Exhibits Listing:

- Exhibit 1-A: Looking at 2301 and 2217 Sulphur Spring Rd from 2222 Sulphur Spring Rd.
- Exhibit 2-A: Google Maps photo from August 2018
- Exhibit 2-B: Google Maps photo prior to August 2018
- Exhibit 2-C: Google Maps photo from August 2018
- Exhibit 3-A: Looking down driveway of 2217 at Sulphur Spring Rd. 2301 on right side. Summer 2019.
- Exhibit 3-B: From street looking up 2217 Sulphur Spring driveway. 2301 on left side. Summer 2019.
- Exhibit 3-C: On 2301 Sulphur Spring Rd. property expansion looking at 2217 Sulphur Spring Rd.
- Exhibit 4-A: Google Maps aerial photo from late summer 2019
- Exhibit 4-B: Google Maps aerial photo from December 2021
- Exhibit 5-A: Looking at 2301 Sulphur Spring Rd. water drainage from 2217 Sulphur Spring Rd.
- Exhibit 5-B: Looking at 2301 Sulphur Spring Rd. water drainage from 2217 Sulphur Spring Rd.
- Exhibit 5-C: Looking at 2301 Sulphur Spring Rd ineffective drain from 2217 Sulphur Spring Rd.
- Exhibit 5-D: Looking at 2301 Sulphur Spring Rd ineffective drain from 2217 Sulphur Spring Rd.
- Exhibit 5-E, F: Looking at 2301 Sulphur Spring Rd. ineffective drain from 2217 Sulphur Spring Rd. (left). 2217 Sulphur Spring Rd. driveway (right).
- Exhibit 5-G: September 2020 water flow after first small expansion
- Exhibit 5-H: September 2020 water flow after first small expansion
- Exhibit 5-I: Flooding in 2217 Sulphur Spring Rd. front yard coming from 2301 Sulphur Spring Rd.
- Exhibit 5-J: Flooding in 2217 Sulphur Spring Rd. front yard coming from 2301 Sulphur Spring Rd.
- Exhibit 5-K: Ineffective drain at 2301 Sulphur Spring Rd.
- Exhibit 6-A,B: Facebook photos from 2301 Sulphur Spring Rd showing construction equipment storage expansion
- Exhibit 6-C: Facebook photos from 2301 Sulphur Spring Rd showing construction equipment storage expansion
- Exhibit 6-D: Facebook photos showing equipment storage after expansion at 2301 Sulphur Spring
- Exhibit 6-E: Facebook photos showing equipment storage after expansion at 2301 Sulphur Spring
- Exhibit 6-F: Facebook photos showing adding more equipment as of 11/22/22
- Exhibit 7-A: Trash piles on 2301 Sulphur Spring Rd. as of 12/05/22
- Exhibit 7-B: Trash piles on 2301 Sulphur Spring Rd. Summer 2022
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- Exhibit 13-A: – Lot overcrowding. Does not allow off-street employee car parking. 04/24/23.

Exhibits 14 A-C: Zoning Documents

- Exhibit 14-A: Code Enforcement Correction Notice
- Exhibit 14-B: 253.4 Uses within 100 feet of residential boundaries and motorways; screening.
- Exhibit 14-C: 241.3 Display and storage of products.
- Exhibit 14-D: 255.1 Area regulations.
- Exhibit 14-E: 238.1 Front Yard and 238.2 Side and rear yards.
- Exhibit 14-F: 307.1 Authority to grant variances; procedures and restrictions.
- Exhibit 14-G: 502.1. Conditions determining granting of special exception

Exhibits 15 A-C: Fitch Avenue Zoning Hearing

- Exhibit 15-A: 4217 Fitch Ave. Case #2016-0328-SPHA | Pg. 1
- Exhibit 15-B: 4217 Fitch Ave. Case #2016-0328-SPHA | Pg. 2
- Exhibit 15-C: 4217 Fitch Ave. Case #2016-0328-SPHA | Pg. 3

Exhibits 16 A-E: Cromwell V. Ward Zoning Hearing

- Exhibit 16-A: Cromwell v. Ward | Pg. 1
- Exhibit 16-B: Cromwell v. Ward | Pg. 2
- Exhibit 16-C: Cromwell v. Ward | Pg. 3
- Exhibit 16-D: Cromwell v. Ward | Pg. 4
- Exhibit 16- E: Cromwell v. Ward | Pg. 5

General Site Conditions: Pre August 2020

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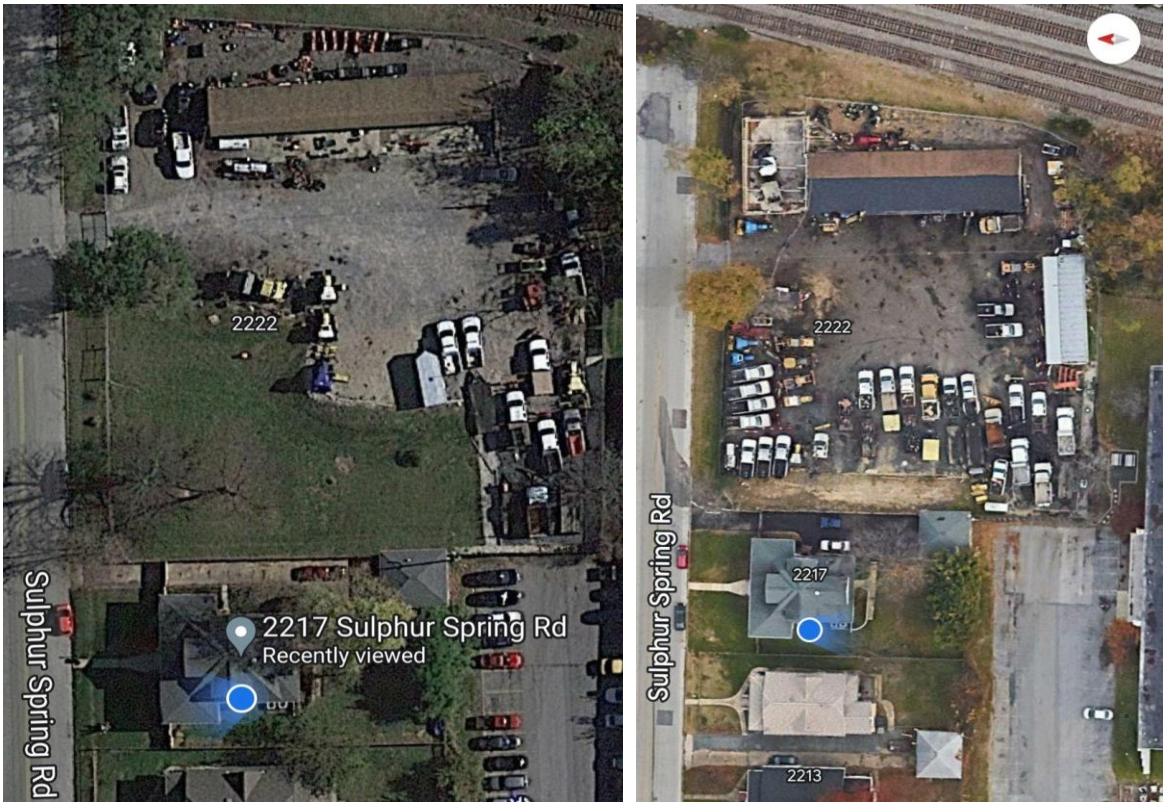

General Site Conditions: August 2020 – Present

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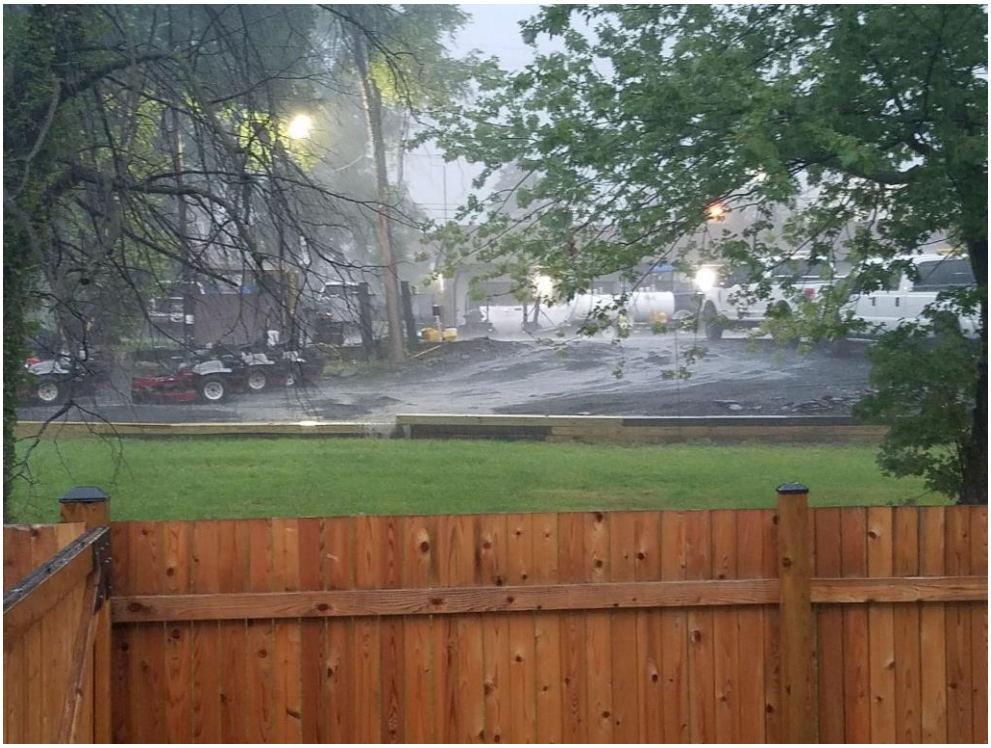

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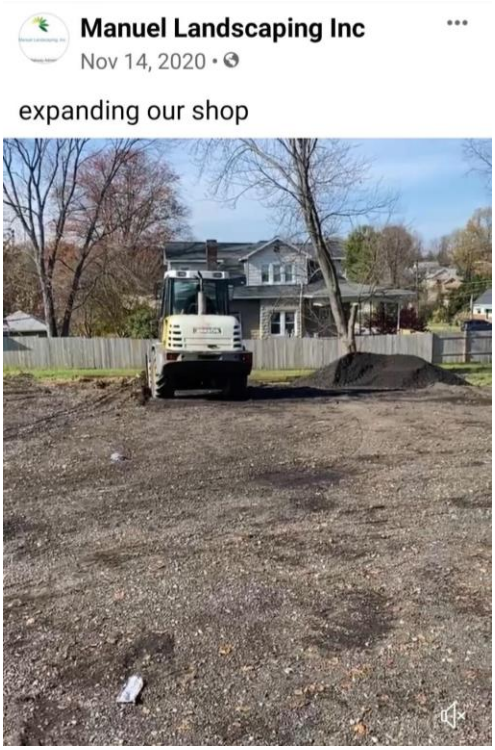
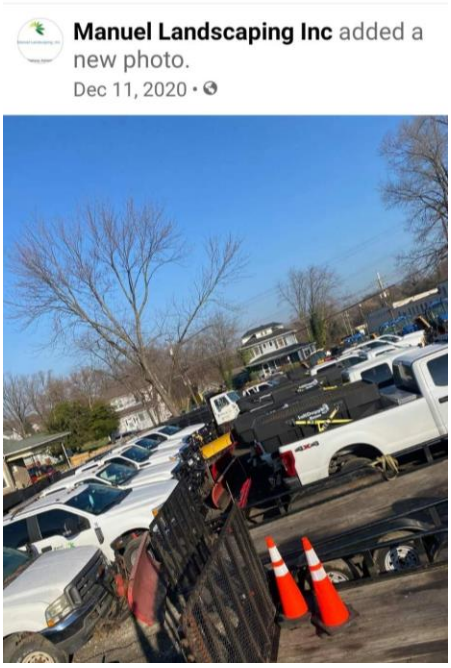


Exhibit 6-D and 6-E: Facebook photos showing equipment storage after expansion at 2301 Sulphur Spring Rd.



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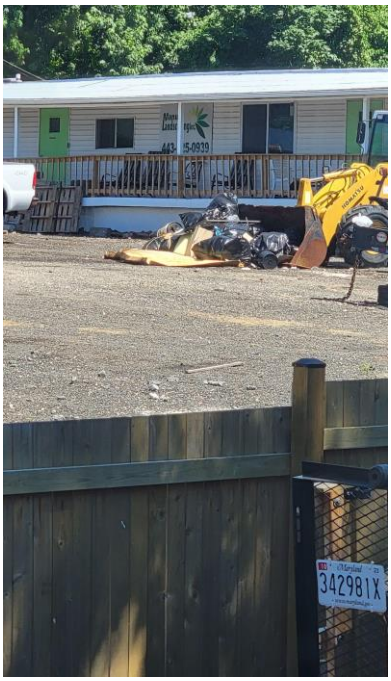

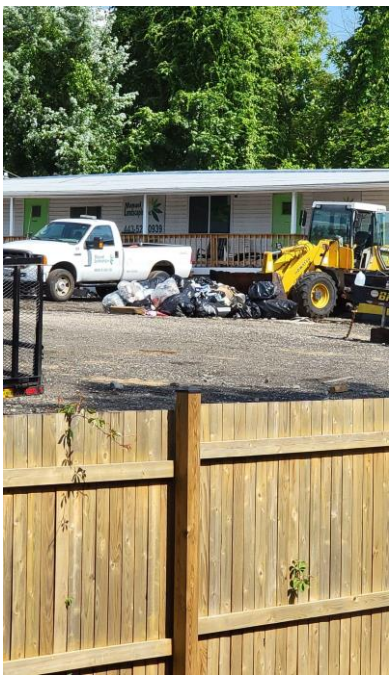

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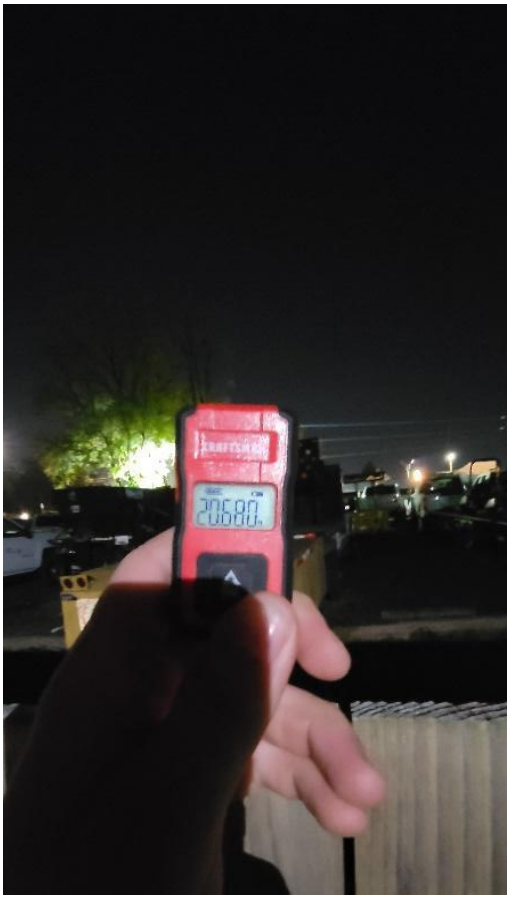

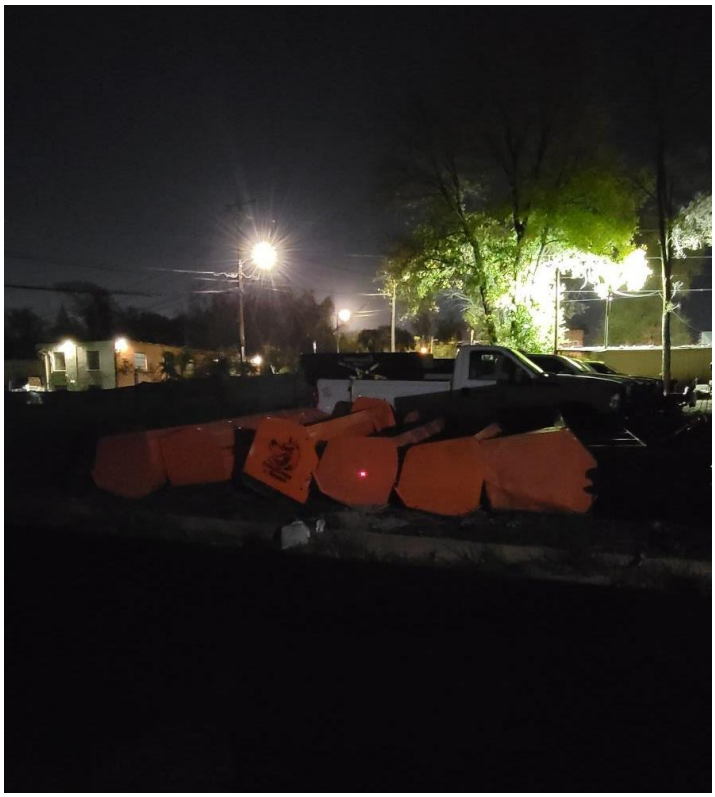

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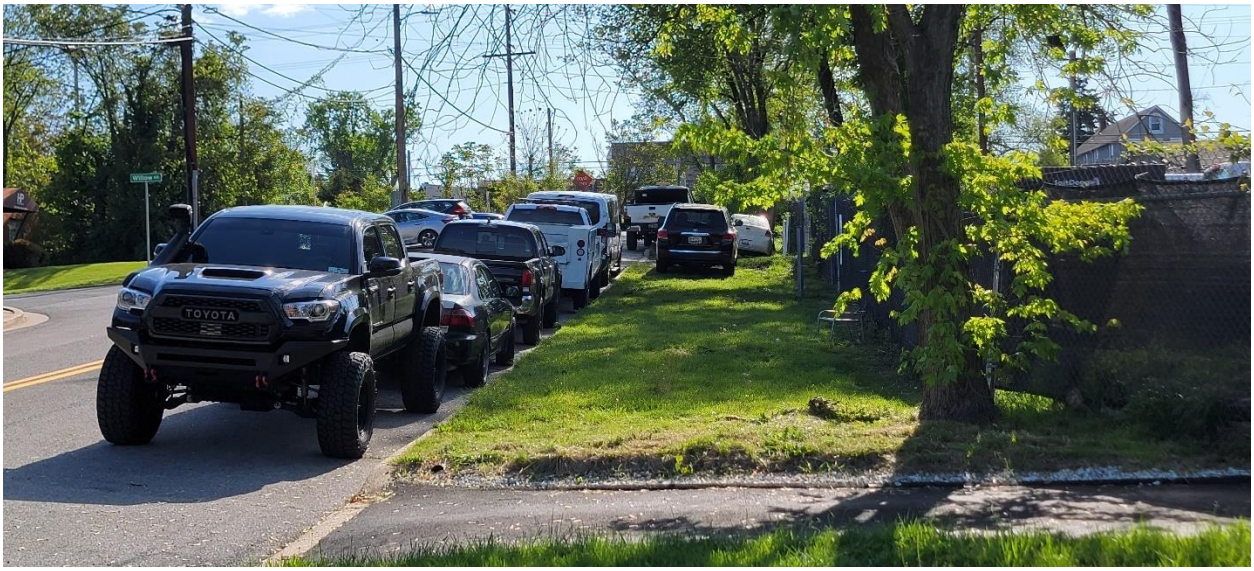

Exhibit 14-A:

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

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

CODE ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROP.TAX ID
CC2200491	13-23-000470

VIOLATION ADDRESS
2301 SULPHUR SPRING RD
HALETHORPE, MD 21227

SILVER SPRING CONTRACTOR INC
3315 DEVONSHIRE DR
BALTIMORE, MD 21215

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

County Codes/Regulations	Inspector's Comments
B.C.Z.R 500.9 BCZR; ZCPM; BCC: 32-3-102: Violation of commerical site plan and /or zoning order	** Employee parking only within 100ft of the property line that abuts a residential zone. ** Must obtain site plan and use and occupancy permit 253.4. - Uses within 100 feet of residential boundaries and motorways; screening. [Bill Nos. 176-1981; 31-1984; 137-2004] Within 100 feet of any residential zone boundary or the right-of-way of any street abutting such a boundary, only passenger automobile accessory parking and those uses permitted in M.R. Zones, as limited by the use regulations in Section 241, are permitted. Any use other than passenger automobile accessory parking and those uses permitted in M.R. Zones as limited by the use regulations in Section 241 established within 100 feet of the right-of-way of an existing or proposed freeway or expressway so designated by the Planning Board shall be screened from the motorway in accordance with the standards and criteria contained in the Baltimore County Landscape Manual adopted pursuant to § 32-4-404 of the Baltimore County Code. Notwithstanding the foregoing, no trucking facility or part of a trucking facility may be established within 100 feet of such a right-of-way.
Other Violation(s)	SECTION 253 - Manufacturing, Light (M.L.) Zone Use Regulations

Failure to comply with this correction notice, may result in a $200.00 fine/penalty per day, per violation pursuant to BCC: 1-2-217; 32-3-602 and/or the County sending a contractor to correct the violation(s) at your expense. Call the inspector for more information and details.

COMPLIANCE DATE: 02/28/2022	INSPECTOR ID: 56
	ISSUED DATE: 01/28/2022

Exhibit 14-B:

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§ 253.4. Uses within 100 feet of residential boundaries and motorways; screening.

[Bill Nos. 176-1981; 31-1984; 137-2004]

Within 100 feet of any residential zone boundary or the right-of-way of any street abutting such a boundary, only passenger automobile accessory parking and those uses permitted in M.R. Zones, as limited by the use regulations in Section 241, are permitted. Any use other than passenger automobile accessory parking and those uses permitted in M.R. Zones as limited by the use regulations in Section 241 established within 100 feet of the right-of-way of an existing or proposed freeway or expressway so designated by the Planning Board shall be screened from the motorway in accordance with the standards and criteria contained in the Baltimore County Landscape Manual adopted pursuant to § 32-4-404 of the Baltimore County Code. Notwithstanding the foregoing, no trucking facility or part of a trucking facility may be established within 100 feet of such a right-of-way.

Exhibit 14-C:

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§ 241.3. Display and storage of products.

No outside display or storage of products or materials of any kind is permitted in the front, side or rear yards.

Exhibit 14-D:

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§ 255.1. Area regulations.

The area regulations in the M.L. Zone shall be the same as those in B.R. Zone unless such B.R. Zone regulations conflict with the provisions of Section 255.2[1]

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[1] 1. **Editor's Note—**Part of former Subsection 255.1, added by Bill No. 56-1961 was revised by Bill No. 85-1967 and redesignated as Subsection 255.2.

Exhibit 14-E:

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§ 238.1. Front yard.

Front yard for residences, as in Sections 302 and 303.1; for commercial buildings the front building line shall be not less than 50 feet from the front property line if on a dual highway; and not less than 25 feet from the front property line and not less than 50 feet from the center line of any other street, except as specified in Section 303.2.

§ 238.2. Side and rear yards.

Side and rear yards for residences, as in Section 302; for other buildings, 30 feet.

Exhibit 14-F:

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§ 307.1. Authority to grant variances; procedures and restrictions.

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 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.[1]

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[1] 1. **Editor's Note—**Apparently conflicts with certain provisions found in the Baltimore County Code, 2003, as revised, which prescribe requirements with respect to notice and hearing regarding conventional reclassification petitions that differ from those which it prescribes regarding variance petitions. See the Appendices of this volume for excerpts from the Baltimore County Code, 2003. See § 32-3-301 for authority of the Zoning Commissioner to grant variances, and § 32-3-103 for provision regarding conflicts between Article 32, Title 3 of the Baltimore County Code, 2003 and the Zoning Regulations. 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.

Exhibit 14-G:

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§ 502.1. Conditions determining granting of special exception.

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;

B. Tend to create congestion in roads, streets or alleys therein;

C. Create a potential hazard from fire, panic or other danger;

D. Tend to overcrowd land and cause undue concentration of population;

E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

F. Interfere with adequate light and air;

[Bill No. 45-1982]

G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;

[Bill No. 45-1982]

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor

[Bill No. 45-1982]

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone, and for consideration of a solar facility use under Article 4F, the inclusion of the R.C. 3, R.C. 6, and R.C. 8 Zones.

[Bill Nos. 74-2000; 37-2017]

§ 502.2. Protection of surrounding properties; agreement governing special exception.

In granting any special exception, the Zoning Commissioner or the Board of Appeals, upon appeal, shall impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a special exception is granted, if required by the Zoning Commissioner, or Board of Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County,[1]stipulating the conditions, restrictions or regulations governing such special exception, the same to be recorded among the land records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such special exception. When so recorded, said agreement shall govern the exercise of the special exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.

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[1] 1. **Editor's Note—**Under Section 1107 of the Baltimore County Charter, the County Council and County Executive have succeeded "to all powers heretofore vested in the county commissioners by the constitution and laws of this state."

Exhibit 15-A: 4217 Fitch Ave. Case #2016-0328-SPHA

F1

IN RE: **PETITIONS FOR SPECIAL HEARING AND VARIANCE**	*	BEFORE THE
(4217 Fitch Avenue)	*	OFFICE OF
14th Election District		
5th Council District	*	ADMINISTRATIVE HEARINGS
Community Enterprise, Inc.		
Owner	*	FOR BALTIMORE COUNTY
Petitioner		
	*	**Case No. 2016-0328-SPHA**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Community Enterprise, Inc., legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) to determine if the sorting of material from a construction site by a tenant, a general contractor, can be done on-site, outside of the building, prior to hauling the material to a recycling center. In addition, a Petition for Variance seeks to reduce the setback from a residential zone boundary to 35 ft. in lieu of the required 100 ft., for construction equipment storage as shown on the "Plan to Accompany Petition," which was marked and accepted into evidence as Petitioner's Ex. 1.

Appearing at the public hearing in support of the requests were Paul Redding and landscape architect Thomas Hoff. James S. Pezzulla, Esq. represented the Petitioner. Several members of the community attended and opposed the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP). In addition, the zoning review office indicated it "does not permit someone to sort materials outside of a structure."

Exhibit 15-B: 4217 Fitch Ave. Case #2016-0328-SPHA

F2

The subject property is 3.52 acres in size and is zoned ML-IM. The site is bound on two sides by D.R. zoned parcels. For many years an 84 Lumber store operated at the site, and Petitioner acquired the property in 2010. The site is leased to a company known as A-L Abatement, Inc. (A-L), which is a general contractor. Mr. Redding explained A-L brings to the site by truck construction waste materials (from its own projects) such as concrete, metal and wood. These materials are then sorted and placed into separate dumpsters, which are later taken from the site to be sold or disposed of. In addition, asbestos containing products removed from construction projects are brought to the site by A-L and are stored in an enclosed truck trailer at the site, and the witness stated such materials are handled safely in compliance with federal and state regulations.

In addition to a special hearing request, Petitioner requests a variance to reduce the "setback from a residential zone boundary to 35' in lieu of the required 100' for construction equipment storage." Having reviewed the M.L. zone regulations, I do not believe the Administrative Law Judge (ALJ) is authorized to grant the request.

Under the B.C.Z.R., the ALJ is authorized to grant variances from height and area, parking and sign regulations <u>only</u>. Indeed, the Regulations state the ALJ "shall have no power to grant any other variances." B.C.Z.R. §307.1. In this case, I do not believe the referenced 100' is a "setback" or area regulation. The applicable setbacks in the M.L. zone are set forth at B.C.Z.R. §255. That regulation provides that if the yard area is located within 100 feet of a residential zone boundary the applicable setbacks are those found in the M.R. zone. B.C.Z.R. §255.2. Under the M.R. regulations, side and rear yards must be at least 50 ft., while the front yard setback is 75 ft. B.C.Z.R. §243.1, 243.2 and 243.3.

Exhibit 15-C: 4217 Fitch Ave. Case #2016-0328-SPHA

F3

The 100' buffer at issue in this case is found at B.C.Z.R. §253.4, which governs "uses" in the M.L. zone within 100 feet of a residential zone boundary. If a property is located within 100 ft. of a residential zone boundary (as this property is), the only uses permitted are passenger vehicle parking and those uses permitted in the M.R. zone. The uses allowed in the M.R. zone are listed at B.C.Z.R. §241. A "contractor's equipment storage yard" or "construction equipment storage yard" is not permitted. In fact, all of the uses allowed in the zone must be conducted "entirely within an enclosed building," a point highlighted by the zoning review office.

As such I do not believe the 100 ft. requirement is a "setback." Instead, it is a buffer, the reduction of which would in my opinion constitute a "use variance" not permitted under the B.C.Z.R. In other words, by reducing the buffer to 35 ft. the Petitioner would be entitled to engage in a much greater number of uses (as specified in B.C.Z.R. §253.1) including a "construction equipment storage yard." Under the regulations only height, area, sign and parking variances may be granted, and thus I believe the Petition must be denied.

THEREFORE, IT IS ORDERED this **24th** day of August, 2016, by this Administrative Law Judge that the Petition for Variance which seeks to reduce the setback from a residential zone boundary to 35 ft. in lieu of the required 100 ft. for construction equipment storage as shown on the "Plan to Accompany Petition," be and is hereby DENIED.

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

_____Signed_____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

Exhibit 16-A: Cromwell v. Ward

Cw1

Cromwell v. Ward

Court of Special Appeals of Maryland

Jan 4, 1995

102 Md. App. 691 (Md. Ct. Spec. App. 1995)

Copy Citations

Download Treatment

No. 617, September Term, 1994.

Decided January 4, 1995.

Appeal from the Circuit Court, Baltimore County, Lawrence Daniels, J. *692

Michael Paul Smith (Thomas G. Bodie and Bodie, Nagle, Dolina, Smith Hobbs, P.A., on the brief), Towson, for appellants.

Newton A. Williams (Nolan, Plumhoff Williams, Chtd., on the brief), Towson, for appellee.

Argued before WENNER, CATHELL and MURPHY, JJ.

Exhibit 16-B: Cromwell v. Ward

240 Md. at 554, 214 A.2d 810. The Court first quoted from 2 Rathkopf, *The Law of Zoning and Planning*, § 48-1, and then noted:

> "Where property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions . . . hardship arises. . . . [The restrictions of the ordinance, taken in conjunction with the unique circumstances *affecting the property* must be the proximate cause of the hardship.] . . [T]he [hardship, arising as a result of the act of the owner . . . will be regarded as having been self-created, barring relief.] . . ."

Exhibit 16-C: Cromwell v. Ward

CW2

> within the above general rule. . . . [I]f the appellees had used proper diligence . . . and then made accurate measurements . . . [the resultant hardship could have been avoided]. The hardship . . . was entirely self-created.] . .

Id. at 554-55, 214 A.2d 810 (emphasis added). [Had Ward's contractor, Huber, in the case at bar, checked the ordinance's height limitation, the situation that now exists could easily have been avoided.] *See also Burns v.*

Exhibit 16-D: Cromwell v. Ward

Cw3

We resolve here only the issue of the granting of the variance sought and applied for by Ward.

There was no evidence submitted to the Board that the subject site was in any way peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's height restriction's impact upon the subject property would be different than the restriction's impact upon neighboring properties. In essence, the impact would be the same. The first step of the variance process was thus not met. Had there been evidence before the Board indicating that the subject property was peculiar or unusual and, thus, disproportionately affected by the height restriction, then we might have been able to conclude that the Board was correct. There was, however, no such evidence presented. Therefore, the Board's granting of the variance was arbitrary and illegal.

Exhibit 16-E: Cromwell v. Ward

Cw4

It is not the purpose of variance procedures to effect a legalization of a property owner's intentional or unintentional violations of zoning requirements. When administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policymakers. That is improper. We shall reverse.

JUDGMENT REVERSED; COSTS TO BE PAID BY APPELLEE.