 acres) more or less, zoned D.R.3.5. The Petitioners purchased the property approximately two years ago and used the summer home that existed at that time for about one year before they had the house razed. In this regard, the

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Date 6-22-06
By

EXHIBIT 9

property was the subject of prior Case No. 05-579-A in which the Petitioners sought variance relief from Section 1B02.3.C.1 of the B.C.Z.R. to allow a proposed replacement dwelling with reduced setbacks. By his Order dated July 13, 2005, Deputy Zoning Commissioner John V. Murphy granted the requests, subject to compliance with relevant County agency recommendations and Chesapeake Bay Critical Areas requirements. The Petitioners now come before me seeking an amendment as set forth above to reflect a further reduction in the front (street) setback distance provided.

In this regard, testimony and evidence offered indicated that the Petitioners intended to construct a home 35' x 68' in dimension, with side yard setbacks of 4 feet and 11 feet and followed the information received in the packet from the builder to determine measurements and setback distances. The house was to be setback 81 feet from the water and 24 feet from the road; however, after construction of the home commenced, it was discovered that the front property line was 4 feet further inside of the original measurement. Thus, only a 20-foot setback from the road can be provided.

As noted above, several residents from the surrounding community appeared in opposition to the request. They argued that the survey performed by Mr. Wells conflicts with a survey the Protestants had prepared. They also believe that the Petitioners are trying to take advantage of the County's system and that their (the Rush's) attitude about the process is offensive. Ms. Nickels and Ms. Woutila point out that any further request for an amendment to the variance relief received must be denied on the grounds that "it was incumbent upon the Petitioners to obtain an accurate survey of the property before commencing construction" . . . "that any hardship or practical difficulty they now claim was self inflicted." In response to the Protestant's concerns, Mr. Wells testified that his boundary locations are accurate and were taken from monuments found and the location of the original house. Apparently, the original measurements taken by Mr. Rush at the outset were taken from an old concrete parking pad located near the road. In any event, special hearing relief is requested as set forth above to amend the prior relief granted and legitimize existing conditions.

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Date
By

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. As noted above, construction of the house is nearly completed and to require its demolition and reconstruction to eliminate a 4-foot discrepancy along the road would be an unnecessary hardship and unduly burdensome upon the Petitioners. Moreover, because the new home has been constructed in *essentially* the same location as originally proposed and is only 4 feet closer to the road than previously approved, I find that the amended relief will not adversely impact the adjacent property or surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. It was mentioned during the hearing that according to the approval granted in prior Case No. 05-579-A and the resulting Baltimore County Permit No. B605354, Petitioners were permitted to construct the home within 73 feet of the waterside property line. The home, as built, is actually 81 feet back. As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water. Moreover, but for the amended relief granted herein, all other terms and conditions of the prior Order are adopted herein and made a part hereof, including, but not limited to, compliance with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, as well as all building and fire code requirements.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of June 2006 that the Petition for Special Hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning

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Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments, dated June 22, 2006 and April 26, 2006, respectively, have been attached hereto and made a part hereof.

3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the Petitioners shall submit building elevation drawings of the structure to the Office of Planning for review and approval.

4) Compliance with all Building and Fire Code regulations.

5) There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s).

6) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

But for the amended relief set forth above, all other terms and conditions of the Order issued in prior Case No. 05-579-A shall remain in full force and effect.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

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Date 9-22-06
By

Petitioner's Exhibit List
Zoning Case # 2022-0151-SPH
September 30, 2022 at 1:30 pm

Exhibit Name	Exhibit #
Copy of Zoning Order from 2006 Case	1
E-mail from Bob Rush to Commissioner Wiseman	2
Survey	3
Site Plan for Deck Construction Submitted w/ Permit Application	4
Photographs of Property	5
Letter from Baltimore County Peoples Counsel	6
Letter from Neighbors	7
Letter from BRNPCA	8
Letter from EMRCC	9
Planning Dept. Comments	10
Recorded Deeds for 717 Rockaway (From Rush's purchase in 2004 to current owner)	11a, 11b, 11c, 11d

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
E/S Rockaway Beach Avenue, 110' N of
the c/l Beach Avenue * ZONING COMMISSIONER
(717 Rockaway Beach Avenue)
15th Election District * OF BALTIMORE COUNTY
6th Council District

* Case No. 06-501-SPH

William Rush, et ux
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property was the subject of prior Case No. 05-579-A in which the Petitioners sought variance relief from Section 1B02.3.C.1 of the B.C.Z.R. to allow a proposed replacement dwelling with reduced setbacks. By his Order dated July 13, 2005, Deputy Zoning Commissioner John V. Murphy granted the requests, subject to compliance with relevant County agency recommendations and Chesapeake Bay Critical Areas requirements. The Petitioners now come before me seeking an amendment as set forth above to reflect a further reduction in the front (street) setback distance provided.

In this regard, testimony and evidence offered indicated that the Petitioners intended to construct a home 35' x 68' in dimension, with side yard setbacks of 4 feet and 11 feet and followed the information received in the packet from the builder to determine measurements and setback distances. The house was to be setback 81 feet from the water and 24 feet from the road; however, after construction of the home commenced, it was discovered that the front property line was 4 feet further inside of the original measurement. Thus, only a 20-foot setback from the road can be provided.

As noted above, several residents from the surrounding community appeared in opposition to the request. They argued that the survey performed by Mr. Wells conflicts with a survey the Protestants had prepared. They also believe that the Petitioners are trying to take advantage of the County's system and that their (the Rush's) attitude about the process is offensive. Ms. Nickels and Ms. Woutila point out that any further request for an amendment to the variance relief received must be denied on the grounds that "it was incumbent upon the Petitioners to obtain an accurate survey of the property before commencing construction" . . . "that any hardship or practical difficulty they now claim was self inflicted." In response to the Protestant's concerns, Mr. Wells testified that his boundary locations are accurate and were taken from monuments found and the location of the original house. Apparently, the original measurements taken by Mr. Rush at the outset were taken from an old concrete parking pad located near the road. In any event, special hearing relief is requested as set forth above to amend the prior relief granted and legitimize existing conditions.

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After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. As noted above, construction of the house is nearly completed and to require its demolition and reconstruction to eliminate a 4-foot discrepancy along the road would be an unnecessary hardship and unduly burdensome upon the Petitioners. Moreover, because the new home has been constructed in *essentially* the same location as originally proposed and is only 4 feet closer to the road than previously approved, I find that the amended relief will not adversely impact the adjacent property or surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. It was mentioned during the hearing that according to the approval granted in prior Case No. 05-579-A and the resulting Baltimore County Permit No. B605354, Petitioners were permitted to construct the home within 73 feet of the waterside property line. The home, as built, is actually 81 feet back. As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water. Moreover, but for the amended relief granted herein, all other terms and conditions of the prior Order are adopted herein and made a part hereof, including, but not limited to, compliance with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, as well as all building and fire code requirements.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of June 2006 that the Petition for Special Hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning

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By

Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments, dated June 22, 2006 and April 26, 2006, respectively, have been attached hereto and made a part hereof.

3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the Petitioners shall submit building elevation drawings of the structure to the Office of Planning for review and approval.

4) Compliance with all Building and Fire Code regulations.

5) There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s).

6) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

But for the amended relief set forth above, all other terms and conditions of the Order issued in prior Case No. 05-579-A shall remain in full force and effect.

ORDER RECEIVED FOR FILING
Date 9-22-06
By

WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

From: "Bob Rush" <brush@mcdonogh.org>
To: <wwiseman@co.ba.md.us>
Date: 06/02/06 2:45:20 PM
Subject: 717 Rockaway Beach Ave.

Dear Mr. Wiseman,

Thank you for offering us your card to email you concerning the variance request at 717 Rockaway Beach Ave.

According to Baltimore County Permit # B600049 we have been given permission to construct a retaining wall 80' long and 6' high to be placed at the waterfront of our property. According to the stamped plans we submitted for this permit we would then backfill to make our property level. This would definately block the view of the neighbors and change the look of the neighborhood at the waters edge.

Also, according to Zoning Variance # 05-579 and Baltimore County Permit # B605354 we are permitted to construct our home within 73' of our waterside property line. Our home "as built" is actually 81' back. It is my understanding that we can construct our home or part of our home 8' closer to the water which would definitely obstruct our neighbor's water view.

In an effort to show good faith and reconcile this matter we will be willing to surrender both opportunities I have listed above.

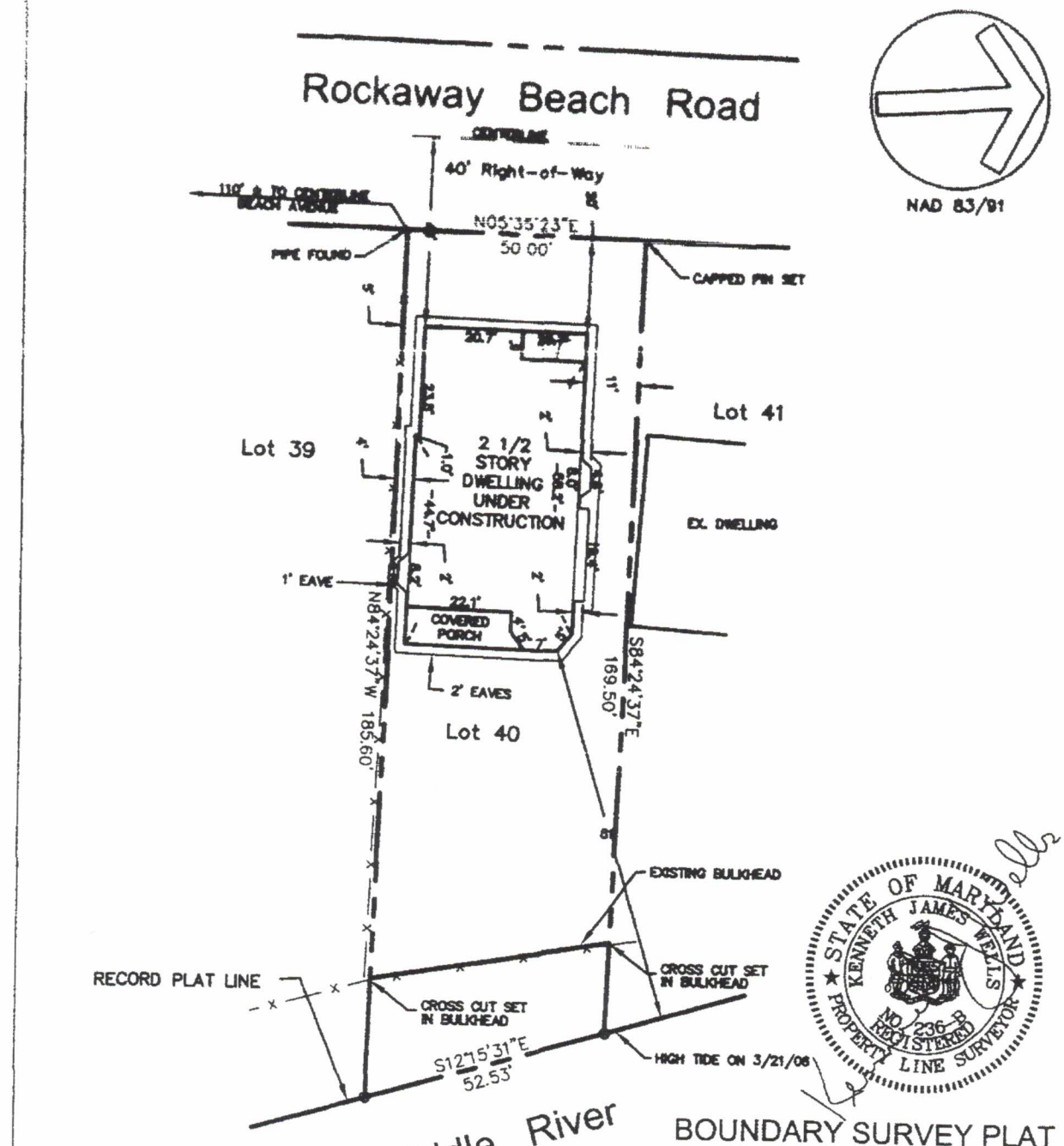
I attempted to make this offer verbally to Ms. Nickel, Ms. Seigman and Ms. Woutila to no avail.

Sincerely,

Bob Rush

cc
Tim Kotroco
Carl Richards
Vernon Boozer

CC: <tkotroco@co.ba.md.us>, <crichards@co.ba.md.us>, <gab@cablaw.com>, <marush@comcast.net>



BOUNDARY SURVEY PLAT
717 ROCHAWAY BEACH ROAD
LOT 40 "ROCKAWAY BEACH"

SCALE: 1" = 30' DATED: 6/13/2005
REVISION DATE: 3/21/2006

LEGEND:

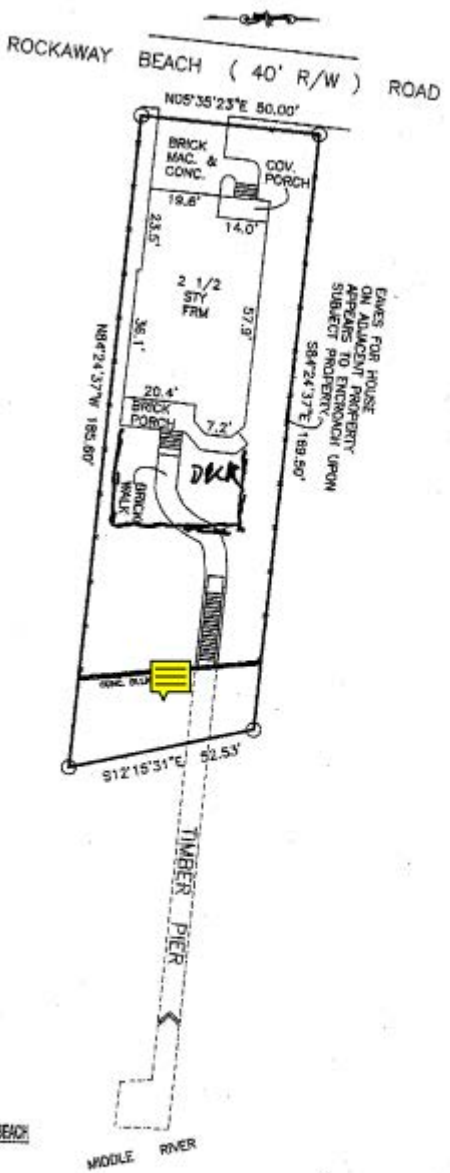
DWELLING PROJECTIONS

DEED REFERENCE: 20302/208
PLAT REFERENCE: 4/171

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

HOPKINS ENGINEERING

3653 Harmony Church Road Havre de Grace, Maryland 21078
410-876-5354 -Phone 410-893-5185- Fax



M.L.R.

STATE OF MARYLAND
LEWIS CURTIS THOMAS
REGISTERED NO. 21...
PROPERTY LINE SURVEYOR

9-3-08

LOCATION DRAWING
ADDRESS: 717 ROCKAWAY BEACH ROAD BALTIMORE CO. MD.

DEED REF: 2093/286 PLAT REF: 7/171 LOT: 48 SUBDIVISION: ROCKAWAY BEACH

SCALE: 1"= 30'

1) THIS DRAWING IS OF BENEFIT TO A CONSUMER ONLY INSOFAR AS IT IS REQUIRED BY A LENDER OR TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH TRANSFER OR FINANCING OF PROPERTY AN HAS BEEN PREPARED FOR TITLE PURPOSES ONLY, WITHOUT THE BENEFIT OF A TITLE REPORT.
2) THIS DRAWING IS NOT THE PRODUCT OF A BOUNDARY SURVEY AND IS THEREFORE NOT TO BE RELIED UPON FOR THE LOCATION OF FENCES,GARAGES, DRIVES, SIDEWALKS, BUILDINGS OR OTHER EXISTING OR FUTURE IMPROVEMENTS,RELATIVE TO PROPERTY BOUNDARIES.
3) THIS DRAWING DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES,HOWEVER SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING.
4) ALL COURSES SHOWN HEREON REFLECT THOSE REFERRED TO IN A BOUNDARY SURVEY BY JQWilliams DATED 6/13/2005.
5) THIS DRAWING WAS PREPARED UNDER MY RESPONSIBLE CHARGE IN ACCORDANCE WITH THE MINIMUM STANDARDS FOR MARYLAND SURVEYORS.
6) THE FOLLOWING CONSIDERATIONS ARE NOT ADDRESSED HEREON: RIPARIAN,AERIAL,UTILITY,BUILDING INTERIORS,ZONING REQUIREMENTS.
7) ALL BUILDING STRUCTURES AND OTHER IMPROVEMENTS SHOWN HEREON ARE IN APPROXIMATE RELATIONSHIP TO THE APPARENT BOUNDARY LINES AND REFLECT AN ACCURACY OF +/-3'

Photographs of Subject Property
717 Rockaway Beach Ave



Aerial View of property



Aerial View of Property



Side view of property adjacent to 719 Rockaway Beach Ave

View of 717 Rockaway Beach Ave from Road





Conditions of waterfront yard prior to deck



Conditions of Waterfront yard prior to deck



Conditions of waterfront yard prior to deck













Elevation of Deck













Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
410-887-2188
Fax 410-823-4236

PETER MAX ZIMMERMAN
pzimmerman@baltimorecountymd.gov
People's Counsel

CAROLE S. DEMILIO
cdemilio@baltimorecountymd.gov
Deputy People's Counsel

September 7, 2022

SENT VIA EMAIL TO AdministrativeHearings@baltimorecountymd.gov
Paul M. Mayhew, Managing Administrative Law Judge
Maureen E. Murphy, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RE: Rockaway Beach Improvement Association et al. - Petitioners
William & Theresa Tunney – Legal Owners
717 Rockaway Beach Avenue
Case No.: 2022-151-SPH
Hearing Date: September 30, 2022 at 1:30am

Dear Judges Mayhew and Murphy:

Kevin McDonough, Rockaway Beach Improvement Association (RBIA) President, brought this matter to our office's attention. On June 24, 2022, RBIA, Ruth Nuth, Marcyanna and William Siegman, Scott Huffine and Kristin Miller, and JoAnn Wieland filed a petition for special hearing to determine the zoning law applicable to waterside residential deck construction at 717 Rockaway Beach Avenue ("717 RBA").[1]

[1] A special hearing is effectively a declaratory judgment proceeding to determine issues of zoning law. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005), Salmon, J. Pursuant to Baltimore County Charter Sec. 524.1(a)(3)(A), our office defends the comprehensive zoning maps in cases where zoning issues arise, including special hearings. People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683, 687, n.1 (1989); Marzullo v. Kahl 366 Md. 158 (2001); Geddes v. People's Counsel 2017 WL 1193781, cert. denied 455 Md. 443 (2017) and 138 S.Ct. 2683 (2018). Judge Salmon recapped in Geddes, n.2, "The People's Counsel for Baltimore County is an independent organization, separate from Baltimore County, with the "specific public interest function" of defending the comprehensive zoning maps and master plan in a variety of cases, including special hearings."

The owners of the subject property are William and Theresa Tunney, 315 Blue Grass Lane, Hampstead, Maryland 21074. They acquired the property from Michael Paul and Carin Smith by deed dated December 6, 2021, attached.[2] The individual petitioners are owners of adjacent properties on the avenue.

The question presented is whether the deck exceeds and/or conflicts with the fifth condition of Zoning Commissioner (ZC) William J. Wiseman's opinion and order in Case No. 06-501-SPH, conditionally approving setbacks, after the fact, for a sizable dwelling built after razing a summer house. William Rush, et ux. were then property owners. The pertinent condition states, Page 4:

> "5. There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s)."

ZC Wiseman effectively issued a compromise approval, despite Petitioners' "indiscretions" described in the opinion. ZC Wiseman wrote on Page 3:

> "However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. **Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. …. As a condition of approval, Petitioners shall surrender any further construction rights closer to the water."** Emphasis supplied.[3]

[2] Additional relevant documents are also attached, beginning with the key 2006 zoning case.

[3] The building elevation condition is the third in the Order:

> "3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the petitioners shall submit building elevations drawings of the structure to the Office of Planning for review and approval."

We have no information on satisfaction of this condition. There is also Condition 2, pertinent to Chesapeake Bay Critical Area and other environmental regulations.

The Property: Location and Description

717 RBA is a Middle River waterfront property at the end of a peninsula between Middle River and Sue Creek. It is zoned D.R. 3.5 and in the Chesapeake Bay Critical Area (CBCA). See ADC Map 85 and the My Neighborhood Map.

SDAT Real Property Data show the property is lot 40 on the 1915 Turkey Point Farm, Rockaway Beach subdivision plat. It occupies 9,027 square feet (.21 acre), with a 2.5 story residential structure and attached garage built in 2006. There are 4850SF above-grade living area. The lot width is 50 feet, standard for the subdivision lots. The lengths, respectively, are 185' and 169'. We include aerial and street level photographs to provide perspective.

Photographs show the dwelling spanning close to half the lot area. The two-car garage faces the avenue. Fences surround the side and part of the front areas. There is a pier which looks to be close to 200' in length, and a path from dwelling to pier.

The Building Permit for the Deck

The Tunneys' permit application and approval for a deck on the waterfront side led the RBIA to raise the zoning issue. They raised it with the PAI Department and then via this petition. The special hearing petition includes a virtual site plan with a copy of the deck drawing shown on the building permit application. We received from the PAI department some other record documents. These show Permit R22-05031 was issued on May 18, 2022, subject to Chesapeake Bay Critical Area conditions and potential flood zone issues.

The PAI Department information describes the dimensions as 27.60' x 20' = 552sf." However, a building permit application plan shows side setbacks of 4' and 14' feet respectively. This would compute to a width of 23', based on the 50' lot width.

The building permit plan shows a distance of 41' from the deck to the bulkhead. But ZC Wiseman's opinion describes the dwelling as 81' distant from the waterside property line, Page 3. So, it looks like the deck may be 40' in depth, not 27.60'.[4]

It is indicated the proposed deck is 1' foot in height. There will be stairs and a shower to the side of the building. There will likely be furniture, plants, and/or an outdoor grill. There might in the future be perimeter fencing, barrier, pergola, canopy, and/or other improvement.

[4] The building permit plan does not clearly show the depth or width of the deck. So far as we can tell, it is not prepared by a licensed surveyor or engineer.

Under these circumstances, it will be appropriate to evaluate the present and reasonably foreseeable improvements, dimensions, scale, and use.

Land Use

The main point is the land use impact. The deck will be an area for general, recreational, and entertainment use. The deck will be available for use and gatherings for family and friends, likely most frequent in the good weather. The uses will likely be more intense than in an open yard.

Zoning Advisory Committee Comments

As for Zoning Advisory Committee (ZAC) review, DEPS issued their correspondence on July 19, 2022, setting forth various CBCA conditions, including Limited Development Area (LDA) lot coverage, buffer area, and afforestation requirements. We do not have any details yet on further review.

Then, on July 28, 2022, the Department of Planning (DOP) issued their ZAC Comments. In their concluding paragraphs, they make several key points.

In paragraph 1, they quote ZC Wiseman's 2006 opinion and language quoted above:

> "Petitioners … shall surrender any further construction rights closer to the water."

There follows this conclusion,

> "Department of Planning concludes that the construction of deck will be in violation of the order in this case."

Yet in Paragraph 2 concludes, "Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties." They do not state the basis for this disbelief. DOP's disbelief goes against their logical finding of a violation of the order. The DOP proceeds in Paragraphs 3 and 4 to say the zoning and compliance issues will be "… part of the permits process."

Meanwhile, after PAI's May 18, 2022 permit approval, their enforcement division nevertheless issued a correction notice on June 17, 2022, with a July 17, 2022 deadline. The citation refers to the building permit, R22-05031. Inspector Matthew Gawel signed the notice. We have no information on what happened with this case.

Discussion

ZC Wiseman's Order runs with the property and extends to all successive owners. The Court of Appeals long ago stated in City of Baltimore v. Poe 224 Md. 428, 433 (1961),

> "It is settled law in this State that the zoning ordinance is concerned with the use of property and not with ownership thereof nor with the purposes of the owners or occupants."

See, e.g. People's Counsel v. Surina 400 Md. 662, 701 (2007); Preston v. Zoning Board of Review of Town of Hopkinton 154 A.3d 465 (R.I. 2017).

To repeat, ZC Wiseman's fifth condition, prohibiting improvements or dwelling construction "…which would obstruct adjacent neighbors' waterside view(s)," must be read together with the statement in his opinion that,

> "Petitioners … shall surrender any further construction rights closer to the water."

Moreover, ZC Wiseman cut the Rush petitioners some slack when he approved the 717 RBA setback variances, after the fact, to accept construction of their sizable dwelling. He underlined that "… by virtue of Petitioners' indiscretions" [they] … shall not … benefit from these unfortunate circumstances." He then imposed the condition based on a strict point of view, which carries forward to the present case.

Before the present owners acquired the property, William Rush and successive owners recognized and complied with the prohibition. There was no new waterside construction. But the current owners moved very quickly with their deck construction program.

Even if ZC Wiseman's Order stood alone, independent of the opinion, the word "obstruct" has a broad meaning. Webster's Third New International Dictionary states, in pertinent part,

> "**obstruct … *vt* …. 2** to be or come in the way of … IMPEDE, RETARD … **3** : to cut off from sight : … *vi* to place obstacles in the way : IMPEDE **syn** HINDER."

We could add the dictionary definitions of "impede" and "hinder," but it seems unnecessary. The deck activity will surely impede and hinder the waterside view of adjacent neighbors. There is a reasonable perception of the adverse practical impact of the land use. The proposed deck thus conflicts with the language and purpose of the 2006 zoning opinion and order.

Meanwhile, PAI approved the permit despite the stated prohibition.[5] It should be kept in mind there is no reliance, immunity, or "equitable estoppel" which furnishes property owners rights by virtue of a permit which conflicts with zoning law. Lipsitz v. Parr 164 Md. 222, 227-28 (1933); Berwyn Heights v. Rogers 228 Md. 271, 279 (1962); Kent County v.

[5] At least, PAI should have required the property owner to file a petition for special hearing to resolve the legal issue, instead of placing the burden on RBIA and adjacent property owners. Ironically, as in 2006, the case arrives again in after-the-fact mode to resolve legitimacy.

Abel 246 Md. 395, 399-403 (1967); City of Hagerstown v. Longmeadow Shopping Center 264 Md. 481, 492-98 (1972); Marzullo v. Kahl 366 Md. 158, 194-99 (2001).

Petitioners' Emergency Motion to Stay Construction

Petitioners have recently filed a Motion to Stay Construction. According to their motion, construction has begun. If so, the case law negating equitable estoppel is consequential. Any deck construction proceeds with the assumption of legal risk, dependent on the final outcome in this case.

Conclusion

For all these reasons, it appears the RBIA petition for special hearing should be approved or sustained. There should be a declaration and determination that the deck at issue conflicts with ZC Wiseman's 2006 Opinion and Order.

Because of a scheduling conflict involving travel, People's Counsel cannot attend the hearing. Anyway, our office's main contribution is to provide this analysis. We leave it there at this time and trust to the usual careful review and resolution by your office.

Sincerely,



Peter Max Zimmerman
People's Counsel for Baltimore County

Enclosures
cc: Rockaway Beach Improvement Association, Petitioners, info@turkeypoint.org
William & Theresa Tunney, Legal Owners, bud@btplumbingsupply.com
Ruth Nuth, by Patricia McDonough, trishmcdonough@comcast.net
Scott Huffines & Kristin Miller, scott@atomicteevee.com
JoAnn Weiland, joannweiland@comcast.net
Marcyanna & William Slegman, msrockaway2@aol.com
Stephen Lafferty, Director, Dept. of Planning, slafferty@baltimorecountymd.gov
Jenifer Nugent, Division Chief, jnugent@baltimorecountymd.gov
April Smith, Department of Planning, asmith3@baltimorecountymd.gov
Jeffrey Perlow, Zoning Supervisor, jperlow@baltimorecountymd.gov
C. Pete Gutwald, PAI Director, cpgutwald@baltmorecountymd.gov
David Lykens, DEPS Director, dlykens@baltimorecountymd.gov
Jeffrey Livingston, DEPS Dev. Coordination, jlivingston@baltimorecountymd.gov

Crown Title Corporation
File No. **115401-21CKL**
Tax ID # **15-1523504960**

This Deed, made this 6th day of **December, 2021**, by and between **Michael Paul Smith** and **Carin Smith**, husband and wife, GRANTORS, and **William Edward Tunney, IV** and **Theresa Marie Tunney**, husband and wife, GRANTEES.

- Witnesseth -

That in consideration of the sum of One Million Four Hundred Seventy-Five Thousand And 00/100 Dollars ($1,475,000.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said Grantees, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever, in all that lot of ground situate in the County of Baltimore, State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171.

(ADDRESS REFERENCE IS FOR INFORMATIONAL PURPOSES ONLY)
The improvements thereon being known as 717 Rockaway Beach Avenue, Essex, MD 21221.

BEING all and the same lot of ground which by Deed dated November 15, 2019, and recorded December 10, 2019 among the Land Records of Baltimore County, Maryland, in Liber 42214, Folio 367, was granted and conveyed by S.F.L., LLC, a forfeited Maryland limited liability company, unto Michael Paul Smith and Carin Smith.

Tax Account No. 15-1523504960

```
CR Deed (w Taxes)
Recording only ST20.00
Name: TUNNEY IV
Ref:
OR Deed (with Taxes)
Surcharge          40.00
CR Deed State
Transfer Tax   7,375.00
CR NR Tax - Ikd    0.00
=====================
SubTotal:      7,435.00
=====================
Total:         7,435.00
02/02/2022  10:39
                CC03-SLF
#15845326 CC0301 -
Baltimore
County/CC03.01.17 -
Register 17
```

By the execution of this Deed, the Grantors hereby certify under the penalties of perjury that the actual consideration paid or to be paid, including the amount of any Mortgage or Deed of Trust outstanding, is as hereinbefore set forth.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

To Have and To Hold the said described lot of ground and premises to the said William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever.

And the said Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0297, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

Witness the hands and seals of the said Grantors.

WITNESS:
Debra L. Daskins
Debra L. Daskins

(Seal)
Michael Paul Smith

(Seal)
Carin Smith

STATE OF MARYLAND }
COUNTY OF BALTIMORE } ss

On this the 6th day of December, 2021, before me, a Notary Public, in the jurisdiction aforesaid, the undersigned Officer, personally appeared Michael Paul Smith and Carin Smith, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same in my presence for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

RICHARD DOUGLAS LIBERTO NOTARY PUBLIC HARFORD COUNTY, MD

Notary Public
My commission expires 5/25/24

William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, parties of the second part in the within Deed, hereby certify under the penalties of perjury that the land conveyed in said Deed is residentially improved, owner-occupied, real property and that the residence will be occupied only by us.

WITNESS:

(SEAL)
William Edward Tunney, IV

(SEAL)
Theresa Marie Tunney

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Carol K. Lisman, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Crown Title Corporation
1 Sanford Avenue
Baltimore, MD 21228

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0298, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor: Michael Paul Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Michael Paul Smith — 12/6/21
Name — **Date

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0299, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Carin Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Carin Smith — 12/6/21
Name — **Date

Carin Smith
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0300, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

BOOK: 46333 PAGE: 301

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

X Deed / Deed of Trust	☐ Mortgage / Lease	☐ Other	☐ Other

2 Conveyance Type Check Box

X Improved Sale Arms-Length *[1]*	☐ Unimproved Sale Arms-Length *[2]*	☐ Multiple Accounts Arms-Length *[3]*	☐ Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if applicable) Cite or Explain Authority

Recordation	
State Transfer	Deed
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 1,475,000.00	Transfer Tax Consideration	$ 22125.00
Any New Mortgage	$	X ( ) % =	$
Balance of Existing Mortgage	$	Less Exemption Amount −	$
Other:	$	Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$
Full Cash Value:	$	X ( ) per $500 =	$ 7375.00
		TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 40.00	$
State Recordation Tax	$ 7,375.00	$
State Transfer Tax	$ 7,375.00	$
County Transfer Tax	$ 22,125.00	$
Other	$	$
Other	$	$

Agent:

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	42214/367			☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
				42214/367	

Location/Address of Property Being Conveyed (2): 717 Rockaway Beach Avenue, Essex, MD 21221

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: N/A

Partial Conveyance? [ ] Yes [X] No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Michael Paul Smith	
Carin Smith	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
William Edward Tunney, IV	CASH
Theresa Marie Tunney	

New Owner's (Grantee) Mailing Address: 315 Blue Grass Lane, Hampstead, MD 21074

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Darletta Bostic

Firm: Crown Title Corporation

Address: 1 Sanford Avenue

Baltimore, MD 21228 Phone: (410) 719-0200

☐ Return to Contact Person

☐ Hold for Pickup

☒ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTCOPY MUST ACCOMPANY EACH TRANSFER

[ ] Yes [X] No Will the property being conveyed be the grantee's principal residence?

[ ] Yes [X] No Does transfer include personal property? If yes, identify:

[ ] Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only – Do Not Write Below This Line

Terminal Verification . Agricultural Verification . Whole . Part . Tran. Process Verification

Transfer Number Date Received: Deed Reference: Assigned Property No.:

Year	20	20	Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS

Space for Circuit Court Clerk Recording Validation

Baltimore County, Maryland
Dept 7 20 RECORDATION TAXES
ACCOUNT 1523504960
$ 29,500.00 CA
.00
>>RECEIPT # 0669 2/01/2022 OPLN
REG WSOZ WAIVED M57
2/01/2022 13:05:19 2
ACTUAL TIME DRW
BUSINESS
2/02/2022

DUPLICATE PAID RECEIPT

Distribution: ☐ Clerk's Office ☐ Office of Finance ☐ SDAT ☐ Preparer

AOC-CC-300 (5/2007)

115401-21CKL

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0301, MSA_CE62_46190. Date available 02/03/2022. Printed 08/11/2022.

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
E/S Rockaway Beach Avenue, 110' N of
the c/l Beach Avenue * ZONING COMMISSIONER
(717 Rockaway Beach Avenue)
15th Election District * OF BALTIMORE COUNTY
6th Council District

* Case No. 06-501-SPH

William Rush, et ux
Petitioners *

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, William Rush, and his wife, Maryann Rush. The Petitioners request a special hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were William (Bob) and Maryann Rush, property owners, and Kenneth J. Wells, the Surveyor who prepared the site plan for this property. Appearing as Protestants were William and Denise Woutila, adjacent property owners, Marcyanna Siegman, Janice Vincent, and Jackie Nickel, President of the Rockaway Beach Improvement Association, Inc., all nearby residents of the area.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped waterfront lot located south of Turkey Point Road on the east side of Rockaway Beach Avenue, with frontage on Middle River. The property is approximately 50 feet wide and 185 feet deep, and contains a gross area of 9,027 sq.ft. (.21 acres) more or less, zoned D.R.3.5. The Petitioners purchased the property approximately two years ago and used the summer home that existed at that time for about one year before they had the house razed. In this regard, the

ORDER RECEIVED FOR FILING
Date 6-22-06
By

property was the subject of prior Case No. 05-579-A in which the Petitioners sought variance relief from Section 1B02.3.C.1 of the B.C.Z.R. to allow a proposed replacement dwelling with reduced setbacks. By his Order dated July 13, 2005, Deputy Zoning Commissioner John V. Murphy granted the requests, subject to compliance with relevant County agency recommendations and Chesapeake Bay Critical Areas requirements. The Petitioners now come before me seeking an amendment as set forth above to reflect a further reduction in the front (street) setback distance provided.

In this regard, testimony and evidence offered indicated that the Petitioners intended to construct a home 35' x 68' in dimension, with side yard setbacks of 4 feet and 11 feet and followed the information received in the packet from the builder to determine measurements and setback distances. The house was to be setback 81 feet from the water and 24 feet from the road; however, after construction of the home commenced, it was discovered that the front property line was 4 feet further inside of the original measurement. Thus, only a 20-foot setback from the road can be provided.

As noted above, several residents from the surrounding community appeared in opposition to the request. They argued that the survey performed by Mr. Wells conflicts with a survey the Protestants had prepared. They also believe that the Petitioners are trying to take advantage of the County's system and that their (the Rush's) attitude about the process is offensive. Ms. Nickels and Ms. Woutila point out that any further request for an amendment to the variance relief received must be denied on the grounds that "it was incumbent upon the Petitioners to obtain an accurate survey of the property before commencing construction" . . . "that any hardship or practical difficulty they now claim was self inflicted." In response to the Protestant's concerns, Mr. Wells testified that his boundary locations are accurate and were taken from monuments found and the location of the original house. Apparently, the original measurements taken by Mr Rush at the outset were taken from an old concrete parking pad located near the road. In any event, special hearing relief is requested as set forth above to amend the prior relief granted and legitimize existing conditions

ORDER RECEIVED FOR FILING
Date
By

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. As noted above, construction of the house is nearly completed and to require its demolition and reconstruction to eliminate a 4-foot discrepancy along the road would be an unnecessary hardship and unduly burdensome upon the Petitioners. Moreover, because the new home has been constructed in *essentially* the same location as originally proposed and is only 4 feet closer to the road than previously approved, I find that the amended relief will not adversely impact the adjacent property or surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. It was mentioned during the hearing that according to the approval granted in prior Case No. 05-579-A and the resulting Baltimore County Permit No. B605354, Petitioners were permitted to construct the home within 73 feet of the waterside property line. The home, as built, is actually 81 feet back. As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water. Moreover, but for the amended relief granted herein, all other terms and conditions of the prior Order are adopted herein and made a part hereof, including, but not limited to, compliance with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, as well as all building and fire code requirements.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of June 2006 that the Petition for Special Hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning

ORDER RECEIVED FOR FILING
Date 6-22-06
By [illegible]

Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments, dated June 22, 2006 and April 26, 2006, respectively, have been attached hereto and made a part hereof.

3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the Petitioners shall submit building elevation drawings of the structure to the Office of Planning for review and approval.

4) Compliance with all Building and Fire Code regulations.

5) There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s).

6) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

But for the amended relief set forth above, all other terms and conditions of the Order issued in prior Case No. 05-579-A shall remain in full force and effect.

ORDER RECEIVED FOR FILING
Date 6-22-06
By [signature]

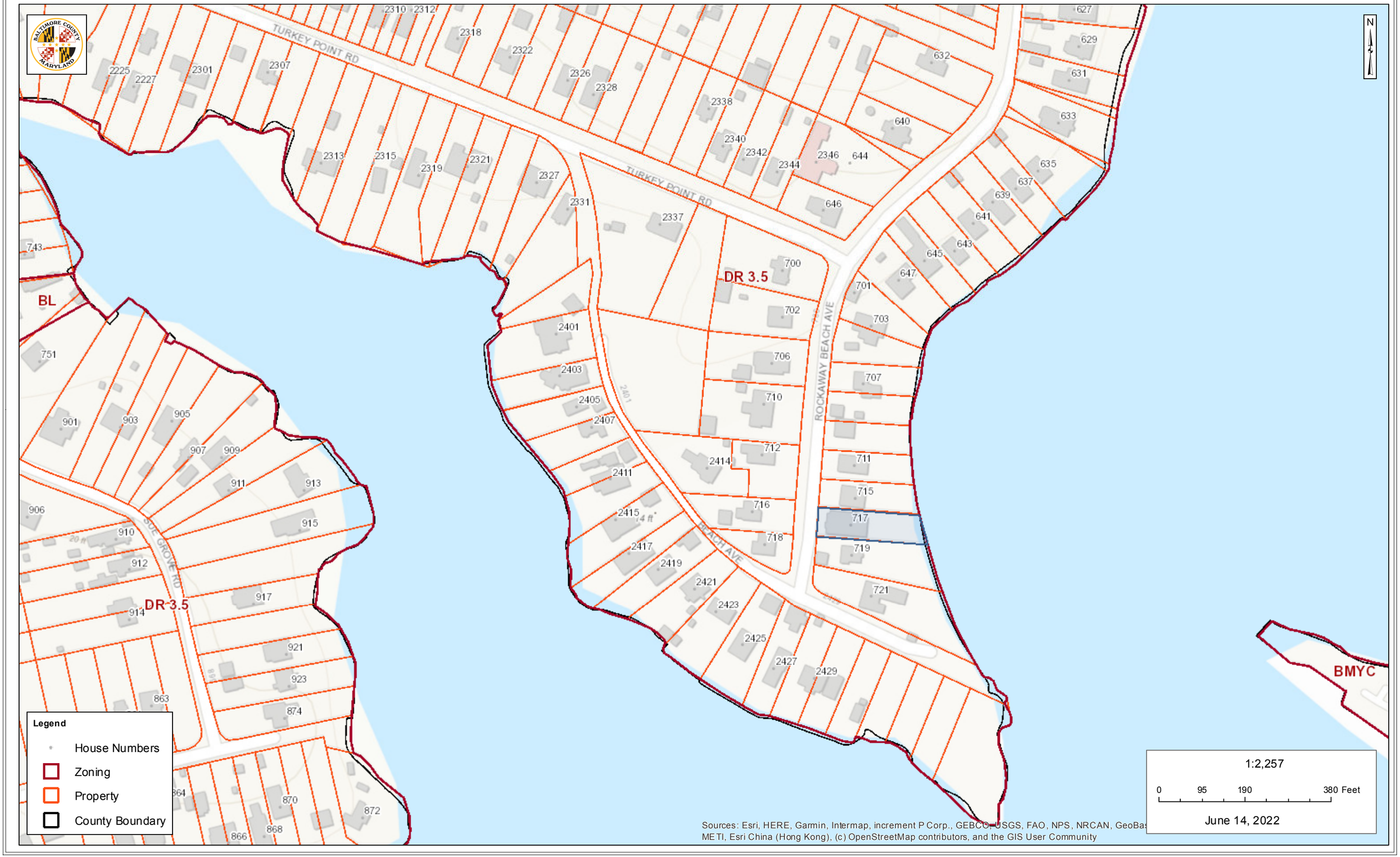
WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County



© Kappa Map Group, LLC

Baltimore County - My Neighborhood



Baltimore County Government, Harford County Government, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA |

Baltimore County - My Neighborhood



Real Property Data Search ( )
Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Special Tax Recapture: None

Account Identifier: **District -** 15 **Account Number -** 1523504960

Owner Information

Owner Name:	TUNNEY WILLIAM EDWARD IV TUNNEY THERESA MARIE	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	315 BLUE GRASS LN HAMPSTEAD MD 21074-	**Deed Reference:**	/46333/ 00297

Location & Structure Information

Premises Address:	717 ROCKAWAY BEACH AVE ESSEX 21221-1813 Waterfront	**Legal Description:**	717 ROCKAWAY BEACH AVE ROCKAWAY BEACH

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0098	0015	0211	15080075.04	0000			40	2021	**Plat Ref:** 0004/ 0171

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2006	4,580 SF		9,027 SF	34

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	FRAME/	5	4 full/ 1 half	1 Attached	

Value Information

	Base Value	Value As of 01/01/2021	Phase-in Assessments As of 07/01/2021	 As of 07/01/2022
Land:	201,000	201,000		
Improvements	488,300	520,100		
Total:	689,300	721,100	699,900	710,500
Preferential Land:	0	0		

Transfer Information

Seller: SMITH MICHAEL PAUL	**Date:** 02/02/2022	**Price:** $1,475,000
Type: ARMS LENGTH IMPROVED	**Deed1:** /46333/ 00297	**Deed2:**
Seller: S F L LLC	**Date:** 12/10/2019	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /42214/ 00367	**Deed2:**
Seller: RUSH WILLIAM R	**Date:** 09/16/2008	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /27326/ 00556	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2021	07/01/2022
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

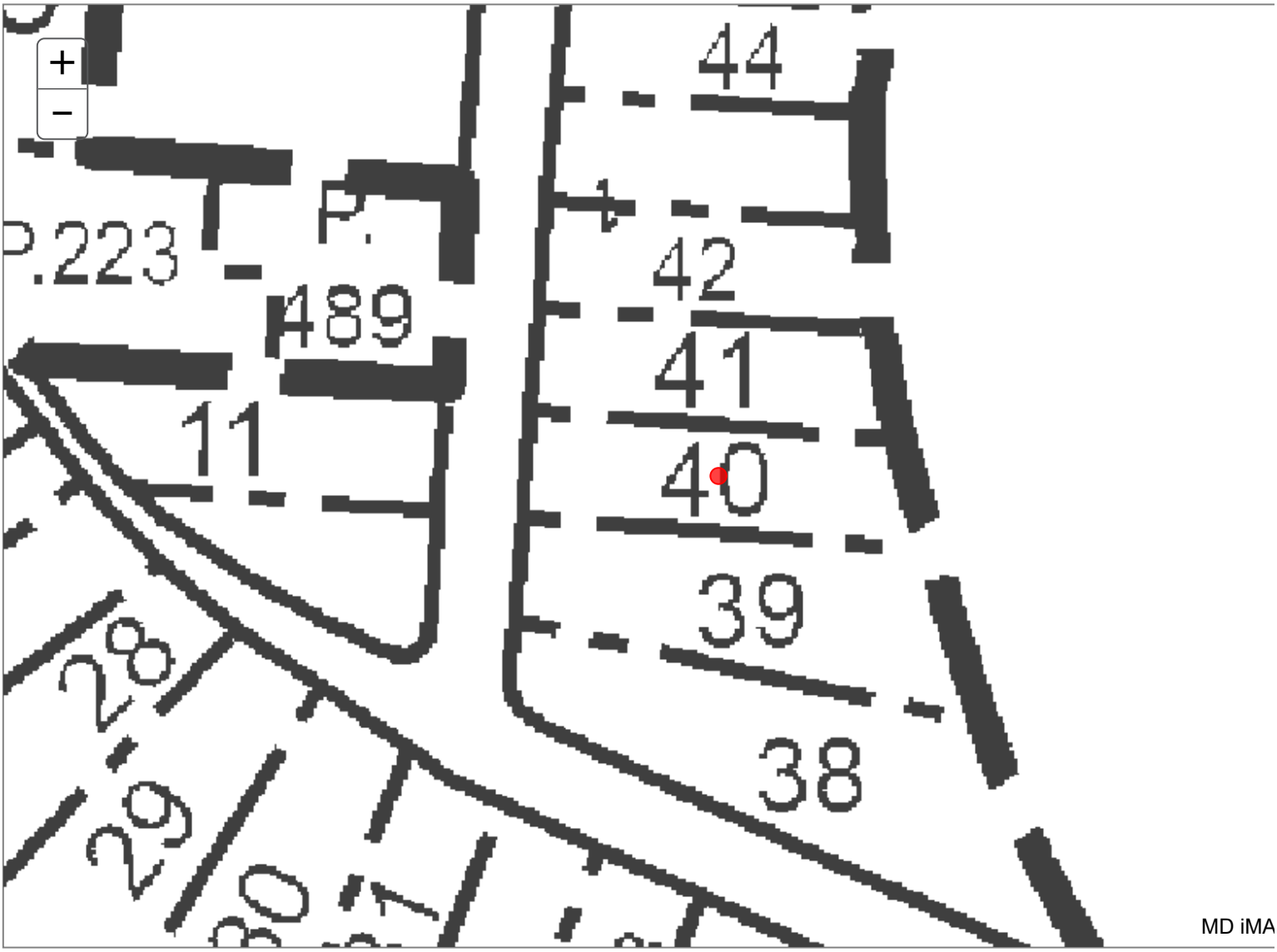
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Baltimore County

New Search (https://sdat.dat.maryland.gov/RealProperty)

District: 15 Account Number: 1523504960



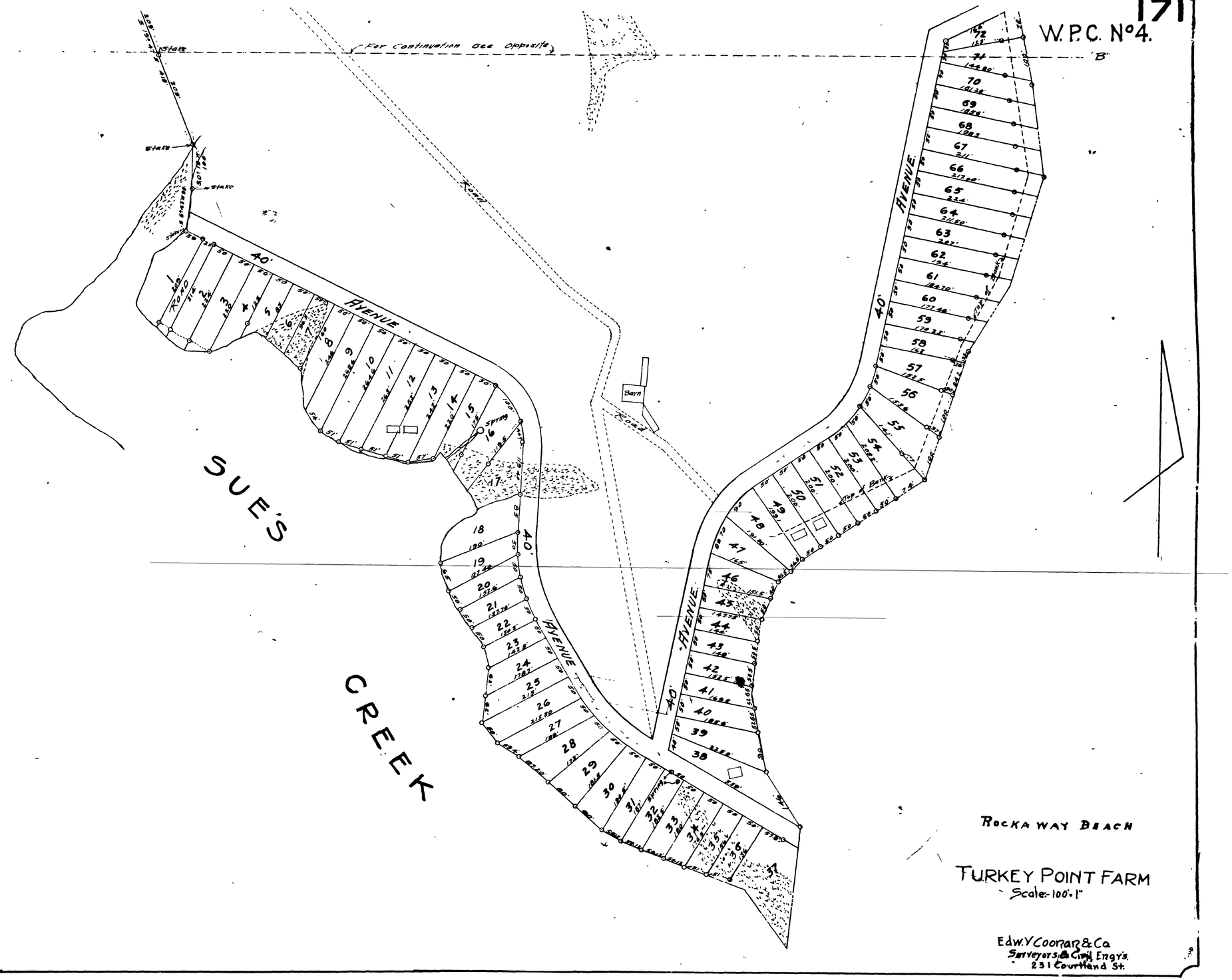
The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

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

Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at **http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx (http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx)**.

W.P.C. No 4.

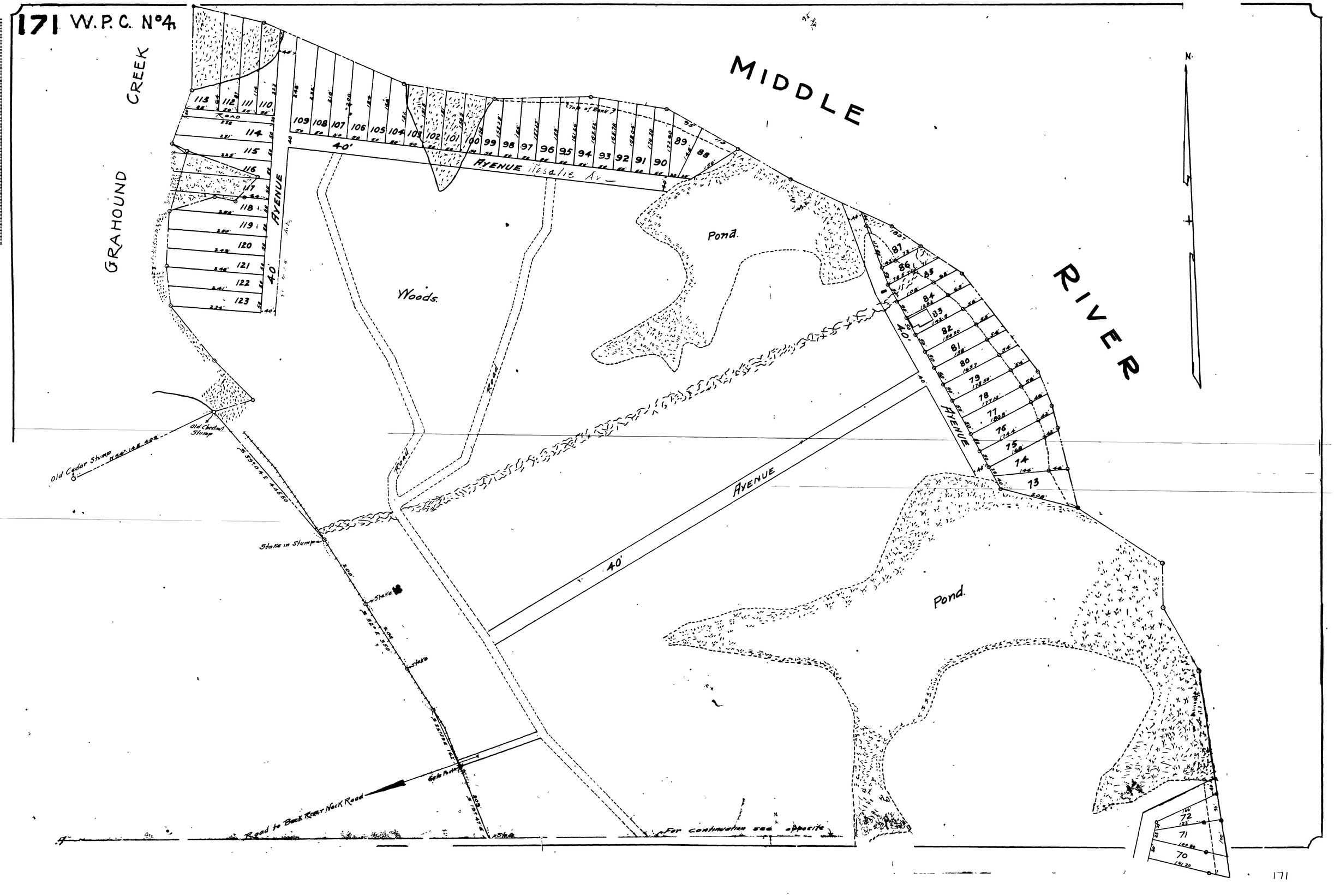


Plat accompanying Deed
from
James Young & wf.
to
Rockaway Beach Realty Co
Filed Sept. 9-1915
Test: Wm. P. Coles, Clerk.

Edw. V. Cooper & Co
Surveyors & Civil Engrs.
231 Courtland St.

BALTIMORE COUNTY CIRCUIT COURT (Plats) Plat Book WPC 4, p. 171, MSA_C2136_4998. Date available 1915/09/09. Printed 08/11/2022.

171 W.P.C. No 4

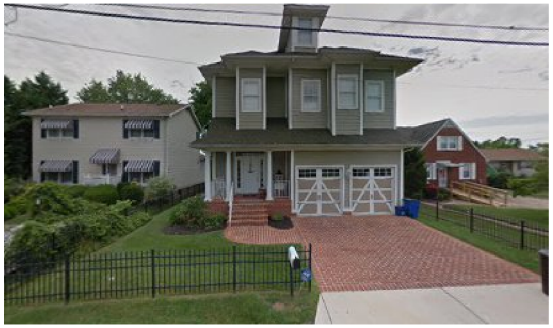


BALTIMORE COUNTY CIRCUIT COURT (Plats) Plat Book WPC 4, p. 171, MSA_C2136_4898. Date available 1915/09/09. Printed 08/11/2022.

Google Maps 717 Rockaway Beach Ave



Map data ©2022 , Map data ©2022 20 ft



717 Rockaway Beach Ave

Building

Google Maps 715 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

717 Rockaway Beach Ave

All Street View & 360°

Google Maps 717 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

717 Rockaway Beach Ave

All Street View & 360°

Google Maps 718 Rockaway Beach Ave



Image capture: Jul 2016 © 2022 Google

717 Rockaway Beach Ave

All Street View & 360°

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Property Information

Property Address: 717 ROCKAWAY BEACH AVE

City, State, Zip: ESSEX, MD, 21221

Tax ID: 1523504960

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: YES

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 30.00

Set Backs - Rear Yard: 20.00

Set Backs - Right Side Yard: 10.60

Set Backs - Left Side Yard: 12.50

Owner Information

Owner: WILLIAM E TUNNEY

Owner Address: 315 BLUE GRASS LN, HAMPSTEAD, MD, 21074

Tenant:

Applicant: WILLIAM E TUNNEY

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

Baltimore County, Maryland
Department of Permits, Approvals, and Inspections
BUILDING PERMIT

Permit Number: R22-05031

Permit Type: Residential New

Sub Type: Deck

Date Issued: 05/18/2022

Expiration Date: 05/17/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD / USING BALTO ,CO. DECK GUIDELINES,TK. Dwelling is not in 100 yr floodplain per AB

C. Pete Gutwald, AICP, Director

E. John Bryan, Building Engineer

***Please log into your account to get up-to-date information regarding the permit process and related inspections. Refer to the Permit Number when making inquires.**

JOHN A. OLSZEWSKI, JR.
County Executive

DAVID V. LYKENS, *Director*
Department of Environmental Protection and Sustainability

April 12 2022

William Tunney
315 Blue Grass Lane
Hampstead, MD 21074

RE: Deck Permit - #R22-05031
717 Rockaway Beach Ave

Dear Mr. Tunney:

Environmental Impact Review (EIR) completed an evaluation of the above referenced property and deck permit application for 717 Rockaway Beach Ave. The 9,027 square foot property is located within a Limited Development Area (LDA) and Modified Buffer Area (MBA) in the Chesapeake Bay Critical Area (CBCA) and must comply with all requirements of Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection.

The property does not comply with the CBCA Regulations. In order to bring the property into compliance, you must complete the items listed in the table below.

Lot Coverage
Existing Lot Coverage: = 3,100 square feet or 34.3%. Current LDA regulations restrict the lot coverage on this property to 25% (2,256 square feet) or a maximum of 31.25% (2,821 square feet), with mitigation for the amount over 25%. The lot coverage present exceeds the maximum allowed. As the proposed open wood deck (with dirt/grass below) does not count as lot coverage, there is no lot coverage mitigation required. However, please be aware that no future lot coverage will be permitted without equal amount of lot coverage removal. Contact EIR to discuss permit and CBCA requirements for any future construction on site. Lot coverage includes gravel.
Forest Cover
15% minimum forest requirement: A minimum of three trees must be on-site at all times. As no trees currently exist on site, three Maryland native, deciduous trees at least 5-feet tall will need to be planted on the property. Three shrubs may be substituted for each required tree, if desired.
Modified Buffer Area
Properties within the MBA have a 100-foot buffer from tidal waters. Structures are not allowed in the buffer unless the property owner performs on-site mitigation or pays a fee-in-lieu. The proposed deck is within the 100-foot MBA. Mitigation for the 552 square feet of impact may be satisfied through: Payment of a fee-in-lieu of $1.50 per square-foot of disturbance. Tree planting to satisfy the Forest Cover requirement may also be used to address the MBA mitigation; therefore, fee-in-lieu payment would be reduced to $678.15.

*Note no manmade structures are allowed within 25 feet of tidal waters.
Summary of Mitigation Requirements: 1. Plant a minimum of three (3) Maryland native deciduous canopy trees on-site to meet forest cover requirements. 2. MBA mitigation: pay $678.15 fee-in-lieu.

Once you sign this letter, return it to our office indicating your acceptance of the mitigation requirements, and pay the appropriate fee-in-lieu amount, EIR will release the permit. Inspections will be conducted to determine compliance with all Critical Area requirements that pertain to this property. If you have any questions regarding this correspondence, please contact me at mbrady1@baltimorecountymd.gov or 410-887-3980.

Sincerely,

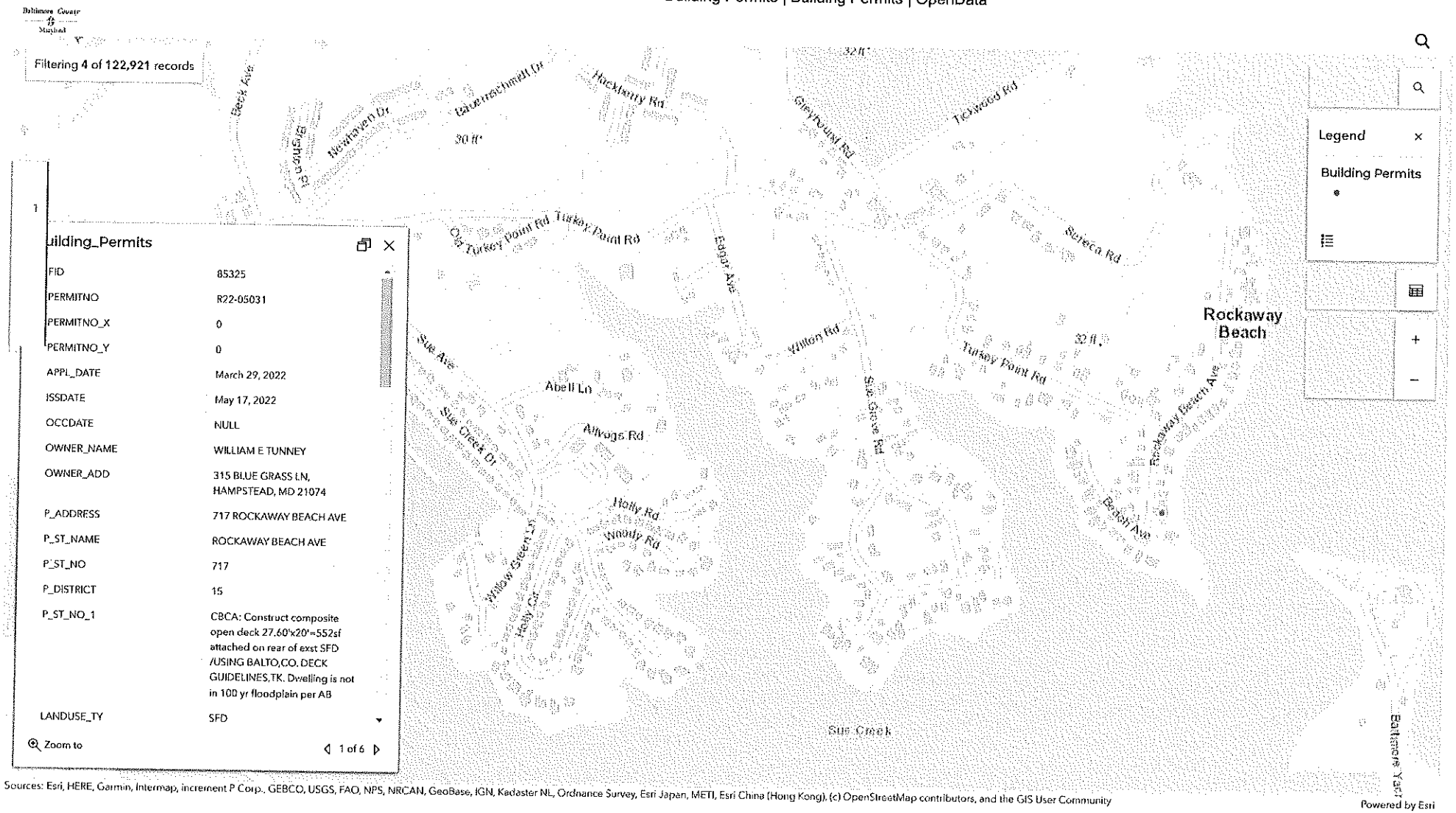
Marie Brady
Environmental Impact Review

I/We agree to meet the requirements outlined in this letter to bring the referenced property in to compliance with Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection:

Property Owner(s) Signature(s) Date

Printed Name of Property Owner(s)

S:\EPS\EIR\Marie\Permit Review\CBCA\Rockaway Beach 717- MBA+for.docx


Filtering 4 of 122,921 records
Legend
Building Permits
uilding_Permits
FID 85325
PERMITNO R22-05031
PERMITNO_X 0
PERMITNO_Y 0
APPL_DATE March 29, 2022
ISSDATE May 17, 2022
OCCDATE NULL
OWNER_NAME WILLIAM E TUNNEY
OWNER_ADD 315 BLUE GRASS LN, HAMPSTEAD, MD 21074
P_ADDRESS 717 ROCKAWAY BEACH AVE
P_ST_NAME ROCKAWAY BEACH AVE
P_ST_NO 717
P_DISTRICT 15
P_ST_NO_1 CBCA: Construct composite open deck 27.60'x20'=552sf attached on rear of exst SFD /USING BALTO.CO. DECK GUIDELINES,TK. Dwelling is not in 100 yr floodplain per AB
LANDUSE_TY SFD
Zoom to
1 of 6
Old Turkey Point Rd
Turkey Point Rd
Eggis Ave
Bureca Rd
Wilton Rd
Sue Ave
Sue Creek Dr
Abell Ln
Allwgs Rd
Holly Rd
Woody Rd
Willow Green Ln
Holly Ct
Sue Grove Rd
Rockaway Beach Ave
Beach Ave
Rockaway Beach
Sue Creek
Hackberry Rd
Glenwood Rd
Tickwood Rd
Beech Ave
Beechwood Dr
Beechwood Ln
Baltimore Count
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community
Powered by Esri

Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Report Generated On:
3/31/2022

Permit Processing Residential Permit & Development Report

Property Information

Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Instructions: Begin review process with Zoning Review, Room 111.

Contact Agency	Potential Overlay Issues **Growth Tier 1:** Served by public sewer and inside URDL	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
Planning Jefferson Building Room 101 Phone: 410-887-3211	Bowleys Quarters-Back River Neck Area	X												
EPS-Dev. Coord. County Office Building Room 319 Phone: 410-887-3733	Chesapeake Bay Critical Area	X		X	X	X	X	X	X	X				
	100 Year Flood Zone	X		X	X	X		X	X	X				
	Possible Flood Hazard - Water Body Present	X		X	X	X		X	X	X				
PAI-Sed. Control Insp. County Office Building Room G-21 Phone: 410-887-3226	Chesapeake Bay Critical Area	X						X		X				
	100 Year Flood Zone	X						X		X				
	Possible Flood Hazard - Water Body Present	X						X		X				
PAI-Public Services County Office Building Room 119 Phone: 410-887-3751	Bowleys Quarters-Back River Neck Area	X						X						OK To File
	100 Year Flood Zone	X	X	X	X	X		X	X			X		OK To File
	Possible Flood Hazard - Water Body Present	X	X	X	X	X		X	X			X		OK To File
	InFill Lot Review	X												OK To File
	Verify Water Service Size.	X												
	Possible Replacement Dwelling. Permit # B599298 Appl. Date: Not Entered	X												
Zoning Review County Office Building Room 111 Phone: 410-887-3391	Bowleys Quarters-Back River Neck Area	X												
	Zoning Cases: 2006-0501-SPH; 2005-0579-A	X		X	X	X	X							

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.
Form171R

Permit Processing Residential Permit & Development Report

Property Information

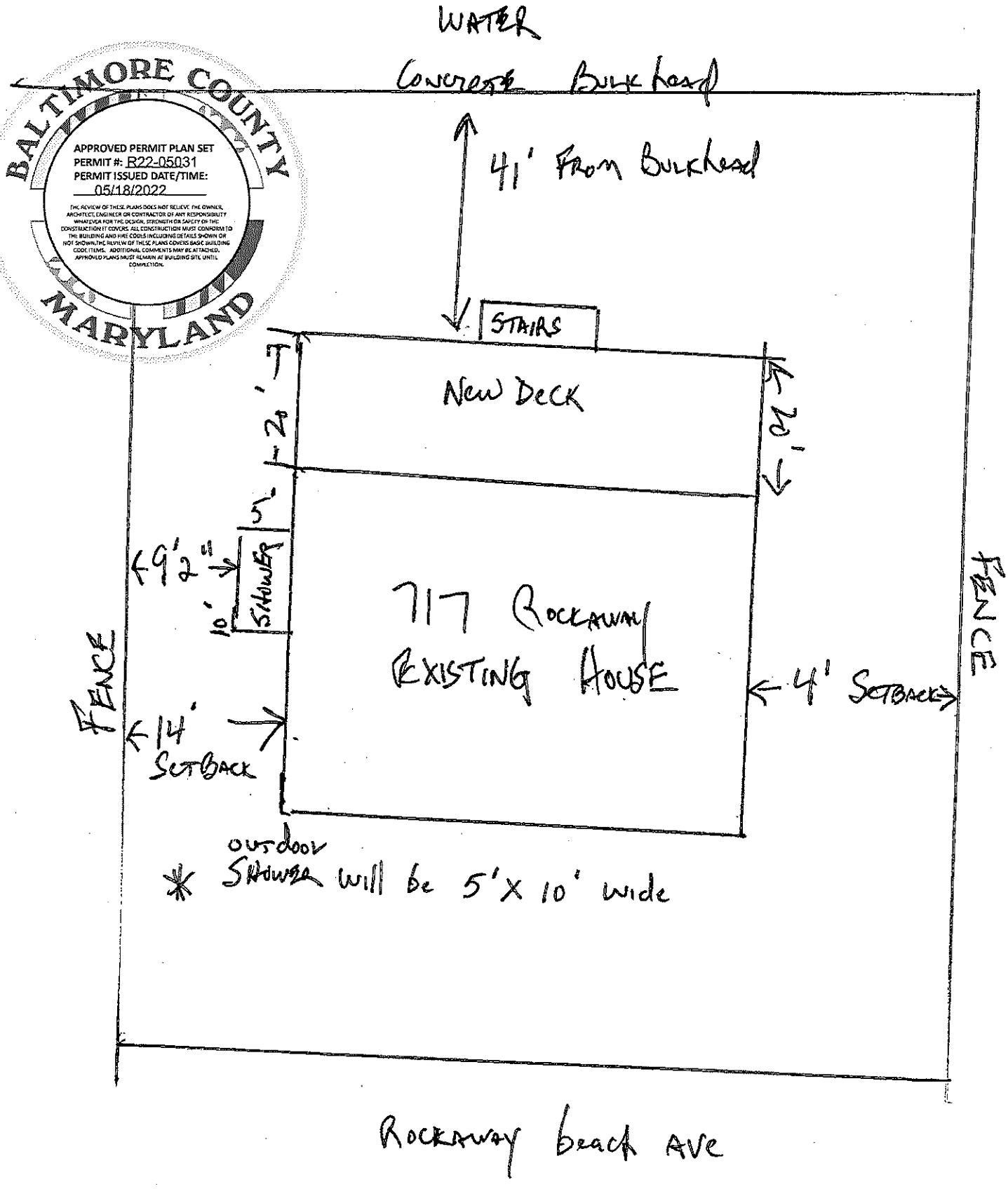
Tax Account Number: 1523504960 **Plat Ref:** 004:171 **Election District:** 15

Owner Name(s): TUNNEY WILLIAM EDWARD IV and TUNNEY THERESA MARIE
Address: 315 BLUE GRASS LN
HAMPSTEAD,MD 21074
Premise Address: 717 ROCKAWAY BEACH AVE

PDM # :
Zoning Class.(s): DR 3.5
Elevation Range: 0ft - 12ft

Affected Overlays / Contact Agency	Instructions: Begin review process with Zoning Review, Room 111. Potential Overlay Issues — Growth Tier 1: Served by public sewer and inside URDL	New Homes	Internal Alts.	Add / Ext. Alts.	Access. Struct.	Open Decks	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Elec. & Plumb	High Rise Apts.	Agency Acknowledgment Initial & Date
MD Aviation Administration Division of Airport Facilities Planning P.O. Box 8766 BWI Marshall Airport,MD 21240-0766 Phone: 410-859-7692 or 410-859-7070	Martin State Aiport Zoning Area	X		X	X		X	X	X	X				OK To File
Building Plans Review County Office Building Room 120 Phone: 410-887-3987	100 Year Flood Zone	X	X	X	X	X			X	X				
	Possible Flood Hazard - Water Body Present	X	X	X	X	X			X	X				
Dev. Management County Office Building Room 123 Phone: 410-887-3321	Impact Fee: EXEMPT Details: ComRevitalDist=Not Exempt; CountyOwned=Not Exempt; DNROwned=Not Exempt; EnterpriseZone=Not Exempt; FedOwned=Not Exempt; MarylandTOD=Not Exempt; MDOpportunityZone=Not Exempt; StateOwned=Not Exempt; VestedPlat=Exempt Note: DNROwned,FedOwned and MDOpportunityZone may require further review due to spatial discrepancies between datasets.	X												

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.



BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: R22-05031
PERMIT ISSUED DATE/TIME:
05/18/2022
THE REVIEW OF THESE PLANS DOES NOT RELIEVE THE OWNER, ARCHITECT, ENGINEER OR CONTRACTOR OF ANY RESPONSIBILITY WHATSOEVER FOR THE DESIGN, STRENGTH OR SAFETY OF THE CONSTRUCTION IT COVERS. ALL CONSTRUCTION MUST CONFORM TO THE BUILDING AND FIRE CODES INCLUDING DETAILS SHOWN OR NOT SHOWN. THE REVIEW OF THESE PLANS COVERS BASIC BUILDING CODE ITEMS. ADDITIONAL COMMENTS MAY BE ATTACHED. APPROVED PLANS MUST REMAIN AT BUILDING SITE UNTIL COMPLETION.

2022-0151-SPH

Zoning Hearing Plan for Variance ____ for Special Hearing X Mark Type Requested with (X)

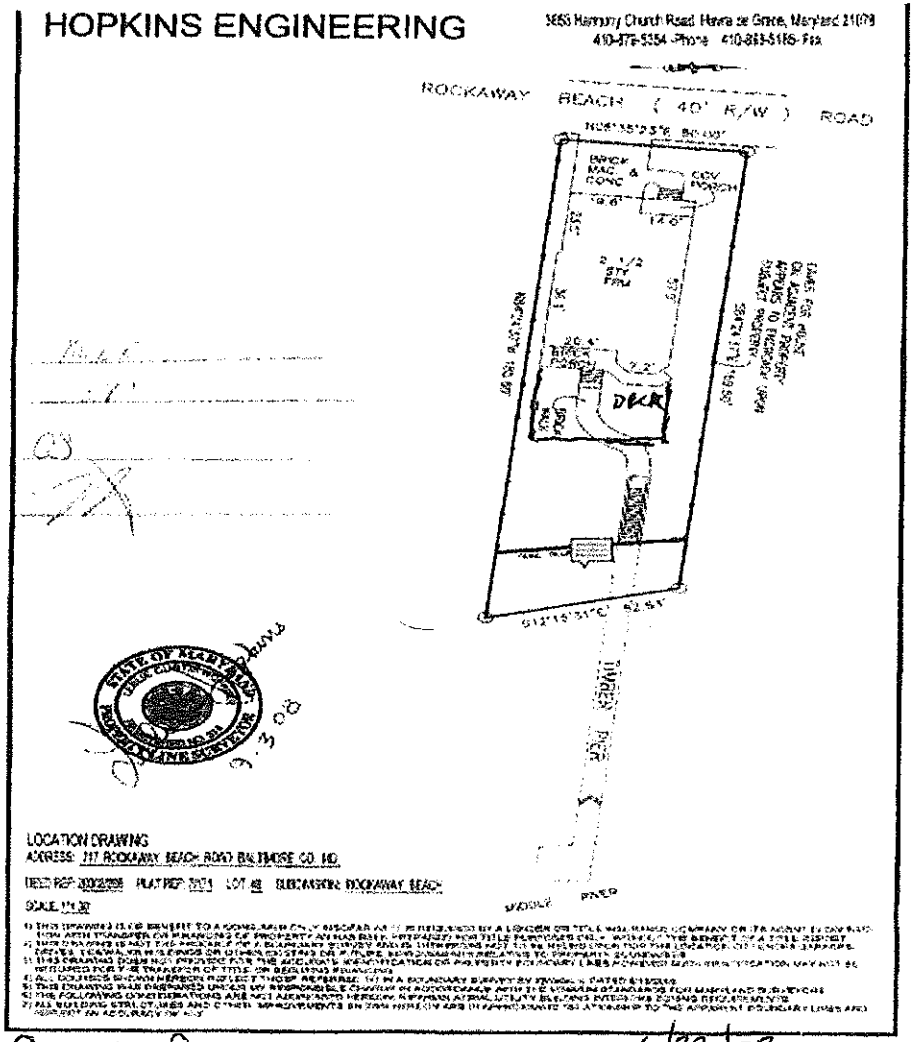
Address 717 Rockaway Beach Ave Owners(s) Name(s) William + Theresa Tunney

Subdivision Name Rockaway Beach Lot # 40 Block # — Section # —

Plat Book # 4 Folio # 171 10 Digit Tax # 1523504960 Deed Reference# 46333/00297

HOPKINS ENGINEERING

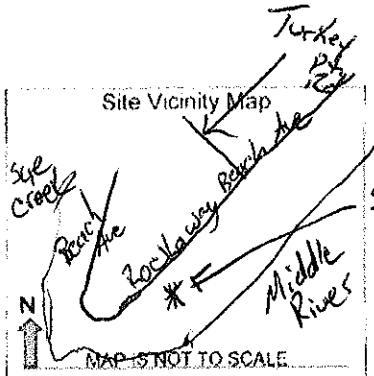
5655 Harmony Church Road Havre de Grace, Maryland 21078
410-378-5354 Phone 410-893-5185 Fax



N

Plan Drawn By Copied from Owner's Date 6/23/22 Scale: 1 inch = 30 Feet

Permit Application. Info on
Form Completed by Kevin McDonough, Rockaway Beach Imp. Assoc.



Zoning Map # ____

Zoning DR 3.5

Election District 15

Council District 7

Lot Area Acreage 0.20

Lot Square Footage 9,027

Historic (Yes or No) NO

CBCA (Yes or No) Yes

Flood Plain (Yes or No) Yes

Utilities – Mark with (X)

Water is.

Public X Private ____

Sewer is:

Public X Private ____

Prior Hearing (Yes or No) Yes

If (Yes) list Case Number(s)

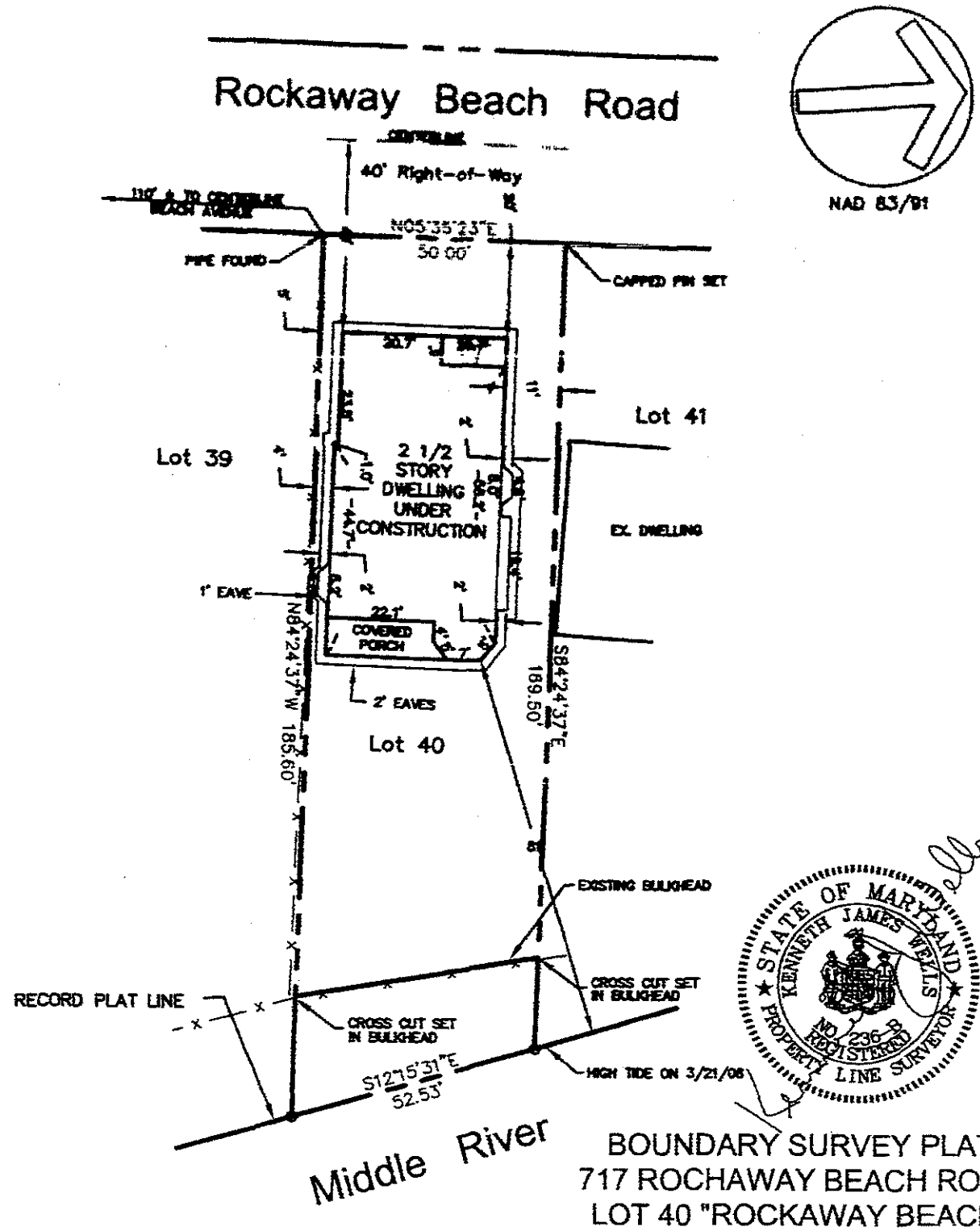
and order result(s) below

~~2005-0579-SPH~~ → GRANTED

2005-0579-A

2006-0501-SPH → GRANTED

Violation Case Number(s)



NAD 83/91

STATE OF MARYLAND
KENNETH JAMES WELLS
NO. 236
REGISTERED
PROPERTY LINE SURVEYOR

BOUNDARY SURVEY PLAT
717 ROCHAWAY BEACH ROAD
LOT 40 "ROCKAWAY BEACH"

SCALE: 1" = 30' DATED: 6/13/2005
REVISION DATE: 3/21/2006

LEGEND:

DWELLING PROJECTIONS

DEED REFERENCE: 20302/208
PLAT REFERENCE: 4/171

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Baltimore County
Permits, Approvals
And Inspections

OFFICE HOURS 7:30 am - 3:30 pm

Building Inspection: 410-887-3953

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation Case No. R22-05031 Property No. 1523504960 Zoning:

Name(s): TUNNEY WILLIAM EDWARD IV, TUNNEY THERESA MARIE

Address: 315 BLUE GRASS LN HAMPSTEAD MD 21074

Violation Location: 717 ROCKAWAY BEACH AVE ESSEX MD 21221

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

PROPOSED DECK TO BE CONSTRUCTED UNDER PERMIT B22-05031 CANNOT EXCEED 1' (12") IN HEIGHT MEASURED FROM THE LOWEST NATURAL GRADE ADJACENT TO DECK. ANY QUESTIONS REGARDING THIS REQUIREMENT PLEASE CONTACT THE BALTIMORE COUNTY ZONING DEPARTMENT AT 410-887-3391

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

ON OR BEFORE: 7/17/22 OR COMPLETION OF DECK DATE ISSUED: 6/17/22

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1,000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

INSPECTOR: [signature] PRINT NAME: MATTHEW GAWLER

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NO LATER THAN:

ON OR BEFORE: _____ DATE ISSUED: _____

INSPECTOR: _____ PRINT NAME: _____

COPIES: PINK – AGENCY, YELLOW - VIOLATION SITE, GOLD – DEFENDANT, WHITE – INSPECTOR

PAI BI 11 REVISED 9/16

Baltimore County Office of Administrative Hearings
Attn: Judge Paul Mayhew, Managing Administrative Law Judge
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Petition for Special Hearing - 717 Rockaway Beach Avenue - Case # 2022-0151-SPH

Dear Judge Mayhew,

We the undersigned are property owners and/or residents in the Rockaway Beach community and reside within close proximity to the property at issue- 717 Rockaway Beach Avenue. We are aware of the lengthy history that this particular property has with regard to Baltimore County Zoning and the restriction that was placed on the property as a result of zoning proceedings in 2006 – the prohibition of any further construction at the waterfront side of the property.

We are writing to express our support for the petitioners; Ms. Nuth, Mr. and Mrs. Siegman, Mr. Huffines, Ms. Miller, Mrs. Weiland the Rockaway Beach Improvement Association Inc. and their argument that the construction of a deck, regardless of height or size, would violate the order issued by Zoning Commissioner William Wiseman in 2006.

The home at 717 Rockaway Beach Avenue already exceeds the legally permissible lot coverage allowances, has flagrantly violated the county zoning laws by previously seeking multiple variances and is pointed to as the community's example of the kind of development we do not wish to see occur in our community again as it negatively impacts the quality of life for residents and is not in keeping with the character of our waterfront community.

The order issued by Zoning Commissioner William Wiseman in 2006 is abundantly clear in that any further construction at the property was to be prohibited. It is respectfully requested that the order be enforced and upheld and that it be determined that the construction of a deck would in fact violate the order and additionally would obstruct the views of the adjacent neighbors.

Sincerely,

Name: MIRIAM C PUHL
Address: 646 Rockaway Beach Av
Signature: Miriam C Puhl
Date: 8/26/21 ***Phone:*** (410) - 686-4675

Name: R TERRY GERARD
Address: 2417 BEACH AV
Signature: Terry Gerard
Date: 8/26/21 ***Phone:*** (410) - 391-9251

Name: Mary Gerard
Address: 2417 Beach Ave
Signature: Mary Gerard
Date: 8/26/22 Phone: (410) - 391 - 9251

Name: Megan Averse
Address: 2417 Beach Ave
Signature: Megan Averse
Date: 8/26/22 Phone: (410) - 391 - 9251

Name: John Kubicias
Address: 710 Rockaway
Signature: John Kubicias
Date: 8-26-22 Phone: (419) - 299-7054

Name: Pamela J Anderson
Address: 710 Rockaway Beach Ave
Signature: Pamela J Anderson
Date: 8-26-22 Phone: (410) - 238 - 3169

Name: PAUL R SCHATZ
Address: 641 ROCKAWAY BEACH AVE
Signature: Paul R Schatz
Date: 8-26-22 Phone: (281) - 881 - 4592

Name: STEPHEN J. MULLAN
Address: 623 ROCKAWAY BEACH AVE
Signature: Stephen J Mullan
Date: 8-26-2022 Phone: (410) - 746-1842

Name: William J. Goodwin JR
Address: 619 Rockaway Beach AVE
Signature: William J. Goodwin Jr
Date: 8/26/22 Phone: (410) - 391 - 7595

Name: Anita L. Goodwin
Address: 619 Rockaway Beach AVE
Signature: Anita L. Goodwin
Date: 8/26/2022 Phone: (410) - 391 - 7595

Name: Marguerite Watts
Address: 635 Rockaway Beach Ave.
Signature: Marguerite Watts
Date: 8/26/22 Phone: (410) - 688-7187

Name: Larry Lewis
Address: 605 Rockaway Beach Ave
Signature: Larry E Lewis
Date: Aug 27 Phone: (410) - 382 - 1291

Name: Jacob Weiland
Address: 2429 Beach Ave.
Signature: Jacob J Weiland
Date: Aug 27, 2022 Phone: (410) - 686 - 0131

Name: Tyrone Ring
Address: 2419 Beach Ave
Signature: Tyrone Ring
Date: 8/27/2022 Phone: (410) - 207-6936

Name: Jody Lamp
Address: 702 Rockaway Beach Ave
Signature: Jody Lamp
Date: 8-27-2022 Phone: (410) - 377 - 5881

Name: Mary Groom Mary GRoom
Address: 707 Rockaway Beach Ave
Signature: Mary Groom
Date: 8.27.22 Phone: (410) - 382 - 4968

Name: William R. Wadsila
Address: 711 Rockaway Beach Ave
Signature: William R Wadsila
Date: 8/26/22 Phone: (410 687-4611

Name: LAREESE NOJIGOTO
Address: 700 ROCKAWAY BEACH AV
Signature: ~~Dan-Dr~~
Date: ~~8/27/22~~ Phone: (410 467-1051

Name: Cecilia Yazigi
Address: 637 Rockaway Beach Ave
Signature: Cecilia Yazigi
Date: 8/27/22 Phone: (410) - 960-5643

Name: Ricardo Yazigi
Address: 637 Rockaway Beach Ave
Signature:
Date: 8/27/22 Phone: (410) - 960 5546

Name: Gloria Merzbacher
Address: 718 Rockaway Beach Ave
Signature: Gloria Merzbacher
Date: Sept 9, 2022 Phone: (443) - 600 - 4183

Name: George F Dietsch
Address: 632 Rockaway Beach Ave
Signature: George F Dietsch
Date: 9/9/2022 Phone: (410) - 443 970 9

Name: Raymond Fochakolb
Address: 627 Rockaway Beach Ave
Signature: Raymond Fochakolb
Date: 9-9-22 Phone: (410) - 687-9191

Name: James J Gebrish
Address: 626 Rockaway Beach Av.
Signature: James J Gebrish
Date: 9-9-2022 Phone: (410) - 978 - 8628

Name: Geraldine M. Taylor
Address: 2337 Turkey Point Rd
Signature: Geraldine M. Taylor
Date: 9/10/2022 Phone: (410) - 687 - 7084

Name: Sandy Strejcek
Address: 2344 Turkey Pt. Rd. 21221
Signature: Sandy Strejcek
Date: 9/10/22 Phone: (302) - 542-7050

Name: Louis Cowl

Address: 640 Rockaway Beach Ave

Signature: Louis Cowl

Date: 9-10-22 Phone: (410) - 687 - 1771

Name: Chris Howell

Address: 2415 Beach Ave Essex, MD 21221

Signature: Chris Howell

Date: 10 Sept. 22 Phone: (443) - 784 - 5567

Name: Sarah Howell

Address: 2415 Beach Ave. Essex, MD 21221

Signature: Sarah Howell

Date: 10-5-22 Phone: (318) - 572 - 7090

Name: LILLIAN CRUSH

Address: 2425 BEACH AVE

Signature: Lillian Crush

Date: 9-10-22 Phone: (410) - 218 - 4188

Name: JONATHAN BRODA

Address: 716 ROCKAWAY BEACH Ave.

Signature: Jonathan Broda

Date: 9-17-22 Phone: (___) - _____ - _____

Name: Darlene Baubler

Address: 615 Rockaway Beach Ave

Signature: Darlene Baubler

Date: 9-17-22 Phone: (410) - 391 - 3825

Name: David Baugher

Address: 615 Rockaway Beach Ave 21221

Signature: [signature]

Date: Sept 17, 22 Phone: (____) - _____ - _____

Name: Andy Roberts

Address: 706 Rockaway Beach Ave

Signature: Andy Roberts

Date: Sept 17, 22 Phone: (____) - _____ - _____

Name: Sue Roberts

Address: 706 Rockaway Beach Ave

Signature: Sue Roberts

Date: Sept 17, 22 Phone: (____) - _____ - _____

Name: Frederick Hoehn

Address: 2227 Turkey Point Road

Signature: [signature]

Date: 9-17-22 Phone: (410) - 461-8677

Name: Paul W. Ferro

Address: 2313 Turkey Point Road

Signature: Paul W Ferro

Date: 9/17/2022 Phone: (410) - 687-1403

Name: Robin Ferro

Address: 2313 Turkey Pt Rd

Signature: Robin Ferro

Date: 9/17/2022 Phone: (410) - 687 - 1403

Name: Jennifer Dunkle
Address: 613 Rockaway Beach Ave.
Signature: Jennifer Dunkle
Date: 9/18/2022 Phone: (419) - 608 - 0289

Name: STEVEN BAKER
Address: 703 ROCKAWAY BEACH AVENUE ESSEX MD
Signature: S Baker
Date: 9/19/22 Phone: 443 - 421 - 3097

Name: Deborah Harris
Address: 2423 Beach Ave
Signature: Deborah M Harris
Date: 9/24/2022 Phone: (443) - 834 - 3554

Name: JOYCE HOWELL
Address: 2423 BEACH AVE
Signature: Joyce Howell
Date: 9-24-22 Phone: (443) - 834 - 3555

Name: Dianne Hamme
Address: 712 Rockaway Beach Ave Essex MD 21224
Signature: Dianne Hamme
Date: 9/25/22 Phone: (410) - 484 - 3393

Name: Tom Hamme
Address: 712 Rockaway Beach Ave Balt MD 21224
Signature: Tom Hamme
Date: 9/25/22 Phone: (410) - 937 - 8383

Back River Neck Peninsula Community Association Inc.

Judge Paul Mayhew, Managing Administrative Law Judge
Baltimore County Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Zoning Case # 2022-0151-SPH Petition for Special Hearing Regarding 717 Rockaway Beach Avenue

September 28, 2022

Dear Judge Mayhew,

The Back River Neck Peninsula Community Association is an umbrella community association which represents the Lower Back River Neck Peninsula in Essex and includes the communities located on the Holly Neck Peninsula, Cape May Peninsula, Turkey Point Peninsula, and the Back River Neck Peninsula. Over the last several decades our organization has been involved in a number of development and zoning cases concerning our community.

Our organization was aware of and closely followed the original zoning cases pertaining to this property in 2005 and 2006. Since the decisions rendered in each of those respective cases, this property has frequently been cited as an example of egregious development, abuse of the variance process and an example of incompatible development with the surrounding community. We recently became aware of the Petition for Special Hearing which was flied by several adjoining property owners and the Rockaway Beach Improvement Association regarding alleged conflict with the zoning order passed in the 2006 zoning case concerning this property by then zoning commissioner, William Wiseman when the owners sought permits to construct a 552sqft deck at the waterside of the property. The Back River Neck Peninsula Community Association wishes to articulate its support for the position of the petitioners in this case who argue that the construction of a proposed deck at the subject property would violate the 2006 zoning order. We would concur that construction of a deck, and more broadly, construction of any structure at the waterside of this property would constitute a violation of the zoning order. Furthermore, such a structure, regardless of height and size would obstruct the views of the adjoining neighbors and would also violate the order.

The 2006 order issued by Commissioner Wiseman took into consideration the facts, evidence and lengthy history of this property concerning the property's prior owners who built the property's disregard for the zoning laws of Baltimore County. The order included a provision which required, as a condition of approval, that the petitioners (Mr. and Mrs. Rush, who were the former owners of the property) surrender any further construction rights at the waterfront side of the property. The property owners at that time willingly agreed to that condition in order to legalize the location of their home and to prevent unjust enrichment through further construction ability because of additional land now available at the waterfront resulting from the incorrect location of the home. Additionally, the order included a further restriction that there shall be no further improvements at the waterfront side of the property that would obstruct the water views of the adjoining neighbors. Again, this was a condition to which the prior owners willingly agreed. Such restrictions were knowingly perpetual in nature and would run and bind with the land regardless of owner, as do any zoning restrictions passed in orders issued by

the Zoning Commissioner, or presently since the restructuring of the duties of the zoning commissioner, by the Administrative Law Judge.

The immediate case will determine precedent for our community regarding the integrity of zoning orders and the restrictions contained therein. If the restrictions contained within the zoning order pertaining to this property are not upheld, then what is to prevent the same from occurring at any property where such an order exists across Baltimore County? Failure to protect the integrity of the zoning order in this case will erode away at the zoning process and at the powers of Baltimore County to protect the communities it has jurisdiction over.

We would respectfully request that you uphold the zoning order issued in the 2006 case and find that the construction of a deck at this property would in fact violate the order.

Sincerely,

Carl Maynard

Carl Maynard
President
Back River Neck Peninsula Community Association

From: shoreperfect@comcast.net
Subject: 717 Rockaway Beach Road
Date: Sep 20, 2022 at 3:42:37 PM
To: administrativehearings@baltimorecountymd.gov
Cc: Bendler, Bob Shoreperfect@comcast.net, Beverly Moyer bcmkp@comcast.net, Biddinger, Leah leahmbiddinger@gmail.com, Conrad, Dave conradsruthvilla@gmail.com, Thomas Germroth gigi10317@gmail.com, Glenn, Purnell pglenn@logiwarellc.net, Joan Mealey-Kruger brrnafyi@yahoo.com, Rocky Jones 16redrose@comcast.net, Edward Kramer eakramer3@ymail.com, McDonough, Kevin kevinmcdonough@comcast.net, Muneses, Requel rockyblbca@gmail.com, Ray Reiner kathymartin@comcast.net, Ron Walper ronwalper@gmail.com

---

Dear Judge Mayhew: I have attached a letter outlining the EMRCC's position regarding case# 2022-0151-SPH. The EMRCC adopted this position at their September general meeting after being briefed on the history and background of this matter. Thank you, Robert Bendler President, Essex Middle River Civic Council



Essex Middle River Civic Council Inc.

Judge Paul Mayhew – Managing Administrative Law Judge
Office of Administrative Hearings
105 W. Chesapeake Avenue
Towson, Maryland 21204
RE: Case # 2022-0151-SPH 717 Rockaway Beach Avenue | Essex, Maryland 21221

September 18, 2022

Dear Judge Mayhew,

The Essex Middle River Civic Council is an umbrella community group representing 19 community associations in Eastern Baltimore County. At our organization's recent general membership meeting on September 7, 2022 we were made aware of the zoning case referenced above which pertains to 717 Rockaway Beach Avenue and the issue of compliance with a 2006 Order and Opinion issued in zoning case # 2006-0501-SPH by then Zoning Commissioner William Wiseman.

The Essex Middle River Civic Council wishes to express our support for the position of the Rockaway Beach Improvement Association and the other named petitioners. It is abundantly clear that the spirit and intent of the order issued by the Zoning Commissioner was to prevent any further construction at the property as a condition of the approval of the variances sought in the 2006 zoning case.

Our organization recognizes the importance of such restrictions being included in orders issued in zoning cases, as they are contained therein to prevent undue harm, hardship and/or adverse consequences from negatively impacting the surrounding neighbors and community as a result of such relief being granted.

The upholding of the restrictions within such orders is essential to maintaining the integrity of our communities and most importantly the integrity of the zoning process.

Respectfully,

Robert Bendler
President
Essex Middle River Civic Council

From: Henry Ayakwah
To: April Smith; Debra Wiley; Donna Mignon; PAI Zoning Advisory Committee; Peter Max Zimmerman
Subject: 2022-0151 Revision
Date: Thursday, September 22, 2022 1:23:19 PM
Attachments: 22-151 Revision.pdf

Good afternoon,

Please be advised that the attached zoning comments for cases 2022-0151 is the COMPLETE recommendation of the Department of Planning (Revision made to comment number 2 as wording to the last statement was cutoff). If further information is needed, please contact the planner listed at the bottom of the recommendation.

Sincerely,

Henry a

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald **DATE:** 9/22/2022
Director, Department of Permits, Approvals and Inspections

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS - AMENDED
Case Number**:** 2022-0151 SPH

INFORMATION:
Property Address: 717 Rockaway Beach Ave
Petitioner: Rockaway Beach Improvement Association & Neighbors
Zoning: DR 3.5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition to determine if a Special Hearing is necessary to conclude:

1. Whether the construction of a deck at waterfront side of the subject property constitutes a violation of the order entitled "Findings of Fact and Conclusions of Law" issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
2. Whether the construction of a deck at the waterfront side of the subject property would "obstruct adjacent property owners' water views" and conflict with restriction #5 in the zoning order issued on June 22, 2006 in Baltimore County Zoning Case #2006-501-SPH by Zoning Commissioner William Wiseman;
3. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with the Baltimore County Zoning Regulations; and
4. Whether the construction of a deck at the waterfront side of the subject property otherwise complies with all applicable policies, laws, and regulations.

The subject site is currently zoned as DR 3.5. The site is considered to be a Chesapeake Bay Critical Area Designation. The subject site is surrounded by other single-family dwellings with the rear of the dwelling facing toward the water and the front of the dwelling is facing toward Rockaway Beach Avenue.

The subject property is located within the boundaries of the following community plans: Eastern Baltimore County Revitalization Strategy, Eastern Baltimore County Pedestrian and Bicycle Access Plan, and Greater Dundalk-Edgemere Community Conservation Plan. This proposed structure and the request for this petition, does not impact the recommendations provided in these plans.

The Department of Planning concludes the following as it relates to the petitioner's concerns:

1. The subject property was a part of Zoning Case #2006-0501-SPH. As a part of the order, there was a condition to approval granted to the petitioners. This condition stated "Petitioners [William Rush and Maryann Rush] shall surrender any further construction rights to build closer to the

water." Department of Planning concludes that the construction of deck will be in violation of the order in this case.

2. The subject property was a part of Zoning Case #2006-0501-SPH which ordered the following restriction: "There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water views(s)." Though the department does not believe the construction of the deck will impact the waterfront views of the adjacent properties, it will be considered an enhancement.

3. The specifics of the compliance to various Baltimore County Zoning regulations will be a part of the permits process that has already been initiated by the property owner. All necessary zoning regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

4. The specifics of the compliance to policies, laws, and regulations will be a part of the permits process that has already been initiated by the property owner. All necessary policies, and laws, and regulations will be analyzed, and necessary comments will be provided to the property owner to ensure compliance.

The Department has no further objections or comments on the request. For further information concerning the matters stated herein, please contact April Smith at 410-887-3480.

Prepared by:

Krystle Patchak

Division Chief:

Jenifer G. Nugent

SL/JGN/KP/

c: April Smith
Rockaway Beach Improvement Association, c/o Kevin McDonough
Office of Administrative Hearings
People's Counsel for Baltimore County

NO TITLE EXAM
NO TITLE INSURANCE
NO CONSIDERATION
TAX I.D. #15-23-504960

830

This Deed, made this 13th day of Sept., 2008, by and between **William R. Rush and Maryann L. Rush,** GRANTORS, and **S.F.L., LLC,** a Maryland limited liability company, GRANTEE.

- Witnesseth -

That for and in consideration of the sum of No Dollars 00/100 ($.00), the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said S.F.L., LLC, its successors and assigns, in fee simple, all that lot of ground situate in the County of Baltimore, State of Maryland and described as follows, that is to say:

> BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171. The improvements thereon being known as No. 717 Rockaway Beach Avenue.
>
> BEING the fee simple property which, by Deed dated June 9, 2004, and recorded in the Land Records of the County of Baltimore, Maryland, in Liber 20302, Folio 208, was granted and conveyed by Donald J. Bonomo and Mary Joan Bonomo unto William R. Rush and Maryann L. Rush, the within Grantors.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said S.F.L., LLC its successors and assigns, in fee simple.

And the Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0556, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

As Witness the hands and seals of said Grantors, the day and year first above written.

WITNESS:

William R. Rush (Seal)

Maryann L. Rush (Seal)

STATE OF MARYLAND
COUNTY OF Harford } ss

I hereby certify that on this 13th day of September, 2008, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared **William R. Rush**, the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be his act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

LORRAINE J. BROOKS NOTARY PUBLIC HARFORD COUNTY, MD. MY COMMISSION EXPIRES MAY 1 2010

Notary Public
My commission expires 5/1/10

STATE OF MARYLAND
COUNTY OF Harford } ss

I hereby certify that on this 13th day of September 2008, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared **Maryann L. Rush**, the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

LORRAINE J. BROOKS NOTARY PUBLIC HARFORD COUNTY, MD. MY COMMISSION EXPIRES MAY 1 2010

Notary Public
My commission expires 5/1/10

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Christopher W. Keelty Attorney

AFTER RECORDING, PLEASE RETURN TO:
Lawyers Choice Title, LLC
21 W. Susquehanna Avenue
Suite 210
Towson, MD 21204

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0557, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

AFFIDAVIT PURSUANT TO TP-12-108(bb) & TP-13-207(a)(18)
EXEMPTION FROM TRANSFER AND RECORDATION TAXES

The Grantors and Grantee of the foregoing Deed swear and affirm under the penalties of perjury that the following statements are true and correct:

The foregoing transfer represents a transfer that is an exempt transaction pursuant to Sections 12-108(bb), 13-207(a)(18) and 13-405(c) of the Tax-Property Article of the Annotated Code of Maryland. (the "Statute").

I. Grantors own the property as tenants by the entireties.

II. Grantors are principally involved in buying, selling, leasing and managing real property.

III. Grantors are a "Real estate enterprise" (hereinafter "REE") as defined in TP-12-108(bb).

IV. The foregoing Deed transfer is for no consideration other than the issuance of membership interests in the Grantee limited liability company (hereinafter "Grantee LLC").

V. The members of the Grantee LLC are identical to the owners of the REE.

VI. The members of the Grantee LLC have the identical allocation of profit and loss as that member's allocation of profit and loss under the REE.

VII. The foregoing Deed transfer is part of a discontinuation of the REE.

VIII. All real property owned by the Grantors and used in the conduct of any REE is being conveyed to a single limited liability company, and Grantors' REE's and other business interests, if any, are unrelated to the REE.

WITNESS:

GRANTORS:

William R. Rush 9/13/08
William R. Rush Date

Maryann L. Rush 9/13/08
Maryann L. Rush Date

GRANTEE:

S.F.L., LLC

By: _____ Date

Name: William R. Rush.

Title: President

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0558, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: 20008.0151MPS

Property: 717 Rockaway Beach Road, Essex, MD 21221

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that affects a change in ownership of real property is presented for recordation. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor

William R. Rush

2. Reason for Exemption

Resident Status	☑ I, Transferor, am a resident of the State of Maryland. ☐ Transferor is a resident entity under § 10-912(A)(4) of the Tax-General Article of the Annotated Code of Maryland, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121 and is recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

William R. Rush
Name

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By:

Name

Title

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0559, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0560, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: **20008.0151MPS**

Property: **717 Rockaway Beach Road, Essex, MD 21221**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that affects a change in ownership of real property is presented for recordation. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor

Maryann L. Rush

2. Reason for Exemption

Resident Status	☑ I, Transferor, am a resident of the State of Maryland. ☐ Transferor is a resident entity under § 10-912(A)(4) of the Tax-General Article of the Annotated Code of Maryland, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121 and is recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Maryann L. Rush
Name

Maryann Rush
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By:

Name

Title

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0561, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

AFFIDAVIT AS TO TOTAL PAYMENT
PURSUANT TO SECTION 10-912(B)(2) OF THE TAX-GENERAL
ARTICLE OF THE ANNOTATED CODE OF MARYLAND

File Number: 20008.0151MPS

Property: 717 Rockaway Beach Road, Essex, MD 21221

The undersigned make(s) oath, in due form of law and under the penalties of perjury, that the following is true to the best of my/our knowledge, information and belief, in accordance with Section 10-912(b)(2) of the Tax-General Article of the Annotated Code of Maryland (the "withholding law"):

1. I/we am/are the transferor(s) of that real property described in the accompanying deed (the "property").
2. I/we have examined the settlement statement prepared in connection with the transfer of the property, including both the gross amounts due to me/us and the listing of expenses and adjustments which result in a reduction in the net proceeds due to me/us.
3. With respect to the determination of "total payment," stated below, for the purpose of the withholding law:
   (a) The "total payment" includes the fair market value of any property transferred to me/us as part of the sale.
   (b) In calculating the deductions from gross proceeds, "debts incurred in contemplation of sale" (meaning debts secured by the property that were incurred within 90 days of the sale, such as loan funds received from a financing or a previous or new line of credit within the past 90 days prior to the sale of the property) were not deducted from gross proceeds.
   (c) In calculating the deductions from gross proceeds, only my/our expenses arising out of the sale or exchange of the property have been deducted.
4. The amount of "total payment" for the purpose of the withholding law is $_____.

Dated this 13th day of Sept, 2008.

William R. Rush

Maryann L. Rush

STATE OF MARYLAND, COUNTY OF Harford, to wit:

Sworn and subscribed to before the undersigned this 13th day of Sept, 2008.

SEAL:

LORRAINE J. BROOKS
MY COMMISSION EXPIRES
MAY 1 2010
HARFORD COUNTY, MD.
NOTARY PUBLIC

Lorraine J. Brooks
Notary Public
My commission expires 5/1/10

0027326 562

IMP FD SURE $ 20.00
RECORDING FEE 20.00
TOTAL 40.00
Recpt # 44261 Blk # 301
CR 11:38 am

State of Maryland Land Instrument Intake Sheet

[ ] Baltimore City [X] County: Baltimore

Information provided is for the use of the Clerk's Office and State Department of Assessments and Taxation, and the County Finance Office only.

(Type or Print in Black Ink Only All Copies Must Be Legible)

1 Type(s) of Instruments ([ ] Check Box if Addendum Intake Form is Attached)

1	Deed		Mortgage		Other		Other
	Deed of Trust		Lease				

2 Conveyance Check Box

	Improved Sale Arms-Length *[1]*		Unimproved Sale Arms-Length *[2]*		Multiple Arms Length *[3]*		Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if Applicable) Cite or Explain Authority

Recordation	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration		Amount
Purchase Price/Consideration	$	.00
Any New Mortgage	$	.00
Balance of Existing Mortgage	$	
Other:	$	
Other:	$	
Full Cash Value	$	0.00

Finance Office Use Only	
Transfer and Recordation Tax Consideration	
Transfer Tax Consideration	$
x ( ) % =	$
Less Exemption Amount -	$
Total Transfer Tax =	$
Recordation Tax Consideration	$
x ( ) per $500 =	$
TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 40.00	$
Surcharge	$ 0.00	$
State Recordation Tax	$ 0.00	$
State Transfer Tax	$ 0.00	$
County Transfer Tax	$ 0.00	$
Other	$	$
Other	$	$

Agent:

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No.(1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
15	1523504960	20302/208			[ ] (5)

Subdivision Name	Lot (3a)	Block(3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage(4)

Location/Address of Property Being Conveyed (2)

717 Rockaway Beach Road, Essex, MD 21221

Other Property Identifiers (if applicable)	Water Meter Account No.

Residential [X] or Non-Residential [ ]	Fee Simple [X] or Ground Rent [ ]	Amount: $N/A
Partial Conveyance? [ ] Yes [X] No	Description/Amt. of SqFt/Acreage Transferred:	N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
William R. Rush	
Maryann L. Rush	
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
S.F.L., LLC	

New Owner's (Grantee) Mailing Address

717 Rockaway Beach Road, Essex, MD 21221

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person	
Name:	Carol Stultz
Firm:	Lawyers Choice Title, LLC
Address:	29 West Susquehanna Avenue, Suite 210, Towson, Md. 21204-5279
Phone:	Telephone: 443-901-0800 Fax:443-901-0802

[ ] Return to Contact Person

[ ] Hold for Pickup

[X] Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

[X] Yes [ ] No Will the property being conveyed be the grantee's principal residence?

[ ] Yes [X] No Does transfer include personal property? If yes, identify:

[ ] Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)

TAX NOTE: **Assessment Use Only - Do Not Write Below This Line**

[ ] Terminal [ ] Director of Agricultural Verification [ ] Whole [ ] Part [ ] Tran. Process Verification

Transfer Number: BALTIMORE COUNTY Date Received: Deed Reference: Assigned Property No.

Year			Geo.		Map	Sub	Block
Land		COUNTY TRANSFER TAX	Zoning		Grid	Plat	Lot
Buildings			Use		Parcel	Section	Occ. Cd.
Total			Town Cd.		Ex. St.	Ex. Cd.	

RECORDATION TAX

Par

Date

T.P.

20008.0151MPS

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27326, p. 0562, MSA_CE62_27181. Date available 09/19/2008. Printed 09/24/2022.

Best Title & Processing, LLC 0020302 208
File No. **04-1300/William R. Rush**
Tax ID # **15-1523504960**

This Deed, made this 9th day of June, 2004, by and between Donald J Bonomo and Mary Joan Bonomo, parties of the first part, Grantors; and William R. Rush and Maryann L. Rush, parties of the second part, Grantees.

- Witnesseth -

That for and in consideration of the sum of Four Hundred Fifty Thousand And 00/100 Dollars ($450,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said William R. Rush and Maryann L. Rush, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple, all that lot of ground situate in the County of Baltimore, State of Maryland and described as follows, that is to say:

All that lot of ground situate in Baltimore County, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the Land Records of Baltimore County, in Plat Book W.P.C. No. 4, folio 171. The improvements thereon being known as No. 717 Rockaway Beach Avenue.

Being the same lot of ground by Deed dated 04/30/86 and recorded 05/01/86 in Deed Book 15721, page 104, among the land records of Baltimore County, Maryland was granted and conveyed by Mildred A. Pretl unto Donald J. & Mary Joan Bonomo.

The Buyer/Grantee hereby swears or affirms under the penalty of perjury that the property herein conveyed is intended to be used as my principal residence by actually occupying the residence for at least 7 of the next 12 months.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said William R. Rush and Maryann L. Rush, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

As Witness the hands and seals of said Grantors, the day and year first above written.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0208, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

WITNESS:

_____ Donald J Bonomo {Seal}
Donald J Bonomo

_____ Mary Joan Bonomo {Seal}
Mary ~~Jane~~ Bonomo
JOAN, MJB

STATE OF MARYLAND, COUNTY OF Baltimore, to wit:

I hereby certify that on this 9th day of June, 2004, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Donald J Bonomo and Mary Jane Bonomo, the Grantors herein, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

SHERRI MICHAELS NOTARY PUBLIC BALTIMORE COUNTY, MD MY COMMISSION EXPIRES FEB 28 2005

_____
Notary Public
My commission expires: 2/28/2005

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

_____
Attorney

AFTER RECORDING, PLEASE RETURN TO:
Best Title & Processing, LLC
1730-B East Joppa Road
Baltimore, Md. 21234

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0209, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0210, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

AFFIDAVIT AS TO TOTAL PAYMENT
PURSUANT TO SECTION 10-912(B)(2) OF THE TAX-GENERAL
ARTICLE OF THE ANNOTATED CODE OF MARYLAND

File Number: **04-1300**

Property: **717 Rockaway Beach Avenue, Baltimore, MD 21221**

The undersigned make(s) oath, in due form of law and under the penalties of perjury, that the following is true to the best of my/our knowledge, information and belief, in accordance with Section 10-912(b)(2) of the Tax-General Article of the Annotated Code of Maryland (the "withholding law"):

1. I/we am/are the transferor(s) of that real property described in the accompanying deed (the "property").
2. I/we have examined the settlement statement prepared in connection with the transfer of the property, including both the gross amounts due to me/us and the listing of expenses and adjustments which result in a reduction in the net proceeds due to me/us.
3. With respect to the determination of "total payment," stated below, for the purpose of the withholding law:
   (a) The "total payment" includes the fair market value of any property transferred to me/us as part of the sale.
   (b) In calculating the deductions from gross proceeds, "debts incurred in contemplation of sale" (meaning debts secured by the property that were incurred within 6 months of the sale, such as loan funds received from a financing or a previous or new line of credit within the past 6 months prior to the sale of the property) were not deducted from gross proceeds.
   (c) In calculating the deductions from gross proceeds, only my/our expenses arising out of the sale or exchange of the property have been deducted.
4. The amount of "total payment" for the purpose of the withholding law is $ **-0-**.

Dated this 9th day of June, 2004.

Donald J Bonomo

Mary ~~Jane~~ Bonomo

STATE OF MARYLAND, COUNTY OF Baltimore, to wit:

Sworn and subscribed to before the undersigned this 9th day of June, 2004.

SEAL:

Notary Public
My commission expires 10/28/2005

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0211, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

0020302 211

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: **04-1300**

Property: **717 Rockaway Beach Avenue, Baltimore, MD 21221**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of Maryland's Tax General Article. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that affects a change in ownership of real property is recorded. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residency or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor

Mary ~~Jane~~ JOAN Bonomo

2. Reason for Exemption

Resident Status	☑	I, Transferor, am a resident of the State of Maryland.
	☐	Transferor is a resident entity under § 10-912(A)(4) of Maryland's Tax General Article. I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐	Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

JOAN, Mgr
Mary ~~Jane~~ Bonomo
Name

Mary Joan Bonomo
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By:

Name

Title

0020302 212

CERTIFICATION OF EXEMPTION FROM WITHHOLDING UPON DISPOSITION OF MARYLAND REAL ESTATE

AFFIDAVIT OF RESIDENCY OR PRINCIPAL RESIDENCE

File Number: **04-1300**

Property: **717 Rockaway Beach Avenue, Baltimore, MD 21221**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of Maryland's Tax General Article. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that affects a change in ownership of real property is recorded. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residency or certification that the transferred property is the transferor's principal residence.

1. Transferor Information
Name of Transferor **Donald J Bonomo**

2. Reason for Exemption		
Resident Status	☑	I, Transferor, am a resident of the State of Maryland.
	☐	Transferor is a resident entity under § 10-912(A)(4) of Maryland's Tax General Article. I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐	Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Donald J Bonomo
Name

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By:

Name

Title

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0212, MSA_CE62_20157. Date available 08/19/2004. Printed 09/24/2022.

0020302 · 218

State of Maryland Land Instrument Intake Sheet

[ ] Baltimore City [X] County: Baltimore

Information provided is for the use of the Clerk's Office and State Department of Assessments and Taxation, and the County Finance Office only.

(Type or Print in Black Ink Only All Copies Must Be Legible)

IMP FD SURE $ 20.00
RECORDING FEE 20.00
TR TAX STATE 2,250.00
TOTAL 2,250.00
Rcpt # 82048
Blk # 4853
Jun 24, 2004 11:02 am

1 Type(s) of Instruments ([ ] Check Box if Addendum Intake Form is Attached.)

1	Deed		Mortgage		Other		Other
2	Deed of Trust		Lease				

2 Conveyance Check Box

X	Improved Sale Arms-Length *[1]*		Unimproved Sale Arms-Length *[2]*		Multiple Arms Length *[3]*		Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if Applicable) Cite or Explain Authority

Recordation	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration	Amount
Purchase Price/Consideration	$ 450,000.00
Any New Mortgage	$ 360,000.00
Balance of Existing Mortgage	$
Other:	$
Other:	$
Full Cash Value	$ 450,000.00

Finance Office Use Only Transfer and Recordation Tax Consideration	
Transfer Tax Consideration	$
x ( ) % =	$
Less Exemption Amount -	$
Total Transfer Tax =	$
Recordation Tax Consideration	$
x ( ) per $500 =	$
TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 35.00	$ 35.00
Surcharge	$ 5.00	$ 5.00
State Recordation Tax	$ 2,250.00	$ 0.00
State Transfer Tax	$ 2,250.00	$ 0.00
County Transfer Tax	$ 6,750.00	$ 0.00
Other	$	$
Other	$	$

Agent:
Tax Bill:
C.B. Credit:
Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No.(1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	/			[ ] (5)

Subdivision Name	Lot (3a)	Block(3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage(4)

Location/Address of Property Being Conveyed (2)
717 Rockaway Beach Avenue, Baltimore, MD 21221

Other Property Identifiers (if applicable)	Water Meter Account No.

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: $N/A

Partial Conveyance? [ ] Yes [X] No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Donald J Bonomo	William R. Rush
Mary Joan Bonomo	Maryann L. Rush
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
William R. Rush	
Maryann L. Rush	

New Owner's (Grantee) Mailing Address
6 Timberpark Court, Luth -Timonium, MD 21093-1111

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)
	First American Funding Inc.

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Preferred Customer
Firm: Best Title & Processing, LLC
Address: 1730-B East Joppa Road Baltimore, Md. 21234
Phone:

[X] Return to Contact Person
[ ] Hold for Pickup
[ ] Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

[X] Yes [ ] No Will the property being conveyed be the grantee's principal residence?
[ ] Yes [X] No Does transfer include personal property? If yes, identify:
[ ] Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)

Assessment Use Only - Do Not Write Below This Line

[ ] Terminal Verification [ ] Agricultural Verification [ ] Whole [ ] Part [ ] Tran. Process Verification

Transfer Number:	Date Received:	Deed Reference:	Assigned Property No.:

Year			Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS:

DUPLICATE PAID RECEIPT
REVAN INNATION
6/22/2004 15:05:00 TIME ACTUAL
KFOR KEP
6/23/2004 OFLN
RECEIPT # 04254 CONSIDERATION TAXES
$9,000.00
$.00 CA
County, Maryland

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 20302, p. 0213, MSA_CE62_2015. Date available 08/19/2004. Printed 09/24/2022.

BOOK: 42214 PAGE: 367

Crown Title Corporation
File No. **103603-19CKL**
Tax ID # **15-1523504960**

LR - Deed (No-Taxes) 20.00
Recording Fee
Name: SMITH
Ref:
LR - Deed (No-Taxes) 40.00
Surcharge
SubTotal: 60.00
Total: 60.00
12/10/2019 02:10 CC03-NR
#13108670 CC0301 -
Baltimore
County/CC03.01.16 -
Register 16

This Deed, made this 15 day of November, 2019, by and between **S.F.L., LLC**, a forfeited Maryland limited liability company, GRANTOR, and **Michael Paul Smith** and **Carin Smith**, sole members of the Grantor, GRANTEES.

- Witnesseth -

That for NO consideration and **pursuant to the dissolution or liquidation of a limited liability company and the transfer of real property to the original members of the limited liability company,** the receipt whereof is hereby acknowledged, which transfer is exempt from recordation tax pursuant to **Section 12-108(q) – Limited liability company conveyance** - of the Tax-Property Article of the Annotated Code of the State of Maryland, the said GRANTOR does grant and convey to the said Michael Paul Smith and Carin Smith, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever, all that lot of ground situate in Baltimore County, Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171.

(ADDRESS REFERENCE IS FOR INFORMATIONAL PURPOSES ONLY)
The improvements thereon being known as 717 Rockaway Beach Avenue, Essex, MD 21221.

BEING all and the same lot of ground which by Deed dated September 13, 2008, and recorded September 16, 2008 among the Land Records of Baltimore County, Maryland, in Liber 27326, Folio 556, was granted and conveyed by William R. Rush and Maryann L. Rush unto S.F.L., LLC, a Maryland limited liability company.

Tax Account No. 15-1523504960

The charter of the Grantor LLC was forfeited by the State Department of Assessments and Taxation on October 3, 2011.

By the execution of this Deed, the Grantor hereby certifies under the penalties of perjury that the actual consideration paid or to be paid, including the amount of any Mortgage or Deed of Trust outstanding, is as hereinbefore set forth.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

To Have and To Hold the said described lot of ground and premises to the said Michael Paul Smith and Carin Smith, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever.

And the said Grantor hereby covenant that has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that will warrant specially the property hereby granted; and that will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42214, p. 0367, MSA_CE62_42071. Date available 12/12/2019. Printed 09/24/2022.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42214, p. 0368, MSA_CE62_42071. Date available 12/12/2019. Printed 09/24/2022.

Witness the hand and seal of the said Grantor.

WITNESS:

Debra L. Gaskins

Debra L. Gaskins

S.F.L., LLC, a forfeited limited liability company

BY: Carin Smith (Seal)
CARIN SMITH

BY: _____ (Seal)
MICHAEL PAUL SMITH

STATE OF MARYLAND }
COUNTY OF Baltimore } ss

On this the 15th day of November, 2019, before me, a Notary Public, in the jurisdiction aforesaid, the undersigned Officer, personally appeared CARIN SMITH and MICHAEL PAUL SMITH, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same in my presence for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

RICHARD DONALD LIBERTO NOTARY PUBLIC HARFORD COUNTY, MD

Notary Public
My commission expires 5/25/20

Michael Paul Smith and Carin Smith, husband and wife, parties of the second part in the within Deed, hereby certify under the penalties of perjury that the land conveyed in said Deed is residentially improved, owner-occupied, real property and that the residence will be occupied only by us.

WITNESS:

Debra L. Gaskins

Debra L. Gaskins

_____ (SEAL)
Michael Paul Smith

Carin Smith (SEAL)
Carin Smith

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

David L. Thurston, Attorney
DAVID L. THURSTON

~~AFTER RECORDING, PLEASE RETURN TO:~~

BOOK: 42214 PAGE: 369

AFTER RECORDING, PLEASE RETURN TO:
Crown Title Corporation
1 Sanford Avenue
Baltimore, MD 21228

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42214, p. 0369, MSA_CE62_42071. Date available 12/12/2019. Printed 09/24/2022.

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

BOOK: 22 PAGE 370

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

X	Deed / Deed of Trust	☐	Mortgage / Lease	☐	Other	☐	Other

2 Conveyance Type Check Box

☐	Improved Sale Arms-Length *[1]*	☐	Unimproved Sale Arms-Length *[2]*	☐	Multiple Accounts Arms-Length *[3]*	☐	Not an Arms-Length Sale *[9]*

3 Tax Exemptions (If applicable) Cite or Explain Authority

Recordation	Exempt pursuant to Section 12-108 (q)
State Transfer	Exempt pursuant to Section 12-108 (q)
County Transfer	Exempt pursuant to Section 12-108 (q)

4 Consideration and Tax Calculations

Consideration Amount	
Purchase Price/Consideration	$ 0.00
Any New Mortgage	$
Balance of Existing Mortgage	$
Other:	$
Other:	$
Full Cash Value:	$

Finance Office Use Only
Transfer and Recordation Tax Consideration

Transfer Tax Consideration		$
X ( ) %	=	$
Less Exemption Amount	–	$
Total Transfer Tax	=	$ Exempt
Recordation Tax Consideration		$
X ( ) per $500	=	$
TOTAL DUE		$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 40.00	$
State Recordation Tax	$	$
State Transfer Tax	$	$
County Transfer Tax	$	$
Other	$	$
Other	$	$

Agent: KP

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	27326/556			☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
Plat of Turkey Point Farm	40			4/171	

Location/Address of Property Being Conveyed (2): 717 Rockaway Beach Avenue, Essex, MD 21221

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: N/A

Partial Conveyance? [ ] Yes [X] No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
S.F.L., LLC	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
Michael Paul Smith	
Carin Smith	

New Owner's (Grantee) Mailing Address: 717 Rockaway Beach Avenue, Essex, MD 21221

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Darletta Bostic

Firm: Crown Title Corporation

Address: 1 Sanford Avenue

Baltimore, MD 21228 Phone: (410) 719-0200

☒ Return to Contact Person ☐ Hold for Pickup ☐ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTCOPY MUST ACCOMPANY EACH TRANSFER

X	Yes	☐	No	Will the property being conveyed be the grantee's principal residence?
☐	Yes	X	No	Does transfer include personal property? If yes, identify:
☐	Yes	X	No	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Space Reserved for County Validation

Assessment Use Only – Do Not Write Below This Line

Terminal Verification | Agricultural Verification | Whole | Part | Tran. Process Verification

Transfer Number | Date Received: | Deed Reference: | Assigned Property No.:

Year	20	20
Land		
Buildings		
Total		

Geo.		Map		SD	Block
Zoning		Grid		Plat	Lot
Use		Parcel		Sect/AR	Occ. Cd.
Town Cd.		Ex. St.		Ex. Cd.	

REMARKS:

TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND

☑ COUNTY TRANSFER TAX Per ✓ ART 11 TITLE 3 SUBTITLE 2, 11-3-202

☑ RECORDATION TAX Per KP T.P./ART 12-108

Date 12/10/19

Distribution: ☐ Clerk's Office ☐ Office of Finance ☐ SDAT ☐ Preparer

AOC-CC-300 (5/2007)

103603-19CKL

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42214, p. 0370, MSA CE62_42071. Date available 12/12/2019. Printed 09/24/2022.

Crown Title Corporation
File No. **115401-21CKL**
Tax ID # **15-1523504960**

This Deed, made this 6th day of **December, 2021**, by and between **Michael Paul Smith** and **Carin Smith**, husband and wife, GRANTORS, and **William Edward Tunney, IV** and **Theresa Marie Tunney**, husband and wife, GRANTEES.

- Witnesseth -

That in consideration of the sum of One Million Four Hundred Seventy-Five Thousand And 00/100 Dollars ($1,475,000.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said Grantees, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever, in all that lot of ground situate in the County of Baltimore, State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 40, as shown on the Plat of Turkey Point Farm (now known as Rockaway Beach), which Plat is recorded among the land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 171.

(ADDRESS REFERENCE IS FOR INFORMATIONAL PURPOSES ONLY)
The improvements thereon being known as 717 Rockaway Beach Avenue, Essex, MD 21221.

BEING all and the same lot of ground which by Deed dated November 15, 2019, and recorded December 10, 2019 among the Land Records of Baltimore County, Maryland, in Liber 42214, Folio 367, was granted and conveyed by S.F.L., LLC, a forfeited Maryland limited liability company, unto Michael Paul Smith and Carin Smith.

Tax Account No. 15-1523504960

```
CR  Deed (w Taxes)
Recording only ST20.00
Name: TUNNEY IV
Ref:
OR  Deed (with Taxes)
Surcharge          40.00
CR  Deed State
Transfer Tax    7,375.00
CR  NR Tax - Ikd    0.00
                ========
SubTotal:       7,435.00
                ========
Total:          7,435.00
02/02/2022  10:39
                CC03-SLF
#15845326 CC0301 -
Baltimore
County/CC03.01.17 -
Register 17
```

By the execution of this Deed, the Grantors hereby certify under the penalties of perjury that the actual consideration paid or to be paid, including the amount of any Mortgage or Deed of Trust outstanding, is as hereinbefore set forth.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging or in anywise appertaining.

To Have and To Hold the said described lot of ground and premises to the said William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, as tenants by the entireties, their assigns, and to the survivor of them, and the personal representatives, heirs and assigns of the survivor, in fee simple, forever.

And the said Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0297, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

Witness the hands and seals of the said Grantors.

WITNESS:
Debra L. Daskins
Debra L. Daskins

_____(Seal)
Michael Paul Smith

_____(Seal)
Carin Smith

STATE OF MARYLAND }
COUNTY OF BALTIMORE } ss

On this the 6th day of December, 2021, before me, a Notary Public, in the jurisdiction aforesaid, the undersigned Officer, personally appeared Michael Paul Smith and Carin Smith, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same in my presence for the purposes therein contained.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

RICHARD DOUGLAS LIBERTO NOTARY PUBLIC HARFORD COUNTY, MD

_____
Notary Public
My commission expires 5/25/24

William Edward Tunney, IV and Theresa Marie Tunney, husband and wife, parties of the second part in the within Deed, hereby certify under the penalties of perjury that the land conveyed in said Deed is residentially improved, owner-occupied, real property and that the residence will be occupied only by us.

WITNESS:

_____ _____(SEAL)
William Edward Tunney, IV

_____ _____(SEAL)
Theresa Marie Tunney

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

_____
Carol K. Lisman, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Crown Title Corporation
1 Sanford Avenue
Baltimore, MD 21228

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0298, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor: Michael Paul Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Michael Paul Smith — 12/6/21
Name — **Date

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0299, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

MARYLAND FORM **WH-AR**

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

2021

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Carin Smith

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

717 Rockaway Beach Avenue, Essex, MD 21221

3. Reasons for Exemption

Resident Status

☑ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Debra L. Gaskins
Witness

Carin Smith — 12/6/21
Name — **Date

Carin Smith
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name — **Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0300, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

BOOK: 46333 PAGE: 301

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments (☐ Check Box if addendum Intake Form is Attached.)

X Deed / Deed of Trust	☐ Mortgage / Lease	☐ Other	☐ Other

2 Conveyance Type Check Box

X Improved Sale Arms-Length *[1]*	☐ Unimproved Sale Arms-Length *[2]*	☐ Multiple Accounts Arms-Length *[3]*	☐ Not an Arms-Length Sale *[9]*

3 Tax Exemptions (if applicable) Cite or Explain Authority

Recordation	
State Transfer	Deed
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 1,475,000.00	Transfer Tax Consideration	$ 22125.00
Any New Mortgage	$	X ( ) % =	$
Balance of Existing Mortgage	$	Less Exemption Amount −	$
Other:	$	Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$ 7375.00
Full Cash Value:	$	X ( ) per $500 =	$
		TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 40.00	$
State Recordation Tax	$ 7,375.00	$
State Transfer Tax	$ 7,375.00	$
County Transfer Tax	$ 22,125.00	$
Other	$	$
Other	$	$

Agent:

Tax Bill:

C.B. Credit:

Ag. Tax/Other:

6 Description of Property

SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
	15-1523504960	42214/367			☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
				42214/367	

Location/Address of Property Being Conveyed (2): 717 Rockaway Beach Avenue, Essex, MD 21221

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential [X] or Non-Residential [ ] | Fee Simple [X] or Ground Rent [ ] | Amount: N/A

Partial Conveyance? ☐ Yes ☒ No | Description/Amt. of SqFt/Acreage Transferred: N/A

If Partial Conveyance, List Improvements Conveyed: N/A

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
Michael Paul Smith	
Carin Smith	
Doc. 1 – Owner(s) of Record, if Different from Grantor(s)	**Doc. 2 – Owner(s) of Record, if Different from Grantor(s)**

8 Transferred To

Doc. 1 – Grantee(s) Name(s)	Doc. 2 – Grantee(s) Name(s)
William Edward Tunney, IV	CASH
Theresa Marie Tunney	

New Owner's (Grantee) Mailing Address: 315 Blue Grass Lane, Hampstead, MD 21074

9 Other Names to Be Indexed

Doc. 1 – Additional Names to be Indexed (Optional)	Doc. 2 – Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person

Name: Darletta Bostic

Firm: Crown Title Corporation

Address: 1 Sanford Avenue

Baltimore, MD 21228 Phone: (410) 719-0200

☐ Return to Contact Person

☐ Hold for Pickup

☒ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTCOPY MUST ACCOMPANY EACH TRANSFER

☐ Yes [X] No Will the property being conveyed be the grantee's principal residence?

☐ Yes [X] No Does transfer include personal property? If yes, identify:

☐ Yes [X] No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only – Do Not Write Below This Line

Terminal Verification . Agricultural Verification . Whole . Part . Tran. Process Verification

Transfer Number Date Received: Deed Reference: Assigned Property No.:

Year	20	20	Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS

Space for Circuit Court Clerk Recording Validation

Baltimore County, Maryland
Dept 7 20:
RECORDATION TAXES
>>RECEIPT # 0696 2/01/2022
MSJ
REG W50Z WAIVER
2/02/2022
BUSINESS
ACTUAL TIME DRW
2/01/2022 13:05:19 2
29,500.00
CA .00
DUPLICATE PAID RECEIPT

Distribution: ☐ Clerk's Office ☐ Office of Finance ☐ SDAT ☐ Preparer

AOC-CC-300 (5/2007)

115401-21CKL

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46333, p. 0301, MSA_CE62_46190. Date available 02/03/2022. Printed 09/24/2022.

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
E/S Rockaway Beach Avenue, 110' N of
the c/l Beach Avenue * ZONING COMMISSIONER
(717 Rockaway Beach Avenue)
15th Election District * OF BALTIMORE COUNTY
6th Council District

* Case No. 06-501-SPH

William Rush, et ux
Petitioners *

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, William Rush, and his wife, Maryann Rush. The Petitioners request a special hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were William (Bob) and Maryann Rush, property owners, and Kenneth J. Wells, the Surveyor who prepared the site plan for this property. Appearing as Protestants were William and Denise Woutila, adjacent property owners, Marcyanna Siegman, Janice Vincent, and Jackie Nickel, President of the Rockaway Beach Improvement Association, Inc., all nearby residents of the area.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped waterfront lot located south of Turkey Point Road on the east side of Rockaway Beach Avenue, with frontage on Middle River. The property is approximately 50 feet wide and 185 feet deep, and contains a gross area of 9,027 sq.ft. (.21 acres) more or less, zoned D.R.3.5. The Petitioners purchased the property approximately two years ago and used the summer home that existed at that time for about one year before they had the house razed. In this regard, the

ORDER RECEIVED FOR FILING
Date 6-22-06
By

property was the subject of prior Case No. 05-579-A in which the Petitioners sought variance relief from Section 1B02.3.C.1 of the B.C.Z.R. to allow a proposed replacement dwelling with reduced setbacks. By his Order dated July 13, 2005, Deputy Zoning Commissioner John V. Murphy granted the requests, subject to compliance with relevant County agency recommendations and Chesapeake Bay Critical Areas requirements. The Petitioners now come before me seeking an amendment as set forth above to reflect a further reduction in the front (street) setback distance provided.

In this regard, testimony and evidence offered indicated that the Petitioners intended to construct a home 35' x 68' in dimension, with side yard setbacks of 4 feet and 11 feet and followed the information received in the packet from the builder to determine measurements and setback distances. The house was to be setback 81 feet from the water and 24 feet from the road; however, after construction of the home commenced, it was discovered that the front property line was 4 feet further inside of the original measurement. Thus, only a 20-foot setback from the road can be provided.

As noted above, several residents from the surrounding community appeared in opposition to the request. They argued that the survey performed by Mr. Wells conflicts with a survey the Protestants had prepared. They also believe that the Petitioners are trying to take advantage of the County's system and that their (the Rush's) attitude about the process is offensive. Ms. Nickels and Ms. Woutila point out that any further request for an amendment to the variance relief received must be denied on the grounds that "it was incumbent upon the Petitioners to obtain an accurate survey of the property before commencing construction" . . . "that any hardship or practical difficulty they now claim was self inflicted." In response to the Protestant's concerns, Mr. Wells testified that his boundary locations are accurate and were taken from monuments found and the location of the original house. Apparently, the original measurements taken by Mr Rush at the outset were taken from an old concrete parking pad located near the road. In any event, special hearing relief is requested as set forth above to amend the prior relief granted and legitimize existing conditions

ORDER RECEIVED FOR FILING
Date 12-22-06
By

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. As noted above, construction of the house is nearly completed and to require its demolition and reconstruction to eliminate a 4-foot discrepancy along the road would be an unnecessary hardship and unduly burdensome upon the Petitioners. Moreover, because the new home has been constructed in *essentially* the same location as originally proposed and is only 4 feet closer to the road than previously approved, I find that the amended relief will not adversely impact the adjacent property or surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to submit to the Office of Planning the requisite building elevation drawings prior to the issuance of any use and occupancy permit. Additionally, Petitioners, by virtue of their indiscretions, shall not find themselves in a position to benefit from these unfortunate circumstances. It was mentioned during the hearing that according to the approval granted in prior Case No. 05-579-A and the resulting Baltimore County Permit No. B605354, Petitioners were permitted to construct the home within 73 feet of the waterside property line. The home, as built, is actually 81 feet back. As a condition of approval, Petitioners shall surrender any further construction rights to build closer to the water. Moreover, but for the amended relief granted herein, all other terms and conditions of the prior Order are adopted herein and made a part hereof, including, but not limited to, compliance with Chesapeake Bay Critical Areas regulations and Federal Flood Insurance requirements, as well as all building and fire code requirements.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of June 2006 that the Petition for Special Hearing to approve an amendment to the Order and site plan approved in prior Case No. 05-579-A to allow rear setbacks of 20 feet in lieu of the required 30 feet for a dwelling and 20 feet in lieu of the required 22½ feet for an open projection (porch), pursuant to Sections 1B02.3.C.1 and 301.1 of the Baltimore County Zoning

ORDER RECEIVED FOR FILING
Date 6-22-06
By

Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the ZAC comments submitted by DEPRM and the Development Plans Review division of DPDM relative to Chesapeake Bay Critical Areas regulations and all other appropriate environmental, floodplain and B.O.C.A. regulations relative to the protection of water quality, streams, wetlands and floodplains. Copies of those comments, dated June 22, 2006 and April 26, 2006, respectively, have been attached hereto and made a part hereof.

3) Prior to completion of the dwelling and the issuance of a use and occupancy permit, the Petitioners shall submit building elevation drawings of the structure to the Office of Planning for review and approval.

4) Compliance with all Building and Fire Code regulations.

5) There will be no further improvements or dwelling construction permitted (closer to the water) which would obstruct adjacent neighboring property owners water view(s).

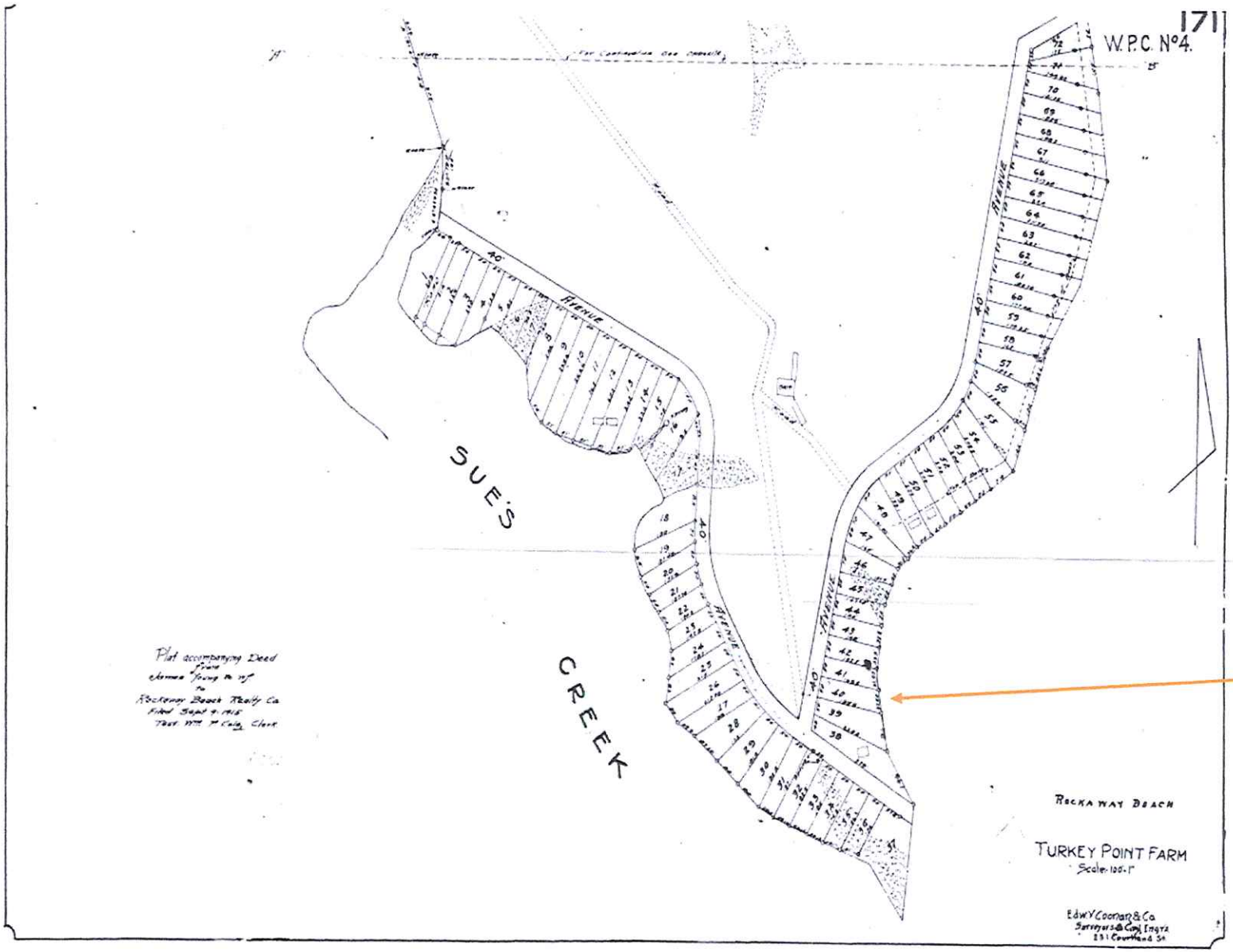
6) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

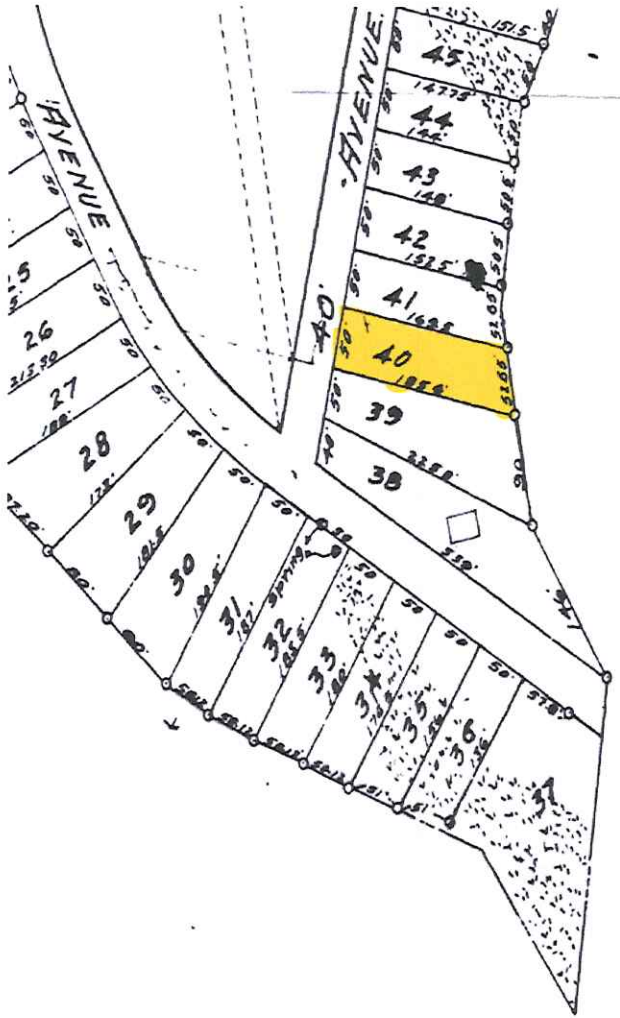
But for the amended relief set forth above, all other terms and conditions of the Order issued in prior Case No. 05-579-A shall remain in full force and effect.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

ORDER RECEIVED FOR FILING
Date 9-22-06
By


171
W.P.C. No 4.
SUE'S
CREEK
AVENUE
40'
Plat accompanying Deed
from
Thomas Young to inf
to
Rockaway Beach Realty Co
Filed Sept 9 1915
Thos Wm F Craig Clerk
ROCKAWAY BEACH
TURKEY POINT FARM
Scale: 100-1"
Edw Y Coonley & Co
Surveyors & Civil Engrs
131 Court Land St



ROCKAWAY BEACH

TURKEY POINT FARM

Scale:- 100'-1"

Edw. V Coonan & Co
Surveyors & Civil Engrs.
231 Courtland St.

Zoning Hearing Plan for Variance _____ for Special Hearing X Mark Type Requested with (X)

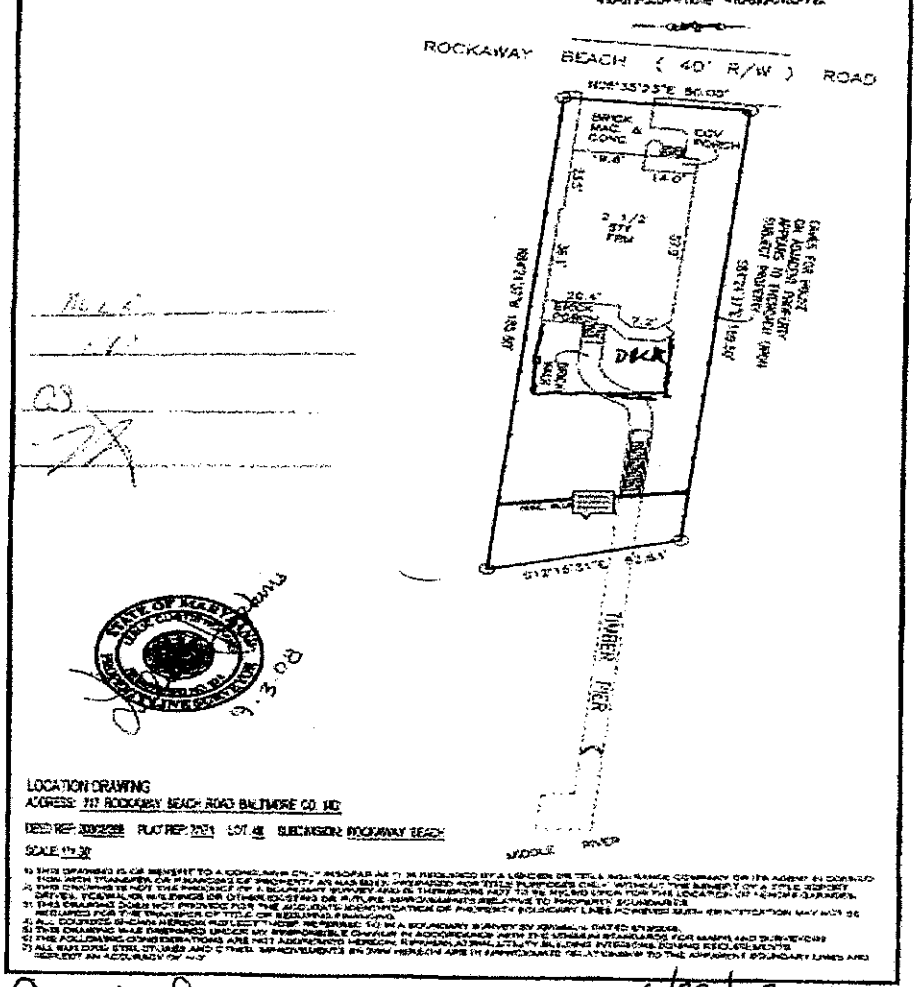
Address 717 Rockaway Beach Ave Owners(s) Name(s) William + Theresa Tunney

Subdivision Name Rockaway Beach Lot # 40 Block # — Section # —

Plat Book # 4 Folio # 171 10 Digit Tax # 1523504960 Deed Reference# 46333/00297

HOPKINS ENGINEERING

3655 Harmony Church Road Ellicott City, Maryland 21042
410-465-5354 Phone 410-465-5185 Fax

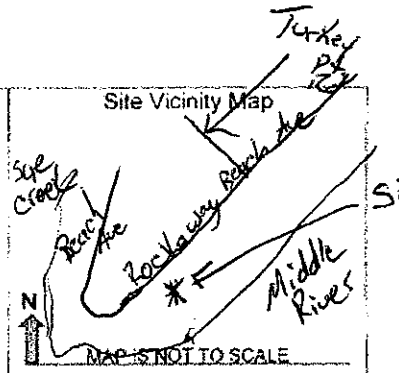


LOCATION DRAWING
ADDRESS: 717 ROCKAWAY BEACH ROAD BALTIMORE CO. MD.
DEED REF: 3092/288 PLAT REF: 3/171 LOT: 40 SUBDIVISION: ROCKAWAY BEACH
SCALE: 1"=30'

N

Plan Drawn By Copied from Owner's Date 6/23/22 Scale: 1 inch = 30 Feet

Site Vicinity Map



Zoning Map # _____

Zoning DR 3.5

Election District 15

Council District 7

Lot Area Acreage 0.20

Lot Square Footage 9,027

Historic (Yes or No) NO

CBCA (Yes or No) Yes

Flood Plain (Yes or No) Yes

Utilities – Mark with (X)

Water is:

Public X Private _____

Sewer is:

Public X Private _____

Prior Hearing (Yes or No) Yes

If (Yes) list Case Number(s)

and order result(s) below

~~2005-0579-A~~ GRANTED

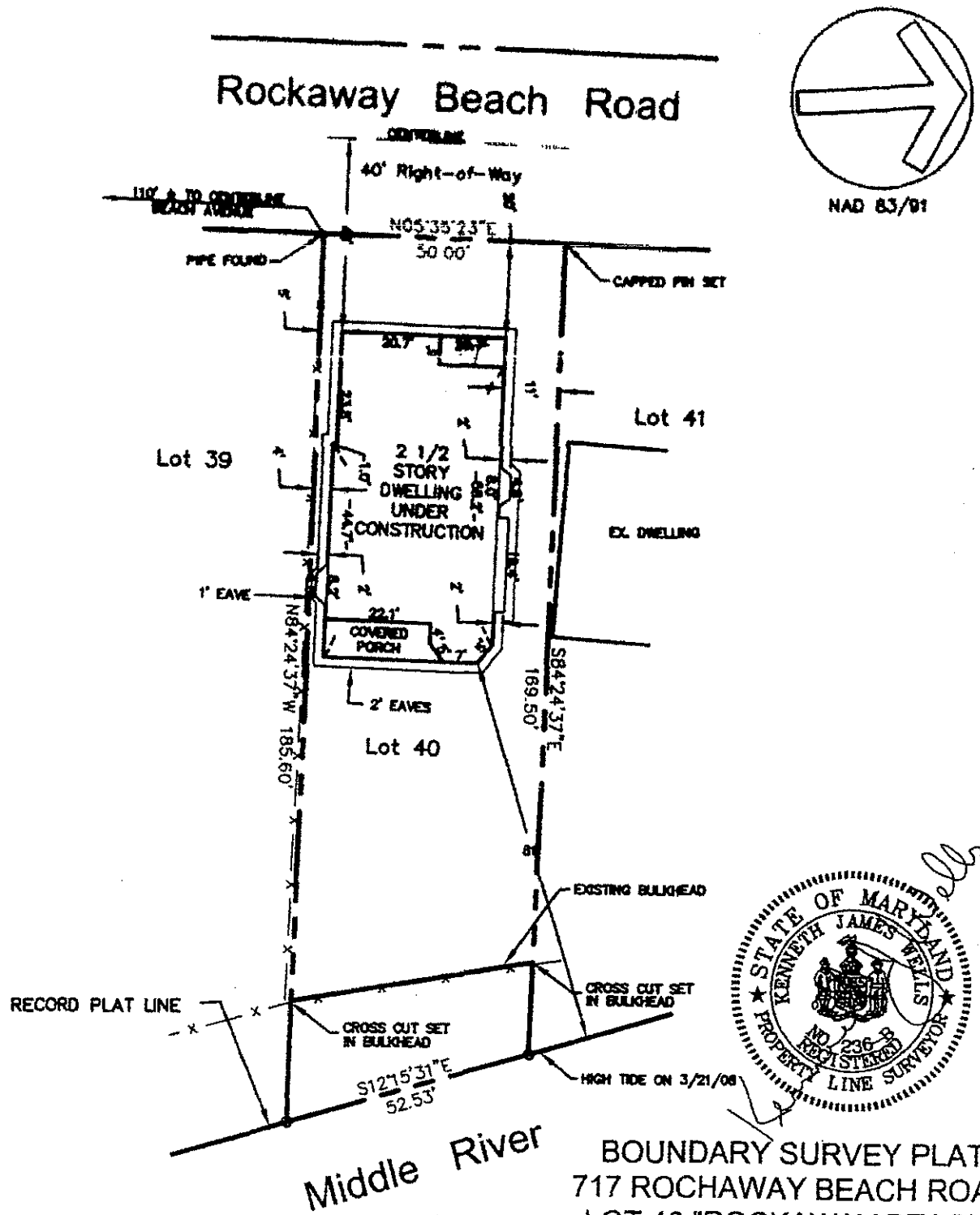
2005-0579-A

2006-0501-SPH → GRANTED

Violation Case Number(s)

LOZ: 0151-SPH

Permit Application. Info on Form Completed by Kevin McDonough, Rockaway Beach Imp. Assoc.



NAD 83/91

STATE OF MARYLAND
KENNETH JAMES WELLS
NO. 236-B
REGISTERED
PROPERTY LINE SURVEYOR

BOUNDARY SURVEY PLAT
717 ROCHAWAY BEACH ROAD
LOT 40 "ROCKAWAY BEACH"

SCALE: 1" = 30' DATED: 6/13/2005
REVISION DATE: 3/21/2006

LEGEND:

DWELLING PROJECTIONS

DEED REFERENCE: 20302/208
PLAT REFERENCE: 4/171

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

June 1, 2006
Dear Zoning Commissioner Wiseman and Deputy Murphy,

Rockaway Beach Improvement Assn. Inc. is opposed to any alteration or extension of variances already granted at 717 Rockaway Beach Ave.

The membership voted unanimously at the April 19 meeting to support the neighbors/members planning to attend the hearing before the zoning commissioner on June 1.

Future development in our community must be compatible with existing homes, no sideyard variances on 50 ft. lots should be permitted and strict compliance with building code and Critical Areas regulations must be enforced.

Our organization plans to strictly monitor all construction in our community. No residents should be so squeezed in that they feel like they are living in a rowhouse as is the case with the Rushes' neighbors. Common courtesy demands more.

We also expect more from Baltimore County when it comes to approvals and inspections of new homes on the waterfront. Evidence will show that the county agencies were severely lax in their duties in this regard on this particular property.

Although we are not dealing with DEPRM issues today, there are many questions for that agency which have gone unanswered and we will pursue those issues in the coming weeks and months - years if necessary.

The welfare of the Chesapeake Bay is of paramount importance to our county and the impact of excessive and oversize development cannot be overemphasized.

Sincerely,

Jackie Nickel

Jackie Nickel
President

PROTESTANT'S
EXHIBIT NO. 4