IN THE MATTER OF EDGEMERE WILDLIFE TRUST, L.A. CRITES, TRUSTEE AND LEGAL OWNER EDWARD CRIZER, PETITIONER FOR SPECIAL HEARING ON THE PROPERTY LOCATED AT 2621-2623 BRANNAN AVENUE 15th ELECTION DISTRICT 7th COUNCIL DISTRICT	*	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY Case No.: 22-269-SPH

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

OPINION

This case comes to the Board of Appeals of Baltimore County ("Board") as the result of a Petition for Special Hearing filed by Edward Crizer ("Petitioner"). The Petition requested a Special Hearing to determine: (1) whether a previously approved nonconforming use at 2621-2623 Brannan Avenue ("subject property") has been abandoned, and (2) whether any new home constructed on the site is limited to a one family home. The current owner of the subject property is the Edgemere Wildlife Trust ("EWT") ("Respondent/Appellant"). L.A. Crites is the trustee. The Petitioner is the owner of 2627 Brannan Avenue.

The matter was first heard before Administrative Law Judge (ALJ) Paul M. Mayhew, who by an Order dated March 6, 2023, found that the nonconforming use had been legally terminated and any new home construction on the subject property was limited to a one-family home. The owner filed a timely appeal to the Board.

The Board held an in person *de novo* hearing on August 29 and August 31, 2023. The Petitioner was represented by Arnold Jablon, Esquire. The Owner was represented by Timothy Manuelides, Esquire of Timothy Manuelides, LLC. Peter Max Zimmerman, Esquire, entered his appearance on behalf of the Office of People's Counsel. Following the hearing, the parties submitted memoranda. The Board held a remote public deliberation using Webex on October

26, 2023. As discussed below, the Board ruled unanimously that the nonconforming use had been terminated and that any new home construction was limited to a single-family home.

FACTUAL BACKGROUND

The subject property is approximately 7,628 square feet. It is zoned DR 5.5. The subject property was the focus of Case No. 2004-567-SPHA in which Deputy Zoning Commissioner ("DZC") John V. Murphy found a valid non-conforming use for a two-family attached dwelling. DZC Murphy denied a variance for the construction of a third apartment on the site. At the time, the property was zoned DR 3.5. Given the small lot size, a two-family unit was not otherwise permitted. Later, the zoning was changed to DR 5.5, but the same restriction applied.

The owner of the property at that time was John Podles, Jr. Mr. Podles passed away in 2019, and ownership passed to EWT. A woman by the name of L.A. Crites is the trustee. Robert Podles, the deceased's son, took over management of the property. Mr. Podles testified that he is a property manager, real estate agent, and general contractor. He stated that he has been managing properties for about 10 years.

The property remained more or less rented until 2020.[1] The situation as to the occupancy of the two units is somewhat murky. As to 2621 Brannan Road, Mr. Podles testified that the primary tenant had been Stephanie Casey. Mr. Podles presented a ledger entry that purported to show rent collected from Ms. Casey on or about June 10, 2021.[2] (Respondent's Ex. 7-8.) In

[1] During the hearing, the Board inquired about the possibility of an abandonment between 2004 and 2020. Some evidence was presented for and against that proposition. The Board determined that the evidence was insufficient to establish an abandonment during that period.

[2] Appellant's Memorandum indicates that Ms. Casey renewed a lease sometime after June 15, 2020, and as of June 2021, it is asserted that she was living there as a month-to-month tenant under "an expired lease." Appellant's Memorandum at p. 4. It was significant to the Board in assessing the weight of the evidence that no lease documents were presented.

addition, Mr. Podles presented evidence of an action he initiated against Ms. Casey in November 2020 as a tenant holding over. This indicates at the very least that there was no operative lease at that point. According to the records presented, the District Court ordered possession of the property returned to the landlord on April 13, 2021. (Respondent Exhibit 9A.) Robert Podles testified that Ms. Casey moved from the premises on or about June 11, 2021. Once again, no lease was presented to show that that individual had a tenancy at 2621.

As to 2623, the primary tenant had been Mary Moore, generally referred to as Cookie. According to Mr. Podles, Ms. Moore had resided in the property until July/August 2021. At that time, he obtained an order of restitution from the District Court, and as of then, the property became vacant. Mr. Podles testified that she remained in the premises until August 2021. He offered into evidence a Property Release Agreement from August 2021, which, according to him, evidenced that she had remained as an occupant until then, or she at least had the right to occupancy until then. The Property Release Agreement dated August 13, 2021, however, was executed by an individual named Nicholas Hildebrandt and purported to surrender legal right to 2623. It was never adequately explained exactly who Mr. Hildebrandt was, what his relationship was to Cookie, and why he had legal right to the property.[3] No lease was presented. People's Counsel presented evidence that Mr. Hildebrandt was living at an address in Parkville during this time period.

[3] The Board determined that if there was a valid lease for either property that extended into the relevant time period, then that lease legitimized the tenant's right to possess the property for the lease term. So, for example, if Mr. Hildebrandt had such a lease, but did not actually occupy the property, then that situation would suffice to demonstrate that the property was being used as a rental property for the purposes of the determining whether the nonconforming use was being utilized. *See Trip Associates v. Mayor and City Council of Baltimore*, 392 Md. 563, 577-78 (2006) (holding that a nonconforming use continued for an adult theater even though property owner did not apply for a required license to operate such a business). However, no lease was ever presented, and no real or satisfactory explanation was provided as to who Nicholas Hildebrant is.

Petitioner Crizer and the two neighborhood witnesses, Joseph Vrablic, and Brian McVey, all live several doors from the subject property.[4] They knew the tenants from direct interactions in the neighborhood. The tenants had young children, and there was typically much activity associated with the property. As to 2621, Petitioner and the two neighborhood witnesses each testified that the property had been vacated as of June 2020. As to 2623, they testified that Cookie had vacated the premises in January 2020.

As to the question of occupancy, Than Nguyen, a draftsman called by Appellant, testified that he visited the property in late 2020 or early 2021 to do design drawings for the re-modeling. He walked through 2623 which was vacant. He did not walk through 2621 because it appeared to be occupied.

The testimony of two other significant witnesses, William Adams and Jeffrey Perlow, is discussed below in the context of the legal issues related to their largely uncontested testimony.

DISCUSSION

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 valid nonconforming use of 2621-23 Brannan Avenue has been abandoned and/or extinguished.

The definitive Maryland case on nonconforming uses is *Prince George's County v. E. L. Gardner, Inc.*, 293 Md. 259 (1982). As *Gardner* indicates, nonconforming uses are highly disfavored because they undermine zoning consistency, land use controls, community-wide

[4] Edward Crizer lives at 2627. Joseph Vrablic lives at 2616. Brian McVey lives at 2618.

planning, and neighborhood stability. *Id.* at 267, quoting *Grant v. Mayor and City Council of Baltimore*, 212 Md. 301, 307 (1957). One of the core concepts behind nonconforming uses is the expectation that that use will ultimately fade away over time "through economic attrition and physical obsolescence. *Id.* at 268. The principles governing the abandonment or extinguishing of a nonconforming use are controlled by local regulation, but *Gardner* instructs that such regulations ". . . must be strictly construed in order to effectuate the purposes of eliminating nonconforming uses." (citations omitted) *Id.*

As it pertains to this case, the BCZR provides two ways in which a nonconforming use terminates. First, if the property is razed due to a casualty loss, it can (and must) be rebuilt within two years in order to preserve the nonconforming use. (BCZR §104.2.) Otherwise, demolishing the building extinguishes the nonconforming use. Secondly, if the nonconforming use ceases for an uninterrupted one-year period of time, it is deemed abandoned. (BCZR §104.1.) There is no requirement that the property owner intends to extinguish or abandon the nonconforming use or even know that such a possibility exists. *Catonsville Nursing Home, Inc., et al. v. Loveman*, 349 Md. 560, 581-82 (1998). If the owner inadvertently razes the property under circumstances that do not permit its reconstruction in a way to maintain the nonconforming use or if the owner inadvertently allows the property to remain vacant for a one-year period, the nonconforming use is terminated. *Id.*

Though the burden of establishing a non-conforming use is on the party seeking to establish that use, it is not clear upon whom the burden of proof rests in the context of the abandonment of the non-conforming use. Notwithstanding the strong judicial disfavor of non-conforming uses reflected in the cases cited above, the Board determined that the burden of proof rightly rested on the parties seeking to terminate the nonconforming use. This conclusion is

consistent with the general principle that a party seeking to establish an affirmative point has the obligation to prove that point. *Daniels v. Superintendent*, 34 Md. App. 173, 180 (1976); *Operations Research, Inc. v. Davidson and Talbird, Inc., et al.*, 241 Md. 550, 574 (1966).

With this background in mind, the Board's rulings as to the Brannan properties are, in the alternative, as follows:

1. A slow deterioration over time of a property is not a casualty loss within the meaning of BCZR §104.2, and therefore, the nonconforming use was extinguished when the property was razed;
2. Even if a slow deterioration over time can be a casualty loss within §104.2, the owner did not make an adequate presentation to the Baltimore County Office of Permits, Approvals and Inspections (PAI) of such a loss, and therefore, the nonconforming use was extinguished when the property was razed; and/or
3. The property was vacant for a one-year period of time, and therefore the nonconforming use as the rental of a duplex had been abandoned by reason of §104.

I. THE SUBJECT PROPERTY DID NOT EXPERIENCE A CASUALTY LOSS AS UNDERSTOOD WITHIN THE BCZR

As indicated above, if the property owner suffers a "casualty" loss, then the BCZR confers upon the property owner two years to replace the building which was the casualty. If the building is replaced (but not expanded in any fashion) within that time frame, then the nonconforming use continues. (BCZR §104.2.) In this matter the Board concluded that EWT did not incur a casualty loss. Accordingly, when the building was demolished, the nonconforming use was extinguished.

The first question is the meaning of "casualty" within §104.2. It is undefined in the regulations, so it is necessary to consult Webster's Third International Dictionary. There is no

need to quote that rather lengthy definition here, but it is abundantly clear that that definition embraces chance occurrences, accidents, sudden events, and unexpected and unforeseen happenings. Black's Law Dictionary also defines casualty as an "accident", "an unintended and unforeseen injurious occurrence," and "any unwanted or harmful event occurring suddenly." In short, the dictionary definitions embrace an unanticipated event or occurrence that happens suddenly in time and does not include a slow deterioration over time.

The Maryland case law takes a similar view. In *Ewing v. Price*, 60 Md. App. 313, 319-22 (1984), the Court was called upon to decide whether the loss of a commercial lease was a "casualty" for the purposes of Baltimore County's towing company regulations. This Board had held that the loss of a lease was a casualty loss. The Maryland Appellate Court reversed, holding that the word "casualty" means "accident", and "an undesigned, sudden, and unexpected event", citing *United States v. Rogers*, 120 F.2d 244, 246 (9th Cir.1941); *Fay v. Helvering*, 120 F.2d 253, 253 (2nd Cir. 1941); and *Tank v. Commissioner of Internal Revenue*, 270 F.2d 477, 482 (6th Cir. 1959). The three cases cited by *Ewing* are all federal tax cases, and they all construe the word "casualty" as requiring suddenness. The Internal Revenue Service permits a deduction for casualty losses, and such losses have long been understood as a loss resulting from "storm, fire, car accident, or similar **event**" (emphasis supplied). (26 U.S.C. § 165(h) and IRS Publication 547.) As an indication of just how longstanding this understanding of casualty has been, ninety years ago *Matheson v. Commissioner*, 54 F.2d 537, 539 (2nd Cir. 1931) held that damage resulting from long-term water erosion of a concrete pier was not a casualty loss for federal tax purposes.

Jeffrey Perlow, the zoning supervisor in the Department of Permits, Approvals, and Inspections ("PAI"), testified that it was the practice of his office to permit the continuation of a

nonconforming use if the building had to be removed because of slow deterioration as long as the damage to the building was adequately attested to by an engineer. As to the first question, *i.e.,* was there a casualty loss, his office construed the word "casualty" in §104.2 to include the long-term decline in a building's condition such that removal of the building was required. The meaning of the word "casualty" in the BCZR is a legal conclusion; it is not a zoning term of art. PAI's expansive reading of "casualty" 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. While it is often proper to accord deference to an administrative agency when it is construing its own statutory and regulatory authority, that is not the case with regard to the meaning of a legal term of art. *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). The definition of "casualty" is a legal question, not a zoning one. As such, Mr. Perlow's construction of "casualty" is not entitled to any deference. However, even if such deference were accorded to Mr. Perlow's view, we would nonetheless hold as we do that "casualty" does not embrace a slow deterioration over time. As indicated above, there is no support anywhere for the notion that casualty means a slow deterioration over time, and any special regard for PAI's practice and understanding is far outweighed by the clear meaning of "casualty" throughout Maryland law and beyond. Indeed, built into nonconforming use jurisprudence is the very expectation that the use will eventually

end, as it did here, because of "physical obsolescence". *See Purch v. Draper Enterprises*, 395 Md. 694, 711 (2006) (quoting *Gardner*, *supra*, 2293 Md. at 267).

Having determined the meaning of the word "casualty", we then turn to the testimony in this case which clearly does **not** establish that any sudden occurrence transpired here. Mr. Podles himself testified that there were "bad kickplates", but he did not attribute this problem to any sudden event. He also indicated that he was informed by one of his workers, Daxio Lopez, that there was damage to the foundation due to long-term water exposure. The Appellant called a structural engineer, William Adams. Mr. Adams testified that he visited the property on June 28, 2022. The structure had been stripped to the foundation by then. In his view, it was necessary to remove the footings. He stated that the foundation at its center did not meet code, that part of the rear foundation did not meet code, and that the foundation did not have the width to support the building above. He did not identify any sudden or unexpected event like a flood that resulted in the compromise of the foundation and the need to tear down the building. Indeed, he gave no specific cause for the deterioration of the foundation or of rotting wood in any part of the foundation. The gist of his testimony was that the building had been built at a time when the foundation requirements were less stringent than today's standards, and once those inferior components were exposed, it was necessary to replace the building. In short, the building was razed because it was old, substandard, and had deteriorated over time. The building was torn down before a permit had been issued, without any testimony about an unexpected or sudden event that necessitated razing. The testimony was clear that the building was old, structurally deficient, and had outlived its structural integrity. The deficiencies may not have been discovered until the rehabbing began, but the point is the same: there had been no casualty loss that necessitated the removal of the building.

Finally, as indicated above, Mr. Perlow also testified that PAI imposes a procedural requirement that any casualty claim be supported and documented by a licensed and qualified engineer. Though not in the BCZR, this requirement is exceedingly sound because it means that the agency's determination is based on real expertise and not some lay or otherwise uninformed opinion. It protects against the assertion of fraudulent claims. The County has neither the staff nor the funds to have an engineer investigate every claim. But the County is understandably comfortable accepting the findings of a private licensed professional who can stand behind their assessment. This is a reasonable procedural requirement by the agency designed to make its own regulations function smoothly, rationally, and with integrity. This is the very essence of the type of operation that merits deference. Mr. Perlow testified that this procedural requirement was conveyed to Mr. Podles, but no certification of casualty was received by an engineer. This means that there was no proof of a casualty loss – no matter how defined – presented to PAI. Moreover, the Respondent never suggested to the Board that the documentation process was unfair, irrational, or prejudicial. Consequently, in this matter, assuming *arguendo* that there was a casualty loss – which is a **huge** assumption, the failure by EWT to adequately or properly document that loss to the County means that the loss was not available to trigger the exception in §104.2. Accordingly, the non-conforming use was forfeited by the failure to adequately document a casualty to PAI.

II. BECAUSE THE EVIDENCE ESTABLISHED THAT THE PROPERTY WAS VACANT FOR A ONE YEAR PERIOD OF TIME, THE NONCONFORMING USE WAS ABANDONED.

As an alternative basis for its finding, the Board concluded as a factual matter that the property had been abandoned for over one year, meaning that one or both of the units had been

vacant for a period in excess of one year. As a result, the non-conforming use had been extinguished. (BCZR §104.1.)

The building at issue is a duplex. There was testimony regarding the two tenants, Stephanie Casey at 2621 Brannan Avenue; and Mary "Cookie" Moore at 2623. Mr. Podles testified that both of the respective homes were occupied during the time period of 2020 through a significant portion of 2021. Messrs. Crizer, Vrablic, and McVey testified that Ms. Casey vacated the premises in June 2020, and Ms. Moore left in January 2020.

In support of the Casey tenancy, Mr. Podles presented a District Court Order of Restitution dated July 2021. He also introduced two so-called ledger entries for Ms. Casey, but they were not dated. No leases were presented.[5]

As to Ms. Moore in 2623, the evidence from EWT is equally sketchy. Mr. Podles testified to Mr. Hildebrandt's occupancy and/or control during the relevant time period. In terms of documentation, Mr. Podles presented a document entitled "Property Release Agreement" for 2623. The Agreement appears to be signed by Nicholas Hildebrandt, but the document only supports Mr. Hildebrandt turning in the keys for 2623. It is not clear whether Mr. Hildebrandt was an actual occupant after Ms. Moore or whether he was supposedly acting on behalf of Ms. Moore when the key was allegedly returned. Once again, no leases were presented, and there was no explanation of the relationship, if any, between Ms. Moore and Mr. Hildebrandt. And, as indicated above, People's Counsel presented evidence that Mr. Hildebrandt was and had been

[5] Edgemere Wildlife argued that if a tenancy existed, but the tenant was not occupying the premises, that such a situation counted as non-abandonment because the tenant had the right to occupy the premises during the lease period. The Board accepts that argument without reservation. *Cf. Trip Associates, Inc. v. Mayor and City Council of Baltimore*, 392 Md. 563, 577-78 (2018) (holding that the nonconforming use as an adult nightclub continued even though the owner had not obtained a necessary license to so operate). The problem here is that no lease was presented so there is inadequate evidence of Ms. Casey's alleged leasehold interest.

living in Parkville at the time he is credited with returning the key. There also may have been some relationship between Mr. Podles and Mr. Hildebrandt, but that question was left quite muddled. Finally, Mr. Nguyen indicated that when he walked through 2623, in late December 2020 or early January 2021, the unit was vacant.

On the question of when the tenants left the respective premises and whether the properties were vacant thereafter, Messrs. Crizer, Vrablic, and McVey were credible and convincing. One of these men stumbled a bit in his testimony regarding the demolition of a portion of the structure, and his testimony was contradicted by a video taken of that demolition. But as to the occupancy of the units and the times when the tenants vacated the units, they were quite credible. First, the points to be established were mutually corroborated by all three men (unlike the demolition of the wall). It is not believable that all three conspired together to lie about this point. They all testified in a straightforward manner, their demeanor on the witness stand was polite and credible, and they withstood cross examination on these central points without any serious challenge.[6] Second, these three men and their families lived in close proximity to the subject property and were concerned about its condition and maintenance throughout the years. Thus, they were in a position to know and monitor what was occurring with regard to the properties. Third, Ms. Casey and Ms. Moore were visible in the community primarily because of their children who played in their yards and took the school bus. As a result, Messrs. Crizer, Vrablic, and McVey were in a position to notice when those individuals and their children left the area. Fourth, they had a passing relationship with Ms. Casey and a rather cordial

[6] Their credibility was enhanced by their reluctance to seize upon the opportunity to assert that there had been a one-year vacancy during the period of 2004 to 2020, which had been a possibility raised by the Board. None of the three was willing to provide any concrete evidence to support that position. That they were unwilling "to stretch" their testimony on that point makes their testimony on the actual timing of the vacating of the premises somewhat more credible.

relationship with Ms. Moore. Again, because of their interactions with the tenant families, they had every opportunity and basis to know when those tenants left. They had no idea who Nicholas Hildebrandt was.

The permit to begin the rehabbing was issued in March 2022. The testimony of Messrs. Crizer, Vrablic, and McVey presented a convincing basis for the Board's conclusion that the tenants had vacated the premises at a time sufficiently in advance of the rehabbing effort so as to establish that the nonconforming use had been abandoned because the units were vacant for a one-year period or greater. It may well be that EWT was unaware of the significance of a one-year vacancy. As indicated above, however, it is not necessary for EWT to have understood the legal significance of the vacancy, and it could well be that EWT had no desire to abandon the nonconforming use. *Catonsville Nursing Home, Inc., et al. v. Loveman, supra*, 349 Md. at 581-82. Nonetheless, the vacancy of the two units for a year or more does extinguish the nonconforming use, and this Board concludes that the factual presentation by the neighbors and by People's Counsel established that one year vacancy by a preponderance of the evidence.

CONCLUSION

For the reasons stated herein, the Board concludes: (1) that the demolition of 2621-23 Brannan Avenue was not done as a result of a casualty loss, and therefore that demolition extinguished the pre-existing nonconforming use that allowed the duplex; (2) alternatively, in the event that a casualty loss can include a slow deterioration of the property over time within the meaning of BCZR §104.2, EWT's failure to properly document the "casualty" to PAI after express notice that such documentation was required also results in the extinguishing of the nonconforming use because no casualty was demonstrated; and (3) again alternatively, the Petitioner and People's Counsel proved that the property was vacant for one year or more prior

to the issuance of the permit to rehabilitate the property, and thus the vacancy constituted an abandonment of the nonconforming use pursuant to BCZR §104.1.

ORDER

THEREFORE, IT IS THIS 21st day of February, 2024, 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 nonconforming use which permitted the use of the property at 2621-23 Brannan Avenue as a duplex is hereby extinguished and/or abandoned, and any structure that is rebuilt on the site is limited to one single-family unit.

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

Joseph L. Evans, Chair

Fred M. Lauer

Michael J. Stelmack

Board of Appeals of Baltimore County

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February 21, 2024

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RE: In the Matter of: *Edgemere Wildlife Trust LA Crites Trustee – Legal Owner*
Edward Crizer – Petitioner
Case No.: 22-269-SPH

Dear Counsel:

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

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

Very truly yours,

Krysundra "Sunny" Cannington
Legal Administrative Secretary

KLC/taz
Enclosure
Multiple Original Cover Letters

c: See Distribution List Following

In the Matter of: Edgemere Wildlife Trust LA Crites Trustee – Legal Owner
Edward Crizer – Petitioner
Case No.: 22-269-SPH
February 21, 2024
Distribution List

Edgemere Wildlife Trust LA Crites Trustee
Edward Crizer
Joseph Vrablic, III
Bryan McVey
Maureen E. Murphy, Chief Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
Adam Whitlock, Chief of Code Enforcement/PAI
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law

Board of Appeals of Baltimore County

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September 25, 2023

NOTICE OF DELIBERATION

IN THE MATTER OF: Edgemere Wildlife Trust LA Crites Trustee – Legal Owner
Edward Crizer – Petitioner
22- 269-SPH 2621-2623 Brannan Avenue
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §§500.6 and 500.7 seeking a declaration that:
1) The previously approved nonconforming use has been abandoned; and
2) That a multi-family dwelling is not permitted on the subject property zoned DR 5.5

3/6/23 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, and DECLARED that 1) the non-conforming use authorized in Case No. 2004-567-SPHA has lapsed and is legally terminated; and 2) only one single family dwelling shall be permitted on the subject site and that dwelling must conform to all current zoning and development regulations.

This matter having been heard on August 29, 2023 and concluded on August 31, 2023, a public deliberation has been

ASSIGNED FOR: OCTOBER 26, 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 **OCTOBER 6, 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 Petitioner	: Arnold Jablon, Esquire
	Petitioner	: Edward Crizer
	Counsel for Legal Owner/Appellant	: Timothy Manuelides, Esquire
	Legal Owner/Appellant	: Edgemere Wildlife Trust LA Crites Trustee
	People's Counsel for Baltimore County	: Peter M. Zimmerman, Esquire

Joseph Vrablic, III
Bryan McVey

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

Tammy Zahner

From: Krysundra Cannington
Sent: Friday, September 1, 2023 9:21 AM
To: ajablon@comcast.net; Timothy Manuelides; Peter Max Zimmerman
Cc: Rebecca Wheatley; Tammy Zahner
Subject: Edgemere Wildlife Trust 22-269-SPH

Good morning Counsel,

At the conclusion of the hearing yesterday, the Board advised us that a video is to be submitted by thumb drive. Please be advised that County policy prohibits us from putting thumb drives into our computers. If a thumb drive is submitted, it will not be viewed.

We have a web transfer program that allows users to upload files that are too large to transfer via email. Please contact our office for information on how to send us documents through the web transfer program.

Please note, we are also prohibited from using Dropbox and Google Drive. Our web transfer program is the only approved way to transfer large documents to the Board.

We thank you again for your patience with us and the AV equipment.

I hope you each have a wonderful holiday weekend.

Sunny

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Tammy Zahner

From: Appeals Board <appealsboard@baltimorecountymd.gov>
Sent: Wednesday, August 23, 2023 11:38 AM
To: ajablon@comcast.net; Timothy Manuelides
Cc: Appeals Board; Peoples Counsel
Subject: Edgemere Wildlife Trust 22-269-SPH

Good morning Counsel,

This email is a reminder that the hearings scheduled for Tuesday, August 29 and Thursday, August 31 will be held in person. Anyone planning to participate in this matter needs to appear in person.

We will be using AV equipment in our hearing room to live-stream the hearing via Webex. We encourage anyone not participating to watch via Webex. The link can be found on our website at: www.baltimorecountymd.gov/departments/appeals. Our updated Rules of Practice and Procedure are also located on our website.

The Board requires a pdf copy of all exhibits to be filed by email, to appealsboard@baltimorecountymd.gov, 2 business days before the hearing. Additionally, the Board requires that you bring, use, and submit paper exhibits at the hearing. One paper copy is required for the Board's file.

Please contact us with any questions,

Thank you,

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

This electronic mail transmission contains confidential information belonging to the 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 notify the sender.

Tammy Zahner

From: Arnold Jablon <ajablon@comcast.net>
Sent: Thursday, June 15, 2023 9:42 AM
To: Appeals Board
Subject: Re: 22-269SPH, Hearing dates August 29 and August 31, 2023
Attachments: Subpoenas (6-15-23).pdf

CAUTION: This message from ajablon@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.

No need to pick up. Thank you so much'

Sent from my iPhone

On Jun 15, 2023, at 8:16 AM, Appeals Board <appealsboard@baltimorecountymd.gov> wrote:

Dear Mr. Jablon:

Attached are the Subpoenas you requested for service. If you prefer to pick-up paper copies, please let us know.
We can leave them in the "Board of Appeals" box in the lobby for you to pick-up at your convenience.

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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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: Arnold Jablon <ajablon@comcast.net>
Sent: Wednesday, June 14, 2023 12:43 AM
To: Appeals Board <appealsboard@baltimorecountymd.gov>
Subject: FW: 22-269SPH, Hearing dates August 29 and August 31, 2023

CAUTION: This message from ajablon@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. I am requesting the issuance of subpoenas for two county employees as witnesses for the above hearing. I attach the them here. Please let me when they're approved and I will pick them up. Thank you so much.

Arnold Jablon, Esq.
3717 Lanamer Road
Randallstown, Maryland 21133
443 250 6455



Get your COVID-19 vaccine today.

CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

IN RE: Edgmere Wildlife Trust LA Crites, Trustee Edward Crizer, Petitioner 2621-2623 Brannan Ave Sparrows Point, Md 21219	*	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY
15th ED, 7th CD	*	Case No. 22-269 SPH

* * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday, August 29th, 2023 and Thursday, August 31st, 2023, at 10:00 a.m. held in-person before the Board of Appeals' at Hearing Room # 2, 2nd Floor, Suite 206, Jefferson Bldg, 105 West Chesapeake Ave, Towson, Maryland 21204, as cited above and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board of Appeals.

WITNESS: **Matthew Gawel**
Department of Permits, Approvals and Inspections
Building Inspections

ADDRESS: **County Office Building**
111 West Chesapeake Ave.
Towson, Maryland 21204

General Purpose: to testify and bring all files and information, including but not limited to any applications for permits, issuance of permits and zoning history regarding the property or properties known as 2621 and 2623 Brannan Ave, Sparrows Point, Maryland 21219, owned by Edgemere Wildlife Trust or LA Crites in the possession of Building Inspections, including, but not limited to, documents, minutes, e-mails, letters, books and records in the possession of PAI pertaining to said properties, such as relating to Permits R22-05628, R22-06755 and R22-06756.

Requested By: Arnold Jablon, Esq.
3717 Lanamer Road
Randallstown, Maryland 21133
443 250 6455
ajablon@comcast.net

The witness named above is hereby ordered to so appear before the County Board of Appeals of Baltimore County.

Jan A. Zahnen
County Board of Appeals

Date: _____

RECEIVED
JUN 15 2023
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: Edgmere Wildlife Trust LA Crites, Trustee Edward Crizer, Petitioner 2621-2623 Brannan Ave Sparrows Point, Md 21219	*	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY
15th ED, 7th CD	*	Case No. 22-269 SPH

* * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Tuesday, August 29th, 2023 and Thursday, August 31st, 2023, at 10:00 a.m. held in-person before the Board of Appeals' at Hearing Room # 2, 2nd Floor, Suite 206, Jefferson Bldg, 105 West Chesapeake Ave, Towson, Maryland 21204, as cited above and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board of Appeals.

WITNESS: **Jeffrey Perlow**
Department of Permits, Approvals and Inspections
Zoning Office

ADDRESS: **County Office Building**
Room 305
111 West Chesapeake Ave.
Towson, Maryland 21204

General Purpose: to testify and bring all files and information, including but not limited to any applications for permits, issuance of permits and zoning history regarding the property or properties known as 2621 and 2623 Brannan Ave, Sparrows Point, Maryland 21219, owned by Edgemere Wildlife Trust or LA Crites in the possession of the Zoning Office, including, but not limited to, documents, minutes, e-mails, letters, books and records in the possession of PAI pertaining to said properties, such as relating to Permits R22-06755 and R22-06756.

Requested By: Arnold Jablon, Esq.
3717 Lanamer Road
Randallstown, Maryland 21133
443 250 6455
ajablon@comcast.net

The witness named above is hereby ordered to so appear before the County Board of Appeals of Baltimore County.

Jeanne A. Zahner
County Board of Appeals

Date: _____

RECEIVED
JUN 15 2023
BALTIMORE COUNTY
BOARD OF APPEALS

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 POSTPONEMENT AND REASSIGNMENT

IN THE MATTER OF: Edgemere Wildlife Trust LA Crites Trustee – Legal Owner
Edward Crizer – Petitioner
22- 269-SPH 2621-2623 Brannan Avenue
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §§500.6 and 500.7 seeking a declaration that:

1) The previously approved nonconforming use has been abandoned; and
2) That a multi-family dwelling is not permitted on the subject property zoned DR 5.5

3/6/23 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, and DECLARED that 1) the non-conforming use authorized in Case No. 2004-567-SPHA has lapsed and is legally terminated; and 2) only one single family dwelling shall be permitted on the subject site and that dwelling must conform to all current zoning and development regulations.

This matter was assigned for hearing on June 13, 2023 and was postponed by request of Counsel. By agreement of the parties, this matter has been

REASSIGNED FOR: AUGUST 29, 2023, AT 10:00 A.M. – Day 1
and AUGUST 31, 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
Legal Administrative Secretary

c.	Counsel for Petitioner	: Arnold Jablon, Esquire
	Petitioner	: Edward Crizer
	Counsel for Legal Owner/Appellant	: Timothy Manuelides, Esquire
	Legal Owner/Appellant	: Edgemere Wildlife Trust LA Crites Trustee
	People's Counsel for Baltimore County	: Peter M. Zimmerman, Esquire

Joseph Vrablic, III
Bryan McVey

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

Board of Appeals of Baltimore County

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

April 26, 2023

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Edgemere Wildlife Trust LA Crites Trustee – Legal Owner
Edward Crizer – Petitioner
22- 269-SPH 2621-2623 Brannan Avenue
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §§500.6 and 500.7 seeking a declaration that:

1) The previously approved nonconforming use has been abandoned; and
2) That a multi-family dwelling is not permitted on the subject property zoned DR 5.5

3/6/23 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing was GRANTED, and DECLARED that 1) the non-conforming use authorized in Case No. 2004-567-SPHA has lapsed and is legally terminated; and 2) only one single family dwelling shall be permitted on the subject site and that dwelling must conform to all current zoning and development regulations.

ASSIGNED FOR: JUNE 13, 2023, AT 10:00 A.M.

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

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

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

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

Krysundra Cannington, Administrator

c. Counsel for Petitioner : Arnold Jablon, Esquire
Petitioner : Edward Crizer

Counsel for Legal Owner/Appellant : Timothy Manuelides, Esquire
Legal Owner/Appellant : Edgemere Wildlife Trust LA Crites Trustee

Joseph Vrablic, III
Bryan McVey

Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
Adam Whitlock, Chief of Code Enformcement/PAI
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law

Paul Mayhew

From: Jeffrey N Perlow
Sent: Thursday, March 2, 2023 8:42 AM
To: Paul Mayhew
Cc: Arnold Jablon; Peter Max Zimmerman
Subject: 2022-0269-SPH (2621 and 2623 Brannan Road)

Good Morning Mr. Mayhew,
I wanted to clarify the information that I provided at yesterday's public hearing. I reexamined the two building permits related to the addresses referenced above, and I did, in-fact, approve both permits on October 13, 2022. However, my decision was based on the applicant's misrepresented claim of complying with the 2 year restoration allowance provided in Section 305.1 and Section 104.2, BCZR. Based on the two exhibits that were misrepresented to me and that were ultimately submitted as evidence at the hearing, the two building permits were approved by me 1 year and 3 months after the dates shown on the two exhibits. However, based on the applicant's misrepresentation of the two exhibits that were ultimately submitted at the public hearing, I erroneously approved the two building permits with the belief that the restoration of both dwellings was within the 2 year restoration period. I apologize for the confusion, but I wanted the record to be as accurate as possible in the event this matter was appealed to the Board of Appeals. Again, I am sorry for the confusion!
Jeffrey Perlow
Zoning Supervisor
Zoning Review Office
Department of Permits, Approvals & Inspections

Pet. 11

To Administrative Law Judge,

I posted this property on February 9, 2023, Thursday. By Monday, February 13, 2023, the signs were gone. I asked one of the builders who took my signs down and he responded "the owner".

I asked him to get the Forman on his cell phone and the Forman said he would have the property owner call me back.

Later that day, February 13, 2023, someone called me back who I assumed the owner of the property, not sure, named ROB (410-971-5554).

I asked if he was the owner and he said no. I told him I was the person that posted the signs and wanted to know why he removed my signs. He stated that they were on private property and he did not ask for a hearing. (I did not know the neighbors were requesting this hearing.) So, I told him that the signs were in the County Easement and he should have called me prior to removing my signs. (My phone # is on the back of each sign). I told him that all I cared about now was retrieving my signs. He said he would get back to me the next day. He did not. I have left him 2 more messages to no avail.

I will continue to pursue him for my signs, but I thought you should know what kind of character you will be dealing with. Building is almost finished with framing.

SGT Black, Baltimore County Sign Poster, 410-499-7940.

(I am including a certification of the notification the neighbor across the street printed and posted on his own property across the street. Seems the neighbors are all up in arms..

Pet Ex 11

CERTIFICATE OF POSTING

2022-0269-SPH

RE: Case No.: _____

Petitioner/Developer: _____
Edgemere Wildlife Trust LA Crites, Trustee
Edward Crizer

March 1, 2023

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2621-2623 Brannan Road *SIGN 1 Recertification*

February 9, 2023

The sign(s) were posted on _____
(Month, Day, Year)

Signs removed by property owner 2 days after posting



Sincerely,

February 28, 2023

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2022-0269-SPH

RE: Case No.: _____

Petitioner/Developer: _____
Edgemere Wildlife Trust LA Crites, Trustee
Edward Crizer

March 1, 2023

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2621-2623 Brannan Road *SIGN 2 Recertification*

February 9, 2023

The sign(s) were posted on _____
(Month, Day, Year)

Signs removed by property owner 2 days after posting



Sincerely,

February 28, 2023

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2022-0269-SPH

RE: Case No.: _____

Petitioner/Developer: _____
Edgemere Wildlife Trust LA Crites, Trustee
Edward Crizer

March 1, 2023

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2621-2623 Brannan Road ***SIGN 3 Recertification***

February 9, 2023

The sign(s) were posted on _____
(Month, Day, Year)

Neighbor posted his own sign after property owner removed his signs



Sincerely,

February 28, 2023

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

Pet 12

LAW OFFICE OF ARNOLD JABLON

3717 Lanamer Road
Randallstown, Maryland 21133

443 250 6455

ADMITTED TO PRACTICE
MD & DC

Fax Number
(410) 922 8393

ajablon@comcast.net

20 February, 2023

Edgmere Wildlife Trust
L A. Crites Trustee
Unit 154
1443 Rock Spring Rd
Bel Air, Maryland 21014

ADMINISTRATIVE HEARINGS
OFFICE OF
FEB 21 2023
RECEIVED

Re: 2621-2623 Brannan Ave
Sparrows Point, Maryland 21219

L. A. Crites:

As you know, I have been retained by neighbors to the above property, which land records indicate Edgmere Wildlife Trust is the owner and, on their behalf, filed a petition for special hearing to be held before the Office of Administrative Hearings in Baltimore County. I fully explained in my letter to you of November 7th, 2022, the purpose of the petition and the notice requirements as set forth in the County Zoning Regulations.

As required by the Zoning Regulations, the date, time, and location of the hearing must be provided by the posting of the subject property with signage and by an advertisement in a newspaper of general circulation in Baltimore County. On February 9th, 2023, 2621-2623 Brannan Road was posted as required with two signs, each stating that the zoning hearing would be held on Wednesday, March 1st, 2023, at 1:30 p.m. at 105 W Chesapeake Ave, Room 104, Towson, Maryland.

I has now come to my attention that within days of the posting of the signs, each has been removed by the property owner or by a representative of the property owner. Notwithstanding the removal of the signage, my clients and neighbors of the Brannan Road properties have every intention of appearing for the hearing.

Sincerely,

Arnold Jablon

c: Office of Administrative Hearings
105 West Chesapeake Ave, Suite 103
Towson, Maryland 21204

Debra Wiley

From: Debra Wiley
Sent: Monday, February 20, 2023 12:23 PM
To: Arnold Jablon
Cc: Administrative Hearings
Subject: RE: 2022-0269SPH

Mr. Jablon,

We will make sure your email and letter get placed in the zoning file when we receive from the Office of Zoning Review ("OZR"). In addition, we will make sure OZR gets this as well.

Thank you.

From: Arnold Jablon <ajablon@comcast.net>
Sent: Saturday, February 18, 2023 9:41 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: 2022-0269SPH

CAUTION: This message from ajablon@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.

Ms. Wiley, I attach a letter I sent to the property owner and request that it be placed into the zoning file. The letter is self-explanatory. Notwithstanding their removal, my clients have every intention of appearing for the hearing. The community is well aware of the date, time and location of the hearing. Thank you.

Arnold Jablon, Esq.
3717 Lanamer Road
Randallstown, Maryland 21133
443 250 6455

Debra Wiley

From: Debra Wiley
Sent: Monday, February 20, 2023 12:25 PM
To: Lajuanda Whitaker; Kristen L Lewis
Cc: Administrative Hearings
Subject: FW: 2022-0269-SPH
Attachments: Crizer letter to Brannan property owner removal of signs.doc

Hi,

Please place this email and attached letter in the case file from Arnold Jablon. It is scheduled for March 1st.

Thank you.

From: Arnold Jablon <ajablon@comcast.net>
Sent: Saturday, February 18, 2023 9:41 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: 2022-0269SPH

CAUTION: This message from ajablon@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.

Ms. Wiley, I attach a letter I sent to the property owner and request that it be placed into the zoning file. The letter is self-explanatory. Notwithstanding their removal, my clients have every intention of appearing for the hearing. The community is well aware of the date, time and location of the hearing. Thank you.

Arnold Jablon, Esq.
3717 Lanamer Road
Randallstown, Maryland 21133
443 250 6455

To Administrative Law Judge,

I posted this property on February 9, 2023, Thursday. By Monday, February 13, 2023, the signs were gone. I asked one of the builders who took my signs down and he responded "the owner".

I asked him to get the Forman on his cell phone and the Forman said he would have the property owner call me back.

Later that day, February 13, 2023, someone called me back who I assumed the owner of the property, not sure, named ROB (410-971-5554).

I asked if he was the owner and he said no. I told him I was the person that posted the signs and wanted to know why he removed my signs. He stated that they were on private property and he did not ask for a hearing. (I did not know the neighbors were requesting this hearing.) So, I told him that the signs were in the County Easement and he should have called me prior to removing my signs. (My phone # is on the back of each sign). I told him that all I cared about now was retrieving my signs. He said he would get back to me the next day. He did not. I have left him 2 more messages to no avail.

I will continue to pursue him for my signs, but I thought you should know what kind of character you will be dealing with. Building is almost finished with framing.

SGT Black, Baltimore County Sign Poster, 410-499-7940.

(I am including a certification of the notification the neighbor across the street printed and posted on his own property across the street. Seems the neighbors are all up in arms..

CERTIFICATE OF POSTING

2022-0269-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Edgemere Wildlife Trust LA Crites, Trustee
Edward Crizer

_____

March 1, 2023

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2621-2623 Brannan Road ***SIGN 1 Recertification***

_____

February 9, 2023

The sign(s) were posted on _____
(Month, Day, Year)

Signs removed by property owner 2 days after posting



Sincerely,

February 28, 2023

(Signature of Sign Poster) **(Date)**

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2022-0269-SPH

RE: Case No.: _____

Petitioner/Developer: _____
Edgemere Wildlife Trust LA Crites, Trustee
Edward Crizer

March 1, 2023

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

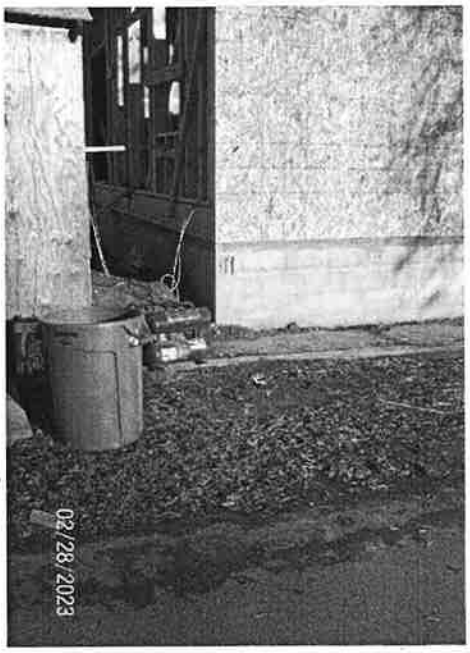
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2621-2623 Brannan Road *SIGN 2 Recertification*

February 9, 2023

The sign(s) were posted on _____
(Month, Day, Year)

Signs removed by property owner 2 days after posting



Sincerely,

February 28, 2023

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2022-0269-SPH

RE: Case No.: _____

Petitioner/Developer: _____
Edgemere Wildlife Trust LA Crites, Trustee
Edward Crizer

March 1, 2023

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

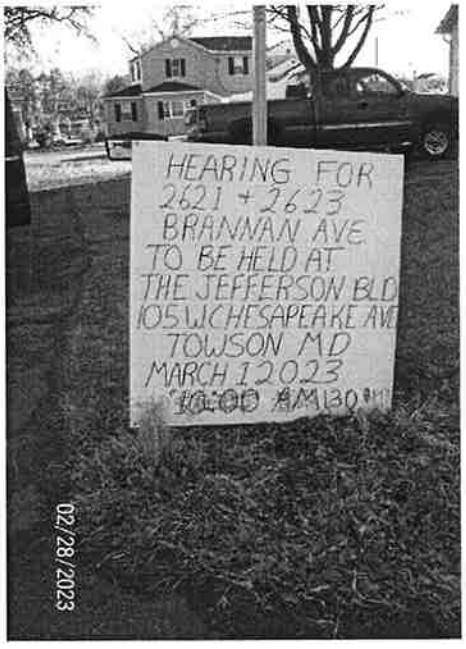
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2621-2623 Brannan Road ***SIGN 3 Recertification***

February 9, 2023

The sign(s) were posted on _____
(Month, Day, Year)

Neighbor posted his own sign after property owner removed his signs



Sincerely,

February 28, 2023

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

Donna Mignon

From: SGT ROBERT BLACK <1opie@comcast.net>
Sent: Wednesday, March 1, 2023 1:24 PM
To: Administrative Hearings
Subject: Recertification's For 2022-0269-SPH
Attachments: Re-Cert1 1 2022-0269-SPH.doc; Re-Cert1 2 2022-0269-SPH.doc; Re-Cert1 3 2022-0269-SPH.doc; Letter To Administrative Law Judge.docx

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message from 1opie@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.

Recertification's for 2621-2623 Brannan Road. Please not letter to Administrative Law Judge.

LAW OFFICE OF ARNOLD JABLON

3717 Lanamer Road
Randallstown, Maryland 21133

443 250 6455

ADMITTED TO PRACTICE
MD & DC

Fax Number
(410) 922 8393

ajablon@comcast.net

21 February, 2023

Edgmere Wildlife Trust
L A. Crites Trustee
Unit 154
1443 Rock Spring Rd
Bel Air, Maryland 21014

Re: 2621-2623 Brannan Ave
Sparrows Point, Maryland 21219

L. A. Crites:

As you know, I have been retained by neighbors to the above property, which land records indicate Edgmere Wildlife Trust is the owner and, on their behalf, filed a petition for special hearing to be held before the Office of Administrative Hearings in Baltimore County. I fully explained in my letter to you of November 7th, 2022, the purpose of the petition and the notice requirements as set forth in the County Zoning Regulations.

As required by the Zoning Regulations, the date, time, and location of the hearing must be provided by the posting of the subject property with signage and by an advertisement in a newspaper of general circulation in Baltimore County. On February 9th, 2023, 2621-2623 Brannan Road was posted as required with two signs, each stating that the zoning hearing would be held on Wednesday, March 1st, 2023, at 1:30 p.m. at 105 W Chesapeake Ave, Room 104, Towson, Maryland.

I has now come to my attention that within days of the posting of the signs, each has been removed by the property owner or by a representative of the property owner. Notwithstanding the removal of the signage, my clients and neighbors of the Brannan Road properties have every intention of appearing for the hearing.

Sincerely,

Arnold Jablon

c: Office of Administrative Hearings
105 West Chesapeake Ave, Suite 103
Towson, Maryland 21204

Donna Mignon

From: Administrative Hearings
Sent: Tuesday, February 21, 2023 7:38 AM
To: Arnold Jablon
Subject: In Person Hearing - 2022-0269-SPH 2621 and 2623 Brannan Avenue, Sparrow Point, MD

Good Morning:

As you are aware, an In Person Hearing has been scheduled for March 1, 2023 at 1:30 p.m.
****PLEASE NOTE : Even though this is an In Person Hearing we are requiring all Exhibits be sent 48 hours prior to the 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.

*****These exhibits will be displayed on a computer screen as you explain at the hearing what you are seeking in your case. Please note that these documents are in addition to any paperwork submitted when you originally filed your petition with the Office of Zoning Review. Our Office is separate from the Office of Zoning. ***** If our office does not receive this information, your case may not be able to be heard on this day. Thank you.

You can find more information on our website at: https://www.baltimorecountymd.gov/departments/adminhearings/devzoninghearings.html

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.

Thank you. Have a great day.

Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204
410-887-3868

Jeffrey N Perlow

From: Adam Whitlock
Sent: Wednesday, February 15, 2023 2:59 PM
To: Jeffrey N Perlow
Subject: FW: 2621 Brannan Ave 21219

Jeff, when there is a public hearing for and the property gets posted with a sign, who puts the sign up? This hearing is for a home owner to build two structures on one lot. The sign got posted but the owner took it down and I am getting some calls about it.

Adam Whitlock
Chief, Baltimore County Code Enforcement

Baltimore County Government
111 West Chesapeake Avenue, Room 216
Towson, MD 21204
(410) 887-3351
awhitlock@baltimorecountymd.gov

From: Matt F. Gawel <mgawel@baltimorecountymd.gov>
Sent: Friday, January 6, 2023 7:09 AM
To: Adam Whitlock <awhitlock@baltimorecountymd.gov>
Subject: RE: 2621 Brannan Ave 21219

Adam,
The permits have been issued to construct a new duplex dwelling on the existing foundation. I personally inspected the foundation a few weeks ago and saw no need for any silt fence as the disturbance was very minimal. I will have the sediment control inspector double check to see if something has changed. The building permit numbers are r22-06755 & r22-06756.

Matthew Gawel
Baltimore County
Chief Building Inspector

(410) 887-3953 Work
mgawel@baltimorecountymd.gov

From: Adam Whitlock <awhitlock@baltimorecountymd.gov>
Sent: Thursday, January 5, 2023 2:57 PM
To: Matt F. Gawel <mgawel@baltimorecountymd.gov>
Subject: 2621 Brannan Ave 21219

Matt,

I have a bit of a hot-button with this one.

From what I understand, this property is/was two lots and the owner razed the structure without a permit. The owner is awaiting a public hearing to build two structures on the lot but has started the building before the approvals/hearing. The person that contacted me was also concerned about there not being a silt fence either.

Could you have someone out tomorrow to take a look and address it? If it helps, I opened a case in accela and the case number is CB2300008.

Adam Whitlock
Chief, Baltimore County Code Enforcement

Baltimore County Government
111 West Chesapeake Avenue, Room 216
Towson, MD 21204
(410) 887-3351
awhitlock@baltimorecountymd.gov

Debra Wiley

From: Debra Wiley
Sent: Tuesday, February 14, 2023 12:29 PM
To: Arnold Jablon
Subject: RE: 2022-0269SPH/ 2621 and 2623 Brannan Ave

Great, you're welcome !

From: Arnold Jablon <ajablon@comcast.net>
Sent: Tuesday, February 14, 2023 12:27 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Re: 2022-0269SPH/ 2621 and 2623 Brannan Ave

CAUTION: This message from ajablon@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.

I will ask Ed Crizer to pick them up tomorrow. Thank you so much.

Sent from my iPhone

On Feb 14, 2023, at 6:39 PM, Debra Wiley <dwiley@baltimorecountymd.gov> wrote:

Good Morning Mr. Jablon,

Please find attached copies of the signed Subpoenas for Messrs. Gawel and Perlow.

The originals can be picked up today til 2 pm directly from our office. If after 2 pm, I can leave in our drop-off/pick-up box located in our lobby.

After today, pick-up directly from our office from 7:30 am to 3:30 pm.

Just let me know your preference.

Thanks.

From: Arnold Jablon <ajablon@comcast.net>
Sent: Tuesday, February 14, 2023 9:14 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Re: 2022-0269SPH/ 2621 and 2623 Brannan Ave

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

Debra Wiley

From: Arnold Jablon <ajablon@comcast.net>
Sent: Tuesday, February 14, 2023 12:27 PM
To: Debra Wiley
Subject: Re: 2022-0269SPH/ 2621 and 2623 Brannan Ave
Attachments: mime-attachment

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

Thank you!

Sent from my iPhone

Debra Wiley

From: Debra Wiley
Sent: Tuesday, February 14, 2023 11:40 AM
To: Arnold Jablon
Cc: Donna Mignon
Subject: RE: 2022-0269SPH/ 2621 and 2623 Brannan Ave
Attachments: Attached Image

Good Morning Mr. Jablon,

Please find attached copies of the signed Subpoenas for Messrs. Gawel and Perlow.

The originals can be picked up today til 2 pm directly from our office. If after 2 pm, I can leave in our drop-off/pick-up box located in our lobby.

After today, pick-up directly from our office from 7:30 am to 3:30 pm.

Just let me know your preference.

Thanks.

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Sent: Tuesday, February 14, 2023 9:14 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Re: 2022-0269SPH/ 2621 and 2623 Brannan Ave

CAUTION: This message from ajablon@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!

Sent from my iPhone

> On Feb 14, 2023, at 2:31 PM, Debra Wiley <dwiley@baltimorecountymd.gov> wrote:
>
> Good Morning Mr. Jablon,
>
> I will make sure the ALJ receives and signs and will let you know when available for pick up.
>
> Thank you.
>
> ---
>
> **From:** Arnold Jablon <ajablon@comcast.net>
> **Sent:** Monday, February 13, 2023 11:04 AM

IN RE: PETITION FOR SPECIAL HEARING
2631 and 2623 Brannan Road

* BEFORE THE

* OFFICE OF ADMINISTRATIVE HEARINGS

* OF BALTIMORE COUNTY

* Case No. 2022-0269SPH.

* * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Administrative Law Judge of Baltimore County at the hearing for the matter captioned above on Wednesday, March 1st, 2023 at 1:30 p.m. in Room 104, Jefferson Bldg, located at 105 W. Chesapeake Ave., Towson, Maryland 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Administrative Law Judge.

WITNESS: Jeffrey Perlow
Baltimore County Department of Permits, Approvals and Inspections
ZoningOffice

ADDRESS: County Office Building
111 West Chesapeake Ave.
Towson, Maryland 21204

General Purpose: for the witness to testify and bring all files and information, including but not limited to any applications for permits, issuance of permits, and zoning history, regarding the property or properties known as 2621 and 2623 Brannan Ave, Sparrows Point, Md 21219, owned by Edgmere Wildlife Trust or LA Crites in the possession of the Zoning Office, including but not limited to any information related to said properties available by computer, such as relating to Permits R22-06755 and R22-06756.

Requested By: Arnold Jablon, Esq.
3717 Lanamer Road
Randallstown, Maryland 21133
443 250 6455

The witness named above is hereby ordered to so appear before the Administrative Law Judge of Baltimore County.

Paul M Mayhew
Administrative Law Judge of Baltimore County

Date: 2-14-23

PM 3-1
1:30 pm
"In Person" Hearing

Debra Wiley

From: Debra Wiley
Sent: Tuesday, February 14, 2023 7:32 AM
To: Arnold Jablon
Subject: RE: 2022-0269SPH/ 2621 and 2623 Brannan Ave

Good Morning Mr. Jablon,

I will make sure the ALJ receives and signs and will let you know when available for pick up.

Thank you.

From: Arnold Jablon <ajablon@comcast.net>
Sent: Monday, February 13, 2023 11:04 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: 2022-0269SPH/ 2621 and 2623 Brannan Ave

CAUTION: This message from ajablon@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.

Hi, Debbie. The above hearing has been scheduled for in person on March 1st at 1:30. I would like to subpoena both Jeff Perlow and Matt Gawel. While I'm still out of the country, I thought I should get this done this week. I've told both I would like them to basically identify certain county documents, such as permit applications and zoning history of the property. I attach a subpoena for each. If approved, I can have Ed Crizer, one of my clients in this matter, come over to your office and pick up. Let me know if you can open each and/or if I need to do anything else. Thanks.

IN RE: PETITION FOR SPECIAL HEARING
2631 and 2623 Brannan Road

* BEFORE THE

* OFFICE OF ADMINISTRATIVE HEARINGS

* OF BALTIMORE COUNTY

* Case No. 2022-0269SPH.

* * *

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WITNESS: Matthew Gawel
Baltimore County Department of Permits, Approvals and Inspections
Building Inspections

ADDRESS: County Office Building
111 West Chesapeake Ave.
Towson, Maryland 21204

General Purpose: for the witness to testify and bring all files and information, including but not limited to any applications for permits, issuance of permits, and zoning history, regarding the property or properties known as 2621 and 2623 Brannan Ave, Sparrows Point, Md 21219, owned by Edgmere Wildlife Trust or LA Crites in the possession of the Bureau of Building Inspections, including but not limited to any information related to said properties available by computer, such as relating to Permits R22-06755 and R22-06756

Requested By: Arnold Jablon, Esq.
3717 Lanamer Road
Randallstown, Maryland 21133
443 250 6455

The witness named above is hereby ordered to so appear before the Administrative Law Judge of Baltimore County.

Paul DeMayer
Administrative Law Judge of Baltimore County

Date: 2-14-23

CERTIFICATE OF POSTING

RECEIVED FEB 17 2023
2022-0269-SPH

RE: Case No.: _____

Petitioner/Developer: _____
Edgemere Wildlife Trust LA Crites, Trustee
Edward Crizer

_____
March 1, 2023
Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

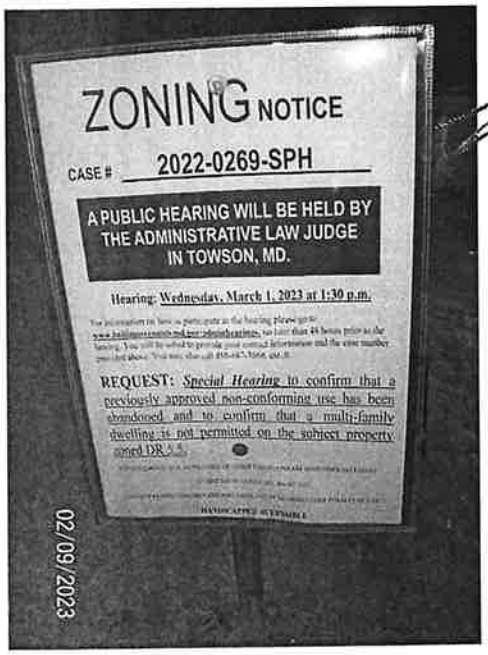
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2621-2623 Brannan Road ***SIGN 1***

_____

February 9, 2023
The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

February 9, 2023
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

CERTIFICATE OF POSTING

RECEIVED FEB 17 2023

2022-0269-SPH

RE: Case No.: _____

Petitioner/Developer: _____
Edgemere Wildlife Trust LA Crites, Trustee
Edward Crizer

March 1, 2023

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

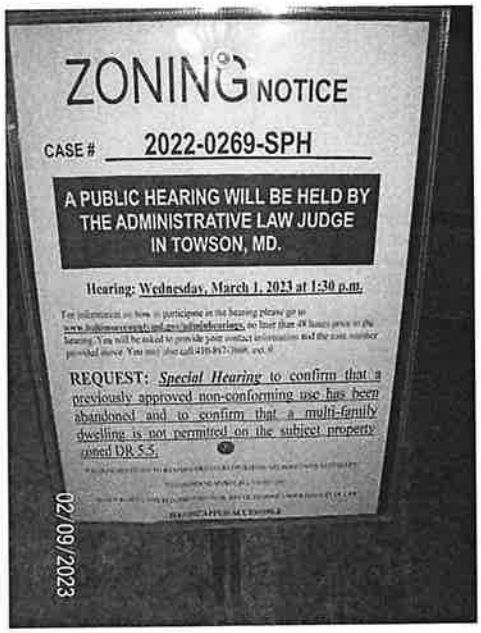
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2621-2623 Brannan Road *SIGN 2*

February 9, 2023

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

February 9, 2023

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

Maryland The Daily Record
200 St. Paul Place
Baltimore, MD, 21202
Phone: 4435248100

MARYLAND
THE DAILY RECORD

Affidavit of Publication

To: Arnold Jablon -
37174 Lanamer Rd
Randallstown, MD, 211331532

Re: Legal Notice 2473341,

CASE NUMBER: 2022-0269-SPH

We hereby certify that the annexed advertisement was published in Maryland The Daily Record, a Daily newspaper published
in the State of Maryland 1 time(s) on the following date(s):
02/09/2023

By Darlene Miller

Darlene Miller
Authorized Designee of the Publisher

Baltimore County

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a virtual hearing on the property identified herein as follows:

CASE NUMBER: 2022-0269-SPH
2621-2623 Brannan Road
Southside of Haddaway Road and East side of Brannan Avenue
15th Election District - 7th Councilmanic District
Legal Owners: Edgemere Wildlife Trust LA Crites, Trustee
Petitioner: Edward Crizer

Special Hearing to confirm that a previously approved non-conforming use has been abandoned and to confirm that a multi-family dwelling is not permitted on the subject property zoned DR 5.5.

Hearing: Wednesday, March 1, 2023 at 1:30 p.m.
105 W. Chesapeake Avenue, Rm. 104
Towson, MD 21204

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

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

ID 2473341

TO: THE DAILY RECORD
Thursday, February 9, 2023 - Issue

Please forward billing to:
Arnold Jablon
37174 Lanamer Road
Randallstown, MD 2133

443-250-6455

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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: 2022-0269-SPH
2621-2623 Brannan Road
Southside of Haddaway Road and East side of Brannan Avenue
15th Election District – 7th Councilmanic District
Legal Owners: Edgemere Wildlife Trust LA Crites, Trustee
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Towson, MD 21204

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

JOHN A. OLSZEWSKI, JR.
County Executive

C. PETE GUTWALD, AICP
Director, Department of Permits, Approvals and Inspections

February 1, 2023

NOTICE OF ZONING HEARING

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CASE NUMBER: 2022-0269-SPH
2621-2623 Brannan Road
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Petitioner: Edward Crizer

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Pete Gutwald
Director

PW/kl

C: Arnold Jablon, 3717 Lanamer Road, Randallstown 21133
Edward Crizer, 2627 Brannan Avenue, Sparrows Point 21219
Edgemere Wildlife Trust, 2621 Brannan Avenue, Sparrows Point 21219

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THUR., FEB. 9, 2023.**

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 12/12/2022

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 2022-269-SPH

RECEIVED
DEC 14 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

INFORMATION:
Property Address: 2621-2623 Brannan Avenue
Petitioner: Edgemere Widlife Trust Crites LA Trust
Zoning: DR 5.5.
Requested Action: Special Hearing

The Department of Planning has reviewed the request for:

Special Hearing:

1. To confirm that a previously approved nonconforming use has been abandoned; and
2. To confirm that a multi-family dwelling is not permitted on the subject property zoned DR 5.5.

A site visit was conducted on December 8, 2022. A rectangular cinderblock foundation base is located at the center of the site. Construction materials were located on site. Neighboring properties are single-family dwellings.

As of December 8, 2022, Google Street view for the property shows a demolished structure. Google lists the photo as having been captured in June 2022.

The Opinion of Zoning Advisory Case #2004-567-SPHA confirmed the non-conforming use status for the multi-family dwelling consisting of two apartments at the site.

Department of Planning staff spoke to representatives for the petitioner on December 8, 2022. The representative indicated their intention to demonstrate that the property has had a discontinuance of the non-conforming use in accordance with BCZR § 104.1. The representative for the petitioner also indicated that the property was unoccupied prior to being illegally demolished. According to representatives for the petitioner, the demolition of the non-conforming use structure was conducted without permitting, leading to a stop work order being issued by Baltimore County. The petitioner is challenging the legality of any subsequent permits issued to the property owner to allow the resumption of work on the site.

The provisions of BCZR § 104.2 are not applicable to the subject property, as "casualty" does not include intentional demolition of a structure.

No additional guidance has been identified.

The Department of Planning does not object to the requested Special Hearing relief to confirm that a previously approved nonconforming use has been abandoned with the following conditions:

1. The petitioner adequately demonstrates as determined by the ALJ that "the right to continue or resume such nonconforming use" at the subject property has terminated in accordance with BCZR § 104.1.

The Department of Planning does not object to the request Special Hearing relief to confirm that a multi-family dwelling is not permitted on the subject property zoned DR 5.5.

For information concerning the matters stated herein, please contact David Birkenthal at 410-887-3480.

Division Chief:

Jenifer G. Nugent

SL/JGN/

c: David Birkenthal
Arnold Jablon
Office of Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
JAN [illegible] RECD
OFFICE OF
ADMINISTRATIVE HEARINGS

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: January 10, 2023

SUBJECT: DEPS Comment for Zoning Item # 2022-0269-SPH
Address: 2621-2623 Brannan Rd
Legal Owner: Edgemere Wildlife Trust
LA Cities Trustee

Zoning Advisory Committee Meeting of November 21, 2022.

_____ The Department of Environmental Protection and Sustainability has no comment on the above-referenced zoning item.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

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

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

   The subject property is located within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area and is subject to Critical Area requirements. The applicant is proposing to permit a multi-family dwelling on a lot zoned DR 5.5, which does not allow multi-family dwellings. The lot is not waterfront. Any proposed development must meet all LDA requirements, including lot coverage limits and afforestation requirements. Lot coverage is limited to a maximum of 25% square feet (sf) + 500 sf (2,400 sf), with mitigation required for any new lot coverage between 25% (1,900 sf) and 2,400 sf. Lot coverage currently exceeds

the maximum limit, but is grandfathered. No increase in lot coverage is permitted. There is a 15% afforestation requirement in the LDA. On a lot of this size three (3) trees are required. If the lot coverage and afforestation requirements are met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

   This property is not waterfront. The property must meet all lot coverage and afforestation requirements. If lot coverage and afforestation requirements are met, this request will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

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

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

   Additional Comments:

   Reviewer: Libby Errickson

RECEIVED NOV 21 2022

RE: PETITION FOR SPECIAL HEARING 2621-2623 Brannan Road; S/S of Haddaway Road, E/S of Brannan Avenue 15th Election & 7th Councilmanic Districts Legal Owner(s): Edgemere Wildlife Trust Crities LA Trustee Petitioner(s): Edward Crizer Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2022-269-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 18th day of November, 2022, a copy of the foregoing Entry of Appearance was emailed to Arnold Jablon, Esquire, 3717 Lanamer Road, Randallstown, Maryland 21133, ajablon@comcast.net , Attorney for Petitioner(s).

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

ZAC AGENDA

Case Number: 2022-0269-SPH **Reviewer:** Mitchell Kellman
Existing Use: RESIDENTIAL **Proposed Use:** RESIDENTIAL
Type: SPECIAL HEARING
Legal Owner: Edgmere Wildlife Trust LA Crites Trustee
Contract Purchaser: No Contract Purchaser was set.

Critical Area: Yes **Flood Plain:** Yes **Historic:** No **Election Dist:** 15 **Council Dist:** 7

Property Address: 2621 2623 BRANNAN RD
Location: Property located on the corner of South side of Haddaway Rd. and East side of Brannan Ave.

Existing Zoning: DR 5.5 **Area:** 7,714 SQ FT.
Proposed Zoning:
SPECIAL HEARING:
1.) To confirm that a previously approved nonconforming use has been abandoned; and

2.) To confirm that a multi-family dwelling is not permitted on the subject property zoned DR 5.5.
Attorney: Arnold Jablon
Prior Zoning Cases: 2004-0567-SPHA
Concurrent Cases: None
Violation Cases: None
Closing Date:

Miscellaneous Notes:

RECEIVED
NOV 1 3 2022
OFFICE OF
ADMINISTRATIVE HEARINGS

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: 2022-0269-SPH

Property Address: 2621 - 2623 BRANNAN AVE, SPARROWS PT, MD 21219

Legal Owners (Petitioners): EDGEMERE WILDLIFE TRUST, L A CRITES TRUSTEE

~~Contract Purchaser/Lessee:~~ PETITIONER EDWARD CRIZER

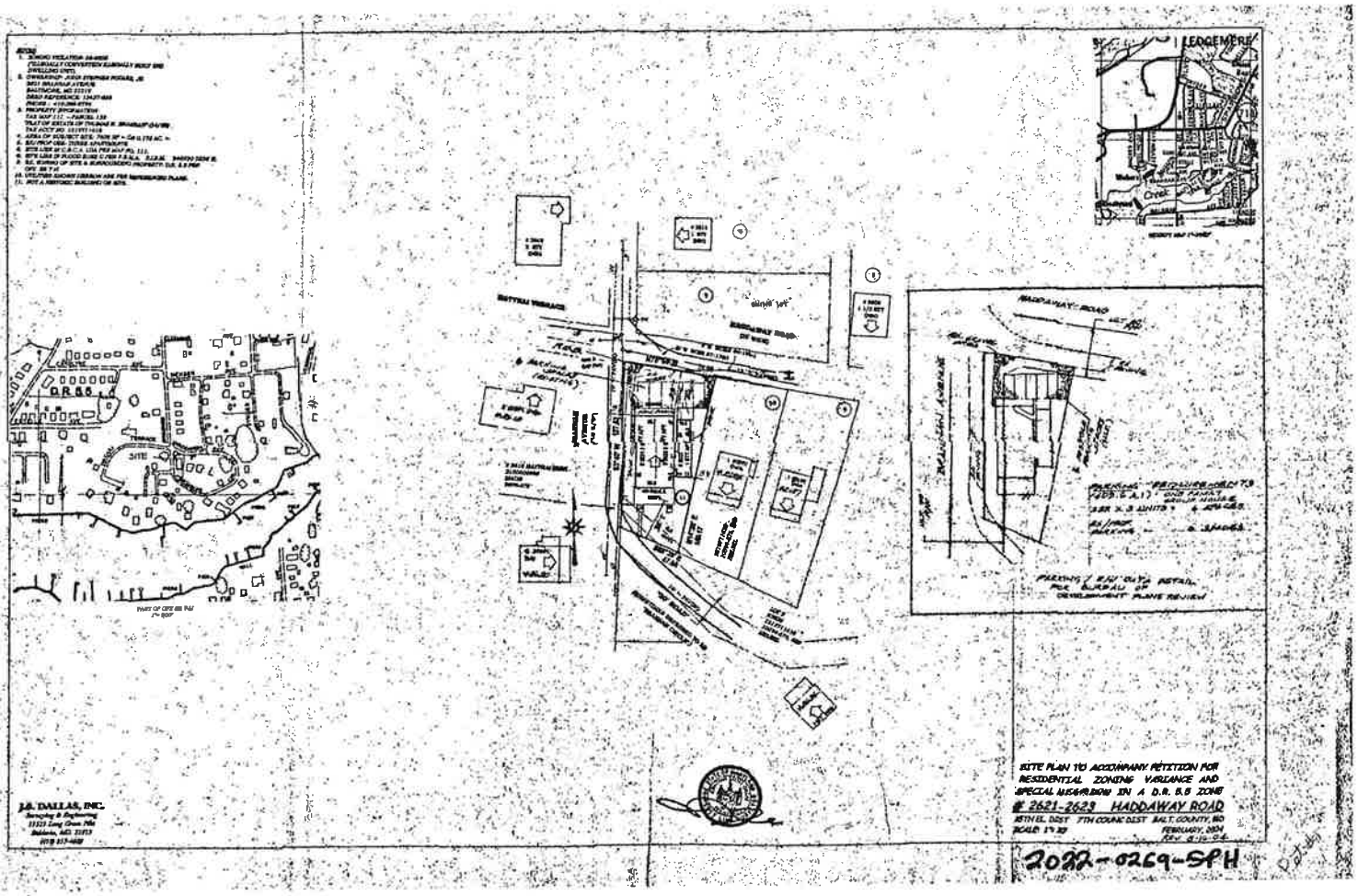
PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): ARNOLD JABLON, ESQ

Address: 3717 LANAMEN RD
RANDALLSTOWN, MD 21133

Telephone Number: 443 250 6455

*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.


LEDGEMERE
SITE PLAN TO ACCOMPANY PETITION FOR RESIDENTIAL ZONING VARIANCE AND SPECIAL EXCEPTIONS IN A D.R. 5.5 ZONE
2621-2623 HADDAWAY ROAD
J.A. DALLAS, INC.
2022-0269-SPH

PE..TION FOR ZONING HEA..NG(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 2621-2623 Brannan Road **which is presently zoned** DR 5.5

Deed References 42157/363 10 Digit Tax Account # 1519711618

Property Owner(s) Printed Name(s) Edgemere Wildlife Trust Crites LA Trust

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

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

1. 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
   To permit accessory structure larger than the principal structure and to confirm the rear of the property is the road side
   SEE ATTACHED

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

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

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: **(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)**

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

Petitioners:

Edward Crizer
Name- Type or Print

Signature

2627 Brannan Ave. Sparrows Point, Md
Mailing Address City State

21219/ //
Zip Code Telephone # Email Address

Attorney for Petitioner:
Arnold Jablon
Name- Type or Print

Signature

3717 Lanamer Road, Randallstown, Md
Mailing Address City State

21133/ 443 250 6455 /ajablon@comcast.net/
Zip Code Telephone # Email Address

Legal Owners:

Edgmere Wildlife Trust LA Crites Trustee
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

2621 Brannan Ave Sparrows Point Md
Mailing Address City State

21219
Zip Code Telephone # Email Address

Representative to be contacted:
Arnold Jablon
Name – Type or Print

Signature

3717 Lanamer Road, Randallstown, Md
Mailing Address City State

21133 /443 250 6455 ajablon@comcast.net
Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 11-6-22
By

CASE NUMBER 2022-0269-SPH **Filing Date** 11/14/2022 **Do Not Schedule Dates:** _____ **Reviewer** MJK

REV. 10/4/11

AFFIDAVIT IN SUPPORT OF SPECIAL HEARING

Attachment 1

This Petition for Special Hearing is filed pursuant to §§500.6 and 500.7 of the Baltimore County Zoning Regulations.

The subject property of this Petition is located at 2621-2623 Brannan Ave, Sparrows Point. The Petitioner is a neighbor to the subject property, residing at 2627 Brannan Ave. and is adversely impacted by the construction of a multi-family dwelling at the subject property, which is zoned DR 5.5 and is not permitted as of right.

Pursuant to §500.6, BCZR, the Office of Administrative Hearings has the authority to "…conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof…"

Further, pursuant to §500.7, BCZR, the Office of Administrative Hearings has the authority to "…conduct such other hearings and pass such orders thereon…be necessary for the proper enforcement of all zoning regulations…" The authority includes the "…right of any interested person to petition…for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected…" by the Zoning Regulations.

The Petitioner requests confirmation that any claim of a nonconforming use is no longer applicable and has terminated.

The subject property was the subject of a special hearing and variance in Case No. 04-567 SPHA, in which the owner of the property sought approval for a nonconforming use for a multi-family dwelling, the expansion and approval of a third apartment, and to determine that the third apartment would "not negate the nonconforming use. He also requested a variance to permit a side yard setback of 3' in lieu of the required 10'. The property in 2004 was zoned DR 5.5. The Property currently is zoned DR 5.5.

By order of the Deputy Zoning Commissioner, dated October 6th, 2004, the request for a multi-family dwelling consisting of two apartments side by side as a nonconforming use was granted. The request to approve the expansion of the two existing apartments by an addition to each of a third bedroom was also granted. However, the request for the third apartment was denied and the request to determine that the third apartment would not negate the nonconforming use was denied as moot. Finally, the requested variance relief was denied.

Subsequently, the subject property became vacant and was abandoned for a period of one year or more. Pursuant to §104.1. BCZR, the nonconforming use, granted in Case No. 04-567, has terminated. The structure that was the subject of the nonconforming use was not destroyed by fire or other casualty, §104.2 is not applicable.

The current owner razed the existing structure and applied for building permits to construct a two-story semi-detached dwelling using the existing foundation. Building permits have been issued. The existing structure was razed and new construction has begun.

The purpose of this Petition is to confirm that the nonconforming uses granted in Case No 04-567 have been terminated and to further confirm the construction of multi family dwelling on the property is in violation of the current zoning, which is DR 5.5. Baltimore County must issue stop work orders as the building permits were issued illegally.

Attachment 2

Special Hearing

1. To confirm that a previously approved nonconforming use has been abandoned; and

2. To confirm that a multi-family dwelling is not permitted on the subject property zoned DR 5.5.

Attachment 3

General Notes

1. Area of property: 7,714 SF+/-
2. Existing Zoning of Property: DR 5.5
3. Existing Use of Property: residential
4. Proposed zoning of property: DR 5.5
5. Proposed Use of Property: residential
6. Property served by public water and sewer
7. Petitioner's requesting special hearing to confirm nonconforming use has been abandoned and a multi-family dwelling is not permitted on this property
8. Existing structure constructed on or about 1924
9. Existing property's zoning history: Case No 04-567

Property Description

BEGINNING at the intersection of the south side of Haddaway Road, 25 feet wide with the east side of a 10' right of way known as Brannan Avenue.

BEING Lots # 11 on the plat entitled "Estate of Thomas R. Brannan" as recorded among the Land Records of Baltimore County in Plat book 14 folio 89.

CONTAINING 7628 square feet or 0.175 acres of land, more or less.

ALSO known as #2621-2623 Haddaway Road and located in the 15th Election District, 7th Councilmanic District.

2022-0269-SPH

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Name- Type or Print

Signature

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21219/ //
Zip Code Telephone # Email Address

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Edgmere Wildlife Trust LA Crites Trustee
Name #1 – Type or Print Name #2 – Type or Print

/
Signature #1 Signature # 2

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Attorney for Petitioner:
Arnold Jablon
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Baltimore County - My Neighborhood



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 - 1519711618

Owner Information

Owner Name: EDGMERE WILDLIFE TRUST
CRITES L A TRUSTEE

Use: RESIDENTIAL
Principal Residence: NO

Mailing Address: UNIT 154
1443 ROCK SPRING RD
BEL AIR MD 21014-

Deed Reference: /42157/ 00353

Location & Structure Information

Premises Address: 2621 BRANNAN AVE
SPARROWS POINT 21219-1843

Legal Description: 2621-23 BRANNAN AVE
BRANNAN

Map	Grid	Parcel	Neighborhood	Subdivision	Section	Block	Lot	Assessment Year	Plat No:
0111	0016	0133	15130118.04	0000			11	2021	Plat Ref: 0014/ 0089

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1924	2,464 SF		7,714 SF	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2	NO	STANDARD UNIT	SIDING/3		2 full		

Value Information

	Base Value	Value As of 01/01/2021	Phase-in Assessments As of 07/01/2022	As of 07/01/2023
Land:	73,700	73,700		
Improvements	83,800	61,200		
Total:	157,500	134,900	134,900	134,900
Preferential Land:	0	0		

Transfer Information

Seller: PODLES JOHN STEPHEN JR	**Date:** 11/25/2019	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /42157/ 00353	**Deed2:**
Seller: PODLES JOHN STEPHEN,JR	**Date:** 04/16/2009	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /27938/ 00198	**Deed2:**
Seller: PODLES JOHN S,JR	**Date:** 01/11/1999	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /13437/ 00518	**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:**

2022-0269-SPH

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

No. 219008

Date: 11/14/2022

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				75

Total: $ 75.00

Rec From: Arnold Jablon

For: Special Hearing Petition
2621-2623 Brannan Road
Zoning Case 2022-0269-SPH

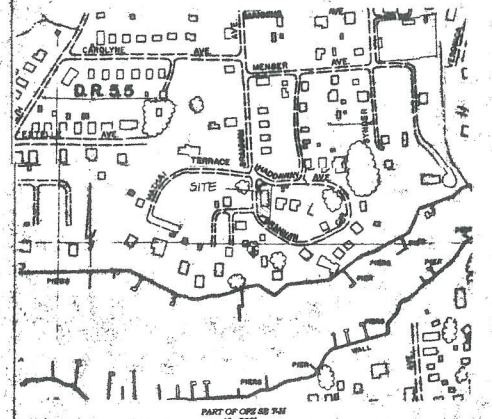
DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

CASHIER'S VALIDATION

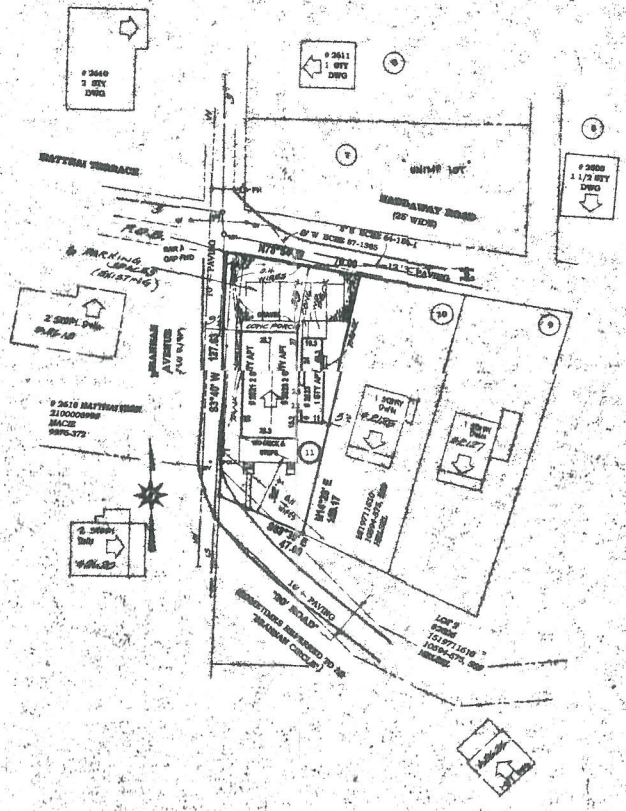
2022-0269-SPH

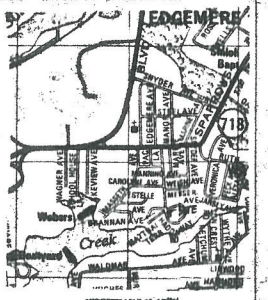
NOTES:

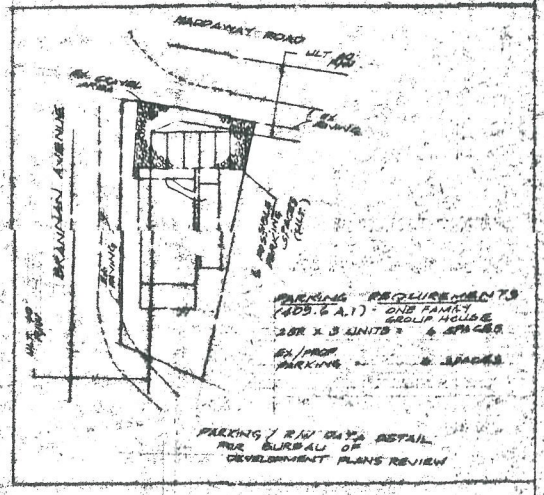
1. ZONING VIOLATION- 08-0886
   (ILLEGALLY CONVERTED ILLEGALLY BUILT 3RD DWELLING UNIT).
2. OWNERSHIP: JOHN STEPHEN POOLER, JR.
   2621 BRANNAN AVENUE
   BALTIMORE, MD 21219
   DEED REFERENCE: 13437-548
   PHONE : 410-388-6794
3. PROPERTY INFORMATION:
   TAX MAP 111 --PARCEL 133
   "PLAT OF ESTATE OF THOMAS R. BRANNAN" (34/69)
   TAX ACCT NO. 1519711618
4. AREA OF SUBJECT SITE: 7628 SF +- OR 0.175 AC. +-
5. EX./PROP USE- THREE APARTMENTS.
6. SITE LIES IN C.B.C.A. LDA PER MAP NO. 111.
6. SITE LIES IN FLOOD ZONE C PER F.E.M.A. F.I.R.M. 240030 0055 B.
9. EX. ZONING OF SITE & SURROUNDING PROPERTY: D.R. 5.5 PER ORT SE 7-H
10. UTILITIES SHOWN HEREON ARE PER REFERENCED PLANS.
11. NOT A HISTORIC BUILDING OR SITE.



PART OF ORT SE 7-H
1"= 200'







J.D. DALLAS, INC.
Surveying & Engineering
15525 Long Green Pike
Baldwin, MD. 21013
(410) 817-4600

SITE PLAN TO ACCOMPANY PETITION FOR RESIDENTIAL ZONING VARIANCE AND SPECIAL HEARING IN A D.R. 5.5 ZONE

2621-2623 HADDAWAY ROAD

15TH EL. DIST 7TH COUNC DIST BALT. COUNTY, MD
SCALE: 1"= 30'
FEBRUARY, 2004
REV 8-16-04

2022-0269-SPH

Edgemere Wildlife Trust – Brannan Avenue – 2022-269-SPH

People's Counsel CBA Updated Exhibit List – August 31, 2023

1. 2004 ALJ Opinion and Site Plan
2. CBA Dismissal of 2004 case
3. SDAT Information
4. ADC Map
5. MyNeighborhood Zoning & Aerial Maps
6. Google Street Map Photo
7. BCZR Sections 101.1, 104.1 & 500.7
8. Deed- Liber 21938 Folio 198 - dated April 1, 2009
9. Deed – Liber 42157 Folio 353 – dated September 19, 2019
10. SDAT – 45 Dendron Court
11. ZCMP – Non-confirming use

KLC 9/7/2023

Exh 2

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE S/S of Haddaway Road, E/S of Brannan Avenue 15th Election District 7th Councilmanic District **(2621-2623 Haddaway Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 04-567-SPHA

John Stephen Podles, Jr.
Petitioner

OCT 12 2004
RECEIVED

* * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Variance and Petition for Special Hearing for the properties located at 2621-2623 Haddaway Road in the eastern area of Baltimore County. The Petition was filed by John Stephen Podles, Jr., the Petitioner and legal owner of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. In addition, variance relief is requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft.

The property was posted with Notice of Hearing on July 27, 2004, 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 August 3, 2004, to notify any interested persons of the scheduled hearing date.

RECEIVED
OCT - 8 2004

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all

zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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."

Section 104, Nonconforming Uses [BCZR 1955]

Definition: Nonconforming Use -- A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

Section 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Section 104.3 No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]

Section 104.4 Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any

extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were submitted by the Department of Environmental Protection & Resource Management (DEPRM) dated July 1, 2004, a copy of which is attached hereto and made a part hereto. In addition, a ZAC comment was received from the Bureau of Development Plans Review dated July 2, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were John S. Podles, Jr., the Petitioner, Christopher Podles, Mary Pyles and Jean Grovu. J. Scott Dallas appeared on behalf of J.S. Dallas, Inc., the survey and engineer company that prepared the site plan of the property on behalf of the Petitioner. Alfred L. Brennan, Jr., Esquire represented the Petitioner. No protestants or citizens attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

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Mr. Brennan proffered that the subject property is located at the intersection of Brannan Avenue and Haddaway Road. Brannan Avenue continues to the south of the property as Brannan Circle. The Department of Public Works requested that the plan to accompany show a full 40-ft. right-of-way for both Haddaway Road and Brannan Avenue to which the Petitioner agreed as set forth on Petitioner's Exhibit No. 1. Mr. Brennan noted the odd configuration of the lot that has streets on three sides and the new rights-of-way requested by the County. In addition, the building is not square on the lot so that one side is closer to the boundary than the

other. The subject property is 0.175 acre in size and is Lot 11 of the Estate of Thomas Brannan, which was recorded in the Land Records of Baltimore County in 1948. The zoning is DR 5.5, which was imposed on the property in 1955. The lot is apparently within the Chesapeake Bay Critical Area.

The property is improved by a duplex (side by side) apartment house, one half of which Mary Pyles testified that she rented in 1948 and 1949 when she worked for Bethlehem Steel Corporation. She noted that there were two apartments at that time and that the building was old when she moved in. Mr. Brennan presented a series of aerial photographs (Petitioner's Exhibit Nos. 2 through 5) which show the duplex apartment in 1938, 1954, 1961 and 1977 basically unchanged.

Mr. Podles testified that he bought the property in 1992 in horrible shape. Since that time, he has rehabilitated and remodeled it so that he can rent it as two side by side apartments. He noted that each apartment contained its own bath, kitchen and bedrooms. However, each apartment had only two bedrooms and in order to make each apartment more attractive to tenants, he constructed a third bedroom over each of the apartments in 1992 for which Baltimore County issued a permit. Finally, he constructed a third apartment on the side of the existing duplex building in 2000 without a permit, which is now the source of the violation notice. See Petitioner's photographs marked Exhibit Nos. 7 through 14.

Finally, Mr. Dallas, who prepared the plan to accompany, noted that the additional apartment increased the footprint by approximately 18% and that the County's request to show parking for each apartment for a total of six spaces is shown on Petitioner's Exhibit No. 1. He also noted that the third apartment falls within 3 ft. of the boundary of the lot and that the

Petitioner did not own the lot next door which he could use to expand the lot and thus comply with the regulations by lot line adjustment.

Findings of Fact and Conclusions of Law

From the testimony and evidence, I find that the Petitioner has a legal use of two apartments side by side, which do not conform to the use regulation for the DR 5.5 zone in which it is located. Ms. Pyles indicated that she rented one side of the duplex in 1948 and I have no reason to believe that a multi-family use was not legal at that time. In addition, I find that there has been no abandonment of the apartment use since the time the DR regulations were imposed in 1970.

Much more troubling is the question of whether the addition of the second floor to the duplex apartments should be considered in calculating the percentage increase, as well as the third apartment. Mr. Dallas testified that the third apartment added only 18% to the footprint of the building and thus meets the 25% expansion requirement of nonconforming uses. The Petitioner notes that the statute specifically states that the footprint is the basis of the nonconforming use. The statute (Section 104.3 of the B.C.Z.R.) specifies that a nonconforming use may not be extended more that 25% of "the ground floor area of the building so used".

Consequently, Mr. Brennan argues that I am not to consider the second story added to the duplex in calculating the extension. He cites the case of *Feldstein v LaVale Zoning Board,* 246 MD 204 (1967) which involved an increase in the volume and height of stored scrap metal in a nonconforming junkyard. In this case, the Court of Appeals ruled that this was an intensification and not an extension of the nonconforming use. In addition he cites *Green v Garrett et al.*, 63 A2d 326 which involves the nonconforming use of a stadium which before the zoning ordinance, held football and baseball games. The zoning ordinance then restricted the property to

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In regard to the contention that the basis of a nonconforming use is simply the foot print of the building, this makes no logical sense to me, although at first glance the statute seems to say so. If I consider only the first floor footprint, an addition that adds ten floors to a nonconforming use would have no extension at all by this way of calculation. Obviously, the nonconforming use has intensified tenfold but this would not register on the statute's Richter Scale and be counted.

In regard to the cases cited, I understand that more frequent use of or conducting more business from a nonconforming use is an intensification and not an extension. However, the subject case is about putting another room onto each apartment and then adding a third apartment to the building. In my view, these are extensions and not intensifications. The statute specifically mentions physical area as the basis of the 25% rule.

It seems to me that the Council's intention is to regulate the size of land extensions by finding the area of the nonconforming use and then determine if that area has been extended more than 25%. Area works well here. However, I interpret the legislative intent for extension of nonconforming structures to apply to volumetric increases and not simply footprint of the first floor. In this sense, I find the words "of the ground floor area" in the statute does not indicate a precise mathematical formula (such as width times length for a rectangle) but rather that it means the first story of the building. Otherwise, we could have the absurd result of a one story nonconforming building been extended to multi-story heights without any extension. Clearly, this is not the intent of the legislation.

As I understand the situation, each nonconforming apartment had a kitchen, bath and two bedrooms, which were approximately the same size. If a third bedroom is added to each apartment again, of about the same size, there would be an increase in number of rooms from four to five rooms or a 25% increase in the nonconforming use. This would use up the maximum extension under the regulations. I cannot, therefore, approve the additional apartment. As a further result, I cannot approve a variance for the side yard setback, which is the distance of the third apartment to the property line.

In addition, even accepting the Petitioner's argument about foot print, which I do not, I have great difficulty with this request. Mr. Dallas testified, that by using the footprint method the Petitioner suggests the addition increases the nonconforming use 18%. However, the footprint dimension of the duplex is approximately 28.5 ft. x 55 ft., which I calculate to be 1,567.5 sq. ft. The addition is approximately 10.6 ft. x 43.3 ft., which I calculate is 459 sq. ft. This gives me a percentage increase of 29.3% increase, which exceeds the statutory limit just for the addition alone, much less for the third bedroom.

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 Petitioner, I find that the Petitioner's variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12 day of October, 2004, that the Petitioner's request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling consisting of two apartments side by side, be and is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request to approve the expansion of the two existing apartments by the addition to each of a third bedroom is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request for a third apartment, be and is hereby DENIED;

IT IS FURTHER ORDERED, that the Petitioner's request to determine that the third unit will not negate the nonconforming use, be and is hereby DENIED as moot; and

IT IS FURTHER ORDERED, that the variance relief requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft., be and is hereby DENIED.

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

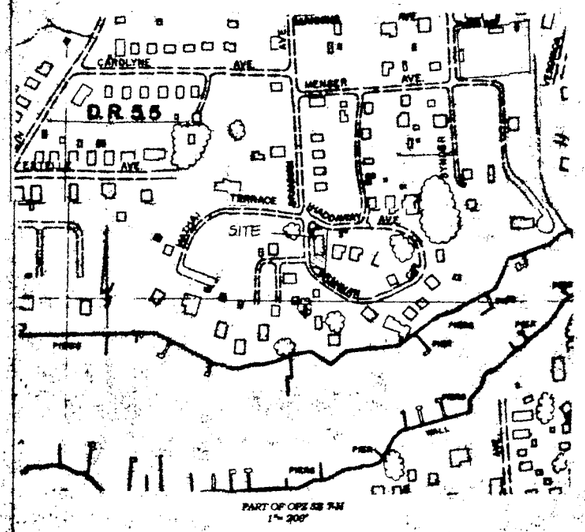
John V. Murphy

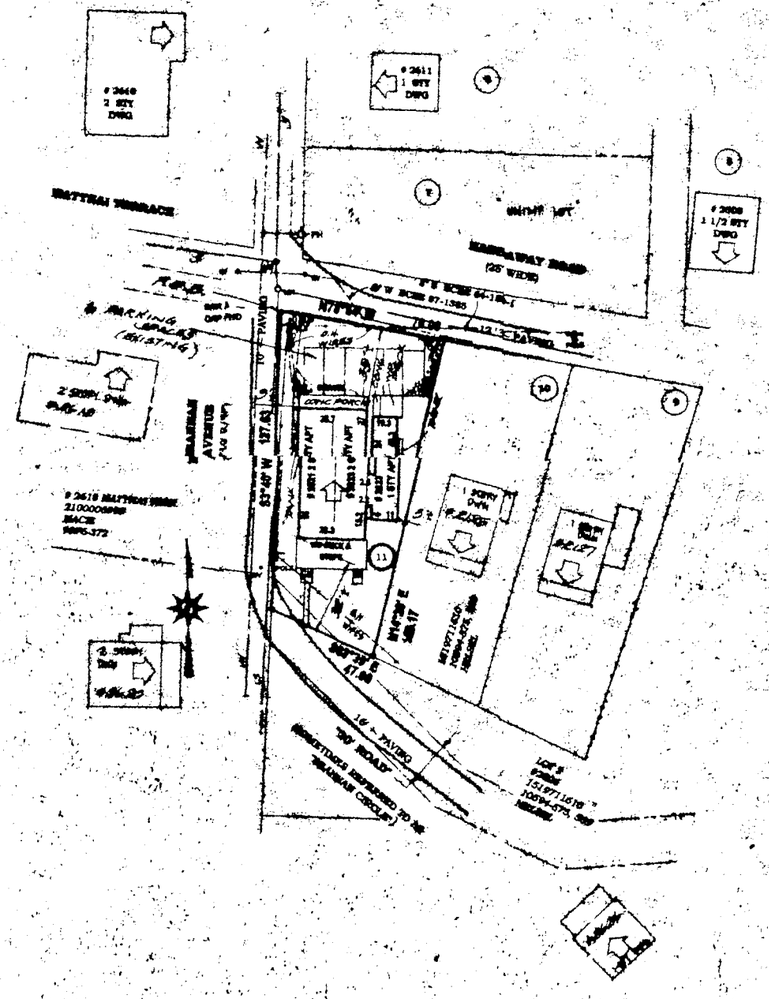
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

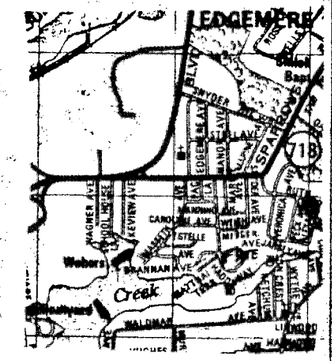
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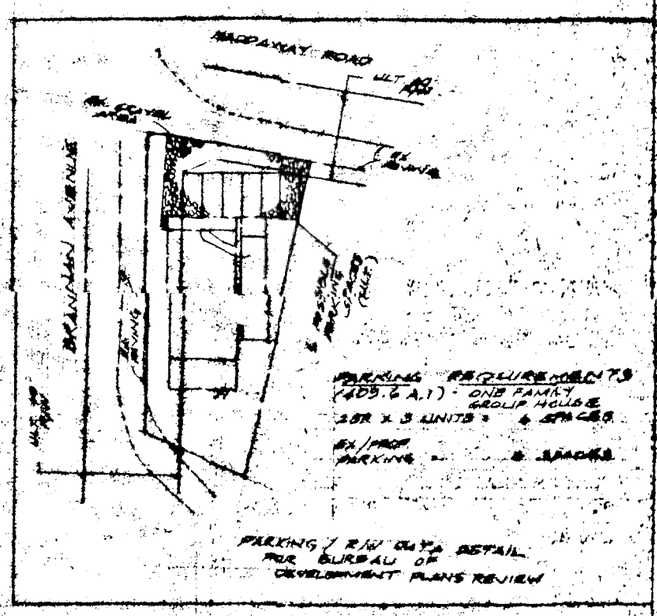
NOTES

1. ZONING VIOLATION: 06-0935
   (*ILLEGALLY CONVERTED/ ILLEGALLY BUILT 3RD DWELLING UNIT*).
2. OWNERSHIP: JOHN STEPHEN FOCKLER, JR
   2621 BRANHAN AVENUE
   BALTIMORE, MD 21219
   DEED REFERENCE: 13437-549
   PHONE : 410-388-6794
3. PROPERTY INFORMATION:
   TAX MAP 111 —PARCEL 133
   PLAT OF ESTATE OF THOMAS R. BRANHAM (34/ 89)
   TAX ACCT NO. 1519711618
4. AREA OF SUBJECT SITE: 7628 SF +- OR 0.175 AC. +-
5. EX./ PROP USE: THREE APARTMENTS.
6. SITE LIES IN C.B.C.A. LDA PER MAP NO. 111.
7. SITE LIES IN FLOOD ZONE C PER F.E.M.A. F.I.R.M. 240030 0656 B.
8. EX. ZONING OF SITE & SURROUNDING PROPERTY: D.R. 5.5 PER OPZ SE 7-H
9. UTILITIES SHOWN HEREON ARE PER REFERENCED PLANS.
10. NOT A HISTORIC BUILDING OR SITE.









J.B. DALLAS, INC.
Surveying & Engineering
15325 Long Green Pike
Baldwin, MD. 21013
(410) 517-4608

SITE PLAN TO ACCOMPANY PETITION FOR RESIDENTIAL ZONING VARIANCE AND SPECIAL HEARING IN A D.R. 5.5 ZONE

 # 2621-2623 HADDAWAY ROAD

15TH EL. DIST 7TH COUNC DIST BALT. COUNTY, MD

SCALE: 1" = 30'

FEBRUARY, 2004

REV. 6-16-04

Edgemere Wildlife Trust – Brannan Avenue – 2022-269-SPH

People's Counsel ALJ Exhibit List

1. 2004 ALJ Opinion and Site Plan
2. CBA Dismissal of 2004 case
3. SDAT Information
4. ADC Map
5. MyNeighborhood Zoning & Aerial Maps
6. Google Street Map Photo

IN THE MATTER OF THE APPLICATION OF JOHN STEPHEN PODLES, JR. – LEGAL OWNER /PETITIONER FOR A VARIANCE ON PROPERTY LOCATED ON THE S/S OF HADDAWAY RD, E/S BRANNAN AVENUE (2621-2623 HADDAWAY ROAD)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT	*	CASE NO. 04-567-SPHA

* * * * * * * * * * *

ORDER OF DISMISSAL

This matter comes to the Board of Appeals by way of an appeal filed by John S. Podles, Jr., Legal Owner /Petitioner, from a decision of the Deputy Zoning Commissioner dated October 6, 2004 in which the requested relief was granted in part and denied in part.

WHEREAS, the Board is in receipt of a letter of withdrawal of appeal filed on May 26, 2005 by Arnold Jablon, Esquire, Counsel for Appellant /Petitioner (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Appellant requests that the appeal taken in this matter be withdrawn and dismissed as of May 26, 2005,

IT IS THEREFORE ORDERED this 27th day of May, 2005 by the County Board of Appeals of Baltimore County that the appeal taken in Case No. 04-567-SPHA be and the same is hereby **DISMISSED**, whereby the Order of the Deputy Zoning Commissioner issued on October 6, 2004 becomes the final Order in this matter.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Lawrence M. Stahl, Chairman

Lawrence S. Wescott

Margaret Brassil, Ph.D.

Case No. 04-567-SPHA

In the Matter of: John Stephen Podles, Jr. – Petitioner /Legal Owner
2621-2623 Haddaway Road

SPH – To approve confirmation of nonconforming use for multi-family dwelling and expansion thereof and to approve third unit and to determine that the third unit will not negate the nonconforming use;
VAR – to allow side yd setback of 3' ilo minimum required 10'

10/06/04 - D.Z.C.'s Order in which special hearing to approve confirmation of nonconforming use / two apts side by side / was GRANTED; expansion of existing apartments by addition of third bedroom each was GRANTED; request for third apt and variance relief was DENIED.

1/03/05 – Letter from Alfred L. Brennan, Jr., Esquire and BRENNAN and BRENNAN – no longer striking appearance as counsel for Mr. Podles in this matter; all future correspondence to be mailed directly to Mr. Podles. File so noted 1/04/05.

1/04/05 – Letter to Mr. Brennan acknowledging receipt of his withdrawal of appearance; copy to Mr. Podles and also to People's Counsel.

2/14/05 -Notice of Assignment sent to following; assigned for hearing on Wednesday, June 1, 2005 at 10 a.m.:

John Stephen Podles, Jr.
J. Scott Dallas /J.S. Dallas, Inc.
Christopher Podles
Mary Pyles
Jean Grove
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

4/13/05 – Request for postponement filed by Arnold Jablon – recently retained to represent the Appellant /Petitioner; requires time to prepare case; also will be out of town on the scheduled date of 6/01/05. No protestants before the ZC. Attempting to clarify availability of parties on either 6/07 or 7/07/05; notice to be sent upon clarification.
– Mr. Zimmerman available either 6/07 or 7/07/05, preferring the June date. T/C from Mr. Jablon – his witness is not available on 6/07/05. Will reassign to July 7 and send notice.

4/22/05 – Notice of PP and Reassignment sent to parties; case reassigned to Thursday, July 7, 2005 at 10:00 a.m.

5/26/05 – Letter of dismissal of appeal filed by Arnold Jablon, Esquire, on behalf of Appellant /Petitioner, John Stephen Podles, Jr. Order of Dismissal to be issued; order of the DZC dated October 6, 2004 will then become the final Order in this matter (relief granted in part and denied in part).

PC Exh 2

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
S/S of Haddaway Road,
E/S of Brannan Avenue
15th Election District
7th Councilmanic District
(2621-2623 Haddaway Road)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 04-567-SPHA

John Stephen Podles, Jr.
Petitioner

OCT 12 2004
* * * RECEIVED * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Variance and Petition for Special Hearing for the properties located at 2621-2623 Haddaway Road in the eastern area of Baltimore County. The Petition was filed by John Stephen Podles, Jr., the Petitioner and legal owner of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. In addition, variance relief is requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft.

The property was posted with Notice of Hearing on July 27, 2004, 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 August 3, 2004, to notify any interested persons of the scheduled hearing date.

RECEIVED
OCT - 8 2004

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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."

Section 104, Nonconforming Uses [BCZR 1955]

Definition: Nonconforming Use – A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

Section 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Section 104.3 No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]

Section 104.4 Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any

extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]

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IT IS FURTHER ORDERED, that the variance relief requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft., be and is hereby DENIED.

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

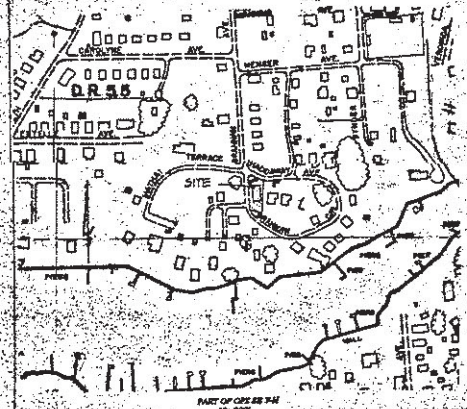
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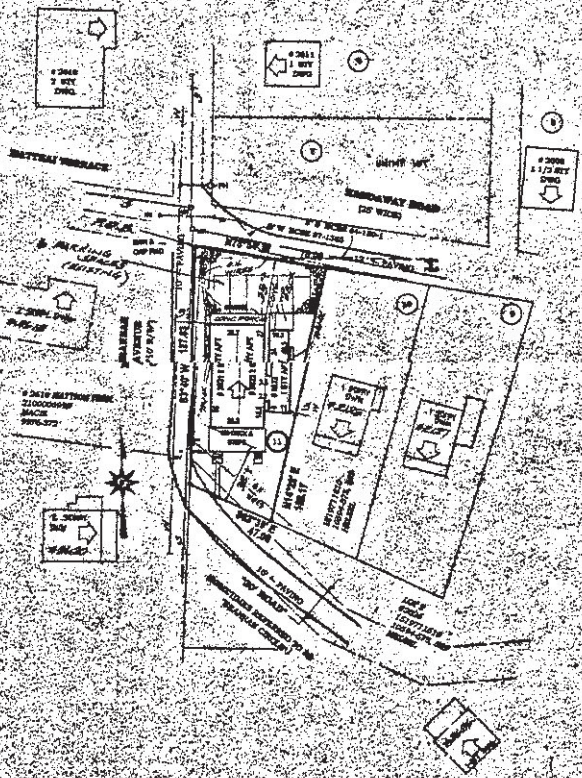
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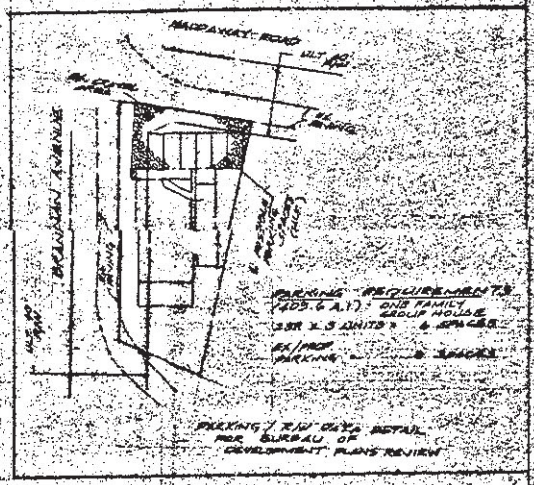
JVM:raj

NOTES

1. ZONING VIOLATION: 06-0281 (*"ILLEGALLY CONVERTED/ILLEGALLY BUILT 3RD DWELLING UNIT"*)
2. OWNER/DEV: JOHN STEPHEN FOGLE, JR.
   2621 SHANNAN AVENUE
   BALTIMORE, MD 21219
   DEED REFERENCE: 13437/418
   PHONE: 410-366-0704
3. PROPERTY INFORMATION:
   TAX MAP 111 —PARCEL 138
   "PLAT OF ESTATE OF VIRGINIA R. SHANNAN" (34/88)
   TAX ACCT NO. 1519711618
4. AREA OF SUBJECT SITE: 7628 SF +- OR 0.175 AC +-
5. EX./PROP USE: THREE APARTMENTS.
6. SITE LIES IN C.B.C.A. LDA PER MAP NO. 111.
7. SITE LIES IN FLOOD ZONE C PER F.E.M.A. F.I.R.M. 240010 0036 B.
8. EX. ZONING OF SITE & SURROUNDING PROPERTY: D.R. 5.5 PER OPZ SE 7-H
9. UTILITIES SHOWN HEREON ARE PER REFERENCED PLANS.
10. NOT A HISTORIC BUILDING OR SITE.









J.S. DALLAS, INC.
Surveying & Engineering
15525 Long Green Pike
Baldwin, MD. 21013
(410) 517-4600

SITE PLAN TO ACCOMPANY PETITION FOR RESIDENTIAL ZONING VARIANCE AND SPECIAL HEARING IN A D.R. 5.5 ZONE

 # 2621-2623 HADDAWAY ROAD

15TH EL. DIST 7TH COUNC DIST BALT. COUNTY, MD

SCALE: 1"=30' FEBRUARY, 2004

REV. 4-16-04

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 -** 1519711618

Owner Information

Owner Name: EDGMERE WILDLIFE TRUST
CRITES L A TRUSTEE
Use: RESIDENTIAL
Principal Residence: NO
Mailing Address: UNIT 154
1443 ROCK SPRING RD
BEL AIR MD 21014-
Deed Reference: /42157/ 00353

Location & Structure Information

Premises Address: 2623 BRANNAN AVE
SPARROWS POINT 21219-1843
Legal Description: 2621-23 BRANNAN AVE
BRANNAN

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0111	0016	0133	15130118.04	0000			11	2021	**Plat Ref:** 0014/ 0089

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
			7,714 SF	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
			/				

Value Information

	Base Value	Value	Phase-in Assessments	
		As of 01/01/2021	As of 07/01/2022	As of 07/01/2023
Land:	73,700	73,700		
Improvements	0	0		
Total:	73,700	73,700	134,900	73,700
Preferential Land:	0	0		

Transfer Information

Seller: PODLES JOHN STEPHEN JR **Date:** 11/25/2019 **Price:** $0
Type: NON-ARMS LENGTH OTHER **Deed1:** /42157/ 00353 **Deed2:**

Seller: PODLES JOHN STEPHEN,JR **Date:** 04/16/2009 **Price:** $0
Type: NON-ARMS LENGTH OTHER **Deed1:** /27938/ 00198 **Deed2:**

Seller: PODLES JOHN S,JR **Date:** 01/11/1999 **Price:** $0
Type: NON-ARMS LENGTH OTHER **Deed1:** /13437/ 00518 **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:**

Baltimore County

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

District: 15 Account Number: 1519711618

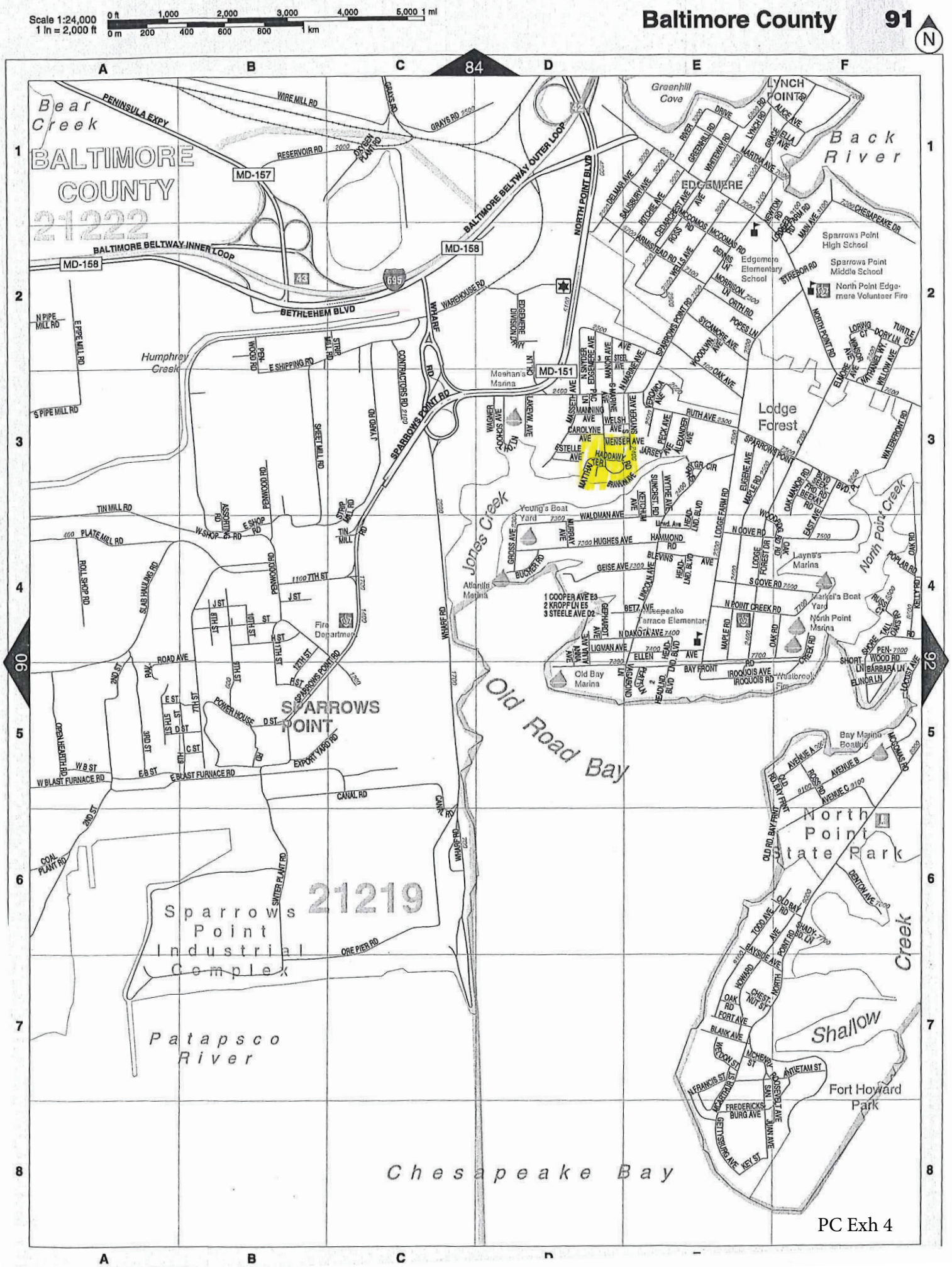


The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

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)**.


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
Baltimore County 91
84
90
92
Bear Creek
BALTIMORE COUNTY
21222
PENINSULA EXPY
WIRE MILL RD
GRAYS RD
RESERVOIR RD
ORDEAL PLANT RD
MD-157
BALTIMORE BELTWAY OUTER LOOP
BALTIMORE BELTWAY INNER LOOP
MD-158
43
695
BETHLEHEM BLVD
WARREHOUSE RD
WHARF
NORTH POINT BLVD
Greenhill Cove
LYNCH POINT
Back River
EDGEMERE
Sparrows Point High School
Edgemere Elementary School
Sparrows Point Middle School
North Point Edgemere Volunteer Fire
SPARROWS POINT RD
MD-151
Meshan's Marina
Humphrey Creek
Lodge Forest
Young's Boat Yard
Jones Creek
Atlantic Marina
Layne's Marina
Markel's Boat Yard
North Point Marina
North Point Creek
Old Bay Marina
Chesapeake Terrace Elementary
Old Road Bay
Bay Marina Boating
North Point State Park
Fort Howard Park
Shallow Creek
SPARROWS POINT
Fire Department
Sparrows Point Industrial Complex
21219
Patapsco River
Chesapeake Bay
CANAL RD
ORE PIER RD
PC Exh 4

Baltimore County - My Neighborhood



Baltimore County Government, County of Anne Arundel, VITA, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA |

PC Exh 5

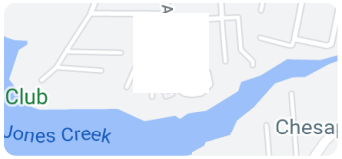
Baltimore County - My Neighborhood



Google Maps 2501 Haddaway Rd



Image capture: Jun 2022 © 2023 Google



PC Exh 6

NATURAL BURIAL GROUND — A property intended for use for the burial or permanent disposition of the remains of the dead, utilizing natural burial methods and biodegradable materials that permit the body to return naturally to the earth.

[Bill No. 76-2021]

NEIGHBORHOOD CAR RENTAL AGENCY — The principal use of land for the rental of motor vehicles weighing 7,000 pounds (GVW) or less, including the parking of no more than 25 such vehicles on the premises. The term does not include a business that rents or leases motor vehicles as an accessory use, or rents or leases trailers, or trucks weighing over 7,000 pounds (GVW), or supplies limousines for hire, or that is a taxicab service. (See also "garage, service.")

[Bill No. 122-2005]

NIGHTCLUB — A commercial establishment with or without the right to serve food, beverages, or alcoholic beverages to patrons for on premise consumption, that derives its main revenue source between the hours of 9:00 p.m. to 2:00 a.m. as primarily an entertainment venue, provides live or recorded entertainment, with or without a dance floor, and often having a floor show or dim lighting. A commercial establishment is not a nightclub if live or recorded musical entertainment is played or performed pursuant to a live musical entertainment use permit. For the purposes of enforcement and as may be determined by the authority having jurisdiction, a nightclub may be defined differently by the county fire prevention code or building code, as amended and adopted by the county.

[Bill Nos. 110-1993; 18-2021]

NONCONFORMING USE — A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use.

[Bill No. 18-1976]

NONINDUSTRIAL USE — Any use other than an industrial, quasi-industrial or industry-related use.

[Bill No. 178-1979]

NUDITY — A state of dress in which a human buttock, anus, genitalia or female breast is completely bared.

[Bill No. 137-1990]

NUDITY, PARTIAL — A state of dress in which clothing covers no more than the genitals, pubic region and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

[Bill No. 137-1990]

NURSERY, HORTICULTURAL — An agricultural operation primarily engaged in the production and marketing of trees, shrubs and plants. The plant materials may be produced on the premises and may be purchased elsewhere at any stage of maturity for further production. Horticultural nurseries may engage in accessory uses such as storage of plant materials, sale of products necessary for the health of the nursery stock, and provision of limited landscape services. A nursery which sells plant materials grown exclusively on-site and which does not offer any of the accessory services permitted at horticultural nurseries shall be considered a farm.

[Bill No. 41-1992]

NURSERY SCHOOL — A school or a level within a school providing educational instruction for children between two and four years old.

[Bill No. 47-1985]

NURSING HOME (formerly "convalescent home") — A facility which provides board, shelter and nursing care to chronic or convalescent patients. This term also includes facilities which provide domiciliary care within a nursing home.

[Bill No. 37-1988]

SECTION 104 - Nonconforming Uses

[BCZR 1955]

§ 104.1. - Continuation of nonconformance; exceptions.

[Bill Nos. 18-1976; 124-1991]

A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate.

§ 104.2. - Restoration of damaged or destroyed structures.

[Bill No. 124-1991]

A structure damaged to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but may not be enlarged. In the case of residentially used structures which are nonconforming in density, the number of dwelling units or density units rebuilt may be equal to but may not exceed the number of units which existed before the casualty.

§ 104.3. - Limit on extension of nonconforming buildings and uses; exception.

[Bill No. 124-1991]

No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25 percent of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307.

§ 104.4. - Exception for certain office buildings.

[Bill Nos. 167-1980; 124-1991]

Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception.

§ 104.5. - Uses in Chesapeake Bay Critical Area.

[Bill Nos. 32-1988; 124-1991; 9-1996; 137-2004]

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

§ 104.6. - Striptease businesses.

A striptease business lawfully operating prior to the effective date of this legislation [48] that is in violation of the requirements contained herein shall be deemed a nonconforming use. A striptease business which is a nonconforming use:

A. Shall be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more; and

B. Shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.

[Bill No. 137-1990]

Footnotes:
*--- (**48**) ---*
1. Editor's Note—Apparently refers to Bill No. 137-1990.

§ 104.7. - Nonconforming signs.

[Bill No. 89-1997]

Notwithstanding the provisions of this section, nonconforming signs are subject to Section 450.8.C.

§ 104.8. - Termination of nonconforming use.

[Bill No. 105-2006]

After notice and hearing, the Zoning Commissioner may terminate a nonconforming use and require the use to revert to a use allowed under the existing zoning classification if the hearing officer has previously determined, after a code enforcement hearing under Article 3, Title 6 of the Code:

A. That the owner, tenant or entity having control of the land or use is in violation of the County Code, as defined in Article 3, and that the violation is continuing; or

B. That the owner, tenant or entity having control of the land or use is in violation of the County Code for the same offense on multiple occasions.

§ 500.7. - Petitions for public hearing; notice.

[Bill No. 18-1976]

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

With respect to any zoning petition other than a petition for a special exception, variance or reclassification, the Zoning Commissioner shall schedule a public hearing for a date not less than 30 days after the petition is accepted for filing. If the petition relates to a specific property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of at least 15 days before the time of the hearing. Whether or not a specific property is involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the county. The notice shall describe the property, if any, and the action requested in the petition. Upon establishing a hearing date for the petition, the Zoning Commissioner shall promptly forward a copy thereof to the Director of Planning (or his deputy) for his consideration and for a written report containing his findings thereon with regard to planning factors.

114

PC 8

Property Address:
2621-2623 Brannan Avenue
Baltimore, Maryland 21219
Tax ID #15-19-711618

LIFE ESTATE DEED WITH FULL POWERS OF DISPOSITION REMAINDER TO CHILD/ GRANDCHILDREN-SEC 33-139 (G)
NO TITLE EXAMINATION DONE NOR REQUESTED
NO CONSIDERATION

THIS DEED, Made this 1st day of April, 2009, by and between John Stephen Podles, Jr., party of the first part; and Christopher Podles, Cameron Podles and Molley Ann Podles his son and grandchildren, parties of the second part.

WITNESSETH, That in the consideration of the premises and the natural love and affection shared between the parties hereto, the said John Stephen Podles, Jr., party of the first part, subject to the retention of the life estate reserved unto him for and during the period of his life does hereby grant and convey unto Christopher Podles, Cameron Podles and Molley Ann Podles, his son and grandchildren, as Joint Tenants and Note as Tenants in Common, the survivor of them, the survivor's personal representatives, and/or assigns, all that lot of ground situate in Baltimore County, State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 11 on the plat entitled "Estate of Thomas R. Brannan", which Plat is dated August 26, 1943, and recorded among the Land Records of Baltimore County on or about September 27th, 1948. The improvements thereon being formerly known as No. 2621-2623 Haddaway Road, and now known as No. 2621-2623 Brannan Avenue.

BEING one of the lots of ground described in a Deed dated April 21st, 1994 and recorded among the Land Records of Baltimore County in Liber SM 13437, folio 518, was granted and conveyed by John Stephen Podles, Jr. and Thelma Lee Podles, his wife, unto John Stephen Podles, Jr.

TOGETHER with the building and improvements thereupon erected; and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises above described and mentioned 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 Christopher Podles, Cameron Podles and Molley Ann Podles, his son and grandchildren, as Joint Tenants and Not as Tenants in Common, the survivor of them, the survivor's personal representatives and/or assigns, parties of the second part, in FEE SIMPLE, forever, which they hereby retain for and during the period of their lives, reserving unto the said John Stephen Podles, Jr., party of the first part herein, absolute and exclusive right and power to occupy, remain in possession of and enjoy the property hereinbefore described and to reserve all of the profits and proceeds arising from or out of said property, to be used, applied and disposed of by him in any manner that he in his sole discretion may see fit during the period of his life; and further retaining and reserving unto the said John Stephen Podles, Jr., the Grantor herein, for and during the period of his life, the full and absolute power and authority to sell, assign, mortgage, lease, for any term of years whatsoever, grant, convey, rent or otherwise dispose of or encumber the whole or entire estate in and to the said property hereinbefore

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27938, p. 0198, MSA_CE62_27793. Date available 04/20/2009. Printed 08/28/2023.

described or any part thereof (except the power to dispose of the same by Last Will and Testament) in any manner and for any consideration that he may see fit in his sole discretion without the necessity of the Grantees herein or any other person or persons whatsoever joining in or being made part of any deed, assignment, lease, mortgage, or other conveyance or instrument effectuating the disposal of said property in any manner, and to retain unto himself all of the purchase money, mortgage money, rents, proceeds and other consideration or profits arising from or out of the disposal of said property for his absolute use, and the purchasers, mortgagee or mortgagees, lessee or lessees, grantee or grantees, hereby being relieved from seeing to the application of the purchase money, rents, profits or other considerations or proceeds arising from or out of said property or the disposal thereof, it being the intention of the Grantor to retain unto himself for and during the period of his life, the full and absolute power to deal with and dispose of said property absolutely in any manner whatsoever (except the power to dispose of the same by Last Will and Testament) during the term of his natural life in the same manner and to the same extent as if these presents had never been executed.

AND the said party of the first part hereby covenants that he has not done nor suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed except as hereinbefore set forth; that he will warrant specially the property granted and that he will execute such further assurances of the same as may be requisite.

WITNESS the hand and seal of the said Grantor.

WITNESS

John Stephen Podles, Jr.

STATE OF MARYLAND, COUNTY OF BALTIMORE, To Wit:

I HEREBY CERTIFY, That on this 1st day of April, 2009, before me, the subscriber, a Notary Public of the state and county aforesaid, personally appeared John Stephen Podles, Jr., known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purposes herein contained and in my presence signed and sealed the same.

AS WITNESS My Hand and Notarial Seal.

Trisha Curtis - Notary Public

My Commission Expires: February 1st, 2010

Trisha Curtis
Notary Public
Baltimore County, Maryland
My Commission Expires 2/1/2010

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27938, p. 0199, MSA_CE62_27793. Date available 04/20/2009. Printed 08/28/2023.

0027938 200

This to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland attorney, or by a party to this instrument.

Robert E. Joy, Attorney

AFTER RECORDING MAIL TO:
TRUST TITLE COMPANY, INC.
7222 HOLABIRD AVENUE
BALTIMORE, MARYLAND 21222
410-285-7330

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 27938, p. 0200, MSA_CE62_27793. Date available 04/20/2009. Printed 08/28/2023.

0027938 201

2009

MARYLAND

FORM

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

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

John Stephen Podles, Jr.

2. Reasons for Exemption

Resident Status

☒ 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 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 Trisha Curtis

John Stephen Podles, Jr.
Name

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

Title

08-49

0027938 202

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)

IMP FD SURE $ 20.00
RECORDING FEE 20.00
TOTAL 40.00
RCPT# BA03 Rcpt # 53139
BC Blk # 2529
Apr 16, 2009 01:42 Pm

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

X Deed	☐ Mortgage	☐ Other _____	☐ Other _____
☐ Deed or Trust	☐ Lease	☐ _____	☐ _____

2 Conveyance Type Check Box

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

3 Tax Exemptions (if Applicable) Cite or Explain Authority

Recordation	Life Estate with Full Powers
State Transfer	Sec 33-139(6)
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		For Clerk's Use Only
Purchase Price/Consideration	$ n/a	
Any New Mortgage	$	
Balance of Existing Mortgage	$	
Other:	$	
Other:	$	
Full Cash Value: AV	$ 84100.00	

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$
Surcharge	$ 20.00	$
State Recordation Tax	$	$
State Transfer Tax	$	$
County Transfer Tax	$	$
Other	$	$
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.	Grantor Liber/Folio	Parcel No.	Plat No.	Var.
15	15-19-711618	SM 13437/518	111	133	☐

Subdivision Name	Lot	Block	Plat Ref.	Sect/Area (4)
	11		14/89	

Location Address (if applicable): 2621-2623 Brannan Avenue, Baltimore, Maryland 21219-1843

Other Property Identifier(s) (if applicable):

Residential X or Non-Residential ☐ Fee Simple X or Ground Rent ☐ Other

Partial Conveyance? ☐ Yes X No Description/Amt. of SqFt/Acreage Transferred:

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 Owner's Name(s): Xxx John Stephen Podles, Jr.

Doc. 2 Owner's Name(s) (if different from Grantor):

8 Transferred To

Doc. 1 Owner's Name(s): Christopher Podles, Cameron Podles and Molley Ann Podles, remainderman

Mailing Address: 2621 Brannan Avenue, Baltimore, Maryland 21219-1843

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 — XX Return to Contact Person

Name: T. Curtis
Firm: Trust Title Company, Inc.
Address: 7222 Holabird Avenue
Baltimore, Maryland 21222 Phone: (410) 285-7330

☐ Hold for Pickup
☐ Return Address Provided

11 IMPORTANT: BOX 1 MUST BE COMPLETED FOR ANY ARMS-LENGTH 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).

Space Reserved for County Validation

Assessment Use Only

☐ Verified ☐ Not Verified ☐ Ownership ☐ Use ☐ Both ☐ Non-Use ☐ Agricultural Preservation

Transfer Number: _____
Year: _____
Land: _____
Buildings: _____
Total: _____
REMARKS: _____

BALTIMORE COUNTY CIRCUIT COURT

Date 4-16-09

Distribution: White - Clerk's Office, Canary - SDAT, Pink - Office of Finance

MSA_CE62_27793. Date available 04/20/2009. Printed 08/28/2023.

(Land Records) SM 27938, p. 0202,

Real Property Data Search (c) Clerk Recording Voided

PC 9

Name: EDGMERE WILDLIFE TRUST
Ref:
LR - Deed (No-Taxes)
Surcharge 40.00
SubTotal: 60.00
Total: 120.00
11/25/2019 03:59
CC03-SG
#13047932 CC0301 -
Baltimore
County/CC03.01.03 -
Register 03

Prepared By

Christos Vasiliades Esq the undersigned is a Licensed Maryland Attorney
2113 Emmorton Park Road Suite 101
Edgewood , Maryland 21040

After Recording Return To

Edgmere Wildlife Trust
2206 Old Emmorton Road Suite 100-269
Bel Air, Maryland 21015

Space Above This Line for Recorder's Use

Maryland General Warranty Deed
State of Maryland
Baltimore County
No Title Examination

THIS DEED, Made this 19 day of September, in the year two thousand and nineteen, by and between **John Stephen Podles, Jr., by Christopher Podles his Attorney-in-Fact**, by virtue of Power of Attorney dated September 23, 2019, and or recorded or intended to be recorded among the Land Records of Baltimore County, State of Maryland immediately prior hereto, parties of the first part, Grantor; and **Edgmere Wildlife Trust** with LA Crites acting as the Trustee, with a mailing address of 2206 Old Emmorton Road, Suite 100-269, Bel Air, Maryland 21015, parties of the second part, Grantee.

WITNESSETH, that in consideration of the sum of ZERO DOLLARS and ZERO CENTS, ($0.00), and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said parties of the first part, Grantor, do hereby grant and convey to the said parties of the second part, Grantee, in fee simple, all that parcel of ground situate, lying and

LR - Deed (No-Taxes)
Recording Fee 20.00
Name: EDGMERE WILDLIFE TRUST
Ref:
LR - Deed (No-Taxes)
Surcharge 40.00
SubTotal: 60.00
Total: 120.00
11/25/2019 03:59
CC03-SG
#13047932 CC0301 -
Baltimore
County/CC03.01.03 -
Register 03

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42157, p. 0353, MSA_CE62_42014. Date available 12/02/2019. Printed 08/28/2023.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42157, p. 0354, MSA_CE62_42014. Date available 12/02/2019. Printed 08/28/2023.

being in Baltimore county, State of Maryland, and said transfer is exempted pursuant to MD Code, Tax-Property, § 12-108(ee) and MD Code, Estates and Trust, § 14.5-1001 and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot No. 11 on the plat entitled "Estate of Thomas R. Brannan", which Plat is dated August 26, 1943, and recorded among the Land Records of Baltimore County on or about September 17th, 1948.

THE IMPROVEMENTS THEREON BEING FORMERLY KNOWN AS NO. 2621-2623 HADDAWAY ROAD, AND NOW KNOWN AS NO. 2621-2623 BRANNAN AVENUE.

BEING, the same property which by Deed dated December 16th, 1998 and recorded among the Land Records of Baltimore County, Maryland in Liber SM No. 13437, folio 518, was granted and conveyed by John Stephen Podles, Jr. and Thelma Lee Podles, his wife, unto John Stephen Podles, Jr., the Grantor herein.

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 parcel of ground and premises to the said parties of the second part, forever 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.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42157, p. 0355, MSA_CE62_42014. Date available 12/02/2019. Printed 08/28/2023.

WITNESS the hands and seals of said Grantors.

WITNESS:

_____

_____ (SEAL)
John S. Podles, Jr. (Grantor)
Christopher Podles his Attorney in Fact

STATE OF MARYLAND, COUNTY OF Harford : ss:

I HEREBY CERTIFY, that on this 19 day of September, 2019, before me, the subscribed, Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared John S. Podles, Jr., by Chrisopher Podles his Attorney-in-Fact, by virtue and in pursuance of the power and authority conferred upon him by the Power of Attorney hereinbefore mentioned, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that they executed the same for the purposes herein contained, and in my presence, signed and sealed the same; and acknowledged the foregoing to be his act as such Attorney-in-Fact for John S. Podles, Jr., and he further made oath in due form of law that at the time of the execution of the within instrument, he did not have actual knowledge of the revocation or termination of the above-mentioned Power of Attorney, by and cause whatsoever.

AS WITNESSETH, my hand and notarial seal.

_____
Name Notary Public

My commission expires: 6/13/2021

ANTHONY JOHNSON
Notary Public-Maryland
Harford County
My Commission Expires
June 13, 2021

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42157, p. 0356, MSA_CE62_42014. Date available 12/02/2019. Printed 08/28/2023.

I, the Grantee in the accompanying instrument of writing, do hereby state under oath and under penalty that the property conveyed to us will be held in a Trust.

WITNESS the hands and seals of said Grantee.

WITNESS:

_____

L. R. Crites (SEAL)

Edgmere Wildlife Trust with LA Crites
acting as the Trustee (Grantee)

STATE OF MARYLAND, COUNTY OF Harford : ss:

I HEREBY CERTIFY, that on this 19 day of September, 2019 before me, the subscriber, a Notary Public of the State of Maryland, in and for the County of Baltimore, personally appeared an agent and/or Trustee of Edgmere Wildlife Trust, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledge that he/she executed the same for the purposes herein contained.

AS WITNESSETH, my hand and notarial seal.

Name Notary Public

My commission expires: 6/13/2021

ANTHONY JOHNSON
Notary Public-Maryland
Harford County
My Commission Expires
June 13, 2021

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☐ County: _____

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.)

☑ 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	
State Transfer	
County Transfer	

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$	Transfer Tax Consideration	$
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 =	$
		TOTAL DUE	$

Exempt

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$	$
Surcharge	$	$
State Recordation Tax	$	$
State Transfer Tax	$	$
County Transfer Tax	$	$
Other	$	$
Other	$	$

Agent: KP

Tax Bill: FY Pd.

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	1519711618	13437 618	0111	0133	☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
	11			0014/0089	

Location/Address of Property Being Conveyed (2)

2621 - 2623 BRENNAN ROAD BALTIMORE MD 21219

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

Residential ☑ or Non-Residential ☐ | Fee Simple ☑ or Ground Rent ☐ Amount:

Partial Conveyance? ☐ Yes ☐ No | Description/Amt. of SqFt/Acreage Transferred:

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 – Grantor(s) Name(s)	Doc. 2 – Grantor(s) Name(s)
James S Peddrick Jr	
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)
Edgewood Wildlife Trust	

New Owner's (Grantee) Mailing Address

2206 OLD EMMORTON ROAD Suite 100-209 Bel Air MD 21015

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: Anthony Johnson

Firm: Trinity Settlement Services

Address: 2113 Emmorton Road #101 Edgewood MD 21040

Phone: ( )

☐ Return to Contact Person

☐ Hold for Pickup

☐ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY 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).

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. TAX NOT REQUIRED Sub Block

Zoning Director of Budget and Finance Plat Lot

Use BALTIMORE COUNTY, MARYLAND Ex. St. Occ. Cd.

Town Cd. Ex. St. Ex. Cd.

REMARKS:

☑ COUNTY TRANSFER TAX

Per _____ ART 11 TITLE 3, SUBTITLE 2, 11-3-202

✓

☑ RECORDATION TAX

Per _____ T.P. ART 12-108

Date 10/25/23

Distribution: White – Clerk's Office; Pink – Office of Finance; Canary – SDAT; Goldenrod – Preparer

ROC-CC-300 (5/2007)

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 42157, p. 0357, MSA_CE62_42014. Date available 12/02/2019. Printed 08/28/2023.

Real Property Data Search ( )
Search Result for BALTIMORE COUNTY

View Map **View GroundRent Redemption** **View GroundRent Registration**

Special Tax Recapture: None

Account Identifier: **District -** 09 **Account Number -** 1700008152

Owner Information

Owner Name:	R C HILDEBRANDT TRUSTEE	**Use:**	RESIDENTIAL CONDOMINIUM
		Principal Residence:	NO
Mailing Address:	UNIT 154 1443 ROCK SPRING RD BEL AIR MD 21014-	**Deed Reference:**	/47952/ 00401

Location & Structure Information

Premises Address:	45 DENDRON CT PARKVILLE 21234- UNIT: 33-45	**Legal Description:**	BLDG 33 UNIT 33-45 45 DENDRON CT DONCASTER VILLAGE COND

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0071	0002	0633	9130159.04	0000				2023	Plat Ref:	0005/ 0096

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1975	980 SF			36

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2	YES	END UNIT	FRAME/	3	1 full		

Value Information

	Base Value	Value	Phase-in Assessments	
		As of 01/01/2023	As of 07/01/2023	As of 07/01/2024
Land:	30,000	30,000		
Improvements	76,600	96,700		
Total:	106,600	126,700	113,300	120,000
Preferential Land:	0	0		

Transfer Information

Seller: HILDEBRANDT NICHOLAS	**Date:** 04/12/2023	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /47952/ 00401	**Deed2:**
Seller: NEIMILLER ANGELA P	**Date:** 05/19/2016	**Price:** $85,000
Type: NON-ARMS LENGTH OTHER	**Deed1:** /37530/ 00493	**Deed2:**
Seller: NEIMILLER THOMAS B	**Date:** 11/29/2005	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /22969/ 00159	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2023	07/01/2024
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:**

1992 Edition

Baltimore County
Zoning Commissioner's Policy Manual



amended May 13, 1992

adopted May 21, 1991

Administrative Supplement to the Baltimore County Zoning Regulations

104 NONCONFORMING USES

104.1 Nonconforming residential uses may be approved by the following procedures:

A. A special hearing on a petition to grant a nonconforming use status. This is the most appropriate method to establish nonconforming use status; or

B. A conditional acceptance of a nonconforming use status may be provided by the Zoning Office.

1. This conditional acceptance is subject to revocation. Conditional acceptance does not confer legal nonconforming use status on the property.
2. In the event of a challenge to the nonconforming use status, the conditional acceptance is automatically revoked and the special hearing as set forth in Section A above may be required.

C. Expansion - When two or more dwellings exist on a single lot, any application for a building addition shall be determined in a case by case review.

1. Eligibility:The right to expand any of the dwellings on the lot is contingent upon the applicant receiving approval of its nonconforming use status under Sec. A or B above.
2. Conditions:If the eligibility criteria above is met, the applicant may build additions to any of the dwellings, subject to the following:

   a. all current B.C.Z.R. setback requirements are met; or
   b. existing "nonconforming" setbacks can be matched but not extended; and
   c. each dwelling on the lot is limited to an expansion no greater than 25% of the ground floor area.

3. Interpretation: This determination may be subject to a special hearing at the discretion of the Zoning Commissioner.

D. The following information must be submitted by the property owner or contract purchaser:

1. a letter of request;
2. at least one notarized affidavit stating that the use was existing prior to applicable zoning regulations, has been in continuous use and must comply with Section 104, B.C.Z.R.;
3. a scaled site plan.

E. The Zoning Office reserves the right to require additional or clearer information.

F. See the following cases:

88-18-SPHA
88-254-SPHA
88-307-SPH
89-249 SPH thru 89-261-SPH

104 NONCONFORMING USES (Continued)

D. The following information must be submitted by the property owner or contract purchaser:

1. letter of request;
2. at least one notarized affidavit stating that the use was existing prior to applicable zoning regulations, has been in continuous use and must comply with Section 104, B.C.Z.R.;
3. a scaled site plan.

E. The Zoning Office reserves the right to require additional or clearer information.

F. See the following cases:

88-18-SPHA
88-254-SPHA
88-307-SPH
89-249 SPH thru 89-261-SPH

APPELANT EXHIBIT LIST
2022-269-SPH

Mr. Timothy Manvelides

✓ 1. Zoning Order, Case No. 04-567 SPHA.

✓ 2. Baltimore County Permit R21-02585

✓ 3. Application to amend Permit R21-02585.

✓ 4. Baltimore County Permit R22-05628 (06-09-2022)

✓ 5. Baltimore County Permit R22-06755 (10/15/2022)

✓ 6. Baltimore County Permit R22-06756 (10-15-2022)

✓ 7. Tenant rent payment history report 04/30/2020 – 05-01-2021.

✓ 8. Tenant rent payment history report 04-30-2020 – 07-25-2021.

✓ 9. Petition for Warrant of Restitution 6-2-2021.

✓ 9a. - text messages between RP + Casey

✓ 10. Baltimore County Rental License Inspection Sheet 7-15-2020.

✓ 11. 2621-2623 approved plans (select pages) residence addition site plan, work plan and isometric drawings.

✓ 12. Deed of Confirmation.

✓ 13. Photographs of existing condition.

14. BCZR §§ 101.1, 104.1, 104.2, 500.7.

✓ 15. Repairs Release Agreement

✓ 16. email from Rodan to Mehra 3.2.23

17. Video of wall coming down

KLC 9/7/2023

APP. EXH 1

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE S/S of Haddaway Road, E/S of Brannan Avenue 15th Election District 7th Councilmanic District **(2621-2623 Haddaway Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 04-567-SPHA

John Stephen Podles, Jr.
Petitioner

OCT 12 2004
RECEIVED

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Variance and Petition for Special Hearing for the properties located at 2621-2623 Haddaway Road in the eastern area of Baltimore County. The Petition was filed by John Stephen Podles, Jr., the Petitioner and legal owner of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. In addition, variance relief is requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft.

The property was posted with Notice of Hearing on July 27, 2004, 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 August 3, 2004, to notify any interested persons of the scheduled hearing date.

RECEIVED
OCT - 8 2004

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all

zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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."

Section 104, Nonconforming Uses [BCZR 1955]

Definition: Nonconforming Use -- A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

Section 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Section 104.3 No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]

Section 104.4 Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any

extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were submitted by the Department of Environmental Protection & Resource Management (DEPRM) dated July 1, 2004, a copy of which is attached hereto and made a part hereto. In addition, a ZAC comment was received from the Bureau of Development Plans Review dated July 2, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were John S. Podles, Jr., the Petitioner, Christopher Podles, Mary Pyles and Jean Grovu. J. Scott Dallas appeared on behalf of J.S. Dallas, Inc., the survey and engineer company that prepared the site plan of the property on behalf of the Petitioner. Alfred L. Brennan, Jr., Esquire represented the Petitioner. No protestants or citizens attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Brennan proffered that the subject property is located at the intersection of Brannan Avenue and Haddaway Road. Brannan Avenue continues to the south of the property as Brannan Circle. The Department of Public Works requested that the plan to accompany show a full 40-ft. right-of-way for both Haddaway Road and Brannan Avenue to which the Petitioner agreed as set forth on Petitioner's Exhibit No. 1. Mr. Brennan noted the odd configuration of the lot that has streets on three sides and the new rights-of-way requested by the County. In addition, the building is not square on the lot so that one side is closer to the boundary than the

other. The subject property is 0.175 acre in size and is Lot 11 of the Estate of Thomas Brannan, which was recorded in the Land Records of Baltimore County in 1948. The zoning is DR 5.5, which was imposed on the property in 1955. The lot is apparently within the Chesapeake Bay Critical Area.

The property is improved by a duplex (side by side) apartment house, one half of which Mary Pyles testified that she rented in 1948 and 1949 when she worked for Bethlehem Steel Corporation. She noted that there were two apartments at that time and that the building was old when she moved in. Mr. Brennan presented a series of aerial photographs (Petitioner's Exhibit Nos. 2 through 5) which show the duplex apartment in 1938, 1954, 1961 and 1977 basically unchanged.

Mr. Podles testified that he bought the property in 1992 in horrible shape. Since that time, he has rehabilitated and remodeled it so that he can rent it as two side by side apartments. He noted that each apartment contained its own bath, kitchen and bedrooms. However, each apartment had only two bedrooms and in order to make each apartment more attractive to tenants, he constructed a third bedroom over each of the apartments in 1992 for which Baltimore County issued a permit. Finally, he constructed a third apartment on the side of the existing duplex building in 2000 without a permit, which is now the source of the violation notice. See Petitioner's photographs marked Exhibit Nos. 7 through 14.

Finally, Mr. Dallas, who prepared the plan to accompany, noted that the additional apartment increased the footprint by approximately 18% and that the County's request to show parking for each apartment for a total of six spaces is shown on Petitioner's Exhibit No. 1. He also noted that the third apartment falls within 3 ft. of the boundary of the lot and that the

Petitioner did not own the lot next door which he could use to expand the lot and thus comply with the regulations by lot line adjustment.

Findings of Fact and Conclusions of Law

From the testimony and evidence, I find that the Petitioner has a legal use of two apartments side by side, which do not conform to the use regulation for the DR 5.5 zone in which it is located. Ms. Pyles indicated that she rented one side of the duplex in 1948 and I have no reason to believe that a multi-family use was not legal at that time. In addition, I find that there has been no abandonment of the apartment use since the time the DR regulations were imposed in 1970.

Much more troubling is the question of whether the addition of the second floor to the duplex apartments should be considered in calculating the percentage increase, as well as the third apartment. Mr. Dallas testified that the third apartment added only 18% to the footprint of the building and thus meets the 25% expansion requirement of nonconforming uses. The Petitioner notes that the statute specifically states that the footprint is the basis of the nonconforming use. The statute (Section 104.3 of the B.C.Z.R.) specifies that a nonconforming use may not be extended more that 25% of "the ground floor area of the building so used".

Consequently, Mr. Brennan argues that I am not to consider the second story added to the duplex in calculating the extension. He cites the case of *Feldstein v LaVale Zoning Board*, 246 MD 204 (1967) which involved an increase in the volume and height of stored scrap metal in a nonconforming junkyard. In this case, the Court of Appeals ruled that this was an intensification and not an extension of the nonconforming use. In addition he cites *Green v Garrett et al.*, 63 A2d 326 which involves the nonconforming use of a stadium which before the zoning ordinance, held football and baseball games. The zoning ordinance then restricted the property to

residential uses. The Court of Appeals found that playing regularly scheduled league play was not an extension of the nonconforming use.

In regard to the contention that the basis of a nonconforming use is simply the foot print of the building, this makes no logical sense to me, although at first glance the statute seems to say so. If I consider only the first floor footprint, an addition that adds ten floors to a nonconforming use would have no extension at all by this way of calculation. Obviously, the nonconforming use has intensified tenfold but this would not register on the statute's Richter Scale and be counted.

In regard to the cases cited, I understand that more frequent use of or conducting more business from a nonconforming use is an intensification and not an extension. However, the subject case is about putting another room onto each apartment and then adding a third apartment to the building. In my view, these are extensions and not intensifications. The statute specifically mentions physical area as the basis of the 25% rule.

It seems to me that the Council's intention is to regulate the size of land extensions by finding the area of the nonconforming use and then determine if that area has been extended more than 25%. Area works well here. However, I interpret the legislative intent for extension of nonconforming structures to apply to volumetric increases and not simply footprint of the first floor. In this sense, I find the words "of the ground floor area" in the statute does not indicate a precise mathematical formula (such as width times length for a rectangle) but rather that it means the first story of the building. Otherwise, we could have the absurd result of a one story nonconforming building been extended to multi-story heights without any extension. Clearly, this is not the intent of the legislation.

As I understand the situation, each nonconforming apartment had a kitchen, bath and two bedrooms, which were approximately the same size. If a third bedroom is added to each apartment again, of about the same size, there would be an increase in number of rooms from four to five rooms or a 25% increase in the nonconforming use. This would use up the maximum extension under the regulations. I cannot, therefore, approve the additional apartment. As a further result, I cannot approve a variance for the side yard setback, which is the distance of the third apartment to the property line.

In addition, even accepting the Petitioner's argument about foot print, which I do not, I have great difficulty with this request. Mr. Dallas testified, that by using the footprint method the Petitioner suggests the addition increases the nonconforming use 18%. However, the footprint dimension of the duplex is approximately 28.5 ft. x 55 ft., which I calculate to be 1,567.5 sq. ft. The addition is approximately 10.6 ft. x 43.3 ft., which I calculate is 459 sq. ft. This gives me a percentage increase of 29.3% increase, which exceeds the statutory limit just for the addition alone, much less for the third bedroom.

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 Petitioner, I find that the Petitioner's variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12 day of October, 2004, that the Petitioner's request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling consisting of two apartments side by side, be and is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request to approve the expansion of the two existing apartments by the addition to each of a third bedroom is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request for a third apartment, be and is hereby DENIED;

IT IS FURTHER ORDERED, that the Petitioner's request to determine that the third unit will not negate the nonconforming use, be and is hereby DENIED as moot; and

IT IS FURTHER ORDERED, that the variance relief requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft., be and is hereby DENIED.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

APP. EXH 2

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

Permit Number: R21-02585

Permit Type: Residential Alteration/Addition

Sub Type:

Date Issued:

Expiration Date: 03/08/2023

Property Information

Property Address: 2621-23 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 30.00

Set Backs - Rear Yard: 100.00

Set Backs - Right Side Yard: 20.00

Set Backs - Left Side Yard: 30.00

Owner Information

Owner: Rob Podles

Owner Address: 2621 BRANNAN RD, Sparrows Point, MD, 21219

Tenant:

Applicant: Anthony Darpino

C. Peter 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.

03/09/2021

APP. EXH 3

Application Info

Item Number: R22-06382

Location : 2621 BRANNAN AVE

Case Type: Residential Alteration/Addition

Sub Type:

Status: Pending

Date Issued:

Parent Application:

Child Application:

Plan Review

Identifier	Name	Status
R22-06382	N/A	Plan Submission

OPEN PLAN REVIEW

for review comments and to submit plans and documents

Attachments

Image	Name	Date Created

Site Addresses

Site Address	Suite/Unit #	City	State	Zip	Tax Parcel ID
2621 BRANNAN AVE		SPARROWS POINT	MD	21219	

People

Name	Role
Steven Podles	Applicant
LA Crites	Property Owner

Contractors

Business Name	Contractor Type	City	State

Application Details

Data Category	Description	Data
Residential Addition/Alteration on Princ	What is the Total square footage (SQFT) of the Proposed Addition /Alteration?	3,154
Residential Addition/Alteration on Princ	If the Addition includes a porch, what is the square footage of the Porch	88
Residential Addition/Alteration on Princ	Does the Alteration/Addition span multiple floors? (Y|N)	Y
Residential Addition/Alteration on Princ	If an Addition, what is the Square Footage of the Addition(incl basement, porch, a garage when there is a floor above it)	404
Residential Addition/Alteration on Princ	If an Alteration, what is the Square footage of the Alteration?	2,750
Residential Addition/Alteration on Princ	If spanning multiple floors, provide a breakout of the Alteration/Addition square footage for each floor.	Alteration- 2750 Addition- 404

Data Category	Description	Data
Residential Addition/Alteration on Princ	Describe the Proposed Work	THIS SET OF DRAWINGS' GOAL IS TO AMEND THE APPROVED BUILDING PERMIT R21-02585 FOR THE DUPLEX LOCATED AT 2621 BRANNAN AVE. AFTER THE PROCUREMENT OF THE BUILDING PERMIT AND THE COMMENCEMENT OF THE DEMOLITION PROCESS, IT WAS DISCOVERED THAT ABOUT 80 PERCENT (%) OF THE EXISTING STRUCTURE WAS ROTTING OUT. MUCH OF THE EXISTING STRUCTURE MEMBERS, FURTHERMORE, WERE UNDER SIZED AND, THEREFORE, AT RISK OF FAILING. TO KEEP THE PROJECT'S FEASIBILITY, IT WAS OUR DECSISION TO COMPLETELY REMOVE THE EXISTING SUPERSTRUCTURE, KEEP THE FOUNDATION SINCE IT WAS DETERMINED TO BE IN GOOD CONDITION, AND BUILD A NEW WITHIN THE FOOT PRINT OF THE DUPLEX. A RAZING PERMIT WAS PROCURED (R22-05628). THESE DRAWINGS LAYOUT CONDITIONS FOR THE NEW SUPERSTRUCTURE. tHE WORK SCOPE INCLUDES: • THE STRUCTURE WILL STAY AS A DUPLEX AS WAS EXISTING • RAISE THE FOUNDATION APPROXIMATELY 16" (TWO ROWS OF 8x8X16 CMU) OFF OF THE EXISTING GRADE • NEW FIRST FLOOR STRUCTUCTURAL MEMBERS (2x10 JOISTS @ 16" O.C.) • NEW 1HR FIRE RATED PARTY WALL • NEW EXTERIOR WALLS OF 2X6 WD STUDS @ 16" O.C. W/ R-20 BATT INSULATION, W/ VINYL SIDING • NEW SECOND FLOOR STRUCTURAL MEMBERS (2X10 JOISTS @ 16" O.C.) • NEW SECOND FLOOR TO OVERHANG FRONT PORCH BY 3'-0" • NEW PORCH AT ENTRY TO STAY W/IN EXISTING FRONT PORTICO SIZE • NEW REAR DECK TO BE BUILT IN SAME SIZE AS EXISTING • NEW MONO TRUSS ROOF W/ ASPHALT SHINGLES
Residential Addition/Alteration on Princ	If this includes an alteration, is the alteration interior, exterior or both?	Both
Residential Addition/Alteration on Princ	Is this an Addition, Alteration or Both?	Both
Residential Addition/Alteration on Princ	Is this permit application related to an existing permit?	Y
Residential Addition/Alteration on Princ	If the permit application is related, please provide the permit number(s).	R21-02585
Residential Addition/Alteration on Princ	Will the Proposed Addition / Alteration be Enclosed?	Y
Residential Addition/Alteration on Princ	Is the Original Structure Built before 1980?	Y

Data Category	Description	Data
Residential Addition/Alteration on Princ	Where is the Proposed Addition Located on the Existing Structure?	Additional Floor
Residential Addition/Alteration on Princ	What is the Proposed Use of the Addition/Alteration?	Same as existing (Residential DR 5.5)
Residential Construction Info	What is the Foundation Type?	Block
Residential Construction Info	How many Powder Rooms (Half Baths) are in the building plans?	2
Residential Construction Info	What is the Basement Type?	None
Residential Construction Info	Is the home owner also the building contractor?	Y
Residential Construction Info	How many Bathrooms are in the building plans?	4
Residential Construction Info	Width: What is the width of the proposed building from the widest point (FT)?	29
Residential Construction Info	Is the Water Supply Existing or Proposed?	Existing
Residential Construction Info	What is the Type of Construction?	Wood Frame
Residential Construction Info	Depth: What is the depth of the proposed building from front to back (FT)?	55
Residential Construction Info	Height: What is the highest point of the proposed building (FT)?	34
Residential Construction Info	What is the Type of Heating Fuel	Gas

Data Category	Description	Data
Residential Construction Info	Left Side Set Back: Provide the distance from the property line to the main building (FT)	9
Residential Construction Info	Stories: What is the number of stories for the proposed building?	2
Residential Construction Info	Front Set back: Provide the distance from the property line to the main building (FT)	39
Residential Construction Info	Estimated Cost of Material and Labor	120,000
Residential Construction Info	How many Kitchens are in the building plans?	2
Residential Construction Info	Where is the Garage located on the property?	None
Residential Construction Info	How many Bedrooms are in the building plans?	6
Residential Construction Info	Type Of Sewage Disposal for this Property?	Public
Residential Construction Info	Is Central Air included in the proposed plans?	Y
Residential Construction Info	Type Of Water Supply for this Property?	Public
Residential Construction Info	Is the Sewage Disposal Existing or Proposed?	Existing
Residential Construction Info	Right Side Set Back: Provide the distance from the property line to the main building (FT)	25

Data Category	Description	Data
Residential Construction Info	Rear Set Back: Provide the distance from the property line to the main building (FT)	21
Residential Construction Info	What is the Limit of Disturbance (including any proposed Grading) in Square Feet?	2,572
Building Info	What is the Existing Use of the Property?	Residence
Building Info	Lot Number	11
Building Info	Is the Property Under Private or Public Ownership?	Private
Building Info	What is the Ownership Use of the Property?	Rental
Building Info	What is the Residential Category?	Other
Building Info	If the Residential Category is other, describe.	Duplex DR 5.5
Building Info	Is the property a Corner Lot?	Y

Tasks

Task Description	Task Result	Date Completed	Comments
Intake Application	RESUBMIT	5/17/2022	
Intake Application			
Fees Paid?			
PLN - Historic Review			
EPS - Development Coordination Review			
EPS - Environmental Impact Review			

Task Description	Task Result	Date Completed	Comments
EPS - GWM Review			
PLN - General Planning Review			
PAI - Zoning Review			
PAI - Sediment Control Review			
PAI - Building Plan Review			
DPW - Flood Plain Review			
DPW - Engineering Storm Drain Review			
All Technical Reviews Resulted			
Issue Permit With or Without COO			
Building Footing Inspection			
Foundation Damp Proofing Inspection			
Drain Tile with Foundation Inspection			
Slab Inspection			
Monolithic Slab Pour including Foam Insulation Inspection			
Partial Framing Inspection			
Final Framing Inspection			
Partial Insulation Inspection			
Final Insulation Inspection			
Fireplace Throat Inspection			
General - Information Inspection			
Building Inspection Final			

Inspection Requests

Inspection Type	Inspection Date	Requested By	Status

Conditions

Condition Description	Date Applied	Date Completed
Zoning Variance Required	7/19/2022	

Notes

Note

Please apply for a new application for a new SFD, in order to respond to the questions, as well as, provide the required documents. The new single family dwelling cannot be processed with this application. This application R22-06382 will be cancelled. Please note the razing permit number R22-05628 when you respond to the questions: Is this permit application related to an existing permit? Y If the permit application is related, please provide the permit number(s). A separate application for building permit is required for each address. If two separate addresses are involved, separate applications are required for each address. The razing permit must be amended to reflect both addresses. The construction plans may be referenced in each application. Please following the guidelines listed below when you apply for the new dwelling: 1) Please upload the construction plans for project. Construction plans signed and sealed by a design professional (architect or engineer) are required for the structure exceeds 3,000 square feet. 2) Please submit the Baltimore County sediment control form letter. The letter may be located at the following web site: https://www.baltimorecountymd.gov/departments/pai/permit-processing/forms 3) Please provide the contractor's Maryland Home Builder Registration number (MHBR). Additional information is available from the Maryland State Attorney General Office web site: https://www.marylandattorneygeneral.gov/ 4) The property owner for each address may elect to sign the affirmation of landowner letter if the requirements are met. The affirmation letter is available at the following web site: https://www.baltimorecountymd.gov/departments/pai/permit-processing/forms

Separate applications are required for the sheds if they were demolished, moved on the property, or changed in size. Please show the location of the sheds on the site plan. EDW

The submitted site plan must reflect the final project, including all structures, steps to grade, decks, and sheds. An accessory structure letter is required for any new sheds. The accessory structure letter is available at the following web site: https://www.baltimorecountymd.gov/departments/pai/application/accessory-structure

A zoning Special Hearing is required to confirm that the non-conforming use granted in Case # 2004-0567-SPHA has not been abandoned or discontinued for a one year period, pursuant to Section 104.1, BCZR.

ADD NOTE

Payments

Fee Description	Fee Amount	Payment Amount	Payment Date	Payment Method	Reference

APP. EXH 4

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

Permit Number: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Property Information

Property Address: 2621 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size: 3,154.00

Set Backs - Front Yard:

Set Backs - Rear Yard:

Set Backs - Right Side Yard:

Set Backs - Left Side Yard:

Owner Information

Owner: LA Crites, Trustee

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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.

06/09/2022

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

Permit Number: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA. RAZE MAIN STRUCTURE, TO BE TORN DOWN, FOUNDATION TO REMAIN, 3154SF, BUILT IN 1924. DEBRIS TO BE HAULED TO APPROVED SANITARY LANDFILL IN ACCORDANCE WITH APPLICABLE BALTIMORE COUNTY SITE REGULATIONS. SEWER TO BE CAPPED. PERMIT EXPIRES 90 FROM DATE OF ISSUE. RAT ERADICATION STATEMENT ATTACHED. ISSUANCE OF THIS PERMIT DOES NOT COMMIT BALTIMORE COUNTY TO ISSUE ANY FURTHER PERMITS

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.

06/09/2022

APP. EXH 5

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

Permit Number: R22-06755

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Property Information

Property Address: 2623 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 39.00

Set Backs - Rear Yard: 21.00

Set Backs - Right Side Yard: 25.00

Set Backs - Left Side Yard: 9.00

Owner Information

Owner: LA Crites

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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: R22-06755

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?: Y

Building Permit Information

Description of Work: CBCA. Construct 2 story semi-detached dwelling using existing foundation, with 2ft front cantilever, 3 bedrooms covered front porch, balcony, open wood rear deck per plans 13'10-3/4"x73'1-1/4"x34'=1587sf. Sprinklers required for fire protection. Refer to R22-05628 for razing existing semi-detached dwelling. Not pattern book.

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 inquiries.

APP EXH 6

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

Permit Number: R22-06756

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Property Information

Property Address: 2621 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 39.00

Set Backs - Rear Yard: 21.00

Set Backs - Right Side Yard: 25.00

Set Backs - Left Side Yard: 9.00

Owner Information

Owner: LA Crites

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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: R22-06756

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?: Y

Building Permit Information

Description of Work: CBCA. Construct 2 story semi-detached dwelling using existing foundation, with 2ft front cantilever, 3 bedrooms covered front porch, balcony, open wood rear deck per plans 13'10-3/4"x73'1-1/4"x34'=1587sf. Sprinklers required for fire protection. Refer to R22-05628 for razing existing semi-detached dwelling. Not pattern book. REFER TO PLANS AND NOTES,UPDATES R22-06755--SAME

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.**

Property Mangement Agents, LLC

APP. EXH 7

Tenant Payment History Report

04/30/2020 to 09/08/2021

Tenant name: Stephanie Casey

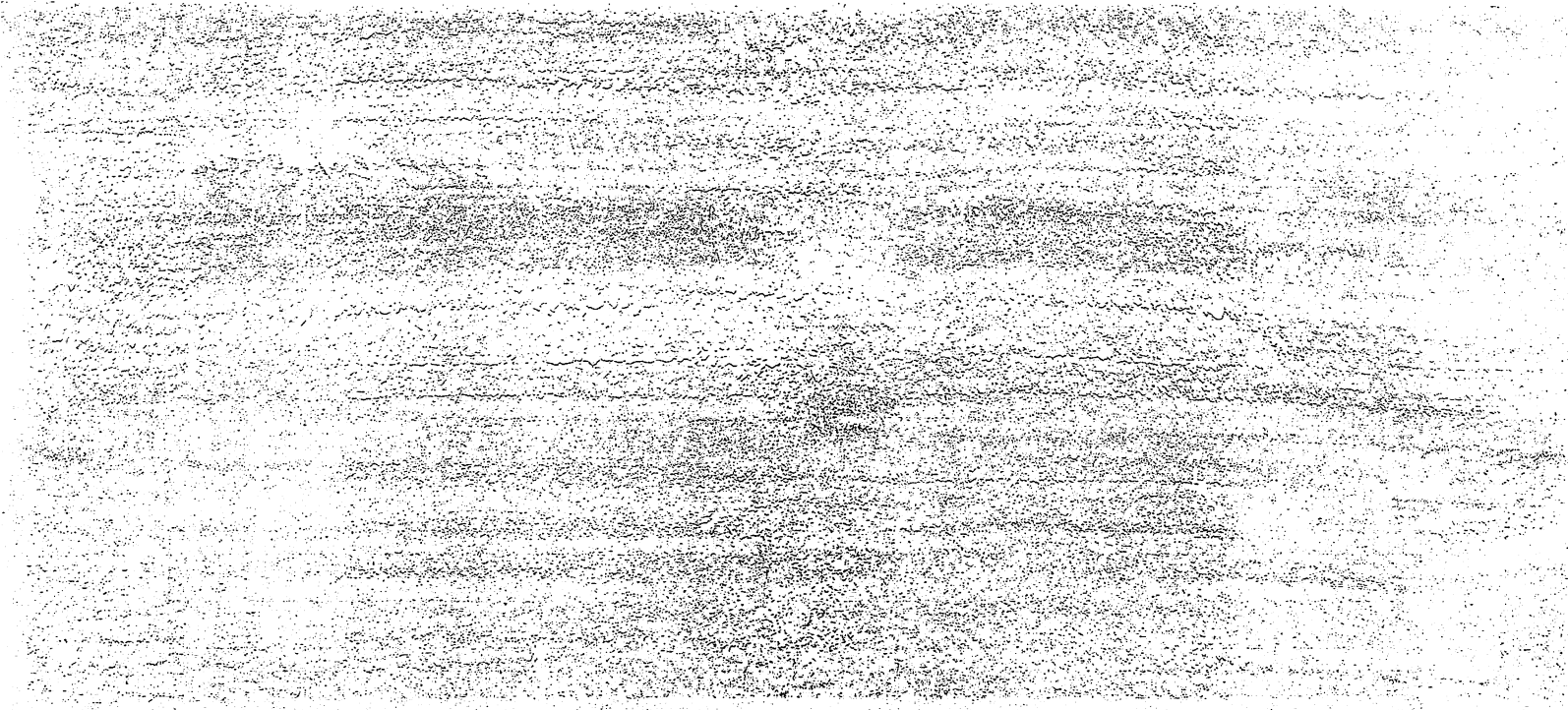
2621, 2621 Brannan Ave, Sparrows Point, MD 21219	
Email Address	stephaniecasey0864@gmail.com
Phone #	
Alternate Phone #	443-400-6437

Old Lease Terms

Fixed Term	07/01/2018 - 06/02/2020	**Security Deposit**	$0.00
Monthly Payment	$1,450.00	**Late Fee**	$72.50 Monthly with a Grace Period of 1 Day
Due Date	1st of the Month	**Bounce Check Fee**	$75.00

Rent Payment History

OWED					COLLECTED			
Due Date	**Type**	**Due**	**Balance Due**	**Status**	**Collection Date**	**Collection Amount**	**Rent Forgiven**	**Notes**
04/30/2020	Opening Balance	3,388.73	0.00	Paid	07/02/2020	2,300.00	0.00	Balance Forward from Buildium Bank Check 301117567-5
					08/03/2020	1,088.73	0.00	Online payment $2,400
05/01/2020	Rent	1,450.00	0.00	Paid	08/03/2020	1,311.27	0.00	Online payment $2,400
					05/10/2021	138.73	0.00	$8,540.00 CASH Payment to Rob 5/10/2021 toward. Balances due
06/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	$8,540.00 CASH Payment to Rob 5/10/2021 toward. Balances due
07/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	$8,540.00 CASH Payment to Rob 5/10/2021 toward. Balances due
08/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	$8,540.00 CASH Payment to Rob 5/10/2021 toward. Balances due
09/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	$8,540.00 CASH Payment to Rob 5/10/2021 toward. Balances due
10/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	$8,540.00 CASH Payment to Rob 5/10/2021 toward. Balances due
11/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,151.27	0.00	$8,540.00 CASH Payment to Rob 5/10/2021 toward. Balances due
					06/10/2021	298.73	0.00	$510 CASH Payment to Rob 6/10/2021. Toward Balances due
12/01/2020	Rent	1,450.00	1,238.73	Overdue	06/10/2021	211.27	0.00	$510 CASH Payment to Rob 6/10/2021. Toward Balances due
01/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
02/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
03/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
04/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
05/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
		22,238.73	**8,488.73**			13,750.00	0.00	



R.A. Podles, as Agent/Proprety Manager

APP. EXH 8

Tenant Payment History Report Tenant Payme

04/30/2020 to 07/25/2021

Tenant name: Stephanie Casey

2621, 2621 Brannan Ave, Sparrows Point, MD 21219	
Email Address	stephaniecasey0864@gmail.com
Phone #	
Alternate Phone #	443-400-6437

Old Lease Terms

Fixed Term	07/01/2018 - 06/02/2020	**Security Deposit**	$0.00
Monthly Payment	$1,450.00	**Late Fee**	$72.50 Monthly with a Grace Period of 1 Day
Due Date	1st of the Month	**Bounce Check Fee**	$75.00

Rent Payment History

OWED					**COLLECTED**			
Due Date	**Type**	**Due**	**Balance Due**	**Status**	**Collection Date**	**Collection Amount**	**Rent Forgiven**	**Notes**
04/30/2020	Opening Balance	3,388.73	0.00	Paid	07/02/2020	2,300.00	0.00	Balance Forward from Buildium Bank Check 301117567-5
					08/03/2020	1,088.73	0.00	Online payment $2,400
05/01/2020	Rent	1,450.00	0.00	Paid	08/03/2020	1,311.27	0.00	Online payment $2,400

					05/10/2021	138.73	0.00	CASH Payment to Rob. Balances due. Remaining $9000 into Note. (5/10/2021)
06/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	CASH Payment to Rob. Balances due. Remaining $9000 into Note. (5/10/2021)
07/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	CASH Payment to Rob. Balances due. Remaining $9000 into Note. (5/10/2021)
08/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	CASH Payment to Rob. Balances due. Remaining $9000 into Note. (5/10/2021)
09/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	CASH Payment to Rob. Balances due. Remaining $9000 into Note. (5/10/2021)
10/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,450.00	0.00	CASH Payment to Rob. Balances due. Remaining $9000 into Note. (5/10/2021)
11/01/2020	Rent	1,450.00	0.00	Paid	05/10/2021	1,151.27	0.00	CASH Payment to Rob. Balances due. Remaining $9000 into Note. (5/10/2021)
					06/10/2021	298.73	0.00	Cash Payment to Rob from S. Casey (6/10/2021)
12/01/2020	Rent	1,450.00	1,238.73	Overdue	06/10/2021	211.27	0.00	Cash Payment to Rob from S. Casey (6/10/2021)

01/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
02/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
03/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
04/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
05/01/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
05/25/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
06/25/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
07/25/2021	Rent	1,450.00	1,450.00	Overdue		0.00	0.00	
		26,588.73	12,838.73			13,750.00	0.00	

4109715554

COPY

E-FILED; Baltimore County District Court - Essex
Docket: 6/2/2021 11:51 AM; Submission: 6/2/2021 11:51 AM

APP EXH 9

DISTRICT COURT OF MARYLAND FOR Baltimore County-Essex
City/County

Located at 8914 Kelso Drive, Baltimore, MD 21221
Address

Case No. D-08-CV-20-034145

Edgemere Wildlife Trust
Plaintiff/Agent
621 Stemmers Run Road, Suite E
Address of Plaintiff/Attorney/Agent
Baltimore, Maryland 21221
City State Zip

Stephanie Casey
Defendant
Victor Gonzales
Defendant
all Unknown Occupants
Defendant
Defendant
2621 Brannan Road
Address of Defendant
~~Sparrows Point~~, MD 21219
Baltimore
State Zip

☒ EVICTED ☐ CANCELED MOVED
☐ CANCELED PAID ☐ CANCELED
☐ EXPIRED

Plaintiff/Agent
Constable/Deputy Sheriff
Constable Number
5/2/21
Date

FOR OFFICE USE ONLY

PETITION - FOR WARRANT OF RESTITUTION

On 4/13/2021 the Court:

☐ Determined the amount due to be $, plus costs of $

☒ Ordered that possession of the premises described as 2621 Brannan Road, Baltimore, MD 21219 be returned to the Plaintiff.

☒ Without right of redemption.

☐ Defendant has made the following payments (if any): $ leaving a balance due as of the filing of this Petition to be $ (not including court costs). ☐ Defendant remains in possession of the premises, therefore the Defendant has not complied with the judgment in this case. The Plaintiff requests possession of the premises in this case.

I do solemnly affirm under the penalties of perjury that the matters and facts set forth above are true to the best of my knowledge, information, and belief.

5/26/2021
Date

Marilyn R. McLaughlin
Signature of Plaintiff/Agent/Attorney

CPF # 0906140108

621 Stemmers Run Road, Suite E, Baltimore, MD 21221
Address

443-529-9900
Telephone Number

443-524-8028
Fax

court@marylandrentcourt.com
E-mail

ORDER

State of Maryland Baltimore County-Essex to wit:

To Sheriff of this County/Constable of this Court, Greetings:

The Court has determined that the Plaintiff is entitled to possession.

☐ The judgment for possession may be redeemed by payment to the Plaintiff or his agent, by cash, certified check, or money order the amount of $ plus costs of $ minus any payments made after (date Petition is filed).

☒ The judgment for possession may not be redeemed.

Now, therefore,

☐ Unless Defendant tenders to the Plaintiff or his agent, cash, certified check or money order in the amount of $ plus $ costs.

☒ The judgment for possession may not be redeemed.

The Sheriff/Constable of this Court is ordered to deliver the premises to the Plaintiff (or the Plaintiff's agent or attorney) and, unless local law requires otherwise, to remove from the premises, by force if necessary, all property of the Defendant(s) and any other occupant.

06/09/2021 1:21:26 PM
Michael T. Pate
Judge

ID Number

Date

NOTICE: To request a foreign language interpreter or reasonable accommodation under the Americans with Disabilities Act, please contact the court immediately. Possession and use of cell phones and other electronic devices may be limited or prohibited in designated areas of the court facility.

DC-CV-081 (Rev. 12/2016)

NOT VALID UNLESS SIGNED BY JUDGE

Authentisign ID: 8B9F3AAA-AD64-413E-92B7-EA7274F678F0

APP. EXH 10

BALTIMORE COUNTY RENTAL LICENSE INSPECTION SHEET

Requirements: Time and date stamped photos of front and back facades of home, including yards taken by Licensed Home Inspector must be attached to this inspection sheet. One "rental license inspection sheet" must be returned for each unit in a dwelling.

1. Rental Address: 2621 BRANNAN AVE. SPARROWS POINT, MD Zip Code: 21219 Unit #: _____

2. Person requesting inspection:
Name: R.A. PODLES AGENT Email: ROBPODLES@SAFEHIGHYIELD.BIZ
Address: 2206 OLD EMMORTON RD. STE 102-209 BEL AIR Zip Code: 21015 Phone: 410.971.5554
Check one: ☐ Owner ☐ Manager ☒ Resident Agent ☐ Other _____

3. Inspector Information:
Name: BRIAN RACER Email: BRIAN@CERTIFIEDPROPERTY.US
Address: 2401 HARVEST CTR DR. STE 102-227 PERRY HALL Phone: 410.847.5513
Company Name: CERTIFIED PROPERTY INSPECTION State License #: 33466

4. Type of Home: ☐ Single Family Detached ☐ Rowhome/Townhome ☒ Duplex ☐ Multi-Unit ☐ Condo

5. **Checklist (items A-F must be marked "YES", item G "YES" or "N/A" and item H marked "NO" before submitting form to County):**

Items	Yes or No	Date	Re-Inspection Y/N	Re-Inspection Date
A) A hardwired & battery backed interconnected smoke detectors must be present and operational on every level excluding unoccupied attics, garages or crawl spaces. Wireless remote interconnection is acceptable as long as the smoke detectors are hardwired and approved by a recognized testing lab such as UL and be listed and approved for sale, installation and use in Maryland by the **Office of the State Fire Marshal**. ***To ensure interconnection works properly, units must be same manufacturer.*** Smoke alarm units 10 years or older must be replaced. **Single Family Home** 1. A hardwired smoke detector with a battery backup must be located in the corridor or hallway outside of sleeping areas and on every level of the dwelling unit. 2. If the home has a basement, a hardwired smoke detector with a battery backup must also be located in the basement, and must be interconnected to the smoke detectors on all levels of the dwelling unit. **Homes with 2 or 3 Apartments** 1. A hardwired smoke detector with a battery backup must be located in the corridor or hallway outside of sleeping areas and on every level of the dwelling unit including the basement. Basement smoke detector must be interconnected to the smoke detector on the first floor only. **Homes with 4-6 Apartments** 1. A hardwired interconnected smoke detector with a battery backup must be located in the corridor or hallway outside the sleeping area and on every level of the dwelling unit. 2. A hardwired smoke detector is required in the basement for homes with 4-6 apartments but does not have to be interconnected	YES	7/15/20		
B) Electrical wires are not visible in living areas.	YES	7/15/20		
C) There is hot and cold running water in kitchen and each bathroom with no leaks below sink area and all toilets flush.	YES	7/15/20		
D) There are no sleeping areas in the basement or if there is a sleeping area in the basement, there is a secondary means of escape as follows: basement window with minimum 5.7 sq. ft. opening with sill height 44 inches or less from floor OR basement door with thumb turn dead bolt.	YES	7/15/20		
E) The furnace is either operational or because of outside temperatures it is unable to be tested	YES	7/15/20		
F) Railing is present for interior and exterior steps with more than 3 risers.	YES	7/15/20		
G) Carbon Monoxide Detectors are present on every level of the dwelling and audible in sleeping areas.	YES	7/15/20		
H) Are there any other readily observable problems that in the inspector's opinion represent an immediate threat to the health or safety of occupant? If "yes" please describe below:	NO	7/15/20		

Disclaimer: The scope of the above inspection is limited to the items listed above and has been performed to the requirements set forth by the Baltimore County Office of Code Enforcement as required under the Baltimore County Rental Licensing program. The above inspection shall not be construed to be either a home inspection as defined under Maryland law or an inspection related to one or more of the Baltimore County life and safety codes. Under Maryland law, the person completing this report for the property owner may not repair or recommend any person to repair any of the items listed above.

Brad E Racer 7/15/20
Signature of Inspector/Date

Authenti
R. A. Podles, As Agent 08/07/2020
8/7/2020 1:23:52 PM EDT Signature of Owner or Agent/Date

Baltimore County Government, Permits, Approvals and Inspections//Rental Registration
111 W. Chesapeake Avenue, Room G14, Towson, MD 21204
rentalregistration@baltimorecountymd.gov / 410-887-6060

FAI CERS REV: AUGUST 2019

APP. EXH 11

2621 BRANNAN AVE

RESIDENCE ADDITION

SPARROWS POINT, MD 21219

GENERAL NOTES

1. WHEN INTERPRETING THE DRAWINGS, PREFERENCE SHALL BE GIVEN IN ALL CASES TO NUMERICAL DIMENSION OVER MEASUREMENTS BY SCALE, AND TO DETAIL DRAWINGS OVER THOSE DRAWINGS OF A SMALLER SCALE.
2. DETAIL DRAWINGS AND SCHEDULES DESCRIBE CONSTRUCTION AT GIVEN AREAS. THE GENERAL CONTRACTOR AND ALL SUBCONTRACTORS SHALL UTILIZE EQUIVALENT CONSTRUCTION METHODS IN ALL AREAS NOT DETAILED.
3. ALL NOTES ON THE DRAWINGS SHALL BE ASSUMED AS TYPICAL UNLESS OTHERWISE SHOWN OR NOTED ON THE DRAWINGS.
4. ALL FINISHED DIMENSIONS, UNLESS NOTED OTHERWISE, ARE TO FACE OF FINISHED DRYWALL, FACE OF MASONRY, FACE OF CONCRETE OR CENTERLINE OF STRUCTURAL STEEL (COLUMNS, BEAMS, ETC.).
5. IT SHALL BE THE DUTY OF THE CONTRACTOR TO VERIFY ALL DIMENSIONS AND CONDITIONS GIVEN ON THE DRAWINGS AND TO REPORT TO THE ARCHITECT ANY ERROR OR INCONSISTENCY WITH THE ACTUAL CIRCUMSTANCES IN THE FIELD BEFORE COMMENCING WORK.
6. THE CONTRACTOR SHALL BEAR ALL RESPONSIBILITY FOR CORRECTIVE ACTION DUE TO THE CONTRACTOR'S FAILURE TO COORDINATE THE WORK.
7. THE CONTRACTOR SHALL COMPLY WITH THE CURRENT APPLICABLE CODES, ORDINANCES, LAWS AND OTHER LEGAL REQUIREMENTS OF THE PUBLIC AUTHORITIES HAVING JURISDICTION.
8. IN THE CASE OF INCONSISTENCY BETWEEN DRAWINGS NOT CLARIFIED BY ADDENDUM, THE BETTER QUALITY OR GREATER QUANTITY OF WORK SHALL BE PROVIDED IN ACCORDANCE WITH THE ARCHITECT'S INTERPRETATION.
9. DRAWINGS, AS INSTRUMENTS OF SERVICE, ARE AND SHALL REMAIN THE PROPERTY OF THE ARCHITECT WHETHER THE PROJECT FOR WHICH THEY ARE MADE IS EXECUTED OR NOT. THEY ARE NOT TO BE USED ON ANY OTHER PROJECTS OR EXTENSIONS TO THIS PROJECT EXCEPT BY WRITTEN AGREEMENT WITH THE ARCHITECT.

SYMBOLS KEY

- XXXX — DOOR NUMBER
- XX — WINDOW NUMBER
- SIM / 1 / A101 — DETAIL NUMBER, DRAWING SHOWN ON; SECTION NUMBER, DRAWING SHOWN ON
- XXX / Y'-0" A.F.F. — CEILING TYPE, CEILING HEIGHT ABOVE FINISHED FLOOR
- ROOM NAME / 101 — ROOM NAME & NUMBER
- WORK POINT, CONTROL POINT OR DATUM POINT
- REVISION NUMBER
- REVISION CLOUD
- PXXX — PARTITION TYPE DESIGNATION
- CX — CONSTRUCTION NOTE - SEE DWG. AXXX
- DX — DEMOLITION PLAN NOTE
- NORTH ARROW
- XX / XX ATXX XX / XX — EXTERIOR ELEVATION TAG
- SIM / 1 / A101 — SECTION DETAIL
- CENTERLINE
- COLUMN LINE REFERENCE
- BREAK LINE
- EXISTING DOOR TO REMAIN
- EXISTING DOOR TO BE REMOVED
- NEW SWING DOOR PER SCHEDULE
- EXISTING PARTITION TO REMAIN
- EXISTING PARTITION TO BE REMOVED
- NEW PARTITION AS SCHEDULED
- 2-HOUR FIRE SEPARATION
- 1-HOUR FIRE SEPARATION
- LIMIT LINE - SCOPE OF WORK
- EARTH
- DRAINAGE FILL
- SAND, MORTAR, PLASTER, GWB
- CONCRETE
- CONCRETE MASONRY UNIT(S)
- FINISHED WOOD
- CONTINUOUS WOOD BLOCKING
- INTERRUPTED WOOD BLOCKING
- PLYWOOD
- BATT INSULATION
- RIGID INSULATION

PROJECT SCOPE

IN CONNECTION TO RAZING PERMIT, R22-05628, THE WORK SCOPE FOR UNIT 2621 OF BRANNAN AVE IS AS FOLLOWS:

- RAISE THE FOUNDATION APPROXIMATELY 16" (TWO ROWS OF 8X8X16 CMU) OFF OF THE EXISTING GRADE
- NEW FIRST FLOOR TO HAVE A KITCHEN, LIVING ROOM, AND POWDER ROOM
- NEW FIRST FLOOR STRUCTUCTURAL MEMBERS (2x10 JOISTS @ 16" O.C.)
- NEW REAR DECK TO MATCH EXISTING SIZE AND LOCATION
- NEW FRONT WOOD PORCH FOR ENTRY ACCESS. WOOD PORCH TO TO STAY WITH EXISTING FRONT PORTICO SIZE
- NEW 1HR FIRE RATED PARITY WALL
- NEW EXTERIOR WALLS OF 2X6 WD STUDS @ 16" O.C. W/ R-20 BATT INSULATION, W/ VINYL SIDING
- NEW INTERIOR WALLS TO HAVE 2x4 WD STUDS @ 16" O.C. AND GYPSUM WALL BOARDS, PAINT FINISH
- NEW SECOND FLOOR STRUCTURAL MEMBERS (2X10 JOISTS @ 16" O.C.)
- NEW SECOND FLOOR TO OVERHANG FRONT PORCH BY 2'-0".
- NEW SECOND FLOOR TO HAVE, THREE BED ROOMS, TWO BED ROOMS, AND ONE LAUNDRY ROOM
- NEW MONO TRUSS ROOF W/ PLYWOOD SHEATHING AND ASPHALT SHINGLES

ABBREVIATIONS

AB	ANCHOR BOLT	DWG	DRAWING	IPS	INTERIOR PAIENT SYSTEM	RA	RETURN AIR
ACC	ACCESS	DWR	DRAWER			RAD	RADIUS
ACC	AIR CONDITIONING			JAN	JANITOR	RB	RUBBER
ACT	ACOUSTICAL CEILING TILE	E	EAST	JST	JOIST	RD	ROOF DRAIN
AD	AREA DRAIN	EA	EACH	JT	JOINT	REF	REFRIGERATOR
ADHES	ADHESIVE	EF	EXHAUST FAN			REINF	REINFORCED
ADJ	ADJUSTABLE	EIFS	EXTERIOR INSULATING FINISH SYSTEM	KIT	KITCHEN	REQD	REQUIRED
AFF	ABOVE FINISHED FLOOR			KO	KNOCKOUT	RESIL	RESILIENT
AGGR	AGGREGATE	EJ	EXPANSION JOINT	KPL	KICKPLATE	REV	REVISION
AHU	AIR HANDLING UNIT	EL	ELEVATION	KR	NICK RAIL	RH	RIGHT HAND (ED)
ALT	ALTERNATE	ELEC	ELECTRIC			RHR	RIGHT HAND REVERSE
ALUM	ALUMINUM	ELEV	ELEVATOR	L	LENGTH	RM	ROOM
ANOD	ANODIZED	ENCL	ENCLOSURE	LAB	LABORATORY	RO	ROUGH OPENING
ARCH	ARCHITECTURAL	EPS	EPOXY PAINT SYSTEM	LAM	LAMINATE (D)	ROW	RIGHT OF WAY
ASB	ASBESTOS	EQ	EQUAL	LAV	LAVORATORY		
ASPH	ASPHALT	EQUIP	EQUIPMENT	LBL	LABEL	S	SOUTH
AUTO	AUTOMATIC	ETR	EXISTING TO REMAIN	LF	LINEAR FOOT (FEET)	SCHED	SCHEDULE
		EWC	ELECTRIC WATER COOLER	LH	LEFT HAND (ED)	SCWD	SOLID CORE WOOD
BD	BOARD	EX, EXIST	EXISTING	LHR	LEFT HAND REVERSE	SECT	SECTION
BITUM	BITUMINOUS	EXCAV	EXCAVATE	LL	LIVE LOAD	SEG	SEGMENT
BLDG	BUILDING	EXH	EXHAUST	LP	LOW POINT	SF	SQUARE FOOT
BLK	BLOCK	EXP	EXPANSION			SHR	SHOWER
BLKG	BLOCKING	EXPS	EXTERIOR PAINT SYSTEM	MATL	MATERIAL	SHT	SHEET
BM	BENCHMARK	EXT	EXTERIOR	MAX	MAXIMUM	SHTG	SHEATHING
BOT	BOTTOM			MBR	MEMBER	SIM	SIMILAR
BR	BUMPER RAIL	FA	FIRE ALARM	MECH	MECHANICAL	SPEC	SPECIFICATION
BRG	BEARING	FAB	FABRICATED	MEMB	MEMBRANE	SPKR	SPEAKER
BRK	BRICK	FD	FLOOR DRAIN	MFR	MANUFACTURER	SQ	SQUARE
BRZ	BRONZE	FE	FIRE EXTINGUISHER	MH	MAN HOLE	SRV	SLIP RESISTANT VINYL
BSMT	BASEMENT	FEC	FIRE EXTINGUISHER CABINET	MIN	MINIMUM	SST	STAINLESS STEEL
BTU	BRITISH THERMAL UNIT	FF EL	FINISHED FLOOR ELEVATION	MISC	MISCELLANEOUS	STA	STATION
BUR	BUILT UP ROOFING			MO	MASONRY OPENING	STC	SOUND TRANSMISSION CLASS
BV	BEVELED	FHC	FIRE HOSE CABINET	MOD	MODULAR		
		FHEC	FIRE HOSE AND EXTINGUISHER CABINET	MON	MONITOR	STD	STANDARD
CAB	CABINET			MR	MOISTURE RESISTANT	STL	STEEL
CB	CATCH BASIN	FIN	FINISH (ED)	MTD	MOUNTED	STOR	STORAGE
CCT	CUBICLE CURTAIN TRACK	FLR	FLOOR	MTL	METAL	STRUCT	STRUCTURE, STRUCTURAL
CEM	CEMENT	FLUOR	FLUORESCENT	MULL	MULLION	SUSP	SUSPENDED
CFCI	CONTRACTOR FURNISHED, CONTRACTOR INSTALLED	FM	FACTORY MUTUAL			SV	SHEET VINYL
		FOC	FACE OF CONCRETE	N	NORTH	SYM	SYMMETRICAL
CFOI	CONTRACTOR FURNISHED, OWNER INSTALLED	FOF	FACE OF FINISH	N/A	NOT APPLICABLE		
		FOS	FACE OF STUD	NIC	NOT IN CONTRACT	T	TREAD
CG	CORNER GUARD	FPRF	FIREPROOF	NO	NUMBER	TEL	TELEPHONE
CI	CAST IRON	FRPL	FIREPLACE	NOM	NOMINAL	TEMP	TEMPORARY
CIR	CIRCLE	FRT	FIRE RETARDANT TREATED	NRC	NOISE REDUCTION COEFFICIENT	TERR	TERRAZZO
CJ	CONSTRUCTION JOINT	FT (')	FOOT, FEET			THK	THICK (NESS)
CL	CENTER LINE	FTG	FOOTING	NTS	NOT TO SCALE	THRES	THRESHOLD
CLG	CEILING	FURN	FURNISH, FURNITURE			TOC	TOP OF CONCRETE
CLKG	CAULKING	FURR	FURRED, FURRING	OA	OVERALL	TOF	TOP OF FOOTING
CLO	CLOSET	FUT	FUTURE	OC	ON CENTER	TOIL	TOILET
CLOS	CLOSURE			OD	OUTSIDE DIAMETER	TOS	TOP OF STEEL
CLR	CLEAR	GA	GAUGE	OFCI	OWNER FURNISHED CONTRACTOR INSTALLED	TOW	TOP OF WALL
CMU	CONCRETE MASONRY UNIT	GALV	GALVANIZED			TRANSF	TRANSFORMER
CO	CLEAN OUT	GC	GENERAL CONTRACTOR	OFF	OFFICE	TV	TELEVISION
COL	COLUMN	GL	GLASS, GLAZING	OFOI	OWNER FURNISHED OWNER INSTALLED	TYP	TYPICAL
CONC	CONCRETE	GRD	GRADE	OH	OVERHEAD	UL	UNDERWRITERS LABORATORY
CONF	CONFERENCE	GWB	GYPSUM WALLBOARD	OPNG	OPENING		
CONN	CONNECT (ION)	GYP	GYPSUM BOARD, GYPSUM	OPP	OPPOSITE	UNEXCAV	UNEXCAVATED
CONT	CONTINUOUS			OPQ	OPAQUE	UNFIN	UNFINISHED
CONTR	CONTRACTOR	H/C	HANDICAPPED			UON	UNLESS OTHERWISE NOTED
CORR	CORRIDOR	HB	HOSE BIB	PAR	PARALLEL	UR	URINAL
CPT	CARPET	HCWD	HOLLOW CORE WOOD	PART	PARTITION		
CR	CHAIR RAIL	HD	HEAVY DUTY	PBD	PARTICLE BOARD	VAR	VARNISH
CSI	CONSTRUCTION SPECIFICATION INSTITUTE	HDNR	HARDENER	PC	PERSONAL COMPUTER	VAT	VINYL ASBESTOS TILES
CSMT	CASEMENT	HDR	HEADER	PERF	PERFORATED	VB	VINYL BASE
CT	CERAMIC TILE	HDWD	HARDWOOD	PERIM	PERIMETER	VCB	VINYL COVE BASE
CW	COLD WATER	HDWR	HARDWARE	PLAM	PLASTIC LAMINATE	VCT	VINYL COMPOSITION TILE
		HM	HOLLOW METAL	PLYWD	PLYWOOD	VERT	VERTICAL
D/A	DOUBLE ACTING	HORIZ	HORIZONTAL	PNL	PANEL	VEST	VESTIBULE
DBL	DOUBLE	HP	HIGH POINT	POLY	POLYETHYLENE	VIF	VERIFY IN FIELD
DEG	DEGREE	HR	HAND RAIL	PREFAB	PREFABRICATED	VWC	VINYL WALL COVERING
DEMO	DEMOLITION	HT	HEIGHT	PRT	PRESSURE TREATED		
DEMOUNT	DEMOUNTABLE	HTG	HEATING	PSF	POUNDS PER SQUARE FOOT	W	WEST
DEP	DEPRESSED	HVAC	HEATING, VENTILATING AND AIR CONDITIONING	PSI	POUNDS PER SQUARE INCH	W/	WITH
DET	DETAIL	HW	HOT WATER	PT	PAINT	W/O	WITHOUT
DF	DRINKING FOUNTAIN			PTS	PNEUMATIC TUBE STATION	WC	WATER CLOSET
DH	DOUBLE HUNG	ID	INSIDE DIAMETER	PVC	POLYVINYL CHLORIDE	WD	WOOD
DIA	DIAMETER	IN	INCHES	PWC	PROTECTIVE WALL COVERING	WF	WIDE FLANGE
DIAG	DIAGONAL	INCL	INCLUDING			WIN	WINDOW
DIM	DIMENSION	INFO	INFORMATION	QT	QUARRY TILE	WT	WEIGHT
DIV	DIVISION	INSUL	INSULATION	QTY	QUANTITY	WWF	WELDED WIRE FABRIC
DN	DOWN	INT	INTERIOR			WWM	WELDED WIRE MESH
DR	DOOR	INV	INVERT	R	RISER	YD	YARD
DW	DISHWASHER						

DRAWING LIST

SHEET NO.	SHEET TITLE
00 GENERAL DRAWINGS	
G100	COVER SHEET
G101	SITE PLANS
G102	EXISTING PICTURES
01 ARCHITECTURAL DRAWINGS	
A101	NEW WORK PLAN
A102	NEW WORK PLANS
A200	ISOMETRIC DRAWINGS
A201	BUILDING ELEVATIONS
A202	INTERIOR ELEVATIONS - KITCHEN
A203	INTERIOR ELEVATIONS
A301	BUILDING SECTIONS
A310	WALL SECTIONS
A311	SECTIONS & DETAILS
A312	WALL TYPES AND COLUMN CONNECTIONS
02 STRUCTURAL	
S101	FRAMING PLAN

BUILDING INFORMATION

APPLICABLE CODES

2015 INTERNATIONAL BUILDING CODE
2015 INTERNATIONAL RESIDENTIAL CODE
2015 INTERNATIONAL MECHANICAL CODE
2015 NATIONAL PLUMBING CODE
2015 NATIONAL ELECTRICAL CODE
2015 INTERNATIONAL ENERGY CODE

FIRE CODES
2015 NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 101
2015 NFPA 1

EMERGENCY ESCAPE

MAX. SILL HEIGHT 44"
MIN. CLEAR OPENING 5.7SF

HABITABLE ROOMS 7'-0" MIN.
LAUNDRY/BATHROOMS 6'-8" MIN.
UNDER BEAMS 6'-4" MIN.

CEILING HEIGHT

HABITABLE ROOMS 7'-0" MIN.
LAUNDRY/BATHROOMS 6'-8" MIN.
UNDER BEAMS 6'-4" MIN.

ZONING DATA

BUILDING	DUPLEX
ZONING	R-5.5
ACCOUNT NUMBER	15
DEED REF.	4215/00353
BLOCK	N/A
LOT	11
MAP	0111
GRID	0016
SUBDIVISION	0000
PARCEL	0133
ALLOWABLE HEIGHT	50FT
ALLOWABLE STORIES	3
FRONT YARD SETBACK	25FT
REAR YARD SETBACK	30FT
SIDE YARD SETBACK	16FT

AREA OF WORK

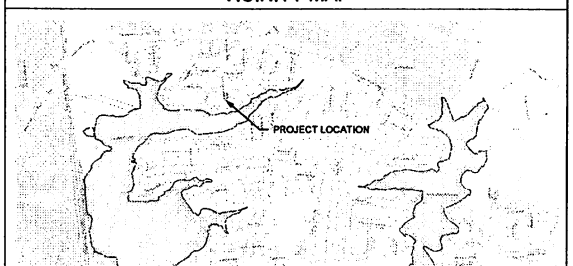
UNIT 2621

	EXISTING	PROPOSED
1ST FLOOR	792 SF	792 SF
PORCH	0 SF	46 SF
DECK	176 SF	176 SF
2ND FLOOR	792 SF	835 SF
DECK	0 SF	57 SF

TOTAL ADDITION AREA
835 - 792 = 43 SF

TOTAL RENOVATION AREA
792 + 835 = 1,627 SF

VICINITY MAP



ISSUE	DATE	NUMBER

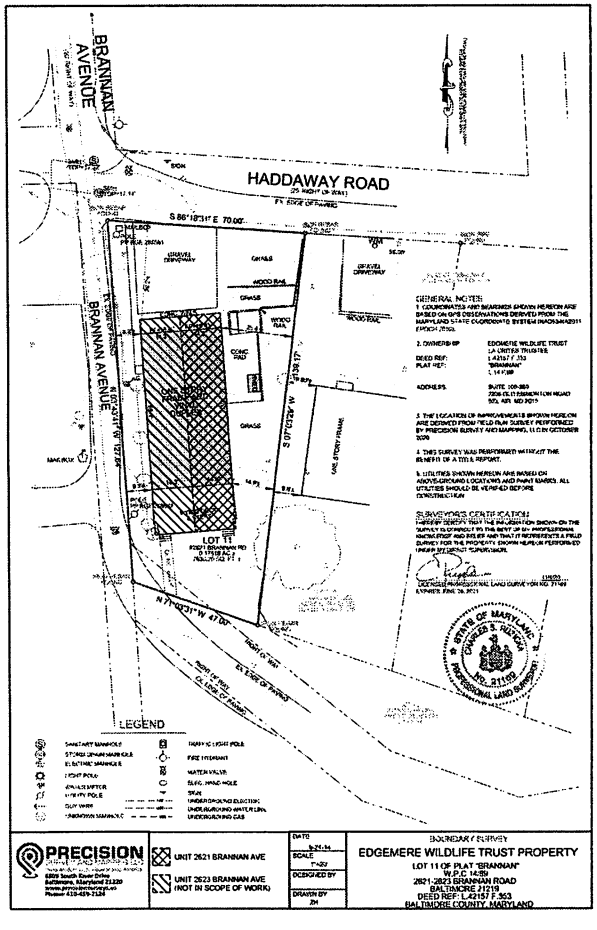
CLIENT
EDGMERE WILDLIFE TRUST W LA CRITES TRUSTEE

DATE 2022-05-12

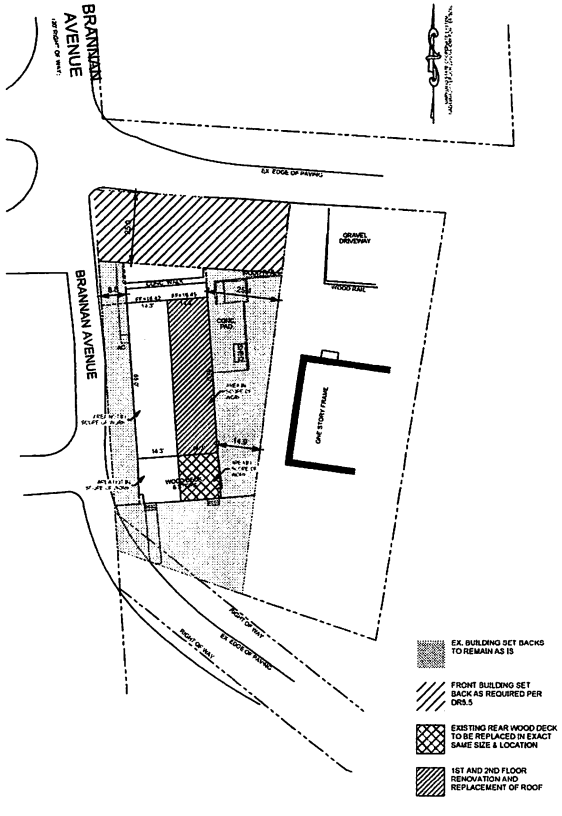
PROJECT TITLE
2621 BRANNAN AVE RENOVATION

SHEET TITLE
COVER SHEET

SHEET NUMBER
G100



1 G101 SITE PLAN - EXISTING
SCALE:1" = 20'-0"



2 G101 SITE PLAN - WORK SCOPE BOUNDARIES
SCALE:1" = 20'-0"

ISSUE	DATE	NUMBER

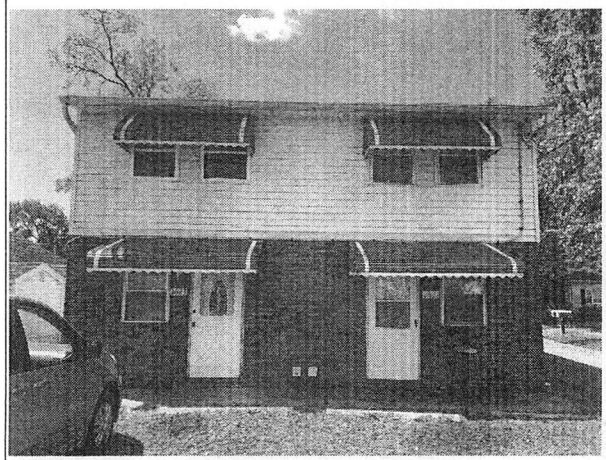
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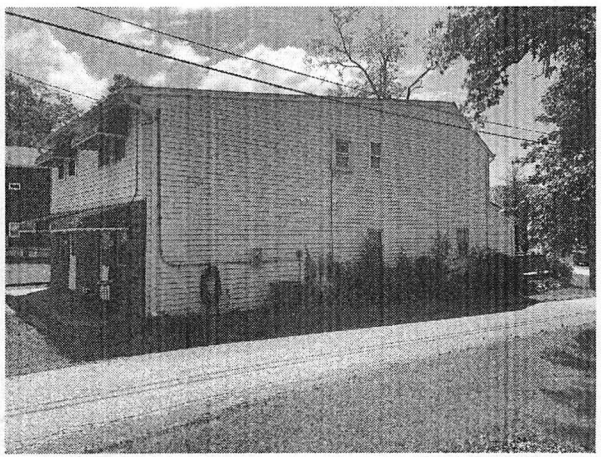
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PROJECT TITLE
2621 BRANNAN AVE RENOVATION

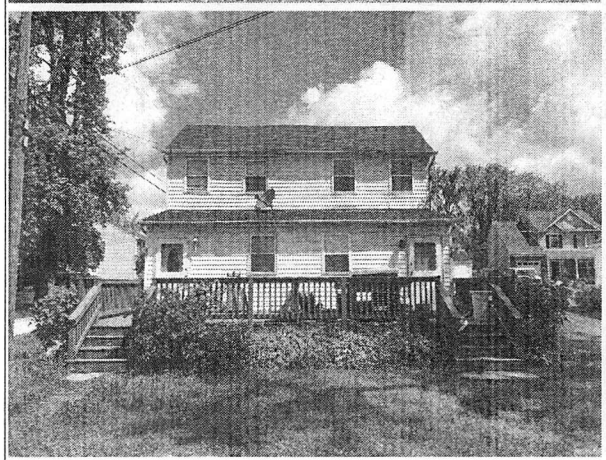
SHEET TITLE
SITE PLANS

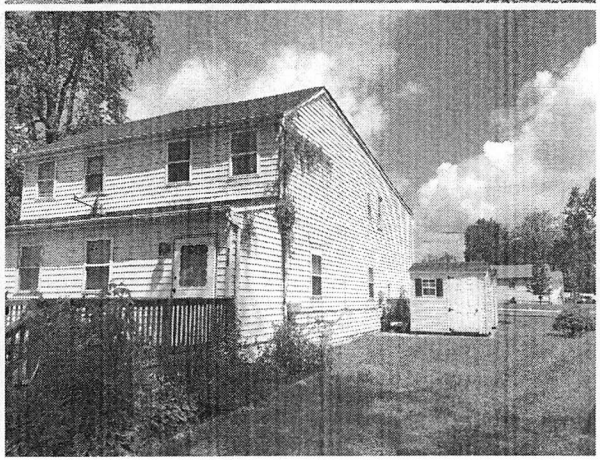
SHEET NUMBER
G101

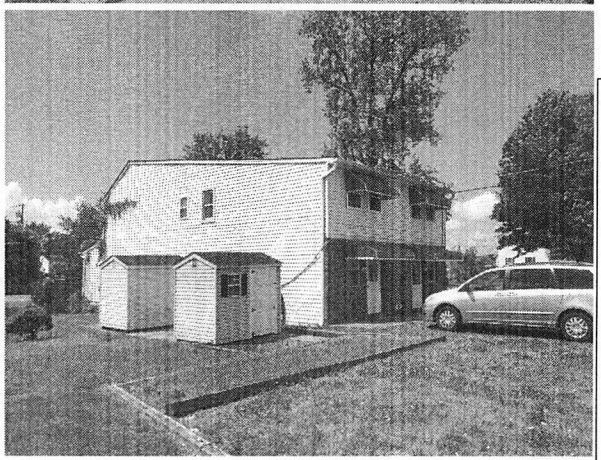












ISSUE	DATE	NUMBER

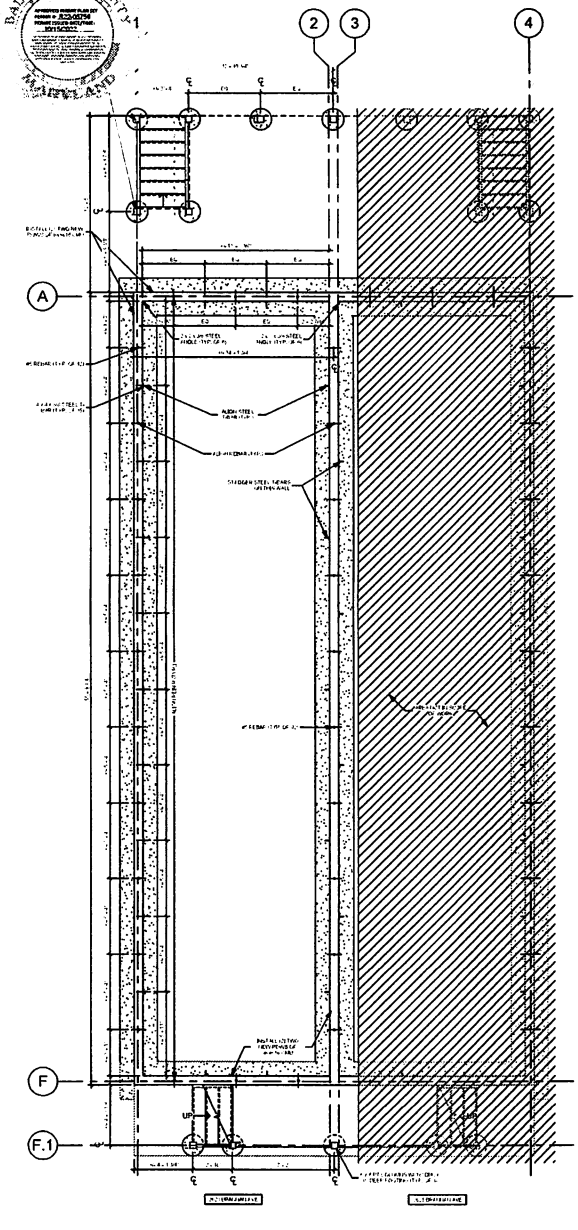
CLIENT:
EDGMERE WILDLIFE TRUST W/ LA CRITES TRUSTEE

DATE: 2022-05-12

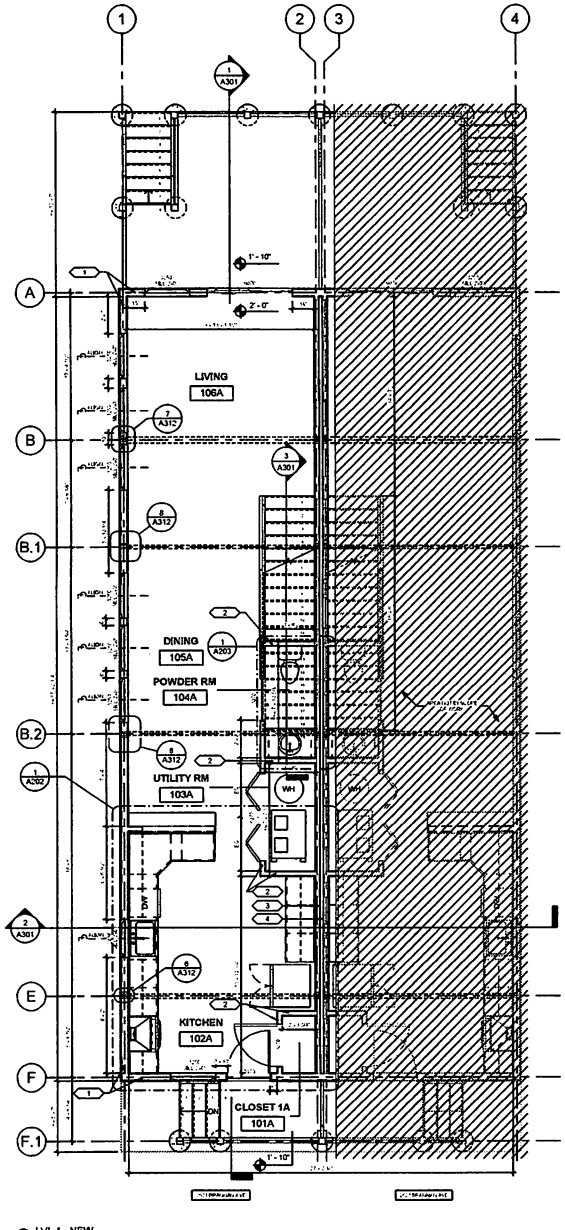
PROJECT TITLE:
2621 BRANNAN AVE RENOVATION

SHEET TITLE:
EXISTING PICTURES

SHEET NUMBER:
G102



① FOUNDATION WALL PLAN
1/4" = 1'-0"



② LVL 1 - NEW
1/4" = 1'-0"

NEW WORK PLAN NOTES

A. CONTRACTOR SHALL FIELD VERIFY ALL EXISTING OR CURRENT CONSTRUCTION RELATED CONDITIONS PRIOR TO THE START OF NEW CONSTRUCTION.

B. DIMENSIONS ARE GENERALLY GIVEN FROM THE FACE OF THE WALL TO FACE OF WALL OR COLUMN CENTERLINE

C. MECHANICAL, ELECTRICAL, AND PLUMBING (M.E.P.) ITEMS AND EQUIPMENT APPEARING ON ARCHITECTURAL DRAWINGS ARE SHOWN FOR CLARITY, AND ARE NOT MEANT TO BE ALL INCLUSIVE.

D. PATCH AND REPAIR ALL PENETRATIONS , ETC., TO PROVIDE FOR SMOOTH SURFACES READY FOR THE APPLICATION OF NEW FINISHES.

E. PATCH AND REPAIR ALL PENETRATIONS IN WALLS RESULTING FROM THE REMOVAL OF MECHANICAL/ELECTRICAL FIXTURES TO MATCH ADJACENT CONSTRUCTION. PREPARE THE AREA FOR NEW FINISHES.

F. EVERY EFFORT HAS BEEN MADE TO IDENTIFY THOSE DIMENSIONS WHICH MAY VARY WITH +/-. DIMENSIONS NOT SO NOTED ARE INTENDED TO BE HELD. ALL DIMENSIONS, HOWEVER, SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO FABRICATION OR INSTALLATION OF BUILDING COMPONENTS.

G. GENERAL CONTRACTOR TO CONFIRM EACH LOCATION FOR WALL MOUNTED ITEMS INCLUDING BUT NOT LIMITED TO EQUIPMENT, ACCESSORIES, OUTLETS, ETC. WITH THE OWNER PRIOR TO INSTALLATION.

H. ALL WORK SHALL CONFORM TO LOCAL BUILDING CODES AND REGULATIONS AND SHALL BE INSTALLED ACCORDING TO THE JOINT REQUIREMENTS AND DECISIONS OF ALL LOCAL AUTHORITIES. IF ANY CONTRACTOR OR SUBCONTRACTOR PERFORMS ANY WORK CONTRARY TO THE LOCAL BUILDING CODES, ORDINANCES, RULES OR REGULATIONS WITHOUT PRIOR WRITTEN NOTICE TO THE OWNER, THE CONTRACTOR SHALL BEAR ALL COSTS ARISING THERE FROM.

I. CONTRACTOR TO PROVIDE 18 GAUGE STRAP BACKING FOR ALL WALL MOUNTED EQUIPMENT AND ACCESSORIES. CONTRACTOR TO COORDINATE SPECIFIC PLACEMENT OF BLOCKING WITH EQUIPMENT AND ACCESSORIES REQUIREMENTS.

J. LOCATE DOORS 4" MIN. FROM ADJACENT WALL TO HINGE SIDE FRAME OPENING, U.N.O.

K. ADJACENT WALLS WHICH APPEAR TO ALIGN IN PLAN SHALL BE CONSTRUCTED TO ALIGN IN PLAN.

L. NEW STAIRS TO HAVE
- MINIMUM CLEAR WIDTH OF 3'-0"
- MINIMUM HEAD-ROOM OF 6'-8"
- MINIMUM TREAD OF 0'-10"
- MAXIMUM RISER OF 0'-7 3/4"

M. NEW GUARDRAILS / HANDRAILS TO HAVE
- 36" HIGH MIN. TOP RAIL
- BOTTOM RAIL TO BE AT 4" HIGH MAX.
- PICKETS AT 4" APART MAX.

N. NEW WINDOWS / DOORS AND ALL OPENINGS IN EXTERIOR / LOAD BEARING WALLS:
- FOR 1ST FLOOR SUPPORTING (1) ONE STORY AND ROOF
  1. (2)2x4 SPANNING </= 2'-3"
  2. (2)2x6 SPANNING </= 3'-4"
  3. (2)2x8 SPANNING </= 4'-3"
  4. (2)2x10 SPANNING </= 5'-2"
  5. (2)2x12 SPANNING </= 6'-0"
- FOR 2ND FLOOR SUPPORTING ONLY ROOF
  1. (2)2x4 SPANNING </= 3'-5"
  2. (2)2x6 SPANNING </= 4'-11"
  3. (2)2x8 SPANNING </= 6'-3"
  4. (2)2x10 SPANNING </= 7'-8"
  5. (2)2x12 SPANNING </= 8'-11"

O. NEW WINDOWS / DOORS AND ALL OPENINGS IN INTERIOR WALLS
- NOT EXCEEDING 48", MIN. OF (2)2x4 HEADERS
- NOT EXCEEDING 72", MIN. OF (2)2x6 HEADERS
- NOT EXCEDDING 96", MIN. OF (2)2x10 HEADERS

ISSUE	DATE	NUMBER

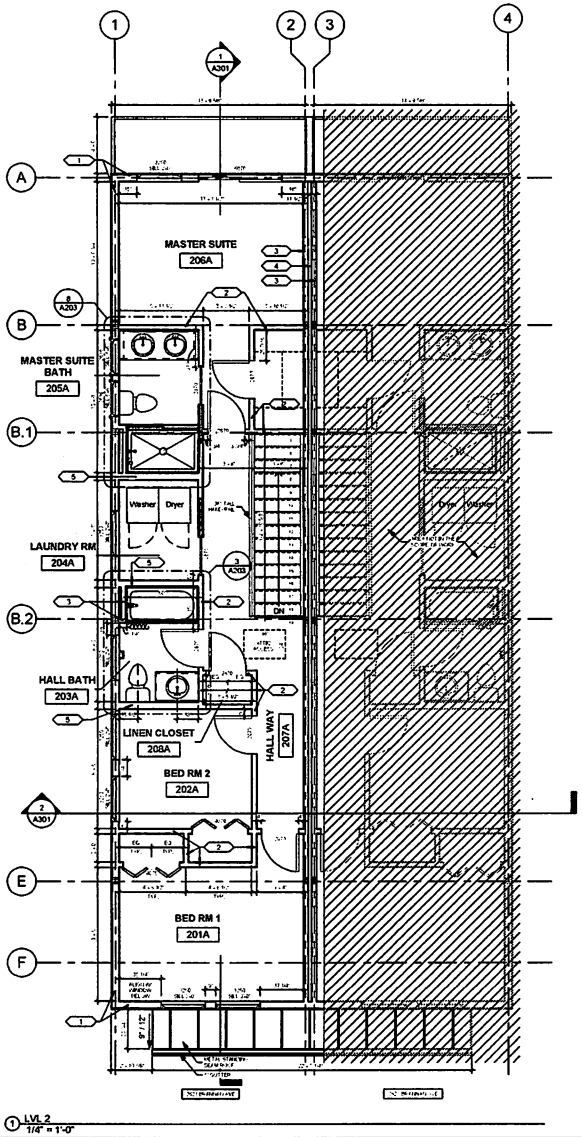
CLIENT
EDGMERE WILDLIFE TRUST W/ LA CRITES TRUSTEE

DATE 2022-05-12

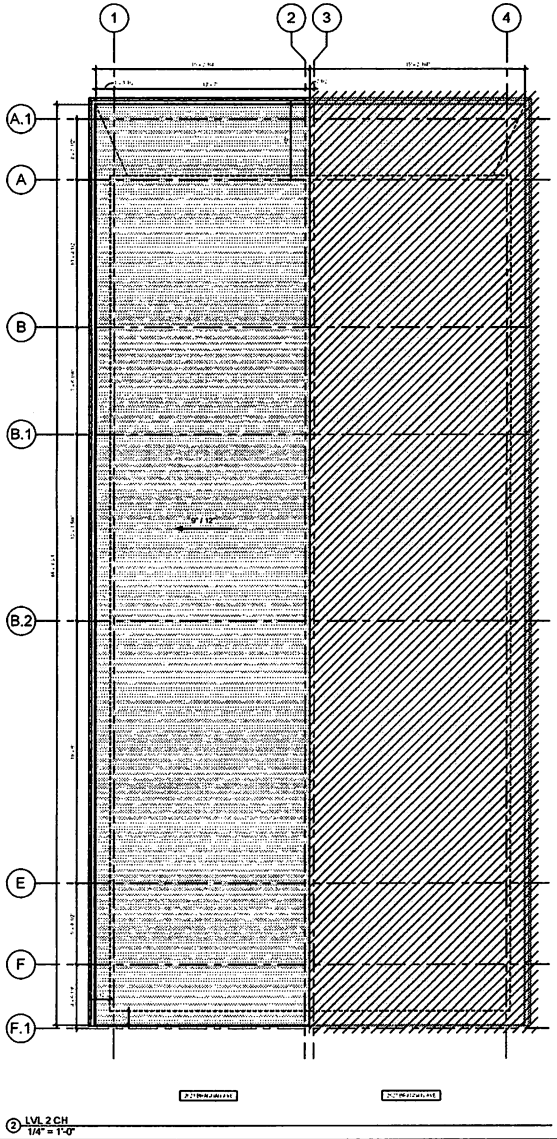
PROJECT TITLE
2621 BRANNAN AVE RENOVATION

SHEET TITLE
NEW WORK PLAN

SHEET NUMBER
A101



① LVL 2
1/4" = 1'-0"



② LVL 2 CH
1/4" = 1'-0"

NEW WORK PLAN NOTES

A. CONTRACTOR SHALL FIELD VERIFY ALL EXISTING OR CURRENT CONSTRUCTION RELATED CONDITIONS PRIOR TO THE START OF NEW CONSTRUCTION.

B. DIMENSIONS ARE GENERALLY GIVEN FROM THE FACE OF THE WALL TO FACE OF WALL OR COLUMN CENTERLINE

C. MECHANICAL, ELECTRICAL, AND PLUMBING (M.E.P.) ITEMS AND EQUIPMENT APPEARING ON ARCHITECTURAL DRAWINGS ARE SHOWN FOR CLARITY, AND ARE NOT MEANT TO BE ALL INCLUSIVE.

D. PATCH AND REPAIR ALL PENETRATIONS , ETC., TO PROVIDE FOR SMOOTH SURFACES READY FOR THE APPLICATION OF NEW FINISHES.

E. PATCH AND REPAIR ALL PENETRATIONS IN WALLS RESULTING FROM THE REMOVAL OF MECHANICAL/ELECTRICAL FIXTURES TO MATCH ADJACENT CONSTRUCTION. PREPARE THE AREA FOR NEW FINISHES.

F. EVERY EFFORT HAS BEEN MADE TO IDENTIFY THOSE DIMENSIONS WHICH MAY VARY WITH +/-. DIMENSIONS NOT SO NOTED ARE INTENDED TO BE HELD. ALL DIMENSIONS, HOWEVER, SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO FABRICATION OR INSTALLATION OF BUILDING COMPONENTS.

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- NOT EXCEEDING 72", MIN. OF (2)2x6 HEADERS
- NOT EXCEDDING 96", MIN. OF (2)2x10 HEADERS

ISSUE	DATE	NUMBER

CLIENT:
EDGMERE WILDLIFE TRUST W LA CRITES TRUSTEE

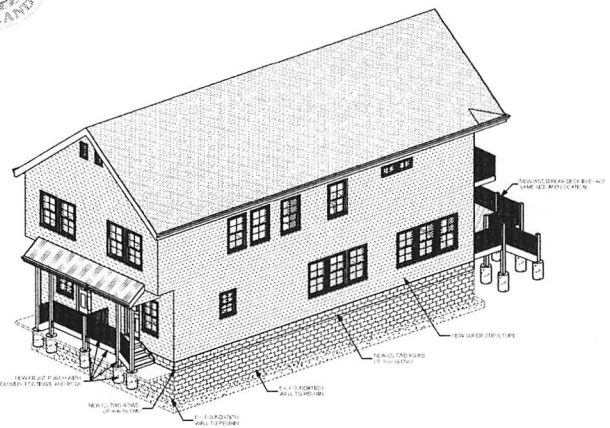
DATE: 2022-05-12

PROJECT TITLE:
2621 BRANNAN AVE RENOVATION

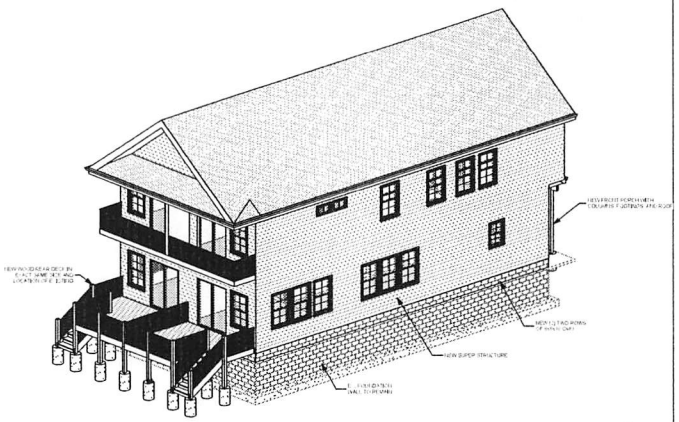
SHEET TITLE:
NEW WORK PLANS

SHEET NUMBER:
A102

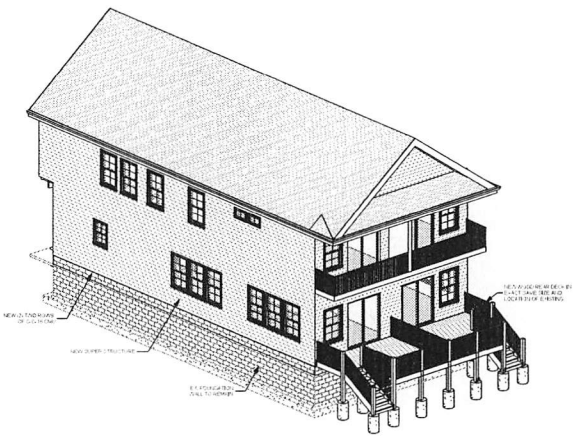
BALTIMORE COUNTY
MARYLAND
APPROVED/PLAT PLAN NO.
PERMIT # B-2106756
PERMIT ISSUED DATE/TIME:
INITIALS:



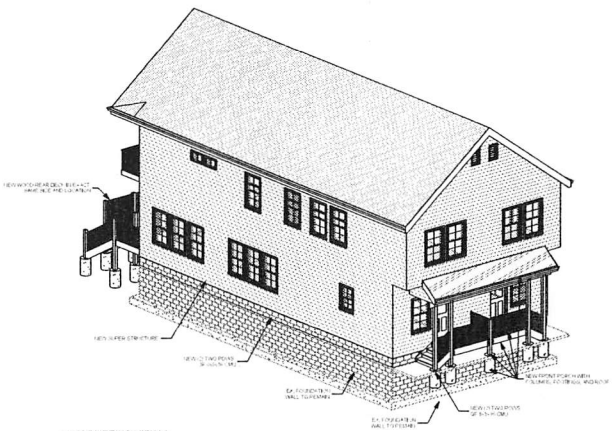
1 ISOMETRIC VIEW 1



3 ISOMETRIC VIEW 3



2 ISOMETRIC VIEW 2



4 ISOMETRIC VIEW 4

ISSUE	DATE	NUMBER

CLIENT:
EDGMERE WILDLIFE TRUST W/ LA CRITES TRUSTEE

DATE: 2022-05-12

PROJECT TITLE:
2621 BRANNAN AVE RENOVATION

SHEET TITLE:
ISOMETRIC DRAWINGS

SHEET NUMBER:
A200

APP EXH 16

TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND
COUNTY TRANSFER TAX CR
ART 11 TITLE 3 SUBTITLE 2, 11-3-202
RECORDATION TAX CR
T.P.ART 12-108 Date 04-25-2022

BOOK: 46775 PAGE: 377

Baltimore County Cir Crt
IMP FD SURE $40.00
RECORDING FEE $20.00

TOTAL $60.00
JLE SG
Apr 25, 2022 11:08 am

APPROVED PERMIT PLAN SET
PERMIT #: R22-06755
PERMIT ISSUED DATE/TIME:
10/15/2022
Tax ID # 15-19-711618
THE REVIEW OF THESE PLANS DOES NOT RELIEVE THE OWNER, ARCHITECT, ENGINEER OR CONTRACTOR OF ANY RESPONSIBILITY WHATSOEVER IN THE DESIGN, ENGINEERING OR SAFETY OF THE CONSTRUCTION TO COMPLY WITH ALL CONSTRUCTION CODES. ALL CONSTRUCTION MUST CONFORM TO THE BUILDING AND FIRE CODES INCLUDING DETAILS SHOWN OR NOT SHOWN AT THE REVIEW OF THESE PLANS DOES NOT RELIEVE BUILDING CODE ITEMS. ADDITIONAL COMMENTS MAY BE ATTACHED. ALL APPROVED PLANS MUST REMAIN AT BUILDING SITE UNTIL COMPLETION.

A CONFIRMATORY DEED AND SUPPLIMENTAL INSTRUMENT FOR WHICH NO CONSIDERATION HAS BEEN PAID. THIS DEED IS TAX EXEMPT PURSUANT TO SECTION 12-108(e) OF THE ANNOTATED CODE OF MARYLAND.

DEED OF CONFIRMATION

THIS DEED OF CONFIRMATION, is made and entered into this 30 day of SEPTEMBER, **2021**, by and between **CHRISTOPHER PODLES**, Personal Representative of the Estate of John Stephen Podles, Jr., Grantor; and **L.A. CRITES, TRUSTEE**, of the Edgmere Wildlife Trust, Grantee.

WITNESSETH:

WHEREAS, John Stephen Podles, Jr. died leaving an Estate, which was probated in the Circuit Court of Baltimore County, Maryland, as Estate No. 000000206454 (the "Estate");

WHEREAS, Prior to John Stephen Podles, Jr.'s death, he transferred the hereinafter describe real property, through his Attorney in Fact, Christopher Podles, unto LA Crites, Trustee of the Edgemere Wildlife Trust, by Deed dated September 19, 2019, and recorded in Liber 42157 Folio 353, among the Land Records of Baltimore County, Maryland (the "Deed");

WHEREAS, the Power of Attorney appointing Christopher Podles, was never recorded in the Land Records of Baltimore County Maryland; and

WHEREAS, it is the desire and intent of Christopher Podles, in his capacity as Personal Representative of the Estate of John Stephen Podles, Jr. to confirm and reconvey the hereinafter described real property unto L.A. Crites, Trustee of the Edgmere Wildlife Trust as provided for in the Deed.

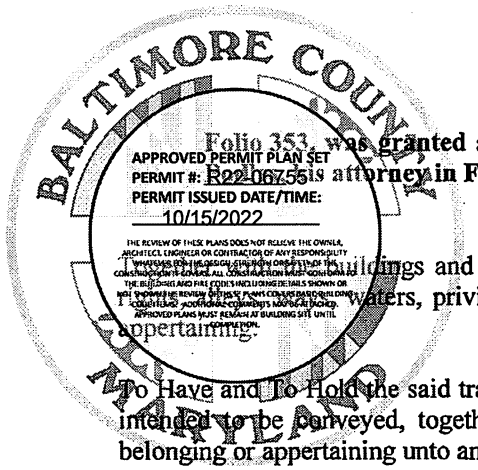
NOW THEREFORE, That for and in consideration of the sum of **One Dollar and 00/100ths ($1.00)**, which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantor does grant and convey to the Grantee, as sole owner, in fee simple, 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. 11 on the plat entitled "Estate of Thomas R. Brannan", which Plat is dated August 26, 1943, and recorded among the Land Records of Baltimore County, on or about September 17, 1948.

The improvements thereon being formerly known as No. 2621-2623 Haddaway Road, and now known as no. 2621-2623 Brannan Avene.

BEING the same fee simple property which, by Deed, dated September 19, 2019, and recorded in the Land Records of Baltimore County, Maryland, in Liber 42157,

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46775, p. 0377, MSA_CE62_46632. Date available 04/27/2022. Printed 06/23/2022.



Folio 353, was granted and conveyed by John Stephen Podles, Jr., by Christopher Podles, his attorney in Fact unto LA Crites, Trustee of the Edgmere Wildlife Trust.

buildings and improvements thereon erected, made or being; and all and every, the 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 Grantee, as sole owner, in fee simple.

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

Witness the hand and seal of said Grantor, the day and year first above written.

WITNESS:

_____

_____(Seal)
Christopher Podles, Personal Representative of The Estate of John S. Podles, Jr.

STATE OF Maryland ;
CITY/COUNTY OF Harford :

I hereby certify that on this 30 day of September, 2021, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Christopher Podles**, in his capacity as Personal Representative of the Estate of John S. Podles, Jr., 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.

_____
Notary Public
My commission expires: 6/12/2025

ANTHONY G. JOHNSON
Notary Public-Maryland
Harford County
My Commission Expires
6/12/2025

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46775, p. 0378, MSA_CE62_46632. Date available 04/27/2022. Printed 06/23/2022.



I HEREBY 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 **SCOTT B. GOLDSCHEIN, ESQ.**

AFTER RECORDING, PLEASE RETURN TO:
THE GOLDSCHEIN LAW FIRM, PC
9711 WASHINGTONIAN BOULEVARD, SUITE 201
N. POTOMAC, MD 20878

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46775, p. 0379, MSA_CE62_46632. Date available 04/27/2022. Printed 06/23/2022.

APP. EXH 13A




13 B




13 D



131


13 E

APP. EXH 15

Property Release Agreement

This Agreement made this 13th day of **August 2021** between **Nicholas Hildebrandt** hereinafter referred to as "Resident" and **R.A. Podles, as Agent/Property Manager for Edgemere Wildlife Trust** hereinafter referred to as "Management".

Resident herewith voluntarily surrenders the Property known as:
Address: **2623 Brannan Avenue** City: **Sparrows Point** State: **MD** Zip: **21219** and quits any claims for any legal possession Resident may have had to Property.

☐ Resident releases Property as of ____ o'clock __M, on the ____ day of _____ 20____; or

☐ Resident agrees to release Property as of ____ o'clock __M, on the ____ day of _____ 20____; and

☒ Resident herewith returns all keys in possession to Management; or

☐ Resident will return all keys in possession to Management on _____, 20___.

FAILURE TO ACT: If this Agreement contains a date of release later then the date of this Agreement and on that date it appears Resident has not vacated the Property due to belongings or people still occupying the Property, then Management shall have the right to use such self-help remedies as a) removal of belongings, b) changing locks, and c) escorting out anyone still occupying the Property, so as to secure the Property with no further right of entry by Resident. Agreed to by Resident:

_____ (Resident Initials)

ABANDONMENT: Any of Resident's personal property remaining on the premises after the above date will be considered Management's property, and title thereto vests in Management. Management has the right to remove, dispose or sell any personal property remaining. _____ (Resident Initials)

HOLD HARMLESS: Resident herewith agrees that any claims of any kind or nature whatsoever against management, the Property owner(s), or anyone working for or with them, whether agent, contractor, employee, officer, trustee or director, is hereby released and Resident(s) agree no action of any kind or nature will be instituted against management, the Property owner(s), or anyone working for or with them, whether agent, contractor, employee, officer, trustee or director.

LIQUIDATED DAMAGES: Resident shall pay to Management $_____ per day as liquidated damages for each day Resident holds over the Property beyond the date shown above.

ENTIRE AGREEMENT: This is the entire Agreement between the parties and no representation, promise, or inducement not included in this Agreement, oral or written, shall be binding upon any party hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed in person. If this Agreement is not signed by all the Residents named herein, the one(s) signing warrants that he or she has the authority and is acting as agent to sign for all others.

Offered By:

_____ (SEAL)
RESIDENT: **Nicholas Hildebrandt**

Accepted By:

R.A. Podles, as Agent (SEAL)
Management: **R.A. Podles, as Agent/Property Manager for Edgemere Wildlife Trust**

Paul Mayhew

From: Jeffrey N Perlow
Sent: Thursday, March 2, 2023 8:42 AM
To: Paul Mayhew
Cc: Arnold Jablon; Peter Max Zimmerman
Subject: 2022-0269-SPH (2621 and 2623 Brannan Road)

Good Morning Mr. Mayhew,
I wanted to clarify the information that I provided at yesterday's public hearing. I reexamined the two building permits related to the addresses referenced above, and I did, in-fact, approve both permits on October 13, 2022. However, my decision was based on the applicant's misrepresented claim of complying with the 2 year restoration allowance provided in Section 305.1 and Section 104.2, BCZR. Based on the two exhibits that were misrepresented to me and that were ultimately submitted as evidence at the hearing, the two building permits were approved by me 1 year and 3 months after the dates shown on the two exhibits. However, based on the applicant's misrepresentation of the two exhibits that were ultimately submitted at the public hearing, I erroneously approved the two building permits with the belief that the restoration of both dwellings was within the 2 year restoration period. I apologize for the confusion, but I wanted the record to be as accurate as possible in the event this matter was appealed to the Board of Appeals. Again, I am sorry for the confusion!
Jeffrey Perlow
Zoning Supervisor
Zoning Review Office
Department of Permits, Approvals & Inspections

Board of Appeals

Exhibit List

Case No.: 2022-269-SPH Case Name: Edgemere Windfarm

Party: The Board Date: 8-29-23

Exhibit No.	Description	ID Only
1	July 12, 2022 Letter from Mr. Adams to Mr. Podles	
	VERIFIED BY: _____ DATE: _____	

ADAMS ENGINEERING, LLC

9360 B Esplanade Court
Owings Mills, Maryland 21117
Phone 410-615-3758

July 12, 2022

Mr. Robert Podles
2206 Old Emmorton Road
Bel Air, Maryland 21015

Re: 2621/2623 Brannan Ave.
Investigation
AE #22132

Dear Mr. Podles:

On June 28, 2022, we met with you at the above referenced site to review the condition of the existing foundation wall and footing. The purpose of the visit was to try to determine if the top of the foundation walls could be raised a couple of courses and if new structures could be built on the existing foundations.

The existing houses had their own foundation walls on three side and shared a common central foundation wall. We were able to review the foundations because the existing structures had been razed due to deterioration of the existing framing. New structures are planned to replace them on the existing foundations.

After our review, we have provided drawing S-1, dated 7-1-22 for the reinforcing of the central common foundation.

If you have any questions, please do not hesitate to contact our office.

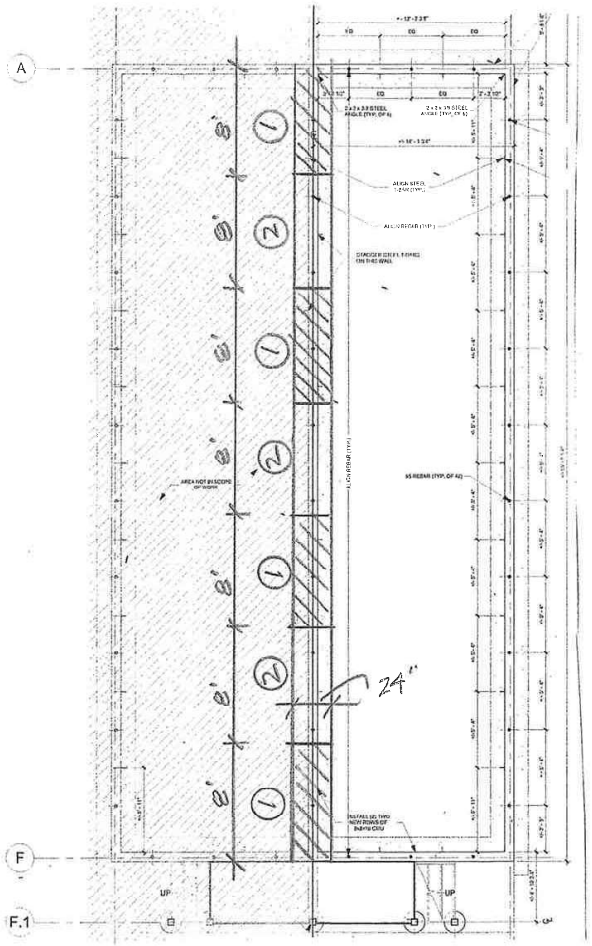
Very sincerely yours,

Adams Engineering, LLC

William J. Adams

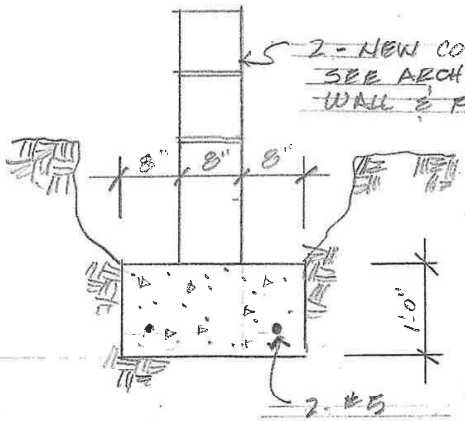
William J. Adams, P.E.





UNDERPINNING PLAN N.T.S.

○ SUGGESTED SEQUENCE



SECTION (1) 3/4"=1'-0"

TYPICAL SECTION THRU UNDERPINNING

CONC. TO HAVE 28 DAY COMPRESSIVE STRENGTH OF 3000PSI

REINF. TO BE ASTM A615 GRADE 60

DESIGN SOIL BEARING CAPACITY = 1500 PSF

STATE OF MARYLAND
WILLIAM J. ADAMS
NO. 9950
REGISTERED
PROFESSIONAL ENGINEER

7-1-22

2621 / 2623 BRANNAN AVE.
SPARROWS POINT, MD.

ADAMS ENGINEERING, LLC
9360 B Esplanade Court
Owings Mills, Maryland 21117
Phone 410-615-3758

Professional Certification. I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the STATE OF MARYLAND
License No. 9950
Expiration Date: 7-14-22

AE #: # 22132

DATE: 7-1-22

Sheet No. S.1

EXHIBIT LIST

2022-0269SPH

2621-2623 Brannan Road

Exhibit #: Protestants/Appellee

✓ 1. Zoning order in case No. 04-567 SPHA — Granting of NCU and denying requested variance

✓ 2. Site plan submitted in case No. 04-567 fully describing general notes, relevant information specific to property, location and size of existing buildings as of date of hearing;

3. Code Enforcement stop work order dated 4-6-22;

4. Code Enforcement stop work order dated 4-7-22;

5. Baltimore County building Permit # R22-06755;

6. Baltimore County building Permit # R22-06756;

7. Baltimore County Residential Razing Permit # R22-05628;

✓ 8. Photos submitted by property owner showing existing pictures as of 5/25/22 for Permit # R22-06755;

9. District Court of Maryland Petition for Warrant of Restitution submitted with Permit # R22-06755;

10. Site plan submitted by property owner entitled "2623 Brannan Ave Renovation" for Permit # R22-06755;

NOT INTRO 11. Timeline prepared by Protestants contemporaneously as events occurred at subject property;

✓ 12. Petition dated February 2023;

✓ 13. My Neighborhood GIS site location;

✓ 14. Photos of subject property—(a) through (o).

15. District Court case information report Podles vs. Stephanie Casey, et al failure to pay rent

16. District Court case information report Podles vs. Mary Moore failure to pay rent

✓ 17.: objection to admission by Appelant. is Pg 2 to ex 2

Admitted provisionally!

✓ 18: This is Appellant's 3

✓ 19: MD Judiciary Case Search Case 6-13-2023

✓ 20: Case Search C-03-5619-011584

Exh 1

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE S/S of Haddaway Road, E/S of Brannan Avenue 15th Election District 7th Councilmanic District **(2621-2623 Haddaway Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 04-567-SPHA

John Stephen Podles, Jr.
Petitioner

OCT 12 2004
RECEIVED

* * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Variance and Petition for Special Hearing for the properties located at 2621-2623 Haddaway Road in the eastern area of Baltimore County. The Petition was filed by John Stephen Podles, Jr., the Petitioner and legal owner of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. In addition, variance relief is requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft.

The property was posted with Notice of Hearing on July 27, 2004, 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 August 3, 2004, to notify any interested persons of the scheduled hearing date.

RECEIVED
OCT - 8 2004

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all

zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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."

Section 104, Nonconforming Uses [BCZR 1955]

Definition: Nonconforming Use -- A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

Section 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Section 104.3 No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]

Section 104.4 Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any

extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were submitted by the Department of Environmental Protection & Resource Management (DEPRM) dated July 1, 2004, a copy of which is attached hereto and made a part hereto. In addition, a ZAC comment was received from the Bureau of Development Plans Review dated July 2, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were John S. Podles, Jr., the Petitioner, Christopher Podles, Mary Pyles and Jean Grovu. J. Scott Dallas appeared on behalf of J.S. Dallas, Inc., the survey and engineer company that prepared the site plan of the property on behalf of the Petitioner. Alfred L. Brennan, Jr., Esquire represented the Petitioner. No protestants or citizens attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Brennan proffered that the subject property is located at the intersection of Brannan Avenue and Haddaway Road. Brannan Avenue continues to the south of the property as Brannan Circle. The Department of Public Works requested that the plan to accompany show a full 40-ft. right-of-way for both Haddaway Road and Brannan Avenue to which the Petitioner agreed as set forth on Petitioner's Exhibit No. 1. Mr. Brennan noted the odd configuration of the lot that has streets on three sides and the new rights-of-way requested by the County. In addition, the building is not square on the lot so that one side is closer to the boundary than the

other. The subject property is 0.175 acre in size and is Lot 11 of the Estate of Thomas Brannan, which was recorded in the Land Records of Baltimore County in 1948. The zoning is DR 5.5, which was imposed on the property in 1955. The lot is apparently within the Chesapeake Bay Critical Area.

The property is improved by a duplex (side by side) apartment house, one half of which Mary Pyles testified that she rented in 1948 and 1949 when she worked for Bethlehem Steel Corporation. She noted that there were two apartments at that time and that the building was old when she moved in. Mr. Brennan presented a series of aerial photographs (Petitioner's Exhibit Nos. 2 through 5) which show the duplex apartment in 1938, 1954, 1961 and 1977 basically unchanged.

Mr. Podles testified that he bought the property in 1992 in horrible shape. Since that time, he has rehabilitated and remodeled it so that he can rent it as two side by side apartments. He noted that each apartment contained its own bath, kitchen and bedrooms. However, each apartment had only two bedrooms and in order to make each apartment more attractive to tenants, he constructed a third bedroom over each of the apartments in 1992 for which Baltimore County issued a permit. Finally, he constructed a third apartment on the side of the existing duplex building in 2000 without a permit, which is now the source of the violation notice. See Petitioner's photographs marked Exhibit Nos. 7 through 14.

Finally, Mr. Dallas, who prepared the plan to accompany, noted that the additional apartment increased the footprint by approximately 18% and that the County's request to show parking for each apartment for a total of six spaces is shown on Petitioner's Exhibit No. 1. He also noted that the third apartment falls within 3 ft. of the boundary of the lot and that the

Petitioner did not own the lot next door which he could use to expand the lot and thus comply with the regulations by lot line adjustment.

Findings of Fact and Conclusions of Law

From the testimony and evidence, I find that the Petitioner has a legal use of two apartments side by side, which do not conform to the use regulation for the DR 5.5 zone in which it is located. Ms. Pyles indicated that she rented one side of the duplex in 1948 and I have no reason to believe that a multi-family use was not legal at that time. In addition, I find that there has been no abandonment of the apartment use since the time the DR regulations were imposed in 1970.

Much more troubling is the question of whether the addition of the second floor to the duplex apartments should be considered in calculating the percentage increase, as well as the third apartment. Mr. Dallas testified that the third apartment added only 18% to the footprint of the building and thus meets the 25% expansion requirement of nonconforming uses. The Petitioner notes that the statute specifically states that the footprint is the basis of the nonconforming use. The statute (Section 104.3 of the B.C.Z.R.) specifies that a nonconforming use may not be extended more that 25% of "the ground floor area of the building so used".

Consequently, Mr. Brennan argues that I am not to consider the second story added to the duplex in calculating the extension. He cites the case of *Feldstein v LaVale Zoning Board,* 246 MD 204 (1967) which involved an increase in the volume and height of stored scrap metal in a nonconforming junkyard. In this case, the Court of Appeals ruled that this was an intensification and not an extension of the nonconforming use. In addition he cites *Green v Garrett et al.*, 63 A2d 326 which involves the nonconforming use of a stadium which before the zoning ordinance, held football and baseball games. The zoning ordinance then restricted the property to

residential uses. The Court of Appeals found that playing regularly scheduled league play was not an extension of the nonconforming use.

In regard to the contention that the basis of a nonconforming use is simply the foot print of the building, this makes no logical sense to me, although at first glance the statute seems to say so. If I consider only the first floor footprint, an addition that adds ten floors to a nonconforming use would have no extension at all by this way of calculation. Obviously, the nonconforming use has intensified tenfold but this would not register on the statute's Richter Scale and be counted.

In regard to the cases cited, I understand that more frequent use of or conducting more business from a nonconforming use is an intensification and not an extension. However, the subject case is about putting another room onto each apartment and then adding a third apartment to the building. In my view, these are extensions and not intensifications. The statute specifically mentions physical area as the basis of the 25% rule.

It seems to me that the Council's intention is to regulate the size of land extensions by finding the area of the nonconforming use and then determine if that area has been extended more than 25%. Area works well here. However, I interpret the legislative intent for extension of nonconforming structures to apply to volumetric increases and not simply footprint of the first floor. In this sense, I find the words "of the ground floor area" in the statute does not indicate a precise mathematical formula (such as width times length for a rectangle) but rather that it means the first story of the building. Otherwise, we could have the absurd result of a one story nonconforming building been extended to multi-story heights without any extension. Clearly, this is not the intent of the legislation.

As I understand the situation, each nonconforming apartment had a kitchen, bath and two bedrooms, which were approximately the same size. If a third bedroom is added to each apartment again, of about the same size, there would be an increase in number of rooms from four to five rooms or a 25% increase in the nonconforming use. This would use up the maximum extension under the regulations. I cannot, therefore, approve the additional apartment. As a further result, I cannot approve a variance for the side yard setback, which is the distance of the third apartment to the property line.

In addition, even accepting the Petitioner's argument about foot print, which I do not, I have great difficulty with this request. Mr. Dallas testified, that by using the footprint method the Petitioner suggests the addition increases the nonconforming use 18%. However, the footprint dimension of the duplex is approximately 28.5 ft. x 55 ft., which I calculate to be 1,567.5 sq. ft. The addition is approximately 10.6 ft. x 43.3 ft., which I calculate is 459 sq. ft. This gives me a percentage increase of 29.3% increase, which exceeds the statutory limit just for the addition alone, much less for the third bedroom.

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 Petitioner, I find that the Petitioner's variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12 day of October, 2004, that the Petitioner's request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling consisting of two apartments side by side, be and is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request to approve the expansion of the two existing apartments by the addition to each of a third bedroom is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request for a third apartment, be and is hereby DENIED;

IT IS FURTHER ORDERED, that the Petitioner's request to determine that the third unit will not negate the nonconforming use, be and is hereby DENIED as moot; and

IT IS FURTHER ORDERED, that the variance relief requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft., be and is hereby DENIED.

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

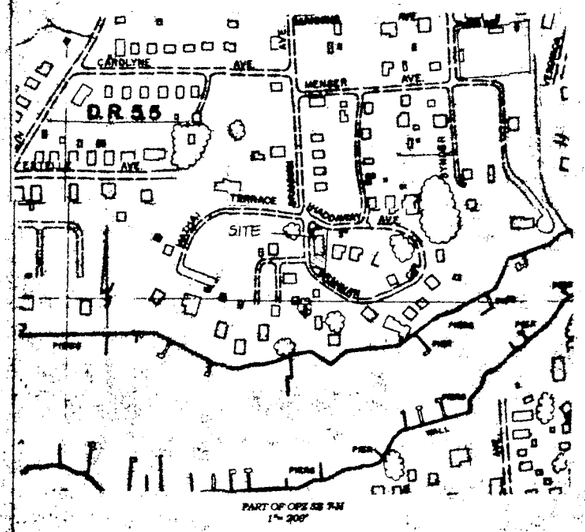
John V. Murphy

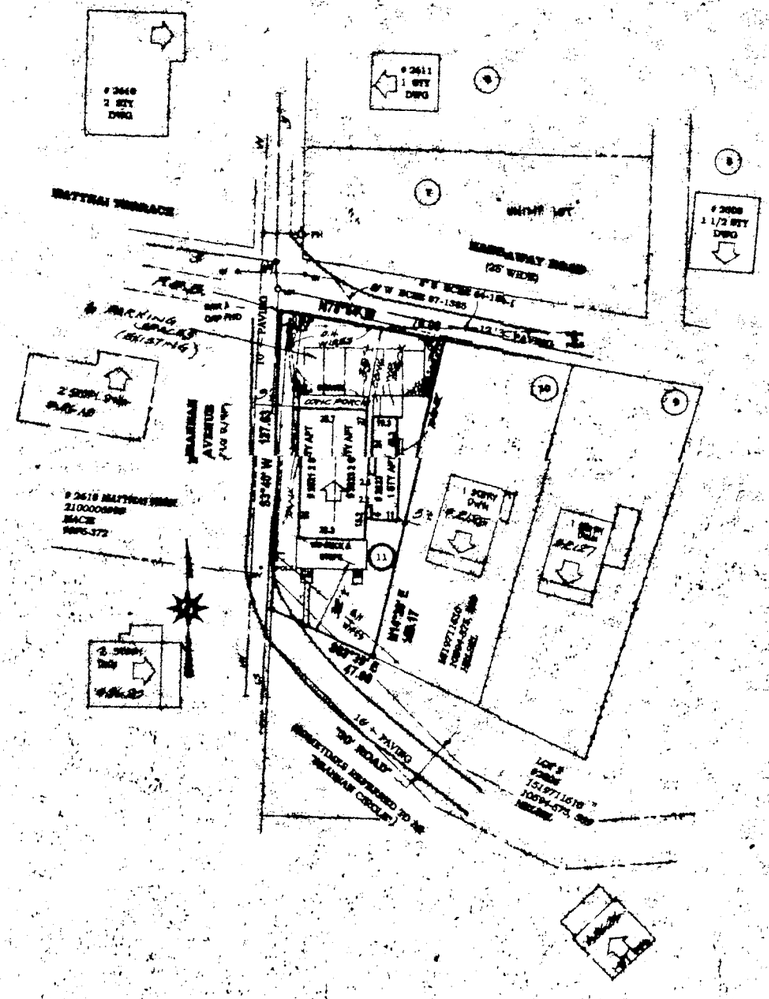
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

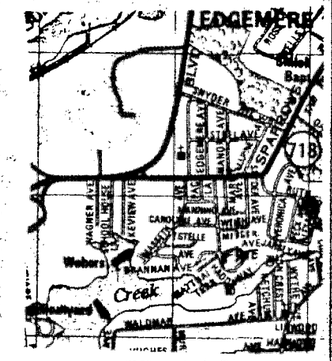
JVM:raj

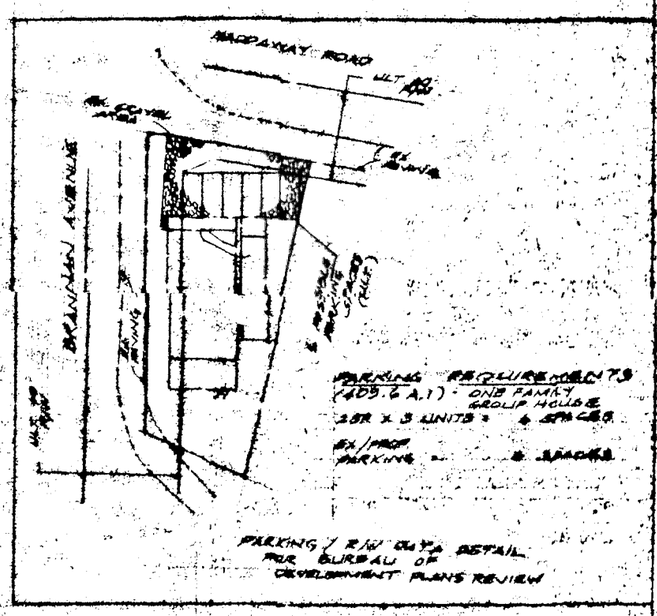
NOTES

1. ZONING VIOLATION: 06-0935
   (*ILLEGALLY CONVERTED/ ILLEGALLY BUILT 3RD DWELLING UNIT*).
2. OWNERSHIP: JOHN STEPHEN FOCKLER, JR
   2621 BRANHAN AVENUE
   BALTIMORE, MD 21219
   DEED REFERENCE: 13437-549
   PHONE : 410-388-6794
3. PROPERTY INFORMATION:
   TAX MAP 111 —PARCEL 133
   PLAT OF ESTATE OF THOMAS R. BRANHAM (34/ 89)
   TAX ACCT NO. 1519711618
4. AREA OF SUBJECT SITE: 7628 SF +- OR 0.175 AC. +-
5. EX./ PROP USE: THREE APARTMENTS.
6. SITE LIES IN C.B.C.A. LDA PER MAP NO. 111.
7. SITE LIES IN FLOOD ZONE C PER F.E.M.A. F.I.R.M. 240030 0656 B.
8. EX. ZONING OF SITE & SURROUNDING PROPERTY: D.R. 5.5 PER OPZ SE 7-H
9. UTILITIES SHOWN HEREON ARE PER REFERENCED PLANS.
10. NOT A HISTORIC BUILDING OR SITE.









J.B. DALLAS, INC.
Surveying & Engineering
15325 Long Green Pike
Baldwin, MD. 21013
(410) 517-4608

SITE PLAN TO ACCOMPANY PETITION FOR RESIDENTIAL ZONING VARIANCE AND SPECIAL HEARING IN A D.R. 5.5 ZONE

 # 2621-2623 HADDAWAY ROAD

15TH EL. DIST 7TH COUNC DIST BALT. COUNTY, MD

SCALE: 1" = 30'

FEBRUARY, 2004

REV. 6-16-04

PET EXHIBIT 3

Baltimore County
Department of 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. CB 2200196 Property No. 151971 1618 Zoning:

Name(s): Podles, Rob

Address: 2621-2623 Brannan Ave
Sparrows Point MD 21219

Violation Location: Same

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

Baltimore County Code 2003 Article 35
35-2-301 Permits Required
35-2-304 Pentaly for action without permit
(1) Permits required for razing of structure
(2) Secure all required permits for reconstruction of dwelling
(3) Secure all required inspections
Permit B21-02585 not valid for demo or reconstruction
BCBL Part 121 Unsafe Structure - Remove end wall that is in danger of falling

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

ON OR BEFORE: _____ DATE ISSUED: _____

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: _____

STOP WORK NOTICE

PURSUANT TO INSEPCTION 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: 4-20-22 DATE ISSUED: 4-6-22

INSPECTOR: Rodney Land PRINT NAME: Rodney Lannick

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

PAI BI 10

REV. 2/13

PET EXHIBIT 4

Baltimore County
Department of 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. CB 2200196 Property No. 1519711618 Zoning:

Name(s): Edgmere Wildlife Trust with Lq Crites Suite 100 - 269 2306 Old Emmorton Rd Trustee

Address: Belair MD 21015-6172

Violation Location: 2621-2623 Brannan Ave 21219

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

Baltimore County Code 2003 Article 35
35-2-301 Permits Required
35-2-304 Pentalty for action without permit
(1) Secure permits required for razing of structure
(2) Secure all required permits for reconstruction of dwelling
(3) Secure all required inspections
Permit R21-02585 not valid for demo or reconstruction
BCBC Part 121 Unsafe Structure - Remove end wall that is in danger of falling

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

ON OR BEFORE: _____ DATE ISSUED: _____

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: _____

STOP WORK NOTICE

PURSUANT TO INSEPCTION 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: 4-21-22 DATE ISSUED: 4-7-22

INSPECTOR: Rodney Lark PRINT NAME: Rodney Lorrick

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

PAI BI 10 REV. 2/13

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

Permit Number: R22-06755

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Property Information

Property Address: 2623 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 39.00

Set Backs - Rear Yard: 21.00

Set Backs - Right Side Yard: 25.00

Set Backs - Left Side Yard: 9.00

Owner Information

Owner: LA Crites

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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: R22-06755

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?: Y

Building Permit Information

Description of Work: CBCA. Construct 2 story semi-detached dwelling using existing foundation, with 2ft front cantilever, 3 bedrooms covered front porch, balcony, open wood rear deck per plans 13'10-3/4"x73'1-1/4"x34'=1587sf. Sprinklers required for fire protection. Refer to R22-05628 for razing existing semi-detached dwelling. Not pattern book.

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: R22-06756

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Property Information

Property Address: 2621 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 39.00

Set Backs - Rear Yard: 21.00

Set Backs - Right Side Yard: 25.00

Set Backs - Left Side Yard: 9.00

Owner Information

Owner: LA Crites

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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: R22-06756

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?: Y

Building Permit Information

Description of Work: CBCA. Construct 2 story semi-detached dwelling using existing foundation, with 2ft front cantilever, 3 bedrooms covered front porch, balcony, open wood rear deck per plans 13'10-3/4"x73'1-1/4"x34'=1587sf. Sprinklers required for fire protection. Refer to R22-05628 for razing existing semi-detached dwelling. Not pattern book. REFER TO PLANS AND NOTES,UPDATES R22-06755--SAME

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.**

PET EXHIBIT 7

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

Permit Number: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA. RAZE MAIN STRUCTURE, TO BE TORN DOWN, FOUNDATION TO REMAIN, 3154SF, BUILT IN 1924. DEBRIS TO BE HAULED TO APPROVED SANITARY LANDFILL IN ACCORDANCE WITH APPLICABLE BALTIMORE COUNTY SITE REGULATIONS. SEWER TO BE CAPPED. PERMIT EXPIRES 90 FROM DATE OF ISSUE. RAT ERADICATION STATEMENT ATTACHED. ISSUANCE OF THIS PERMIT DOES NOT COMMIT BALTIMORE COUNTY TO ISSUE ANY FURTHER PERMITS

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.













ISSUE	D

CLIENT:

EDGMERE WILDL
CRITES T

DATE:

PROJECT TITLE:

2623 BR
A
RENOV

SHEET TITLE:

EXIS
PICT

SHEET NUMBER:

G1

4109715554

COPY

E-FILED; Baltimore County District Court - Essex
Docket: 6/2/2021 11:51 AM; Submission: 6/2/2021 11:51 AM

DISTRICT COURT OF MARYLAND FOR Baltimore County-Essex

Located at 8914 Kelso Drive, Baltimore, MD 21221 (Address) — City/County — Case No. D-08-CV-20-034145

Edgemere Wildlife Trust
Plaintiff/Agent
621 Stemmers Run Road, Suite E
Address of Plaintiff/Attorney/Agent
Baltimore, Maryland 21221
City State Zip

Stephanie Casey — Defendant
Victor Gonzales — Defendant
all Unknown Occupants — Defendant
Defendant
2621 Brannan Road
Address of Defendant
~~Parkville~~, MD 21219
~~Baltimore~~
State Zip

- [X] EVICTED
- [ ] CANCELED MOVED
- [ ] CANCELED PAID
- [ ] CANCELED
- [ ] EXPIRED

Plaintiff/Agent
Constable/Deputy/Sheriff — Constable Number — Date 5/27/21

FOR OFFICE USE ONLY

PETITION - FOR WARRANT OF RESTITUTION

On 4/13/2021 the Court:

- [ ] Determined the amount due to be $ ..... , plus costs of $ .....
- [X] Ordered that possession of the premises described as 2621 Brannan Road, Baltimore, MD 21219 be returned to the Plaintiff.
- [X] Without right of redemption.
- [ ] Defendant has made the following payments (if any): $ ..... leaving a balance due as of the filing of this Petition to be $ ..... (not including court costs). [ ] Defendant remains in possession of the premises, therefore the Defendant has not complied with the judgment in this case. The Plaintiff requests possession of the premises in this case.

I do solemnly affirm under the penalties of perjury that the matters and facts set forth above are true to the best of my knowledge, information, and belief.

5/26/2021 — Date
Darlyn R. McLaughlin — Signature of Plaintiff/Agent/Attorney
CPF # 0906160108
621 Stemmers Run Road, Suite E, Baltimore, MD 21221 — Address
443-529-9900 — Telephone Number
443-524-8028 — Fax
court@marylandrentcourt.com — E-mail

ORDER

State of Maryland Baltimore County-Essex to wit:

To Sheriff of this County/Constable of this Court. Greetings:

The Court has determined that the Plaintiff is entitled to possession.

- [ ] The judgment for possession may be redeemed by payment to the Plaintiff or his agent, by cash, certified check, or money order the amount of $ ..... plus costs of $ ....., minus any payments made after ..... (date Petition is filed).
- [X] The judgment for possession may not be redeemed.

Now, therefore,

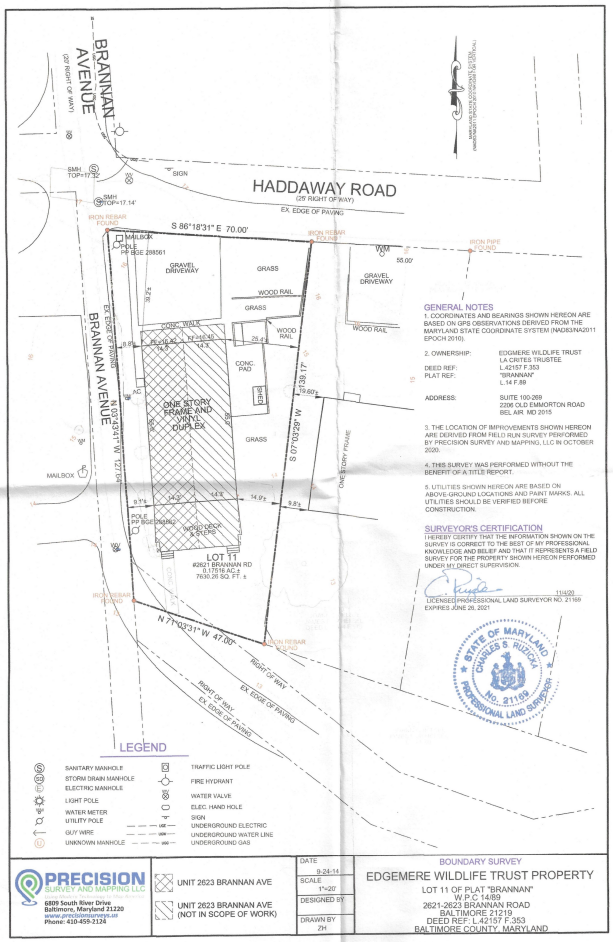
- [ ] Unless Defendant tenders to the Plaintiff or his agent, cash, certified check or money order in the amount of $ ..... plus $ ..... costs.
- [X] The judgment for possession may not be redeemed.

The Sheriff/Constable of this Court is ordered to deliver the premises to the Plaintiff (or the Plaintiff's agent or attorney) and, unless local law requires otherwise, to remove from the premises, by force if necessary, all property of the Defendant(s) and any other occupant.

06/09/2021 1:21:26 PM
Michael T. Pate
Judge — ID Number — Date

NOTICE: To request a foreign language interpreter or reasonable accommodation under the Americans with Disabilities Act, please contact the court immediately. Possession and use of cell phones and other electronic devices may be limited or prohibited in designated areas of the court facility.

APPROVED PERMIT PLAN SET
PERMIT #: B22-06755
PERMIT ISSUED DATE/TIME: 10/15/2022



GENERAL NOTES

1. COORDINATES AND BEARINGS SHOWN HEREON ARE BASED ON GPS OBSERVATIONS DERIVED FROM THE MARYLAND STATE COORDINATE SYSTEM (NAD83/NA2011 EPOCH 2010).

2. OWNERSHIP: EDGMERE WILDLIFE TRUST
LA CRITES TRUSTEE
DEED REF: L.42157 F.353
PLAT REF: "BRANNAN" L.14 F.89

ADDRESS: SUITE 100-269
2206 OLD EMMORTON ROAD
BEL AIR MD 2015

3. THE LOCATION OF IMPROVEMENTS SHOWN HEREON ARE DERIVED FROM FIELD RUN SURVEY PERFORMED BY PRECISION SURVEY AND MAPPING, LLC IN OCTOBER 2020.

4. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT.

5. UTILITIES SHOWN HEREON ARE BASED ON ABOVE-GROUND LOCATIONS AND PAINT MARKS. ALL UTILITIES SHOULD BE VERIFIED BEFORE CONSTRUCTION.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE INFORMATION SHOWN ON THE SURVEY IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF AND THAT IT REPRESENTS A FIELD SURVEY FOR THE PROPERTY SHOWN HEREON PERFORMED UNDER MY DIRECT SUPERVISION.

11/1/20
LICENSED PROFESSIONAL LAND SURVEYOR NO. 21169
EXPIRES JUNE 26, 2021

STATE OF MARYLAND
CHARLES S. RUDICK
No. 21169
PROFESSIONAL LAND SURVEYOR

LEGEND

- SANITARY MANHOLE
- STORM DRAIN MANHOLE
- ELECTRIC MANHOLE
- LIGHT POLE
- WATER METER
- UTILITY POLE
- GUY WIRE
- UNKNOWN MANHOLE
- TRAFFIC LIGHT POLE
- FIRE HYDRANT
- WATER VALVE
- ELEC. HAND HOLE
- SIGN
- UNDERGROUND ELECTRIC
- UNDERGROUND WATER LINE
- UNDERGROUND GAS

PRECISION SURVEY AND MAPPING LLC
6809 South River Drive
Baltimore, Maryland 21220
www.precisionsurveyors.net
Phone: 410-459-2124

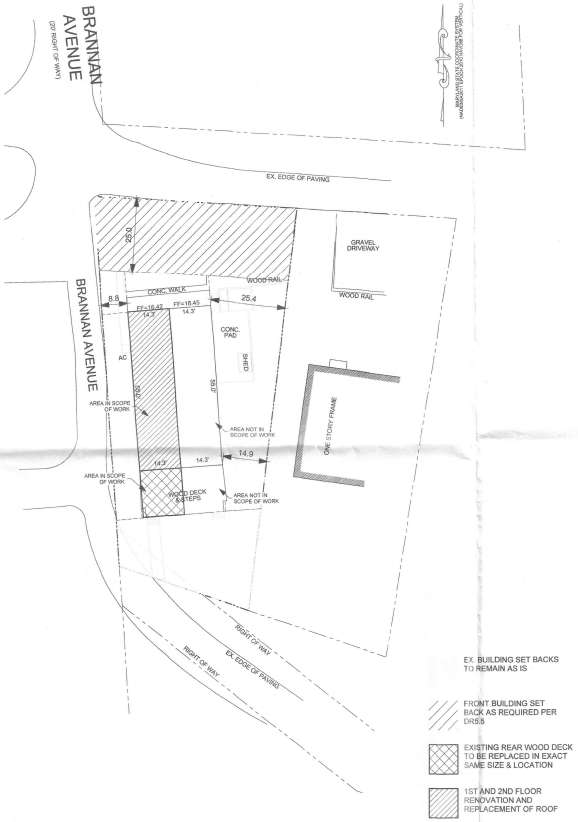
UNIT 2623 BRANNAN AVE

UNIT 2623 BRANNAN AVE (NOT IN SCOPE OF WORK)

DATE: 9-24-14
SCALE: 1"=20'
DESIGNED BY:
DRAWN BY: ZH

BOUNDARY SURVEY
EDGEMERE WILDLIFE TRUST PROPERTY
LOT 11 OF PLAT "BRANNAN"
W.P.C. 14/89
2621-2623 BRANNAN ROAD
BALTIMORE 21219
DEED REF: L.42157 F.353
BALTIMORE COUNTY, MARYLAND

1 G101 SITE PLAN - EXISTING
SCALE:1" = 20'-0"



EX. BUILDING SET BACKS TO REMAIN AS IS

FRONT BUILDING SET BACK AS REQUIRED PER DRS'S

EXISTING REAR WOOD DECK TO BE REPLACED IN EXACT SAME SIZE & LOCATION

1ST AND 2ND FLOOR RENOVATION AND REPLACEMENT OF ROOF

2 G101 SITE PLAN - WORK SCOPE BOUNDARIES
SCALE:1" = 20'-0"

ISSUE	DATE	NUMBER

CLIENT:
EDGMERE WILDLIFE TRUST W/ LA CRITES TRUSTEE

DATE: 2022-05-25

PROJECT TITLE:
2623 BRANNAN AVE RENOVATION

SHEET TITLE:
SITE PLANS

SHEET NUMBER:
G101

Properties 2621 & 2623 Brannan Avenue, 21219

TIMELINE

John Podles died **October 1, 2019** (Owner of properties).

On **November 12, 2019** Christopher Podles filed an eviction notice with Baltimore County against Stephanie Casey. Failure to pay rent: 2621 Brannan Avenue, Sparrows Point, MD 21219. Case No.D-085-LT-19-058360 Christopher Podles vs. Stephanie Casey.

On **February 5, 2020** R.A. Podles filed an eviction notice with Baltimore County against Stephanie Casey. Failure to pay rent: 2621 Brannan Avenue, Sparrows Point, MD 21219. Case No. D-085-LT-20-006412 R.A. Podles vs. Stephanie Casey.

On **December 11, 2019** Christopher Podles filed an eviction notice with Baltimore County against Mary Moore. Failure to pay rent. 2623 Brannan Avenue, Sparrows Point, MD 21219. Case No. D-085-LT-19 Christopher Podles vs Mary Moore.

11-25-2019 Properties were sold to Edgemere Wildlife Trust Crites, LA Trustee

There is only one property listed (2623) on Property Search MD / MD Department of Assessments & Taxation sites

Approximately **January 2020** – 2623 Brannan Avenue was vacant
Approximately **June 2020** – 2621 Brannan Avenue was vacant

June 2020 – March 2022

- Properties were abandoned
- Grass was not cut
- Random kids, teenagers were hanging around & in the properties and the sheds

January 2022 – March 1, 2022

- Water line broke in the house
- Robert Podles (son of deceased owner) was called multiple times with no response
- Water line break flooded the house and property around it
- The City was called, and they could not find the water meter
- City had no record of the property
- The house was open, and a person was able to cut it off

March - April 2022

- Demolition began
- Rob Podles hired 3 men with saws and hammers to do this job
- It took about 3 weeks
- It was a terrible mess in the neighborhood
- They started burning treated lumber that filled nearby neighbors' homes with smoke
- They were asked to please stop multiple times
- When asked to stop, Rob Podles's brother yelled at the neighboring homeowners with inappropriate, foul language such as "Go F_ _ _! yourself"!
- The Fire Department was called, and they stopped the burning
- The property was deemed "condemned" by the authorities (Fire Marshal)

Fall 2022

- Foundation started
- Blocks being laid over old, decayed footers
- Perplexing how it could ever pass a County inspection with these inadequate building practices

February 2023

- Zoning hearing signs were posted
- Zoning signs were torn down a few days later
- House construction started

March 1, 2023

Court date for the zoning hearing

March 6, 2023
Court hearing declared: The non-conforming use is legally terminated and stop build orders were posted on the property

March 7, 2023
Robert Podles tore down the stop build order signs and the building continued. On the same day, Joseph Vrablic and Bryan McVey were threatened with bodily harm by Robert Podles

March 8, 2023
Joseph Vrablic and Bryan McVey filed peace orders numbers:
D-08-CV-23-810871 & D-08-CV-23-810874

March 14, 2023 (*approximate*)
Baltimore County reposted the signs and spoke to the workers, the construction stopped.

March 15, 2023 to present
Properties have been left a mess, lumber and debris all around the yard and grass rarely cut

February 2023

Edgemere Wildlife Trust, the owner of 2621 & 2623 Brannan Avenue, apparently received building permits from Baltimore County to tear down the existing structure located on this property and is in the process of constructing a new multi-family dwelling. WE, the neighbors to this property, believe such new construction violates the zoning and building laws of the County. We believe that if a non-conforming use had existed for a multi-family dwelling, such non-conforming use was abandoned and thus any attempt to construct a new multi-family dwelling on this site is illegal. WE have filed a petition for a zoning hearing with the County to confirm that the construction, now on-going, violates the law and must be stopped and only a single-family dwelling permitted. Baltimore County requires after the filing of the petition for a public hearing to be held before the County Office of Administrative Hearings, where an Administrative Law Judge will conduct a hearing, take testimony, and exhibits and then issue a decision. The hearing will be held on Wednesday March 1st, 2023, in Towson at 1:30, 103 W. Chesapeake Ave., Room 104. If you agree that the construction occurring at 2621-2623 Brannan Ave. is illegal, WE are asking you to attend the hearing. It is very important for your voices to be heard. However, should you not be able to attend, WE are asking you, as a resident and/or property owner in the neighborhood and area, to show your opposition by signing this petition. Hopefully you can appear in person, but please make your voices heard.

SIGNATURE	PRINT NAME	ADDRESS
John Olszewski Sr	JOHN OLSZEWSKI SR.	2423 MATTHAI TERRACE 21219

February 2023

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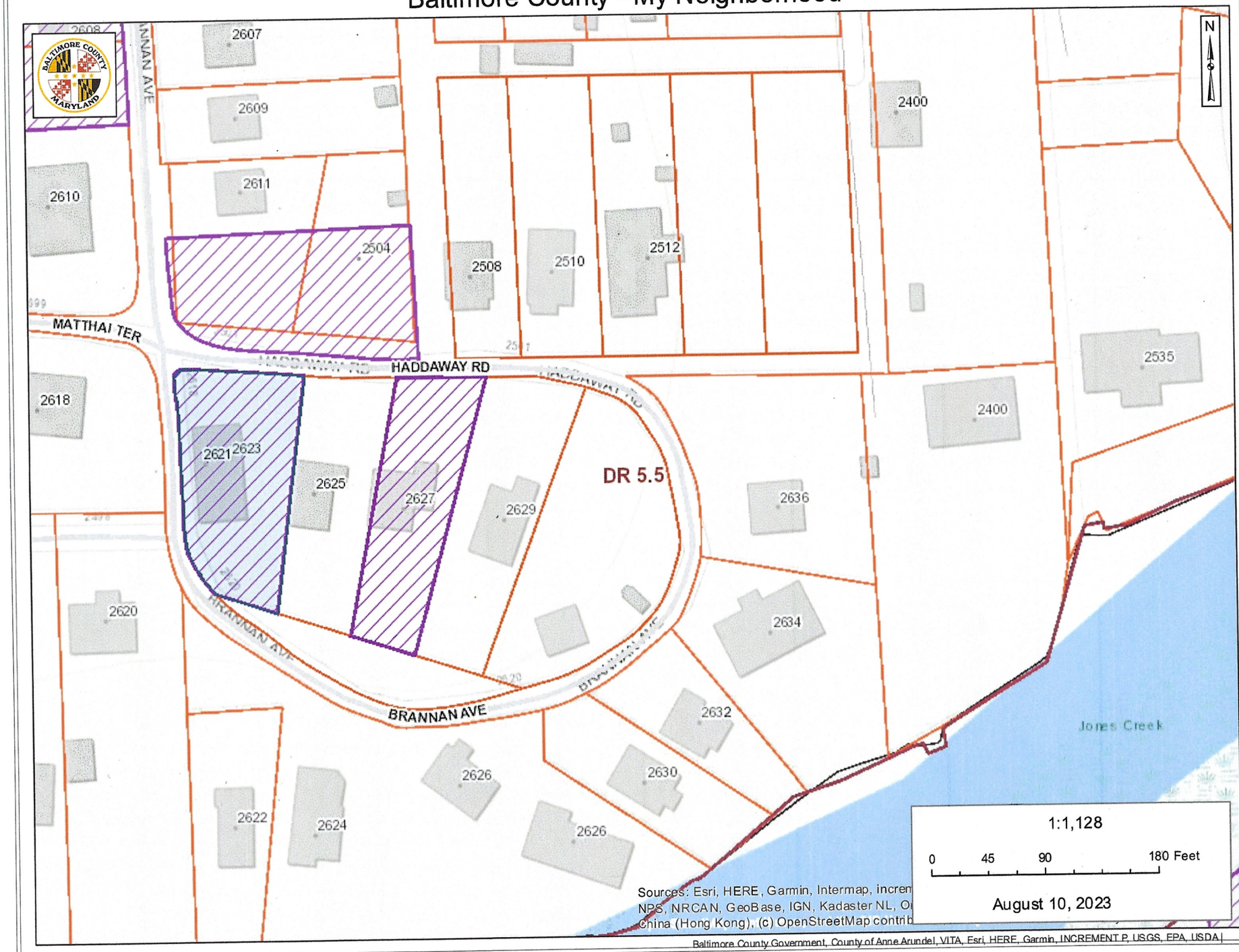
SIGNATURE	PRINT NAME	ADDRESS
Joseph Vrablicth	Joseph Vrablicth	2622 Brannan Ave Baltimore MD 21219
	Derek Giangano	2419 Matthai Terrace 21219
Donald Barkley	Donald Barkley	2417 Matthai Terr. 21219
	Caedan Dunnigan	2435 Brannan Ave 21219
Jeri Morgan	Jeri Morgan	2433 Brannan Ave 21219
Kevin Morgan	Kevin Morgan	2433 Brannan Ave 21219
	Dean Bullis	2630 Brannan Ave 21219
	Bryan McVey	2618 Brannan Ave. 21219
	Mario Teresi, Brandy Teresi	2431 Brannan Ave 21219
Jason Robb	Jason Robb	2628 Brannan Ave 21219
	Genine Robb	2628 Brannan Ave 21219
Juliette Garon	Juliette Garon	2636 Haddaway Rd. 21219

February 2023

Edgemere Wildlife Trust, the owner of 2621 & 2623 Brannan Avenue, apparently received building permits from Baltimore County to tear down the existing structure located on this property and is in the process of constructing a new multi-family dwelling. WE, the neighbors to this property, believe such new construction violates the zoning and building laws of the County. We believe that if a non-conforming use had existed for a multi-family dwelling, such non-conforming use was abandoned and thus any attempt to construct a new multi-family dwelling on this site is illegal. WE have filed a petition for a zoning hearing with the County to confirm that the construction, now on-going, violates the law and must be stopped and only a single-family dwelling permitted. Baltimore County requires after the filing of the petition for a public hearing to be held before the County Office of Administrative Hearings, where an Administrative Law Judge will conduct a hearing, take testimony, and exhibits and then issue a decision. The hearing will be held on Wednesday March 1st, 2023, in Towson at 1:30, 103 W. Chesapeake Ave., Room 104. If you agree that the construction occurring at 2621-2623 Brannan Ave. is illegal, WE are asking you to attend the hearing. It is very important for your voices to be heard. However, should you not be able to attend, WE are asking you, as a resident and/or property owner in the neighborhood and area, to show your opposition by signing this petition. Hopefully you can appear in person, but please make your voices heard.

SIGNATURE	PRINT NAME	ADDRESS
Michael P. McVey	Michael P. McVey	2620 Brannan Ave 21219

Baltimore County - My Neighborhood





Add a Caption

Tuesday • Mar 29, 2022 • 6:11 PM Adjust



Add a Caption

Monday • Apr 4, 2022 • 4:09 PM Adjust



Add a Caption

Monday • Apr 4, 2022 • 4:10 PM Adjust



Add a Caption

Tuesday • Apr 5, 2022 • 3:45 PM Adjust



Add a Caption

Tuesday • Apr 5, 2022 • 3:4...

Adjust



Add a Caption

Wednesday • Adjust



Add a Caption

Wednesday • Adjust
Apr 6, 2022 •...



Add a Caption

Thursday • Adjust
Mar 2, 2023 •...



Add a Caption

Tuesday • Mar 7, 2023 • 4:2... Adjust



Add a Caption

Tuesday • Mar 7, 2023 • 4:3... Adjust



Add a Caption

Wednesday • Adjust
Mar 8, 2023 • ...



Add a Caption

Friday • Mar 10, 2023 • 8:... Adjust



Add a Caption

Friday • May 12, 2023 • 4:...

Adjust



Add a Caption

Thursday •
May 25, 202...

Adjust



Add a Caption

Wednesday • Adjust
Jul 12, 2023...

Case Information

Court System: **District Court For Baltimore County - Civil**
Location: **Essex**
Case Number: **D-085-LT-19-058360**
Title: **CHRISTOPHER PODLES vs. STEPHANIE CASEY, et al.**
Case Type: **Failure to Pay Rent**
Filing Date: **11/12/2019**
Case Status: **Closed**

Involved Parties Information

Tenant / Defendant

Name: **CASEY, STEPHANIE**
Address: **2621 BRANNAN AVE**
City: **SPARROWS POINT** State: **MD** Zip Code: **21219**

Landlord / Plaintiff

Name: **PODLES, CHRISTOPHER**
Address: **17 ELRAY ROAD**
City: **KINGSVILLE** State: **MD** Zip Code: **21087**

Landlord's Agent

Name: **MDRENTCOURTS.COM**
Address: **621 STEMMERS RUN RD SUITE E**
City: **ESSEX** State: **MD** Zip Code: **21221**

Tenant / Defendant

Name: **GONZALEZ, VICTOR**
Address: **2621 BRANNAN AVE**
City: **SPARROWS POINT** State: **MD** Zip Code: **21219**

Document Information

File Date: **11/12/2019**
Document Name: **Complaint / Petition - Landlord Tenant**
Comment:

File Date: **11/25/2019**
Document Name: **Landlord Tenant Disposition**
Comment:

CaseSearch District Court of Maryland

Case Information

Court System: **District Court For Baltimore County - Civil**
Location: **Essex**
Case Number: **D-085-LT-20-006412**
Title: **R.A. PODLESvs.STEPHANIE CASEY**
Case Type: **Failure to Pay Rent**
Filing Date: **02/05/2020**
Case Status: **Closed**

Involved Parties Information

Tenant / Defendant

Name: **CASEY, STEPHANIE**
Address: **2621 BRANNAN AVE**
City: **SPARROWS POINT** State: **MD** Zip Code: **21219**

Landlord / Plaintiff

Name: **PODLES, R.A.**
Address: **17 ELRAY ROAD**
City: **KINGSVILLE** State: **MD** Zip Code: **21087**

Landlord's Agent

Name: **WWW.MDRENTCOURTS.COM**
Address: **621 STEMMERS RUN RD, SUITE E**
City: **BALTIMORE** State: **MD** Zip Code: **21221**

Document Information

File Date: **02/05/2020**
Document Name: **Complaint / Petition - Landlord Tenant**
Comment:

File Date: **02/05/2020**
Document Name: **Landlord Tenant Disposition**
Comment:

This is an electronic case record. Full case information cannot be made available either because of legal restrictions on access to case records found in Maryland Rules, or because of the practical difficulties inherent in reducing a case record into an electronic format.

CaseSearch District Court of Maryland

Case Information

Court System: **District Court For Baltimore County - Civil**
Location: **Essex**
Case Number: **D-085-LT-19-**
Title: **CHRISTOPHER PODLESvs.MARY MOORE**
Case Type: **Failure to Pay Rent**
Filing Date: **12/11/2019**
Case Status: **Closed**

Involved Parties Information

Landlord / Plaintiff

Name: **PODLES, CHRISTOPHER**
Address: **17 ELRAY ROAD**
City: **KINGSVILLE** State: **MD** Zip Code: **21087**

Tenant / Defendant

Name: **MOORE, MARY**
Address: **2623 BRANNAN AVE**
City: **SPARROWS POINT** State: **MD** Zip Code: **21219**

Document Information

File Date: **12/11/2019**
Document Name: **Complaint / Petition - Landlord Tenant**
Comment:

File Date: **12/23/2019**
Document Name: **Landlord Tenant Disposition**
Comment:

This is an electronic case record. Full case information cannot be made available either because of legal restrictions on access to case records found in Maryland Rules, or because of the practical difficulties inherent in reducing a case record into an electronic format.

pet exh 17

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

Permit Number: R21-02585

Permit Type: Residential Alteration/Addition

Sub Type:

Date Issued:

Expiration Date: 03/08/2023

Property Information

Property Address: 2621-23 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 30.00

Set Backs - Rear Yard: 100.00

Set Backs - Right Side Yard: 20.00

Set Backs - Left Side Yard: 30.00

Owner Information

Owner: Rob Podles

Owner Address: 2621 BRANNAN RD, Sparrows Point, MD, 21219

Tenant:

Applicant: Anthony Darpino

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.

03/09/2022

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

Permit Number: R21-02585

Permit Type: Residential Alteration/Addition

Sub Type:

Date Issued:

Expiration Date: 03/08/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

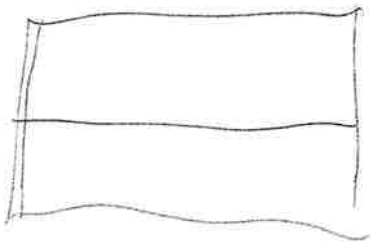
Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: Exterior alterations to remove flat roof and install A frame roof on existing duplex using one tax number with two addresses (2621-23 Brannan Ave). Construct 2.5' front cantilever and 4' rear cantilever addn's on 2nd floor both to be used as bedroom extensions. Non structural interior alts to reconfigure floor plan to include: demo and construct wood stud and drywall partitions and re-insulate to create: 1st fl: each unit to have: 1 living room, 1 dining room, powder room, kitchen; 2n d fl each unit to have: 3 bedrms, 2 bathrms, laundry rm. All work per plans. Existing rear deck to remain.



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.

APP. EXH 3
PET EXH 18

Application Info

Item Number: R22-06382

Location : 2621 BRANNAN AVE

Case Type: Residential Alteration/Addition

Sub Type:

Status: Pending

Date Issued:

Parent Application:

Child Application:

Plan Review

Identifier	Name	Status
R22-06382	N/A	Plan Submission

OPEN PLAN REVIEW

for review comments and to submit plans and documents

Attachments

Image	Name	Date Created

Site Addresses

Site Address	Suite/Unit #	City	State	Zip	Tax Parcel ID
2621 BRANNAN AVE		SPARROWS POINT	MD	21219	

People

Name	Role
Steven Podles	Applicant
LA Crites	Property Owner

Contractors

Business Name	Contractor Type	City	State

Application Details

Data Category	Description	Data
Residential Addition/Alteration on Princ	What is the Total square footage (SQFT) of the Proposed Addition /Alteration?	3,154
Residential Addition/Alteration on Princ	If the Addition includes a porch, what is the square footage of the Porch	88
Residential Addition/Alteration on Princ	Does the Alteration/Addition span multiple floors? (Y|N)	Y
Residential Addition/Alteration on Princ	If an Addition, what is the Square Footage of the Addition(incl basement, porch, a garage when there is a floor above it)	404
Residential Addition/Alteration on Princ	If an Alteration, what is the Square footage of the Alteration?	2,750
Residential Addition/Alteration on Princ	If spanning multiple floors, provide a breakout of the Alteration/Addition square footage for each floor.	Alteration- 2750 Addition- 404

Data Category	Description	Data
Residential Addition/Alteration on Princ	Describe the Proposed Work	THIS SET OF DRAWINGS' GOAL IS TO AMEND THE APPROVED BUILDING PERMIT R21-02585 FOR THE DUPLEX LOCATED AT 2621 BRANNAN AVE. AFTER THE PROCUREMENT OF THE BUILDING PERMIT AND THE COMMENCEMENT OF THE DEMOLITION PROCESS, IT WAS DISCOVERED THAT ABOUT 80 PERCENT (%) OF THE EXISTING STRUCTURE WAS ROTTING OUT. MUCH OF THE EXISTING STRUCTURE MEMBERS, FURTHERMORE, WERE UNDER SIZED AND, THEREFORE, AT RISK OF FAILING. TO KEEP THE PROJECT'S FEASIBILITY, IT WAS OUR DECSISION TO COMPLETELY REMOVE THE EXISTING SUPERSTRUCTURE, KEEP THE FOUNDATION SINCE IT WAS DETERMINED TO BE IN GOOD CONDITION, AND BUILD A NEW WITHIN THE FOOT PRINT OF THE DUPLEX. A RAZING PERMIT WAS PROCURED (R22-05628). THESE DRAWINGS LAYOUT CONDITIONS FOR THE NEW SUPERSTRUCTURE. tHE WORK SCOPE INCLUDES: • THE STRUCTURE WILL STAY AS A DUPLEX AS WAS EXISTING • RAISE THE FOUNDATION APPROXIMATELY 16" (TWO ROWS OF 8x8X16 CMU) OFF OF THE EXISTING GRADE • NEW FIRST FLOOR STRUCTUCTURAL MEMBERS (2x10 JOISTS @ 16" O.C.) • NEW 1HR FIRE RATED PARTY WALL • NEW EXTERIOR WALLS OF 2X6 WD STUDS @ 16" O.C. W/ R-20 BATT INSULATION, W/ VINYL SIDING • NEW SECOND FLOOR STRUCTURAL MEMBERS (2X10 JOISTS @ 16" O.C.) • NEW SECOND FLOOR TO OVERHANG FRONT PORCH BY 3'-0" • NEW PORCH AT ENTRY TO STAY W/IN EXISTING FRONT PORTICO SIZE • NEW REAR DECK TO BE BUILT IN SAME SIZE AS EXISTING • NEW MONO TRUSS ROOF W/ ASPHALT SHINGLES
Residential Addition/Alteration on Princ	If this includes an alteration, is the alteration interior, exterior or both?	Both
Residential Addition/Alteration on Princ	Is this an Addition, Alteration or Both?	Both
Residential Addition/Alteration on Princ	Is this permit application related to an existing permit?	Y
Residential Addition/Alteration on Princ	If the permit application is related, please provide the permit number(s).	R21-02585
Residential Addition/Alteration on Princ	Will the Proposed Addition / Alteration be Enclosed?	Y
Residential Addition/Alteration on Princ	Is the Original Structure Built before 1980?	Y

Data Category	Description	Data
Residential Addition/Alteration on Princ	Where is the Proposed Addition Located on the Existing Structure?	Additional Floor
Residential Addition/Alteration on Princ	What is the Proposed Use of the Addition/Alteration?	Same as existing (Residential DR 5.5)
Residential Construction Info	What is the Foundation Type?	Block
Residential Construction Info	How many Powder Rooms (Half Baths) are in the building plans?	2
Residential Construction Info	What is the Basement Type?	None
Residential Construction Info	Is the home owner also the building contractor?	Y
Residential Construction Info	How many Bathrooms are in the building plans?	4
Residential Construction Info	Width: What is the width of the proposed building from the widest point (FT)?	29
Residential Construction Info	Is the Water Supply Existing or Proposed?	Existing
Residential Construction Info	What is the Type of Construction?	Wood Frame
Residential Construction Info	Depth: What is the depth of the proposed building from front to back (FT)?	55
Residential Construction Info	Height: What is the highest point of the proposed building (FT)?	34
Residential Construction Info	What is the Type of Heating Fuel	Gas

Data Category	Description	Data
Residential Construction Info	Left Side Set Back: Provide the distance from the property line to the main building (FT)	9
Residential Construction Info	Stories: What is the number of stories for the proposed building?	2
Residential Construction Info	Front Set back: Provide the distance from the property line to the main building (FT)	39
Residential Construction Info	Estimated Cost of Material and Labor	120,000
Residential Construction Info	How many Kitchens are in the building plans?	2
Residential Construction Info	Where is the Garage located on the property?	None
Residential Construction Info	How many Bedrooms are in the building plans?	6
Residential Construction Info	Type Of Sewage Disposal for this Property?	Public
Residential Construction Info	Is Central Air included in the proposed plans?	Y
Residential Construction Info	Type Of Water Supply for this Property?	Public
Residential Construction Info	Is the Sewage Disposal Existing or Proposed?	Existing
Residential Construction Info	Right Side Set Back: Provide the distance from the property line to the main building (FT)	25

Data Category	Description	Data
Residential Construction Info	Rear Set Back: Provide the distance from the property line to the main building (FT)	21
Residential Construction Info	What is the Limit of Disturbance (including any proposed Grading) in Square Feet?	2,572
Building Info	What is the Existing Use of the Property?	Residence
Building Info	Lot Number	11
Building Info	Is the Property Under Private or Public Ownership?	Private
Building Info	What is the Ownership Use of the Property?	Rental
Building Info	What is the Residential Category?	Other
Building Info	If the Residential Category is other, describe.	Duplex DR 5.5
Building Info	Is the property a Corner Lot?	Y

Tasks

Task Description	Task Result	Date Completed	Comments
Intake Application	RESUBMIT	5/17/2022	
Intake Application			
Fees Paid?			
PLN - Historic Review			
EPS - Development Coordination Review			
EPS - Environmental Impact Review			

Task Description	Task Result	Date Completed	Comments
EPS - GWM Review			
PLN - General Planning Review			
PAI - Zoning Review			
PAI - Sediment Control Review			
PAI - Building Plan Review			
DPW - Flood Plain Review			
DPW - Engineering Storm Drain Review			
All Technical Reviews Resulted			
Issue Permit With or Without COO			
Building Footing Inspection			
Foundation Damp Proofing Inspection			
Drain Tile with Foundation Inspection			
Slab Inspection			
Monolithic Slab Pour including Foam Insulation Inspection			
Partial Framing Inspection			
Final Framing Inspection			
Partial Insulation Inspection			
Final Insulation Inspection			
Fireplace Throat Inspection			
General - Information Inspection			
Building Inspection Final			

Inspection Requests

Inspection Type	Inspection Date	Requested By	Status

Conditions

Condition Description	Date Applied	Date Completed
Zoning Variance Required	7/19/2022	

Notes

Note

Please apply for a new application for a new SFD, in order to respond to the questions, as well as, provide the required documents. The new single family dwelling cannot be processed with this application. This application R22-06382 will be cancelled. Please note the razing permit number R22-05628 when you respond to the questions: Is this permit application related to an existing permit? Y If the permit application is related, please provide the permit number(s). A separate application for building permit is required for each address. If two separate addresses are involved, separate applications are required for each address. The razing permit must be amended to reflect both addresses. The construction plans may be referenced in each application. Please following the guidelines listed below when you apply for the new dwelling: 1) Please upload the construction plans for project. Construction plans signed and sealed by a design professional (architect or engineer) are required for the structure exceeds 3,000 square feet. 2) Please submit the Baltimore County sediment control form letter. The letter may be located at the following web site: https://www.baltimorecountymd.gov/departments/pai/permit-processing/forms 3) Please provide the contractor's Maryland Home Builder Registration number (MHBR). Additional information is available from the Maryland State Attorney General Office web site: https://www.marylandattorneygeneral.gov/ 4) The property owner for each address may elect to sign the affirmation of landowner letter if the requirements are met. The affirmation letter is available at the following web site: https://www.baltimorecountymd.gov/departments/pai/permit-processing/forms

Separate applications are required for the sheds if they were demolished, moved on the property, or changed in size. Please show the location of the sheds on the site plan. EDW

The submitted site plan must reflect the final project, including all structures, steps to grade, decks, and sheds. An accessory structure letter is required for any new sheds. The accessory structure letter is available at the following web site: https://www.baltimorecountymd.gov/departments/pai/application/accessory-structure

A zoning Special Hearing is required to confirm that the non-conforming use granted in Case # 2004-0567-SPHA has not been abandoned or discontinued for a one year period, pursuant to Section 104.1, BCZR.

ADD NOTE

Payments

Fee Description	Fee Amount	Payment Amount	Payment Date	Payment Method	Reference

Pet Exh 19

CaseSearch Circuit Court of Maryland

Case Information

Court System: **Circuit Court For Baltimore County - Civil**
Location: **Baltimore County Circuit Court**
Case Number: **C-03-CV-22-002303**
Title: **Marie Capp-Bory , et al. vs. Robert Podles, et al.**
Case Type: **Contract - Fraud**
Filing Date: **06/13/2022**
Case Status: **Closed**

Involved Parties Information

Defendant

Name: **Tobon-Espinosa, Daniel**
Removal Date: **06/21/2022**
Address: **9505 Stoneoak Road**
City: **Nottingham** State: **MD** Zip Code: **21236**

Defendant

Name: **Hildebrandt, Nicholas**
Removal Date: **07/01/2022**
Address: **45 Dendron Court**
City: **Parkville** State: **MD** Zip Code: **21234**

Defendant

Name: **Bergman, Thomas Paul**
Removal Date: **07/01/2022**
Address: **227 Linden Avenue**
City: **Towson** State: **MD** Zip Code: **21286**

Plaintiff

Name: **Kapp, Leona Frances**
Address: **1708 Orlando Road**
City: **Parkville** State: **MD** Zip Code: **21234**

Attorney(s) for the Plaintiff

Name: **HJORTSBERG, MATTHEW GILSON**
Appearance Date: **06/13/2022**
Removal Date: **08/20/2022**
Address Line 1: **BOWIE & JENSEN LLC**

Address Line 2: **210 W PENNSYLVANIA AVENUE**
Address Line 3: **SUITE 400**
City: **TOWSON** State: **MD** Zip Code: **21204**

Name: **Upton, Lauren Mistretta**
Appearance Date: **06/13/2022**
Removal Date: **08/20/2022**
Address Line 1: **Bowie & Jensen**
Address Line 2: **210 W. Pennsylvania Ave.**
Address Line 3: **Suite 400**
City: **TOWSON** State: **MD** Zip Code: **21204**

Plaintiff

Name: **Kapp, Leo**
Address: **1708 Orlando Road**
City: **Parkville** State: **MD** Zip Code: **21234**

Attorney(s) for the Plaintiff

Name: **HJORTSBERG, MATTHEW GILSON**
Appearance Date: **06/13/2022**
Removal Date: **08/20/2022**
Address Line 1: **BOWIE & JENSEN LLC**
Address Line 2: **210 W PENNSYLVANIA AVENUE**
Address Line 3: **SUITE 400**
City: **TOWSON** State: **MD** Zip Code: **21204**

Name: **Upton, Lauren Mistretta**
Appearance Date: **06/13/2022**
Removal Date: **08/20/2022**
Address Line 1: **Bowie & Jensen**
Address Line 2: **210 W. Pennsylvania Ave.**
Address Line 3: **Suite 400**
City: **TOWSON** State: **MD** Zip Code: **21204**

Defendant

Name: **Podles, Christopher M.**
Address: **9 Oaksylvan Way**
City: **Nottingham** State: **MD** Zip Code: **21236**

Defendant

Name: **Podles, Steven D.**
Address: **7214 River Drive Road**
City: **Baltimore** State: **MD** Zip Code: **21224**

Defendant

Name: **Podles, Robert D.**
Address: **17 Elray Road**
City: **Kingsville** State: **MD** Zip Code: **21087**

Plaintiff

Name: **Capp-Bory, Marie**
Address: **1708 Orlando Road**
City: **Parkville** State: **MD** Zip Code: **21234**

Attorney(s) for the Plaintiff

Name: **HJORTSBERG, MATTHEW GILSON**
Appearance Date: **06/13/2022**
Removal Date: **08/20/2022**
Address Line 1: **BOWIE & JENSEN LLC**
Address Line 2: **210 W PENNSYLVANIA AVENUE**
Address Line 3: **SUITE 400**
City: **TOWSON** State: **MD** Zip Code: **21204**

Name: **Upton, Lauren Mistretta**
Appearance Date: **06/13/2022**
Removal Date: **08/20/2022**
Address Line 1: **Bowie & Jensen**
Address Line 2: **210 W. Pennsylvania Ave.**
Address Line 3: **Suite 400**
City: **TOWSON** State: **MD** Zip Code: **21204**

Court Scheduling Information

Event Type	Event Date	Event Time	Judge	Court Location	Court Room	Result
Hearing	06/23/2022	09:00:00		CC03 - Judge Calendar	Assignment - Civil Non-Jury	CancelledReason: Postponed/Reset
Hearing - Injunction	07/01/2022	09:00:00	Truffer, Keith R.	CC03 - Judge Calendar	Courtroom 10 - 3rd Floor	Concluded / Held

Document Information

File Date: **06/13/2022**
Document Name: **Complaint / Petition**
Comment: **Verified Complaint for Temporary Restraining Order and Preliminary Injunction**

File Date: **06/13/2022**
Document Name: **Case Information Report Filed**
Comment: **Civil Case Information Report**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit A**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit B**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit C**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit D**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit E**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit F**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit G**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit H**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit I**

File Date: **06/13/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit J**

File Date: **06/13/2022**
Document Name: **Line**
Comment: **Line Requesting Issuance of Summons**

File Date: **06/13/2022**
Document Name: **Motion for Ex Parte**
Comment: **Ex Parte Motion for Temporary Restraining Order, Preliminary Injunction and Permanent Injunction and Request for Hearing**

File Date: **06/13/2022**
Document Name: **Memorandum**
Comment: **Memorandum of Law in Support**

File Date: **06/13/2022**
Document Name: **Summons Issued (Service Event)**
Comment:

File Date: **06/13/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Writ of Summons**

File Date: **06/13/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Writ of Summons**

File Date: **06/13/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Writ of Summons**

File Date: **06/13/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Writ of Summons**

File Date: **06/13/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Writ of Summons**

File Date: **06/13/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Writ of Summons**

File Date: **06/13/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Summons - Podles**

File Date: **06/13/2022**
Document Name: **Line**
Comment: **Line regarding Supplemental Affidavit**

File Date: **06/13/2022**
Document Name: **Affidavit**
Comment: **Affidavit of Matthew G. Hjortsberg**

File Date: **06/14/2022**
Document Name: **Order - Motion/Request/Petition Granted**
Comment: **Motion for Temporary Restraining Order; Ordered that this temporary restraining order shall expire on 6/23/2022; ordered that bond requirement is waived; etc as specified.**

File Date: **06/14/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Order**

File Date: **06/21/2022**
Document Name: **Deficient Filing**
Comment: **Plaintiffs Ex Parte Emergency Motion to Extend Temporary Restraining Order and Postpone the Preliminary Injunction Hearing Set for June 23, 2022**

File Date: **06/21/2022**
Document Name: **Supporting Exhibit**
Comment: **Exhibit A**

File Date: **06/21/2022**
Document Name: **Dismissal - Voluntary (Partial)**
Comment: **Notice of Dismissal as to Defendant Daniel Tobon-Espinosa Only**

File Date: **06/21/2022**
Document Name: **Notice of Deficiency - Rule 20-203(d)**

Comment: **document doesn't match filing code**

File Date: **06/21/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **notice of deficiency**

File Date: **06/21/2022**
Document Name: **Motion for Ex Parte**
Comment: **Plaintiffs Ex Parte Emergency Motion to Extend Temporary Restraining Order and Postpone the Preliminary Injunction Hearing Set for June 23, 2022**

File Date: **06/23/2022**
Document Name: **Order - Motion/Request/Petition Granted**
Comment: **ORDERED that the Temporary Restraining Order in this matter be EXTENDED for a period of eight (8) days until July 1, 2022**

File Date: **06/23/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Order - TRO**

File Date: **06/28/2022**
Document Name: **Motion**
Comment: **Motion for Select Witnesses of Plaintiffs to Appear Remotely at the Preliminary Injunction Hearing Set for July 1, 2022**

File Date: **06/28/2022**
Document Name: **Deficient Filing**
Comment: **Affidavit of Service - Christopher Podles**

File Date: **06/28/2022**
Document Name: **Deficient Filing**
Comment: **Affidavit of Service - Daniel Tobon-Espinosa**

File Date: **06/28/2022**
Document Name: **Deficient Filing**
Comment: **Affidavit of Service - Nicholas Hidlebrandt**

File Date: **06/28/2022**
Document Name: **Deficient Filing**
Comment: **Affidavit of Service - Steven Podles**

File Date: **06/28/2022**
Document Name: **Deficient Filing**
Comment: **Affidavit of Service - Thomas Paul Bergman**

File Date: **06/28/2022**
Document Name: **Deficient Filing**
Comment: **Affidavit - Robert Podles**

File Date: **06/28/2022**
Document Name: **Affidavit - Service**
Comment: **Affidavit of Service - Christopher Podles**

File Date: **06/28/2022**
Document Name: **Affidavit - Service**
Comment: **Affidavit of Service - Daniel Tobon-Espinosa**

File Date: **06/28/2022**
Document Name: **Affidavit - Service**
Comment: **Affidavit of Service - Nicholas Hildebrandt**

File Date: **06/28/2022**
Document Name: **Affidavit - Service**
Comment: **Affidavit of Service - Steven Podles**

File Date: **06/28/2022**
Document Name: **Affidavit - Service**
Comment: **Affidavit of Service - Thomas Paul Bergman**

File Date: **06/28/2022**
Document Name: **Affidavit - Service**
Comment: **Affidavit - Robert Podles**

File Date: **06/29/2022**
Document Name: **Order - Motion/Request/Petition Granted**
Comment: **Order Granting Motion to Permit Select Witnesses to Appear Remotely**

File Date: **06/29/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Order Granting Motion to Permit Select Witnesses to Appear Remotely- Env #9968137**

File Date: **06/30/2022**
Document Name: **Notice of Deficiency - Rule 20-203(d)**
Comment: **No attorney signature block**

File Date: **06/30/2022**
Document Name: **Notice of Deficiency - Rule 20-203(d)**
Comment: **No attorney signature block**

File Date: **06/30/2022**
Document Name: **Notice of Deficiency - Rule 20-203(d)**
Comment: **No attorney signature block**

File Date: **06/30/2022**
Document Name: **Notice of Deficiency - Rule 20-203(d)**
Comment: **No attorney signature block**

File Date: **06/30/2022**
Document Name: **Notice of Deficiency - Rule 20-203(d)**
Comment: **No attorney signature block**

File Date: **06/30/2022**
Document Name: **Notice of Deficiency - Rule 20-203(d)**
Comment: **Affidavit of Service - Daniel Tobon-Espinosa**

File Date: **06/30/2022**
Document Name: **Notice of Deficiency - Rule 20-203(d)**
Comment: **No attorney signature block**

File Date: **06/30/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **MDEC Deficiency Notice**

File Date: **06/30/2022**

Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **MDEC Deficiency Notice**

File Date: **06/30/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **MDEC Deficiency Notice**

File Date: **06/30/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **MDEC Deficiency Notice**

File Date: **06/30/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **MDEC Deficiency Notice**

File Date: **06/30/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **MDEC Deficiency Notice**

File Date: **07/01/2022**
Document Name: **Dismissal - Voluntary (Partial)**
Comment: **Notice of Dismissal as to Defendants Nicholas Hildebrandt and Thomas Paul Bergman**

File Date: **07/01/2022**
Document Name: **Hearing Sheet**
Comment:

File Date: **07/01/2022**
Document Name: **Miscellaneous Document**
Comment: **Plaintiff exhibit list.**

File Date: **07/05/2022**
Document Name: **Order - Motion/Request/Petition Granted**
Comment: **order granting motion for permanent injunction as specified, etc**

File Date: **07/05/2022**
Document Name: **Order**
Comment: **order for entry of final judgment as to count VII**

File Date: **07/05/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **order granting permanent injunction**

File Date: **07/05/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **order for entry of final judgment as to count VII**

File Date: **10/13/2022**
Document Name: **Notice of Release of Exhibit(s)**
Comment: **Plaintiff's scanned exhibits**

File Date: **10/13/2022**
Document Name: **Writ /Summons/Pleading - Electronic Service**
Comment: **Notice of Release of Exhibits**

File Date: **10/27/2022**
Document Name: **Request for Copies**
Comment:

File Date: **11/14/2022**
Document Name: **Exhibits / Records Destroyed**
Comment:

Service Information

Service Type	Issued Date
Summons Issued	**06/13/2022**

This is an electronic case record. Full case information cannot be made available either because of legal restrictions on access to case records found in Maryland Rules, or because of the practical difficulties inherent in reducing a case record into an electronic format.

pet EXH 20

CaseSearch Circuit Court of Maryland

Case Information

Court System: Circuit Court For Baltimore County - Civil
Location: Baltimore County Circuit Court
Case Number: C-03-JG-19-011584
Title: Comptroller of Maryland - Annapolis vs. Nicholas Hildebrandt, et al.
Case Type: Judgment - State Tax Lien
Filing Date: 10/22/2019
Case Status: Closed

Other Reference Numbers

Lien Assignment Number: 9664181

Involved Parties Information

Defendant

Name: Hildebrandt, Ashley I
Address: 45 DENDRON CT
City: PARKVILLE State: MD Zip Code: 21234

Defendant

Name: Hildebrandt, Nicholas A
Address: 45 DENDRON CT
City: PARKVILLE State: MD Zip Code: 21234

Plaintiff

Name: Comptroller of Maryland - Annapolis

Judgment Information

Monetary
Original Judgment

Judgment Event Type: Recorded Lien
Judge:
Judgment Against: Hildebrandt, Nicholas A; Hildebrandt, Ashley I
Judgment in Favor of: Comptroller of Maryland - Annapolis
Judgment Ordered Date: 10/22/2019
Judgment Entry Date: 10/22/2019
Judgment Expiration Date: To be determined by case law or statute

IN THE MATTER OF:	*	**BEFORE THE**
Edgemere Wildlife Trust, LA Crites Trustee		
Legal Owner	*	**BOARD OF APPEALS OF**
Edward Crizer		
Petitioner	*	**BALTIMORE COUNTY**
2621-2623 Brannan Avenue		
15th Election District; 7th Council District	*	**22-269-SPH**

* * * * * * * *

MEMORANDUM IN LIEU OF CLOSING ARGUMENT

This matter comes before the Board of Appeals of Baltimore County (the "Board") as an appeal of the decision by Administrative Law Judge ("ALJ") Paul M. Mayhew dated March 6, 2023, concerning property known as 2621-2623 Brannan Avenue (the "Property"). Th subject property is owned by the respondent, the Edgemere Wildlife Trust ("Respondent"). Judge Mayhew, after an in-person hearing, granted the Petition for Special Hearing filed by Edward Krizer ("Petitioner") and declared: (1) the previous non-conforming use authorized in Case No. 2004-567-SPHA lapsed and is legally terminated; and (2) only one single family dwelling shall be permitted on the subject site and that dwelling must conform to all current zoning and development regulations.

As noted above, the petition came in for a public hearing before ALJ Mayhew. Respondent misunderstood the purpose of the hearing, did not appear, and, at that time, was not represented by counsel. After ALJ Mayhew's Opinion and Order was issued, Respondent retained undersigned counsel and timely instituted this appeal to the Board. The Board's hearing was conducted over two days. Robert Podles appeared on behalf of the Respondent. In addition to the Respondent, Petitioner Edward Krizer with his counsel Arnold Jablon, and People's Counsel Peter Max Zimmerman, Esq., appeared. Other witnesses that appeared include Mr. Matthew Gowel (Chief Building Inspector for Baltimore County) Jeff Perlow (Zoning Office Supervisor for Baltimore

County), William Adams (structural engineer) and Thanh Nguyen (draftsman) on behalf of Respondent, and Joseph Vrablic and Mr. McVey on behalf of Petitioner.

Following the conclusion of the hearing, the Board requested the submittal of post-hearing memoranda in lieu of closing arguments. This memorandum on behalf of the Respondent Edgemere Wildlife Trust follows.

STATEMENT OF FACTS

Deed History and Prior Nonconforming Use Approval

The Property is 0.175 acres in size and is Lot 11 of the Estate of Thomas Brennan, recorded in the Land Records of Baltimore County in 1948. The zoning is DR 5.5 which was imposed upon the Property in 1955. Since as early as 1938 the Property has been improved by a residential duplex building (the "Building"). Photographs presented during the 2004 hearing referenced above (Case No. 2004-567-SPHA), which resulted in the original authorization for the non-conforming use of the Property, show the duplex in the years 1938, 1954, 1961 and 1977 basically unchanged.

The Property was purchased in 1992 by John Stephen Podles, Jr. and his wife Thelma Lee Podles. John Podles refurbished and rehabilitated and remodeled the property for rental. In December 1998 John Podles and his wife transferred the property to John Podles as the sole owner (Liber 13437, folio 00518). In 2009 John Podles transferred the property to his son Christopher Podles and grandchildren, reserving upon himself a life estate with the power to sell or otherwise dispose of the Property (Liber 27938, folio 00198). In 2019 Christopher Podles, acting as John Podles' attorney-in-fact pursuant to a Power of Attorney, transferred the Property, in fee simple, to Respondent Edgemere Wildlife Trust (Liber 42157, folio 00353). Following John Podles' death in 2021, Christipher Podles, acting as the Personal Representative of John Podles' estate, executed

a confirmatory deed to confirm and re-convey the property to Respondent as provided in the 2019 Deed (Liber 46773, folio 00377).

On or about the year 2000 John Podles constructed a third apartment on the side of the existing duplex, which let to the issuance of a violation notice. John Podles brought the matter before the Deputy Zoning Commissioner for Baltimore County on a Petition for Variance and Petition for Special Hearing (Case No. 2004-567-SPHA). The Special Hearing relief requested, pursuant Section 500.7 of the Baltimore County Zoning Regulations (BCZR), was approval of a non-conforming use and the expansion thereof, approval of a third unit, and a determination that the third unit would not negate the non-conforming use. The Deputy Zoning Commissioner, John V. Murphy, approved the confirmation of the non-confirming use for a multi-family dwelling consisting of two houses side-by side, approved the expansion of the two apartments by the addition to each of a third bedroom, but denied the approval of a third unit.

The Deputy Zoning Commissioner's Findings of Fact and Conclusion of Law did not address the occupancy of the property with respect to rental, ownership, or other form of occupancy. The decision was limited solely to the approval of the non-confirming use for two separate apartment units.

Prior Use of the Property from 2004 through 2021

Robert Podles, son of the deceased John S. Podles, is a property manager, licensed real estate agent, and licensed general contractor in the State of Maryland. In early 2020 Robert Podles assumed the role of property manager on behalf of Respondent. He testified that he is the person most knowledgeable about the use history, occupancy, and the pending regulatory proceedings concerning the property.

Based upon his knowledge, Mr. Podles testified the Property was used as a rental property in accordance with its non-conforming status continuously from 2004, when the original nonconforming use status was approved. In June 2020 Robert Podles arranged to have the Property inspected for the purpose of renewing the Property's two-year rental license. A Baltimore County Rental License Inspection Sheet reflects the Property passed inspection by a certified property inspector on Jun 15, 2020 (Appellant Exhibit 10). After the inspection, the rental license was renewed.

In 2021 the tenant at 2621 Brannan Avenue was Ms. Stephanie Casey, residing there under an expired lease that had been continued month-to-month. Ms. Casey was substantially in arrears on her rent. A rental payment ledger reflecting Ms. Casey's rental payment history shows her payment record from April 2020 through June 10, 2021. (Respondent Exhibits 7 and 8).

On or about November 17, 2020, Respondent filed a Petition for Tenant Holding Over in the District Court for Baltimore County. On April 13, 2021, the court ordered possession of the premises returned to Respondent. Stephanie Casey moved from the Property (2621 Brannan Avenue) on June 11, 2021. (Appellant Exhibit 9a – text correspondence between Robert Podles and Stephanie Casey). The Baltimore County Sheriff officially carried out and signed off on the eviction on August 2, 2021. (Appellant Exhibit 9). On August 13, 2021, the lessee of 2623 Brannan Avenue, Nicholas Hilderbrandt, executed a Property Release Agreement thereby voluntarily surrendering his legal right to possession of those premises at the Property. (Respondent Exhibit 15).

In direct response to a question from the Chaiman during the hearing, Mr. Podles testified that at no time between 2004 and June 2021 for 2621 Brannan Avenue, and between 2004 and

August 2021 for 2623 Brannan Avenue, had there been a period of longer that one year that either of the units was unoccupied by a tenant. The Property continued its non-conforming use status.

Renovation of the Property and Discovery of Structural Damage

Prior to re-renting the Property, and because of the Property's age, Respondent determined it wanted to renovate and update the Property and increase its rental value. Respondent hired a draftsman, Thanh Nguyen, to prepare a renovation design. There was no plan to raze the Property or expand the footprint of the Property. Before the plans were drafted, the draftsman and Rob Podles visited the Property and based upon their personal observations determined the Property was in relatively good shape. Both testified there was no apparent water or structural damage.

Robert Podles, on behalf of Respondent, made an application to Baltimore County for a Building Permit to remove and raise the roof, alter the roof to a cantilevered design, and to renovate both the first and second floors. A permit was issued (R21-02585) on March 8, 2022. (Respondent Exhibit 2). The County-approved scope of work included the replacement of the roof from a flat roof to an A-frame design, the addition of front and rear cantilevers on the second floor to support bedroom extensions, non-structural interior wall work and construction of wood, stud and drywall partition and re-insulation to recreate the first floor. The work also included that each unit's first floor would have a living room, dining room, powder room and kitchen. Each second floor would have 3 bedrooms 2 bathrooms, and a laundry room. All work was to be performed according to plan. (Petitioner Exhibit 17).[1]

At the time the permit was applied for, the Respondent's expectation was to maintain the two apartments, and remodel the first and second floors of the Building for rental use. There was

[1] Neither the Petitioner nor the Respondent included the second page of the subject permit prior to the hearing. The page was first made available at the hearing during the Petitioner's cross examination of Mr. Rob Podles.

no expectation that any work would be necessary beyond the submitted and approved renovation plans.

During the interior demolition and wall removal on the first floor of the Property Mr. Podles observed significant water-related structural damage that was not apparent before the demolition. According to Rob Podles' observations, the foundation did not extend to the proper depth, the kick plates (first layer of wood on the concrete foundation upon which the walls studs are supported) were water damaged, and the 2x4 exterior wall studs had rotted near their bases and were the incorrect dimension to meet County Code requirements. There was particular concern about the foundation's structural integrity.

Upon discovery of the defects, Respondent retained a structural engineer, William Adams, to evaluate the condition of the foundation. Prior to visiting the Property Mr. Adams required a "dig" at the perimeter of the foundation to be able to inspect the foundations. This "dig" (excavation) required the removal of the first floor. By this time, the second floor has been removed and the first-floor walls had been opened in pursuit of the renovation in accordance with the scope of the first permit. It was decided that the only available option was to begin to demolish the existing structure. There was no voluntary demolition of the existing Building, but circumstance necessitated by concern of safety and compliance with Baltimore County Code requirements.

Unbeknownst to Mr. Podles, Baltimore County required a razing permit for the demolition work. After work began a stop work order was issued by Baltimore County on April 6th (to Robert Podles) and April 7th, 2022 (to Respondent). (Petitioner Exhibit 3 and 4). Mr. Matthew Gowel, Chief Building Inspector for Baltimore County, testified that if work is performed that is beyond the scope of an issued permit and a trop work order issued, the County will accept an application

to issue a post-hoc permit, including a razing permit, if the property owner satisfies all the prerequisites to obtain that permit in the first place (i.e., certificate of pest control, asbestos certification, and pest control certification, and sewer cap-off permit), even if the structure has already be razed. When the permit is issued the violation has been cured and the property owner is thereafter in compliance with the County Code. Respondent cured the violation and an after-the-fact razing permit authorizing tearing down the main Building (foundation to remain) was issued by Baltimore County on June 9, 2022, thereby bringing Respondent into compliance. (Permit No. 05628; Appellant Exhibit 4).

On June 28, 2022, Mr. Adams visited the Property to review the condition of the existing foundation wall and footing. (Board Exhibit 1). The purpose of that visit was to determine if the top of the foundation walls could be raised and if new structures could be built on the existing foundations. He was able to review the foundations because the existing structures had been razed because of deterioration of the existing framing. Mr. Adams observed each of the existing houses had their own foundation walls on three sides and shared a common foundation wall where they were joined. Mr. Adams testified that the common foundation was not wide enough to meet Baltimore County Code requirements for a bearing capacity of 1,500 lbs per square foot. Further, the foundation running from approximately the middle to the corner of the left side of the perimeter foundation needed to be replaced. Mr. Adams prepared drawings for the reinforcement of the central common foundation to be able to support the new structures. Mr. Adams also approved raising the structure with three courses of concrete block laid over the existing foundation to improve ventilation under the structure and elevate the kick plates and other wooden members of the structure above ground level to prevent water damage. A letter report prepared by Mr. Adams dated July 12, 2022, with the drawings that was later submitted to Mr. Jeff Perlow, Baltimore

County zoning at Mr. Perlow's request. (Board Exhibit 1). Except for the height of the foundation being raised, thereby elevating the structure, the original design of the structure remained the same. The new structures could be built on the existing foundations. There was no change in the pre-existing footprint of the structure.

Before Mr. Adams visited the Property Respondent realized that the initial permit needed to be amended after it was discovered that approximately eighty percent (80%) of the existing structure was rotted, many of the existing structure members were undersized and, therefore, at risk of failing. An application to amend the existing permit was submitted[2] with a detailed description of the proposed work and revised drawings prepared by the draftsman, Mr. Thanh Nguyen (Petitioner Exhibit 18).

That application was denied on or about July 19, 2022. The notes section in the application indicates that Baltimore County determined a separate permit application was required for each unit in the Building. In addition, a Special Hearing was required to confirm that the non-conforming use granted in 2004 had not been abandoned or discontinued for a one-year period. Id. Respondent was instructed to submit new applications. Again, at no time during this process did Respondent abandon the non-conforming use. **The need for a Special Hearing was later rendered moot** after Mr. Perlow later provided evidence to Mr. Perlow, which Mr. Perlow accepted, that the non-conforming use has been neither abandoned nor discontinued for more than one year.

On or about June 24, 2022, another revised application and site plan was submitted to Baltimore County. (Appellant Exhibit 11). Over the next several months Robert Podles met with Baltimore County representatives to address the proposed plans including the roof, structural

[2] The date of the application is uncertain, but it appears was submitted sometime in May 2022.

design loads, need for a sprinkler system, separation of water supply by two separate lines, wastewater, water metering, and other issues. To accomplish the requested changes Respondent retained an additional engineer and plumber to address the water issues. Again, at Mr. Perlow's (zoning) and Tim Kidd's (code enforcement) request, Mr. Podles provided Baltimore County Mr. Adams' July 12th letter concerning the foundation issues. (Board Exhibit 1).

Very importantly, after the revised building permits application was submitted, according to both Mr. Podles and Mr. Perlow's testimony, Mr. Podles and Mr. Perlow met several times in Mr. Perlow's office to address, among other things, proof of occupancy of the Property. Mr. Perlow **accepted** Mr. Podles' proof of occupancy of the Property. The application for the building permits (R22-06755 and R22-06756) was approved by Baltimore County on October 15, 2022. (Respondent Exhibits 5 and 6). Also, importantly, the County's notes in the new application state **"Documents Submitted Confirming Non-Conforming Use Status. No Special Hearing Required for Zoning Approval"**. Respondent introduced part of that application at the heating as Respondent Exhibit 11 but did not include the notes page. The first page and notes section for each permit application (2621 and 2623 Brannan Avenue) is attached to this Memorandum as Exhibit A.

ARGUMENT

I. Burden of Proof

There is no dispute that the Property was granted legal non-conforming use by decision of Deputy Zoning Commissioner John V. Murphy in 2004. On March 1, 2023, a hearing was held before the Office of Administrative on a Petition for Special Hearing filed by Petitioner Edward Crizer who sought a declaration that the previously approved non-conforming use had been abandoned; and that a multi-family dwelling is not permitted on the subject Property. In an

Opinion and Order dated March 6, 2023, ALJ Paul M. Mayhew granted the petition and declared the non-confirming use has lapsed and was legally terminated. Respondent timely filed an appeal to the Baltimore County Board of Zoning Appeals. The question presented by the Board is who has the burden of proof before the Board.

A person who claims a legal non-conforming use has the burden of establishing his claim. Respondent established its claim to a nonconforming use in 2004. Once a legal non-conforming use has been established, the burden of proving the termination of that use by abandonment or discontinuance rests on those opposing the non-conforming use at all stages of these administrative proceedings.

The appeal in this case is a purely *de novo* appeal. Accordingly, the hearing before this Board is tantamount to a first hearing. Under these circumstances, the Board's role is akin to a second-tier administrative agency, rather than a first-tier judicial reviewer. See Grasslands Plantation, Inc. v. Frizz-King Enterprises, LLC, 410 Md. 191, 210 (2009). The Board, therefore, may not accord any deference to a decision of OAH.

In Halle Companies v. Crofton Civic Association, 339 Md. 131 (1995) the Maryland Court of Appeals considered the nature of *de novo* review by a county board of appeals. In reviewing prior holdings, the Court explained that "we have consistently treated *de novo* appeals as wholly original proceedings, with the word 'appeal' meaning simply that the proceedings are new and independent rather than a strict review of prior proceedings." Grasslands, 410 Md. 213, quoting Hall Companies, 339 Md. at 142. "Although the issues to be addressed in review by the Board may be limited, new and additional evidence is permitted. The proceedings, therefore, are wholly original with regard to all issues properly raised." Id. Further, in Halle Companies the Court observed the Board in that case was authorized to "review the actions of the administrative office

and take any action which that officer could have taken" in the initial proceeding and that additional evidence could be, and was presented, during this Board's *de novo* proceedings. Id., quoting Halle Companies, 339 Md. at 143. The Board's *de novo* hearing "is an entirely new hearing at which time *all aspects of the case should be heard anew, as if no decision had been previously rendered.* Id., quoting Halle Companies, 339 Md. at 144; see also, Boehm v. Anne Arundel County, 54 Md. App. 497 (1983).

In Boehm the Court of Special Appeals elaborated on the *de novo* hearing definition with the following:

> Thus, when it is said that a statute provides that an appeal she be heard *de novo* such a hearing is in no sense a review of the hearing previously held, but is a completer trial of the controversy, the same as if no previous hearing had ever been held, especially when the hearing is in a court of general, original jurisdiction. Where a statute provides for a trial *de novo* and does not provide that the findings of the administrative agency shall be conclusive or of any force, the whole matter is opened up for consideration on appeal as if the proceedings had originally been brought in the reviewing court.

Boehm, 54 Md. App. at 509-510, quoting 2 Am.Jur.2d *Administrative Law* § 698 (1962).

While the Board in the pending matter does not have original jurisdiction, it is mandated to hear all appeals *de novo*. See Baltimore County Charter, Article VI § 603; Baltimore County Zoning Regulations § 501.6. In light of the purely *de novo*, original nature of the proceedings before the Board concerning the issues on appeal, it follows that the burden of proof in the pending matter remained on the Petitioner to establish that non-conforming use authorized in Case No. 2004-567-SPHA had lapsed.

Further, under general principles of law, the party seeking to change the status quo has the burden to come forward with evidence in support of its action and to persuade the trier of fact that the change is justified. Baltimore Gas and Electric Co. v. Everett, 61 Md. App. 288 (1985). Judgment reversed on other grounds, 307 Md. 286 (1986), overruled by Coleman v. Anne Arundel

County Police Dept., 369 Md. 108; see also, Herbert v. State, 136 Md. App. 458 (2001) (As a general rule, the **moving party** on any proposition, civil or criminal, has both the burden of production and the burden of persuasion.; **it is the moving party who attempts to persuade a judge somehow to alter the status quo.**

Indisputably, the current status quo was determined in 2004 when the Property was granted legal non-conforming use by decision of Deputy Zoning Commissioner John V. Murphy. Petitioner, the movant, petitioned the OAH to declare that the previously approved non-conforming use had been abandoned; and that a multi-family dwelling is not permitted on the subject Property. The matter is currently on *de novo* appeal before this Board. Because the Board's *de novo* hearing is an entirely new hearing during which all aspects of the case were heard anew, as if no decision had been previously rendered, Petitioner is still the movant and is charged with the burden of proving the nonconforming use lapsed. As discussed below in Section III, Petitioner has not carried his burden.

II. Definition of Casualty

One of the regulations at the center of the issue in this case is BCZR § 104.2. That Section states, "A structure damages to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but may not be enlarged. In the case of residentially used structures which are nonconforming in density, the number of dwelling units or density units rebuilt may be equal to but may not exceed the number of units which existed before the casualty." The key word in this regulation is the word "casualty".

The BCZR does not define the word casualty and counsel has not found any Maryland opinion that defines the word casualty. BCZR § 101.1, however, states that "[a]ny word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most

recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. That dictionary defines "casualty", in relevant part, as "**2a:** an unfortunate occurrence . . . **b:** . . . losses from fire, storm or other . . . **6:** a person or thing that has failed, been injured, lost, or destroyed as a result of uncontrollable circumstance or of some action . . ." A copy of the full definition from the dictionary is attached to this Memorandum as Exhibit B. While this definition is not narrow, and it clearly supports the meaning of "casualty" to refer to natural occurrences or phenomena, such as water damage, over time that are no fault of someone or the owner of a property.

Mr. Jeff Perlow, the Supervisor of the Baltimore County Zoning Review Office, testified at the hearing on the meaning of casualty and, importantly, on the Zoning Review Office's standard practice with respect to the definition of a casualty. Mr. Perlow testified that in practice the Zoning Office does not simply look at the cause of the damage, but rather at the extent of the damage – i.e., if greater than 50% of the subject structure was damaged and needed replacement. In response to a question by the Chairman if the cause had to be sudden or, for example, whether erosion over the course of ninety (90) years that damaged a structure would constitute a casualty under the regulations, Mr. Perlow testified that it could constitute a casualty if the structure had to be replaced. Mr. Perlow further agreed with the Chairman that the Zoning Office does not require a sudden event like fire, hurricane, storm, or tornado. The damage to the Property at issue in this case could be considered a casualty if certified by an engineer.

Mr. Perlow's and the Zoning Office's practice is perfectly consistent with the definition of casualty in the Webster dictionary. That is a casualty is "a person or thing that has failed, been injured, lost, or destroyed as a result of uncontrollable circumstance or of some action . . ." The Zoning Office's practices, and Mr. Perlow's testimony about those practices, supports the

meaning of "casualty" to refer to natural occurrences or phenomena, such as water damage, over time such as occurred in this case.

Mr. William Adams, Respondent's structural engineer who was qualified as an expert witness at the hearing, testified that normally when a foundation is damaged or deteriorated it is due to two reasons: (1) termite damage; and (2) water damage. Mr. Williams was in the hearing room during the entirety of Mr. Podles' testimony.

Mr. Podles, a licensed general contractor in the state of Maryland, testified there was significant structural water damage to the kick plates and studs attached to the foundation. According to Mr. Podles' observations, the kick plates were water damaged, and the 2x4 wall studs had rotted by water near their bases and were the incorrect dimension for exterior walls. Based upon prior conversations with Mr. Podles and Mr. Podles' testimony at the hearing the testimony of Mr. Podles Mr. Adams concluded that the deterioration of the kick plats and studs were caused by water damage. As with any expert, Mr. Adams could rightfully rely upon Mr. Podles' testimony, as a licensed general contractor, to conclude that the damage to the Property was caused by water damage. There was no contrary testimony offered by any witness as to the cause of damage to the wooden kick plates and studs supported by the foundation at the Property.

As a practical matter the Zoning Office's practice with respect to casualties makes perfect sense. Gradual deterioration of the premises, without the property owner's knowledge, cannot be reasonably construed an abandonment or discontinuance of a nonconforming use for purposes of BCZR 104.1.

III. The Evidence Shows Respondent's Nonconforming Use Was Not Abandoned For A Period Of One Year

A nonconforming use is a vested property right that is constitutionally protected. Trip Assocs., Inc. v. Mayor and City Council of Baltimore, 392 Md. 563, 572-573 (2006). A

nonconforming use may continue unless: (1) there is a change in the nonconforming use to any other use; or (2) there is an abandonment of discontinuance of the nonconforming use for a period of one year or more, in which case the nonconforming use shall terminate. BCZR § 104.1. At issue in the present case is whether the use was abandoned or discontinued.

The right to continue a nonconforming use depends upon the continuity of the substantive characteristics of the use. Lagna v. People's Counsel ex rel. Baltimore County, 2016 WL327029 (unreported opinion). There is no indication that Respondent abandoned the nonconforming use. Even if the Board gives credit to the testimony of the Petitioner and neighbors, at all times since 2004 Respondent and Respondent's predecessors continued to use the Property as a duplex residential dwelling. As Mr. Perlow testified at the hearing, he was not aware of any complaint by any person, including by the now eager neighbors, that the nonconforming use has been discontinued until the complaint by Petitioner in the pending matter.

Robert Podles testified that he is the person most knowledgeable about the use history, occupancy, and the pending regulatory proceedings concerning the property. Mr. Podles testified that he took over management of the Property in early 2020. Based upon his knowledge, the property was used as a rental property in accordance with its non-conforming status continuously from 2004, when the original non-confirming use was approved.

In June 2020 Robert Podles arranged to have the property inspected for the purpose of renewing the Property's two-year rental license, an action that would have been entirely moot if the property was not rented. A Baltimore County Rental License Inspection Sheet reflects the Property passed inspection by a certified property inspector on Jun 15, 2020 (Appellant Exhibit 10). After the inspection, the license was renewed.

In 2021 the tenant at 2621 Brannan Avenue was Ms. Stephanie Casey, residing there under an expired lease that had been continued month-to-month. Ms. Casey was substantially in arrears on her rent. A rental payment ledger reflecting Ms. Casey's rental payment history shows her payment record from April 2020 through June 10, 2021. (Appellant Exhibits 7 and 8).

On or about November 17, 2020, Respondent filed a Petition for Tenant Holding Over in the District Court for Baltimore County. On April 13, 2021, the court ordered possession of the premises returned to Respondent. Stephanie Casey moved from the Property on June 11, 2021, confirmed by testimony from Mr. Podles and text correspondence between Mr. Podles and Stephanie Casey (Appellant Exhibit 9a). The Baltimore County Sheriff officially carried out and signed off on the eviction on August 2, 2021. (Appellant Exhibit 9). On August 13, 2021, the lessee of 2623 Brannan Avenue, Nicholas Hilderbrandt, executed a Property Release Agreement thereby voluntarily surrendering his legal right to possession of those premises at the Property. (Appellant Exhibit 15).

In direct response to a question from the Chaiman, Mr. Podles testified that at no time between 2004 and June 2021 for 2621 Brannan Avenue, and between 2004 and August 2623 Brannan Avenue, had there been a period of longer that one or the other unit was unoccupied by a tenant. The Property continued its non-conforming use status.

Respondent's documentary evidence is far more credible than the Petitioner's evidence. Specifically, the Petitioner and Petitioner's neighbor witnesses Joseph Vrablic and Mr. McVeigh testified at one point that they saw a wall was felled by a windstorm in the middle of the night. Respondent presented incontrovertible impeaching evidence through video recording that the wall was felled by a working crew (the fall of the wall and conversations among the crew and shown on the video). Mr. McVeigh became aggravated after being shown the video, insisting on denying

what was shown to him on the video – although he acknowledged he saw one person there and the felling of the wall. Mr. McVeigh's, Mr. Vrablic's and Petitioner's misrepresentations became obvious to the Board when the Board admitted into evidence and reviewed the video, and the Chairman acknowledged it was offered to impeach (do not recall exact comment) Mr. Mc Veigh. Because of these outright and obvious misrepresentations, the Board would be right to infer that the Petitioner and the neighbors are simply motivated to terminate Petitioner's property right in its legal nonconforming use. The evidence presented by Petitioner is tainted by these misrepresentations and should therefore be disregarded in favor of the documentary evidence presented by Respondent. The authenticity of Respondent's records was not challenged.

Further, Petitioner and Petitioner's witnesses testified that a fire has occurred at the Property. The hearing on this matter occurred on August 29 and August 31, 2023. On August 30, 2023, Mr. Podles sent a Public Information Act request to the Baltimore County fire Department inquiring about any record of a fire over the course of the past 36 months at 2621-2623 Brannan Avenue. Mr. Podles did not receive a response in time for the hearing but the Baltimore County Fire Department Records Manager, Mary McInnes, responded on September 5, 2023, to report that there was no record of any fires at those addresses over the past 36 months. The only fire record the Department had was for November 11, 2006, in a building other than 2621 Brannan Avenue. A copy if the email correspondence is attached to this Memorandum as Exhibit C.

IV. The Evidence and William Adams' Testimony Does Not Support Abandonment of the Nonconforming Use

During the testimony of Mr. William Adams, in response to an oral motion by Petitioner's counsel to exclude Mr. Adams' testimony on grounds of relevancy, the Board commented that Mr. Adams testimony is relevant because by Respondent allowing the deterioration of, and damage to, the foundation that Mr. Adams observed, and which necessitated replacing the structure, might

constitute evidence of abandonment of the nonconforming use. While this might make sense if the damage was open and obvious, however it does not make sense in the context of this case where there was ample testimony by the Respondent, Respondent's draftsman, the Petitioner, and the neighbors, that the structures appeared to be in good condition.

The Board tacitly agreed on this point, that long-term damage does not constitute abandonment, when it posited to Mr. Perlow the question of whether a 90-year long erosion that damaged a nonconforming structure would constitute a casualty. Mr. Perlow testified that termite damage and other casualties that occur over long periods of time, if the damage is extensive, would permit the property owner to replace the structure without abandoning the nonconforming use. The Board's question and Mr. Perlow's response strongly confirms that non-apparent damage that occurs over time, unknown to the property owner, does not constitute abandonment of a non-conforming use.

Robert Podles made an application to Baltimore County for a Building Permit to plans to remove and raise the roof, alter the roof to a cantilevered design, and to renovate both the first and second floors. A permit was issued (R21-02585) on March 8, 2022, and work began on the roof of the two-house duplex. (Appellant Exhibit 2). At the time the permit was applied for, the applicant's expectation was to maintain the two apartments, and remodel the first and second floor of the building for rental. There was no apparent water or structural damage to the building, and no expectation that any work would be necessary beyond the submitted renovation plans.

During the interior demolition and wall removal on the first floor of the Property, while working under the first Building Permit, Mr. Podles observed there was significant structural water damage that was **not apparent** before the demolition. According to Rob Podles' observations, the

foundation did not extend to the proper depth, the kick plates were water damaged, and the 2x4 wall studs had rotted near their bases and were the incorrect dimension for exterior walls.

Upon discovery of the defects Mr. Podles, on behalf of Respondent, worked diligently to address the discovery defects and work with Baltimore County. Respondent retained a structural engineer, William Adams, to evaluate the condition of the foundation. Mr. Adams required a "dig" at the perimeter of the foundation to be able to inspect the foundations, which required removal of the first floor and, ultimately, razing of the structure.

Baltimore County required a razing permit for the demolition work. After work began a stop work order was issued by Baltimore County on April 6th and April 7th, 2022. (Petitioner Exhibit 3 and 4). Respondent cured the violation and an after-the-fact razing permit authorizing tearing down the main structure (foundation to remain) was issued by Baltimore County on June 9, 2022, thereby bringing Respondent into compliance. (Permit No. 05628; Appellant Exhibit 4).

On June 28, 2022, Mr. Adams visited the Property to review the condition of the existing foundation wall and footing (Board Exhibit 1) and determine if new structures could be built on the existing foundations. Mr. Adams testified that the common foundation was not wide enough to meet Baltimore County Code requirements. Further, the foundation running from approximately the middle to the corner of the left side of the perimeter foundation needed to be replaced. Mr. Adams prepared drawings for the reinforcement of the central common foundation to be able to support the new structures, Mr. Adams also approved raising the new structure with three courses of concrete block laid over the existing foundation to improve ventilation under the structure and elevate the kick plates and other wooden members of the structure above ground level to prevent water damage. Except for the height of the foundation being raised, thereby elevating the structure, the original design of the structure remained the same. The new structures

could be built on the existing foundations. There was also no change in the pre-existing footprint of the structure.

Before Mr. Adams visited the Property Respondent made an application to amend the existing permit with a detailed description of the proposed work and revised drawings prepared by the draftsman, Mr. Thanh Nguyen (Petitioner Exhibit 18).[3] That application was denied on or about July 19, 2022. The notes section in the application indicates that Baltimore County determined a separate permit application was required for each unit. In addition, a Special Hearing was required to confirm that the non-conforming use granted in 2004 has not been abandoned or discontinued for a one-year period. Id. Respondent was instructed to submit new applications. Again, at no time during this process did Respondent abandon the non-conforming use. **The need for a Special Hearing was later rendered moot** after Mr. Perlow later provided evidence to Mr. Perlow that the non-conforming use has been neither abandoned nor discontinued for more than one year.

On or about June 24, 2022, another application and site plan was submitted to Baltimore County. (Appellant Exhibit 11). Over the next several months Robert Podles met with Baltimore County representatives to address the proposed plans including the roof, structural design loads, need for a sprinkler system, separation of water supply by two separate lines, wastewater, water metering, and other issues. To accomplish the requested changes Respondent retained an additional engineer and plumber to address the water issues. Again, at Mr. Perlow's (zoning) and Tim Kidd's (code enforcement) request, Mr. Podles provided Baltimore County Mr. Adams' July 12th letter concerning the foundation issues. (Board Exhibit 1).

[3] The date of the application is uncertain, but it appears was submitted sometime in May 2022.

Very importantly, after the revised building permits application was submitted, according to both Mr. Podles and Mr. Perlow's testimony, Podles and Perlow met several times in Mr. Perlow's office to address, among other things, proof of occupancy of the Property. Mr. Perlow **accepted** Mr. Podles' proof of occupancy of the Property. The application for the building permits (R22-06755 and R22-766) was approved by Baltimore County on October 15, 2022. (Respondent Exhibits 5 and 6). Also, importantly, the County's notes in the new application state "**Documents Submitted Confirming Non-Conforming Use Status. No Special Hearing Required for Zoning Approval**". See Exhibit A attached hereto.

In light of the circumstances, and in conjunction with evidence concerning the occupancy of the Property, the evidence strongly weighs in favor of the Respondent that there was no abandonment of the nonconforming use.

V. The Evidence Supports Continuous Occupancy During The Nonconforming Use But Continuous Occupancy Is Not Required If Tenant Is In Possession

A tenant to whom the landlord has leased premises "acquires an estate in the land, and becomes for the time being, both owner and occupier, subject to all of the responsibilities of one in possession, to those who enter upon the land and those outside of its boundaries." Smith v. Dodge Plaza Ltd. P'ship., 148 Md. App. 335, 337 (2002), quoting Henley v. Prince George's County., 305 Md. 320, 337 (1986). As lessee, the tenant receives an exclusive right to possession of the leased premises. Kessler v. Equity Mgmt., Inc., 82 Md. App. 577, 586 (1990).

It is an elementary principle of Maryland real property law that a tenant has a right of possession of demised premises to the exclusion of the landlord. "During the term of the tenancy, unless permitted by the terms of the lease,[2] a landlord has no more right to enter premises possessed by the tenant than a stranger would have"; and "[i]t is axiomatic that one not antecedently authorized may not himself enter the property of a stranger, nor authorize another to do so." Miller

v. State, 174 Md. 362, 368 (1938). If a landlord enters a leased apartment when the tenants are absent and without notice to or permission from the tenants, the landlord would have committed a trespass, subjecting her to civil liability for damages. Kessler v. Equity Mgmt., Inc., 82 Md. App. at 586-587. Thus, a tenant is entitled to possession of the property during the term of the lease. Occupancy is not a requirement for maintaining possession, and any intrusion by landlord into tenant's lawful possession of the premises would subject the landlord to civil liability and damages. See Md. Code Ann., Real Prop. § 8-216 (Memorandum Exhibit C).

In any event, as discussed above, Respondent, through Mr. Podles, provided ample proof of continuous occupancy through June 2021 for 2621 Brennan Avenue, and through August 2021 for 2623 Brennan Avenue.

CONCLUSION

For each of the reasons stated above the Board should deny the Petition for Special Hearing and approve Respondent's continuation of the nonconforming use.

Respectfully submitted,

/s/ Timothy Manuelides, Esq.

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Counsel for Respondent,
Edgemere Wildlife Trust

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of October, 2023, a copy of the foregoing Memorandum in Lieu of Closing Argument was sent via electronic mail to all counsel of record.

/s/ Timothy Manuelides
Counsel for Respondent,
Edgemere Wildlife Trust

EXHIBIT A

Application Info

Item Number: R22-06756

Location : 2621 BRANNAN AVE

Case Type: Residential New

Sub Type: New Dwelling

Status: ISSUED

Date Issued: 10/15/2022 7:25:08 PM

Parent Application:

Child Application:

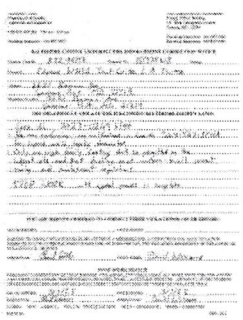
Plan Review

Identifier	Name	Status
R22-06756	Brannan	Plans Approved

OPEN PLAN REVIEW

for review comments and to submit plans and documents

Attachments

Image	Name	Date Created
PDF	R22-06756 GIS.pdf	6/10/2022 9:18:26 PM
PDF	05 comment letter r22-06755 r22-06759.pdf	8/1/2022 12:40:35 PM
PDF	R22-06756_Approved Plan Set.pdf	10/15/2022 11:24:41 PM
PDF	Issued_Permit.pdf	10/15/2022 11:25:47 PM
	stop work order correction notice.tif	3/8/2023 12:05:20 PM

Note
Which sediment control letter do I submit the form for 'single family dwelling' under 30,000sq ft? Or sediment control form for all others under 20,000sq ft?
I have uploaded and submitted all of the documents requested to the portal.
This new building permit is a replacement for original permit # R21-02585
A zoning Special Hearing is required to confirm that the non-conforming use granted in Case # 2004-0567-SPHA has not been abandoned or discontinued for a one year period, pursuant to Section 104.1, BCZR.
PAI- Development Plan Review; would you please explain what needs to be corrected in order for this to be approved. The portal simply says 'resubmit'.
Documents Submitted Confirming Non-Conforming Use Status. No Special Hearing Required for Zoning Approval.

ADD NOTE

Fees

Fee Description	Fee Amount	Balance Due
Residential New Dwelling Fee	$243.00	$0.00
Maryland Home Builders Guaranty Fund Fee	$50.00	$0.00

Payments

Fee Description	Fee Amount	Payment Amount	Payment Date	Payment Method	Reference
Residential New Dwelling Fee	$243.00	$243.00	6/24/2022	Online Portal Payment	BIPPA7C97A24
Maryland Home Builders Guaranty Fund Fee	$50.00	$50.00	6/24/2022	Online Portal Payment	BIPPA7C97A24

Application Info

Item Number: R22-06755

Location : 2623 BRANNAN AVE

Case Type: Residential New

Sub Type: New Dwelling

Status: ISSUED

Date Issued: 10/15/2022 7:09:45 PM

Parent Application:

Child Application:

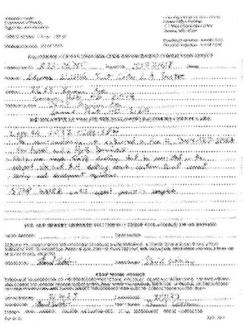
Plan Review

Identifier	Name	Status
R22-06755	Brannan Ave	Plans Approved

OPEN PLAN REVIEW

for review comments and to submit plans and documents

Attachments

Image	Name	Date Created
PDF	R22-06755 GIS.pdf	6/10/2022 7:51:33 PM
PDF	05 comment letter r22-06755 r22-06759.pdf	8/1/2022 12:38:16 PM
PDF	R22-06755_Approved Plan Set.pdf	10/15/2022 11:09:19 PM
PDF	Issued_Permit.pdf	10/15/2022 11:10:47 PM
	stop work ordercorrection notice.tif	3/8/2023 12:03:56 PM

Note
This new building permit is a replacement permit for original permit # R21-02585
A zoning Special Hearing is required to confirm that the non-conforming use granted in Case # 2004-0567-SPHA has not been abandoned or discontinued for a one year period, pursuant to Section 104.1, BCZR.
PAI- Development Plan Review; would you please explain what needs to be corrected in order for this to be approved. The portal simply says 'resubmit'
Documents Submitted Confirming Non-Conforming Use Status. No Special Hearing Required for Zoning Approval.

ADD NOTE

Fees

Fee Description	Fee Amount	Balance Due
Residential New Dwelling Fee	$243.00	$0.00
Maryland Home Builders Guaranty Fund Fee	$50.00	$0.00

Payments

Fee Description	Fee Amount	Payment Amount	Payment Date	Payment Method	Reference
Residential New Dwelling Fee	$243.00	$243.00	6/24/2022	Online Portal Payment	BQPP7F48211E
Maryland Home Builders Guaranty Fund Fee	$50.00	$50.00	6/24/2022	Online Portal Payment	BQPP7F48211E

EXHIBIT B

ily of rather large heavy-skulled sciuro-
rising the beavers and extinct related

-'aa-,-'ai-,-'á-\ *or* **cas·tor** \-tə(r)\ *n* -s
(fr. *Kastor* mythological personage, fr.
stor fr. G *kastor;* fr. its appearance with
alled *pollux*)] : a mineral consisting of
curring in transparent crystal

'rȯi(,)dēz\ *n, cap* [NL, fr. *Castor* +
f extinct giant beavers of the Pleistocene
thern U.S.

+ *oil;* prob. fr. a supposed connection
stor] : a colorless to amber or greenish
y oil expressed or extracted from castor
as a cathartic and usu. after processing
ying oil — called also *ricinus oil;* see

a tropical African and Asiatic herb
turalized in all tropical countries and
in temperate regions, having large pal-
ves, small apetalous flowers, and spiny
anlike mottled seeds that yield castor oil
cause of the presence of ricin — called
CASTOR BEAN

tor cake *n* [*castor* (*bean*)] : a pomace
ction of oil from castor beans and used
conditioner

BEAN

or] *chiefly Brit* : finely granulated or
that can be shaken through the per-

C [fr. *Castor*, Peterborough, England,
an ancient Roman pottery having orna-
ns laid in white slip on a dark ground
toreum, modif. of L *castoreum*] *obs* : a
g material from castoreum

it : BANISH, EXPEL ~ *vi, chiefly Scot* : to
cast out with his brother〉

,kastrəmə'tāshən\ *n* -s [F, fr. ML
metatio, fr. L *castra metatus* (past part.
itch a camp, fr. *castra* camp — pl. of
— + *metari* to measure out) + *-ion-*,
mire to fortify — more at CASTLE, MU-
or laying out of a military camp

-'aa-, *esp Brit* ='=; *usu* -ād·+V\ *vt*
us, past part. of *castrare;* akin to Skt
s — more at CASTE] **1 a** : to deprive of
RE, GELD **b** : to deprive of the ovaries
ive of vigor or vitality 〈intelligence is
ey〉 : weaken by removal of the most
lements : 〈the bill was *castrated* by re-
ent provisions〉 **b** : to render impotent
means **3** : to delete a part of (a text)
ious; *esp* : EXPURGATE 〈~ a text〉 **4** : to
rom (a flower)

castratus] : of a castrate : CASTRATED
castratus, past part.] : a castrated indi-

-tor \'=,=d·ə(r),-tə(r), ='==\ *n* -s : one

hən, kaa'-\ *n* -s [ME *castracioun*, fr. L

casual ejector *n*. *Eng law* : a fictitious person alleged to have ousted the lessee of the plaintiff in the old action of ejectment. the real defendant being substituted for him after notice

ca·su·al·ism \-,lizəm\ *n* -s [*casual* + *-ism*] **1** : a condition of things in which chance rules **2** : the theory that all things exist or are controlled by chance — compare TYCHISM

casuality *n* -ES [alter. (prob. influenced by MF *casualité* or ML *casualitas*) of *casualty*] *obs* : CASUALTY 1, 2, 3

ca·su·al·ly \'kazhəlē, -zhəwəlē, -i\ *adv* : in a casual manner

ca·su·al·ness \-lnəs\ *n* -ES : the quality or state of being casual

[1]ca·su·al·ty \'kazhəltē, -i *also* -zhəwəl-\ *n* -ES [ME *casuelte*, fr. *casuel* casual + *-te* -ty] **1** *archaic* : CHANCE, FORTUNE 〈losses that befall them by mere ~ —Walter Raleigh〉 **2 a** : an unfortunate occurrence : MISCHANCE 〈yielding to the *casualties* of trade —H.S.Canby〉 **b** : serious or fatal accident : DISASTER 〈*casualties* at sea during the storm〉 〈losses from fire, storm, or other ~ —J.S.Seidman〉 **3** [trans. of ML *casualitas*] **a** : a casual charge or payment **b** *Scots law* : a payment demandable by a superior from his tenant upon the happening of various uncertain events as distinguished for example from a payment at a certain time (as rent) **4** : a person lost to a command through death, wounds, injury, sickness, internment, capture, or through being missing in action 〈*casualties* were heavy〉 **5 a** : injury or death from accident **b** : one injured or killed (as by an accident) 〈the dog was a traffic ~〉 **6** : a person or thing that has failed, been injured, lost, or destroyed as a result of uncontrollable circumstance or of some action : VICTIM 〈the ex-senator was a ~ of the last election〉 〈the factory was a ~ of the recession〉

[2]ca·su·al·ty \'kazəltē, -asə-\ *var of* CASALTY

casualty insurance *n* : insurance against loss from accident (as automobile, burglary, liability, accident and health, and workmen's compensation insurance and corporate suretyship) consisting in the U.S. of all forms of insurance written commercially except life insurance and the forms of property insurance written by fire and marine companies

casual ward *n* [[2]*casual*] *Brit* : a ward in which vagrants seeking temporary public relief are detained for brief specified periods

casual water *n* [[1]*casual*] : a temporary accumulation of water not forming a regular hazard of a golf course

ca·su·ari·ifor·mes \,kazhə,wa(a)rēə'fȯr,mēz\ *n pl, cap* [NL, fr. *Casuarius*, type genus + *-iformes*] : an order of large ostrichlike birds (superorder Neognathae) comprising the cassowaries and the emus

ca·su·a·ri·na \,kazhə(wə)'rēnə\ *n* [NL, fr. Malay (*pohon*) *kĕsuari* cassowary tree (fr. *pohon* tree + *kĕsuari* cassowary) + NL *-ina* (fem. of L *-inus* -ine); fr. the resemblance of its twigs to the cassowary's feathers] **1** *cap* : a genus (coextensive with the family Casuarinaceae and order Casuarinales) of dicotyledonous trees and shrubs now widely naturalized and used for hedge and ornamental work in southern No. America and the West Indies and characterized by jointed horsetaillike stems with whorls of scalelike leaves, some species yielding heavy hard wood — see BEEFWOOD, SHE-OAK **2** -s : a tree of the genus *Casuarina*

ca·su·ar·i·na·les \,kazhə,warə'nā(,)lēz\ *n pl, cap* [NL, fr. *Casuarina* + *-ales*] : an order of chiefly Australian woody plants comprising the casuarinas

ca·su·ar·i·us \,kazhə'wa(a)rēəs\ *n, cap* [NL, fr. Malay *kĕsuari*] : a genus (the type and sole representative of the family Casuariidae) of ratite birds comprising the cassowaries

casubian *cap, var of* KASHUBIAN

ca·su·ist \'kazhəwəst\ *n* -s [prob. fr. Sp *casuista*, fr. L *casus*

EXHIBIT C

Timothy Manuelides

From: Rob Podles <robpodles@safehighyield.biz>
Sent: Tuesday, September 5, 2023 1:05 PM
To: Timothy Manuelides
Subject: Fwd: 2621-2623 Brannan Avenue

Sent from my iPhone

Begin forwarded message:

> **From:** Fire-PIA <fire-pia@baltimorecountymd.gov>
> **Date:** September 5, 2023 at 12:31:15 PM EDT
> **To:** Rob Podles <robpodles@safehighyield.biz>
> **Subject: RE: 2621-2623 Brannan Avenue**
>
> Sorry ignore that last message. I just reread your email. I don't have any fires to those addresses in the last 36 months. Only fire we have was 11/11/06 in a structure other than a building at 2621 Brannan Ave.
>
> Mary McInnes
> Records Manager
> Baltimore County Fire Department
> 700 E. Joppa Road
> Towson, MD 21286
> P) 410-887-2071 F) 410-832-8513
> fire-records@baltimorecountymd.gov
>
> -----Original Message-----
> From: Rob Podles <robpodles@safehighyield.biz>
> Sent: Wednesday, August 30, 2023 10:35 AM
> To: Fire-PIA <fire-pia@baltimorecountymd.gov>
> Subject: 2621-2623 Brannan Avenue
>
> CAUTION: This message from robpodles@safehighyield.biz originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.
> ---
>
> Hello, my name is Rob Podles and I am property manager for above address.
>
> Could you please email me any records of any fires that were called in within past 36 months and had to be put out.
>
> My cell is 410-971-5554.
>
> Thanks,

RE:	PETITION FOR SPECIAL HEARING 2621-2623 Brannan Road; S/S of Haddaway Road, E/S of Brannan Avenue 15th Election & 7th Councilmanic Districts Legal Owner(s): Edgemere Wildlife Trust Crities LA Trustee Petitioner(s): Edward Crizer Petitioner(s)	*	BEFORE THE BOARD OF APPEALS HEARINGS FOR BALTIMORE COUNTY
		*	2022-269-SPH

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

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

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RE:	PETITION FOR SPECIAL HEARING 2621-2623 Brannan Road; S/S of Haddaway Road, E/S of Brannan Avenue 15th Election & 7th Councilmanic Districts Legal Owner(s): Edgemere Wildlife Trust Crities LA Trustee Petitioner(s): Edward Crizer Petitioner(s)	*	BEFORE THE BOARD OF APPEALS HEARINGS FOR BALTIMORE COUNTY 2022-269-SPH

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

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

Preface

"Every day is a winding road" --- Sheryl Crow (1996)

This case recalls Walter Scott's iconic words,

"Oh what a tangled web we weave …" Marmion (1808)

In the end, there are simple and straightforward solutions to this case. But to get there, we must untangle some webbing.

We cited the Lagna case in opening statement as a starting point. We attach it for convenience. It covers essential principles of nonconforming use law, including the goal of elimination, and correlative strict construction of the law and facts. The present case relates back the 2004 approval of the nonconforming use for two apartments.

A discontinuance of one year or more since 2004 would terminate the nonconforming use. Also, if destruction of the dwelling resulted from long-term deterioration, rather than "fire or other casualty," an "Act of God," that also would be terminal. Even if there were a casualty, any "enlargement" of the dwelling would result in termination. Here, each of these events has resulted in termination.

Baltimore County Zoning Regulations (BCZR) Secs. 104.1 and 104.2 are the key legislative provisions.[1] BCZR Sec. 101.1 defines nonconforming use. For "fire or other casualty," BCZR Sec. 101.1 refers us to Webster's Third New International Dictionary.

[1] BCZR Sec. 305 mirrors Sec. 104.2.

Scope of the Special Hearing Process; Declaratory Judgment

BCZR Sec. 500.7 enables a special hearing. It is effectively a declaratory judgment process to determine issues of zoning law. Antwerpen v. Baltimore County 163 Md. 194, 209 (2005). It spotlights especially: "…the right of any person …to determine the existence of any purported nonconforming use on any premises."[2] As in the Maryland Declaratory Judgment Act, it is a forum for full review of the rights of all interested parties. CJ Art. Sec. 3-401 to 3-415, especially Sec. 3-406.

Therefore, all relevant issues and questions are on the table. Interested parties may not cherry-pick advantageous issues and/or exclude disadvantageous issues.

Parties: There is no mystery as to the identity of Petitioners Edward Crizer, Joseph Vrablic, and Brian McVey. They are interested citizens and property owners near 2621 and 2623 Brannan Avenue.

But Edgemere Wildlife Trust (EWT), the current 2621/2623 property owner, is a mysterious presence. In 2009, John Podles, Jr. deeded the property to his son Christopher Podles and two grandchildren, but reserving powers. In 2019, before his death, he made Christopher attorney-in-fact and deeded the property to EWT. In 2021, there was a confirmatory deed.

The deeds identify L.A. Crites as EWT Trustee, with an address of 2206 Emmorton Road, Bel Air, Maryland 21015. But the only witness to represent EWT was Robert Podles (R. Podles). Although not involved with the deeds, he became EWT property manager circa 2019-20.

R. Podles claimed virtually full powers to speak and act for EWT. Yet he could not describe anything about EWT's origin or its 2019 acquisition of the property from his own father, John Podles, Jr.

[2] Administrative agencies have full authority to determine statutory construction, application, and constitutional issues. See, e.g Marzullo v. Kahl 366 Md. 158 (2002); Prince George's County v. Ray's Used Cars 398 Md. 632 (2007); HNS Development v. People's Counsel 425 Md. 436 (2012); Baddock v. Baltimore County 239 Md. App. 467 (2018), cert, denied sub nom Sahbi Hookah v. Baltimore County 463 Md. 545 (2019).

R. Podles did not produce a written management agreement. He said he had met L.A. Crites and that she is a woman. But he could not remember her first name.

L.A. Crites never appeared in person. The evidence was murky as to her trust management, and any concern or involvement in this litigation. There was no evidence as to the beneficiary of the trust or anyone else with an interest. R. Podles did say that, to his knowledge, this is the only property owned by EWT.

Nonconforming Use Law: Back to Basics; Elimination; Strict Construction

BCZR Sec. 101.1 defines "Nonconforming Use as "A legal use which does not conform to a use regulation for the zone in which it is located …"[3] Per BCZR Sec. 104.1, such use may continue until changed to another use, or abandoned or discontinued for a period of on year or more. In the event of "fire or other casualty," the use may be restored within two years, but not enlarged. BCZR Sec. 104.2. See also Sec. 305.

Decades ago, the Court of Appeals recapitulated the legal position of nonconforming uses, the purpose for their elimination, and the applicable rule of strict construction. Prince George's County v. E.L. Gardner 293 Md. 259, 267 (1982). The Lagna decision followed and applied the Gardner principles.

Historical Context and Patterns

The 2004 nonconforming use case (04-567-SPH) shapes the initial baseline. Deputy Zoning Commissioner (DZC) John V. Murphy approved John Podles, Jr.'s petition for two rental units in the D.R. 3.5 Zone. He denied the third apartment. It was mainly John Podles, Jr.'s overreach for that third apartment which led to that case.[4]

There was no further litigation in the 2004-19 period. This period, however, would turn out to have significance for the present controversy, as explained below.

---

[3] In 2004, the two-dwelling use on the .175-acre, 7714 square feet property did not conform to the then D.R. 3.5 Zone and applicable lot area minima in the Small Lot Table, BCZR Sec. 1B02.3.C.1 (20,000sf) or the Conversion table, (12,500) BCZR Sec. 402.1. The nonconformity remained upon reclassification to the D.R. 5.5 Zone (minimum 12,000sf in the Small Lot table and 10,000sf in the Conversion table).

[4] John Podles, Jr. filed an appeal to the CBA, but withdrew it before the hearing.

After John Podles, Jr. died in 2019 and EWT took ownership, R. Podles assumed management. Eventually, the property became an unacceptable nuisance to the neighbors. There arose problems with some tenants and problems after the demolition.

In March, 2022, R. Podles obtained a renovation permit relating to the second floor and roof. But upon discovery of rotting wood, R. Podles decided to tear the entire dwelling down (initially without the required razing permit). There was then wood left about and burned in drums. There were stop work orders and even fire department enforcement. There was a razing permit issued after-the-fact in June.

On June 28, 2022, William Adams, a qualified structural engineer, visited the site. He wrote a letter on July 12, 2022 to R. Podles. The letter described his assessment of the foundations. He provided plans for reinforcing the foundations in order to accommodate new structures. His letter made no mention of any history or presence of water damage or issues.[5] Than Nguyen, a draftsman, prepared plans for the new dwelling.

In or about October, 2022, R. Podles provided skimpy and problematic documents to Zoning Supervisor Jeffrey Perlow to get his zoning support for a new building permit. These were the 2021 Order of Restitution for 2621 and Property Release Agreement signed by Nicholas Hildebrandt for 2623. The permit was nevertheless issued. We discuss this further below.

Construction began shortly after issuance of the building permit.

By this time, the neighboring residents had had enough. They filed this zoning petition in November, 2022. Administrative Law Judge (ALJ) Paul Mayhew convened a hearing and issued his decision in March, 2023. EWT and R. Podles did not participate at the hearing. ALJ Mayhew decided the nonconforming use had terminated. Construction continued briefly until the posting of another stop work order.

This history is thus checkered and replete with one problem after another.

[5] It is very interesting that Adams' letter is addressed to R. Podles at 2206 Old Emmorton Road, Bel Air, Maryland 21015. This is the address of EWT and L.A. Crites, not R. Podles. This raises more questions about the relationship between L.A. Crites and R. Podles.

Dramatis Personae and Notable Absences

We refer to the witnesses as *dramatis personae* because the case has dramatic moments. R. Podles played the lead role for EWT. Structural engineer William Adams and Draftsman Than Nguyen had cameo roles. They each visited the property just once.

The EWT presentation is most remarkable for the absence of witnesses. Trustee L.A. Crites remained a remote figure. There was not a single tenant who testified. Not a single area resident testified to support EWT's position. Nicholas Hildebrandt likewise did not appear, leaving his role as at best ambiguous.[6]

In contrast, Petitioners Crizer, Vrablic, and McVey presented the only eyewitness testimony about occupancy history. Chief Building Inspector Matt Gawel and Zoning Supervisor Jeffrey Perlow contributed to the permit history. Perlow explained the nonconforming zoning status. He discussed his office's approach to "casualty" issues.

Documents

It is helpful, often crucial, to have relevant documents. For nonconforming apartment issues, there may be leases, correspondence, advertisements, gas and electric bills, maintenance and repair records, bank statements, tax records, and the like. None of these were provided.[7]

R. Podles submitted a July, 2020 license inspection record, but the inspection goes only to physical and environmental conditions, not occupancy.[8] There were the aforesaid Order of Restitution and Property Release Agreement, and a "ledger" for 2621. As we shall explain, these generated more confusion than clarity.

Chronology

2004: John Podles, Jr, gets baseline zoning approval for nonconforming 2-apartment use at 2621/2623 Brannan Road.
2009: John Podles, Jr. deeds property to Christopher Podles, et al., but reserves powers.

---

[6] There is an unfavorable inference "…where it would be most natural under the circumstances for a party to speak, call witnesses, or present evidence." Brooks v. Daley 242 Md. 185, 194-95 (1966). This extends also to the failure to produce documents which would be natural for a party to have and to produce. Turner's Executor v. Turner 98 Md, 22 (1903).

[8] We discuss d below that licensing does not resolve zoning in nonconforming use cases.

Circa 2009: Discontinuance for a year or more.
2019: John Podles deeds property to Edgemere Wildlife Trust, L.A. Crites, Trustee.
2019: John Podles dies.
Circa 2019-2020: Robert Podles assumes property management.
January, 2020: Mary Moore ("Cooke"), et al. vacate 2623.
June, 2020: Stephanie Casey, et al. vacate 2621.
July, 2020: Rental license inspection.
Late 2020/Early 2021: Than Nguyen visits unit on left, apparently vacant; told other unit occupied.
July-August, 2021: Order of Restitution for 2621.
August, 2021: Property Release Agreement for 2623.
September, 2021: Confirmatory Deed to Edgemere Wildlife Trust.
March, 2022: Robert Podles/Anthony Carpino obtain Alteration/Addition Permit
April, 2022: Stop Work Orders relating to demolition.
May, 2022: Application to Amend Permit.
June, 2022: Razing Permit issued.
June 28, 2022: William Adams visits site and then recommends foundation improvements for the building of new dwelling.
June, 2022: Robert Podles begins meeting/communicating with Zoning Supervisor Jeffrey Perlow
October, 2022: Jeffrey Perlow supports issuance of building permit for new dwelling based on Robert Podles submissions of Order of Restitution and Property Release Agreement. Permit then issued.
October-November, 2022: Foundation improvement and dwelling work start.
November, 2022: Edward Crizer, et al. file zoning petition.
February, 2023: Dwelling construction starts.
March, 2023: ALJ Mayhew issues decision that nonconforming use has terminated.
March, 2023: Dwelling construction continues for a short time, but stop work order issued and construction stops.

Discontinuance Basics

An excellent source is Canada's Tavern v. Town of Glen of Echo 260 Md. 206 (1970). The Court observed that local governments have addressed the cessation of nonconforming uses in a variety of ways. Sometimes, the relevant legislation requires intent to abandon. But other times, as here, it is enough that there is an objective discontinuance. The Montgomery Code legislation in Canada's Tavern effectuated termination of the nonconforming use upon cessation for a period of six months. It was irrelevant that the owner had intended to restore the discontinued use. The Connecticut

appellate courts followed Canada's Tavern in Essex Leasing v. Zoning Board of Appeals 518 A.2d 970 (Conn. App. 1986), affirmed 539 A.2d 101 (Conn. 1988).

Here, BCZR Sec. 104.2 centers on "abandonment or discontinuance." It is settled that the word "or" typically is viewed as disjunctive, unless the context indicates otherwise. SVF Riva Annapolis v. Gilroy 459 Md. 632, 642-44 (2018). There is no such other context here. The articulation of "discontinuance" sets an objective test. The Webster's Third New International Dictionary definition, page 646, refers to the related definition of "**discontinue**." This in turn includes,

> "1 **a** to break off : give up : TERMINATE … **:** cease to use … **b** *obs :* to cease to attend, frequent or occupy **c :** to break the continuity of …."

To conclude, the test is objective. There is no requirement of intent.

Discontinuance Burden of Proof

Canada Tavern did not address burden of proof. There was no genuine dispute as to the duration of the cessation of the use.

There are two ways to look at burden of proof. On the one hand, given the initial establishment of the nonconforming use, it may be said that the burden is on the party who asserts discontinuance. On the other hand, given the strict construction of nonconforming use law, it may be said that where a serious question of discontinuance arises, the burden reverts to the party who wishes to maintain the nonconforming use. It is apt to recall Judge Moylan's observations in Cooper v. Singleton 217 Md. App. 626, 627-28 (2014). He cited Professor McCormick's characterization of "presumptions" and "burden of proof" as the slipperiest in the family of legal terms.

In the present case, fortunately, the record is sufficient to determine discontinuance regardless of the placement of the burden of proof. There is convincing evidence that the requisite discontinuance has occurred.

Discontinuance 2004-2019

When CBA panel member Frederick Lauer and panel chair Joseph Evans asked R. Podles about the time period 2004-19, he had no answer. He was not involved with his father's property till after his father died.

Picking up this thread, we made sure to ask Crizer, Vrablic, and McVey about their observations for this period time. They all testified that were periods of time when one or more of the units was vacant, probably for a year or more. While there were understandably no specific written notes or records, the time period around 2009 stood out in the memory.

There was no rebuttal to their testimony.

Moreover, there is no documentary evidence of occupancy during any of those years.

No matter who has the burden of proof, the evidence is convincing that there was discontinuance for a year or more between 2004 and 2019. This alone terminated the nonconforming use.

Discontinuance 2020-2022

At the present appeal hearing, R. Podles introduced a District Court Order of Restitution against Stephanie Casey, et al. circa July, 2021 to suggest there was occupancy till that summer. But neither she nor anyone else testified she was there past June, 2020. He also introduced two odd "ledger" matrices for Stephanie and 2621. They were undated, unsigned and of doubtful provenance and relevance.

In turn, R. Podles presented the August, 2021 Property Release Agreement for 2623 purportedly signed by Nicholas Hildebrandt. But the only box checked was the one to show Hildebrandt returned the keys. Anyway, it turned out Hildebrandt lived in Parkville the entire time and had no relationship with any Brannan Avenue tenants. Hildebrandt did not appear as a witness to explain this anomaly. It also came out that Hildebrandt is a friendly acquaintance of R. Podles. There was no "ledger" for 2623.

Again, the only eyewitness testimony comes from Crizer, Vrablic, and McVey. They testified consistently that Mary Moore ("Cookie") left 2623 with her kids in January, 2020 and that Stephanie Casey, along with her boyfriend and son, left 2621 in June, 2020. By the time of the renovation permit issuance in March, 2022, they would have been gone for approximately two years.

Suffice it to say the Order of Restitution for 2621 and Property Release Agreement for 2023 are unconvincing as to occupancy through the middle of 2021.

Discontinuance 2021-2023

Even if there were recent occupancy through the middle of 2021, there has been more than a year of discontinuance since then. The desire to renovate does not toll the discontinuance period.

Their only counter or deflection from this point is their apparent claim that the property was effectively "destroyed by fire or other casualty," and they were restoring it. We deal with that below.

Use/Occupancy vs. Leasehold/License

The evidence of lease status was skimpy. But even if we assume there were leases in place after the departure of Cooke and Stephanie in 2020, that would not amount to a continuance of the use. The same goes for licensing status.

The Court of Special Appeals addressed the licensing issue in Mayor and City Council of Baltimore v. Dembo 123 Md. App. 527, 543-43 (1998). The city contended that the failure of Dembo to secure the relevant license for an adult entertainment business effectively amounted to an abandonment of the nonconforming use. The Court discussed in detail the different functions of zoning and licensing. Accordingly, the failure to get a license in timely fashion did not prove the zoning status of the use.

Conversely, even if EWT still had an apartment license in recent years, it would not prove occupancy. These are separate issues.

The Baltimore County rental registration or license legislation covers two apartments. Bill 87-07; County Code Article 35, Sec. 35-6-103: "Six or less dwelling units." The approved licenses are posted on the county Rental Housing Registration website. As reflected in the July/August, 2020 R. Podles, agent license, the licensing criteria relate to health, safety, and utilities, not to occupancy. Anyway, there is no evidence as to the previous licensing status.

The same logic goes for leasing status. The zoning issue relates to use, not the existence of a lease.

Use/Occupancy vs. Physical Facilities/Utilities

Correlatively, the continued existence of physical facilities and utilities suitable to apartment use does not translate to proof of use. This distinction is emphasized in the following CBA) opinions, attached: Tek Seng Leong, 99-338-SPHS (2001) and Jeanette and William Clark, 01-025-SPH (2002).

In Leong, for a 3-apartment request on the .38-acre property zoned D.R. 5.5, the CBA wrote, Page 5:

> **"The operative word here is 'use.' It is not enough to prove that 'structures' existed on the site for the requisite time period.** There was credible evidence that there have been two tenants since 1953 as noted in Mr. Schafer's letter (Petitioner's Exhibit No. 9), which stated that there were two apartments in the house but did not mention a tenant in the cottage. This was supported by the testimony of Mrs. Eickerson, who has lived there since 1957. The Baltimore Metropolitan documents (Petitioner's Exhibits 7 and 8) reflected activity between 1966 and 1972. Petitioner's Exhibit 8 reflects that a permit was issued and a new sewer was constructed in October, 1966, and as a result there was a new sewer charge for three apartments at $22.00 each. Noting relates to any activity prior to 1955. The Board concludes that the Petitioner has not met the burden to prove that three units existed prior to 1955." Emphasis supplied.

In Clark, a two-family request on .2 acre zoned R.O./D.R.5.5, the CBA wrote, Pages 3-4,

> "Based upon the testimony presented in support of the Petition for Special Hearing, the Board unanimously finds that the burden of proof rests upon the property owner pursuant to the requirements set forth in Sec. 104 and the applicable case law have not been met. **Although there is certainly some evidence and testimony that the premises may have been set up to include multiple apartments, the burden has not been met to establish that the use of the property for multiple dwellings has continued uninterruptedly and without discontinuance or abandonment since 1955, Therefore, the Petitioners' request is denied.**" Emphasis supplied

Destruction/Razing --- No "Fire or other casualty"

There was a decision made to renovate the premises, mainly the second floor and roof, by March, 2022. That is when the first permit was issued. In the course of that work, the contractors came across rotting wood. There was the subsequent inspection by William Adams. These led to the decisions to raze the building, improve the foundations, and build a new dwelling.

R. Podles says water was found. But there was no documentation, and there were no photos. The location and amount of water are unknown. To what extent and how, if at

all, water contributed to deterioration of the building and foundation are all purely speculative.

Anyway, there was then the further decision to build a new upgraded dwelling. Then Nguyen prepared the plans, including the addition of a second-floor cantilever area, a first-floor porch, a higher sloped roof, and more modern, attractive materials.

This brings us to the question of whether "fire or other casualty" proximately caused or required the destruction of the premises.

Statutory construction begins with a linguistic analysis. Again, we look to Webster's Third New International Dictionary. We provide the definitions of casualty, accident, and occurrence. We include the last two because they are included prominently in the definition of casualty.

> Ca-su-al-ty – 1. archaic: CHANCE, FORTUNE, losses that befall them by mere ~ - Walter Raliegh> 2 a.: an unfortunate occurrence: MISCHANCE <yielding to the casualties of trade _ H.S. Canby> b: serious or fatal accident: Disaster <casualties at sea during the storm> <losses from fire, storm, or other ~ _ J.S.Seidman> 3 [trans. of ML casualtias] a: a causal charge or payment b *Scots law*: a payment demandable by a superior from his tenant upon the happening of various uncertain events as distinguished for example from a payment at a certain time (as rent) 4: a person lost to a command through death, wounds, injury, sickness, internment, capture, or through being missing in action <casualties were heavy> 5 a: injury or death from accident b: one injured or killed (as by an accident)<the dog was a traffic~> 6: a person or thing that has failed, been injured, lost, or destroyed as a result of uncontrollable circumstance or of some action: VICTIM <the ex-senator was a ~ of the last election><the factory was a ~ of the recession>
>
> 2.Cas-su-al-ty\var of CASALTY

> "Ac-ci-dent\: 1a: an event or condition occurring by chance or arising from unknown or remote causes (by the ~ that it was observed and noted down – Havelock Ellis) (happenings outside the range of probability which we would form historical ~s ~M.I. Horskovits) b: lack of intention or necessity: CHANCE – often opposed to design <by ~ rather than with an intention to utilize – Arnold Bennett> c: an unforeseen unplanned event or condition <by a charming ~ he had disposed of them to a chance buyer – Arnold Bennett> 2a: a usu. Sudden event or change occurring within intent or volition through carelessness, unawareness, ignorance, or a combination of causes and producing an unfortunate result <a traffic ~ in which several persons were injured> b: an unexpected medical development esp. of an unfavorable or injurious nature occurring in apparently good health or during the course of a disease or a treatment <the paralytic ~ occurred between the 8th and 21st day after the initial injection – Jour. Amer. Med. Assoc.><a cerebral ~> c: an unexpected happening causing loss or injury which is not due to any fault or misconduct on the part of the person injured but from the

consequences of which he may be entitled to some legal relief. 3: an adventitious characteristic that is either inseparable from the individual but not the species: broadly: any fortuitous or non-essential property, fact or circumstance <~ of appearance> <~ of reputation><~of situation> 4: an irregularity of a surface (as of the moon) syn see CHANCE, QUALITY"

"Oc-cur-rence \; something that takes place: exp: something that happens unexpectedly and without design: HAPPENING <a happy ~><a disastrous ~><an unusual ~> 2a: the action or process of happening or taking place <the ~ of a genuine dispute __ R.M.Dawson) b: the action or process of being met with or coming into view: APPEARANCE <the ~ of mammal remains falls sharply throughout the summer-Ecology><a fish of regular ~ along the southern coast of California>: the fact of being met with or of taking place 3: the presence of a natural form or material at a particular place: also: the mineral, rock, or deposit thus occurring <evidence of oil ~ > <the ~ of shallow coal beds in this region> 4: the occurring of Christian festivals syn INCIDENT, EPISODE, EVENT, CIRCUMSTANCE: OCCURENCE is a general term for taking place or happening and lacks much connotational range: it may suggest a happening without plan, intent, or volition <occurrences which we not only do not, but cannot perceive – Bernard Russell> INCIDENT may suggest either a trivial happening unworthy of attention or a more consequential or unusual happening having some effect <his unexpected appearances and disappearances were incidents in the house – Will Cater><the facility for myth…seizes with avidity upon any incidents, surprising or mysterious – W.S. Maugham> EPISODE stresses the motion that the occurrence in question has an apartness or unity by itself, with no implication about the significance or lack of it of the occurrence (the dumb creation lives a life made up of discrete and mutually irrelevant episodes – Aldous Huxley> EVENT is more likely than others in this set to suggest a happening or occurrence of moment or significance or a happening logically ensuing from or giving rise to another happening <assassination was an event or daily occurrence –T.B.Macauley>< it is, in fact, almost a routine incident in a distinguished career. In the case of Mark Twain, it became a historic event – Van Wyck Brooks> <events acting upon us in unexpected, abrupt, and violent ways – John Dewey> CIRCUMSTANCE in the general sense here involved indicates specific or detailed incident <stood reflecting on the circumstances of the preceding hours – Thomas Hardy>"

We also looked at Black's Law Dictionary (10th Ed. 2014):

Casualty (15c) 1. A serious or fatal accident. 2. A person or thing injured, lost or destroyed.

Accident

"accident, n. (14c) 1. An unintended and unforeseen injurious occurrence; something that does not occur in the usual course of events or that could not be reasonably anticipated; any unwanted or harmful event occurring suddenly, as a collision, spill, fall, or the like, irrespective of cause or blame <the accident was staged as part of an insurance scam>. 2. Equity practice. An unforeseen and injurious occurrence not

attributable to the victim's mistake, negligence, neglect, or misconduct; an unanticipated and untoward event that causes harm."

Occurrence

"occurrence, (1978) Something that happens or takes place; specif., an accident, event, or continuing condition that results in personal injury or property damage that is neither expected nor intended from the standpoint of an insured party. • This specific sense is the standard definition of the term under most liability policies."

The gist of these definitions is that a casualty, accident, or occurrence conveys the meaning of a discrete event, as opposed to a gradual process. The combination of the preceding word "fire" corroborates and reinforces this meaning.

The Court of Special Appeals interpreted "casualty" in this manner in Ewing v. Price 60 Md. App. 313, 319-22 (1984). This involved Baltimore County legislation which controlled the relocation of towing businesses. The court cited a variety of cases which focused on the accidental, unexpected, and sudden nature of casualties. Judge Garrity wrote, 60 Md. App. at 320-21,

> "Most of the cases interpreting the term, "casualty," involve determinations as to whether a taxpayer can take a deduction arising from a casualty. In *United States v. Rogers,* 120 F.2d 244 (9th Cir.1941), the Court said that "casualty" may properly be used in the sense of "accident," and that an accident is "an event that takes place without one's foresight or expectation; an undesigned, sudden, and unexpected event." *Id.* at 246. Similarly, the Court in *Fay v. Helvering,* 120 F.2d 253 (2d Cir.1941), stated that the word "casualty" denotes "an accident, a mishap, some sudden invasion by a hostile agency." *Id.* at 253. In *Tank v. Comm. of Int. Rev.,* 270 F.2d 477 (6th Cir.1959), the Court permitted the taxpayers involved to take a deduction for a casualty loss for damage to the taxpayer's house due to a sudden slippage of land toward a river adjoining the taxpayer's property. In its opinion, the Court noted that the term, "casualty," has been defined as "an accident resulting from an unknown cause and occurring unexpectedly, suddenly, without being foreseen and without design." *Id.* at 482."

The Court then held the loss of a lease is not a casualty loss which would exempt the license from showing need for its proposed relocation.

Simply put. there is no evidence whatsoever of any "fire or other casualty." Even if there were proof that water contributed significantly to rot any wood, so as to warrant demolition, this would not constitute a casualty. This would just be normal wear and tear. Anyway, there is no such evidence.

The nonconforming use law context is in accord. The purpose is to eliminate nonconforming uses in good time. Their eventual deterioration does not signal a time for renewal, but rather the emergence of a legal use.

Correlatively, the general rule also is that a voluntary demolition of a structure terminates the nonconforming use. 4 Rathkopf's The Law of Zoning and Planning Sec. 7:5 (4th Ed.) and 2 American Law of Zoning Sec. 12:20 (5th Ed.). It would not matter if the discontinuance of the previous nonconforming use occurred one week, one month, or any other time before the demolition.

The destruction of the premises is thus another ground to terminate the nonconforming use. Here, there was apparently the gradual deterioration of a very old house. This led to the decision to raze the premises. This did not result from a casualty.

Restoration vs. Enlargement

While not massive, the planned renovation did involve a degree of enlargement. These were the cantilevered second floor addition, first floor porch, and higher sloped roof. These exceed the scope of "restoration." They also provide more evidence that the entire process was voluntary and not due to casualty.

Mistakenly Issued Permits Do Not Afford Vested Rights

It appears that Jeffrey Perlow initially passed on the October, 2022 building permit based on incomplete and/or errant information. Anyway, 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. 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). The case law explains in depth the strong public policy reasons for this rule.

Conclusion

For all the above reasons, the Petition for Special Hearing should be granted. The County Board of Appeals should effectively affirm ALJ Mayhew's Order.

The Board should issue a declaration and determination of rights, as follows:

1. The non-conforming use authorized in Case No. 2004-567-SPHA has lapsed and is legally terminated.

2. Only one single family dwelling shall be permitted on the subject site and that dwelling must conform to all current zoning and development regulations."

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of October, 2023, a copy of the foregoing People's Counsel for Baltimore County's Post-Hearing Memorandum was emailed to Timothy Manuelides, Esquire, Esquire, Timothy Manuelides, LLC, 600 Washington Avenue, Suite 202, Towson, Maryland 21204, tmanuelides@tmlaw-llc.com, Attorney for Property Owner and Arnold Jablon, Esquire, 3717 Lanamer Road, Randallstown, Maryland 21133, ajablon@comcast.net , Attorney for Petitioner(s).

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

IN THE MATTER OF WILLIAM M. LAGNA – Legal Owner/Petitioner 3920, 3922, 4000 AND 4002 CHESTNUT ROAD BALTIMORE, MD 21220	*	BEFORE THE BOARD OF APPEALS FOR
RE: Petition for Special Hearing to approve the legal non-conforming status of an existing private boat club with piers and 3 existing single family dwellings	*	BALTIMORE COUNTY Case No. 12-239-SPH

* * * * * * * * * * *

OPINION

This case comes to the Board on appeal of the final decision of the Office of Administrative Hearings in which the Administrative Law Judge ("ALJ") denied the Petitioner, William M. Lagna's request for Special Hearing pursuant to Baltimore County Zoning Regulations ("B.C.Z.R.") §500.7 ("Lagna") to approve the legal non-conforming status of a private boat club with piers and 3 existing single family dwellings.

A hearing was held before this Board on February 5, 2013 and on April 17, 2013. The Petitioner was represented by Michael McCann, Esquire and Peter Max Zimmerman, People's Counsel for Baltimore County participated. A public deliberation was held on July 16, 2013.

Procedural History

The request for relief here was initiated as a zoning violation case (Civil Citation No. 103205) in which Mr. Lagna was given 90 days to obtain non-conforming use status of his Property as a "boat club." (PC. Ex. 3).

Facts and Evidence

The property owned by Mr. Lagna is located on the point of peninsula in the Bowleys Quarters area and fronts the water along Seneca Creek (the "Property" or the "Lagna Property"). He purchased it with his wife on January 11, 1994. (People's Counsel Ex. 4A). The zoning for the Property is RC5 which permits one dwelling unit per 2 acres, with a minimum lot size of 1.5 acres.

According to a Subdivision Plat of 1921, the Property was separated into four (4) lots (Lots 124, 125, 126 and 127). (Pet. Ex. 15). Each lot has a separate address. The Property is improved with four (4) buildings/homes which straddle and cross the lot lines. (Pet. Ex.1 and 2). There are two (2) piers located on the western side of the Property. One is located toward the northern portion and the other is located toward the southern portion.

Mr. Lagna testified that the 2 bungalow style frame houses known as 3920 and 3922 Chestnut Road were constructed in or about 1934 and straddle the lot line separating Lots 124 and 125. There is a larger house known as 4000 Chestnut Road which straddles the lot lines between Lot 125 and 126. The last building is known as 4002 Chestnut Road and straddles the lot line separating Lots 126 and 127. All 4 lots together measure less than one (1) acre.

In support of his case, Mr. Lagna produced a photograph of a sign which says "Lauraville 1937 Swim & Boat Club." (Pet. Ex. 6). Another photograph showed a wall with an emblem for the "Seneca Creek Mariners Club" with the date 1963 ("SCMC"). (Pet Ex. 4). A copy of the 1990 Roster for the SCMC was also produced. (Pet. Ex. 7). A

photograph of a hat embossed with "Seneca Creek Maritime Club" was viewed. (Pet Ex. 12).

Similarly, Mr. Lagna produced a list of current members of the SCMC which consisted of 11 people - one of whom was Mr. Lagna, 3 of whom are related to Mr. Lagna and 1 is Mr. Lagna's tenant, Ron Robbins. (Pet. Ex. 8). The remaining 6 members were friends of Mr. Lagna. We were provided the front side of a check dated January 3, 2013 for $200.00 from 1 member which indicates that the check is for "boat club use." (Pet. Ex. 9). Mr. Lagna testified that Hurricane Isabel destroyed any other documents supporting the boat or swim club.

Mr. Lagna does not carry insurance for the club. There is no separate bank account or license for the club. He filed tax returns but claimed the boat club as a business use. No corporation or legal entity was formed. There is no advertising and no website for the club.

Mr. Lagna admitted that in 1993 he stored 5-8 boats on the Property. Today, he said that he stores 23 boats which are all owned by him (19 of which are over 16 feet in length and 10 of which are under 16 feet) and 2 boats stored there are owned by Ron Robbins. Mr. Lagna also rents the houseboat to Ron Robbins which is docked at the pier.

The Board heard testimony from various witnesses as to the historical use of the Property. Jerry Wisner, 3910 Chestnut Road, testified that his family has owned his property since 1921 and that he has lived there all his life. His home is located one lot away from the Lagna Property. (Pet. Ex. 1A). He testified that from the 1950's through 1980's the 2 bungalow houses on the Property were rented. The white bungalow known

as the "Hudson House" was a year round rental. The brown bungalow known as the "Grogan House" was rented during the summer. Boats were not stored on the bungalow section of the Property while those houses were rented between 1950-1980.

Mr. Wisner testified that the bungalows have been vacant for the past 15 to 20 years but the larger/main house is currently being rented. He further testified that in the last ten (10) years, Mr. Lagna has docked a house boat at northernmost pier. He observed that the pier is missing a 12-14 foot section in the middle. (T. 91-94). Mr. Lagna extended the length of the pier located closest to the southern end of the Property. In addition, the Property currently stores at least thirty (30) boats which never move off the Property along with large pontoon-type equipment used to tow boats and trailers.

As to a social club or boat club, he testified that there has not been any social activity evidencing a club in years. Previously, he mentioned that between 1950 through 1980 the Property was used as a social gathering place but never as a boat club. At most, 2 to 4 boats were docked at the northern pier during that time period. While Mr. Lagna added a boat ramp in the late 1990s, no boat ramp existed during the period of a social club.

The Board also heard from Sandy Walter who owned 4004 Chestnut Road for years before selling it last year. Her great-grandfather is the original owner of the Lagna Property and her father, Foster W. Wright, Jr. sold it to Mr. Lagna and his wife on January 11, 1994. (P.C. 4A). During her ownership of 4004, she used her home during the summer months.

During the last 19 years, she has observed the buildings on the Lagna Property deteriorate. Boats and trailers cover the Property in addition to scrap metal, wood and rusted pontoons. She counted 30 boats in all. She has never witnessed any party, gathering, social club activity or meetings during weekends in the summers. In her words, the "only sign of life" on the Property is the tenant Ron Robbins and occasionally Mr. Lagna and his daughter would go out on a boat. But other than that, the Property is "dormant" on weekends. As to the past use as a boat club, she testified that there was never a "boat club." The Property was used for social gatherings and picnics.

Charles Baynes lives at 4006 Chestnut Road which is next to Sandy Walter's former home and 2 properties over from the Lagna Property. He is Sandy Walter's second cousin. When his grandfather owned the Lagna Property, Mr. Baynes would collect rent from the Hudson and Grogan families. The renters were gone before Mr. Lagna purchased the Property. As for club activity, he remembers that a "men's club" operated out of the main house between Memorial Day through Labor Day. This consisted of cookouts or parties on weekends prior to Mr. Lagna's ownership. There was at best a couple of small motor boats during that time. He was adamant that there has never been a "boat club" on the Property.

Mr. Baynes corroborated the testimony of Jerry Wisner and Sandy Walter that since Mr. Lagna's purchase in 1994, there have not been any social or club activities of any kind. He has observed that Mr. Lagna has accumulated and stores boats all over the Property.

The Board also heard from Carl Rossmark who purchased 4004 Chestnut Rd. from Sandy Walter last year. He grew up in the neighborhood and as a boy played on the Property located across from the Lagna Property known as 3916 Chestnut Road. (Pet. Ex 1B). He corroborated the testimony of the other neighbors that there would be an occasional cookout on the Property along with a boat. In the 1980s he saw some boats in the water. There were never any boats stored on the land as there are now.

He said that there has never been a boat club on the Property. If there was a boat club, he would have known about it. He testified that other than Mr. Lagna and Ron Robbins, there is no one else on the Property

Since Mr. Lagna's purchase, Mr. Rossmark has witnessed the degradation of the buildings on the Property. As a licensed home improvement contractor, Mr. Rossmark noticed that concrete blocks are holding up the front of the main house. Sections of the roof have been missing for years and the ceiling is hanging down. He believes that it is not safe to enter the building or to walk on the front porch. The piers are falling down as sections of the horizontal walkway are missing.

Mr. Rossmark also expressed his concerns about potential fire hazards. He sees oil and gas exposed without appropriate safety covers. Additionally, he feels that, in the event of a fire, the fire department would not be able to access the buildings as the houses are surrounded by boats and trailers. He has also observed vehicles routinely blocking the road.

The Board heard from David Hash, 3804 Chestnut Rd. Mr. Hash has lived there for 27 years. He testified both individually and as Member of the Board of Directors of

the Bowleys Quarters Improvement Association ("BQIA"). The BQIA consists of 160 paying members. The BQIA is concerned about the dereliction of the Lagna Property and accumulation of boats that remain on the Property. He recalls in that in the 1980s there would be 2 boats at most at the Property. Today, Mr. Lagna has accumulated 30-35 boats.

Personally, Mr. Hash owns a boat which he uses on Seneca Creek. During his travels, he has personally observed the Lagna Property both before and after Mr. Lagna's purchase in 1994. In the last 10-15 years, he has not observed any boat club type activities.

Mr. Hash produced for the Board a book of photographs of the Lagna Property as it exists today. (PC Ex. 16 A–N). Photograph 16A shows the main house and supports Mr. Rossback's testimony that cinder blocks support some or all of the main house as well as the collapsed roof and overall deterioration of that structure. Photograph 16E shows unused trailers, a large metal wheel as well as a collection of unidentifiable items both outside in the yard and underneath a large structure. A 1995 aerial photo shows 2 boats on the property. (PC. Exh. 16B). In contrast, a 2012 aerial reveals at least 30 boats on the Property. The broken pier is revealed in Photograph 16m.

Robert Palmer of 412 Armstrong Road is the owner of the Trade Winds Marina in Bowleys Quarters. He explained that he worked with former Councilman Vincent Gardina on surveying the Bowleys Quarters area for the purpose of creating the business/maritime zones. The creation of these zones removed marinas from residential areas.

The Law

1. Non-conforming Uses.

BCZR §500.7 provides that a special hearing will be held for any interested person to petition the Zoning Commissioner to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property.

BCZR, §101.1 defines a "nonconforming use" as:

> Nonconforming Use
>
> A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use.

BCZR, §104.1 provides how a nonconforming use can expire:

> Continuation of nonconformance; exceptions.
>
> A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate.

BCZR 104.1 allows nonconforming uses to exist unless changed, abandoned or discontinued. The burden of establishing a nonconforming use is on the Petitioner. Such burden can be satisfied by showing that the use in question was well known throughout

the neighborhood at the pertinent time. *Calhoun v. County Board of Appeals*, 262 Md. 265 (1971). Mere change in ownership does not destroy the nonconforming use. *Green v. Garrett*, 192 Md. 52 (1949). The nature and extent of the use has to have remained unchanged and substantially the same facilities have to be used throughout the years in question. *Kastendike v. Baltimore Association for Retarded Children*, 267 Md. 389 (1974).

In *Arundel Corp. v. Board of Zoning Appeals of Howard County*, 255 Md. 78 (1969), the Court of Appeals held that the use of the subject property as a quarry could not be regarded as a valid nonconforming use, although existing at the time of the adoption of a new comprehensive zoning, where such use prior to the adoption of the comprehensive zoning regulations was neither a permitted use nor a valid nonconforming use.

The policy of the law is to eliminate nonconforming uses over time. *County Council of Prince George's County v. E.L. Gardner, Inc.* 293 Md. 259, 267-68 (1982) states:

> This Court has repeatedly recognized that one of the fundamental problems of zoning is the inability to eliminate incompatible nonconforming land uses. In *Grant v. Mayor and City Council of Baltimore,* 212 Md. 301, 307, 129A.2d 363, 365 (1957), this Court said:
>
> "Nonconforming uses have been a problem since the inception of zoning. Originally they were not regarded as serious handicaps to its effective operation; it was felt they would be few and likely to be eliminated by the passage of time and restrictions on their expansion. For these reasons and because it was thought that to require immediate cessation would be harsh and unreasonable, a deprivation of rights in property out of proportion to the public benefits to be obtained and, so, unconstitutional, and finally a red flag to property owners at a time when strong opposition might have jeopardized the chance of any zoning,

> most, if not all, zoning ordinances provided that lawful uses existing on the effective date of the law could continue although such uses could not thereafter be begun. Nevertheless, the earnest aim and ultimate purpose of zoning was and is to reduce nonconformance to conformance as speedily as possible with due regard to the legitimate interests of all concerned, and the ordinances forbid or limit expansion of nonconforming uses and forfeit the right to them upon abandonment of the use or the destruction of the improvements housing the use."
>
> Thus, this Court has recognized that the problem inherent in accommodating existing vested rights in incompatible land uses with the future planned development of a community is ordinarily resolved, under local ordinances, by permitting existing uses to continue as nonconforming uses subject to various limitations upon the right to change, expand, alter, repair, restore, or recommence after abandonment. Moreover, this Court has further recognized that the purpose of such restrictions is to achieve the ultimate elimination of nonconforming uses through economic attrition and physical obsolescence. *The Arundel Corp. v. Board of Zoning Appeals of Howard County,* 255 Md. 78, 83-4, 257 A.2d 142, 146 (1969); *Stieff v. Collins,* 237 Md. 601, 604, 207 A.2d 489, 491 (1965); *Colati v. Jirout,* 186 Md. 652, 655, 657, 47 A.2d 613, 614-15 (1946); *Beyer v. Mayor of Baltimore,* 182 Md. 444, 446, 34 A.2d 765, 766 (1943); *See Kastendike, supra,* 267 Md. 397.
>
> Whether a nonconforming use can be changed, extended, enlarged, altered, repaired, restored, or recommenced after abandonment ordinarily is governed by the provisions of the applicable local ordinances and regulations. *Feldstein v. La Vale Zoning Board,* 246 Md. 204, 211, 227 A.2d 731, 734 (1967); *Phillips v. Zoning Comm'r of Howard County,* 225 Md. 102, 109, 169 A.2d 410, 413 (1961); *Board of Zoning Appeals of Baltimore County v. Gue,* 217 Md. 16, 21-22, 141 A.2d 510, 513 (1958). These local ordinances and regulations must be strictly construed in order to effectuate the purpose of eliminating nonconforming uses. *Mayor of Baltimore v. Byrd,* 191 Md. 632, 638, 62 A.2d 588, 591 (1948); *Colati,* 186 Md. at 658-59, 47 A.2d at 616; *Knox v. Mayor of Baltimore,* 180 Md. 88, 96, 23 A.2d 15, 18 (1941); *see City of Hagerstown v. Wood,* 257 Md. 558, 563, 263A.2d 532, 534 (1970); *Hewitt v. County Comm'rs of Baltimore County,* 220 Md. 48, 59, 151 A.2d 144, 150 (1959).

The law does not favor a change in the nonconforming use by a kind of "creeping" process. *Phillips v. Zoning Commissioner or Howard County* 225 Md. 102 (1961). A property owner must prove both continuity and persistence of the same nonconforming use. A change or extension may come quickly or slowly. *Calhoun v. County Board of*

Appeals of Baltimore County 262 Md. 265 (1971). In general, the law does not favor nonconforming uses and contemplates their gradual disappearance. *Gardner*, *supra.*

2. Zoning Merger.

The merger of lots for zoning purposes occurs when one lot is used in service to another lot and both lots are held under common ownership. *Remes v. Montgomery County*, 387 Md. 52, 64 (2005). Merger is derived from the common owner's intent as evidenced by "integra[ting] or utilize[ing] the contiguous lots in the service of a single structure or project...." *Id.* at 65. Intent is to be derived from the facts. *Id.*

In *Remes*, the Court of Appeals emphasized that each case must be examined on its own facts. The facts which swayed the Court of Appeals in finding merger was that the owners received a building permit to construct a swimming pool on the vacant lot as "an accessory use to their home on Lot 12;" the swimming pool violated the prescribed setbacks from the street and from the adjoining lot (unless the swimming pool was dedicated to the improved lot); the owners received a building permit to construct an addition on the house which encroached upon the vacant lot's setback requirements; there was a circular driveway that traversed both lots; and, for over 30 years, the lots had been assessed for tax purposes as one lot.

The *Remes* Court explained that the setback encroachments were significant in finding merger:

> Thus, even if the elder Duffies might have imagined that Lot 11 would "absorb" the setback deficiencies by their Lot 11 pool and Lot 12 home additions, the

> setback requirements delineated in Montgomery County's zoning ordinance prohibit such adjacent lot encumbrance and Lot 11 never actually fulfilled this role in service of Lot 12. What respondents fail to acknowledge is that the zoning merger that occurred in this case forestalled the creation of a nonconformity on Lot 12. Without the use of Lot 11 as accessory to Lot 12, the uses of both lots would have violated the zoning ordinance.

Id. at 73.

Decision

1. Non-conforming Use as a Boat Club.

After reviewing all of the testimony and evidence presented, the Board has determined that Mr. Lagna's storage and collection of his boats on his Property does not qualify as a non-conforming existing boat club. In this Board's view of the evidence, Mr. Lagna did not provide evidence that a boat or swim club has existed on the Property since 1937. Even if the evidence showed such use continuously since 1937, Mr. Lagna failed to prove that a boat club has existed since 1994.

We were provided only scant information as to the nature or extent of either the Lauraville Swim and Boat Club or the Seneca Creek Maritime Club as either may have originated or existed in the 1930s or 1960s. There was no testimony by anyone with knowledge for either club of: the activities of either club; the years in existence; whether the use was as a boat club, swim club or men's club or some or all of those; whether the use(s) existed continuously and without interruption for 1 year; the number boats on the Property; the location of boats on the Property; the membership payments; or the

organizational structure of the club(s). More importantly, there was no evidence presented as to whether either of these clubs existed continuously without interruption between the 1937 (Lauraville Swim Club) or later from 1963 (SCMC) until Mr. Lagna's purchase in 1994 as required by BCZR 104.1.

Even if we were convinced that a boat/swim/men's club was conducted at the Property between 1937 or 1963 through 1994 when Mr. Lagna purchased the Property, the evidence produced by Mr. Lagna was that the club was abandoned in 1993 and therefore the use was extinguished even before Mr. Lagna's purchase in 1994. (Pet. Ex. 11).

Even if the club(s) were not abandoned, we do not find, based on the evidence, that Mr. Lagna has been operating a boat club on the Property without any cessation or abandonment of activities for one year or longer since 1994. He did not produce any evidence from the community that a boat club has ever existed at the Property between 1994-2013. Credible testimony from neighbors who have lived in the neighborhood for decades was provided – that no club of any kind has existed at the Property since Mr. Lagna's purchase. The testimony was that, other than Mr. Lagna and his daughter taking an occasional boat out, the Property is dormant on the weekends, with "no signs of life." We would expect that a boat club would be the most active on weekends during summer months. Moreover, the deterioration of the main house and piers supports this testimony as neither the building or piers are safe for conducting any club activities.

We would also expect that if a boat club had existed since 1994, evidence would have been presented of the organizational structure of a corporation which entity would

be filing its own tax returns. Instead, Mr. Lagna has been claiming either a profit or loss for a combination of "boat club, rentals and internet security products." (Pet. Ex. 13). In further examining his Schedule Cs, we note that in 2005, he fails to list "boat club" but files the Schedule for "real estate rentals, internet, marina". We find this to be an admission by Mr. Lagna that any "boat club" use by him terminated in 2005.

Further examination of his 2007 Schedule C reveals that Mr. Lagna does not list "boat club" but rather he continues to identify his business as a "marina." As pointed out by People's Counsel, while the RC 5 zone initially allowed marinas and boatyards by special exception, that use was repealed shortly after the 1972 enactment of the business maritime zones.

This Board would also expect that a boat club would have insurance, a separate bank account, advertisements or a website, or at least a sign on the Property notifying people of its existence. We would expect that it would be common knowledge in the neighborhood if a boat club really existed. We considered the evidence presented in light of the fact that the request here was to legitimize a non-conforming which arose out of a zoning violation. Had the operation of a boat club on the Property been the goal, we believe that Mr. Lagna would have sought approval of a non-conforming use in 1994.

Finally, even if the facts proved Mr. Lagna's intent to operate a boat club, we find that his current use is an intensification and change from the original boat, swim and/or men's club. By the aerial photos, we can see the increase in the number of boats stored all over the Property. (People's Counsel Ex. 1B, 16B and 16C).

For all the foregoing reasons, we find that Mr. Lagna's use of the Property does not satisfy the non-conforming use standard.

2. Merger of 4 Lots

Under the present RC5 zoning, BCZR §415A permits only one recreational boat for each lot occupied by a single-family detached dwelling, except for boats under 16 feet which may be kept if not mounted on a trailer. It reads as follows:

> Contrary provisions of these regulations notwithstanding, one recreational vehicle may be stored on a residential lot as set forth below. Such vehicle, except a truck camper, shall have a current license, may not be lived in, or otherwise occupied, when stored on a lot and shall be mechanically ready to be moved at any time. A recreational boat, whether mounted on a trailer or stored on land with or without the use of supports, is subject to these provisions. A boat less than 16 feet in length is not subject to these provisions, except when such boat is mounted on a trailer. The space occupied by such a recreational vehicle or boat may be counted as a required parking space.
>
> > A. On a lot occupied by a single-family detached or semi-detached dwelling, one such vehicle may be stored 2 1/2 feet from any rear or side lot line; however, when in a side yard it must be situated at least eight feet to the rear of a lateral projection of the front foundation line of the dwelling. Such vehicle may be stored in any garage.

Piers are restricted under §415.A.2 which provides:

> A residentially used or vacant residentially zoned waterfront lot shall have no more than one pier (whether fixed or floating). As of November 15, 1993, the number of boats, not including those smaller than 16 feet, permitted to be stored at a pier, slip, buoy or any other mooring device in the water at such a lot shall be limited in accordance with the following schedule:

Waterside Lot Line	Number of Boats Permitted
0 to 50 feet	4
51 to 100 feet	5
Over 100 feet	6

Applying the holding in *Remes*, Mr. Lagna owns all 4 lots. Other than Ron Robbins who has been renting one of the bungalows since 1995, the other buildings on the Property have not been occupied since Mr. Lagna's purchase in 1994. Mr. Lagna has continued to live at 221 Bowleys Quarters Road. Even if Mr. Lagna wanted to rent the main house, the photographs reveal that it is not habitable. (People's Counsel Ex. 16A). The 4 buildings are not contained within the 4 lot lines. (Pet. Ex. 2). As set forth herein, buildings straddle the lot lines. *Id.*

Mr. Lagna's storage of boats across the 4 lots is indicative of his intent to integrate and use the lots as one single property. There was no evidence presented that since Mr. Lagna's purchase, there has been any separation of the four lots for residences or other uses.

Consequently, applying *Remes* to the facts of the present case, we find that based on the evidence, the 4 lots have merged into one single property for zoning purposes. Accordingly, under BCZR §415.A, Mr. Lagna is entitled to store 1 recreational boat on the Property with the exception of boats under 16 feet in length unless such boat is

mounted to a trailer. Under BCZR, 415.A.2, the Property shall have no more than one pier.

ORDER

THEREFORE, IT IS THIS 12th day of September, 2013 by the County Board of Appeals of Baltimore County,

ORDERED that the Petition for Special Hearing seeking relief pursuant to §500.7 of the Baltimore County Zoning Regulations to approve a legal non-conforming status of an existing private boat club with piers and 3 existing single family dwellings, be, and the same is hereby, **DENIED;** and it is further,

ORDERED that the 4 lots have merged into one single Property for zoning purposes; and it is further,

ORDERED that the Petitioner shall comply with BCZR §415 with regard to the number of boats and piers permitted for one single Property.

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

Maureen E. Murphy

Wendell H. Grier

2016 WL 327029

Only the Westlaw citation is currently available.
*UNREPORTED**
Court of Special Appeals of Maryland.

William LAGNA
v.
PEOPLE'S COUNSEL for
BALTIMORE COUNTY.

No. 0036, Sept. Term, 2015.
|
Jan. 27, 2016.

WOODWARD, ARTHUR, and ROBERT A. ZARNOCH (Retired, Specially Assigned), JJ.

Opinion

ARTHUR, J.

***1** In an effort to legitimize out-of-water boat storage on his residentially-zoned property, landowner William Lagna petitioned to establish the right to use his property for a nonconforming use as a "private boat club." Both the Baltimore County Office of Administrative Hearings and the Baltimore County Board of Appeals denied his request after hearings. The Circuit Court for Baltimore County affirmed the Board's decision. Concluding that there is no basis for reversal, we affirm the judgment.

Factual and Procedural Background

A. *The Lagna Property*

This case concerns a waterfront property, slightly less than one acre in size, along Seneca Creek in the Bowley's Quarters area of eastern Baltimore County. Lot lines originally platted in the 1920s run north and south, dividing the property into four narrow lots. The original owners of the four lots disregarded those divisions and built four structures, each straddling the interior lot lines.

Two bungalow-style dwellings stand near the southern property line along Chestnut Road. A larger house is located closer to the northern property line along Seneca Creek. Another, smaller structure is located to the east of the main house.[1] Over time, the property's owners added a gazebo, a shed, a boat ramp, and two large piers extending from the western edge of the property into Seneca Creek.

In the early twentieth century, the property was used both for residential purposes and for recreational purposes. As was common for waterfront properties in the area during that time period, the property served as the site of a small private club. The Lauraville Boat and Swim Club first operated on the property in 1937, followed by the Blue Diamond Boat Club in or around 1952, and then the Seneca Creek Mariners Club in or around 1963. The popularity of water-oriented clubs in Bowley's Quarters declined significantly in the 1950s, after the opening of the first span of the Chesapeake Bay Bridge allowed direct driving access to the Eastern Shore.

Lagna and his wife purchased the property and its various improvements in January 1994. In the deed, the Lagnas affirmed: "the land conveyed in said Deed is residentially-improved owner-occupied real property and that residence will be occupied by us." Lagna, however, did not follow through on his plans to use the property as his residence. He continued to reside at an inland property.[2]

B. *Code Enforcement Action Against Lagna*

The zoning classification for Lagna's property is R.C.5, "Resource Conservation—Rural Residential." Under the Baltimore County Zoning Regulations ("BCZR"), the owner of R.C.5 property is permitted as a matter of right to use the property for a single-family detached dwelling. BCZR § 1A04.2(A). In the past, zoning regulations permitted owners to obtain a special exception to use R.C.5 property for boatyards or marinas, but those uses are no longer permitted in an R.C.5 zone even by special exception. *See* BCZR § 1A04.2(B).[3]

***2** The BCZR limits the number of boats and other recreational vehicles that may be stored on residential lots. *See* BCZR § 415A.[4] In 2011, a Baltimore County Code Enforcement Officer issued Lagna a citation for storing recreational boats on his property in excess of the maximum number of such boats permitted in an R.C.5 zone. An administrative law judge ("ALJ") of the Baltimore County Office of Administrative Hearings held a hearing regarding Lagna's "out-of-water boat storage on residential property" and his alleged "failure to cease operation of a Marina in [an R.C.5] zone—not allowed by Right or Special Exception[.]" In his defense, Lagna argued that the property historically served as the site of a "boat club" since before the initial adoption of zoning regulations in 1945. Lagna presented testimony and exhibits in an effort to show that various social and boat-related activities had continued on the property without interruption since 1937 under different club names.

On February 8, 2012, the ALJ issued written findings of fact and conclusions of law. The ALJ found: "Absent a ruling by an appropriate authority that the subject property is, in fact a permitted non-conforming use as a marina or other boat[-]related entity, the Inspector has established that the number of boats clearly stored on the site exceeded that permitted under its existing RC5 zoning." The ALJ imposed a penalty of $1,000 and ordered Lagna to bring his property in compliance with the zoning regulations. The ALJ suspended the penalty, however, and directed Lagna to file a petition for special hearing within 90 days "to determine and resolve the zoning use and status of the so-called 'Seneca Creek Mariners Club' property."

C. *Lagna's Petition for Special Hearing*

On March 3, 2012, Lagna petitioned for a special hearing to determine "the legal nonconforming status of an existing private boat club with piers & 3 existing single family detached dwelling[s] ." In an attachment to his filing, Lagna asserted "that the entire property was, and continues to be, mixed use residential with boat club and that the piers and boat ramp may be used by the four (4) residences ... and a private boat club with ... additional storage of boats on trailers up to the maximum allowed per lot for each of the four (4) residential lots."

As additional relief, Lagna asked for an order adjusting the interior lot lines. He attached a site plan with three alternative sketch plans, each of which would subdivide the property so that each of the four structures would be located on its own separate lot.

After review of Lagna's proposal, the Baltimore County Department of Planning recommended that his requests be denied. Based on aerial photographs from 2002, 2005, and 2008, the Department of Planning found that boat storage on Lagna's property had "intensified significantly from 2002 to the present." According to the Department's report, inspection of the property revealed that the accumulation of boats and trailers on the property gave it "the appearance of a commercial boatyard" which was "not compatible with the rural waterfront character of the surrounding residential community."

***3** After a hearing, an ALJ issued an opinion and order denying Lagna's petition. The ALJ concluded that, even though Lagna had offered some evidence that "at one time a men's club or boat club of some sort was conducted on the premises," he had not demonstrated that "that since 1993 he ha[d] consistently operated a 'boat club' on the premises, without a cessation or abandonment of activities for one year or longer[.]"

The ALJ also rejected Lagna's request for a lot-line adjustment on the grounds that a re-subdivision of the property was not the proper subject of a zoning hearing. The ALJ further wrote, "it would seem ... that if anything, the four lots owned by Mr. Lagna have merged under the doctrine of zoning merger, so as to create (for zoning purposes at least) one lot where there had been four."[5] Because the original developers of the property had disregarded the interior lot lines and testimony that Lagna had expressed his intention at the time he acquired the property to build a new home on the premises, the ALJ concluded that "the owners' intent was to treat the property as a single lot." Accordingly, the ALJ determined that Lagna was required to comply with the boat storage restrictions for a single waterfront lot as set forth in BCZR § 415A.

D. *Hearing Before the Baltimore County Board of Appeals*

Lagna appealed from the ALJ's decision to the Baltimore County Board of Appeals. The Board heard the matter de novo on February 5, 2013, and April 17, 2013.

At the hearing, Lagna withdrew his request for a lot-line adjustment and continued to seek a determination regarding the status of a nonconforming use on the property. He then attempted to establish, through a combination of circumstantial evidence and direct testimony, that the property had been used continuously since 1937 both for residential purposes and as a "boat club" and that he had continued to operate a club on the property after he acquired it in 1994.

Lagna, who was born in 1955, testified that he heard stories about the history of clubs on the property while growing up nearby. As exhibits, he submitted photographs of a plaque with the words "Lauraville 1937 Swim + Boat Club" and

a concrete relief with the words "SCMC 1963" on one of the buildings. An unsigned letter from one of the former owners stated that the property was "clearly a boat club ... in 1993 and had a long history prior to that." Lagna offered the "Seneca Creek Maritime Club 1990 Roster," which he had acquired from the former owner. The document listed names and addresses for 26 persons, of which it identified five "Executive Committee Members" and one "Treasurer." Three persons listed on the roster wrote letters stating that they had been active members of the "Seneca Men's Club" or the "Seneca Creek Maritime Club" until Lagna had acquired the property in 1994. One of the members added: "All records on this club were destroyed when the club disbanded in 1993."

***4** Lagna testified that, before he acquired the property, members of the "Seneca Creek Mariners Club" had used the property for swimming and parties. He recalled that some of the members stored boats on the property and launched their boats from the pier. According to Lagna, when he purchased the property in 1994, about seven members accepted his offer to continue their membership. He then "continued to let people that [he] knew, friends, family, other folks, co-workers, use the property" and "people continued the use at a relatively low level."

Although Lagna testified that he did not typically maintain a club membership list, he prepared such a list for the hearing. The roster included: Lagna himself, three of Lagna's family members, Lagna's tenant, six other purported members, and four "Kayak Members." Lagna's brother testified that he had attended cookouts on the property but he did not consider himself a club member and did not know which of Lagna's friends were club members. Lagna's tenant testified that he had paid Lagna $800 monthly since 1995 to reside on the property and that his rent payments included club membership. Two of Lagna's friends testified that they had paid dues for boat storage or access to the waterfront, but had never participated in formal club meetings or events. Another person named on the membership list stated in a letter that Lagna had provided free boat storage and an "informal membership" in exchange for assistance with projects on the property. Lagna also submitted form letters signed by three members of the community, who were not identified as members, but who stated that, to their knowledge, a "Boat Club" had existed at the property for the last 35 to 50 years.

According to Lagna, Hurricane Isabel in 2003 destroyed much of the documentary proof of the club's existence. He offered an assortment of other documents to support his assertions of the continuous operation of a club, including: copies of a few checks made out to him in the amount of $200 for "Dockage" or "Boat Club Use"; a series of checks made out to him in the amount of $800 from his tenant for "Boat and Slip Rental"; and electricity bills listing 4000 Chestnut Road as "General Service" rather than residential. Lagna also produced redacted copies of his Schedule C federal income tax forms, reporting a profit or loss for a business named the "Seneca Creek Mariners Club" or "Seneca Creek Marine Center" or other variations of those names. He listed the type of business as "Boat Club" from 1994 until 2004, and then he characterized it as "Marina" from 2005 through 2010.

Lagna's final witness was an expert on land use and maritime development. The expert characterized the uses described by Lagna and his other witnesses as "consistent" with the type of "small, private, social, swim, water-oriented clubs" that had emerged in Bowley's Quarters before 1945. The expert opined that Lagna's use did not meet the definition of a "marina," "boatyard," or "yacht club"[6] under the BCZR. Although the term "boat club" is not defined by the BCZR and although the witness offered no definition, he opined that there were no legal restrictions on the number or type of boats that could be stored at such a "boat club."

***5** People's Counsel for Baltimore County participated in the hearing to oppose Lagna's petition. People's Counsel contended that the Board should reach the same conclusions reached by the ALJ: that Lagna's use of the property was materially different from its prior uses and that the four lots on the property had merged into one lot for zoning purposes.

People's Counsel called five of Lagna's neighbors to describe their observations of the property before and after Lagna's acquisition of the property in 1994. Each of these neighbors largely corroborated the testimony of the others. The neighbors consistently described Lagna's use of the property as different in character from the use of the property by his predecessors. They testified that during the 1970s, 1980s, and early 1990s the club was not known in the neighborhood as a "boat club" but as a men's club or social club. Members of that former club held frequent cookouts, parties, and other social events on the property during summer months, but any boating activity at the club was limited. Former club members stored only a few boats on the northern portion of the property but not near the residences on the southern portion of the property, which were typically occupied by tenants.

Each of the neighbors called by People's Counsel testified that, to the best of their knowledge, the club had closed before Lagna acquired the property in 1994. Although the neighbors sometimes observed Lagna's family or friends using the property for recreation, none of them knew or believed that Lagna had continued to operate a private club. The neighbors observed a sharp decline in any social activity on the premises after Lagna's purchase of the property, followed by a gradual increase in out-of-water boat storage. The neighbors explained that Lagna had accumulated dozens of boats over the past decade, densely covering the entire property, including areas near the unoccupied bungalow houses near Chestnut Road.[7] Many boats appeared to be unused, unlicensed, or in various states of disrepair. The buildings that had formerly supported club activities also appeared dilapidated. Overall, the neighbors described the appearance of the property as that of a "boat junkyard" or an "elephant graveyard" for boats.

People's Counsel's final witness, a member of a marina trade association, testified about the establishment of maritime districts in the early 1990s. A 1991 survey to identify all "bootleg marinas" in Bowley's Quarters area, by finding properties with five or more boats, had not identified the Chestnut Road property as a boat club or marina.

E. ***The Board's Denial of Lagna's Petition***

On September 13, 2013, the Board issued an opinion and order denying the relief requested in Lagna's petition.

The Board determined "that Mr. Lagna's storage and collection of his boats on his Property does not qualify as a non-conforming existing boat club." The Board explained that Lagna had provided "only scant information as to the nature or extent" of the clubs that had existed on the property prior to his ownership. The Board reasoned that, even assuming the existence of such a club starting in 1937, letters from former club members showed "that the club was abandoned in 1993 and therefore the use was extinguished even before Mr. Lagna's purchase in 1994."

***6** The Board credited testimony from Lagna's neighbors that the types of club activities that they had observed in earlier decades ceased upon Lagna's purchase. The Board emphasized that Lagna failed to show supporting facts that might indicate the continued existence of a club, such as: common knowledge among neighbors of the club's existence, observed outdoor activity during summer months, maintenance of support facilities, an organizational structure, insurance, a separate bank account, advertisements, a website, or a sign to notify people of the club's existence. The Board also construed Lagna's failure to continue to list a "boat club" on income tax forms after 2005 as "an admission by Mr. Lagna that any 'boat club' use by him terminated in 2005."

The Board further reasoned that, even if Lagna had intended to continue operating a club, the increase in boat storage over his property demonstrated that "his current use is an intensification and change from the original boat, swim, and/or men's club."

In addition, the Board agreed with the ALJ's finding that Lagna's four lots had merged into a single lot for zoning purposes. The Board explained that the original owners had built structures across the lot lines. The Board pointed to Lagna's storage of boats across the interior lot lines as an indication of his intent to continue to use the lots as one single property. The Board added that Lagna had not produced evidence of "any separation of the four lots or residences for other uses" since his purchase of the property. The Board thus declared that Lagna was required to "comply with BCZR § 415 with regard to the number of boats and piers permitted for one single Property."

Lagna petitioned for review of the Board's decision in the Circuit Court for Baltimore County. After a hearing, the circuit court issued an opinion and order on February 10, 2015. The court upheld the Board's determinations that Lagna had failed to meet his burden of proving the existence of a legal nonconforming use and that the lots had merged for zoning purposes. Lagna filed a notice of appeal on March 3, 2015.

Questions Presented

Lagna raises a number of challenges to the Board's two main determinations, regarding the nonconforming use status of the property and the merger of the lots for zoning purposes.[8] To properly address the merits of his arguments in light of the governing principles of judicial review of administrative decisions, we have reformulated the questions as follows:

1. Did substantial evidence support the Board's decision to deny Lagna's petition to approve the legal

nonconforming status of Lagna's property for use as a "private boat club"?

2. Did the Board err in determining that Lagna's four lots had merged into a single property for zoning purposes?

The answer to both questions is: No. The Board's determinations on the issues of nonconforming use and lot merger were supported by substantial evidence in the record and were not premised on an error of law.

Discussion

I.

***7** As the primary relief requested in his petition, Lagna asked the local zoning authorities to declare that he had a right to continue to use his property for nonconforming use as a "private boat club." "A request for special hearing," such as Lagna's petition, "is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore Cnty.,* 163 Md.App. 194, 209 (2005).

The BCZR defines a "nonconforming use" as "[a] legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use." BCZR § 101.1. The Court of Appeals recently reiterated the principles of Maryland law regarding nonconforming uses:

> A property owner establishes a non-conforming use if the property owner can demonstrate to the relevant authority (often a local board of appeals) that the property was being used in a then-lawful manner before, and at the time of, the adoption of a new zoning ordinance which purports to prohibit the use on the property. Such a property owner has a vested constitutional right to continue the prohibited use, subject to local ordinances that may prohibit "extension" of the use and seek to reduce the use to conformance with the newer zoning through an "amortization" or "abandonment" scheme. Nevertheless, nonconforming uses are not favored by Maryland law, and local ordinances regulating validly non-conforming uses will be construed to effectuate their purpose.

Cnty. Council of Prince George's Cnty. v. Zimmer Dev. Co., 444 Md. 490, 514 n. 16 (2015) (citations omitted).

The ultimate purpose of the BCZR and other zoning regulations is " 'to reduce nonconformance as speedily as possible with due regard to the legitimate interests of all concerned.' " *Trip Assocs., Inc. v. Mayor & City Council of Baltimore,* 392 Md. 563, 574 (2006) (quoting *Grant v. Mayor & City Council of Baltimore,* 212 Md. 301, 307 (1957)). The Baltimore County ordinance generally adopts the "abandonment" approach for eliminating nonconforming uses: "A nonconforming use (as defined in Section 101) may continue ... provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate." BCZR § 104.1. As with other similar provisions governing nonconforming use, this provision "must be strictly construed in order to effectuate the purpose of eliminating nonconforming uses." *Cnty. Council of Prince George's Cnty. v. E.L. Gardner, Inc.,* 293 Md. 259, 268 (1982) (citations omitted).

Consistent with the notion that nonconforming uses are disfavored, Maryland law allocates the burden of proving a property's status as a nonconforming use upon the party seeking to establish that use. *See Trip Assocs.,* 392 Md. at 573; *Calhoun v. Cnty. Bd. of Appeals of Baltimore Cnty.,* 262 Md. 265, 267 (1971); *Vogl v. City of Baltimore,* 228 Md. 283, 288 (1962); *Lapidus v. Mayor & City Council of Baltimore,* 222 Md. 260, 262 (1960). This Court has summarized that principle in the following terms:

> ***8** The party asserting the existence of a nonconforming use has the burden of proving it. Whether that party has met its burden is a matter entrusted to the Board. And, since that decision, as is the decision whether to certify a nonconforming use, can be made only after hearing and determining facts, the Board acts in a quasi-judicial capacity in making it. In that capacity, the Board acts as factfinder, assessing the credibility of the witnesses and determining what inferences to draw from the evidence.

Cnty. Comm'rs of Carroll Cnty. v. Uhler, 78 Md.App. 140, 145 (citations omitted), cert. denied, 316 Md. 428 (1989).

Much of Lagna's appellate brief argues that the Board's decision should be reversed because the protestants failed to "prove" that prior uses of the property had terminated. To the contrary, it was incumbent upon Lagna, as the petitioner, to persuade the Board, first, that a lawful use existed when the lots were zoned for residential use in 1945 and, second, that whatever uses had been made of the lots at that time continued thereafter without changing to any other use. Lagna provided no definition of "boat club" use. He did not contend

that "boat club" use, however defined, was ever authorized on his property at any time after the enactment of the BCZR in 1945. Accordingly, he attempted to establish that the use of the property had remained unchanged over seven decades. Needless to say, his task was exceptionally difficult. The passage of time left him with only vague hearsay descriptions and circumstantial evidence regarding use of the property for most of those years.

As daunting as his task was before the local zoning authorities, Lagna faced perhaps even greater obstacles in his action for judicial review. Consistent with the standard of review for other administrative decisions, court review of a decision of the Baltimore County Board of Appeals is "generally is a 'narrow and highly deferential inquiry.' " *Seminary Galleria, LLC v. Dulaney Valley Improvement Ass'n, Inc.,* 192 Md.App. 719, 733 (2010) (quoting *Maryland Nat'l Capital Park & Planning Comm'n v. Greater Baden–Aquasco Citizens Ass'n,* 412 Md. 73, 83 (2009)). Such a final decision from a local zoning agency is "prima facie correct and presumed valid" and should be reviewed by the court "in the light most favorable" to the agency. *Marzullo v. Kahl,* 366 Md. 158, 172 (2001) (citations and quotation marks omitted).

"Judicial review of administrative agency action based on factual findings, and the application of law to those factual findings, is 'limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is based on an erroneous conclusion of law.' " *Zimmer Dev. Co.,* 444 Md. at 573 (quoting *United Parcel Serv., Inc. v. People's Counsel for Baltimore Cnty.,* 336 Md. 569, 577 (1994)). The reviewing court may not substitute its judgment for that of the agency if "there is sufficient evidence such that 'a reasoning mind reasonably could have reached the factual conclusion the agency reached.' " *Zimmer Dev. Co.,* 444 Md. at 573 (quoting *Consumer Prot. Div. v. Morgan,* 387 Md. 125, 160 (2005)); *see People's Counsel for Baltimore Cnty. v. Surina,* 400 Md. 662, 681 (2007) ("we inquire whether the zoning body's determination was supported by such evidence as a reasonable mind might accept as adequate to support a conclusion") (citations and quotation marks omitted). Stated differently, where a zoning board's findings are supported by more than a scintilla of evidence, the decision is at least fairly debatable, which " 'pushes the Board's decision into the unassailable realm of a judgment call[.]' " *Eastern Outdoor Adver. v. Mayor & City Council of Baltimore,* 128 Md.App. 494, 515 (1999) (citations and quotation marks omitted).

***9** In his brief, Lagna largely ignores the governing standard of review.[9] His argument does invoke the concept of "substantial evidence," but only to misapply that concept to the facts. Lagna asserts in succession that "there was more than sufficient evidence to support that a boat club was operating at the property when the zoning regulations were enacted in 1945," that "there was substantial evidence supporting that Mr. Lagna operated a boat club after 1994," and thus that there was "substantial evidence to support the conclusion that Mr. Lagna has not changed, discontinued[,] or abandoned the legal nonconforming use[.]" In sum, Lagna contends that *he* presented evidence upon which the Board could have granted his petition. That contention, even if correct, would not warrant reversing the Board's denial of the petition. Lagna's arguments fail to address the relevant question for the purpose of judicial review: whether substantial evidence in the record supported the *Board's* determinations on the issue of nonconforming use.

As the Board recognized, one of the main tests for determining the existence of a nonconforming use is whether the property is "known in the neighborhood as being employed for that given purpose ." *Trip Assocs.,* 392 Md. at 573 (citing *Chayt v. Bd. of Zoning Appeals of Baltimore City,* 177 Md. 426, 434 (1939)). Evidence on this point was by no means conclusive. Lagna presented testimony and letters from members of the community who stated that they either had been club members or were aware of the club's existence during much of the relevant time period. People's Counsel later offered testimony from other neighbors that called Lagna's assertions into question.

One neighbor testified that he no longer observed "people doing the same type of social activities" as before and that he "did not know the club was still [t]here" after Lagna acquired the property. Another witness testified that she had observed frequent "club use" before Lagna's acquisition, but that "over the past nineteen years," she had "never witnessed any type of club activity" on the property. The next witness testified that, during the prior six years in which he had lived in the neighborhood, he had not "observed any kind of activity as relating to a boat club, men's club, [or] any kind of club, other than a collection of boats[.]" Another neighbor commented, "the activity you saw back then in the 1970s, and 1980s, and early 1990s, you do not see similar activity nowadays.... It's more like a boat junkyard[.]" In the words of yet another member of the community, "it really kind of defied any, any

logic as far as it being an active, boat club. It's really an active, storage ... area for boats."

In its written opinion, the Board summarized: "Credible testimony from neighbors who have lived in the neighborhood for decades was provided—that no club of any kind existed at the Property since Mr. Lagna's purchase." Lagna now argues that the Board "clearly gave undue, indeed unfounded, weight to the testimony of the protestants regarding their personal observations of activity on Mr. Lagna's property." This Court's role, however, is not to render its own judgment regarding the weight of conflicting testimony, as long as there is "room for reasonable debate" on the issue. *See Boehm v. Anne Arundel County.,* 54 Md.App. 497, 514, *cert. denied,* 297 Md. 108 (1983).

***10** In *Boehm,* this Court upheld the decision of a local board of appeals to refuse to recognize the legal nonconforming use of a property as a landfill. Several witnesses testified that there had been dumping and landfilling activity on the subject property before the use became prohibited and consistently thereafter, but other witnesses testified that there had been no dumping or excavation until over a decade after the use became prohibited. *Id.* at 498–99 & n. 1. This Court concluded that, "in light of the quantity and quality of the protestants' testimony and evidence," it was reasonable for the board to conclude that that landowner had not met his burden of proving that the nonconforming use existed during the relevant time period. *Id.* at 515. As in *Boehm,* the Board's weighing of the conflicting evidence here passes the test of reasonableness. The testimony of Lagna's neighbors, even though it was in conflict with evidence produced by Lagna, was sufficient to support the conclusion that Lagna did not continue the prior use of the property after he acquired it in 1994.

Even without this testimony from protestants, however, the Board would not have been required to conclude that Lagna had satisfied his burden. Lagna asserts that much of the testimony and documents he presented regarding the existence of a club on the property was "uncontradicted." Yet even when a party presents largely uncontested evidence of a nonconforming use, the local zoning agency must evaluate the credibility of testimony and the weight of evidence before making its decision. *See Cnty. Comm'rs of Carroll Cnty. v. Uhler,* 78 Md.App. 140, 146 (1989).

In *Uhler,* a board of zoning appeals refused to certify the nonconforming use of a property as a junk yard or storage yard, even though the landowners presented testimony from witnesses who had consistently observed junk and heavy equipment on the property during the time period in question. *Id.* at 142–44. The board reasoned that the evidence showed only that the property was "a location where pieces of equipment were infrequently parked." *Id* . at 144 (internal quotation marks omitted). A circuit court reversed the board's decision, under the mistaken belief "that if there was any evidence in the record supporting the relief requested, which is not controverted, as opposed to contradicted, then the Board must grant the relief sought." *Id.* at 146. Reversing that judgment, this Court concluded that the circuit court had improperly substituted its judgment for that of the board. *Id.* The Court explained: "[T]he mere fact of presentation of testimony does not entitle that testimony to be credited and the Board's determination not to credit it, in and of itself, provides substantial evidence for the Board's conclusion." *Id.* at 147. Adding that there was at least one significant "discrepancy" in the Uhlers' evidence regarding uses of the property, the Court reasoned that "it [wa]s patent ... that the Board's decision [wa]s fairly debatable." *Id.*

***11** Likewise, the testimony and documents presented by Lagna regarding his operation of a "boat club" by no means compelled the Board to grant the petition. The Board explained several reasons for its refusal to credit Lagna's assertions. As the Board explained, Lagna provided only "scant information as to the nature and extent" of the clubs that existed on the property before 1994, and in particular as to whether those clubs had "existed continuously without interruption[.]" The Board relied on a letter from a former member stating that the former club had been "disbanded" in 1993 as evidence that "the use was extinguished even before Mr. Lagna's purchase." The Board contrasted the few supporting documents that Lagna offered (photographs, checks, utility bills, tax forms, and a self-prepared member list) with the notable absence of other evidence that would tend to verify the club's existence (such as organizational documents, insurance, a bank account, advertisements, a website, or an on-site sign). The Board expressed skepticism towards Lagna's list of purported club members when it noted that the list consisted entirely of Lagna himself, his relatives, his tenant, and his friends. The Board also inferred from federal income tax forms identifying Lagna's business as a "Marina" rather than a "Boat Club" after 2005 that "any 'boat club' use by him terminated in 2005." Finally, the Board explained that it had considered the evidence "in light of the fact" that Lagna first asserted the existence of a nonconforming use in response to a code enforcement action

decades after his purchase. In sum, the Board's reasoned and reasonable decision to discount much of Lagna's evidence, "in and of itself," is a sufficient basis for affirming the Board's decision. *See Uhler,* 78 Md.App. at 147.[10]

The primary basis for the Board's ruling—its determination that Lagna failed to establish that he had operated a boat club on his property continuously since 1994—was amply supported by the record. As a secondary conclusion, the Board stated that "even if the facts proved Mr. Lagna's intent to operate a boat club, ... his current use is an intensification and change from the original boat, swim and/or men's club." This alternative finding, although discussed only briefly by the Board, independently supports the Board's decision.

In general, the owner of a vested right to continue a nonconforming use also has the right to "intensify" that nonconforming use by, for example, using the property more frequently or with a higher volume of business. *See Feldstein v. LaVale Zoning Bd.,* 246 Md. 204, 211 (1967). The "mere intensification of a nonconforming use is permissible so long as the nature of use is not substantially changed[.]" *Phillips v. Zoning Comm'r of Howard Cnty.,* 225 Md. 102, 102 (1961); *see, e.g ., id.* at 108–09 (upholding decision to prohibit property owner from expanding nonconforming use as a used car lot and furniture warehouse where record showed that premises over time "by some sort of 'creeping' process, developed into a full-fledged junk yard and shop, where, among other things, large numbers of worn out and wrecked motor vehicles were junked and burned"). The determination of whether an owner's use is an impermissible enlargement or a mere intensification is a question of fact for the local zoning authorities. *See id.* at 109–10.

***12** Under the Baltimore County ordinance, a property owner's right to continue a nonconforming use terminates "upon any change from such nonconforming use to any other use whatsoever[.]" BCZR § 104.1. In *McKemy v. Baltimore Cnty.,* 39 Md.App. 257 (1978), this Court reversed part of a zoning decision and remanded the case to the Baltimore County Board of Appeals for consideration of whether certain uses of a property exceeded the permissible scope of an existing nonconforming use and, if so, whether "by virtue of [BCZR § 104.1], the entire non-conforming use ha[d] been lost." *Id.* at 270. The owner in that case had established a valid nonconforming use of residentially-zoned lots as a general parking facility for nearby businesses (*id.* at 265–67), but the proprietor later extended his use to include truck storage for a freight hauling business, while expanding his operations in intensity, volume, and area. *Id.* at 269. This Court directed the Board on remand to determine whether those expansions represented an "actual change" from the preexisting uses of the lots, by considering the following factors: "(1) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use; (2) is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind; (3) does the current use have a substantially different effect upon the neighborhood; (4) is the current use a 'drastic enlargement or extension' of the original non-conforming use." *Id.* at 269–70.

In the present case, even crediting testimony that Lagna continued to operate a "club" of some sort and even accepting that the clubs of both Lagna and his predecessors to some extent involved boat-related activities, the record still supported the Board's conclusion that Lagna's right to continue any such nonconforming use had terminated upon a "change from such nonconforming use to any other use whatsoever[.]" BCZR § 104.1. The right to continue a nonconforming use depends on the continuity of the substantive characteristics of the use, not the mere continuity of a label such as "club," "boat club" or even "Seneca Creek Mariners Club." *See McKemy,* 39 Md.App. at 269 (explaining that, in determining whether owner's use had exceeded scope of preexisting use, "the Board was not required to assume, and should not have assumed, that the lowest common denominator was 'parking,' or even 'parking' in conjunction with a business across the street").

Testimony from Lagna's neighbors, which the Board expressly credited, supported the conclusion that Lagna's use of the property differed in character, nature, and effect from the use of the property by his predecessors. Prior owners had operated primarily a social club and incidentally stored a few boats near the buildings on the northern portion of the property; over time, Lagna transformed the site into what appeared to be predominantly an out-of-water boat storage facility, both as a business and for a personal collection, extending to the southern portions of the property along Chestnut Road. In light of the factors outlined in *McKemy,* 39 Md.App. at 269–70, the Board's determination that Lagna had transformed the prior use of the property into "any other use whatsoever" (BCZR § 104.1) was at least fairly debatable.[11]

II.

***13** After denying Lagna's request to approve the use of the property as a private boat club, the Board of Appeals also declared that the four lots subject to his petition had "merged into one single [p]roperty for zoning purposes," and thus that Lagna must "comply with BCZR § 415 with regard to the number of boats and piers permitted for one single [p]roperty." Wishing to treat his property as four separate properties for the purposes of boat storage, Lagna now asks this Court to negate that declaration. He contends: that the Board lacked authority to decide issues of lot merger or boat storage; that the evidence was legally insufficient for the Board to conclude that the lots had merged; and that the zoning merger of the lots amounts to an unconstitutional confiscation of his property. For various reasons, all of these arguments fail.

Lagna first argues that the Board should not have even considered whether his lots should be treated as a single property for the purpose of determining the number of boats permitted on his property, because he says that those issues were not properly before the Board. He relies on BCZR § 500.7, which grants "any interested person" the right to petition for a special hearing "to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations." Lagna argues that his petition "obviously[ ] sought only the former type of relief" regarding nonconforming use, and therefore that the scope of the hearing did not include his other rights with respect to the property.

The record does not support Lagna's assertions that the Board unilaterally "took it upon itself to address and affirmatively rule upon" the matters of lot merger and boat storage under BCZR § 415A. Lagna first filed his petition at the direction of an ALJ who had suspended a penalty against Lagna for his violations of BCZR § 415A. In an attachment to his petition, Lagna asserted that his property could "be used by the four (4) residences ... and a private boat club with, as provided by Section 415c [sic], additional storage of boats on trailers up to the maximum allowed per lot for each of the four (4) residential lots." In his supporting memorandum, Lagna explained that his petition sought "essentially four categories of relief": confirmation of his rights regarding nonconforming use; confirmation of his rights regarding nonconforming structures; a lot-line adjustment re-subdividing his property into four separate lots; and finally "confirmation regarding the maximum number of boats allowed at the property." His memorandum went on to argue that, "[b]ased on the lot lines of the four lots at the subject property," BCZR § 415A permitted Lagna to store "a substantial number of boats" on land and on the piers at his property. The ALJ, recognizing that Lagna had requested "a determination of the number of boats [Lagna] may keep on the premises," concluded that the property should be treated as a single property for zoning purposes, based on the doctrine of lot merger.

***14** Dissatisfied with the ALJ's decision regarding boat storage, Lagna then attempted to narrow the scope of his petition by withdrawing his request for a lot-line adjustment. At the de novo hearing, People's Counsel argued that the Board should affirm the ALJ's finding that the lots had merged into one lot for the purposes of the boat storage limits in BCZR § 415A. At one point, Lagna objected to a question posed by People's Counsel to Lagna's expert witness regarding merger of the lots (on the ground that the question fell outside of the scope of the proceeding). The Board did not rule on the objection, but the Chairman informed Lagna that "[t]he reason we're here is because we have a lot of boats on this property." In his post-hearing memorandum, Lagna did not ask the Board to exclude the lot-merger issue from its decision. Instead, Lagna affirmatively argued that the ALJ's determination that the lots had merged was incorrect on the merits, asserting that "the doctrine of zoning merger" was "not applicable" because Lagna had "never intended to merge these four lots[.]"

In sum, Lagna himself introduced the issue of "the maximum number of boats allowed at the property," and that issue involved a determination of whether the property should be treated as four separate lots. Lagna's post-hearing brief reflects that he knew and had reason to know that the Board would make a determination on lot merger. Instead of using that opportunity to bring an argument about the proper scope of the hearing to the Board's attention, Lagna waived any such objection when he asked the Board to reverse the ALJ's lot-merger determination on the merits. The issue that Lagna seeks to raise here cannot be resurrected in the subsequent action for judicial review. *See Anne Arundel Cnty. v. Nes,* 163 Md.App. 515, 535 (2005) (holding that landowner waived any claim that board of appeals had erred in failing to grant waiver of certain requirements by expressly abandoning that position before the board); *Capital Commercial Props., Inc. v. Montgomery Cnty. Planning Bd.,* 158 Md.App. 88, 102 (2004) (holding that party failed to preserve issue of whether planning board's decision would violate provision of zoning ordinance by failing to raise that argument to the board); *id.* at

104–05 (where party's argument "involve[d] the construction of the ordinances administered by the Board," holding that the issue "should have been presented for decision by the Board in the first instance" rather than being raised for the first time in an action for judicial review); *Brzowski v. Maryland Home Improvement Comm'n,* 114 Md.App. 615, 637–38 (1997) (holding that party waived argument that agency's action exceeded its authority where party brought a number of objections to agency's attention without presenting that argument to the agency).[12]

Before the Board, however, Lagna did argue that the doctrine of lot merger should not apply to his property when he asserted that he did not intend to merge the four lots. The Board rejected that assertion, finding that, in addition to actions of the prior owners in building structures that straddled the interior lot lines, "Lagna's storage of boats across the 4 lots is indicative of his intent to integrate and use the lots as one single property." In addition, the Board emphasized that Lagna had not presented evidence of "any separation of the four lots for residences or other uses." On appeal, Lagna concedes that evidence that "structures are sited across lot lines" and evidence of "storage of a boat across a property line" could indicate an owner's intent to merge the lots, but he asserts that this evidence was "insufficient ..., as a matter of law, to supply the intent necessary to merge the lots." He identifies no legal authority supporting this assertion.

***15** Historically, the doctrine of zoning merger emerged in many jurisdictions to advance the legislative goal of restricting undersized parcels. *See Friends of the Ridge v. Baltimore Gas & Elec. Co.,* 352 Md. 645, 653 (1999).[13] The Court of Appeals first recognized the doctrine of zoning merger in *Friends of the Ridge,* a Baltimore County zoning case, which held "that a landowner who clearly desires to combine or merge several parcels or lots of land into one larger parcel may do so" by "integrat[ing] or utiliz [ing] the contiguous lots in the service of a single structure or project [.]" *Id.* at 658. Generally, a finding that adjacent lots under common ownership have merged for zoning purposes "require[s] that the intent of the owner to merge the parcels be expressed, though little evidence of that intent is required." *Id.* at 653. The Court has emphasized that the owner's "[i]ntent is to be derived from the facts," (*Remes v. Montgomery Cnty.,* 387 Md. 52, 66 (2005)), and "[e]ach case must be examined on its own." *Id.* at 68. For example, in *Remes,* the Court of Appeals held that a vacant lot merged into the adjacent, developed lot by operation of law, even without any formal request for a replatting, where the common owner installed a swimming pool on the vacant lot as an accessory to the house on the other lot and built a semi-circular driveway over both lots. *Id.* at 82.

This Court will not set aside a local zoning board's determination regarding lot merger, as long as the decision is at least fairly debatable and not the product of a clear error. *See Mueller v. People's Counsel for Baltimore Cnty.,* 177 Md.App. 43, 94 (2007). In the instant case, the record included substantial evidence that Lagna intended to use his four contiguous lots in the service of a single project. Like the former owners who had made improvements across the internal lot lines, Lagna himself disregarded the internal lot lines in his use of the property. His stated intent, in the deed through which he acquired the property, was to use the four lots for a single-family residence. In his memorandum to the Board, Lagna raised the confusing argument that he never intended to merge the lots because "he and his predecessors have always used the four lots *in combination for the fulfillment of [a] single use.* " (Emphasis added.) This statement alone serves as an admission of his intent to merge the lots. See Remes, 387 Md. at 82 (emphasizing that common owner's "use" of two adjacent lots "in concert is consistent with zoning merger") (second emphasis added). Indeed, the premise underlying Lagna's petition was never that he had operated four different boat clubs on the four different lots, but that he was using all four lots in service of a single club, without regard to any subdivision. The Board nonetheless found that Lagna's combined use of the four lots for storage and collection of boats was not the same use as the prior combined use of the lots by the former owners as a "boat, swim, and/or men's club."

***16** As a final issue, Lagna contends separately that the Board's merger of the four lots for zoning purposes constituted an unconstitutional "confiscation" of his property. Despite the opportunity to raise any such constitutional concerns when he argued to the Board that lot merger was inapplicable, Lagna failed to raise these arguments to the Board. His request to raise new constitutional issues on appeal is "contrary to the well-established" rule that "constitutional challenges involving a question of fact must be raised before the agency to prevent waiver." *Halici v. City of Gaithersburg,* 180 Md.App. 238, 255 (2008).

In any event, Lagna's unpreserved argument invokes constitutional issues in name only. He contends that "in the absence of sufficient proof" the Board was "not constitutionally authorized to deprive Mr. Lagna of his right

to operate the boat club or his right to four lots." In essence, Lagna seeks to recycle his challenge to the Board's factual determination as a "constitutional" issue. We reject this "attempt to conjure a constitutional violation out of a routine" factual determination committed to the agency's discretion. *McAllister v. McAllister,* 218 Md.App. 386, 406 (2014). As stated above, the record was adequate to support the Board's conclusion that the four lots had merged into one for zoning purposes.

Conclusion

We affirm the circuit court's judgment affirming the decision of the Board of Appeals.

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

All Citations

Not Reported in A.3d, 2016 WL 327029

Footnotes

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

1 The two bungalows are known as 3920 and 3922 Chestnut Road, the larger house is known as 4000 Chestnut Road, and the final structure is known as 4002 Chestnut Road.

2 In reaching the decision under review here, the Board of Appeals took notice of the fact that Lagna's residence at 221 Bowley's Quarters Road had been the subject of a prior appeal before this Court. In 1989, Lagna obtained a variance to keep five recreational boats on his Bowley's Quarters Road property in lieu of the maximum of one such vehicle permitted by zoning regulations. In 2006, a hearing officer fined Lagna for storing as many as 30 vehicles on that property, finding that Lagna had transformed the premises into "a marine storage yard or salvage yard[,] ... something far different tha[n] the five (5) small boats considered in the [V]ariance." Lagna failed to take an administrative appeal from a zoning commissioner's 2007 decision, which found that Lagna had abandoned the variance. This Court then upheld a 2011 decision of the Baltimore County Board of Appeals, which found that the 2007 decision was final with respect to the issue of Lagna's abandonment of the variance. *William Lagna v. Baltimore Cnty.,* No. 2367, Sept. Term 2011 (filed Apr. 2, 2013) (unreported).

3 BCZR § 101.1 defines a "boatyard" as "[a] commercial or nonprofit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, berthing, securing, fueling and general servicing of marine craft of all types ." A "marina" is defined as "[a] modern boat basin, restricted to recreational marine craft of all types, with facilities for one or more of the following: berthing, launching and securing such craft, and permitting incidental minimum provision for refueling and emergency servicing, as well as the incidental sale of boats and also land (out-of-water) storage as provided in [BCZR §] 417.7." BCZR § 101.1.

4 BCZR § 415A.1 limits the number of recreational vehicles that may be stored on land or mounted on a trailer to one recreational vehicle per residential lot. Recreational boats, other than boats less than 16 feet in length that are not mounted on a trailer, are subject to the limitation of one recreational vehicle per residential lot. A residential waterfront lot may have no more than one pier, and an owner may store between four to six boats at a pier, depending on the length of the waterside lot line. BCZR § 415A.2. Out-of-water boat storage is permitted on residential waterfront lots from November 1 through March 31, for up to two or three boats, depending on the length of the waterside lot line. BCZR § 415A.3(A).

5 *See generally Remes v. Montgomery Cnty.,* 387 Md. 52, 63–68 (2005). "Merger, in the context of land use, is the joining of contiguous parcels under common ownership, so that they are viewed as a single parcel for purposes of zoning regulations." *Mueller v. People's Counsel for Baltimore Cnty.,* 177 Md.App. 43, 94 (2007).

6 Zoning regulations applicable within the Chesapeake Bay Critical Area define a "yacht club" as: "A use of waterfront land by a social club which provides recreational facilities, including boat docking, for members and their guests." BCZR § 101A.1. Yacht clubs are permitted in some zones, but not in an R.C.5 zone. *See* BCZR § 1A04.2.

7 One witness offered an aerial photograph from 1995 showing only two boats stored near the houses at the northern border of the property. More recent photos taken from the air and from the ground revealed approximately 30 boats across the property. On cross-examination, Lagna admitted that he personally owned 23 of 29 boats stored on the property.

8 The questions in Lagna's brief are:

A. Did the Board of Appeals err in concluding that there was "no evidence" supporting that the boat club at the property is a legal nonconforming use?

B. Was there substantial evidence to support the conclusion that the boat club was operating in 1945 when the zoning regulations were adopted and, thus, constituted a legal nonconforming use?

C. Was there substantial evidence to support the conclusion that Mr. Lagna has not changed, discontinued or abandoned the legal nonconforming use under 104.1 of the zoning regulations?

D. Was there substantial evidence to support that the boat club was not in existence in 1988 such that it was grandfathered under section 103.5 of the zoning regulations?

E. Did the Board of Appeals err in addressing the issue of lot merger when that issue was not presented in Mr. Lagna's Petition for Special Hearing?

F. Even if the Board of Appeals had authority to address the issue of lot merger, did the Board err in concluding that the four lots had merged?

G. Was the Board's decision that the four lots are merged an unconstitutional confiscation of Mr. Lagna's property?

9 Maryland Rule 8–504(a)(5) requires that every appellate brief must include a "concise statement of the applicable standard of review for each issue, which may appear in the discussion of the issue or under a separate heading placed before the argument[.]" A single footnote in Lagna's brief includes a quotation describing the substantial evidence test.

10 In his brief, Lagna protests that the Board "ignored" testimony from his witnesses, because the Board failed to discuss some of that evidence in its opinion. Lagna also insists that the Board erred when it stated: "[I]n this Board's view of the evidence, Mr. Lagna did not provide evidence that a boat or swim club has existed on the Property since 1937." We agree with Lagna that it would be an overstatement to say that he produced "no evidence" in support of his assertions. Viewing the decision in a light favorable to the agency, however, it is apparent that the Board considered the evidence presented by Lagna and that the Board's decision relied only on the evidence that the Board found to be credible and persuasive.

11 Before the Board, Lagna relied only on BCZR §§ 101.1 and 104.1, general provisions regarding nonconforming use. Before this Court, Lagna attempts to raise the argument that use of the property as a boat club is "grandfathered" by a separate provision applicable to properties within the Chesapeake Bay Critical Area, which states that "[t]he county shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on June 13, 1988." BCZR § 103.5(C). The Board did not address the applicability of this provision because Lagna failed to raise the issue to the Board. In any event, his new argument fails on appeal because we uphold the Board's determinations that Lagna did not continue the preexisting uses of the property after his acquisition in 1994, or alternatively that he had intensified and changed the use during his ownership.

12 If we were to reach this issue, we would see no error in issuing a declaration regarding Lagna's rights to boat storage on the property under the zoning regulations, as that issue was part of the relief that he requested in his initial petition.

13 In the present case, it is undisputed that the four lots owned by Lagna, each approximately one-quarter acre in size, are all undersized. *See* BCZR § 1A04.3(B)(1) (prohibiting creation of lots with an area less than one-and-a-half acres in an R.C.5 zone).

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IN MATTER OF:	*	BEFORE THE COUNTY
Edgmere Wildlife Trust LA Crites, Trustee Legal Owner	*	BOARD OF APPEALS
	*	
Edward Crizer, Petitioner 2621-2623 Brannan Ave	*	OF BALTIMORE COUNTY
		Case No. 22-269 SPH
	*	
7th Councilmanic District 15th Election District	*	

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

PETITIONERS' POST-HEARING MEMORANDUM

Petitioner Edward Crizer, by Arnold Jablon, his attorney, hereby submits this Post-Hearing Memorandum for consideration by the County Board of Appeals.

INTRODUCTION

In the de novo hearing before the Board of Appeals, as described below, Petitioner presented strong and substantial evidence for the Board of Appeals to conclude that a previously approved non-conforming for a multi-family dwelling consisting of two apartments side by side use has been abandoned, and, further, a multi-family dwelling is not permitted on the subject property, which is zoned DR 5.5, as prescribed by **§§104.1**, 104.2, 305.1 and 402.1 of the Baltimore County Zoning Regulations (BCZR).

FACTUAL BACKGROUND

Pogo (if you're old enough to remember) once said that he met the enemy, and the enemy was "us". As with most stories, there is a beginning, a middle and an end. As this story unfolds in real time, the road to the end is winding and interspersed with speed bumps, often ignored by the Appellant. This road is full of turns, twists, complications and contradictions, and, to make the ride at the very least comprehensible, a chronology of events is attached, and marked as Exhibit A, supported by the testimony and evidence presented at the hearing.

The subject property is located at the northwest corner of Brannan Avenue as it intersects with Haddaway Road, as shown on **Petitioner's Exhibit 3**. It consists of 0.175 Acres +/- 7,714SF. **PC exhibit 3.** The neighborhood is residential and the subject property is surrounded by single family dwellings. The property is zoned DR 5.5, **Petitioner's Exhibit 13**. The property was improved with a duplex apartment house consisting of two units, 2621 and 2623 Brannan Ave., as described in Case No. 04-567 SPHA,. See **Petitioner's, Appellant's and People Counsel's Exhibit 1** (hereinafter all citations to the order issued in Case No. 04-567 SPHA will be to **Petitioner's Exhibit** 1 for ease of reference),.

THE BEGINNING

Evidence showed that the site had been approved as a non-conforming duplex, two adjoining dwelling units, in Case No. 04-567SPHA, in which the Deputy Zoning Commissioner, after a public hearing concluded by his order, dated October 6th, 2004, that the then "Petitioner's request for special hearing relief to approve the confirmation of a nonconforming use for a multi-family dwelling consisting of two apartments side by side…" was granted. The Deputy Zoning Commissioner further approved the expansion of the two existing apartments by the addition of a third bedroom, but denied the request for a third apartment and denied a certain side yard variance. **Petitioner's Exhibit 1.** The footprint dimension of the duplex was calculated by the DZC to be 1,567.5 SF. **Petitioner's Exhibit 1, page 7.**

The subject property was purchased in 1992 by John Stephen Podles, Jr. **Petitioner's Exhibit 1, p. 4.** On or about April 1st, 2009, Podles, Jr, by a life estate deed with powers, granted the property to Christopher Podles, Cameron Podles and Molly Ann Podles, his son and grandchildren. **PC Exhibit 8.** On or about September 19th, 2019,

Podles, Jr, by Christopher Podles, his attorney-in-fact and by virtue of a power of attorney, deeded the subject property to Edgmere Wildlife Trust, with LA Crites acting as Trustee. **C Exhibit 9.** On or about September 30th, 2021, Christopher Podles, as the Personal Representative of the Estate of Podles, Jr, recorded a Deed of Confirmation, transferring ownership to Edgmere Wildlife Trust. **Appellant's Exhibit 12.**

This was the beginning, upon which the Appellant constructs its story.

I

THE DEMOLITION

On or about March of 2022, demolition began of 2621 and 2623 Brannan Ave.

Edward Crizer, Joseph Vrablic and Bryan McVey, all immediate neighbors to the subject property, testified they witnessed the demolition. Robert Podles, who testified he is the property manager for the Appellant, Edgmere Wildlife Trust, and, in this capacity was charged with the responsibility of managing the subject property, did not dispute this testimony. Photographs taken by Mr. Vrablic and Mr. McVey, **Petitioner's Exhibits 14 (a) through (g),** confirm the demolition, clearly showing its completion by April 6th, when Baltimore County issued the first of two correction notices and Stop Work Orders. The first was to Mr. Podles and the second to the Appellant. **Petitioner's Exhibits 3 and 4,** both issued because the demolition had occurred without a permit. As shown by **Petitioner's Exhibit 14 (g)**, only the front wall of the building had been left standing. The photo shows a door and screen door on which notices were attached. Matt Gawel, the Chief Building Inspector for Baltimore County, who testified he is familiar with the subject property and its history, confirmed the nature of the notices posted on the door.

As the building was demolished, treated lumber was piled up on the ground on the property, see **Petitioner's Exhibit 14 (c).** Both Mr. Vrablic and Mr. McVey testified the

workers then placed the treated lumber into drums and set them on fire. On or about April 5th, 2022, the County Fire Department, responding to a complaint filed by Mr. McVey, put out the fires and set up a yellow fire line tape around the property. Mr. McVey testified he was told by the Fire Department personnel the burning of the lumber was a clear violation of County law. See the photos, **Petitioner's Exhibits 14 (d) and 14 (e).** Mr. Podles testified he knew nothing about this.

A demolition permit was later issued, on June 9th, 2022, permit number R22-05628. **Petitioner's Exhibit 7,** two months after the demolition.

II

Permit R21-02585

Mr. Podles testified he is not only the property manager for the Appellant of the subject property but he also manages approximately 50 other properties, is a licensed general contractor and is a real estate agent. Often, in his experience, unforeseen problems develop when renovating properties, and he testified it just isn't possible to stop in the middle of a job when these unforeseen problems occur and then to seek County approvals to proceed. He complained it took too much time. He testified there had been a building permit issued, permit number R21-02585, for the second floor of the building, **Appellant's Exhibit 2, page 1, Petitioner's Exhibit 18, page 2,** although there was no date noted of issuance on the permit. Mr. Gawel testified based on information in the building file that this permit was issued in March of 2021.

The second page of this permit, and attached to **Appellant's Exhibit 2** for ease of identification, as **Petitioner's Exhibit 17,** set forth the scope of work approved by the County, which was for the removal of the roof and for interior renovation of the second

floor. Mr. Podles did agree he understood the conditions of the permit and its scope of work. After renovations began, and the roof removed, he found that the walls and floors did not meet current building code requirements causing the removal of the 2nd floor, notwithstanding that to do so was in violation of the this permit. He knew, he had to know by his stated experience, that the work exceeded the scope of work permitted by permit R21-02585. He justified the demolition by arguing the work just couldn't be stopped in the middle. Mr. Gawel testified the work did exceed the scope of work permitted under the permit. Mr. Podles testified it was not uncommon for problems to be encountered not covered by a permit's scope of work, but he again his justification was it just took too much time to get a new permit. He knew continuing work without getting a new permit or county approval constituted a violation. Mr. Gawel testified, in such situations, work should stop, the county inspector called and the inspector's input sought, before continuing. It would not be ok for work to continue without County involvement. However, the inspector was not called, and work proceeded in contravention of the approved permit and without a new permit. And without the razing permit. The second floor not only came down but then the first. All that remained was the foundation. Except for that door at 2623!

Joshua fit the battle of Jericho
Jericho, Jericho
Joshua fit the battle of Jericho
And the walls come tumbling down…
...
Down, down, down, down, down
Tumblin' down

Elvis Presley, Joshua Fit the Battle

Like at Jericho, the walls came tumbling down, second floor then the 1st. Mr. Podles testified it was the rotting wood, discovered in the joists and floor plates that caused

the demolition. He decided everything had to go. He testified, again, he couldn't wait for a new permit. The process took too long. Work could not stop in the middle of a job to await County approval. The reason for the demolition was water damage, he testified, caused by the property being in the flood plain or caused by the property having a high water table. Different reasons, for the second and for the first, but both underscore the reality—get the job done, worry about the consequences later. Oh, boy, those consequences matter.

His argument is all a matter of diminishing returns: the building had to be demolished without the requisite permits because the demolition could not be delayed. It was all too much of an inconvenience. It's all the County's fault. Whatever the excuse, demolition did continue.

Mr. Podles first opined the water damage and rotting wood uncovered **as the building was demolished** (emphasis added) were the result of the property being in a flood plain. In rebuttal, Mr. Gawel testified the property is not in a floodplain. Appellant's own **Exhibit 2,** Permit Number R-21-02585, notes the property is not in a floodplain.

Mr. Podles then opined it was the water table. Mr. Gawel testified, while admitting he is no water table expert, there was no evidence of any problem caused by the water table of the area. No evidence or testimony was offered in support of either contention. William J. Adams, Appellant's structural engineer, testified, when he visited the site, and only the foundation remained, he found no water on site. Mr. Adams testified he was first contacted on June 28th, 2022, and was asked to review the condition of the existing foundation wall and footings. **Board of Appeals Exhibit 1.** He visited the site once, on June 28th, 2022

The purpose of his site visit was to try and determine if the "…top of the foundation walls could be raised a couple of courses and if new structures could be built on the existing foundations." **Board Exhibit 1.**

He was not asked anything about the demolition or to give an opinion about the causes for the demolition. He was not asked to give an opinion about possible casualty or partial casualty loss. It is self-evident he could not because, when he visited the property, the building had already been demolished. Mr. Vrablic and Mr. Crizer testified they have had no water damage or water table issues with their homes.

The existing structure was built in 1924, **Appellant's Exhibit 4,** and, at the time of demolition, the building was 98 years old. Due to the Appellant's own actions and inactions, there is no way to verify what, if any, issues might have existed. No witnesses to the alleged damage other than Mr. Podles was produced; no photos taken, no examples saved. No testimony, no evidence, was produced by the Appellant to support the contention that there was a casualty loss or partial casualty loss as those terms are used in **§§104.2** and **305.1**, BCZR. A building 98 years old would be expected to have some deterioration by the very nature of its age, but there is no proof of damage caused by casualty such as the natural disasters cited as examples in **§305.1** While wine may improve with age; buildings do not. Advancing age does not casualty make!

Mr. Podles' testimony, his apparent business philosophy, was to get it done, worry about the consequences later. By his own testimony, as an experienced Property Manager, licensed contractor, and realtor, he knew and/or should have known the law but he and the Appellant chose to ignore it.

THE MIDDLE

I

Permit Number R22-06382

On or about May 17, 2022, the Appellant filed an amended application for building permit. **Appellant's Exhibit 3.** Its purpose was to amend the original approved permit, R21-02585 and to seek relief for the work already done. This permit sought approval for a proposed residential addition/alteration total of 3,154 SF, providing a breakout of the alteration/addition per floor of 2750 SF plus 404 SF for an added porch. **Appellant's Exhibit 3, page 2.** It is important to note that accompanying the new application were photos, **Petitioner's Exhibit 8, dated May 25th, 2022, entitled "existing pictures",** of the structure before demolition. These photos were later identified by Mr. Phanh Nguyen, Appellant's draftsman, as photos he took on his sole visit to the site in "late 2020 or early 2021". These photos speak for themselves. The County noted, on **page 8**, of the amended application, permit number R22—06382, that the amended application would be cancelled and a new application required for the reasons stated therein. Significantly, it was also noted that a special hearing would be required to confirm the non-conforming use granted in Case #2004-567SPHA had not been abandoned or discontinued for a one year period.

II

Permit Numbers R22-06755 and R22-06756

Mr. Podles testified he met with Jeffrey Perlow, chief of the Zoning Review section of the Department of Permits, Approvals and Inspections, two or three times in June and July of 2022. As a result, he gave to Mr. Perlow a Petition for Warrant of Restitution (hereinafter referred to as "Warrant"), **Appellant's Exhibit 9**, and a Property Release

Agreement (hereinafter referred to as "Release"). **Appellant's Exhibit 15.** He testified he also gave to Mr. Perlow a copy of a report from his structural engineer, all at Mr. Perlow' request, to substantiate the continued non-conforming use.

Mr. Perlow testified he reviewed the Warrant and the Release and he did conclude the non-conforming use of the property as a multi-family dwelling for two apartments side by side had not been discontinued for more than one year, **§104.1**, BCZR. He then signed off on Permits R22-06755 and 06756, which were then issued on October 15th, 2022. However, he testified, the issue of the demolition never came up in his meetings or discussions with Mr. Podles, and Mr. Perlow was unaware the structure had been razed. The Zoning Office does not get to see razing permits. If he had been made aware of the demolition, Mr. Perlow testified he would have required confirmation in writing by a structural engineer that the demolition was necessary due to a complete or partial casualty loss as defined by **§§104.2** and **305.1**, BCZR, and, further, such loss as a result of the casualty would have to be more than 50% of the structure. Mr. Perlow testified he does not remember seeing any report from a structural engineer. He didn't ask for such a report because he did not know, Mr. Podles did not tell him, of the demolition.

John Bryan, Baltimore County Building Engineer, then testified. Mr. Bryan after a diligent search of the County's permit files for 2621 and 2623 Brannan Ave, found no submittal from a structural engineer.

If their testimony was not enough, Mr. Adams, the Appellant's structural engineer, testified he did not submit any letter to the County. He did prepare a letter to Mr. Podles, a copy of which was introduced and accepted into evidence as **Board of Appeals Exhibit**

1. As described above, the purpose of the letter was very limited, to the capacity of the foundation wall, and had nothing to do with the causes for the demolition. Mr. Adams' one site visit occurred two months after the demolition.

III

Relevant Zoning Regulations

§104.1, BCZR, should a non-conforming use be abandoned or discontinued for a period of one year or more, the right to continue or resume such use is terminated; and/or by **§104.2**, BCZR, should a structure be damaged to any extent or destroyed by fire or other casualty it "may be restored within two years after such destruction or damage…" but subject to **§305.1**, BCZR, where this can occur only in case of "complete or partial casualty loss by fire, windstorm, flood or otherwise…"

Mr. Perlow testified, as stated above, if he had known of the demolition, if it had been brought to his attention, he would have required a letter from a structural engineer finding that demolition was caused by a casualty loss of at least 50% of the structure. He gave examples, in his opinion, of what would constitute a "casualty". He cited **§§104.2** and **305.1**. "…fire, windstorm, flood or otherwise…" **§305.1**. Mr. Podles offered no evidence of any such loss, other than his vague references to "water damage" and "wood rot". Certainly, there was no evidence, obvious and visible, in the photos, taken by Mr. Nguyen, the Appellant's draftsman, **Petitioner's Exhibit 8**, from which any such casualty loss can be discerned. By his own admission, whatever issues were discovered after the demolition began, the dwelling was demolished without any of the required building or

razing permits. Whatever issues there might have been could not be verified due to Appellant's rush to get it done without delay.

There was no evidence, no testimony, presented by the Appellant that the structure suffered from "fire, windstorm, flood, or otherwise" or any equivalent sudden natural event. No expert or any other witness was presented by the Appellant in support of its contentions.

IV

TENANCY

2621

Appellant introduced through Mr. Podles rental payment ledgers for 2621 Brannan Ave, **Appellant's Exhibits 7 and 8**. No ledger was introduced for 2623. Mr. Podles testified the ledgers were created by a third party contractor retained by him as Property Manager, to prepare and maintain such records. Both exhibits purportedly show the rental history for Stephanie Casey, a tenant in 2621 Brannan Ave., from April 30, 2020 through May 1st, 2021 (**Exhibit 7)** and from April 30th, 2020 through July 25th, 2021 (**Exhibit 8).** They both indicate the last rent payment received from Casey was alleged to have been made December 1st, 2020. Mr. Podles testified Casey did not move out until June of 2021. A text message printed out from Mr. Podles' cell phone, dated June 11th, 2021, allegedly to and from Casey, and introduced by him, states she had removed all of her personal property from the apartment prior to the date of the text message. **Appellant's Exhibit 10.** Appellant then produced into evidence **Appellant's Exhibit 9**, a Petition for Warrant of Restitution, referenced above, in support of Mr. Podles' contention that 2621 was not abandoned for more than one year.

As indicated above, **Exhibit 9** will be referred to as "Warrant". The Warrant filed in and issued by the District Court of Maryland for Baltimore County and indicates it was filed on May 26th, 2021, and ordered the possession of 2621 on or about April 13th, 2021. The Warrant was signed by a Judge but no date is indicated when. On or about July 2nd, 2021, a box marked "evicted" was noted on the Warrant. Viewing the Warrant at face value, the dates on the Warrant must be read in conjunction with the rent ledgers and the text message, **Appellant's Exhibits 7 and 8,** and **10.** The ledgers allege the last rent payment received from Stephanie Casey was in June 10th, 2021 in the amount of $211.27. The text message seems to confirm Casey had previously removed all of her personal property as of the date of the text, June 11th, 2021.

The exhibits themselves, and the inferences the Appellant wishes to have drawn from them, do not prove the continuation of the non-conforming use. The ledger is not proof of occupation. The ledgers are to be considered hearsay and were not supported by testimony of the person who prepared them. There was the testimony of Joseph Vrablic, Bryan McVey and Edward Crizer, with firsthand and direct knowledge, who testified there were no tenants in 2621 after June of 2020. They noticed how quiet the neighborhood was, no activity of any kind, no children running around, and no vehicles. Stephanie Casey had one child, a teenager. After June of 2020, she and her child were gone. The house was noticeably empty and Stephanie's white van was gone. Each testified there were no tenants after Stephanie left.

Then, there is the Warrant! The Warrant speaks for itself. In the instant matter, it has no bearing. The constable/sheriff could not actually evict anyone because there was

no one there to be evicted on July 2nd, 2021. The testimony of Petitioner's witnesses and by the exhibits introduced by the Appellant confirm the obvious. The Warrant was used to obfuscate and misdirect Mr. Perlow's attention in order to solicit his approval of the new building permits.

The Warrant was Appellant's penultimate attempt to support the argument that there was no abandonment of the non-conforming use. The Warrant is a valid landlord-tenant tool by which a landlord seeks redress from a recalcitrant tenant. It is not concerned with zoning.

Then, there is **Appellant's Exhibit 11,** a document entitled "Baltimore County Rental License Inspection Sheet". This is dated July 15th, 2020, and was completed allegedly after an inspection by a private inspector, not a county inspector, of 2621. See "inspector information". The inspection is to confirm the existence, or lack thereof, of certain life safety requirements in the specific unit being inspected. Nothing in the document provides any information that there was a tenant or that anyone was living in the unit. This is not the purpose of the document, which is to confirm the existence of certain features, such as smoke detectors and hot and cold running water. It does not confirm whether anyone is living in the unit. Note, however, the inspector's response to the query whether there are sleeping areas in the basement, and, if so, whether there exists a secondary means of escape. The inspector's answer is Yes, and dated 7/15/2020. Yes, he certifies, there were sleeping areas, and, yes, there was a secondary means of escape. However, there was no basement, therefore no secondary means of escape. Mr. Podles' own testimony, and that of his draftsman, Mr. Nguyen, stated the proposed new construction was on the same footprint as the old structure and there would be no increase in

square footage, except for 404SF for a porch. **Appellant's Exhibit 3**, the amended application for a building permit, page 4, asks whether there will be a basement. The answer is "None". Mr. Podles testified that the only change to the original structure was the proposed porch, the overhang. Mr. Adams, the Appellant's expert, testified about taking borings around the existing foundation. There was no basement. Was an inspection actually done? The Appellant did not offer the inspector as a witness.

There was no evidence introduced by the Appellant that a rental registration license was in fact issued by the County. More obfuscation and misdirection.

2623

Mr. Podles introduced into evidence a Property Release Agreement, the "Release". **Appellant's Exhibit 15.** The Release is dated August 13th, 2021, and states the "Resident herewith voluntarily surrenders the Property known as 2623 Brannan Avenue…" and is executed by a Nicholas Hildebrandt and Mr. Podles. Mr. Podles testified this is a form document he uses. It has a number of boxes, connoting certain conditions to be marked, if applicable. There is but one box marked, which states that the "Resident herewith returns all keys in possession to Management." There are no other markings. Mr. Podles' testified Mr. Hildebrandt was a resident in 2623 at the time of the execution of this Release. He argues this document confirmed 2623 was being used as a rental unit as of August, 2021, therefore, the non-conforming use as to 2623 was not abandoned. Who is Hildebrandt? Where did he come from?

Crizer, Vrablic and McVey testified they did not know Hildebrandt, never met him. They testified they never saw anyone or any activity at either of the apartments after Cookie vacated 2623 in January of 2020 and Stephanie vacated 2621 in June of 2020. They testified Cookie had 5 young and active children. Mr. Vrablic testified Mr. Podles in late December or early January of 2020 told him that he got rid of Cookie and she was gone. The Appellant offered no testimony to rebut Mr. Vrablic' recitation of the conversation. There was no activity, at all, after January at 2623; the children who always were outside, were no longer there. The quiet of the neighborhood was notable. No one ever moved in after she left. So, who is Nicholas Hildebrandt?

At the conclusion of Appellant's case, Petitioner recalled Mr. Podles, who was asked to review two exhibits, **Petitioner's Exhibits 19 and 20.** Each was introduced into evidence. **Exhibit 19** referred to a case information report printout from the Maryland Judiciary Case search link, in the matter of **Marie Capp-Bory, et al vs. Robert Podles, Nicholas Hildebrandt, et al**. This case was filed June 13, 2022. He was directed to the address listed for Mr. Hildebrandt, which he read as 45 Dendron Court, Parkville, Maryland 21234. He was then asked to review **Exhibit 20**, a case information report printout from the same source, in the matter of the **Comptroller of Maryland-Annapolis vs. Nicholas Hildebrandt, et al**, which was filed October 22, 2019. He was asked to note Mr. Hildebrandt's address, which he read to be 45 Dendron Ct, Parkville, Maryland 21234. The inference is obvious and concrete.

He was asked whether he knew Mr. Hildebrandt lived at the Parkville address. He admitted that he "probably did". He was asked to explain his relationship with Mr.

Hildebrandt. He admitted he knew Mr. Hildebrandt and had hired him for some construction work. When pressed, Mr. Podles admitted Mr. Hildebrandt did not actually live at 2623 but was a "co-signer". Based on the testimony and evidence presented, and, after consideration of all inferences most favorable to the Appellant, there can only be one conclusion: Mr. Hildebrandt never was a tenant in 2623 Brannan Ave.

The Appellant's introduction of the Release into evidence was its ultimate attempt to convince the Board at least one of the units was never discontinued for more than one year, but, whatever inferences the Appellant wanted to be drawn from it, were contradicted by Mr. Podles' own testimony. Based on the totality of the evidence and testimony, any inferences to be drawn from the Warrant and the Release do not support the Appellant's arguments.

THE PENULTIMATE END

Assuming arguendo, for the moment, that all favorable inferences are to be drawn from Appellant's evidence and testimony, the Appellant's argument the non-conforming use was not abandoned for more than a year would still fail.

The non-conforming use as granted and described in the Order of the Deputy Zoning Commissioner, **Petitioner's Exhibit 1,** defined the use as a multi-family dwelling consisting of two apartments side by side. The Deputy Zoning Commissioner concluded "I find that there has been no abandonment of the apartment use since the time the DR regulations were imposed in 1970" through 2004. **Petitioner's Exhibit 1, p. 5.**

No matter how you weigh the Appellant's testimony and evidence, the use was certainly abandoned, by the Appellant's own actions coupled with its inactions. There was

no way a resumption of the use could have occurred within the one year stricture. Assuming for the sake of argument, the two units were not vacated until July, or August, or September of 2021, whatever dates the Appellant wants to use, the building was demolished by April of 2022. Once demolished, the apartment use, the non-conforming use, ended. As a result, there could be no resumption of the use within the twelve month period, mindful of the fact the building permits were not issued until October 15th, of 2022!

§104.1 states "…provided that upon any change from such nonconforming use to any other use whatsoever, **or** [boldness added] any abandonment or discontinuance of such conforming use for a period of one year or more…." How much more obvious can it be that the Appellant changed the use, abandoned it, and discontinued it, manifested by demolition and the refusal to get permits. The Appellant simply decided to demolish the building to make it more valuable. **§104.1** offers no stay of enforcement of its provisions for the reasons offered by the Appellant. Before bringing our story to its ultimate conclusion, the issue of casualty, as that term is used in **§104.2** and **§305.1**, BCZR, must be addressed.

CASUALTY

§104.2 and **§305**.1 rather than defining the term "casualty", use examples to clarify its meaning. "A structure destroyed by fire or other casualty…" **§104.2**. "In case of complete or partial casualty loss by fire, windstorm, flood or otherwise…" **§101.1**, BCZR, offers no definition. Casualty as that term is used in the context of the zoning regulations connotes a sudden act of nature. While there is a dearth of cases defining the term, and most of those involve insurance claims, in **Ewing v Price**, 60 Md App 313 (1984), a case

involving the relocation of a towing business, the Court of Special Appeals was confronted with having to define what is a "substantial casualty loss". **Ewing** involved a request of a Baltimore County tower to transfer its business from one location to another, The County approved the transfer after determining the reason for the request was caused by a "substantial casualty loss", of theft and vandalism. However, as a result, the transfer caused another tower to lose a significant portion of its business, and an appeal ensued. The County Board of Appeals determined the tower who requested the move had suffered "significant casualty loss" caused by theft and vandalism at his then current location. The Circuit Court affirmed and an appeal was taken to the Court of Special Appeals. The Court of Special Appeals reversed.

> …we hold that a "substantial casualty loss" is a considerable decrease in importance or value attributable to a sudden, unforeseeable intervention by an outside agency…

Ewing, at 321.

"Casualty" as used in **§104.2** and in **§305.1**, BCZR should be read in the context as the term is used in **Ewing.** There was neither a "sudden nor unforeseeable intervention" that caused the destruction of 2621 and 2623 Brannan Ave. The building was 98 years old at the time of the demolition. Alleged water damage, a claim of a flood plain, or high level of the water table, or of rotting wood are not sudden and unforeseeable events. The casualty must be obvious. Mr. Podles testified he wanted to improve the value of the structure to seek a "better" class of tenants. There was no claim of casualty loss when the first permit was issued and the second floor was removed in its entirety. After the second floor was gone, the Appellant decided to demolish the entire structure. There was no fire, windstorm, flood or any other act of nature that met the strictures of **§104.2** and **§305.1**, BCZR. There

was no fire, windstorm, flood or any other sudden unforeseeable intervention. The roof hadn't been blown off by a windstorm or tornado, nor did a fire burn the house down. There was no reason to raze the building, second floor or first floor, other than for financial gain.

The term "casualty" as used in **§104.2** and **§305.1** and the examples cited require the casualty to be of a sudden nature and unforeseeable event.

THE END

The non-conforming use as granted in Case No 04-567 SPHA was terminated by the convergence of two operative events: The abandonment of the non-conforming use and by the demolition. Whether it was of one or both of the dwelling units, the weight of the evidence and testimony presented by the Petitioner and by the Appellant confirmed the previously approved non-conforming use is no longer operative. The Petitioner's witness testimony provide the best evidence, especially when weighed against the Appellant's testimony, the units were vacated in January and June of 2020. No matter, though, when tenancy ended, the demolition itself terminated the use. **§104.1**. As discussed above, the demolition of the building was not caused by a complete or partial casualty, as that term is used in **§104.2** and **§305.1**. The demolition was the voluntary act of the Appellant. The non-conforming use of the subject property for a multiple family use is terminated as a matter of law.

Further, and, as testified by Mr. Perlow, the use of the property for a multi-family two apartment use is not permitted on the subject property as a matter of right. In a residential zone, Mr. Perlow testified , the County Zoning Regulations would not otherwise permit a multi-family use on a single lot unless the dwelling met certain lot size

requirements. See **§1B02.3.C.1**, **Development Standards for Small Lots or Tracts**; and **§402.1, Conversion of one-family dwellings-minimum dimensions**. In the DR 5.5 zone, 10,000SF is required for a two family dwelling, with minimum interior setbacks from an interior lot line of 15' and, if a corner lot, a minimum setback of 35', with the sum of interior setbacks of 35' and the sum of corner lot setbacks of 40'. As noted above, the lot size of the subject property is 7,714SF. **PC Exhibit 3.** Further, the Deputy Zoning Commissioner denied the requested variance relief from §1B02.3.C.1 to allow a side yard setback of 3' in lieu of the minimum required 10'. **Petitioner's Exhibit 1.** With the non-conforming use abandoned and discontinued, the non-conforming use is lost. The subject property is limited by law to a single family dwelling with a side yard setback of 10', which the existing footprint cannot satisfy.

I

Analysis

Non-conforming uses are disfavored in Maryland.

County Council of Prince George's County v. Zimmer Dev. Co., 444 Md 490, 514 n. 16 (2015).

> Nonconforming uses pose a formidable threat to the success of zoning. They limit the effectiveness of land use controls, contribute to urban blight, imperil the success of the community plan, and injure property values.

County Council of Prince George's County v. E. L. Gardiner, Inc., 293 Md. 259, 267 (1982)

> "A nonconforming use (as defined in Section 101) may continue . . . provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such

> nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate."

§104.1

> "A structure damaged to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but many be enlarged..."

§104.2.

> "In case of complete or partial casualty loss by fire, windstorm, flood or otherwise of an existing dwelling that not comply with height or area requirements of the zone in which it is located, such dwelling may be restored, provided area or height deficiencies of the dwelling before the casualty are not increased in any respect, and such restoration is subject to the limitations imposed by **§104.2** of the Baltimore County Zoning Regulations."

§305.1.

In Maryland, the courts have held that these laws and regulations governing non-conforming uses must be strictly construed. The purpose is to over time eliminate them. **Cnty. Council of Prince George's Cnty. v. E. L. Gardner, Inc., 293 Md. 259, 268 (1982)**. The burden of proving a non-conforming use is the responsibility of the party seeking to establish the use. See **Trip Assocs., 392 Md. at 573; Calhoun v. Cnty. Bd. of Appeals of Baltimore Cnty., 262 Md. 265, 267 (1971); Vogl v. City of Baltimore, 228 Md. 283, 288 (1962); Lapidus v. Mayor & City Council of Baltimore, 222 Md. 260, 262 (1960).** Simply, the party asserting the existence of a nonconforming use has the burden of proving it.

In this instant matter, it is the Appellant's burden to prove the continued existence of the non-conforming use of two dwelling units on the subject property.

> The party asserting the existence of a nonconforming use has the burden of proving it.

Cnty. Comm'rs of Carroll Cnty. v. Uhler, 78 Md. App. 140, 145, cert. denied, 316 Md. 428 (1989)

Vrablic, McVey and Crizer testified 2621 and 2623 were vacant after January and June of 2020, respectively, which includes the conversation between Vrablic and Podles in or about December of 2019 or January of 2020 that Cookie was no longer a tenant.

> Maryland courts have long held that nonconforming uses can be abandoned through a finding of (1) "an intention to abandon or relinquish"; and (2) "some overt act, or some failure to act, which carries the implication that the owner neither claims nor retains any interest in the subject-matter of the abandonment." Landay v. Board of Zoning Appeals, 173 Md. 460, 469-70 (1938) (citing 1 C.J.S. Abandonment, 8). Alternatively, where there is a statute that establishes how a nonconforming use may be abandoned, the element of intent of the possessor of the nonconforming use is eliminated as an element of consideration, and the statute prevails. Canada's Tavern, Inc. v. Town of Glen Echo, 260 Md. 206, 210-11 (1970).

Sizemore v. Town of Chesapeake Beach, 225 Md App 631 (2015)

The overt acts and the continued failures to act of the Appellant speak to the abandonment and the discontinuance of the non-conforming use granted in Case No. 04-567SPHA.

CONCLUSION

THE FINAL CHAPTER

For the above stated reasons, the Petitioner respectfully requests that the Board of Appeals of Baltimore County find that:

1. The non-conforming use of the subject property, 2621 and 2623 Brannan Ave., owned by the Appellant as a multi-family dwelling consisting of two apartments side by side as granted in Case No. 04-567 SPHA has been abandoned and/or discontinued for a period of one year or more, and the right to continue or resume such non-conforming use is terminated;

2. The structure at 2621 and 2623 Brannan Ave was not damaged to any extent or destroyed by fire, windstorm, flood or otherwise when demolished and cannot be restored, therefore the non-conforming use as granted in Case No. 04-567 SPHA is terminated.

Respectfully submitted,



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Attorney for the Petitioner

Certification of Service

IT IS HEREBY CERTIFIED that copies of the foregoing Petitioner's Hearing Memorandum was served by email on this 6th day of October 2023 to Timothy Manuelides, Esq., 600 Washington Ave, Suite 202, Towson, Maryland 21204 at tmanuelides@tmlaw-llc.com and to Peter Max Zimmerman, Esq., People's Counsel for Baltimore County, 105 West Chesapeake Ave, Jefferson Bldg, Suite 204, Towson, Maryland 21204 at peoplescounsel@baltimorecountymd.gov.



Arnold Jablon

Exhibit A

Chronology

1. **10/6/2004**—Deputy Zoning Commissioner order approving non-conforming use for 2 units
   a. **Appellant Exhibit 1**
   b. **Petitioner's Exhibit 1**

2. **4/1/2009** John Podles deed to Christopher Podles, et al, as life estate
   a. **PC Exhibit 8**

3. **9/19/019—**John Podles, Jr., Christopher Podles, deed to Edgmere Wildlife Trust, L.A. Crites, trustee
   a. **PC Exhibit 9**

4. **2019--**John Podles, Jr. dies

5. **2019--**Robert Podles becomes property manager of subject property

6. **Approximately 1/2020**, tenant vacated 2623 unit

7. **Approximately 6/2020**, tenant vacated 2621 unit
   a. Testimony as both by Petitioner's witnesses

8. **3/2020**—permit R21-02585 issued for raising roof
   a. **Appellant Exhibit 2**

9. **7/15/20—**rental registration inspection
   a. **Appellant's Exhibit 10**

10. **Late 2020 or early 2021**, Mr. Nygun, Appellant's draftsman, testified he walked inside 2623, which was vacant, but did enter 2621

11. **5/26/ and 7/2/21—**Petition for Warrant of Restitution re: 2621
    a. **Appellant's Exhibit 9**

12. **6/11/21**—text message to and from Stephanie Casey
    b. **Appellant's Exhibit 9 a**

13. **8/13/21—**Property Release Agreement for 2621
    a. **Appellant's Exhibit 15**

14. **9/30/21**—confirmatory deed to Edgmere Wildlife Trust
    a. **Appellant's Exhibit 12**

15. **3/22—**permit number R21-02585 issued
    a. **Appellant's Exhibit 2**

16. **3/2022**—demolition of building begins
    a. Testimony of Petitioner's witnesses and photos

17. **4/6/22**—stop work order/correction notice issued by County to Rob Podles
    a. **Petitioner's Exhibit 3**

18. **4/7/22**—stop work order/correction notice issued by County to Edgmere Wildlife Trust
    a. **Petitioner's Exhibit 4**

19. **5/17/22**—application filed by Appellant to amend building permit—Permit R22-06302
    a. **Appellant Exhibit 3**

20. **6/9/2022**—razing permit issued
    a. **Appellant's Exhibit 4**

21. **6/2022**—Podles meets 2 or 3 times with Jeffrey Perlow, chief, Zoning Review, Baltimore County
    a. Podles gives to Perlow Warrant of Restitution, with filing date of 5/26/21 and return date of 7/2/2021
        i. **Appellant's Exhibit 9**
    b. Gives to Perlow Property Release Agreement dated 8/19.2021
        i. **Appellant's Exhibit 15**

22. **6/28/22**—William Adams, Appellant's structural engineer, makes only site visit

23.7/12/22—Adams issued letter to Robert Podles, Jr.

24.7/19/22—County responds to Appellant's application to amend permit

a. Appellant's Exhibit 3

25.6 and 7/22—Appellant meets with Perlow re: permit

a. Perlow's testimony

26.10/15/22—building permit issued R22-06755

a. Appellant Exhibit 5

b. Petitioner's Exhibit 5

c. Perlow's testimony zoning approved based on Warrant of Restitution and Property Management Agreement

27.10/15/22—building permit issued R22-06756

a. Appellant Exhibit 6

b. Petitioner's Exhibit 6

10 and 11/22—foundation work approved and c

JOHN A. OLSZEWSKI, JR.
County Executive

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

April 3, 2023

RECEIVED
APR 03 2023
BALTIMORE COUNTY
BOARD OF APPEALS

Timothy Manuelides, Esquire – tmanuelides@tmlaw-llc.com
Timothy Manuelides, LLC
600 Washington Avenue, Suite 202
Towson, MD 21204

RE: **APPEAL TO BOARD OF APPEALS**
Petition for Special Hearing
Case No. 2022-0269- SPH
Property: 2621-2623 Brannan Avenue

Dear Mr. Manuelides:

Please be advised that an appeal of the above-referenced case was filed in this Office on April 3, 2023. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

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

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

Sincerely,

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm
Attachment

c: *- continued to next page*

c: Arnold Jablon, Esquire – ajablon@comcast.net
Edward Crizer – edcrizer@gmail.com
Joseph Vrablic, III, 2622 Brannan Ave., Baltimore, MD 21219
Bryan McVey, 2618 Brannan Ave., Baltimore, MD 21219
People's Counsel – peoplescounsel@baltimorecountymd.gov
Jeff Perlow – jperlow@baltimorecountymd.gov
Matthew Gawel – mgawel@baltimorecountymd.gov

IN RE PETITION FOR SPECIAL HEARING (2621-2623 Brannan Avenue) 15th Election District 7th Council District Edgemere Wildlife Trust LA Crites Trustee *Legal Owners* Edward Crizer *Petitioner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY **Case No.: 2022-0269-SPH**

* * * * * * * *

NOTICE OF APPEAL

This matter came for a hearing before the Office of Administrative Hearings ("OAH") on March 1, 2023, the Honorable Paul M. Mayhew, Managing Administrative Law Judge for Baltimore County, presiding. On March 6, 2023, Judge Mayhew issued his decision in an Opinion and Order.

Pursuant to Baltimore County Code § 32-3-401(a), a "person aggrieved or feeling aggrieved" by the OAH's decision may file an appeal to the County Board of Appeals within thirty (30) days from the date of the Order. The Edgemere Wildlife Trust, the legal owners of the subject property, are aggrieved persons by the OAH's decision and Order and hereby file this timely Notice of Appeal on all issues decided by the OAH.

Date: April 3, 2023.

Respectfully,

Timothy Manuelides, Esquire
TIMOTHY MANUELIDES, LLC
600 Washington Avenue, Suite 202
Towson, MD 21204
Tel: 443-538-5725
tmanuelides@tmlaw-llc.com

Counsel for Petitioner/Appellant
Edgemere Wildlife Trust

RECEIVED
APR 04 2023
OFFICE OF
ADMINISTRATIVE HEARINGS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of April 2023 a copy of the foregoing Notice of Appeal was served via first class mail, postage prepaid, upon all interested persons:

Arnold Jablon, Esq. 3717 Lanamer Road Randallstown, MD 21133 *Counsel for Petitioner,* *Edward Crizer*	People's Counsel of Baltimore County The Jefferson Building 105 W. Chesapeake Avenue, #204 Towson, MD 21204 peoplescounsel@baltimorecountymd.gov
Jeff Perlow Baltimore County Department of Permits, Approvals and Inspections Baltimore County Office Building 111 W. Chesapeake Avenue, #105 Towson, MD 21204 jperlow@baltimorecountymd.gov	Matthew Gawel Baltimore County Department of Permits, Approvals and Inspections Baltimore County Office Building 111 W. Chesapeake Avenue, #105 Towson, MD 21204 mgawel@baltimorecountymd.gov
Joseph Vrablic, III 2622 Brennan Avenue Baltimore, MD 21219	Bryan McVey 2618 Brennan Avenue Baltimore, MD 21219

Timothy Manuelides Esq.

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

No. 203975

Date: 4/3/23

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	810	0000	[illegible]	01150				$300.00

Total: $300.00

Rec From: Timothy Manuelides, Esq.

For: OAH:
Case #: 2022-0269-SPH (Appeal)
Address: 2621-2623 Brannan Ave (CO-Tink)
Hearing Date: March 1, 2023
Check #:

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

CASHIER'S VALIDATION

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
4/04/2023	4/04/2023	09:36:41	2

REG TRDZ WALKIN MSJ
>>RECEIPT # 022007 4/04/2023 OFLN
Dept 5 528 ZONING VERIFICATION
203975
Rcpt Tot $ 300.00
300.00 CK .00 CA
Baltimore County, Maryland

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

No. 203975

Date: 4/3/23

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	810	0000	[redacted]	10150				$300.00

Total: $300.00

Rec From: Timothy Manuelides, Esq.

For: OAH:
Case #: 2022-0269-SPH Appeal
Address: 2621-2623 Brannan Ave. ES-Link
Hearing Date: March 1, 2023
Check #:

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

CASHIER'S VALIDATION

Timothy Manuelides LLC
600 Washington Ave., Suite 202
Towson, MD 21204

This is a Deluxe eCheck. The PAY TO THE ORDER OF line designates the Payee. For questions, call Deluxe Payment Exchange customer support at 1-877-353-6964. Ref: 3075-DGF9

VV205

Date 04/03/2023
Void after 90 days

PAY TO THE ORDER OF Baltimore County, Maryland $ 300.00

Three hundred and 00/100 Dollars

M & T Bank

Timothy Manuelides

Memo Notice of Appeal - 2022-0269-SPH

Verify check at https://echeck.com/verify

IN RE: **PETITION FOR SPECIAL HEARING** **(2621-2623 Brannan Avenue)** 15th Election District 7th Council District Edgemere Wildlife Trust LA Crites Trustee *Legal Owners* Edward Crizer *Petitioner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
	*	**Case No. 2022-0269-SPH**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH)" as a Petition for Special Hearing filed by the Petitioner, Edward Crizer. The Petition seeks a declaration that:

1. The previously approved nonconforming use has been abandoned; and

2. That a multi-family dwelling is not permitted on the subject property zoned DR 5.5.

The Petition was properly advertised and posted.[1] 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 the Petitioner's counsel, Arnold Jablon, Esquire. That request was granted and the hearing was held on March 1, 2023 at 1:30 p.m. at 105 West Chesapeake Avenue, Courtroom 104. Present at the hearing were the Petitioner, Edward Crizer. He was being represented by Arnold Jablon, Esquire. Also in attendance was People's Counsel, Peter Max Zimmerman, Esquire. Numerous neighbors also attended. No one appeared on behalf of the owner of the subject property.[2] Mr. Jablon noted that he sent a letter dated February 20,

[1] However, testimony and evidence revealed that the signs were removed soon after the property was posted. It is believed that the property owner(s) or their agents removed the signs. Bryan McVey, the next door neighbor, testified that he then created and posted a sign on his own property informing of the date, place and time of the Hearing. *See also,* Petitioner's Exhibit 11 (letter from Sgt. Black, the original sign poster).

[2] Although it was reported to the undersigned that an unnamed individual who attended the hearing accosted some of the neighbors in the lobby of the Jefferson Building after the hearing.

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Date 3-6-23
By

2023 to the registered owners of the property stating, in relevant part, that "[i]t has now come to my attention that within days of the posting of the signs, each has been removed by the property owner or by a representative of the property owner. *Notwithstanding the removal of the signage, my clients and neighbors of the Brannan Road properties have every intention of appearing for the hearing." See,* Petitioner's Exhibit 12 (emphasis added).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A Special Hearing under BCZR §. 500.7 is effectively a request for declaratory judgment. *Antwerpen v. Baltimore County,* 163 Md. App. 194, 209 (2006). As noted above, the Petitioner in this case seeks a twofold declaration: First, that the non-conforming use has lapsed; and, second, that only one single family home (if any) is permitted on the site.

The subject property is 7,628 sq. ft., and is zoned DR 5.5. It was the subject of Case No. 2004-567-SPHA in which the Deputy Zoning Commissioner, John V. Murphy, found a valid non-conforming use of two single family attached dwellings but denied a variance for the construction of a third apartment on the site.

Mr. Jablon gave an overview of the case by identifying and explaining Petitioner's exhibits, which were all admitted into evidence. Jeff Perlow, the head of the Zoning Office, explained that there had been a good deal of confusion concerning various razing and building permits issued for this property. He testified that the building permits were issued in error based on misrepresentations made by the applicant(s). Matt Gawel, a supervisor with the County Code Enforcement Office, testified that his office received a complaint in late March or early April 2022 that the structures on the property were being razed without a permit. Code Inspector Rodney Larrick investigated the complaint and issued a Code Enforcement Correction Notice and Stop Work Order on April 6, 2022 (Case No. CB-2200196). The Correction Notice notes that a permit

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By

(No. R21-02585) had been issued "for roof alteration and 2 cantilevered additions [but] site inspection reveals structure razed to foundation except for 1 wall that faces Haddaway Rd." Photos taken in that time frame confirm this. *See,* Petitioner's Exhibit 10. The Correction Notice cites violations of Baltimore County Code ("BCC") § 35-2-301 – working without a permit, and advises that neither the razing nor reconstruction were covered by Permit No. R21-02585.

On June 9, 2022 razing permits were issued - after the fact - for 2621 and 2623 Brannan Avenue. The owner of both properties is listed as "LA Crites, Trustee." The applicant listed is Steven Podles.[3] Building permits for 2621and 2623 Brannan Avenue (R22-06756 and R22-06755) were issued on October 15, 2022. *See,* Petitioner's Exhibits 3A and 3B. Steven Podles was again the applicant for these permits. Mr. Perlow testified that these permits were issued in error based on Mr. Podles' misrepresentations that the structures had been occupied as recently as July and August 2021, and were therefore allegedly within the 2 year restoration period prescribed by BCZR § 104.2. Mr. Perlow identified a "Warrant of Restitution," and a "Property Release Agreement" that Mr. Podles had provided in an attempt to show that 2621 Brannan Avenue had been occupied until July 2021 and that 2623 Brannan Avenue had been occupied until August 2021. Those documents were admitted collectively as Petitioner's Exhibit 4.

Joseph Vrablic III testified next. He has owned the property at 2622 Brannan Avenue since 2006 and he resides a few houses away from the subject property at 2616 Matthai Terrace. During his testimony he referred to a timeline that he had created concerning the history of the subject property dating back to John Podles' death on October 1, 2019. This document was admitted as Petitioner's Exhibit 13. Of note, he testified that both sides of the duplex have been vacant since

[3] The properties were formerly owned by John Podles. He died on October 1, 2019. Prior to his death, on September 19, 2019, ownership of the properties was transferred to LA Crites, Trustee of the Edgemere Wildlife Trust, by his attorney in fact, Christopher Podles (one of his sons). *See,* Petitioner's Exhibit 4, Deed of Confirmation.

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Date 3-6-23
By

June of 2020. He explained that the duplex structure was in reasonably good repair from June 2020 until March 2022 when the Podles family began razing both sides of the structure. He was shown a series of photographs (Petitioner's Exhibit 5D) and confirmed that they accurately depict how the properties looked during the period that they were unoccupied and prior to their demolition. He testified that during the time that the property was vacant the grass was not cut and litter accumulated in the yard. He testified that he would regularly go clean the trash up. He further explained that the vacant houses attracted teenagers from the neighborhood who would break into the houses to party. He testified that in January 2022 the water line in the house ruptured and flooded the yard and the adjoining yards, which then froze over. He said that he tried contacting Rob Podles numerous times on his cell phone to inform him of the issue but Podles never responded. The Baltimore City water department was called and they did not even have a record of a water account for the property. Eventually one of the neighbors entered the house and located the shut off valve. Mr. Vrablic further testified that in March of 2022 Rob Podles hired three men to demolish the dwellings, which took about three weeks and made a terrible mess. He testified that the workers began burning toxic demolition materials in the yard, and that noxious fumes billowed into the neighboring houses. When the neighbors asked them to stop burning these materials one of the Podles yelled at them to "go f@%* themselves." The Fire Department was eventually called and they extinguished the fire and condemned the property. He further recounted that in the fall of 2022 a contractor began pouring a new foundation over the remains of the old foundation and footers, which did not seem up to Code. When he asked him about the job the contractor told him that Rob Podles told him he was building a church there, and that he had given Mr. Podles a discounted price based on that. Finally, he confirmed that there had been no fire or natural disaster of any kind that resulted in damage to the structure, and that it was demolished

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Date 3-6-23
By DW

solely by the owners.

The Petitioner, Edward Krizer, testified next. He lives two doors down from the subject property. He also confirmed that the two duplex units were vacant from June 2020 until the Podles brothers demolished the structure in March 2022. He too confirmed that the photos in Petitioner's Exhibit 5D accurately depicted the condition of the structure during the time it was vacant. He noted that all the surrounding residences are single family homes and that this was the one duplex in the neighborhood.

Bryan McVey was the last witness. Since 2014 he has lived across the street from the subject property at 2618 Brannan Avenue. He too confirmed that the last tenants – "Stephanie" and "John" on one side, and "Cookie" on the other – all moved out in June 2020. He also explained that teenagers had been using the structure and shed as a hangout and that he had screwed the doors shut to try to stop this use. He too confirmed that the structure was demolished by the Podles family and that it had not been damaged by fire or other casualty.

Finally, the Petitioner submitted a Petition signed by all the surrounding neighbors in support of the declaratory relief sought in this case; namely, that the non-conforming use be terminated and that only one single family home can be constructed on the site. This document was admitted as Petitioner's Exhibit 9.

People's Counsel and Mr. Jablon then presented legal argument. People's Counsel cited *Canada's Tavern, Inc. v. Town of Glen Echo,* 260 Md. 206 (1970) for the proposition that the question of abandonment of a non-conforming use is an objective one that does not require a showing of *intent* to abandon, it requires only proof of abandonment. He argued that in this case the unrebutted evidence is that the properties were vacant from June 2020 until they were voluntarily demolished by the owners in March 2022, thereby exceeding the one year

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By

abandonment limit of BCZR §. 104.1. Thus the non-conforming use was extinguished as a matter of law. He and Mr. Jablon both also argued that the two year "restoration" period provided under BCZR § 104.2 is also inapplicable in this case because the structure was voluntarily demolished by the owner, *not* destroyed by fire or other casualty. Finally, People's Counsel argued that the building permits mistakenly issued in October 2022 do not provide any lawful authority to reconstruct a duplex at the site, and the county is not estopped from rescinding them. Mr. Zimmerman cited *Lipsitz v. Parr,* 164 Md. 222 (1933) and *Marzullo v. Kahl,* 366 Md. 158 (2001) for this proposition.

Following the hearing People's Counsel submitted further legal authority in support of the Petition. According to a leading treatise the general rule is that the voluntary demolition of a non-conforming structure results in the extinguishment of that non-conforming use no matter when the structure was last occupied. 4 Rathkopf, The Law of Zoning and Planning, Sec. 7:5 (4th Ed.). Finally, People's Counsel noted that the law is strictly construed against the continuance of non-conforming uses, as they are in contravention of the existing zoning applicable to the property. *Purich v. Draper Properties,* 395 Md. 694, 708-22 (2006).

Based on the record evidence and the controlling legal precedents I find that under BCZR § 104.1 the non-conforming use on the subject site lapsed at some point in June 2021 – one year after the last tenants vacated the properties. I further find that the two year "restoration" period under BCZR § 104.2 and BCZR § 305.1 are not applicable in this case because the duplex structure was not damaged by fire or other casualty, it was voluntarily demolished by agents of the owner. Finally, I find that the building permit numbers R22-06755 and R22-05756 were issued in error and were void *ab initio. Marzullo v. Kahl, supra.*

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Date 3-6-23
By DW

THEREFORE, it is ORDERED this **6th** day of **March, 2023** by this Administrative Law Judge that the Petition for Special Hearing is hereby **GRANTED,** and it is hereby **DECLARED** as follows:

1. The non-conforming use authorized in Case No. 2004-567-SPHA has lapsed and is legally terminated.
2. Only one single family dwelling shall be permitted on the subject site and that dwelling must conform to all current zoning and development regulations.

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

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm

ORDER RECEIVED FOR FILING
Date 3-6-23
By

JOHN A. OLSZEWSKI, JR.
County Executive

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

March 6, 2023

Arnold Jablon, Esquire – ajablon@comcast.net
3717 Lanamer Road
Randallstown, MD 21133

RE: Petition for Special Hearing
Case No. 2022-0269-SPH
Property: 2621-2623 Brannan Avenue
Owners: Edgemere Wildlife Trust LA Crites Trustee

Dear Mr. Jablon:

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: Edgemere Wildlife Trust LA Crites Trustee – 2621 Brannan Avenue, Sparrows Point, MD 21219
Edward Crizer – edcrizer@gmail.com
Joseph Vrablic, III, 2622 Brannan Ave., Baltimore, MD 21219
Bryan McVey, 2618 Brannan Ave., Baltimore, MD 21219
People's Counsel – peoplescounsel@baltimorecountymd.gov
Jeff Perlow – jperlow@baltimorecountymd.gov
Matthew Gawel – mgawel@baltimorecountymd.gov

IN RE: **PETITION FOR SPECIAL HEARING (2621-2623 Brannan Avenue)**	*	BEFORE THE
15th Election District	*	OFFICE OF
7th Council District		
Edgemere Wildlife Trust LA Crites Trustee *Legal Owners*	*	ADMINISTRATIVE HEARINGS
Edward Crizer *Petitioner*	*	FOR BALTIMORE COUNTY
	*	**Case No. 2022-0269-SPH**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH)" as a Petition for Special Hearing filed by the Petitioner, Edward Crizer. The Petition seeks a declaration that:

1. The previously approved nonconforming use has been abandoned; and

2. That a multi-family dwelling is not permitted on the subject property zoned DR 5.5.

The Petition was properly advertised and posted.[1] 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 the Petitioner's counsel, Arnold Jablon, Esquire. That request was granted and the hearing was held on March 1, 2023 at 1:30 p.m. at 105 West Chesapeake Avenue, Courtroom 104. Present at the hearing were the Petitioner, Edward Crizer. He was being represented by Arnold Jablon, Esquire. Also in attendance was People's Counsel, Peter Max Zimmerman, Esquire. Numerous neighbors also attended. No one appeared on behalf of the owner of the subject property.[2] Mr. Jablon noted that he sent a letter dated February 20,

[1] However, testimony and evidence revealed that the signs were removed soon after the property was posted. It is believed that the property owner(s) or their agents removed the signs. Bryan McVey, the next door neighbor, testified that he then created and posted a sign on his own property informing of the date, place and time of the Hearing. *See also,* Petitioner's Exhibit 11 (letter from Sgt. Black, the original sign poster).

[2] Although it was reported to the undersigned that an unnamed individual who attended the hearing accosted some of the neighbors in the lobby of the Jefferson Building after the hearing.

2023 to the registered owners of the property stating, in relevant part, that "[i]t has now come to my attention that within days of the posting of the signs, each has been removed by the property owner or by a representative of the property owner. *Notwithstanding the removal of the signage, my clients and neighbors of the Brannan Road properties have every intention of appearing for the hearing." See,* Petitioner's Exhibit 12 (emphasis added).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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The subject property is 7,628 sq. ft., and is zoned DR 5.5. It was the subject of Case No. 2004-567-SPHA in which the Deputy Zoning Commissioner, John V. Murphy, found a valid non-conforming use of two single family attached dwellings but denied a variance for the construction of a third apartment on the site.

Mr. Jablon gave an overview of the case by identifying and explaining Petitioner's exhibits, which were all admitted into evidence. Jeff Perlow, the head of the Zoning Office, explained that there had been a good deal of confusion concerning various razing and building permits issued for this property. He testified that the building permits were issued in error based on misrepresentations made by the applicant(s). Matt Gawel, a supervisor with the County Code Enforcement Office, testified that his office received a complaint in late March or early April 2022 that the structures on the property were being razed without a permit. Code Inspector Rodney Larrick investigated the complaint and issued a Code Enforcement Correction Notice and Stop Work Order on April 6, 2022 (Case No. CB-2200196). The Correction Notice notes that a permit

(No. R21-02585) had been issued "for roof alteration and 2 cantilevered additions [but] site inspection reveals structure razed to foundation except for 1 wall that faces Haddaway Rd." Photos taken in that time frame confirm this. *See,* Petitioner's Exhibit 10. The Correction Notice cites violations of Baltimore County Code ("BCC") § 35-2-301 – working without a permit, and advises that neither the razing nor reconstruction were covered by Permit No. R21-02585.

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Joseph Vrablic III testified next. He has owned the property at 2622 Brannan Avenue since 2006 and he resides a few houses away from the subject property at 2616 Matthai Terrace. During his testimony he referred to a timeline that he had created concerning the history of the subject property dating back to John Podles' death on October 1, 2019. This document was admitted as Petitioner's Exhibit 13. Of note, he testified that both sides of the duplex have been vacant since

[3] The properties were formerly owned by John Podles. He died on October 1, 2019. Prior to his death, on September 19, 2019, ownership of the properties was transferred to LA Crites, Trustee of the Edgemere Wildlife Trust, by his attorney in fact, Christopher Podles (one of his sons). *See,* Petitioner's Exhibit 4, Deed of Confirmation.

June of 2020. He explained that the duplex structure was in reasonably good repair from June 2020 until March 2022 when the Podles family began razing both sides of the structure. He was shown a series of photographs (Petitioner's Exhibit 5D) and confirmed that they accurately depict how the properties looked during the period that they were unoccupied and prior to their demolition. He testified that during the time that the property was vacant the grass was not cut and litter accumulated in the yard. He testified that he would regularly go clean the trash up. He further explained that the vacant houses attracted teenagers from the neighborhood who would break into the houses to party. He testified that in January 2022 the water line in the house ruptured and flooded the yard and the adjoining yards, which then froze over. He said that he tried contacting Rob Podles numerous times on his cell phone to inform him of the issue but Podles never responded. The Baltimore City water department was called and they did not even have a record of a water account for the property. Eventually one of the neighbors entered the house and located the shut off valve. Mr. Vrablic further testified that in March of 2022 Rob Podles hired three men to demolish the dwellings, which took about three weeks and made a terrible mess. He testified that the workers began burning toxic demolition materials in the yard, and that noxious fumes billowed into the neighboring houses. When the neighbors asked them to stop burning these materials one of the Podles yelled at them to "go f@%* themselves." The Fire Department was eventually called and they extinguished the fire and condemned the property. He further recounted that in the fall of 2022 a contractor began pouring a new foundation over the remains of the old foundation and footers, which did not seem up to Code. When he asked him about the job the contractor told him that Rob Podles told him he was building a church there, and that he had given Mr. Podles a discounted price based on that. Finally, he confirmed that there had been no fire or natural disaster of any kind that resulted in damage to the structure, and that it was demolished

solely by the owners.

The Petitioner, Edward Krizer, testified next. He lives two doors down from the subject property. He also confirmed that the two duplex units were vacant from June 2020 until the Podles brothers demolished the structure in March 2022. He too confirmed that the photos in Petitioner's Exhibit 5D accurately depicted the condition of the structure during the time it was vacant. He noted that all the surrounding residences are single family homes and that this was the one duplex in the neighborhood.

Bryan McVey was the last witness. Since 2014 he has lived across the street from the subject property at 2618 Brannan Avenue. He too confirmed that the last tenants – "Stephanie" and "John" on one side, and "Cookie" on the other – all moved out in June 2020. He also explained that teenagers had been using the structure and shed as a hangout and that he had screwed the doors shut to try to stop this use. He too confirmed that the structure was demolished by the Podles family and that it had not been damaged by fire or other casualty.

Finally, the Petitioner submitted a Petition signed by all the surrounding neighbors in support of the declaratory relief sought in this case; namely, that the non-conforming use be terminated and that only one single family home can be constructed on the site. This document was admitted as Petitioner's Exhibit 9.

People's Counsel and Mr. Jablon then presented legal argument. People's Counsel cited *Canada's Tavern, Inc. v. Town of Glen Echo,* 260 Md. 206 (1970) for the proposition that the question of abandonment of a non-conforming use is an objective one that does not require a showing of *intent* to abandon, it requires only proof of abandonment. He argued that in this case the unrebutted evidence is that the properties were vacant from June 2020 until they were voluntarily demolished by the owners in March 2022, thereby exceeding the one year

abandonment limit of BCZR §. 104.1. Thus the non-conforming use was extinguished as a matter of law. He and Mr. Jablon both also argued that the two year "restoration" period provided under BCZR § 104.2 is also inapplicable in this case because the structure was voluntarily demolished by the owner, *not* destroyed by fire or other casualty. Finally, People's Counsel argued that the building permits mistakenly issued in October 2022 do not provide any lawful authority to reconstruct a duplex at the site, and the county is not estopped from rescinding them. Mr. Zimmerman cited *Lipsitz v. Parr,* 164 Md. 222 (1933) and *Marzullo v. Kahl,* 366 Md. 158 (2001) for this proposition.

Following the hearing People's Counsel submitted further legal authority in support of the Petition. According to a leading treatise the general rule is that the voluntary demolition of a non-conforming structure results in the extinguishment of that non-conforming use no matter when the structure was last occupied. 4 Rathkopf, The Law of Zoning and Planning, Sec. 7:5 (4th Ed.). Finally, People's Counsel noted that the law is strictly construed against the continuance of non-conforming uses, as they are in contravention of the existing zoning applicable to the property. *Purich v. Draper Properties,* 395 Md. 694, 708-22 (2006).

Based on the record evidence and the controlling legal precedents I find that under BCZR § 104.1 the non-conforming use on the subject site lapsed at some point in June 2021 – one year after the last tenants vacated the properties. I further find that the two year "restoration" period under BCZR § 104.2 and BCZR § 305.1 are not applicable in this case because the duplex structure was not damaged by fire or other casualty, it was voluntarily demolished by agents of the owner. Finally, I find that the building permit numbers R22-06755 and R22-05756 were issued in error and were void *ab initio. Marzullo v. Kahl, supra.*

THEREFORE, it is ORDERED this **6th** day of **March, 2023** by this Administrative Law Judge that the Petition for Special Hearing is hereby **GRANTED,** and it is hereby **DECLARED** as follows:

1. The non-conforming use authorized in Case No. 2004-567-SPHA has lapsed and is legally terminated.
2. Only one single family dwelling shall be permitted on the subject site and that dwelling must conform to all current zoning and development regulations.

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

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

March 6, 2023

Arnold Jablon, Esquire – ajablon@comcast.net
3717 Lanamer Road
Randallstown, MD 21133

RE: Petition for Special Hearing
Case No. 2022-0269-SPH
Property: 2621-2623 Brannan Avenue
Owners: Edgemere Wildlife Trust LA Crites Trustee

Dear Mr. Jablon:

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: Edgemere Wildlife Trust LA Crites Trustee – 2621 Brannan Avenue, Sparrows Point, MD 21219
Edward Crizer – edcrizer@gmail.com
Joseph Vrablic, III, 2622 Brannan Ave., Baltimore, MD 21219
Bryan McVey, 2618 Brannan Ave., Baltimore, MD 21219
People's Counsel – peoplescounsel@baltimorecountymd.gov
Jeff Perlow – jperlow@baltimorecountymd.gov
Matthew Gawel – mgawel@baltimorecountymd.gov

JOHN A. OLSZEWSKI, JR.
County Executive

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

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

Case Number: 2022-0269-SPH
Property Address: 2621 2623 BRANNAN RD.
Location: Corner of S/side of Haddaway Rd. and East side of Brannan Ave.
Election District: 15 Council District: 7
Legal Owner: Edgemere Wildlife Trust LA Crites Trustee
Contract Purchaser: No Contract Purchaser was set.

SPECIAL HEARING:
1.) To confirm that a previously approved nonconforming use has been abandoned; and
2.) To confirm that a multi-family dwelling is not permitted on the subject property zoned DR 5.5.

In-Person Hearing: Wednesday- 03/01/2023 01:30 PM, 105 W. Chesapeake Ave., ROOM 104 – FIRST FLOOR

THE HEARING IS SCHEDULED TO START AT 1:30 PM

JOHN A. OLSZEWSKI, JR.
County Executive

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

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OFFICE OF ADMINISTRATIVE HEARINGS
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In-Person Hearing: Wednesday- 03/01/2023 01:30 PM, 105 W. Chesapeake Ave., ROOM 104 – FIRST FLOOR

THE HEARING IS SCHEDULED TO START AT 1:30 PM

Arnold Jablon – In-Person 3-1-23 1:30 PM Rm. 104

Debra Wiley

From: Debra Wiley
Sent: Wednesday, February 1, 2023 1:37 PM
To: David Goodwich
Cc: Donna Mignon
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Sounds good Dave !

From: David Goodwich <dgoodwich@baltimorecountymd.gov>
Sent: Wednesday, February 1, 2023 1:27 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

No problem at all. I am actually going to include both of your emails (Deb & Donna) just as a backup, but I plan on attending & recording the hearing.

Thanks

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Wednesday, February 1, 2023 1:20 PM
To: David Goodwich <dgoodwich@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>; Arnold Jablon <ajablon@comcast.net>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Thank you so much David – you're the best !

From: David Goodwich <dgoodwich@baltimorecountymd.gov>
Sent: Wednesday, February 1, 2023 1:19 PM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Arnold Jablon <ajablon@comcast.net>; Debra Wiley <dwiley@baltimorecountymd.gov>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Thanks, all. I will setup a Webex event, but won't include any emails since it will only be used to record the proceedings.

Thanks again,

Dave Goodwich

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Wednesday, February 1, 2023 12:00 PM
To: Arnold Jablon <ajablon@comcast.net>; Debra Wiley <dwiley@baltimorecountymd.gov>
Cc: David Goodwich <dgoodwich@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Correct, I will complete a regular zoning notice to send you and no emails are needed for the webex. Thank you.

Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

From: Arnold Jablon <ajablon@comcast.net>
Sent: Wednesday, February 1, 2023 11:56 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>
Cc: David Goodwich <dgoodwich@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

CAUTION: This message from ajablon@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.

Kristen, So, if we do only an in-person, you don't need email addresses, correct? Let me know. March 1st it is at 1:30.

From: Debra Wiley [mailto:dwiley@baltimorecountymd.gov]
Sent: Wednesday, February 1, 2023 11:35 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Arnold Jablon <ajablon@comcast.net>
Cc: David Goodwich <dgoodwich@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Good Morning Arnold,

Can you clarify if this is just an in-person or in addition to virtual ? If virtual, then we don't need to create the WebEx event and send invitations. However, Kristen will need to post to the public calendar as an "in-person" hearing.

Thank you.

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Wednesday, February 1, 2023 11:32 AM
To: Arnold Jablon <ajablon@comcast.net>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Good morning,

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Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

From: Arnold Jablon <ajablon@comcast.net>
Sent: Friday, January 27, 2023 2:19 PM
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Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

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Donna Mignon

From: Kristen L Lewis
Sent: Wednesday, February 1, 2023 12:00 PM
To: Arnold Jablon; Debra Wiley
Cc: David Goodwich; Donna Mignon
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

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Legal Secretary
PAI – Zoning Review

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Cc: David Goodwich <dgoodwich@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

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Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

From: Arnold Jablon <ajablon@comcast.net>
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To: Kristen L Lewis <klewis@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: Re: Case No 22-269SPH/2621-2623 Brannan Road

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Thanks, Kristen.

Sent from my iPhone

> On Jan 27, 2023, at 2:14 PM, Kristen L Lewis <klewis@baltimorecountymd.gov> wrote:
>
> I hope to be able to confirm dates by Tuesday at the latest. Thank you.
>
> Kristen Lewis-Coles
> Legal Secretary
> PAI – Zoning Review
>
> ---
>
> **From:** Arnold Jablon <ajablon@comcast.net>
> **Sent:** Friday, January 27, 2023 2:13 PM
> **To:** Debra Wiley <dwiley@baltimorecountymd.gov>
> **Cc:** Kristen L Lewis <klewis@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
> **Subject:** Re: Case No 22-269SPH/2621-2623 Brannan Road
>
> **CAUTION:** This message from ajablon@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.
>
> I will be out of the country from 2/4 through 2/17th so I would like to get it scheduled so I can arrange the posting and the advertising before I leave. Thank you all!
>
> Sent from my iPhone
>
> > On Jan 27, 2023, at 2:06 PM, Debra Wiley <dwiley@baltimorecountymd.gov> wrote:
> >
> > Thanks Kristen and you also.

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Friday, January 27, 2023 2:05 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Arnold Jablon <ajablon@comcast.net>
Cc: David Goodwich <dgoodwich@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Thank you. I am currently waiting on dates for March and will be able to confirm on my end as soon as possible. Have a good weekend everyone.

Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Friday, January 27, 2023 1:52 PM
To: Arnold Jablon <ajablon@comcast.net>
Cc: David Goodwich <dgoodwich@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Great- thanks Arnold.

From: Arnold Jablon <ajablon@comcast.net>
Sent: Friday, January 27, 2023 1:49 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Cc: David Goodwich <dgoodwich@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: Re: Case No 22-269SPH/2621-2623 Brannan Road

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March 1st or 2nd are good. Thanks

Sent from my iPhone

> On Jan 27, 2023, at 1:22 PM, Debra Wiley <dwiley@baltimorecountymd.gov> wrote:
>
> Good Afternoon,
>
> Dave – thanks for getting back to us – it is appreciated.
>
> Kristen / Arnold – Since Dave is available the remaining of the week -- can we do an afternoon on 3/1, 3/2 or 3/3 if Room 104 is available?

Thanks.

From: David Goodwich <dgoodwich@baltimorecountymd.gov>
Sent: Friday, January 27, 2023 12:38 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Arnold Jablon <ajablon@comcast.net>; Kristen L Lewis <klewis@baltimorecountymd.gov>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Good afternoon, all

We already have an afternoon G.W.M. hearing scheduled at 1:30 on Tuesday 2/28 that I will be hosting. I am available on 2/27, or any other afternoon that week. Apologies for the inconvenience.

Thank you,

Dave Goodwich

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Friday, January 27, 2023 10:40 AM
To: Arnold Jablon <ajablon@comcast.net>; Kristen L Lewis <klewis@baltimorecountymd.gov>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Glad to hear.

I will get back to everyone as soon as I can.

Thanks.

From: Arnold Jablon <ajablon@comcast.net>
Sent: Friday, January 27, 2023 10:36 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

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February 28th is good! To paraphrase Mark Twain, the rumors of my retirement are "greatly exaggerated"! I am mostly retired but still will get involved if something comes along I think is interesting.

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Sent: Friday, January 27, 2023 10:25 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Arnold Jablon <ajablon@comcast.net>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

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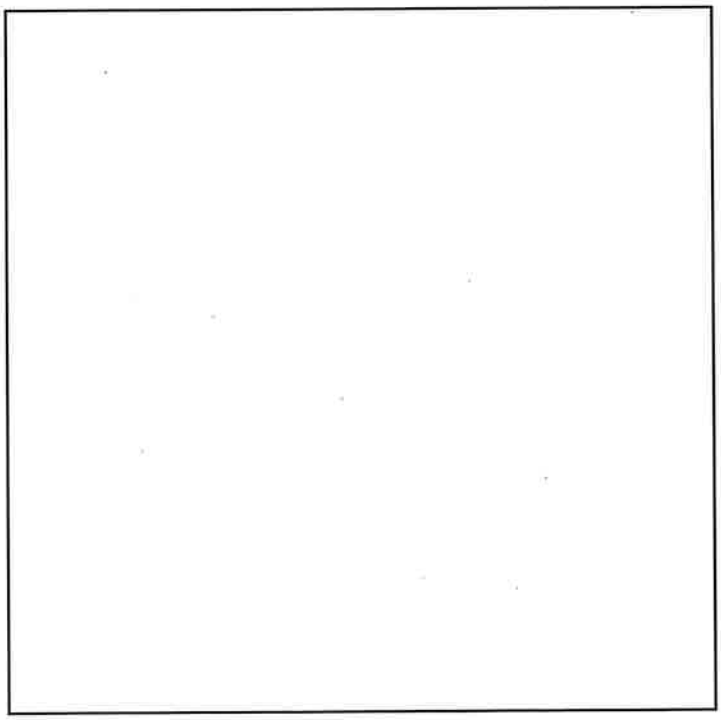
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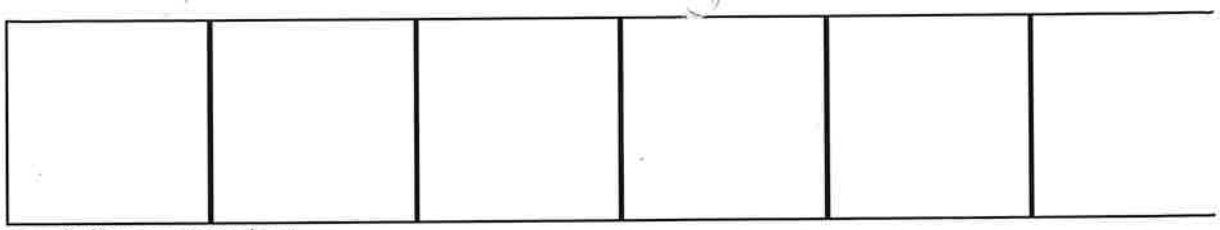
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443 250 6455



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Debra Wiley

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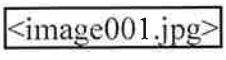
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We first need to make sure that the hearing room (Room 104) on the first floor of our building is available since that's the only room that is equipped to record and Kristen should be able to reserve that if it's available. I will need to talk to ALJ Mayhew and by copy of this email to Dave Goodwich from Code Enforcement to see if he can be available since he's the most experienced with the equipment in that room.

I will get back to you as soon as I can.

Thanks and take care.

From: Arnold Jablon <ajablon@comcast.net>
Sent: Friday, January 27, 2023 10:08 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Cc: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: Case No 22-269SPH/2621-2623 Brannan Road

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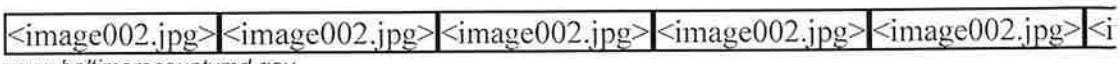
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<image002.jpg><image002.jpg><image002.jpg><image002.jpg><image002.jpg><i

Donna Mignon

From: Debra Wiley
Sent: Wednesday, February 1, 2023 11:35 AM
To: Kristen L Lewis; Arnold Jablon
Cc: David Goodwich; Donna Mignon
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Good Morning Arnold,

Can you clarify if this is just an in-person or in addition to virtual ? If virtual, then we don't need to create the WebEx event and send invitations. However, Kristen will need to post to the public calendar as an "in-person" hearing.

Thank you.

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Wednesday, February 1, 2023 11:32 AM
To: Arnold Jablon <ajablon@comcast.net>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Good morning,

I am setting this case in for Wednesday, March 1, 2023 at 1:30 p.m. for Room 104 of the Jefferson Building. Arnold, I will send the notice to you shortly for posting. Please also send the list of the names and email addresses of all parties who need a webex link. Thank you.

Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

From: Arnold Jablon <ajablon@comcast.net>
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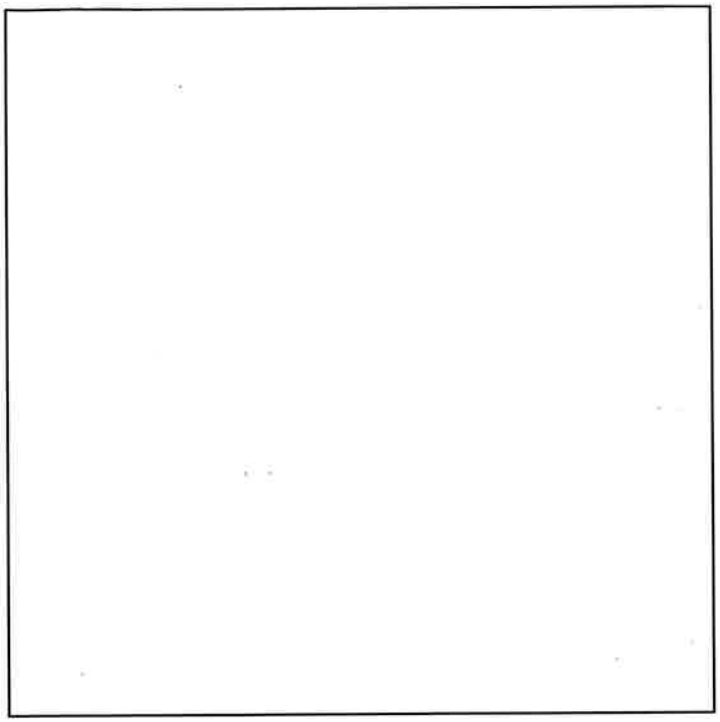
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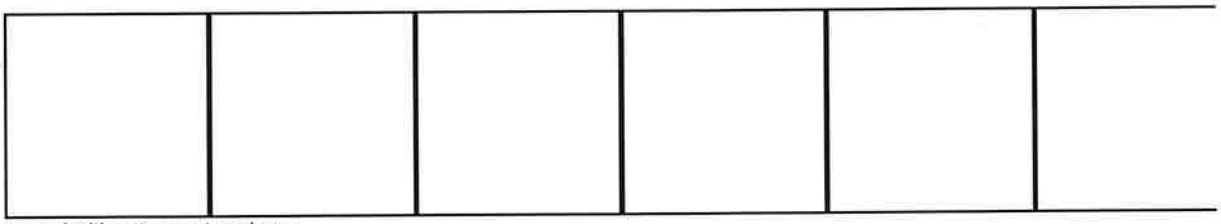
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Debra Wiley

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Sent: Friday, January 27, 2023 2:15 PM
To: Arnold Jablon; Debra Wiley
Cc: David Goodwich; Donna Mignon
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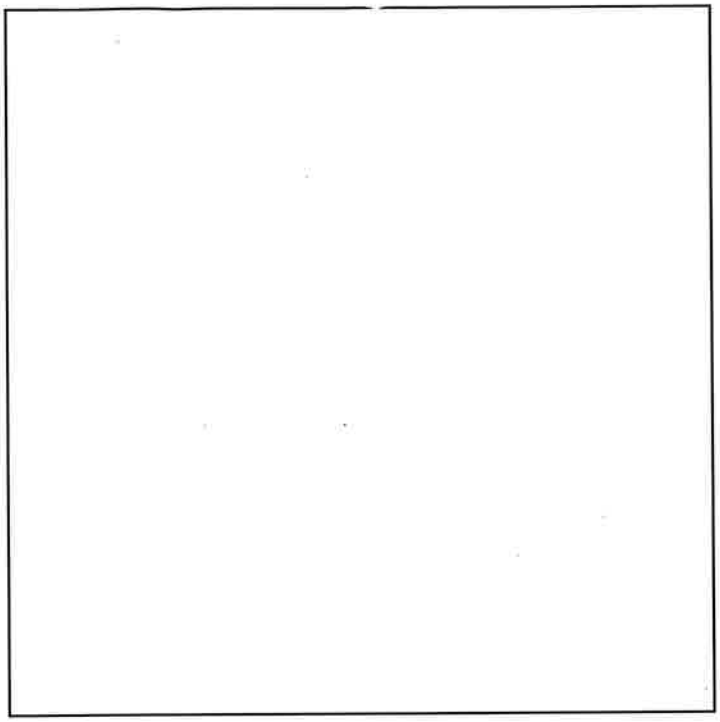
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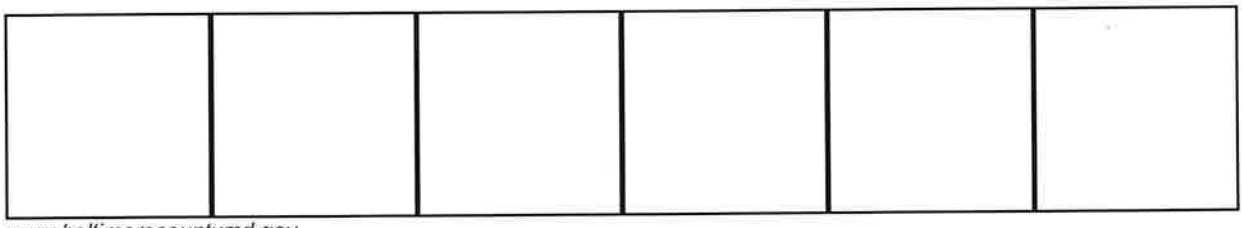
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To Paul

Debra Wiley

From: Debra Wiley
Sent: Friday, January 27, 2023 10:27 AM
To: Paul Mayhew
Subject: UPDATE - NEW DATE - FW: Case No 22-269SPH/2621-2623 Brannan Road

FYI

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Friday, January 27, 2023 10:25 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Arnold Jablon <ajablon@comcast.net>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Good morning all,

Not remembering Room 104 is the only room equipped right now, I would have to give the option of February 28th at 1:30 instead since there is an in-person hearing for another agency in 104 on the 27th. I can hold 2/28 at 1:30 for 104 until confirmation by the ALJ's office. Thank you,

Kristen Lewis-Coles
Legal Secretary
PAI – Zoning Review

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Friday, January 27, 2023 10:21 AM
To: Arnold Jablon <ajablon@comcast.net>
Cc: Kristen L Lewis <klewis@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; David Goodwich <dgoodwich@baltimorecountymd.gov>
Subject: RE: Case No 22-269SPH/2621-2623 Brannan Road

Good Morning Mr. Jablon,

I'm doing well, thank you. I'd ask how your retirement is coming along but it doesn't sound like you have, in fact, retired at all. Hope you've slowed down a little and enjoyed a break at least.

We first need to make sure that the hearing room (Room 104) on the first floor of our building is available since that's the only room that is equipped to record and Kristen should be able to reserve that if it's available. I will need to talk to ALJ Mayhew and by copy of this email to Dave Goodwich from Code Enforcement to see if he can be available since he's the most experienced with the equipment in that room.

I will get back to you as soon as I can.

Thanks and take care.

From: Arnold Jablon <ajablon@comcast.net>
Sent: Friday, January 27, 2023 10:08 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>

Cc: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: Case No 22-269SPH/2621-2623 Brannan Road

CAUTION: This message from ajablon@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, Debbie. Hope all is well. I filed a petition for special hearing to confirm that a previously approved nonconforming use has been abandoned and to confirm a multi-family dwelling is not permitted on the subject property. Without getting into any facts of this matter, I filed this on behalf of many neighbors within the community, with the North Point Peninsula Council taking an active interest in this matter. The purpose of this email is to request the hearing be held in-person, rather than by WebEx. I notice that in-person hearings have been held by request. I can attest there is much community interest in this matter and there are many people who would appear at the hearing. I have tentatively scheduled the hearing for February 27th at 1:30 and was advised by Ms. Lewis I should make this request to the Office of Administrative Hearings. Should more information be needed, please contact me. Thank you for any consideration that may be given to this request.

Arnold Jablon, Esq.
3717 Lanamer Road
Randallstown, Maryland 21133
443 250 6455

JOHN A. OLSZEWSKI, JR.
County Executive

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

April 3, 2023

Timothy Manuelides, Esquire – tmanuelides@tmlaw-llc.com
Timothy Manuelides, LLC
600 Washington Avenue, Suite 202
Towson, MD 21204

RECEIVED
APR 03 2023
BALTIMORE COUNTY
BOARD OF APPEALS

RE: **APPEAL TO BOARD OF APPEALS**
Petition for Special Hearing
Case No. 2022-0269- SPH
Property: 2621-2623 Brannan Avenue

Dear Mr. Manuelides:

Please be advised that an appeal of the above-referenced case was filed in this Office on April 3, 2023. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

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

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

Sincerely,

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm
Attachment

c: - *continued to next page*

c: Arnold Jablon, Esquire – ajablon@comcast.net
Edward Crizer – edcrizer@gmail.com
Joseph Vrablic, III, 2622 Brannan Ave., Baltimore, MD 21219
Bryan McVey, 2618 Brannan Ave., Baltimore, MD 21219
People's Counsel – peoplescounsel@baltimorecountymd.gov
Jeff Perlow – jperlow@baltimorecountymd.gov
Matthew Gawel – mgawel@baltimorecountymd.gov

APPEAL

Petition for Special Hearing
Case No.: 2022-0269-SPH
2621-2623 Brannan Avenue
15th Election District, 7th Council District

Petition for Special Hearing filed by Petitioners Edward Crizer – represented by Arnold Jablon

Zoning Description of Property (1 page)

In person Hearing – In Person Hearing: March 1, 2023 at 1:30 p.m. – Date of Notice: 2/1/23

Certification of Publication – *The Daily Record* Newspaper – 2/9/23

Certification of Posting by Sgt. Black – 2/9/23 – 2/28/23

Entry of Appearance by People's Counsel – November 18, 2023

Attendance Sheets -0

Zoning Advisory Committee Comments-
DOP - 12/12/2022
DEPS – 1/10/2023

Petitioner's Exhibits

1. Zoning order in case No. 04-567 SPHA Granting of NCU and denying requested variance
2. Site plan submitted in case No. 04-567 fully describing general notes, relevant information specific to property, location and size of existing buildings as of date of hearing;
3. (a)Baltimore County building permit information for Permit # R22-06755 submitted by property owner;
3. (b)Baltimore County building permit information for Permit # R22-06756 submitted by property owner;
4. District Court of Maryland Petition for Warrant of Restitution;
5. (a)p. 1-site plan submitted by property owner for building permit;
5. (b)pp. 2, 3-sewer and water drawings;
5. (c)pp. 4,5-sewer and water drawings;
5. (d)p. 6-existing pictures submitted with building permit application;
5. (e)pp. 7, 8, 9-Deed of confirmation;
5. (f)p. 10-Petition for warrant of restitution with County approval
6. My Neighborhood view of geographic area

Overview of area in which subject property is located, zoning designation; subject property and surrounding neighborhood;

7. My Neighborhood overview of subject neighborhood;
8. BCZR Sections 104 and 305
9. Neighborhood petition

10. Photos post demolition

People's Counsel Exhibits

1. 2004 ALJ Opinion and Site Plan
2. CBA Dismissal of 2004 case
3. SDAT Information
4. ADC Map
5. MyNeighborhood Zoning & Aerial Maps
6. Google Street Map Photo

Miscellaneous: ZAC Agenda, SDAT, Emails, Code Inspection Citations, Subpoenas,

Letters from Jeffrey Perlow and People's Counsel dated March 2, 2023

Cover Letter and Administrative Law Judge's Opinion and Order – March 6, 2023 (BY JUDGE MAYHEW)

Notice of Appeal & Check No. 205 for $300.00 on April 3, 2023 from Timothy Manuelides Esquire

Cashier's Receipt No. 203975

Materials Sent to BOA Folder on 4/3/23

IN RE PETITION FOR SPECIAL HEARING (2621-2623 Brannan Avenue) 15th Election District 7th Council District Edgemere Wildlife Trust LA Crites Trustee *Legal Owners* Edward Crizer *Petitioner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY **Case No.: 2022-0269-SPH**

* * * * * * * *

NOTICE OF APPEAL

This matter came for a hearing before the Office of Administrative Hearings ("OAH") on March 1, 2023, the Honorable Paul M. Mayhew, Managing Administrative Law Judge for Baltimore County, presiding. On March 6, 2023, Judge Mayhew issued his decision in an Opinion and Order.

Pursuant to Baltimore County Code § 32-3-401(a), a "person aggrieved or feeling aggrieved" by the OAH's decision may file an appeal to the County Board of Appeals within thirty (30) days from the date of the Order. The Edgemere Wildlife Trust, the legal owners of the subject property, are aggrieved persons by the OAH's decision and Order and hereby file this timely Notice of Appeal on all issues decided by the OAH.

Date: April 3, 2023.

Respectfully,

Timothy Manuelides, Esquire
TIMOTHY MANUELIDES, LLC
600 Washington Avenue, Suite 202
Towson, MD 21204
Tel: 443-538-5725
tmanuelides@tmlaw-llc.com

Counsel for Petitioner/Appellant
Edgemere Wildlife Trust

RECEIVED
APR 04 2023
OFFICE OF
ADMINISTRATIVE HEARINGS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of April 2023 a copy of the foregoing Notice of Appeal was served via first class mail, postage prepaid, upon all interested persons:

Arnold Jablon, Esq. 3717 Lanamer Road Randallstown, MD 21133 *Counsel for Petitioner,* *Edward Crizer*	People's Counsel of Baltimore County The Jefferson Building 105 W. Chesapeake Avenue, #204 Towson, MD 21204 peoplescounsel@baltimorecountymd.gov
Jeff Perlow Baltimore County Department of Permits, Approvals and Inspections Baltimore County Office Building 111 W. Chesapeake Avenue, #105 Towson, MD 21204 jperlow@baltimorecountymd.gov	Matthew Gawel Baltimore County Department of Permits, Approvals and Inspections Baltimore County Office Building 111 W. Chesapeake Avenue, #105 Towson, MD 21204 mgawel@baltimorecountymd.gov
Joseph Vrablic, III 2622 Brennan Avenue Baltimore, MD 21219	Bryan McVey 2618 Brennan Avenue Baltimore, MD 21219

Timothy Manuelides Esq.

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

No. 203975

Date: 4/3/23

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	810	0000	[redacted]	10150				$300.00

Total: $300.00

Rec From: Timothy Manuelides, Esq.

For: OAH:
Case#: 2022-0269-SPH Appeal
Address: 2621-2623 Brannan Ave. CS-Link
Hearing Date: March 1, 2023
Check#:

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

CASHIER'S VALIDATION

Timothy Manuelides LLC
600 Washington Ave., Suite 202
Towson, MD 21204

This is a Deluxe eCheck. The PAY TO THE ORDER OF line designates the Payee. For questions, call Deluxe Payment Exchange customer support at 1-877-353-6964. Ref: 3075-8689

VV205

Date 04/03/2023
Void after 90 days

PAY TO THE ORDER OF Baltimore County, Maryland $ 300.00

Three hundred and 00/100 Dollars

M & T Bank

Timothy Manuelides

Memo Notice of Appeal - 2022-0269-SPH

Verify check at mtb.echecks.com/verify

Debra Wiley

From: Debra Wiley
Sent: Monday, March 6, 2023 12:17 PM
To: Arnold Jablon, Esquire –
Cc: Edward Crizer –; Peoples Counsel; Jeffrey N Perlow; Matt F. Gawel; Donna Mignon; County Council; Henry Ayakwah; Jeffery Livingston; Jenifer G. Nugent; PAI Zoning; Vishnubhai K Desai
Subject: DECISION - Case No. 2022-0269-SPH - 2621-2623 Brannan Ave. - Edgemere Wildlife Trust LA Crites Trustee
Attachments: 0620_001.pdf

Good Afternoon Mr. Jablon,

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

FYI -- Messrs. Vrablic and McVey were forwarded a hard copy of the Order since we do not have their email addresses.

Have a great and safe day.

From: adminhearingcopier@baltimorecountymd.gov <adminhearingcopier@baltimorecountymd.gov>
Sent: Monday, March 6, 2023 12:15 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

March 6, 2023

Arnold Jablon, Esquire – ajablon@comcast.net
3717 Lanamer Road
Randallstown, MD 21133

RE: Petition for Special Hearing
Case No. 2022-0269-SPH
Property: 2621-2623 Brannan Avenue
Owners: Edgemere Wildlife Trust LA Crites Trustee

Dear Mr. Jablon:

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: Edgemere Wildlife Trust LA Crites Trustee – 2621 Brannan Avenue,
Sparrows Point, MD 21219
Edward Crizer – edcrizer@gmail.com
Joseph Vrablic, III, 2622 Brannan Ave., Baltimore, MD 21219
Bryan McVey, 2618 Brannan Ave., Baltimore, MD 21219
People's Counsel – peoplescounsel@baltimorecountymd.gov
Jeff Perlow – jperlow@baltimorecountymd.gov
Matthew Gawel – mgawel@baltimorecountymd.gov

IN RE: **PETITION FOR SPECIAL HEARING** **(2621-2623 Brannan Avenue)** 15th Election District 7th Council District Edgemere Wildlife Trust LA Crites Trustee *Legal Owners* Edward Crizer *Petitioner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
	*	**Case No. 2022-0269-SPH**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH)" as a Petition for Special Hearing filed by the Petitioner, Edward Crizer. The Petition seeks a declaration that:

1. The previously approved nonconforming use has been abandoned; and

2. That a multi-family dwelling is not permitted on the subject property zoned DR 5.5.

The Petition was properly advertised and posted.[1] 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 the Petitioner's counsel, Arnold Jablon, Esquire. That request was granted and the hearing was held on March 1, 2023 at 1:30 p.m. at 105 West Chesapeake Avenue, Courtroom 104. Present at the hearing were the Petitioner, Edward Crizer. He was being represented by Arnold Jablon, Esquire. Also in attendance was People's Counsel, Peter Max Zimmerman, Esquire. Numerous neighbors also attended. No one appeared on behalf of the owner of the subject property.[2] Mr. Jablon noted that he sent a letter dated February 20,

[1] However, testimony and evidence revealed that the signs were removed soon after the property was posted. It is believed that the property owner(s) or their agents removed the signs. Bryan McVey, the next door neighbor, testified that he then created and posted a sign on his own property informing of the date, place and time of the Hearing. *See also,* Petitioner's Exhibit 11 (letter from Sgt. Black, the original sign poster).

[2] Although it was reported to the undersigned that an unnamed individual who attended the hearing accosted some of the neighbors in the lobby of the Jefferson Building after the hearing.

Date 3-6-23

By

2023 to the registered owners of the property stating, in relevant part, that "[i]t has now come to my attention that within days of the posting of the signs, each has been removed by the property owner or by a representative of the property owner. *Notwithstanding the removal of the signage, my clients and neighbors of the Brannan Road properties have every intention of appearing for the hearing." See,* Petitioner's Exhibit 12 (emphasis added).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A Special Hearing under BCZR §. 500.7 is effectively a request for declaratory judgment. *Antwerpen v. Baltimore County,* 163 Md. App. 194, 209 (2006). As noted above, the Petitioner in this case seeks a twofold declaration: First, that the non-conforming use has lapsed; and, second, that only one single family home (if any) is permitted on the site.

The subject property is 7,628 sq. ft., and is zoned DR 5.5. It was the subject of Case No. 2004-567-SPHA in which the Deputy Zoning Commissioner, John V. Murphy, found a valid non-conforming use of two single family attached dwellings but denied a variance for the construction of a third apartment on the site.

Mr. Jablon gave an overview of the case by identifying and explaining Petitioner's exhibits, which were all admitted into evidence. Jeff Perlow, the head of the Zoning Office, explained that there had been a good deal of confusion concerning various razing and building permits issued for this property. He testified that the building permits were issued in error based on misrepresentations made by the applicant(s). Matt Gawel, a supervisor with the County Code Enforcement Office, testified that his office received a complaint in late March or early April 2022 that the structures on the property were being razed without a permit. Code Inspector Rodney Larrick investigated the complaint and issued a Code Enforcement Correction Notice and Stop Work Order on April 6, 2022 (Case No. CB-2200196). The Correction Notice notes that a permit

3-6-23

(No. R21-02585) had been issued "for roof alteration and 2 cantilevered additions [but] site inspection reveals structure razed to foundation except for 1 wall that faces Haddaway Rd." Photos taken in that time frame confirm this. *See,* Petitioner's Exhibit 10. The Correction Notice cites violations of Baltimore County Code ("BCC") § 35-2-301 – working without a permit, and advises that neither the razing nor reconstruction were covered by Permit No. R21-02585.

On June 9, 2022 razing permits were issued - after the fact - for 2621 and 2623 Brannan Avenue. The owner of both properties is listed as "LA Crites, Trustee." The applicant listed is Steven Podles.[3] Building permits for 2621and 2623 Brannan Avenue (R22-06756 and R22-06755) were issued on October 15, 2022. *See,* Petitioner's Exhibits 3A and 3B. Steven Podles was again the applicant for these permits. Mr. Perlow testified that these permits were issued in error based on Mr. Podles' misrepresentations that the structures had been occupied as recently as July and August 2021, and were therefore allegedly within the 2 year restoration period prescribed by BCZR § 104.2. Mr. Perlow identified a "Warrant of Restitution," and a "Property Release Agreement" that Mr. Podles had provided in an attempt to show that 2621 Brannan Avenue had been occupied until July 2021 and that 2623 Brannan Avenue had been occupied until August 2021. Those documents were admitted collectively as Petitioner's Exhibit 4.

Joseph Vrablic III testified next. He has owned the property at 2622 Brannan Avenue since 2006 and he resides a few houses away from the subject property at 2616 Matthai Terrace. During his testimony he referred to a timeline that he had created concerning the history of the subject property dating back to John Podles' death on October 1, 2019. This document was admitted as Petitioner's Exhibit 13. Of note, he testified that both sides of the duplex have been vacant since

[3] The properties were formerly owned by John Podles. He died on October 1, 2019. Prior to his death, on September 19, 2019, ownership of the properties was transferred to LA Crites, Trustee of the Edgemere Wildlife Trust, by his attorney in fact, Christopher Podles (one of his sons). *See,* Petitioner's Exhibit 4, Deed of Confirmation.

3-6-23

June of 2020. He explained that the duplex structure was in reasonably good repair from June 2020 until March 2022 when the Podles family began razing both sides of the structure. He was shown a series of photographs (Petitioner's Exhibit 5D) and confirmed that they accurately depict how the properties looked during the period that they were unoccupied and prior to their demolition. He testified that during the time that the property was vacant the grass was not cut and litter accumulated in the yard. He testified that he would regularly go clean the trash up. He further explained that the vacant houses attracted teenagers from the neighborhood who would break into the houses to party. He testified that in January 2022 the water line in the house ruptured and flooded the yard and the adjoining yards, which then froze over. He said that he tried contacting Rob Podles numerous times on his cell phone to inform him of the issue but Podles never responded. The Baltimore City water department was called and they did not even have a record of a water account for the property. Eventually one of the neighbors entered the house and located the shut off valve. Mr. Vrablic further testified that in March of 2022 Rob Podles hired three men to demolish the dwellings, which took about three weeks and made a terrible mess. He testified that the workers began burning toxic demolition materials in the yard, and that noxious fumes billowed into the neighboring houses. When the neighbors asked them to stop burning these materials one of the Podles yelled at them to "go f@%* themselves." The Fire Department was eventually called and they extinguished the fire and condemned the property. He further recounted that in the fall of 2022 a contractor began pouring a new foundation over the remains of the old foundation and footers, which did not seem up to Code. When he asked him about the job the contractor told him that Rob Podles told him he was building a church there, and that he had given Mr. Podles a discounted price based on that. Finally, he confirmed that there had been no fire or natural disaster of any kind that resulted in damage to the structure, and that it was demolished

3-6-23

solely by the owners.

The Petitioner, Edward Krizer, testified next. He lives two doors down from the subject property. He also confirmed that the two duplex units were vacant from June 2020 until the Podles brothers demolished the structure in March 2022. He too confirmed that the photos in Petitioner's Exhibit 5D accurately depicted the condition of the structure during the time it was vacant. He noted that all the surrounding residences are single family homes and that this was the one duplex in the neighborhood.

Bryan McVey was the last witness. Since 2014 he has lived across the street from the subject property at 2618 Brannan Avenue. He too confirmed that the last tenants – "Stephanie" and "John" on one side, and "Cookie" on the other – all moved out in June 2020. He also explained that teenagers had been using the structure and shed as a hangout and that he had screwed the doors shut to try to stop this use. He too confirmed that the structure was demolished by the Podles family and that it had not been damaged by fire or other casualty.

Finally, the Petitioner submitted a Petition signed by all the surrounding neighbors in support of the declaratory relief sought in this case; namely, that the non-conforming use be terminated and that only one single family home can be constructed on the site. This document was admitted as Petitioner's Exhibit 9.

People's Counsel and Mr. Jablon then presented legal argument. People's Counsel cited *Canada's Tavern, Inc. v. Town of Glen Echo,* 260 Md. 206 (1970) for the proposition that the question of abandonment of a non-conforming use is an objective one that does not require a showing of *intent* to abandon, it requires only proof of abandonment. He argued that in this case the unrebutted evidence is that the properties were vacant from June 2020 until they were voluntarily demolished by the owners in March 2022, thereby exceeding the one year

3-6-23

abandonment limit of BCZR §. 104.1. Thus the non-conforming use was extinguished as a matter of law. He and Mr. Jablon both also argued that the two year "restoration" period provided under BCZR § 104.2 is also inapplicable in this case because the structure was voluntarily demolished by the owner, *not* destroyed by fire or other casualty. Finally, People's Counsel argued that the building permits mistakenly issued in October 2022 do not provide any lawful authority to reconstruct a duplex at the site, and the county is not estopped from rescinding them. Mr. Zimmerman cited *Lipsitz v. Parr,* 164 Md. 222 (1933) and *Marzullo v. Kahl,* 366 Md. 158 (2001) for this proposition.

Following the hearing People's Counsel submitted further legal authority in support of the Petition. According to a leading treatise the general rule is that the voluntary demolition of a non-conforming structure results in the extinguishment of that non-conforming use no matter when the structure was last occupied. 4 Rathkopf, The Law of Zoning and Planning, Sec. 7:5 (4th Ed.). Finally, People's Counsel noted that the law is strictly construed against the continuance of non-conforming uses, as they are in contravention of the existing zoning applicable to the property. *Purich v. Draper Properties,* 395 Md. 694, 708-22 (2006).

Based on the record evidence and the controlling legal precedents I find that under BCZR § 104.1 the non-conforming use on the subject site lapsed at some point in June 2021 – one year after the last tenants vacated the properties. I further find that the two year "restoration" period under BCZR § 104.2 and BCZR § 305.1 are not applicable in this case because the duplex structure was not damaged by fire or other casualty, it was voluntarily demolished by agents of the owner. Finally, I find that the building permit numbers R22-06755 and R22-05756 were issued in error and were void *ab initio. Marzullo v. Kahl, supra.*

THEREFORE, it is ORDERED this **6th** day of **March, 2023** by this Administrative Law Judge that the Petition for Special Hearing is hereby **GRANTED,** and it is hereby **DECLARED** as follows:

1. The non-conforming use authorized in Case No. 2004-567-SPHA has lapsed and is legally terminated.
2. Only one single family dwelling shall be permitted on the subject site and that dwelling must conform to all current zoning and development regulations.

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

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm

3-6-23

RECEIVED
MAR - 2 2023
OFFICE OF
ADMINISTRATIVE HEARINGS

Donna Mignon

From: Peter Max Zimmerman
Sent: Thursday, March 2, 2023 12:18 PM
To: Paul Mayhew; Administrative Hearings
Cc: ajablon@comcast.net; Jeffrey N Perlow
Subject: Postscript: Edgemere Wildlife Trust, Case No. 2-22-269-SPH, 2621-2623 Brannan Road
Attachments: Treatises.pdf

Dear Judge Mayhew,

Upon reflection, in light of the evidence at yesterday's hearing, I would like to add these following observations. This relates especially to the evidence concerning the issuance of building permits in October, 2022.

Based on the evidence, the property owner apparently voluntarily razed the 2-apartment nonconforming apartment building allowed under Deputy Zoning Commissioner John Murphy's 2004 decision under a permit issued in June, 2022. This appears to have been a voluntary act, in that there was no evidence the building was damaged, in poor condition, so as to require physical replacement.
It did not qualify for restoration after a fire or other casualty under BCZR Sec. 104.2.

Following up with additional research this morning, I looked online at 4 Rathkopf's The Law of Zoning and Planning Sec. 7:5 (4th Ed.) and 2 American Law of Zoning Sec. 12:20 (5th Ed.). These are attached.

The general rule is that a voluntary demolition of a structure terminates the nonconforming use. It would not matter if the discontinuance of the previous nonconforming use occurred one week, one month, or any other time before the demolition.

Under these circumstances, the new building would effectively be a new or changed use. The new building and use would no longer have nonconforming status.

To reiterate, even if the discontinuance of tenant use were less than a year old at the time of the building permit application(s), they would not qualify for 2-apartment use because the demolition was voluntary. As it happens, petitioner produced evidence that the discontinuance of the 2-apartment use occurred previously for more than a year. This would bring BCZR Sec. 104.1 termination into play initially on that basis.

As for strict construction relating to nonconforming uses, one of the leading cases is Purich v. Draper Properties 395 Md. 694 (2006). In this case, a nonconforming automobile filling station use was effectively discontinued when the property owner applied for and obtained a special exception and operated for several years, though not implementing all the special exception conditions. A new lessee requested that the zoning board revoke the special exception and reestablish the nonconforming use. The area civic association and adjacent property owner objected. To make a long story short, the Court of Appeals majority held the obtention and use of the special exception effectively terminated the nonconforming use and it could not spring back into life. Apparently the nonconforming use situation was less burdensome than complying with the special exception conditions. Anyway, the Court reiterated the strict construction against the continuation of nonconforming uses. 395 Md. at 708-22. Judge Dale Cathell wrote the opinion and was joined by Chief Judge Robert Bell and Judges Lynn Battaglia, and Alan Wilner. Rathkopf cites Purich at footnote 2, page 3.

As noted, the property owner is entitled to build a new dwelling. But it must comply with applicable zoning and other laws. Under the D.R. 5.5 Zone, given the SDAT listing of the property area as 7714 square feet (7628SF on the 2004 site plan), it qualifies for a single dwelling unit on the BCZR Sec. 1B02.3.C.1 Small Lot Table, with a minimum lot area of 6000

square feet for each dwelling unit. As for the mention of conversion under BCZR Sec. 402.1, this no longer applies at all because the previous building was razed. Anyway, any single dwelling unit would not have qualified for conversion in the best of times because the property does not meet the minimum lot area in that Table of 10,000 square feet. (The front lot width and setbacks would also apply; given the 2004 case request for and denial of the 3' side yard setback variance, the side yard setbacks for the new building must be at least 10 feet unless a new variance is applied for and granted.)

I hope this discussion is helpful.

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

4 Rathkopf's The Law of Zoning and Planning § 74:5 (4th ed.)

Rathkopf's The Law of Zoning and Planning November 2022 Update
Arden H. Rathkopf, and Daren A. Rathkopf, Edward H. Ziegler, Jr.

Chapter 74. Termination and Amortization of Nonconforming Uses and Structures
Sara C. Bronin & Dwight H. Merriam*

I. Abandonment of Right to Continue Nonconforming Uses and Structures

§ 74:5. Facts sufficient to evidence intent to abandon

In those cases which do not involve specific ordinance provisions relating to discontinuance, and in those jurisdictions in which these provisions raise only a rebuttable presumption of an intent to abandon the right to a nonconforming use, the question is: What facts constitute the requisite "overt act" or "failure to act" which will sufficiently evidence such an intent? A sufficient indication of an intention to abandon a use has been found in one or more of the following actions or inactions:

(1) an abandonment of premises after removal of equipment and machinery and leaving property vacant;[1]

(2) using property for a conforming use;[2]

(3) substituting a different nonconforming use for that existing at the time of adoption of an ordinance;[3]

(4) voluntary demolition of a structure;[4] and

(5) failure to apply for licenses necessary for the continuation of a nonconforming use[5] or to appeal from the denial of a permit.[6]

Generally, a significant reduction in the intensity or level of activity,[7] or even cessation of the specific nonconforming use,[8] has not been held sufficient, standing alone, to manifest an intent to abandon a use.

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Footnotes

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1 See the cases cited below.

Alabama. State ex rel. Turner v. Baumhauer, 234 Ala. 286, 174 So. 514 (1937) (premises used for carnival shows no longer used for that purpose).

Delaware. Minquadale Civic Ass'n v. Kline, 42 Del. Ch. 378, 212 A.2d 811 (1965). (nonconforming use on a lot, operated in conjunction with the same use on an adjoining lot, was abandoned and could not be resumed).

Kentucky. Attorney General v. Johnson, 355 S.W.2d 305 (Ky. 1962) (leasing of nonconforming grocery store for five years to a club for social and missionary group meetings and in part for a real estate office demonstrated sufficient intent to abandon the previous nonconforming use under the ordinance in question so as to preclude the use the premises for a coin-operated laundry).

Louisiana. State ex rel. Harz v. New Orleans, 216 La. 849, 44 So. 2d 889 (1950) (owner of a nonconforming drug store closed down the business, covered the windows, posted a sign indicating indefinite closing of the business, and failed to apply for necessary licenses therefore).

Maryland. Stieff v. Collins, 237 Md. 601, 207 A.2d 489 (1965) (discontinuance of nonconforming use of property as a dairy and bakery, and removal of all machinery and equipment to owner's other plants, and only sporadic use of the property for storage for more than five years was sufficient evidence of intent to abandon); Dorman v. Mayor and City Council of Baltimore, 187 Md. 678, 51 A.2d 658 (1947) (owner, after a fire, refused to restore property for use as a junk shop, refused to lease it for that purpose, rented part for storage, and neither he nor his sons made any other business use of rented or unrented portion of building); Beyer v. Mayor and Council of Baltimore City, 182 Md. 444, 34 A.2d 765 (1943) (owner of a slaughterhouse disposed of machinery, removed the smokestack, and used the property for storage purposes, a use of the same classification, where an ordinance prohibited a change in use except to a higher classification).

Massachusetts. Huang v. City of Waltham Zoning Board of Appeals, 2022 WL 444464 (Mass. Land Ct. 2022) (property that was a nonconforming rooming house that received a special permit to modify the nonconforming use to become an assisted living facility could not go back to being a nonconforming rooming house after the assisted living facility use had been abandoned); Chiaraluce v. Ferreira, 2014 WL 7466508 (Mass. Land Ct. 2014) (nonconforming structure destroyed by hurricane deemed abandoned where current owner failed to exercise rights to use or extend a "blanket permit," admitted to intending to use the area as a parking lot for his property next door, and paid a low price for the property, and where prior owner used insurance proceeds from the destruction to relocate elsewhere, rather than rebuild).

Missouri. City of St. Louis v. Fisher, 167 Mo. 654, 67 S.W. 872 (1902), aff'd, 194 U.S. 361, 24 S. Ct. 673, 48 L. Ed. 1018 (1904) and (overruled in part by, Hays v. City of Poplar Bluff, 263 Mo. 516, 173 S.W. 676 (1915)) (dairy was abandoned and moved to a new location).

New Jersey. State v. Casper, 5 N.J. Super. 150, 68 A.2d 545 (App. Div. 1949) (rooming house was discontinued after death of one owner and roomers were asked to leave, without further attempts for four years to reestablish the business); and see Camara v. Board of Adjustment of Tp. of Belleville, 239 N.J. Super. 51, 570 A.2d 1012 (App. Div. 1990) (termination of previous business occupying premises extinguished right to continue nonconforming sign).

New York. Longo v. Eilers, 196 Misc. 909, 93 N.Y.S.2d 517 (Sup 1949) (race track left unused for five years, grandstand left to decay and was partially destroyed by fire, taxes were left unpaid). And see Town of Johnsburg v. Town of Johnsburg Zoning Board of Appeals, 299 A.D.2d 796, 751 N.Y.S.2d 85 (3d Dep't 2002) (holding that evidence supported zoning board finding of intent to abandon cement batching plant for time period in question as use had essentially ceased except for insignificant incidental activities).

Ohio. Francisco v. City of Columbus, 13 Ohio Op. 404, 25 Ohio L. Abs. 422, 31 N.E.2d 236 (Ct. App. 2d Dist. Franklin County 1937) (machinery moved out and placed in new factory at a different location, even though a small amount of machinery was left for emergency use).

Pennsylvania. PAJ Ventures, LP v. Zoning Hearing Board of Moore Township, 225 A.3d 891 (Pa. Commw. Ct. 2020) (non-use as a picnic grove for more than 12 months gave rise to rebuttable presumption of intent to abandon). In Faith Presbyterian Church by O'Brien v. Bensalem Tp. Zoning Hearing Bd., 114 Pa. Commw. 107, 538 A.2d 135 (1988), sufficient evidence existed to support an intent to abandon the property as a church. Proof of discontinuance was established by overt acts, by "structural alterations to a building, inconsistent with continuation of present use" (citing Tantlinger v. Zoning Hearing Bd. of South Union Tp., 103 Pa. Commw. 73, 519 A.2d 1071, 63 A.L.R.4th 269 (1987)). In this case, when the landowner purchased the premises he removed the church pews, painted the building for use as an adult school, and received a variance for the adult school. The court stated: "[c]learly, this alteration in the structure of the property evidences a clear intent to abandon the use of the property as a church." And see Kuhl v. Zoning Hearing Bd. of Greene Tp., 52 Pa. Commw. 249, 415 A.2d 954, 957 (1980).

Texas. Use of property as a grocery store for a little over one year was discontinued, the premises remaining vacant for about eight-and-one-half years, the essential equipment and furnishings being removed therefrom. It was held that this showed an intent to abandon despite the fact that the former user continued to pay rental under a lease agreement and left certain built-in equipment, including shelving, in the building. City of Dallas v. Fifley, 359 S.W.2d 177 (Tex. Civ. App. Dallas 1962), writ refused n.r.e., (Oct. 6, 1962).

2 See the cases cited below.

Connecticut. Town of Darien v. Webb, 115 Conn. 581, 587, 162 A. 690, 692 (1932) (change from restaurant to residence).

Maine. Chase v. Town of Wells, 574 A.2d 893 (Me. 1990) (owner held prohibited from placing mobile home on site of former nonconforming cabin, the court noting that the prior nonconforming use, two dwellings on the lot, had been brought into conformity by the owner's destruction of the former cabin).

Maryland. Purich v. Draper Properties, Inc., 395 Md. 694, 912 A.2d 598 (2006) (holding that a special exception brings a property into conformance with applicable zoning laws; the use becomes permitted, albeit there may be conditions).

Massachusetts. Burlington Sand & Gravel, Inc. v. Town of Harvard, 26 Mass. App. Ct. 436, 528 N.E.2d 889 (1988), where discontinuance of a nonconforming access road for more than the two-year local time limitation showed an intent to abandon, due to the property owner's overt act of effectively blocking off the road with an earthen barrier.

New Jersey. Borough of North Plainfield v. Perone, 54 N.J. Super. 1, 148 A.2d 50 (App. Div. 1959); Barbarisi v. Board of Adjustment, 30 N.J. Super. 11, 103 A.2d 164 (App. Div. 1954).

New York. Park Ave.-Fifty-Ninth St. Corp. v. Murdock, 156 N.Y.S.2d 39 (Sup 1956) (the expressed intention to resume the former use, expressed in the lease, held ineffective).

Nebraska. Rodehorst Brothers v. City of Norfolk Board of Adjustment, 287 Neb. 779, 844 N.W.2d 755 (2014) (nonconforming use abandoned due to discontinued use).

Pennsylvania. Brown v. Tioga Township Zoning Hearing Board, 2018 WL 5930304 (Pa. Commw. Ct. 2018) (changing the use from a restaurant and bar to an adult entertainment use constituted abandonment of the legally nonconforming use).

Rhode Island. Duffy v. Milder, 896 A.2d 27 (R.I. 2006) (landowners' predecessors-in-interest abandoned any claim to a prior nonconforming use to use land for equestrian purposes when they requested and received a zoning change in order to develop condominiums).

Wisconsin. Village of Slinger v. Polk Properties, LLC, 2021 WI 29, 396 Wis. 2d 342, 957 N.W.2d 229 (2021) (landowner who continued to make agricultural use of farmland did not abandon legal, nonconforming use of property for agriculture, despite the landowner's having it rezoned to residential to enable residential

development thereby making the agricultural use nonconforming and then building homes on a portion of the property).

And see Ch 73 at § 73:13, supra.

3 See the cases cited below.

Arkansas. Branch v. Powers, 210 Ark. 836, 197 S.W.2d 928 (1946).

Connecticut. Salerni v. Scheuy, 140 Conn. 566, 102 A.2d 528 (1954); Town of Darien v. Webb, 115 Conn. 581, 162 A. 690 (1932). Intent may be inferred from circumstances including a complete change in use. Blum v. Lisbon Leasing Corp., 173 Conn. 175, 377 A.2d 280 (1977); Newkirk v. Sherwood, 89 Conn. 598, 94 A. 982 (1915).

Delaware. Auditorium, Inc. v. Board of Adjustment of Mayor & Council of Wilmington, 47 Del. 373, 91 A.2d 528 (1952).

District of Columbia. Gorgone v. District of Columbia Bd. of Zoning Adjustment, 973 A.2d 692 (D.C. 2009) (holding that prior tenant's operation of a "Chinese carry-out" restaurant constituted an abandonment of prior nonconforming use of the property as a delicatessen).

Illinois. Brown v. Gerhardt, 5 Ill. 2d 106, 125 N.E.2d 53 (1955).

Louisiana. In Spinato v. Lowe, 113 So. 2d 73 (La. Ct. App., Orleans 1959), writ recalled, 239 La. 604, 119 So. 2d 480 (1960), the court upheld the denial of a liquor permit, refused under a liquor law which provided that no permit should be granted in contravention of any parish or municipal zoning ordinance—the property owner had unlawfully extended his night club into a portion of premises previously occupied only as a gift shop and never before used for night club purposes.

Massachusetts. See also Ka-Hur Enterprises, Inc. v. Zoning Bd. of Appeals of Provincetown, 424 Mass. 404, 676 N.E.2d 838, 840 (1997). The Supreme Judicial Court upheld a ruling that property in a residential district, which had originally been used primarily as a fuel storage and distribution facility, lost its protected nonconforming status when, for over two years, use of the property for fuel storage had become ancillary to a fishing and truck repair business.

Missouri. Brown v. Gambrel, 358 Mo. 192, 213 S.W.2d 931 (1948).

New Jersey. Borough of North Plainfield v. Perone, 54 N.J. Super. 1, 148 A.2d 50 (App. Div. 1959); Barbarisi v. Board of Adjustment, 30 N.J. Super. 11, 103 A.2d 164 (App. Div. 1954); Town of Montclair v. Bryan, 16 N.J. Super. 535, 85 A.2d 231 (County Ct. 1951).

New York. Ardella v. Evershed, 16 Misc. 2d 261, 182 N.Y.S.2d 491 (Sup 1959), citing Crossroads Recreation, Inc. v. Broz, 4 N.Y.2d 39, 42, 172 N.Y.S.2d 129, 130, 149 N.E.2d 65 (1958); Bornscheuer v. Corbett, 6 A.D.2d 835, 175 N.Y.S.2d 913 (2d Dep't 1958), order aff'd, 5 N.Y.2d 973, 184 N.Y.S.2d 842, 157 N.E.2d 718 (1959); French v. Incorporated Village of North Haven, Suffolk County, 1 A.D.2d 788, 148 N.Y.S.2d 151 (2d Dep't 1956); Huntley Estates, Inc. v. Town of Eastchester, 121 N.Y.S.2d 504 (Sup 1953), judgment modified, 283 A.D. 1090, 131 N.Y.S.2d 578 (2d Dep't 1954); Park Ave.-Fifty-Ninth St. Corp. v. Murdock, 156 N.Y.S.2d 39 (Sup 1956). And see Ellentuck v. Stein, 44 A.D.2d 714, 354 N.Y.S.2d 705 (2d Dep't 1974) (nonconforming multifamily dwelling then used for 20 years as a convent and home for women which became a permitted use in the district, caused the former multiple dwelling use to be abandoned and precluded the granting of a permit to return it to the multifamily use).

But see People v. Sudierfi Realty Corp., 101 N.Y.S.2d 792 (Spec. Sess. 1951) (change in a portion of a building from a cafe to a Chinese laundry did not constitute an abandonment of the nonconforming use existing at the time of enactment of the ordinance); McDonald v. Board of Adjustment, City of San Antonio, 561 S.W.2d 218, 222 (Tex. Civ. App. San Antonio 1977), in which the ordinance permitted change from one

nonconforming use to another without administrative approval. The owner's unsuccessful attempt to make a change did not evidence intent to abandon. In fact, the court held it to be evidence of an intent not to abandon, citing Town of Highland Park v. Marshall, 235 S.W.2d 658 (Tex. Civ. App. Dallas 1950), writ refused n.r.e.

See generally Ch 73 at § 73:13, supra.

4 See the cases cited below.

Maine. Chase v. Town of Wells, 574 A.2d 893 (Me. 1990).

Massachusetts. Barth v. City of Peabody, 2018 WL 1567606 (D. Mass. 2018) (abandonment is a question of fact and may include factual issues as to the intent of the prior owner, such as demolition of a nonconforming structure and the failure to rebuild in a timely manner, and if the use has been abandoned, it detracts from any claim of reasonable investment-backed expectations in a taking claim).

New York. In Bornscheuer v. Corbett, 5 N.Y.2d 973, 184 N.Y.S.2d 842, 157 N.E.2d 718 (1959), the ordinance limited the height of fences on side lots to a certain height, and the owner had a vested nonconforming hedge twelve feet high and a nonconforming wire fence five feet high. Tearing these down and replacement by a wooden fence of a height in violation of that prescribed by the ordinance was held to be an abandonment of the right to maintain the nonconforming hedge and wire fence.

Pennsylvania. Renaissance Real Estate Holdings, L.P. v. City of Philadelphia Zoning Board of Adjustment, 199 A.3d 977 (Pa. Commw. Ct. 2018) (voluntary demolition will extinguish nonconforming use rights); 5542 Penn LP v. Zoning Board of Adjustment of the City of Pittsburgh, 2016 WL 7369097 (Pa. Commw. Ct. 2016) (voluntary demolition will extinguish nonconforming use right); Park Outdoor Advertising Co. v. Com. Dept. of Transp., 86 Pa. Commw. 506, 485 A.2d 864 (1984) (removing wood support for billboard constituted abandonment and it could not be replaced with metal support).

Washington. Total Outdoor Corp. v. City of Seattle Dept. of Planning and Development, 187 Wash. App. 337, 348 P.3d 766 (Div. 1 2015) (rooftop sign demolished, and abandonment doctrine could apply to preserve rights, but not on the facts of this case where the core issue was the relationship of the use and the structure and the owner sought to erect a larger s).

Wisconsin. Town of Yorkville v. Fonk, 3 Wis. 2d 371, 88 N.W.2d 319 (1958).

5 E.g., State ex rel. Harz v. City of New Orleans, 216 La. 849, 44 So. 2d 889 (1950).

See also Conaghan v. City of Harvard, 2016 IL App (2d) 151034, 406 Ill. Dec. 436, 60 N.E.3d 987 (App. Ct. 2d Dist. 2016) (no additional evidence allowed in suit about nonconforming use and intent to abandon where property owner's argued that municipal code provision created private right of action for denial of petition to allow continued nonconforming use).

6 E.g., Jefferson County v. Timmel, 261 Wis. 39, 51 N.W.2d 518 (1952); State ex rel. Brill v. Mortenson, 6 Wis. 2d 325, 94 N.W.2d 691 (1959).

But see Soltis v. Tasir, 79 Pa. Commw. 551, 469 A.2d 1157 (1984) (no abandonment where owner requests and receives permission to convert to a conforming use but remains nonconforming); Derby Refining Co. v. City of Chelsea, 407 Mass. 703, 555 N.E.2d 534 (1990) (holding that owner's conduct in "mothballing" facility, applying for property tax abatement, and notifying Coast Guard that it no longer intended to operate deep-water terminal on property did not establish that predecessor "abandoned" nonconforming use of property, given predecessor's affirmative steps to market facility as petroleum storage terminal).

7 E.g., Sowich v. Zoning Hearing Board of Brown Township, 214 A.3d 775 (Pa. Commw. Ct. 2019) (abandonment requires proof of both a period of non-use with substantial evidence as to the extent of the alleged nonuse and that the landowner intended to abandon the prior lawful use); James H. Maloy, Inc. v. Town Bd. of Town of Guilderland, 92 A.D.2d 1056, 461 N.Y.S.2d 529 (3d Dep't 1983) (minimal use of

rock crusher for period of years due to cutbacks in highway construction and the use, instead, of stockpiled material did not evidence intent to abandon).

And see cases cited at § 74:2 N. 4, supra.

8 E.g., Town of East Greenwich v. Day, 119 R.I. 1, 375 A.2d 953 (1977), in which it was held that five years' use of a two-family dwelling as a single-family residence was only some evidence of an intent to abandon the nonconforming use because it was not accompanied by any overt act or failure to act indicating an intent to abandon. The court, citing treatise, held that the interim use was insufficient to extinguish the vested right to the nonconforming use.

See also Lumberjack Pass Amusements, LLC v. Town of Queensbury Zoning Board of Appeals, 145 A.D.3d 1144, 42 N.Y.S.3d 473 (3d Dep't 2016) (determination of town zoning board of appeals, that preexisting nonconforming use of premises in commercial intensive zoning district as residence was permitted under town code, because use had not been discontinued despite eighteen-month cessation of use, was not irrational or unreasonable, because evidence was presented indicating an intent to retain the property as a residence with at least some degree of permanency).

See also Persaud Properties FL Investments, LLC v. Town of Fort Myers Beach, 310 So. 3d 493 (Fla. 2d DCA 2020) (abandonment "requires more than the passage of nine months while the property was closed for renovations; it requires voluntary cessation of the nonconforming use with the intent that the cessation of such use be permanent").

And see cases cited at § 74:2 N. 3, supra.

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2 Am. Law. Zoning § 12:20 (5th ed.)

American Law of Zoning December 2022 Update
Patricia E. Salkin

Chapter 12. Nonconforming Uses*

§ 12:20. Damage and reconstruction

Where a lawful nonconforming use is damaged by fire, flood, or other *forces majeure*, most ordinances will permit reconstruction of the nonconforming use, at least to a certain degree.[1] As the courts have recognized, involuntary destruction standing alone does not constitute an abandonment of the nonconforming use.[2]

A nonconforming use that is damaged by condemnation of part of the property may also be entitled to a right of reconstruction. For example, in a Missouri case where a residential property was nonconforming due to an inadequate setback and an ordinance was subsequently adopted that increased the setback and authorized the use of eminent domain to condemn the encroaching portion of the property, the court found that the board violated the property owner's Fifth Amendment rights by refusing to grant a construction permit to demolish the encroaching part of the building while preserving the rest. As the court explained, "the damage to plaintiffs' building was the result of a sale of a portion of the land to St. Louis County at a time subsequent to the institution of condemnation proceedings against such portion. In such posture the sale (and the resultant damage to the building) was not the voluntary act of plaintiffs' grantors, ... The damage here was caused by forces beyond the owners' control and the need for the building permit sought was not to expand a non-conforming use but to restore a building damaged by the act of the sovereign." As the partial condemnation was neither an abandonment or discontinuance, moreover, the city had no authority under its ordinances to terminate the nonconforming use or prevent the plaintiff's proposed restoration of his building.[3] In an Iowa case, however, the court held that a nonconforming industrial property did not have a right to relocate and rebuild a storage building that was condemned in order to build a bridge because the ordinance provided that nonconforming structures could not be rebuilt after destruction of 50% or more. Reconstruction of the storage building, accordingly, would have been an illegal expansion.[4]

Just as condemnation has been considered an involuntary force sufficient to fall within a nonconforming use's right to reconstruction, damage caused by natural forces similar to *forces majeurs* will also be covered by ordinances allowing rebuilding. Accordingly, the Vermont Supreme Court held that a nonconforming building could be rebuilt after it suffered damage from rotting beams and joists. The court found that this type of damage similar enough to damage due to fire or explosion to be encompassed within the ordinance's reconstruction clause.[5]

Ordinances often permit reconstruction if the damage to a nonconforming use is less than 50% or 75% of the property's value, but terminate the nonconforming use if the damage is more extensive.[6] Such provisions are constitutionally adequate and generally do not amount to a taking of property without just compensation.[7] After major disasters such as hurricanes and earthquakes, however, local governments sometimes enact more lenient restrictions and allow reconstruction of even completely destroyed nonconforming uses.[8]

Where an ordinance contains a value threshold regarding a property owner's right to reconstruct a damaged nonconforming use, the extent of damage may be measured as a percentage of the entire market value of the property or as a percentage of the value of the nonconforming structure. In Minnesota, for instance, a state law requires that the percentage of destruction be

calculated based on the value of the entire property, not just a portion thereof.[9] The statute was found not to apply, however, in a case where the property owner's building was destroyed before the statute was enacted. The Minnesota Supreme Court held that the local ordinance in effect when the damage occurred applied instead, and this provision allowed rebuilding up to 50% of the value of the nonconforming *building*. Accordingly, because the property owner's nonconforming building was completely destroyed, the property owner was entitled to a permit to replace the building despite the fact that the damage to the parcel, taken as a whole, was less than 50%.[10]

In a New York case where two nonconforming apartment buildings on a single tax lot were damaged in a fire and one of the buildings was completely destroyed, the Court of Appeals held that the proper test in evaluating whether the damage exceeded the 50% property value threshold was functional interdependence, meaning whether the buildings functioned as a single, integrated nonconforming use. Because the remaining building could continue to function without the other nonconforming apartment building being completely rebuilt, the court upheld the board's decision refusing to grant a permit for reconstruction of the destroyed building.[11]

With regard to the proper valuation of damage caused to a nonconforming property, questions may also be raised concerning appropriate assessment techniques. A Pennsylvania court thus determined in one case that to establish whether a nonconforming use had been terminated due to damage beyond 50% of its value, the appropriate measure was the property's actual value, not its assessed tax value. As the court noted, tax assessments are often unrealistically low, making them poor evidence in damage calculations.[12]

Damage valuations also must be supported by substantial evidence. In a South Carolina case, the court reversed a permit denial for the reconstruction of a nonconforming sign on this basis. As the court explained, testimony that the sign "looked like it was pretty well blowed away" did not constitute sufficient evidence that repairs to the sign would exceed 50% of the sign's value.[13]

Although a nonconforming use may have a right to be reconstructed, there is no right to replace a damaged nonconforming use with a changed or expanded use.[14] The reconstruction of a nonconforming use may also be required to comply with environmental permitting regulations and other state laws, and its status as nonconforming may not provide grounds for exemption from such laws.[15]

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Footnotes

* The 2014 update chapter was prepared by Amy Lavine, Esq.

1 See, e.g.,

Alabama: M.B. Canton Co., Inc. v. Board of Adjustment of City of Mobile, 81 So. 3d 1284 (Ala. Civ. App. 2011) (approval of a building permit was appropriate where the property owners sought to rehabilitate a nonconforming pool house that was damaged during a hurricane; the pool house was located on an easement over their neighbor's property and although they failed to complete their application within the required deadlines, any delays were excusable because they were attributed solely to the neighbor's litigation and were not due to any failure on their part).

Massachusetts: Harrison v. Fouby, 2012 WL 2450776 (Mass. Land Ct. 2012), judgment aff'd, 84 Mass. App. Ct. 1128, 1 N.E.3d 294 (2014) (holding that the board lacked authority to grant a special permit to demolish and rebuild a nonconforming gas station because a variance had to be acquired first).

New York: Perlbinder Holdings, LLC v. Srinivasan, 110 A.D.3d 611, 973 N.Y.S.2d 622 (1st Dep't 2013), order recalled and vacated, 2014 WL 552673 (N.Y. App. Div. 1st Dep't 2014) ("The revocation of the permits

for a large advertising sign on petitioner's property was improper because petitioner constructed the sign in good-faith reliance on a 2008 determination of the Manhattan Borough Building Commissioner that the sign was a permissible replacement for a similar sign that was removed when a building on the property was demolished.").

2 See, e.g., West Lordship Beach Corp. v. Stratford Bd. of Zoning Appeals, 2013 WL 4734876 (Conn. Super. Ct. 2013) (upholding the board's grant of a variance to rebuild the property owner's nonconforming seasonal cottage because the record showed that the cottage was a valid nonconforming use, and because there was no evidence of voluntary abandonment due to the fact that the cottage was destroyed in a hurricane).

3 State ex rel. Nealy v. Cole, 442 S.W.2d 128 (Mo. Ct. App. 1969).

4 Newt v. City of Dubuque, 725 N.W.2d 659 (Iowa Ct. App. 2006).

5 In re Shearer Variance, 156 Vt. 641, 588 A.2d 1058 (1990).

6 See, e.g.,

Missouri: Dailey v. Board of Adjustment, 2014 WL 4964318 (Mo. Ct. App. S.D. 2014) ("Assuming as true the Trustees' assertion that the concrete foundation is a part of the Billboard, the cost associated with the installation of a new foundation could not properly be included in the replacement-cost portion of the applicable cost-of-repair to cost-of-replacement ratio as the existing foundation was not a 'nonconforming portion of [a] sign[.]' Code section 70-17(a)(2). The $90,942 figure provided by the Trustees included an unspecified cost for a 'direct bury [foundation] complete with 3,000 PSI concrete footing approximately 12' square by 12' deep[.]' Without an itemized figure to subtract out of the total replacement cost estimate for that non-applicable portion, the Board could not determine that the cost of repair was no greater than 50% of the cost of replacement.").

Virginia: Goyonaga v. Board of Zoning Appeals, 275 Va. 232, 657 S.E.2d 153 (2008) ("nothing in the variance [to enlarge and extend the nonconforming residence] ... can be interpreted as relieving the property from the application of the requirement ... that a nonconforming structure cannot be 'removed or demolished ... or damaged by ... any means whatever to an extent equal to seventy-five (75) percent of its assessed value for the year.' Accordingly, we will affirm the ... determination that the demolition of the Goyonagas' home ... resulted in the loss of the right to continue the nonconforming use of the property.").

7 See, e.g.,

Iowa: Incorporated City of Denison v. Clabaugh, 306 N.W.2d 748 (Iowa 1981) (holding that there was no taking where the property owner was denied a permit to rebuild a nonconforming dwelling after it was destroyed to an extent more than 50% of its replacement value).

8 See, e.g.,

Florida: Miami-Dade County v. Redland Estates, Inc., 964 So. 2d 701 (Fla. 3d DCA 2006) (discussing an "amnesty ordinance" which was enacted after Hurricane Andrew in order to facilitate rebuilding and which allowed the reconstruction of all non-conforming residential properties, regardless of whether they were more than 50% damaged).

9 See, e.g.,

Minnesota: Buss v. Johnson, 624 N.W.2d 781 (Minn. Ct. App. 2001) ("[T]he legislature ... intended the percentage of destruction to be determined after a consideration of the entire market value of the nonconforming use of which a building is a part, not a consideration of the market value of the destroyed building alone.").

10 White v. City of Elk River, 840 N.W.2d 43 (Minn. 2013).

11 Pelham Esplanade, Inc. v. Board of Trustees of Village of Pelham Manor, 77 N.Y.2d 66, 563 N.Y.S.2d 759, 565 N.E.2d 508 (1990).

12 Ruby v. Carlisle Zoning Hearing Bd., 88 Pa. Commw. 70, 488 A.2d 655 (1985).

13 National Advertising Co., Inc. v. Mount Pleasant Bd. of Adjustment, 312 S.C. 397, 440 S.E.2d 875 (1994).

14 See, e.g.,

Rhode Island: Washington Arcade Associates v. Zoning Bd. of Review of Town of North Providence, 528 A.2d 736 (R.I. 1987) ("[T]he present petitioners are entitled to complete the restoration project pursuant to the terms of [the ordinance] which, in its pertinent portion, provides that if the nonconforming premises are destroyed, demolished or damaged, they may be reconstructed or repaired provided total floor area and nonconformity are not increased in any manner."); Gebre v. City of New Orleans, 177 So. 3d 723 (La. Ct. App. 4th Cir. 2015) (denial of a permit to reconstruct a building was proper because the evidence showed that the building was already in poor condition prior to Hurricane Isaac, and while it became necessary to demolish the building after the hurricane due to the threat of imminent collapse, the board did not make any determination that the damage had been predominantly caused by the hurricane).

15 See, e.g.,

Connecticut: Lane v. Commissioner of Environmental Protection, 314 Conn. 1, 100 A.3d 384 (2014) (Holding that the property owners were not entitled to a state water resources permit to rebuild a dock and boardwalk under the theory that the structures were nonconforming uses because "First, as a general matter, we are not permitted to use common-law principles to vary or supplement the otherwise plain meaning of a statute. Second, ... unlike the resumption of a nonconforming use in the land use context, the erection of a new structure to replace a destroyed structure of a type that is subject to § 22a-361 could well have harmful effects on the environment that the destroyed structure itself would not have had if it had continued to exist.")

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KeyCite Yellow Flag - Negative Treatment
Declined to Follow by S & S Auto Sales, Inc. v. Zoning Bd. of Adjustment for Borough of Stratford, N.J.Super.A.D., December 22, 2004

260 Md. 206
Court of Appeals of Maryland.

CANADA'S TAVERN, INC. et al.
v.
TOWN OF GLEN ECHO.

No. 150.
|
Dec. 16, 1970.

Synopsis
Action challenging certificate of occupancy to use building in single-family residential zone for nonconforming restaurant purposes. The Department of Inspections and Licenses issued certificate of occupancy. The County Board of Appeals affirmed, and the town appealed. The Circuit Court for Montgomery County, Plummer M. Shearin, J., reversed, and appeal was taken. The Court of Appeals, McWilliams, J., held that where operation of building in single-family residential zone for nonconforming restaurant purposes had ceased for more than six months, nonconforming use had been abandoned within meaning of ordinance defining abandoned as cessation of nonconforming use for period of six months or more, notwithstanding that owner had not intended to abandon use and that interregnum was merely for purpose of finding suitable successor to prior tenant.

Affirmed.

Barnes, J., dissented and filed opinion.

West Headnotes (2)

[1] **Zoning and Planning** Cessation of use

Under zoning ordinance providing that no nonconforming use, once abandoned, shall thereafter be reestablished, with "abandoned" defined as cessation of a nonconforming use for a period of six months or more, extinguishment of nonconforming use requires only cessation of such use for a period of six months or more and does not require showing of accompanying intention to abandon.

20 Cases that cite this headnote

[2] **Zoning and Planning** Cessation of use

Where operation of building in single-family residential zone for nonconforming restaurant purposes had ceased for more than six months, nonconforming use had been abandoned within meaning of ordinance defining abandoned as cessation of nonconforming use for period of six months or more, notwithstanding that owner had not intended to abandon use and that interregnum was merely for purpose of finding suitable successor to prior tenant.

16 Cases that cite this headnote

Attorneys and Law Firms

*206 **664 G. Vann Canada, Jr., Rockville (Shaffer, McKeever & Fitzpatrick and Arthur v. King, Rockville, on the brief), for Canada's Tavern, Inc.

Philip J. Tierney, Asst. County Atty. *207 (David L. Cahoon, County Atty., and Alfred H. Carter, Deputy County Atty., Rockville, on the brief), for Montgomery County.

Rourke J. Sheehan, Rockville (Gary H. Simpson, Rockville, on the brief), for appellee.

Argued before HAMMOND, C. J., and BARNES, McWILLIAMS, SINGLEY, SMITH and DIGGES, JJ.

Opinion

McWILLIAMS, Judge.

The demise of a nonconforming use and appellants' efforts to resurrect it require us to construe Section 111-57(c) of the Montgomery County Code (1965), the pertinent part of which is:
'* * * No nonconforming use, once abandoned, shall thereafter be re-established. For the purpose of this section, 'abandoned' shall be defined as the cessation of a nonconforming use for a period of six months or more.' (Emphasis added.)

The facts are simple enough and they seem not to be in dispute.

**665 [1] [2] For an unstated number of years Mrs. Sally Peters has been the owner of No. 2 Harvard Street in the Town of Glen Echo, which is on the north bank of the Potomac River about two and one-half miles northwesterly from the northwestern boundary of the District of Columbia. Her lot is improved by a frame building in which for a period prior to 1968 she operated, as a nonconforming use in an R-60 (single family residential) neighborhood, an establishment known as Canada's Restaurant. An injury made it impossible for her to work so in December of 1967 she leased the premises to James Dozier who continued the operation of the restaurant. Responding to public pressure the Board of License Commissioners refused to renew Dozier's liquor license which expired on 30 April 1968. Understandably bitter at this turn of events Dozier shut up shop and retired from the scene. *208 Efforts to find a suitable successor to Dozier were unproductive until the early spring of 1969 when the appellant Canada's Tavern, Inc. (Canada), became the lessee. It is agreed, however, that during the interregnum, no use whatever was made of the premises. Its requirements having been satisfied and the approval of the County Attorney having been obtained the Department of Inspections and Licenses, on 25 April 1969, issued to Canada a certificate of occupancy.[1] Promptly thereafter the appellee, the Town of Glen Echo (Town) filed its appeal with the County Board of Appeals (Board), charging a misinterpretation of Section 111-57(c). The hearing took place on 17 July 1969. On 23 September the Board announced its decision, a portion of which follows:

'Based on the testimony and exhibits of record, including the County Attorney's memorandum, Exhibit 14, the Board finds that the only issue left before it is whether or not the non-conforming use had been terminated at the time the occupancy permit was issued. Based on the evidence, the Board finds that the owner had diligently attempted to find a tenant to continue the operation of the premises as a restaurant. The restaurant remained as it had been without any change and no intention had been demonstrated that any other use would be made of the property. The only changes were alterations to comply with the safety standard, which would be permitted under the non-conforming use status. The Board cannot find that the Chief of the Building Inspection, Department of Inspection and Licenses, erred in granting the occupancy permit and hereby sustains his decision in issuing the permit.'

*209 The Town appealed to the Circuit Court for Montgomery County and shortly thereafter Montgomery County (County) intervened. The trial judge, Shearin, J., reversed the action of the Board. He rejected the contention of Canada and the County 'that the extinguishment of a nonconforming use requires not only a cessation of such use for a period of six months or more, but an accompanying intention to abandon.' Both Canada and the County urge us to reverse Judge Shearin and to reinstate the decision of the Board but we are satisfied that he reached the correct result.

In the appellants' argument there is discernible but one basic concept, i. e., when the District Council enacted Section 111-57(c) it did not really mean what it said. We are prompted to paraphrase the deathless dictum of Lord Mildew-if the Council did not mean what it said, it should have said so.[2] We think the Council not only meant what it said but that the language it chose is clear and unequivocal. **666 Nevertheless we shall consider the appellants' sophistic endeavors.

They hark back to Landay v. Board of Zoning Appeals, 173 Md. 460, 196 A. 293 (1938), where we said that anandonment 'depends upon the occurrence of two, and only two, factors: one, an intention to abandon or relinquish; and, two, some overt act, or some failure to act * * *.' (Emphasis added.) And, they say, we have indicated our approval of the Landay definition of abandonment in Dorman v. Mayor and City Council of Baltimore, 187 Md. 678, 51 A.2d 658 (1974); Vogl v. Mayor and City Council of Baltimoer, 228 Md. 283, 179 A.2d 693 (1962); Stieff v. Collins, 237 Md. 601, 207 A.2d 489 (1965); and Harris Used Car Co. v. Anne Arundel County, 257 Md. 412. 253 A.2d 520 (1970). They continue with the citation of McCoy v. City of Knoxville, 41 Ill.App.2d 378, 190 N.E.2d 622 (1963), which held that discontinuance means abandonment, adding, in support of McCoy, Smith v. Howard, 407 S.W.2d 139 (Ky.1966), and Bither v. Baker Rock Crushing Co., 249 Or. 640, 438 P.2d 988 (1968). *210 They go on to argue that since we have used discontinuance and cessation synonomously, Landay, supra, 173 Md. at 467, 196 A. at 296 and since abandonment, discontinuance and cessation are 'cognative' (we shall assume they mean cognate) terms, the 'existing legal requisites of abandonment must be merged into any general definition of (any one of) the (three) words,' thus compelling the conclusion that cessation cannot be used without connoting intent. We are signally unimpressed with this forensic foray. Even a cursory reading of Landay discloses its expressed inapplicability to the case at bar. Speaking for the Court, Judge Offutt said:

'Since the ordinance provides one way, and only one way, in which a non-conforming use may be lost, to supply another way in which such a right may be lost would be to do what the Mayor and City Council alone was authorized to do, but which it refrained from doing. Since, therefore, the ordinance does not provide that mere cessation of the non-conforming use shall prevent its resumption, this court is not authorized to give to such cessation that effect.' Id. at 466-467, 196 A. at 296. (Emphasis added.)

'The reasoning as well as the conclusions in these cases is consistent with the principle that, unless so stated in the statute, cessation or discontinuance of a non-conforming use without the substitution of another use, or without evidence of an intent to abandon the nonconforming use, will not prevent its resumption.' Id. at 469, 196 A. at 297. (Emphasis added.)

Appellants shrug off the explicit language of Section 111-57(c) with the argument that it was enacted only for the purpose of clearing up the 'time' ambiguities created by Landay and Dorman. This seems most unlikely for, it true, then, in effect, what the Council said was "abandoned' shall be defined as the * * * (abandonment) *211 of a nonconforming use for a period of six months or more.' We think the Council, having in mind a larger purpose, intended to align itself with those local governments which have found it desirable to delete the factor of intent in respect of the abandonment, discontinuance or cessation of nonconforming uses rather than continuing to run the gamut of its judicial determination in a succession of infinitely variable factual situations.[3]

**667 It is suggested that the use of both abandonment and cessation, in the same section, creates an ambiguity. We can think of no reason why this should be so. For instance, there is certainly no ambiguity in the Baltimore City ordinance which provides that 'such discontinuance for (six consecutive months) * * * shall constitute an abandonment * * * regardless of any reservation of an intent not to abandon same or of intent to resume actual operations.' We think Section 111-57(c), while less explicit, is not less clear.[4]

Order affirmed. Appellants to pay the costs.

*212 BARNES, Judge (dissenting):

I dissent because, in my opinion, the majority has misinterpreted s 111-57(c) of the Montgomery County Code, 1965, and has not perceived the correct legislative intent of that statutory provision.

In seeking to ascertain the legislative intent in a statutory enactment, we properly assume that the legislators are familiar with the existing law-both statutory and decisional-and enact the legislation within the framework of that law. Giant Food, Inc. v. Gooch, 245 Md. 160, 225 A.2d 431 (1967); St. Joseph Hospital v. Quinn, 241 Md. 371, 216 A.2d 732 (1966); Gilbson v. State, 204 Md. 423, 104 A.2d 800 (1954).

Since the landmark case in regard to abandonment of nonconforming uses, Landay v. Board of Zoning Appeals, 173 Md. 460, 196 A. 293 (1938), and continuing through the decision of the Court in Harris Used Car Co. v. Anne Arundel County, 257 Md. 412, 263 A.2d 520 (1970), there has been no doubt that such abandonment consists of two elements (1) an intention to abandon or relinquish and (2) some overt act, or some failure to act, which carries the implication that the owner neither claims nor retains any interest in the subject matter of the abandonment. It is in this judicial setting that s 111-57(c) was enacted.

With this well established law in mind, Subsection (c) should be carefully considered. It provides:
'(c) No building in which a nonconforming use has been changed in whole or in part to a more restricted use shall again be devoted to a less restricted use. No nonconforming use, once *213 abandoned, shall thereafter be re-established. For the purpose of this section, 'abandoned' **668 shall be defined as the cessation of a nonconforming use for a period of six months or more.'

It will be observed that there is no express negation of the first and vitally important element of abandonment, i. e., the intent by the owner of the vested property right to abandon it. The legislature does not state in the definition of abandonment that 'cessation of' the operation of the business conducted under 'a nonconforming use,' of 'cessation,' regardless of an intention to abandon, 'of a nonconforming use,' or use the language of the Baltimore City Zoning Ordinance quoted by the majority 'regardless of any reservation of an intent not to abandon same.' In short, the language of subsection (c) in question is subject to interpretation, as it possibly could mean 'regardless of intent,' or it could mean that the first judicially established element of abandonment is not disturbed, and as argued by the appellants, the six months' provision in subsection (c) is merely to set a fixed time period for intentional abandonment rather that a reasonable time. In Landay, a reasonable time was held to be more than the three years which had elapsed because of existing

economic conditions. In my opinion, the argument of the appellants is far from 'sophistic' as the majority suggests. Rather, with respect, as I see it, the position of the majority is too simplistic and appears to represent the view of a minority of the jurisdictions in this country.

Many zoning ordinances provide that if there has been a 'discontinuance' of the nonconforming use for a given period, the property may not thereafter be used for the nonconforming use. The cases construing such ordinances are closely in point with the present case inasmuch as Webster's, International Dictionary (2nd Ed.) defines the word 'cessation' as '1. A ceasing of discontinuance, as of action, whether temporary or final; a stop * * *.' 'Syn.-Rest, stay, pause, lull, discontinuance. * * *' (Emphasis supplied.)

*214 In 1 Anderson, American Law of Zoning, s 6.61 (1968 Ed.), it is stated:
'The requirement of intent to abandon is the most imposing obstruction to municipal attempts to terminate nonconforming uses which have been dormant for a period of time. Some draftsmen, in an apparent attempt to solve the problem, have included a provision that a nonconforming use may not be resumed after it has been discontinued for a specified period. * * *

'However, most municipalities have had little success with the device. The Courts have merged the terms 'abandon' and 'discontinuance' and require proof of intent to abandon. * * *'

(Emphasis supplied.)

In Rathkopf, The Law of Zoning and Planning (Third Edition), s 61-3 the learned author states:
'Some courts have upheld zoning ordinances containing a provision that a non-conforming use shall terminate and may not be resumed if non-use therof shall have existed for a specified period, where the specified period seemed reasonable.

'Other courts, however, have held that even under such ordinance provisions it must be found that the period of non-use must have been with an intent to abandon and where the non-use was caused by circumstances beyond the owner's control, the ordinance provision is ineffectual.

'The circumstances attendant upon a cessation of use may either indicate an intention to abandon the previously existing use or may negative such intent by indicating an intention to resume such use. The decisions deal with both aspects.'

*215 **669 A carefully considered case expounding and enunciating what apparently is the view in a majority of jurisdictions is McCoy v. City of Knoxville, 41 Ill.App.2d 378, 190 N.E.2d 622 (1963). In the McCoy case, a declaratory judgment was sought by the owners of land in the City of Knoxville, Illinois on which a gasoline filling station had been erected to determine its status in view of the applicable zoning law, adopted January 6, 1958. When the owners purchased the property in 1950, it had been occupied and used for filling station purposes and was bought subject to a lease to the Sinclair Refining Company for filling station purposes covering the period December 3, 1949, to December 2, 1959. The land was used for filling station purposes until February 28, 1958, when Sinclair suspended the operation of the filling station, after which time it was not actually used as a filling station although the usual facilities for such use were not removed. After 1959 when the Sinclair lease expired, the owners made numerous attempts to lease the property for operation as a filling station and to sell it for such purposes. They finally obtained a buyer for the property, the sale being conditioned, however, upon a judicial determination that the property could be used for filling station purposes in view of a provision of the applicable zoning ordinance which provided, in relevant part (after stating that lawful uses of property may be continued even though they do not conform to the zoning):
'In the event that the nonconforming use of a building or premises is discontinued for a period of two years or more, such building or premises shall thereafter be used only in conformity with the regulations of the district in which it is located.'

The Court, in reversing the lower court, held that the statutory word 'discontinuance' meant more than a mere suspension of use and the addition of the words 'for a period of two years or more' did not alter the requirement that an intention to abandon the nonconforming use *216 by the owner must be established. The Court noted that there were cases to the contrary but stated that these decisions were 'not the law of Illinois or the majority view.'

To the same effect, see Smith v. Howard, Ky., 407 S.W.2d 139 (1966). Bither v. Baker Rock Crushing Co., 249 Or. 640, 438 P.2d 988 (1968)-modified on other grounds; 249 Or. 640, 440 P.2d 368 (1968). Crandon v. State, 158 Fla. 133, 28 So.2d 159

(1946) and Ullman ex rel. Eramo v. Payne, 127 Conn. 239, 16 A.2d 286 (1940).

What seems to be the minority view is represented by Franmor Realty Corp. v. LeBoeuf, 279 App.Div. 795, 109 N.Y.S.2d 525 (1952), affirming the Supreme Court, Nassau County, 104 N.Y.S.2d 247 (1951). The opinion of the Appellate Division consists of 13 lines, which contain no reasoning and cites no cases. The question does not appear to have been passed upon by the Court of Appeals of New York. Indeed, the decision in Franmor seems to have been limited in scope by subsequent New York cases. See Amzalak v. Incorporated Village of Valley Stream, Sup., 220 N.Y.S.2d 113 (1961) and Gauthier v. Village of Larchmont, 30 A.D.2d 303, 291 N.Y.S.2d 584 (1968).

Franmor, however, was cited with approval by the Supreme Court of Wisconsin in State ex rel. Peterson v. Burt, 42 Wis.2d 284, 166 N.W.2d 207 (1969) in the construction of a zoning ordinance of the City of Madison, Wisconsin providing that if a building used for a nonconforming use was 'discontinued for a continuous period of one year, it shall not thereafter be occupied or used' except in conformity with the use regulations in the district in which it was located. There was, however, no discussion of the case or analysis of the applicable law generally.

**670 See State ex rel. Brizes v. DePledge, Ohio App., 162 N.E.2d 234, 81 Ohio Law Abst. 463 (1958) in regard to a zoning ordinance of the City of Eastlake, Ohio, providing in regard to 'Abandonment of Buildings,' that 'A nonconforming building which is or hereafter becomes vacant and remains unoccupied for a period of one year' shall not *217 thereafter be used except in conformity with the use regulations in the district.

The evidence in the present case establishes that the building on the subject property where the nonconforming restaurant use was permitted was obviously designed for the permitted restaurant nonconforming use.

Although originally constructed as a dwelling, the building on the land had been structurally converted to a restaurant use prior to the passage of the ordinance in question. The report of the Inspector of the Board of Liquor License Commissions, dated June 2, 1969, in regard to the subject property states, in part, as follows:
'The dining room measures about 36 21 feet in size and contains a service bar, booths and tables capable of seating 45 patrons. There is a cigarette machine and a juke box in the dining room. The kitchen consists of two small rooms containing a cook stove, deep fry cookers, handwash basin, ice machine, refrigerators and a three compartment sink. There is a beverage cooler in rear of the service bar.

'There are adequate rest rooms on the second floor. * * *'

Two of the photographs in the case-Exhibits 11-B and 11-F-show a substantial sign facing in two directions with the words 'Canada's Restaurant' on it. There is a canopy under the sign under which there is an entrance door with a large casement bay window on the side, which indicates a restaurant use of the building. These photographs show that in the front of this entrance three automobiles are parked and there is additional area for the parking of other cars with large pieces of wood to mark the farthest end of the parking area. In short, the evidence indicates that the building on the land is 'dedicated' to restaurant use; and the public was clearly advised that such restaurant use was established before that use became nonconforming by the passage of the zoning ordinance.

*218 The suspension of operation of the restaurant was caused by the illness of the owner and the temporary inability of the owner to obtain a suitable tenant. The owner had no intention whatever to abandon the restaurant during the six-month period. She did not remove any of the restaurant fixtures, take down the sign, use the building for any use inconsistent with the restaurant use and during the entire period made all reasonable efforts to obtain a proper tenant to operate the restaurant. It was due to no fault or lack of diligence of the owner that a suitable tenant was not found or that the restaurant was not operated during the six-month period.

It must be remembered that a lawful, established property right is involved in the present case, i. e., the right to use the subject property as a restaurant. Zoning laws generally are in derogation of the common law and should be strictly construed. See Landay v. Board of Zoning Appeals, 173 Md. 460, 466, 196 A. 293, 296 (1938), supra. This is particularly true where the use of the property in question is a long established and necessary use supplying the public with food-a necessary, proper, lawful and desirable use of property. I recognize that this Court has gone far-too far in my opinion-in permitting the elimination of certain types of nonconforming uses after a 'reasonable amortization' period. **671 See Grant v. Mayor & City Council of Baltimore, 212 Md. 301, 129 A.2d 363 (1957); Stevens v. City of Salisbury, 240 Md. 556, 214 A.2d 775 (1965); and Minor v. Shifflett, 252 Md. 158, 249 A.2d 159 (1969). In my concurring opinions in both Stevens and in Minor v. Shifflett, supra, I voiced my distress at these holdings which, in my opinion, impaired vested property rights without the payment of just compensation. The holding of the majority in the present case is, in my opinion, even more extreme than the holdings in the 'amortization' cases mentioned, in that a six-months' period is clearly not a reasonable time to eliminate the nonconforming restaurant use on any amortization theory-and such a theory is not asserted. But yet, without any fault or intent of the owner, the stopping of *219 operation of the lawful nonconforming use for the six-months' period without any change in the structure of the building for the restaurant use or any removal or sale of the chairs, tables, bars, or other estaurant facilities, is held to result in a loss of the vested property right. Curiously, this is held by the majority contrary to the action of the administrative officials of the county and, indeed, contrary to the position taken by Montgomery County, itself, as an intervening party in the case both in the lower court and before us on this appeal. I am mindful of the view that it is intended that nonconforming uses will 'wither away' with the passage of time; but this is a far cry from being 'yanked out' by legislative power without the payment of just compensation.

There are grave constitutional questions which arise if the element of intention is deemed to be eliminated. It is clear in the present case, as I have indicated, that the property owner had no intention whatever to abandon the nonconforming restaurant use. The owner removed no signs, structures or other facilities indicating a position inconsistent whith the continuance of the nonconforming use. See Beyer v. Mayor & City Council of Baltimore, 182 Md. 444, 34 A.2d 765 (1943) where a slaughter house use was deemed to have been abandoned when the owner sold all of the visible machinery, including the boilers, pipes used for refrigeration and machinery for moving carcasses from one part of the plant to another as well as taking down the smokestack-a necessary part of the building to be used in the slaughtering and meat packing use, with no attempt by the owner to replace these necessary structures and facilities.

The facts in the present case graphically show how arbitrarily, capriciously, and unreasonably the elimination of the element of intention as a statutory requirement operates. However, other factual situations may easily be envisioned which, perhaps, present even more aggravated situations. For example, if the owner of the nonconforming right operates a seasonal business such as one which exclusively caters to preparations for the *220 Christmas Holiday-Christmas wrapping paper, cards, decorations and the like-and the owner on January 2 of the year following Christmas closes his shop and goes to Florida for a well-earned rest for more than six months with no intention of giving up his business and with the firm intention to return in ample time to place his orders for supplies and continue his business the following Christmas, upon his return in September, he will discover that he has lost his nonconforming right to operate his seasonal business. Again, suppose a young and competent portrait painter, with a unique style and talent, owns a nonconforming studio where his patrons pose for the painting of their portraits with proper lighting, sky-lights, etc., specially designed for his work and much against his will he is drafted into the Armed Forces of the United States, serves for more than six months, and returns to discover that he has lost his nonconforming right to maintain his studio. Suppose again, that the owner of a nonconforming right to conduct what is essentially a one-man operation is kidnapped, **672 taken to some hide-out, with no way to communicate with other persons and is not released for over six months. He too returns home to find his nonconforming right to conduct his business gone.

To my mind, it is unreasonable, arbitrary and capricious and a denial of due process of law to eliminate the vested property right without the fault of the owner and without any intention on the owner's part to give up or relinquish the vested right. Hadacheck v. Sebastian, 239 U.S. 394, 36 S.Ct. 143, 60 L.Ed. 398 (1915); Village of Terrace Park v. Errett, 12 F.2d 240 (6 Cir. 1926); Ex parte Kelso, 147 Cal. 609, 82 P. 241 (1905) cited in Arundel Corp. v. Board of Zoning App. of Howard Co., 255 Md. 78, 81, 257 A.2d 142, 145 (1969).

Such action, in my opinion, results in the taking of the owner's property right without just compensation as prohibited by Art. III, s 40 of the Maryland Constitution.

Inasmuch as s 111-57(c) is ambiguous in this regard, we should give it a meaning which will avoid its unconstitutionality, *221 City of Baltimore v. Concord Baptist Church, Inc., 257 Md. 132, 262 A.2d 755 (1970); Deems v. Western Maryland Ry. Co., 247 Md. 95, 231 A.2d 514 (1967); Stevens v. City of Salisbury, 240 Md. 556, 214 A.2d 775 (1965); Higgins v. Mayor and City Council of Baltimore, 206 Md. 89, 110 A.2d 503 (1955); and which would also avoid an unreasonable and harsh result. Pan American Sulphur Co. v. State Dept. of Asses. & Taxation, 251 Md. 620, 248 A.2d 354 (1968); B. F. Saul Company v. West End Park North, Inc., 250 Md. 707, 246 A.2d 591 (1968) and cases cited therein.

In my opinion, the administrative officials properly issued a permit to the owner to continue the nonconforming restaurant use; and I would reverse the order of the lower court reversing that action by the administrative officials.

All Citations

260 Md. 206, 271 A.2d 664, 56 A.L.R.3d 1

Footnotes

1 The Town, in a footnote to its 'Statement of Facts,' indicates that Canada opened for business on 25 April 1969, the day the certificate of occupancy was issued, that it closed again around 1 September, and that on 4 November the restaurant was reopened under a new name.

2 A. P. Herbert, Uncommon Law 192 (1st ed. 1936). Lord Mildew is the mythical judge.

3 The ligislative history of Section 111-57 (c) seems to support the view we have expressed. The earliest version, enacted in September 1941, appears in the 1950 Montgomery County Code as Sec. 176-10. It provided that 'upon * * * discontinuance * * * for a period of one year * * * (the use) shall terminate.' Following a 1953 amendment it appears in the 1955 Code as Section 107-47(c) which provided that 'no nonconforming use, once abandoned, shall thereafter be re-established' and defining 'abandonment * * * as the cessation' of the use 'for one month or more.' (Emphasis added.) The present section, 111-57(c), is a re-enactment (without change) of Section 104-48(c) of the 1960 code.

4 It is interesting to note the diverse approaches other counties have taken in attacking nonconforming uses which have ceased for one reason or another. This diversity is all the more reason for reading such ordinances literally without attempting to extract strained interpretations. '(I)n the case of the abandonment of such non-conforming use for the period of one year, the right to continue such original non-conforming use shall cease.' Code of Anne Arundel County, s 13-310 as amended Supp. #5 (1969). '(On) any abandonment or discontinuance of such non-conforming use for a period of one year or more * * * the right to continue or resume such non-conforming use shall terminate.' Baltimore County Zoning Regulations (1955) s 104.1. 'No building, structure or premises where a non-conforming use has ceased for six (6) months or more shall thereafter be used * * *.' Carroll County Zoning Ordinance s 4.3(d). 'No building, structure or premises where a non-conforming use has ceased for two years or more shall again be put to a non-conforming use.' Code of Frederick County (1959) as amended s 40-124. 'A non-conforming use * * * which shall remain idle and unused for a continuous period of three years, shall be considered abandoned as a non-conforming use * * *.' Zoning Regulations of Howard County (1961) as amended s 20.05. 'No non-conforming use may be re-established * * * where such non-conforming use has been discontinued for a period of at least two years.' Zoning Ordinance of Prince George's County (1949) as amended s 12.41(b). (All emphasis added.)

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Donna Mignon

From: Matt F. Gawel
Sent: Friday, February 3, 2023 8:27 AM
To: Donna Mignon
Subject: RE: CB2200196- 2621-2623 Brannan Avenue
Attachments: Matthew Gawel.vcf; 20230203081915689.pdf

Attached is a copy of the violation case and issued razing and building permits.

Matthew Gawel
Baltimore County
Chief Building Inspector

(410) 887-3953 Work
mgawel@baltimorecountymd.gov

From: Donna Mignon <dmignon@baltimorecountymd.gov>
Sent: Thursday, February 2, 2023 9:01 AM
To: Matt F. Gawel <mgawel@baltimorecountymd.gov>
Subject: CB2200196- 2621-2623 Brannan Avenue

Good Morning,
Please email me any information in regard to this property. We have a hearing coming up in March.

Thank you so much. 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

Department of Permits, Approvals & Inspections
Complaint Report

Record Id: CB2200196

Record ID	Assigned To	Assigned Date	Received Date	Status	Compliance Date	Hearing Date
CB2200196	Rodney Larrick	04/06/2022	04/06/2022	In Compliance	04/19/2022	

Complaint Description: Razing of structure without permits

Property
0 BRANNAN AVE
SPARROWS POINT, MD 21219
Tax Id: 1519711618

Owner
EDGMERE WILDLIFE TRUST WITH LA CRI
SUITE 100-269
2206 OLD EMMORTON ROAD
BEL AIR, MD 21015-6172

Complainant
ANONYMOUS

Inspection Details

Inspector	Date	Service	Result	Action	Complied On
Rodney Larrick	04/08/2022	Initial Inspection	Stop Work Order Issued	Stop Work Order Issued	
Rodney Larrick	04/20/2022	Re-Inspection	Monitor	Monitor	
Rodney Larrick	05/27/2022	Re-Inspection	Monitor	Monitor	
Rodney Larrick	08/04/2022	Re-Inspection	In Compliance	In Compliance	08/04/2022

Lien Information - No Lien

Comments Detail

4/8/2022: 4/6/22 Permit R21-02585 issued for roof alteration and 2 cantilevered additions. Site inspection reveals structure razed to foundation except for 1 wall that faces Haddaway Rd. SWO posted and mailed. R/C 4/20/22 ***RL/lk
4/20/2022: 4/20/22 Razing permit R21-05628 applied for. R/C 5/11/22 ***RL/lk
5/27/2022: 5/27/2022 Plumbing cap off permit issued RP22-03473. Final cap off inspection scheduled for 5/31/2022.
Razing permit applied for R22-05628.
Recheck 6/6/2022 ***RL/NRC***
8/4/2022: Razing permit issued - razing finaled 7/7/22 by DW. Close case. ***RL/lk

Baltimore County
Department of 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. CB 2200196 Property No. 151971 1618 Zoning:

Name(s): Podles, Rob

Address: 2621-2623 Brannan Ave
Sparrows Point MD 21219

Violation Location: Same

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

Baltimore County Code 2003 Article 35
35-2-301 Permits Required
35-2-304 Pentaly for action without permit
(1) Permits required for razing of structure
(2) Secure all required permits for reconstruction of dwelling
(3) Secure all required inspections
Permit B21-02585 not valid for demo or reconstruction
BCBC Part 121 Unsafe Structure - Remove end wall that is in danger of falling

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

ON OR BEFORE: _____ DATE ISSUED: _____

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: _____

STOP WORK NOTICE

PURSUANT TO INSEPCTION 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: 4-20-22 DATE ISSUED: 4-6-22

INSPECTOR: Rodney Lamb PRINT NAME: Rodney Lamb

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

PAI BI 10

REV. 2/13

Baltimore County
Department of 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. CB 2200196 Property No. 1519711618 Zoning:

Name(s): Edgmere Wildlife Trust with Lq Crites
Suite 100 - 269 2306 Old Emmorton Rd Trustee

Address: Belair MD 21015-6172

Violation Location: 2621 - 2623 Brannan Ave 21219

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

Baltimore County Code 2003 Article 35
35-2-301 Permits Required
35-2-304 Penalty for action without permit
(1) Secure permits required for razing of structure
(2) Secure all required permits for reconstruction of dwelling
(3) Secure all required inspections
Permit R21-02585 not valid for demo or reconstruction
BCBC Part 121 Unsafe Structure - Remove end wall that is in danger of falling

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

ON OR BEFORE: _____ DATE ISSUED: _____

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: _____

STOP WORK NOTICE

PURSUANT TO INSEPCTION 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: 4-21-22 DATE ISSUED: 4-7-22

INSPECTOR: Rodney Lark PRINT NAME: Rodney Larrick

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

PAI BI 10 REV. 2/13

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

Permit Number: R22-06756

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Property Information

Property Address: 2621 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 39.00

Set Backs - Rear Yard: 21.00

Set Backs - Right Side Yard: 25.00

Set Backs - Left Side Yard: 9.00

Owner Information

Owner: LA Crites

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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 inquiries.

10/15/2022

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

Permit Number: R22-06756

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?: Y

Building Permit Information

Description of Work: CBCA. Construct 2 story semi-detached dwelling using existing foundation, with 2ft front cantilever, 3 bedrooms covered front porch, balcony, open wood rear deck per plans 13'10-3/4"x73'1-1/4"x34'=1587sf. Sprinklers required for fire protection. Refer to R22-05628 for razing existing semi-detached dwelling. Not pattern book. REFER TO PLANS AND NOTES,UPDATES R22-06755--SAME

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.

10/15/2022

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

Permit Number: R22-06755

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Property Information

Property Address: 2623 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 39.00

Set Backs - Rear Yard: 21.00

Set Backs - Right Side Yard: 25.00

Set Backs - Left Side Yard: 9.00

Owner Information

Owner: LA Crites

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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: R22-06755

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?: Y

Building Permit Information

Description of Work: CBCA. Construct 2 story semi-detached dwelling using existing foundation, with 2ft front cantilever, 3 bedrooms covered front porch, balcony, open wood rear deck per plans 13'10-3/4"x73'1-1/4"x34'=1587sf. Sprinklers required for fire protection. Refer to R22-05628 for razing existing semi-detached dwelling. Not pattern book.

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.

10/15/2022

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

Permit Number: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Property Information	*Lot Size and Setbacks*
Property Address: 2623 BRANNAN AVE	**Size:** 3,154.00
City, State, Zip: SPARROWS POINT, MD, 21219	**Set Backs - Front Yard:**
Tax ID: 1519711618	**Set Backs - Rear Yard:**
District: 15	**Set Backs - Right Side Yard:**
Existing Use:	**Set Backs - Left Side Yard:**
Proposed Use:	
Is this property located in a Floodplain: NO	
Sprinkler to be Installed?:	
Plumbing Work?:	
Electrical Work?:	

Owner Information

Owner: LA Crites, Trustee

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA. RAZE MAIN STRUCTURE, TO BE TORN DOWN, FOUNDATION TO REMAIN, 3154SF, BUILT IN 1924. DEBRIS TO BE HAULED TO APPROVED SANITARY LANDFILL IN ACCORDANCE WITH APPLICABLE BALTIMORE COUNTY SITE REGULATIONS. SEWER TO BE CAPPED. PERMIT EXPIRES 90 FROM DATE OF ISSUE. RAT ERADICATION STATEMENT ATTACHED. ISSUANCE OF THIS PERMIT DOES NOT COMMIT BALTIMORE COUNTY TO ISSUE ANY FURTHER PERMITS

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: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Property Information	*Lot Size and Setbacks*
Property Address: 2621 BRANNAN AVE	**Size:** 3,154.00
City, State, Zip: SPARROWS POINT, MD, 21219	**Set Backs - Front Yard:**
Tax ID: 1519711618	**Set Backs - Rear Yard:**
District: 15	**Set Backs - Right Side Yard:**
Existing Use:	**Set Backs - Left Side Yard:**
Proposed Use:	
Is this property located in a Floodplain: NO	
Sprinkler to be Installed?:	
Plumbing Work?:	
Electrical Work?:	

Owner Information

Owner: LA Crites, Trustee

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA. RAZE MAIN STRUCTURE, TO BE TORN DOWN, FOUNDATION TO REMAIN, 3154SF, BUILT IN 1924. DEBRIS TO BE HAULED TO APPROVED SANITARY LANDFILL IN ACCORDANCE WITH APPLICABLE BALTIMORE COUNTY SITE REGULATIONS. SEWER TO BE CAPPED. PERMIT EXPIRES 90 FROM DATE OF ISSUE. RAT ERADICATION STATEMENT ATTACHED. ISSUANCE OF THIS PERMIT DOES NOT COMMIT BALTIMORE COUNTY TO ISSUE ANY FURTHER PERMITS

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.

Donna Mignon

Subject: 2621-2623 Brannan Road - IN PERSON HEARING
Location: https://baltimorecountymd.webex.com/baltimorecountymd/j.php?MTID=m5b27a752ac84c8d023a06af2de6fdf9e

Start: Wed 3/1/2023 1:30 PM
End: Wed 3/1/2023 4:30 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: David Goodwich

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David Goodwich is inviting you to be a panelist for this Webex webinar.

Wednesday, March 1, 2023
1:30 PM | (UTC-05:00) Eastern Time (US & Canada) | 3 hrs

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Some mobile devices may ask attendees to enter a numeric password.

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Global call-in numbers

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Donna Mignon

From: Donna Mignon
Sent: Wednesday, February 1, 2023 11:55 AM
To: Lisa M Henson
Subject: RE: Property: 2621-2623 Brannan Road, Sparrows Point, MD / Owner: Edgmere Wildlife LA Crites Trustee

Sorry, the address is 2621-2623 Brannan Avenue, not Road.
Thanks.

From: Donna Mignon
Sent: Wednesday, February 1, 2023 11:51 AM
To: Lisa M Henson <lhenson@baltimorecountymd.gov>
Subject: Property: 2621-2623 Brannan Road, Sparrows Point, MD / Owner: Edgmere Wildlife LA Crites Trustee

Hi Lisa,
I wanted to check to see if there was any Code Violations issued in regard to the above property and if so can you email me everything that you have.

Thank you.

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: Wednesday, February 1, 2023 11:51 AM
To: Lisa M Henson
Subject: Property: 2621-2623 Brannan Road, Sparrows Point, MD / Owner: Edgmere Wildlife LA Crites Trustee

Hi Lisa,
I wanted to check to see if there was any Code Violations issued in regard to the above property and if so can you email me everything that you have.

Thank you.

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

Edgemere Wildlife Trust – Brannan Avenue – 2022-269-SPH

People's Counsel ALJ Exhibit List

1. 2004 ALJ Opinion and Site Plan
2. CBA Dismissal of 2004 case
3. SDAT Information
4. ADC Map
5. MyNeighborhood Zoning & Aerial Maps
6. Google Street Map Photo

Exh 2

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE S/S of Haddaway Road, E/S of Brannan Avenue 15th Election District 7th Councilmanic District **(2621-2623 Haddaway Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 04-567-SPHA

John Stephen Podles, Jr.
Petitioner

OCT 12 2004
RECEIVED

* * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Variance and Petition for Special Hearing for the properties located at 2621-2623 Haddaway Road in the eastern area of Baltimore County. The Petition was filed by John Stephen Podles, Jr., the Petitioner and legal owner of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. In addition, variance relief is requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft.

The property was posted with Notice of Hearing on July 27, 2004, 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 August 3, 2004, to notify any interested persons of the scheduled hearing date.

RECEIVED
OCT - 8 2004

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all

zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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."

Section 104, Nonconforming Uses [BCZR 1955]

Definition: Nonconforming Use -- A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

Section 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Section 104.3 No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]

Section 104.4 Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any

extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were submitted by the Department of Environmental Protection & Resource Management (DEPRM) dated July 1, 2004, a copy of which is attached hereto and made a part hereto. In addition, a ZAC comment was received from the Bureau of Development Plans Review dated July 2, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were John S. Podles, Jr., the Petitioner, Christopher Podles, Mary Pyles and Jean Grovu. J. Scott Dallas appeared on behalf of J.S. Dallas, Inc., the survey and engineer company that prepared the site plan of the property on behalf of the Petitioner. Alfred L. Brennan, Jr., Esquire represented the Petitioner. No protestants or citizens attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Brennan proffered that the subject property is located at the intersection of Brannan Avenue and Haddaway Road. Brannan Avenue continues to the south of the property as Brannan Circle. The Department of Public Works requested that the plan to accompany show a full 40-ft. right-of-way for both Haddaway Road and Brannan Avenue to which the Petitioner agreed as set forth on Petitioner's Exhibit No. 1. Mr. Brennan noted the odd configuration of the lot that has streets on three sides and the new rights-of-way requested by the County. In addition, the building is not square on the lot so that one side is closer to the boundary than the

other. The subject property is 0.175 acre in size and is Lot 11 of the Estate of Thomas Brannan, which was recorded in the Land Records of Baltimore County in 1948. The zoning is DR 5.5, which was imposed on the property in 1955. The lot is apparently within the Chesapeake Bay Critical Area.

The property is improved by a duplex (side by side) apartment house, one half of which Mary Pyles testified that she rented in 1948 and 1949 when she worked for Bethlehem Steel Corporation. She noted that there were two apartments at that time and that the building was old when she moved in. Mr. Brennan presented a series of aerial photographs (Petitioner's Exhibit Nos. 2 through 5) which show the duplex apartment in 1938, 1954, 1961 and 1977 basically unchanged.

Mr. Podles testified that he bought the property in 1992 in horrible shape. Since that time, he has rehabilitated and remodeled it so that he can rent it as two side by side apartments. He noted that each apartment contained its own bath, kitchen and bedrooms. However, each apartment had only two bedrooms and in order to make each apartment more attractive to tenants, he constructed a third bedroom over each of the apartments in 1992 for which Baltimore County issued a permit. Finally, he constructed a third apartment on the side of the existing duplex building in 2000 without a permit, which is now the source of the violation notice. See Petitioner's photographs marked Exhibit Nos. 7 through 14.

Finally, Mr. Dallas, who prepared the plan to accompany, noted that the additional apartment increased the footprint by approximately 18% and that the County's request to show parking for each apartment for a total of six spaces is shown on Petitioner's Exhibit No. 1. He also noted that the third apartment falls within 3 ft. of the boundary of the lot and that the

Petitioner did not own the lot next door which he could use to expand the lot and thus comply with the regulations by lot line adjustment.

Findings of Fact and Conclusions of Law

From the testimony and evidence, I find that the Petitioner has a legal use of two apartments side by side, which do not conform to the use regulation for the DR 5.5 zone in which it is located. Ms. Pyles indicated that she rented one side of the duplex in 1948 and I have no reason to believe that a multi-family use was not legal at that time. In addition, I find that there has been no abandonment of the apartment use since the time the DR regulations were imposed in 1970.

Much more troubling is the question of whether the addition of the second floor to the duplex apartments should be considered in calculating the percentage increase, as well as the third apartment. Mr. Dallas testified that the third apartment added only 18% to the footprint of the building and thus meets the 25% expansion requirement of nonconforming uses. The Petitioner notes that the statute specifically states that the footprint is the basis of the nonconforming use. The statute (Section 104.3 of the B.C.Z.R.) specifies that a nonconforming use may not be extended more that 25% of "the ground floor area of the building so used".

Consequently, Mr. Brennan argues that I am not to consider the second story added to the duplex in calculating the extension. He cites the case of *Feldstein v LaVale Zoning Board,* 246 MD 204 (1967) which involved an increase in the volume and height of stored scrap metal in a nonconforming junkyard. In this case, the Court of Appeals ruled that this was an intensification and not an extension of the nonconforming use. In addition he cites *Green v Garrett et al.*, 63 A2d 326 which involves the nonconforming use of a stadium which before the zoning ordinance, held football and baseball games. The zoning ordinance then restricted the property to

residential uses. The Court of Appeals found that playing regularly scheduled league play was not an extension of the nonconforming use.

In regard to the contention that the basis of a nonconforming use is simply the foot print of the building, this makes no logical sense to me, although at first glance the statute seems to say so. If I consider only the first floor footprint, an addition that adds ten floors to a nonconforming use would have no extension at all by this way of calculation. Obviously, the nonconforming use has intensified tenfold but this would not register on the statute's Richter Scale and be counted.

In regard to the cases cited, I understand that more frequent use of or conducting more business from a nonconforming use is an intensification and not an extension. However, the subject case is about putting another room onto each apartment and then adding a third apartment to the building. In my view, these are extensions and not intensifications. The statute specifically mentions physical area as the basis of the 25% rule.

It seems to me that the Council's intention is to regulate the size of land extensions by finding the area of the nonconforming use and then determine if that area has been extended more than 25%. Area works well here. However, I interpret the legislative intent for extension of nonconforming structures to apply to volumetric increases and not simply footprint of the first floor. In this sense, I find the words "of the ground floor area" in the statute does not indicate a precise mathematical formula (such as width times length for a rectangle) but rather that it means the first story of the building. Otherwise, we could have the absurd result of a one story nonconforming building been extended to multi-story heights without any extension. Clearly, this is not the intent of the legislation.

As I understand the situation, each nonconforming apartment had a kitchen, bath and two bedrooms, which were approximately the same size. If a third bedroom is added to each apartment again, of about the same size, there would be an increase in number of rooms from four to five rooms or a 25% increase in the nonconforming use. This would use up the maximum extension under the regulations. I cannot, therefore, approve the additional apartment. As a further result, I cannot approve a variance for the side yard setback, which is the distance of the third apartment to the property line.

In addition, even accepting the Petitioner's argument about foot print, which I do not, I have great difficulty with this request. Mr. Dallas testified, that by using the footprint method the Petitioner suggests the addition increases the nonconforming use 18%. However, the footprint dimension of the duplex is approximately 28.5 ft. x 55 ft., which I calculate to be 1,567.5 sq. ft. The addition is approximately 10.6 ft. x 43.3 ft., which I calculate is 459 sq. ft. This gives me a percentage increase of 29.3% increase, which exceeds the statutory limit just for the addition alone, much less for the third bedroom.

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 Petitioner, I find that the Petitioner's variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12 day of October, 2004, that the Petitioner's request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling consisting of two apartments side by side, be and is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request to approve the expansion of the two existing apartments by the addition to each of a third bedroom is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request for a third apartment, be and is hereby DENIED;

IT IS FURTHER ORDERED, that the Petitioner's request to determine that the third unit will not negate the nonconforming use, be and is hereby DENIED as moot; and

IT IS FURTHER ORDERED, that the variance relief requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft., be and is hereby DENIED.

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

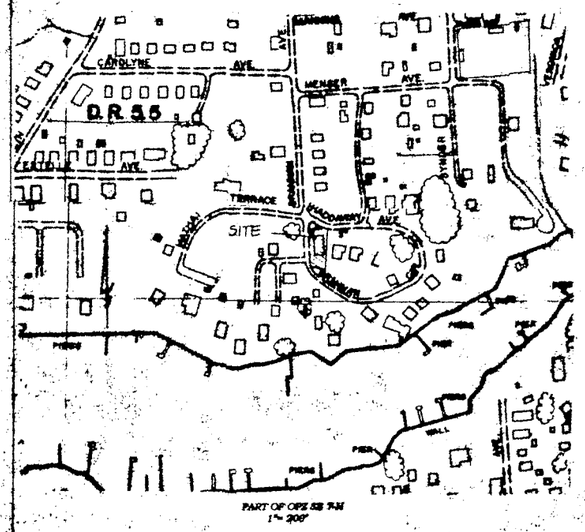
John V. Murphy

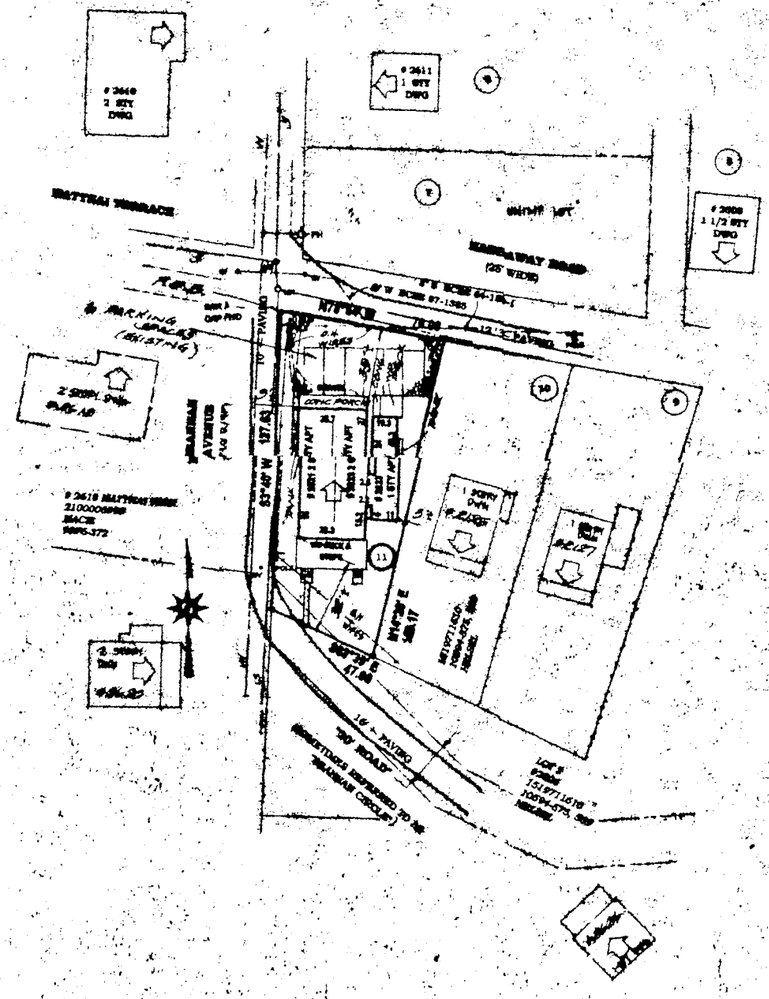
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

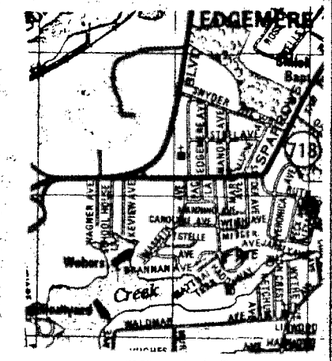
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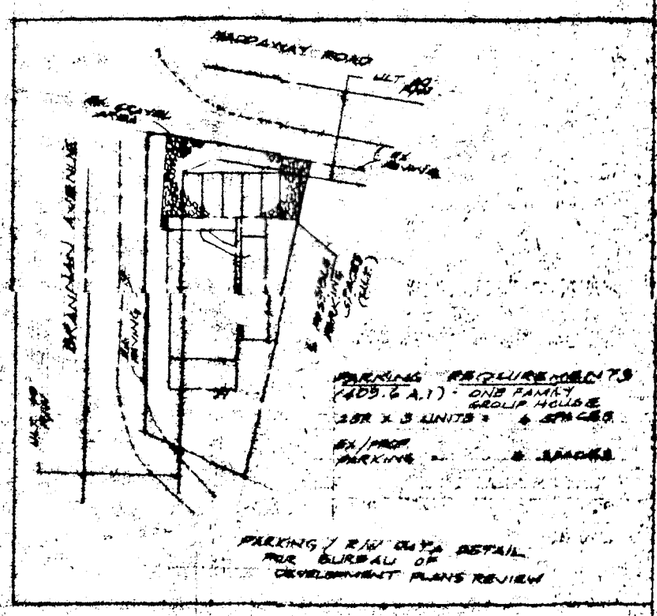
NOTES

1. ZONING VIOLATION: 06-0935
   (*ILLEGALLY CONVERTED/ ILLEGALLY BUILT 3RD DWELLING UNIT*).
2. OWNERSHIP: JOHN STEPHEN FOCKLER, JR
   2621 BRANHAN AVENUE
   BALTIMORE, MD 21219
   DEED REFERENCE: 13437-549
   PHONE : 410-388-6794
3. PROPERTY INFORMATION:
   TAX MAP 111 —PARCEL 133
   PLAT OF ESTATE OF THOMAS R. BRANHAM (34/ 89)
   TAX ACCT NO. 1519711618
4. AREA OF SUBJECT SITE: 7628 SF +- OR 0.175 AC. +-
5. EX./ PROP USE: THREE APARTMENTS.
6. SITE LIES IN C.B.C.A. LDA PER MAP NO. 111.
7. SITE LIES IN FLOOD ZONE C PER F.E.M.A. F.I.R.M. 240030 0656 B.
8. EX. ZONING OF SITE & SURROUNDING PROPERTY: D.R. 5.5 PER OPZ SE 7-H
9. UTILITIES SHOWN HEREON ARE PER REFERENCED PLANS.
10. NOT A HISTORIC BUILDING OR SITE.









J.B. DALLAS, INC.
Surveying & Engineering
15325 Long Green Pike
Baldwin, MD. 21013
(410) 817-4608

SITE PLAN TO ACCOMPANY PETITION FOR RESIDENTIAL ZONING VARIANCE AND SPECIAL HEARING IN A D.R. 5.5 ZONE

 # 2621-2623 HADDAWAY ROAD

15TH EL. DIST 7TH COUNC DIST BALT. COUNTY, MD

SCALE: 1" = 30'

FEBRUARY, 2004

REV. 6-16-04

IN THE MATTER OF THE APPLICATION OF JOHN STEPHEN PODLES, JR. – LEGAL OWNER /PETITIONER FOR A VARIANCE ON PROPERTY LOCATED ON THE S/S OF HADDAWAY RD, E/S BRANNAN AVENUE (2621-2623 HADDAWAY ROAD)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT	*	CASE NO. 04-567-SPHA

* * * * * * * * * * *

ORDER OF DISMISSAL

This matter comes to the Board of Appeals by way of an appeal filed by John S. Podles, Jr., Legal Owner /Petitioner, from a decision of the Deputy Zoning Commissioner dated October 6, 2004 in which the requested relief was granted in part and denied in part.

WHEREAS, the Board is in receipt of a letter of withdrawal of appeal filed on May 26, 2005 by Arnold Jablon, Esquire, Counsel for Appellant /Petitioner (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Appellant requests that the appeal taken in this matter be withdrawn and dismissed as of May 26, 2005,

IT IS THEREFORE ORDERED this 27th day of May, 2005 by the County Board of Appeals of Baltimore County that the appeal taken in Case No. 04-567-SPHA be and the same is hereby **DISMISSED**, whereby the Order of the Deputy Zoning Commissioner issued on October 6, 2004 becomes the final Order in this matter.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Lawrence M. Stahl, Chairman

Lawrence S. Wescott

Margaret Brassil, Ph.D.

Case No. 04-567-SPHA

In the Matter of: John Stephen Podles, Jr. – Petitioner /Legal Owner
2621-2623 Haddaway Road

SPH – To approve confirmation of nonconforming use for multi-family dwelling and expansion thereof and to approve third unit and to determine that the third unit will not negate the nonconforming use;
VAR – to allow side yd setback of 3' ilo minimum required 10'

10/06/04 - D.Z.C.'s Order in which special hearing to approve confirmation of nonconforming use / two apts side by side / was GRANTED; expansion of existing apartments by addition of third bedroom each was GRANTED; request for third apt and variance relief was DENIED.

1/03/05 – Letter from Alfred L. Brennan, Jr., Esquire and BRENNAN and BRENNAN – no longer striking appearance as counsel for Mr. Podles in this matter; all future correspondence to be mailed directly to Mr. Podles. File so noted 1/04/05.

1/04/05 – Letter to Mr. Brennan acknowledging receipt of his withdrawal of appearance; copy to Mr. Podles and also to People's Counsel.

2/14/05 -Notice of Assignment sent to following; assigned for hearing on Wednesday, June 1, 2005 at 10 a.m.:

John Stephen Podles, Jr.
J. Scott Dallas /J.S. Dallas, Inc.
Christopher Podles
Mary Pyles
Jean Grove
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

4/13/05 – Request for postponement filed by Arnold Jablon – recently retained to represent the Appellant /Petitioner; requires time to prepare case; also will be out of town on the scheduled date of 6/01/05. No protestants before the ZC. Attempting to clarify availability of parties on either 6/07 or 7/07/05; notice to be sent upon clarification.
– Mr. Zimmerman available either 6/07 or 7/07/05, preferring the June date. T/C from Mr. Jablon – his witness is not available on 6/07/05. Will reassign to July 7 and send notice.

4/22/05 – Notice of PP and Reassignment sent to parties; case reassigned to Thursday, July 7, 2005 at 10:00 a.m.

5/26/05 – Letter of dismissal of appeal filed by Arnold Jablon, Esquire, on behalf of Appellant /Petitioner, John Stephen Podles, Jr. Order of Dismissal to be issued; order of the DZC dated October 6, 2004 will then become the final Order in this matter (relief granted in part and denied in part).

PC Exh 2

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
S/S of Haddaway Road,
E/S of Brannan Avenue
15th Election District
7th Councilmanic District
(2621-2623 Haddaway Road)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 04-567-SPHA

John Stephen Podles, Jr.
Petitioner

OCT 12 2004
* * * RECEIVED * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Variance and Petition for Special Hearing for the properties located at 2621-2623 Haddaway Road in the eastern area of Baltimore County. The Petition was filed by John Stephen Podles, Jr., the Petitioner and legal owner of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. In addition, variance relief is requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft.

The property was posted with Notice of Hearing on July 27, 2004, 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 August 3, 2004, to notify any interested persons of the scheduled hearing date.

RECEIVED
OCT - 8 2004

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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."

Section 104, Nonconforming Uses [BCZR 1955]

Definition: Nonconforming Use – A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

Section 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Section 104.3 No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]

Section 104.4 Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any

extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were submitted by the Department of Environmental Protection & Resource Management (DEPRM) dated July 1, 2004, a copy of which is attached hereto and made a part hereto. In addition, a ZAC comment was received from the Bureau of Development Plans Review dated July 2, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were John S. Podles, Jr., the Petitioner, Christopher Podles, Mary Pyles and Jean Grovu. J. Scott Dallas appeared on behalf of J.S. Dallas, Inc., the survey and engineer company that prepared the site plan of the property on behalf of the Petitioner. Alfred L. Brennan, Jr., Esquire represented the Petitioner. No protestants or citizens attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Brennan proffered that the subject property is located at the intersection of Brannan Avenue and Haddaway Road. Brannan Avenue continues to the south of the property as Brannan Circle. The Department of Public Works requested that the plan to accompany show a full 40-ft. right-of-way for both Haddaway Road and Brannan Avenue to which the Petitioner agreed as set forth on Petitioner's Exhibit No. 1. Mr. Brennan noted the odd configuration of the lot that has streets on three sides and the new rights-of-way requested by the County. In addition, the building is not square on the lot so that one side is closer to the boundary than the

other. The subject property is 0.175 acre in size and is Lot 11 of the Estate of Thomas Brannan, which was recorded in the Land Records of Baltimore County in 1948. The zoning is DR 5.5, which was imposed on the property in 1955. The lot is apparently within the Chesapeake Bay Critical Area.

The property is improved by a duplex (side by side) apartment house, one half of which Mary Pyles testified that she rented in 1948 and 1949 when she worked for Bethlehem Steel Corporation. She noted that there were two apartments at that time and that the building was old when she moved in. Mr. Brennan presented a series of aerial photographs (Petitioner's Exhibit Nos. 2 through 5) which show the duplex apartment in 1938, 1954, 1961 and 1977 basically unchanged.

Mr. Podles testified that he bought the property in 1992 in horrible shape. Since that time, he has rehabilitated and remodeled it so that he can rent it as two side by side apartments. He noted that each apartment contained its own bath, kitchen and bedrooms. However, each apartment had only two bedrooms and in order to make each apartment more attractive to tenants, he constructed a third bedroom over each of the apartments in 1992 for which Baltimore County issued a permit. Finally, he constructed a third apartment on the side of the existing duplex building in 2000 without a permit, which is now the source of the violation notice. See Petitioner's photographs marked Exhibit Nos. 7 through 14.

Finally, Mr. Dallas, who prepared the plan to accompany, noted that the additional apartment increased the footprint by approximately 18% and that the County's request to show parking for each apartment for a total of six spaces is shown on Petitioner's Exhibit No. 1. He also noted that the third apartment falls within 3 ft. of the boundary of the lot and that the

Petitioner did not own the lot next door which he could use to expand the lot and thus comply with the regulations by lot line adjustment.

Findings of Fact and Conclusions of Law

From the testimony and evidence, I find that the Petitioner has a legal use of two apartments side by side, which do not conform to the use regulation for the DR 5.5 zone in which it is located. Ms. Pyles indicated that she rented one side of the duplex in 1948 and I have no reason to believe that a multi-family use was not legal at that time. In addition, I find that there has been no abandonment of the apartment use since the time the DR regulations were imposed in 1970.

Much more troubling is the question of whether the addition of the second floor to the duplex apartments should be considered in calculating the percentage increase, as well as the third apartment. Mr. Dallas testified that the third apartment added only 18% to the footprint of the building and thus meets the 25% expansion requirement of nonconforming uses. The Petitioner notes that the statute specifically states that the footprint is the basis of the nonconforming use. The statute (Section 104.3 of the B.C.Z.R.) specifies that a nonconforming use may not be extended more that 25% of "the ground floor area of the building so used".

Consequently, Mr. Brennan argues that I am not to consider the second story added to the duplex in calculating the extension. He cites the case of *Feldstein v LaVale Zoning Board,* 246 MD 204 (1967) which involved an increase in the volume and height of stored scrap metal in a nonconforming junkyard. In this case, the Court of Appeals ruled that this was an intensification and not an extension of the nonconforming use. In addition he cites *Green v Garrett et al.*, 63 A2d 326 which involves the nonconforming use of a stadium which before the zoning ordinance, held football and baseball games. The zoning ordinance then restricted the property to

residential uses. The Court of Appeals found that playing regularly scheduled league play was not an extension of the nonconforming use.

In regard to the contention that the basis of a nonconforming use is simply the foot print of the building, this makes no logical sense to me, although at first glance the statute seems to say so. If I consider only the first floor footprint, an addition that adds ten floors to a nonconforming use would have no extension at all by this way of calculation. Obviously, the nonconforming use has intensified tenfold but this would not register on the statute's Richter Scale and be counted.

In regard to the cases cited, I understand that more frequent use of or conducting more business from a nonconforming use is an intensification and not an extension. However, the subject case is about putting another room onto each apartment and then adding a third apartment to the building. In my view, these are extensions and not intensifications. The statute specifically mentions physical area as the basis of the 25% rule.

It seems to me that the Council's intention is to regulate the size of land extensions by finding the area of the nonconforming use and then determine if that area has been extended more than 25%. Area works well here. However, I interpret the legislative intent for extension of nonconforming structures to apply to volumetric increases and not simply footprint of the first floor. In this sense, I find the words "of the ground floor area" in the statute does not indicate a precise mathematical formula (such as width times length for a rectangle) but rather that it means the first story of the building. Otherwise, we could have the absurd result of a one story nonconforming building been extended to multi-story heights without any extension. Clearly, this is not the intent of the legislation.

As I understand the situation, each nonconforming apartment had a kitchen, bath and two bedrooms, which were approximately the same size. If a third bedroom is added to each apartment again, of about the same size, there would be an increase in number of rooms from four to five rooms or a 25% increase in the nonconforming use. This would use up the maximum extension under the regulations. I cannot, therefore, approve the additional apartment. As a further result, I cannot approve a variance for the side yard setback, which is the distance of the third apartment to the property line.

In addition, even accepting the Petitioner's argument about foot print, which I do not, I have great difficulty with this request. Mr. Dallas testified, that by using the footprint method the Petitioner suggests the addition increases the nonconforming use 18%. However, the footprint dimension of the duplex is approximately 28.5 ft. x 55 ft., which I calculate to be 1,567.5 sq. ft. The addition is approximately 10.6 ft. x 43.3 ft., which I calculate is 459 sq. ft. This gives me a percentage increase of 29.3% increase, which exceeds the statutory limit just for the addition alone, much less for the third bedroom.

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 Petitioner, I find that the Petitioner's variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12 day of October, 2004, that the Petitioner's request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling consisting of two apartments side by side, be and is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request to approve the expansion of the two existing apartments by the addition to each of a third bedroom is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request for a third apartment, be and is hereby DENIED;

IT IS FURTHER ORDERED, that the Petitioner's request to determine that the third unit will not negate the nonconforming use, be and is hereby DENIED as moot; and

IT IS FURTHER ORDERED, that the variance relief requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft., be and is hereby DENIED.

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

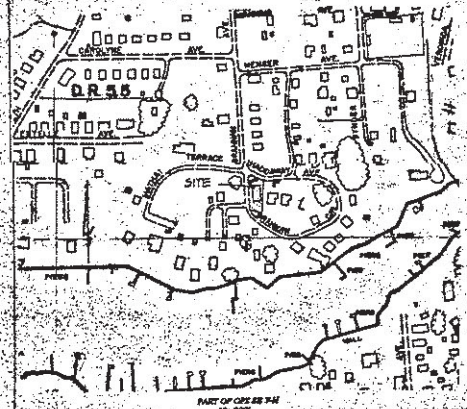
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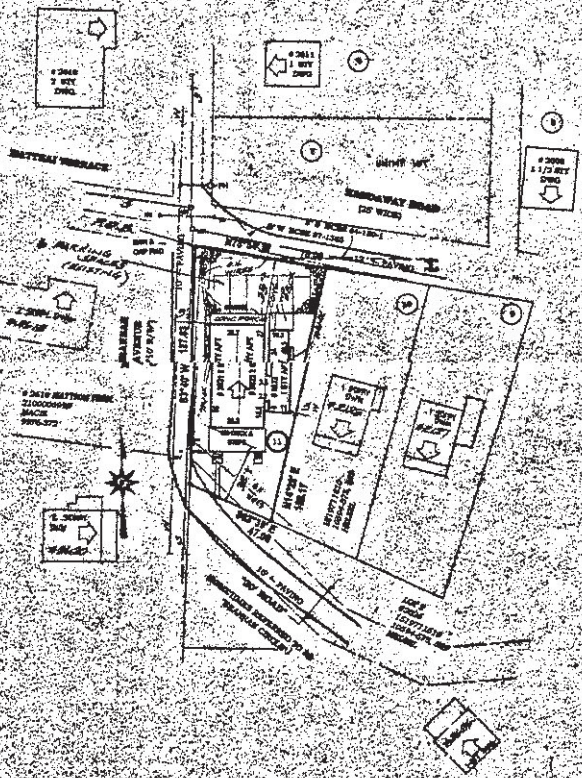
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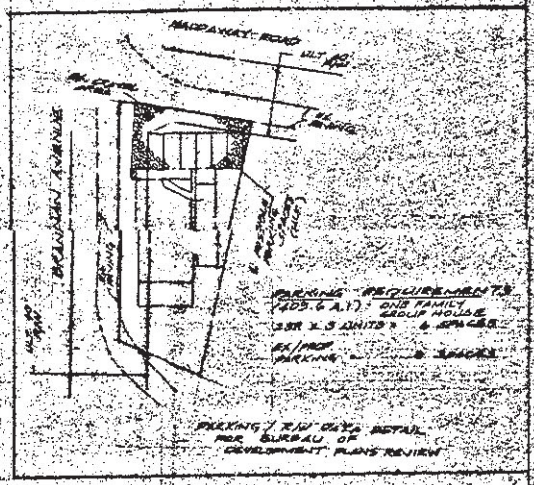
JVM:raj

NOTES

1. ZONING VIOLATION: 06-0281 (*"ILLEGALLY CONVERTED/ILLEGALLY BUILT 3RD DWELLING UNIT"*)
2. OWNER/DEV: JOHN STEPHEN FOGLE, JR.
   2621 SHANNAN AVENUE
   BALTIMORE, MD 21219
   DEED REFERENCE: 13437/418
   PHONE: 410-366-0704
3. PROPERTY INFORMATION:
   TAX MAP 111 —PARCEL 138
   "PLAT OF ESTATE OF VIRGINIA R. SHANNAN" (34/88)
   TAX ACCT NO. 1519711618
4. AREA OF SUBJECT SITE: 7628 SF +- OR 0.175 AC +-
5. EX./PROP USE: THREE APARTMENTS.
6. SITE LIES IN C.B.C.A. LDA PER MAP NO. 111.
7. SITE LIES IN FLOOD ZONE C PER F.E.M.A. F.I.R.M. 240010 0036 B.
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9. UTILITIES SHOWN HEREON ARE PER REFERENCED PLANS.
10. NOT A HISTORIC BUILDING OR SITE.









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SITE PLAN TO ACCOMPANY PETITION FOR RESIDENTIAL ZONING VARIANCE AND SPECIAL HEARING IN A D.R. 5.5 ZONE

 # 2621-2623 HADDAWAY ROAD

15TH EL. DIST 7TH COUNC DIST BALT. COUNTY, MD

SCALE: 1"=30' FEBRUARY, 2004

REV. 4-16-04

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 -** 1519711618

Owner Information

Owner Name: EDGMERE WILDLIFE TRUST
CRITES L A TRUSTEE
Use: RESIDENTIAL
Principal Residence: NO
Mailing Address: UNIT 154
1443 ROCK SPRING RD
BEL AIR MD 21014-
Deed Reference: /42157/ 00353

Location & Structure Information

Premises Address: 2623 BRANNAN AVE
SPARROWS POINT 21219-1843
Legal Description: 2621-23 BRANNAN AVE
BRANNAN

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0111	0016	0133	15130118.04	0000			11	2021	**Plat Ref:** 0014/ 0089

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
			7,714 SF	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
			/				

Value Information

	Base Value	Value	Phase-in Assessments	
		As of 01/01/2021	As of 07/01/2022	As of 07/01/2023
Land:	73,700	73,700		
Improvements	0	0		
Total:	73,700	73,700	134,900	73,700
Preferential Land:	0	0		

Transfer Information

Seller: PODLES JOHN STEPHEN JR **Date:** 11/25/2019 **Price:** $0
Type: NON-ARMS LENGTH OTHER **Deed1:** /42157/ 00353 **Deed2:**

Seller: PODLES JOHN STEPHEN,JR **Date:** 04/16/2009 **Price:** $0
Type: NON-ARMS LENGTH OTHER **Deed1:** /27938/ 00198 **Deed2:**

Seller: PODLES JOHN S,JR **Date:** 01/11/1999 **Price:** $0
Type: NON-ARMS LENGTH OTHER **Deed1:** /13437/ 00518 **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:**

Baltimore County

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

District: 15 Account Number: 1519711618

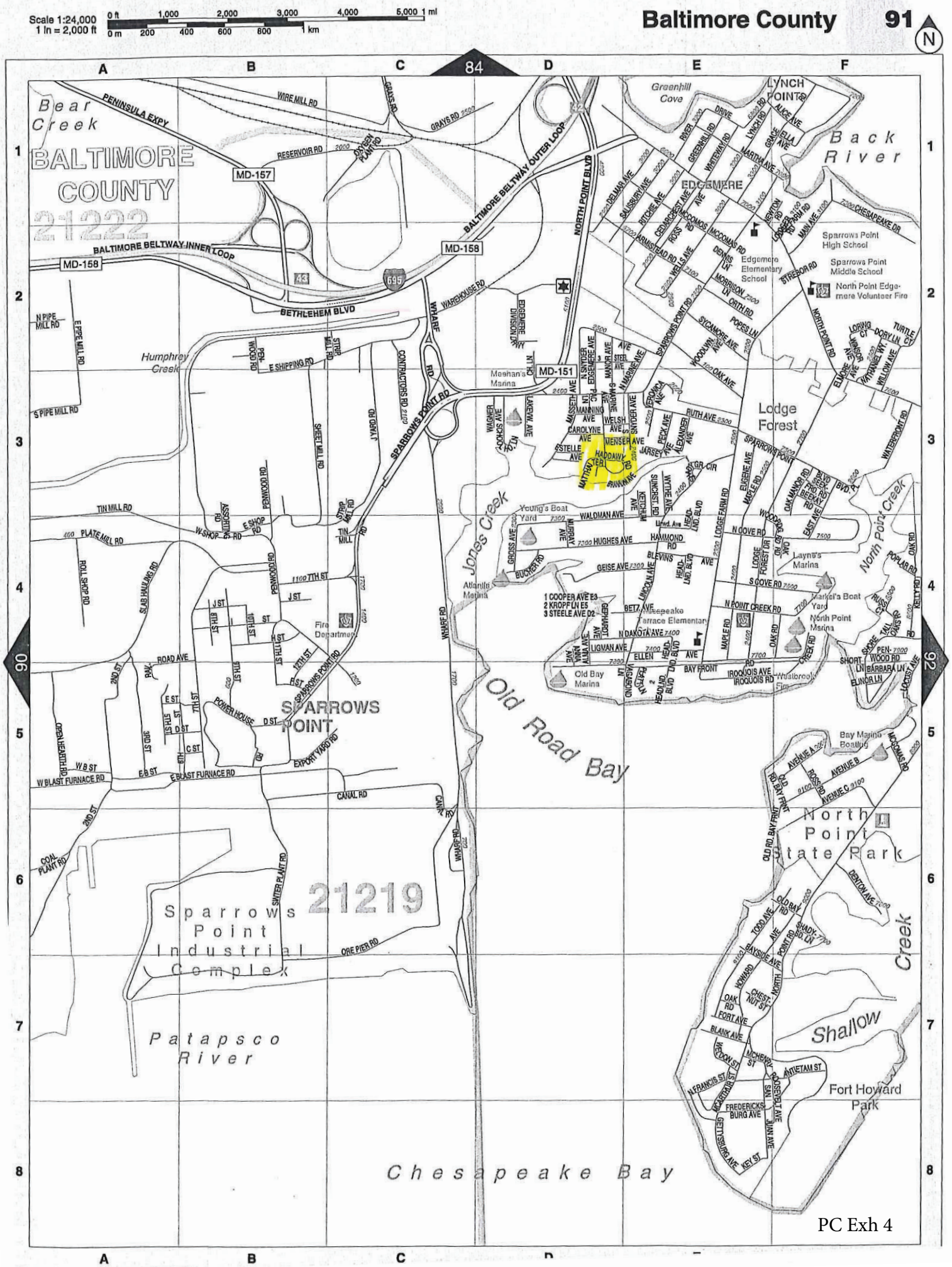


The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

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)**.


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
Baltimore County 91
84
90
92
Bear Creek
BALTIMORE COUNTY
21222
PENINSULA EXPY
WIRE MILL RD
GRAYS RD
RESERVOIR RD
ORDEAL PLANT RD
MD-157
BALTIMORE BELTWAY OUTER LOOP
BALTIMORE BELTWAY INNER LOOP
MD-158
43
695
BETHLEHEM BLVD
WARREHOUSE RD
WHARF
NORTH POINT BLVD
Greenhill Cove
LYNCH POINT
Back River
EDGEMERE
Sparrows Point High School
Edgemere Elementary School
Sparrows Point Middle School
North Point Edgemere Volunteer Fire
SPARROWS POINT RD
MD-151
Meshan's Marina
Humphrey Creek
Lodge Forest
Young's Boat Yard
Jones Creek
Atlantic Marina
Layne's Marina
Markel's Boat Yard
North Point Marina
North Point Creek
Old Bay Marina
Chesapeake Terrace Elementary
Old Road Bay
Bay Marina Boating
North Point State Park
Fort Howard Park
Shallow Creek
SPARROWS POINT
Fire Department
Sparrows Point Industrial Complex
21219
Patapsco River
Chesapeake Bay
CANAL RD
ORE PIER RD
PC Exh 4

Baltimore County - My Neighborhood



Baltimore County Government, County of Anne Arundel, VITA, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA |

PC Exh 5

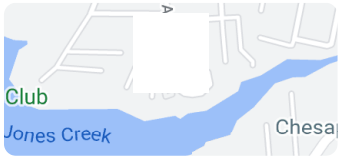
Baltimore County - My Neighborhood



Google Maps 2501 Haddaway Rd



Image capture: Jun 2022 © 2023 Google



PC Exh 6

EXHIBIT LIST

2022-0269SPH

2621-2623 Brannan Road

Exhibit #:

1. Zoning order in case No. 04-567 SPHA Granting of NCU and denying requested variance
2. Site plan submitted in case No. 04-567 fully describing general notes, relevant information specific to property, location and size of existing buildings as of date of hearing;
3. (a)Baltimore County building permit information for Permit # R22-06755 submitted by property owner;
3. (b)Baltimore County building permit information for Permit # R22-06756 submitted by property owner;
4. District Court of Maryland Petition for Warrant of Restitution;
5. (a)p. 1-site plan submitted by property owner for building permit;
5. (b)pp. 2, 3-sewer and water drawings;
5. (c)pp. 4,5-sewer and water drawings;
5. (d)p. 6-existing pictures submitted with building permit application;
5. (e)pp. 7, 8, 9-Deed of confirmation;
5. (f)p. 10-Petition for warrant of restitution with County approval
6. My Neighborhood view of geographic area
   Overview of area in which subject property is located, zoning designation; subject property and surrounding neighborhood;
7. My Neighborhood overview of subject neighborhood;
8. BCZR Sections 104 and 305
9. Neighborhood petition
10. Photos post demolition

EXHIBIT LIST

2022-0269SPH

2621-2623 Brannan Road

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6. My Neighborhood view of geographic area
   Overview of area in which subject property is located, zoning designation; subject property and surrounding neighborhood;
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9. Neighborhood petition
10. Photos post demolition

Exh 1

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE S/S of Haddaway Road, E/S of Brannan Avenue 15th Election District 7th Councilmanic District **(2621-2623 Haddaway Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 04-567-SPHA

John Stephen Podles, Jr.
Petitioner

OCT 12 2004
RECEIVED

* * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Variance and Petition for Special Hearing for the properties located at 2621-2623 Haddaway Road in the eastern area of Baltimore County. The Petition was filed by John Stephen Podles, Jr., the Petitioner and legal owner of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. In addition, variance relief is requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft.

The property was posted with Notice of Hearing on July 27, 2004, 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 August 3, 2004, to notify any interested persons of the scheduled hearing date.

RECEIVED
OCT - 8 2004

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all

zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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."

Section 104, Nonconforming Uses [BCZR 1955]

Definition: Nonconforming Use -- A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

Section 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Section 104.3 No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]

Section 104.4 Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any

extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were submitted by the Department of Environmental Protection & Resource Management (DEPRM) dated July 1, 2004, a copy of which is attached hereto and made a part hereto. In addition, a ZAC comment was received from the Bureau of Development Plans Review dated July 2, 2004, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were John S. Podles, Jr., the Petitioner, Christopher Podles, Mary Pyles and Jean Grovu. J. Scott Dallas appeared on behalf of J.S. Dallas, Inc., the survey and engineer company that prepared the site plan of the property on behalf of the Petitioner. Alfred L. Brennan, Jr., Esquire represented the Petitioner. No protestants or citizens attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Brennan proffered that the subject property is located at the intersection of Brannan Avenue and Haddaway Road. Brannan Avenue continues to the south of the property as Brannan Circle. The Department of Public Works requested that the plan to accompany show a full 40-ft. right-of-way for both Haddaway Road and Brannan Avenue to which the Petitioner agreed as set forth on Petitioner's Exhibit No. 1. Mr. Brennan noted the odd configuration of the lot that has streets on three sides and the new rights-of-way requested by the County. In addition, the building is not square on the lot so that one side is closer to the boundary than the

other. The subject property is 0.175 acre in size and is Lot 11 of the Estate of Thomas Brannan, which was recorded in the Land Records of Baltimore County in 1948. The zoning is DR 5.5, which was imposed on the property in 1955. The lot is apparently within the Chesapeake Bay Critical Area.

The property is improved by a duplex (side by side) apartment house, one half of which Mary Pyles testified that she rented in 1948 and 1949 when she worked for Bethlehem Steel Corporation. She noted that there were two apartments at that time and that the building was old when she moved in. Mr. Brennan presented a series of aerial photographs (Petitioner's Exhibit Nos. 2 through 5) which show the duplex apartment in 1938, 1954, 1961 and 1977 basically unchanged.

Mr. Podles testified that he bought the property in 1992 in horrible shape. Since that time, he has rehabilitated and remodeled it so that he can rent it as two side by side apartments. He noted that each apartment contained its own bath, kitchen and bedrooms. However, each apartment had only two bedrooms and in order to make each apartment more attractive to tenants, he constructed a third bedroom over each of the apartments in 1992 for which Baltimore County issued a permit. Finally, he constructed a third apartment on the side of the existing duplex building in 2000 without a permit, which is now the source of the violation notice. See Petitioner's photographs marked Exhibit Nos. 7 through 14.

Finally, Mr. Dallas, who prepared the plan to accompany, noted that the additional apartment increased the footprint by approximately 18% and that the County's request to show parking for each apartment for a total of six spaces is shown on Petitioner's Exhibit No. 1. He also noted that the third apartment falls within 3 ft. of the boundary of the lot and that the

Petitioner did not own the lot next door which he could use to expand the lot and thus comply with the regulations by lot line adjustment.

Findings of Fact and Conclusions of Law

From the testimony and evidence, I find that the Petitioner has a legal use of two apartments side by side, which do not conform to the use regulation for the DR 5.5 zone in which it is located. Ms. Pyles indicated that she rented one side of the duplex in 1948 and I have no reason to believe that a multi-family use was not legal at that time. In addition, I find that there has been no abandonment of the apartment use since the time the DR regulations were imposed in 1970.

Much more troubling is the question of whether the addition of the second floor to the duplex apartments should be considered in calculating the percentage increase, as well as the third apartment. Mr. Dallas testified that the third apartment added only 18% to the footprint of the building and thus meets the 25% expansion requirement of nonconforming uses. The Petitioner notes that the statute specifically states that the footprint is the basis of the nonconforming use. The statute (Section 104.3 of the B.C.Z.R.) specifies that a nonconforming use may not be extended more that 25% of "the ground floor area of the building so used".

Consequently, Mr. Brennan argues that I am not to consider the second story added to the duplex in calculating the extension. He cites the case of *Feldstein v LaVale Zoning Board,* 246 MD 204 (1967) which involved an increase in the volume and height of stored scrap metal in a nonconforming junkyard. In this case, the Court of Appeals ruled that this was an intensification and not an extension of the nonconforming use. In addition he cites *Green v Garrett et al.*, 63 A2d 326 which involves the nonconforming use of a stadium which before the zoning ordinance, held football and baseball games. The zoning ordinance then restricted the property to

residential uses. The Court of Appeals found that playing regularly scheduled league play was not an extension of the nonconforming use.

In regard to the contention that the basis of a nonconforming use is simply the foot print of the building, this makes no logical sense to me, although at first glance the statute seems to say so. If I consider only the first floor footprint, an addition that adds ten floors to a nonconforming use would have no extension at all by this way of calculation. Obviously, the nonconforming use has intensified tenfold but this would not register on the statute's Richter Scale and be counted.

In regard to the cases cited, I understand that more frequent use of or conducting more business from a nonconforming use is an intensification and not an extension. However, the subject case is about putting another room onto each apartment and then adding a third apartment to the building. In my view, these are extensions and not intensifications. The statute specifically mentions physical area as the basis of the 25% rule.

It seems to me that the Council's intention is to regulate the size of land extensions by finding the area of the nonconforming use and then determine if that area has been extended more than 25%. Area works well here. However, I interpret the legislative intent for extension of nonconforming structures to apply to volumetric increases and not simply footprint of the first floor. In this sense, I find the words "of the ground floor area" in the statute does not indicate a precise mathematical formula (such as width times length for a rectangle) but rather that it means the first story of the building. Otherwise, we could have the absurd result of a one story nonconforming building been extended to multi-story heights without any extension. Clearly, this is not the intent of the legislation.

As I understand the situation, each nonconforming apartment had a kitchen, bath and two bedrooms, which were approximately the same size. If a third bedroom is added to each apartment again, of about the same size, there would be an increase in number of rooms from four to five rooms or a 25% increase in the nonconforming use. This would use up the maximum extension under the regulations. I cannot, therefore, approve the additional apartment. As a further result, I cannot approve a variance for the side yard setback, which is the distance of the third apartment to the property line.

In addition, even accepting the Petitioner's argument about foot print, which I do not, I have great difficulty with this request. Mr. Dallas testified, that by using the footprint method the Petitioner suggests the addition increases the nonconforming use 18%. However, the footprint dimension of the duplex is approximately 28.5 ft. x 55 ft., which I calculate to be 1,567.5 sq. ft. The addition is approximately 10.6 ft. x 43.3 ft., which I calculate is 459 sq. ft. This gives me a percentage increase of 29.3% increase, which exceeds the statutory limit just for the addition alone, much less for the third bedroom.

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 Petitioner, I find that the Petitioner's variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 12 day of October, 2004, that the Petitioner's request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling consisting of two apartments side by side, be and is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request to approve the expansion of the two existing apartments by the addition to each of a third bedroom is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request for a third apartment, be and is hereby DENIED;

IT IS FURTHER ORDERED, that the Petitioner's request to determine that the third unit will not negate the nonconforming use, be and is hereby DENIED as moot; and

IT IS FURTHER ORDERED, that the variance relief requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft., be and is hereby DENIED.

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

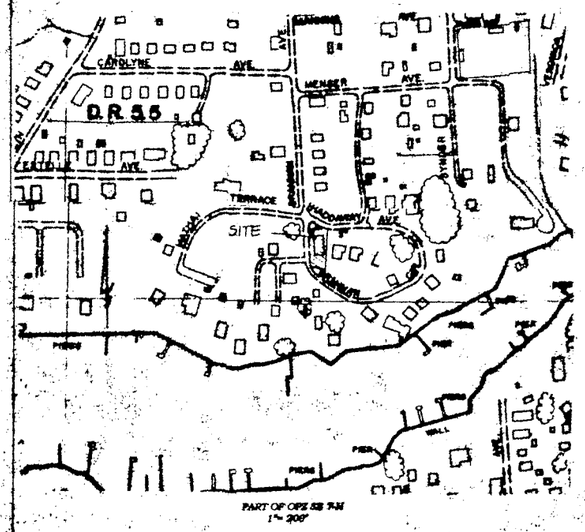
John V. Murphy

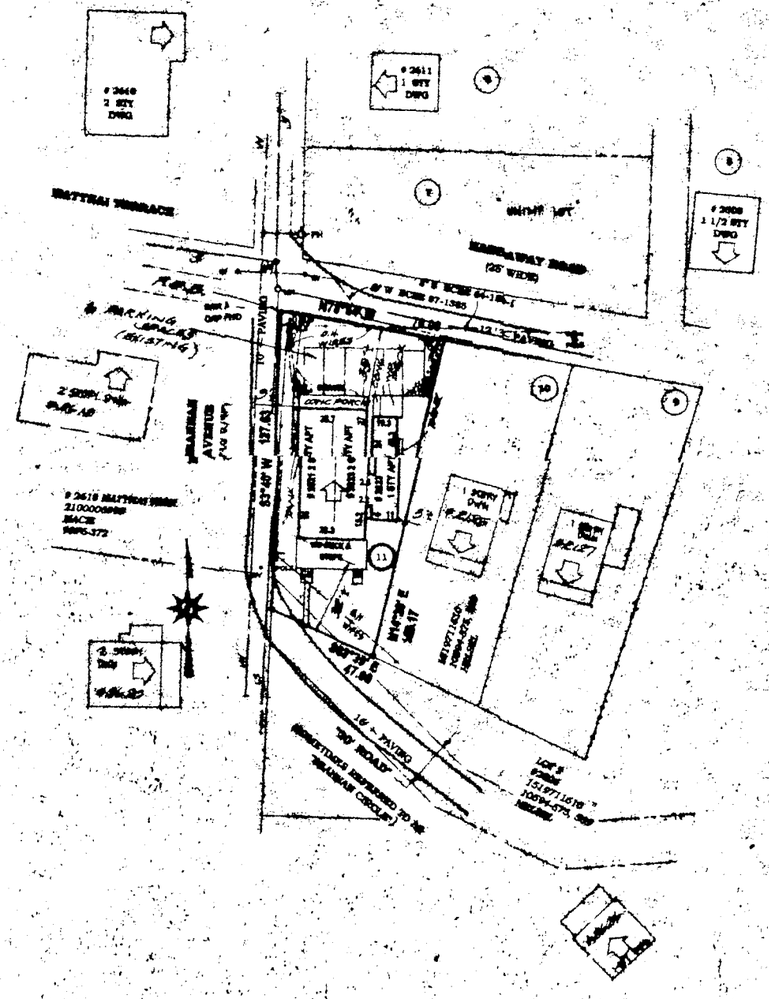
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

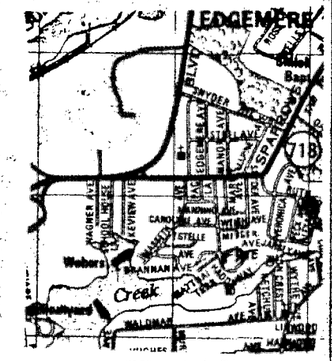
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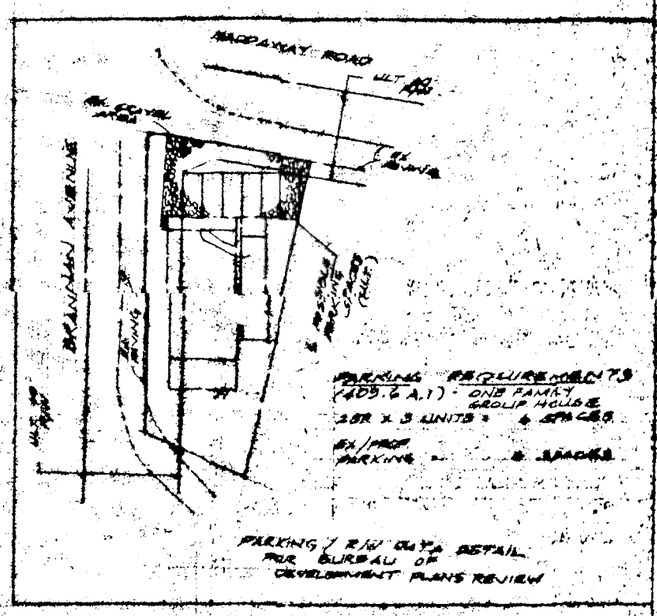
NOTES

1. ZONING VIOLATION: 06-0935
   (*ILLEGALLY CONVERTED/ ILLEGALLY BUILT 3RD DWELLING UNIT*).
2. OWNERSHIP: JOHN STEPHEN FOCKLER, JR
   2621 BRANHAN AVENUE
   BALTIMORE, MD 21219
   DEED REFERENCE: 13437-549
   PHONE : 410-388-6794
3. PROPERTY INFORMATION:
   TAX MAP 111 —PARCEL 133
   PLAT OF ESTATE OF THOMAS R. BRANHAM (34/ 89)
   TAX ACCT NO. 1519711618
4. AREA OF SUBJECT SITE: 7628 SF +- OR 0.175 AC. +-
5. EX./ PROP USE: THREE APARTMENTS.
6. SITE LIES IN C.B.C.A. LDA PER MAP NO. 111.
7. SITE LIES IN FLOOD ZONE C PER F.E.M.A. F.I.R.M. 240030 0656 B.
8. EX. ZONING OF SITE & SURROUNDING PROPERTY: D.R. 5.5 PER OPZ SE 7-H
9. UTILITIES SHOWN HEREON ARE PER REFERENCED PLANS.
10. NOT A HISTORIC BUILDING OR SITE.









J.B. DALLAS, INC.
Surveying & Engineering
15325 Long Green Pike
Baldwin, MD. 21013
(410) 517-4608

SITE PLAN TO ACCOMPANY PETITION FOR RESIDENTIAL ZONING VARIANCE AND SPECIAL HEARING IN A D.R. 5.5 ZONE

 # 2621-2623 HADDAWAY ROAD

15TH EL. DIST 7TH COUNC DIST BALT. COUNTY, MD

SCALE: 1" = 30'

FEBRUARY, 2004

REV. 6-16-04

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

Permit Number: R22-06755

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Property Information

Property Address: 2623 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 39.00

Set Backs - Rear Yard: 21.00

Set Backs - Right Side Yard: 25.00

Set Backs - Left Side Yard: 9.00

Owner Information

Owner: LA Crites

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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: R22-06755

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?: Y

Building Permit Information

Description of Work: CBCA. Construct 2 story semi-detached dwelling using existing foundation, with 2ft front cantilever, 3 bedrooms covered front porch, balcony, open wood rear deck per plans 13'10-3/4"x73'1-1/4"x34'=1587sf. Sprinklers required for fire protection. Refer to R22-05628 for razing existing semi-detached dwelling. Not pattern book.

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: R22-06756

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Property Information

Property Address: 2621 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use: Residence

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size:

Set Backs - Front Yard: 39.00

Set Backs - Rear Yard: 21.00

Set Backs - Right Side Yard: 25.00

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

Permit Number: R22-06756

Permit Type: Residential New

Sub Type: New Dwelling

Date Issued: 10/15/2022

Expiration Date: 10/14/2023

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?: Y

Building Permit Information

Description of Work: CBCA. Construct 2 story semi-detached dwelling using existing foundation, with 2ft front cantilever, 3 bedrooms covered front porch, balcony, open wood rear deck per plans 13'10-3/4"x73'1-1/4"x34'=1587sf. Sprinklers required for fire protection. Refer to R22-05628 for razing existing semi-detached dwelling. Not pattern book. REFER TO PLANS AND NOTES,UPDATES R22-06755--SAME

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.**

Property Release Agreement

This Agreement made this **13th** day of **August 2021** between **Nicholas Hildebrandt** hereinafter referred to as "Resident" and **R.A. Podles, as Agent/Property Manager for Edgemere Wildlife Trust** hereinafter referred to as "Management".

Resident herewith voluntarily surrenders the Property known as:
Address: **2623 Brannan Avenue** City: **Sparrows Point** State: **MD** Zip: **21219** and quits any claims for any legal possession Resident may have had to Property.

☐ Resident releases Property as of ____ o'clock __M, on the ____ day of _____ 20____; or

☐ Resident agrees to release Property as of ____ o'clock __M, on the ____ day of _____ 20____; and

☒ Resident herewith returns all keys in possession to Management; or

☐ Resident will return all keys in possession to Management on _____, 20___.

FAILURE TO ACT: If this Agreement contains a date of release later then the date of this Agreement and on that date it appears Resident has not vacated the Property due to belongings or people still occupying the Property, then Management shall have the right to use such self-help remedies as a) removal of belongings, b) changing locks, and c) escorting out anyone still occupying the Property, so as to secure the Property with no further right of entry by Resident. Agreed to by Resident:

_____ (Resident Initials)

ABANDONMENT: Any of Resident's personal property remaining on the premises after the above date will be considered Management's property, and title thereto vests in Management. Management has the right to remove, dispose or sell any personal property remaining. _____ (Resident Initials)

HOLD HARMLESS: Resident herewith agrees that any claims of any kind or nature whatsoever against management, the Property owner(s), or anyone working for or with them, whether agent, contractor, employee, officer, trustee or director, is hereby released and Resident(s) agree no action of any kind or nature will be instituted against management, the Property owner(s), or anyone working for or with them, whether agent, contractor, employee, officer, trustee or director.

LIQUIDATED DAMAGES: Resident shall pay to Management $_____ per day as liquidated damages for each day Resident holds over the Property beyond the date shown above.

ENTIRE AGREEMENT: This is the entire Agreement between the parties and no representation, promise, or inducement not included in this Agreement, oral or written, shall be binding upon any party hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed in person. If this Agreement is not signed by all the Residents named herein, the one(s) signing warrants that he or she has the authority and is acting as agent to sign for all others.

Offered By:

_____ (SEAL)
RESIDENT: **Nicholas Hildebrandt**

Accepted By:

R.A. Podles, as Agent (SEAL)
Management: **R.A. Podles, as Agent/Property Manager for Edgemere Wildlife Trust**

COPY

4109715554

E-FILED; Baltimore County District Court - Essex
Docket: 6/2/2021 11:51 AM; Submission: 6/2/2021 11:51 AM

DISTRICT COURT OF MARYLAND FOR Baltimore County-Essex

Located at 8914 Kelso Drive, Baltimore, MD 21221 (Address) — (City/County) Case No. D-08-CV-20-034145

Edgemere Wildlife Trust
Plaintiff/Agent
621 Stemmers Run Road, Suite E
Address of Plaintiff/Attorney/Agent
Baltimore, Maryland 21221
City State Zip

Stephanie Casey
Defendant
Victor Gonzales
Defendant
all Unknown Occupants
Defendant
Defendant
2621 Brannan Road
Address of Defendant
~~Sparrows Point~~, MD 21219
Baltimore
State Zip

☒ EVICTED ☐ CANCELED MOVED
☐ CANCELED PAID ☐ CANCELED
☐ EXPIRED

Plaintiff/Agent
Constable/Deputy Sheriff Constable Number Date
FOR OFFICE USE ONLY

PETITION - FOR WARRANT OF RESTITUTION

On 4/13/2021 the Court:

☐ Determined the amount due to be $ _____, plus costs of $ _____

☒ Ordered that possession of the premises described as 2621 Brannan Road, Baltimore, MD 21219 be returned to the Plaintiff.

☒ Without right of redemption.

☐ Defendant has made the following payments (if any): $ _____ leaving a balance due as of the filing of this Petition to be $ _____ (not including court costs). ☐ Defendant remains in possession of the premises, therefore the Defendant has not complied with the judgment in this case. The Plaintiff requests possession of the premises in this case.

I do solemnly affirm under the penalties of perjury that the matters and facts set forth above are true to the best of my knowledge, information, and belief.

5/26/2021
Date
Marilyn R. McLaughlin CPF# 0906160108
Signature of Plaintiff/Agent/Attorney
621 Stemmers Run Road, Suite E, Baltimore, MD 21221
Address
443-529-9900
Telephone Number
443-524-8028
Fax
court@marylandrentcourt.com
E-mail

ORDER

State of Maryland Baltimore County-Essex to wit:

To Sheriff of this County/Constable of this Court. Greetings:

The Court has determined that the Plaintiff is entitled to possession.

☐ The judgment for possession may be redeemed by payment to the Plaintiff or his agent, by cash, certified check, or money order the amount of $ _____ plus costs of $ _____, minus any payments made after _____ (date Petition is filed).

☒ The judgment for possession may not be redeemed.

Now, therefore,

☐ Unless Defendant tenders to the Plaintiff or his agent, cash, certified check or money order in the amount of $ _____ plus $ _____ costs.

☒ The judgment for possession may not be redeemed.

The Sheriff/Constable of this Court is ordered to deliver the premises to the Plaintiff (or the Plaintiff's agent or attorney) and, unless local law requires otherwise, to remove from the premises, by force if necessary, all property of the Defendant(s) and any other occupant.

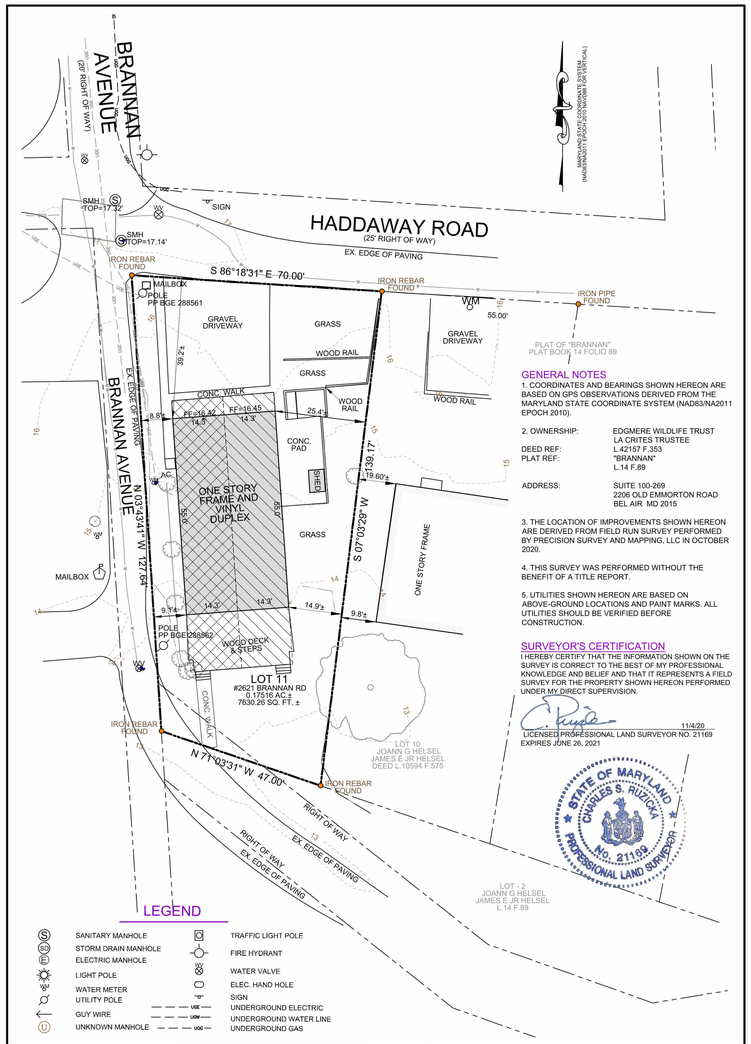
06/09/2021 1:21:26 PM
Michael T. Pate
Judge ID Number Date

NOTICE: To request a foreign language interpreter or reasonable accommodation under the Americans with Disabilities Act, please contact the court immediately. Possession and use of cell phones and other electronic devices may be limited or prohibited in designated areas of the court facility.

DC-CV-081 (Rev. 12/2016)

NOT VALID UNLESS SIGNED BY JUDGE

BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: B22-06755
PERMIT ISSUED DATE/TIME: 10/15/2022
THE ISSUE OF THIS PLANS DOES NOT RELIEVE THE OWNER, CONTRACTOR OR AGENT FROM THE RESPONSIBILITY OF OBTAINING ANY PERMITS OR FROM VIOLATING ANY OF THE COVENANTS, CONDITIONS OR RESTRICTIONS OF RECORD. ALL WORK SHALL COMPLY WITH THE BALTIMORE COUNTY BUILDING CODES INCLUDING 2018 IECC ENERGY CONSERVATION CODE AND ALL OTHER APPLICABLE CODES, LAWS, REGULATIONS. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL APPROVED PLANS NEED TO KNOW AT ALL TIMES ON SITE. (WHICH CONSTITUTE)



GENERAL NOTES

1. COORDINATES AND BEARINGS SHOWN HEREON ARE BASED ON GPS OBSERVATIONS DERIVED FROM THE MARYLAND STATE COORDINATE SYSTEM (NAD83/NA2011 EPOCH 2010).

2. OWNERSHIP: EDGMERE WILDLIFE TRUST
LA CRITES TRUSTEE
DEED REF: L.42157 F.353
PLAT REF: "BRANNAN"
L.14 F.89

ADDRESS: SUITE 100-269
2206 OLD EMMORTON ROAD
BEL AIR MD 2015

3. THE LOCATION OF IMPROVEMENTS SHOWN HEREON ARE DERIVED FROM FIELD RUN SURVEY PERFORMED BY PRECISION SURVEY AND MAPPING, LLC IN OCTOBER 2020.

4. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT.

5. UTILITIES SHOWN HEREON ARE BASED ON ABOVE-GROUND LOCATIONS AND PAINT MARKS. ALL UTILITIES SHOULD BE VERIFIED BEFORE CONSTRUCTION.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE INFORMATION SHOWN ON THE SURVEY IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF AND THAT IT REPRESENTS A FIELD SURVEY FOR THE PROPERTY SHOWN HEREON PERFORMED UNDER MY DIRECT SUPERVISION.

11/4/20
LICENSED PROFESSIONAL LAND SURVEYOR NO. 21169
EXPIRES JUNE 26, 2021

STATE OF MARYLAND
CHARLES S. RUZICKA
NO. 21169
PROFESSIONAL LAND SURVEYOR

LEGEND

- SANITARY MANHOLE
- STORM DRAIN MANHOLE
- ELECTRIC MANHOLE
- LIGHT POLE
- WATER METER
- UTILITY POLE
- GUY WIRE
- UNKNOWN MANHOLE
- TRAFFIC LIGHT POLE
- FIRE HYDRANT
- WATER VALVE
- ELEC. HAND HOLE
- SIGN
- UNDERGROUND ELECTRIC (UGE)
- UNDERGROUND WATER LINE (UGW)
- UNDERGROUND GAS (UGG)

PRECISION
SURVEY AND MAPPING LLC
Using Modern Technology to Map America
6809 South River Drive
Baltimore, Maryland 21220
www.precisionsurveys.us
Phone: 410-459-2124

UNIT 2623 BRANNAN AVE

UNIT 2623 BRANNAN AVE (NOT IN SCOPE OF WORK)

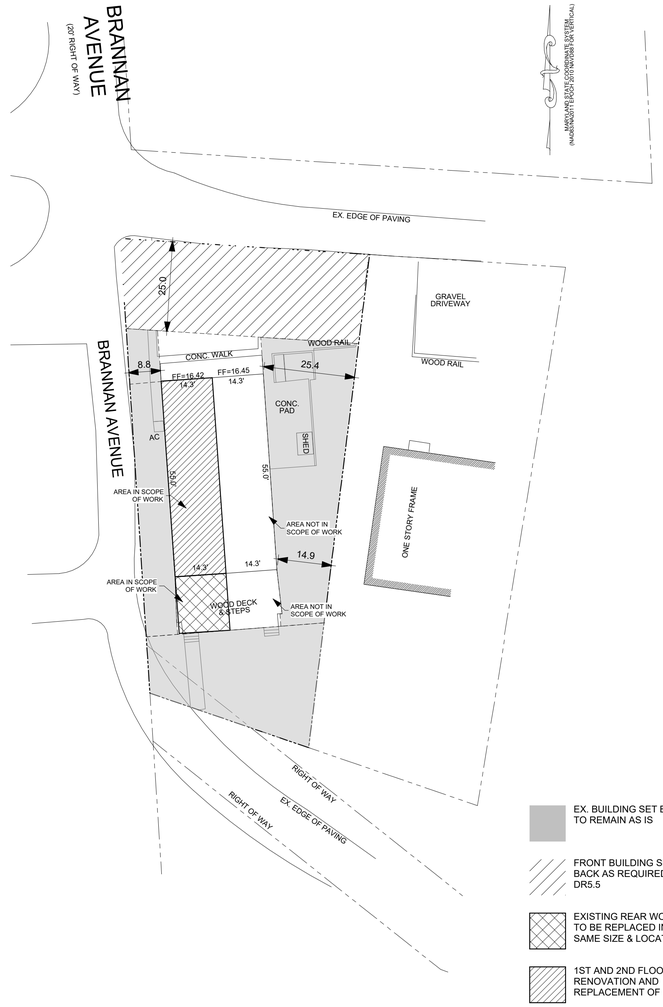
DATE 9-24-14
SCALE 1"=20'
DESIGNED BY
DRAWN BY ZH

BOUNDARY SURVEY

EDGEMERE WILDLIFE TRUST PROPERTY

LOT 11 OF PLAT "BRANNAN"
W.P.C 14/89
2621-2623 BRANNAN ROAD
BALTIMORE 21219
DEED REF: L.42157 F.353
BALTIMORE COUNTY, MARYLAND

1 G101 SITE PLAN - EXISTING
SCALE:1" = 20'-0"



EX. BUILDING SET BACKS TO REMAIN AS IS

FRONT BUILDING SET BACK AS REQUIRED PER DR5.5

EXISTING REAR WOOD DECK TO BE REPLACED IN EXACT SAME SIZE & LOCATION

1ST AND 2ND FLOOR RENOVATION AND REPLACEMENT OF ROOF

2 G101 SITE PLAN - WORK SCOPE BOUNDARIES
SCALE:1" = 20'-0"

ISSUE	DATE	NUMBER

CLIENT:

EDGMERE WILDLIFE TRUST W/ LA CRITES TRUSTEE

DATE: 2022-05-25

PROJECT TITLE:

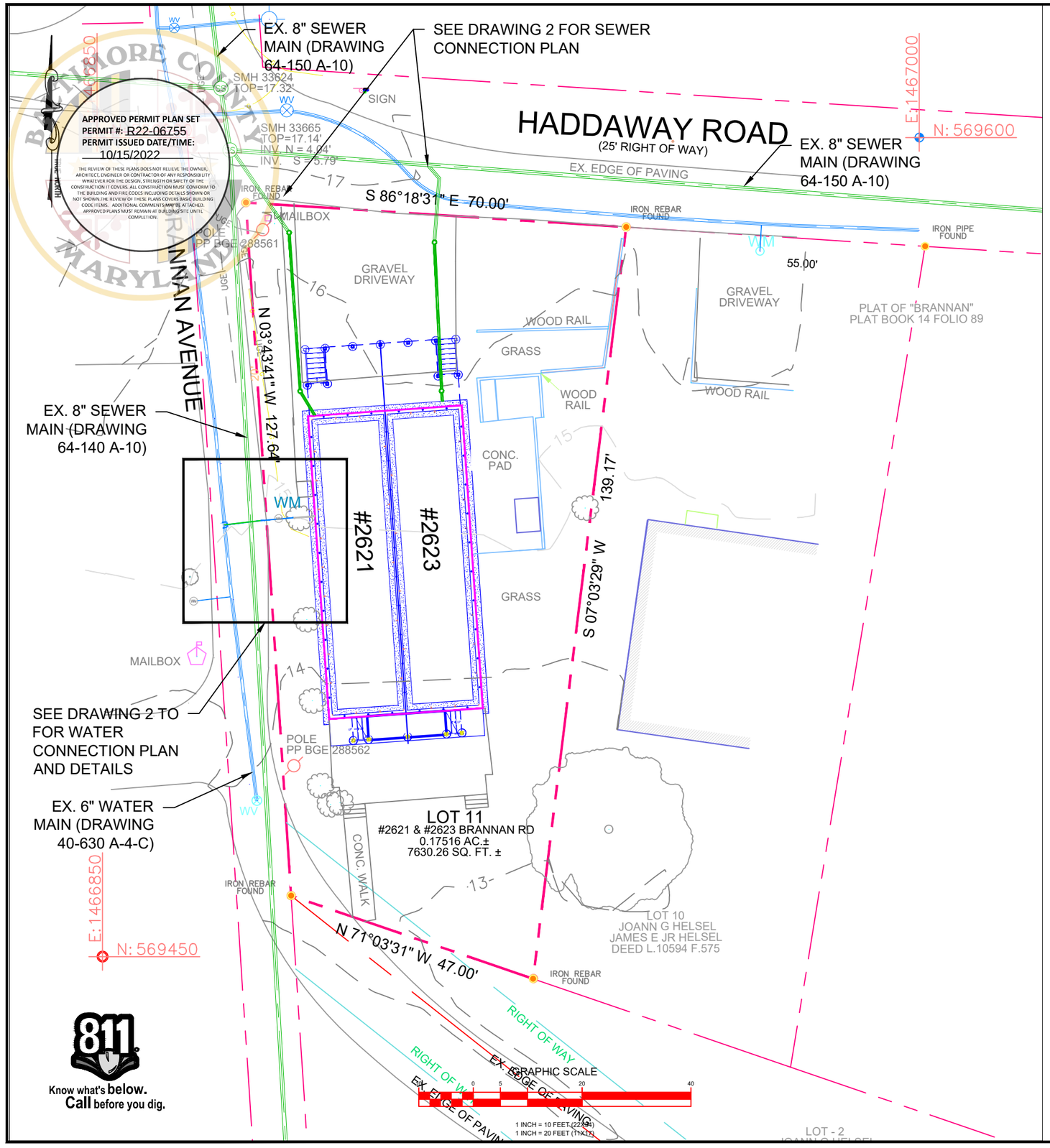
2623 BRANNAN AVE RENOVATION

SHEET TITLE:

SITE PLANS

SHEET NUMBER:

G101



APPROVED PERMIT PLAN SET
PERMIT #: R22-06755
PERMIT ISSUED DATE/TIME:
10/15/2022

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.

811 Know what's below. Call before you dig.



VICINITY MAP
SCALE: NONE

SITE NOTES

1. BUILDING AREA:
   1.1. EXISTING BUILDING FOOTPRINT: 1,578 SQ. FT.
   1.2. PROPOSED ADDITION FOOTPRINT: 1,578 SQ. FT.
2. TOPOGRAPHY SHOWN IS BASED ON FIELD RUN GPS PERFORMED AND BOUNDARY SURVEY WAS PERFORMED BY PRECISION SURVEYING, LLC.
3. LOCATION OF NEW WATER SERVICE METER MUST BE STAKED OUT BY THE OWNER.
4. THE OWNER IS RESPONSIBLE TO MAINTAIN THE RIGHT OF WAY FROM THE METER TO THE PROPERTY LINE AS WELL AS CONNECT THE SERVICE TO THE METER FROM THE PROPERTY. THE CONNECTION FROM THE METER TO THE SERVICE SIDE SHALL BE COPPER TUBING UP TO MINIMUM 5 FT FROM THE METER.
5. NEW SEWER HOUSE CONNECTIONS WERE INSTALLED AND CAPPED 5/20/22. CONNECTION TIES INTO SEWER MH 33665. PERMIT NO. RP22-03318 AND RP22-03473.

F-33-B
Ass. No. ..... J. O. 1-2-101 M. H. 33665 to M. H. 33667 Permit C-84001
Owner 2623 Brannan Ave Annual Service $ 22.00
Property 2621 Haddaway Road Class
Between ..... And .....
Conn. is 3.5' E. of E. B. L. 5/20/22 Depth 9'
Y-Branch is sta. 0 + 44' Lin. Ft. 10 Depth 12'
No. Fixtures 4 Fixture Units 11 Ledger Entry by ..... on 19
Order No. ..... Issued ..... 19 ... Permit Issued 5-12 19 67
Conn. Made ..... 19 ... Plumber Howard Carter
Remarks Lot 11
NE on Haddaway Rd
15 64-150

F-33-B
Ass. No. ..... J. O. ..... M. H. 33665 to M. H. ..... Permit C-84000
Owner Jos. Stockmon Annual Service $ 22.00
Property 2621 Brannan Ave Class
Between ..... And .....
Conn. is 3' W. of W. B. L. Depth 5'
Y-Branch is sta. Bulk M.H. 33665 Lin. Ft. 22 Depth 6'
No. Fixtures 4 Fixture Units 11 Ledger Entry by ..... on 19
Order No. ..... Issued ..... 19 ... Permit Issued 5-12 19 67
Conn. Made ..... 19 ... Plumber Howard Carter
Remarks .....
Desk 15 64-150 A10

ENGINEERING FIRM
Crouse Mill Enterprises, LLC
12892 CROUSE MILL ROAD
RIDGELY, MD 21660
443-618-9143

APPLICANT
ROBERT POODLES
2206 OLD EMMORTON ROAD
BEL AIR, MD 21015

SITE INFORMATION
2621-2623 BRANNAN AVE.
EDGEMERE, MD
BALTIMORE COUNTY

DESIGN RECORD

REVISIONS

REV	DATE	DESCRIPTION	BY
2	10-3-22	REVISED PER COMMENTS	JJR
1	9-16-22	REVISED PER COMMENTS	JJR
0	9-5-22	SUBMISSION TO BALTIMORE CO	JJR

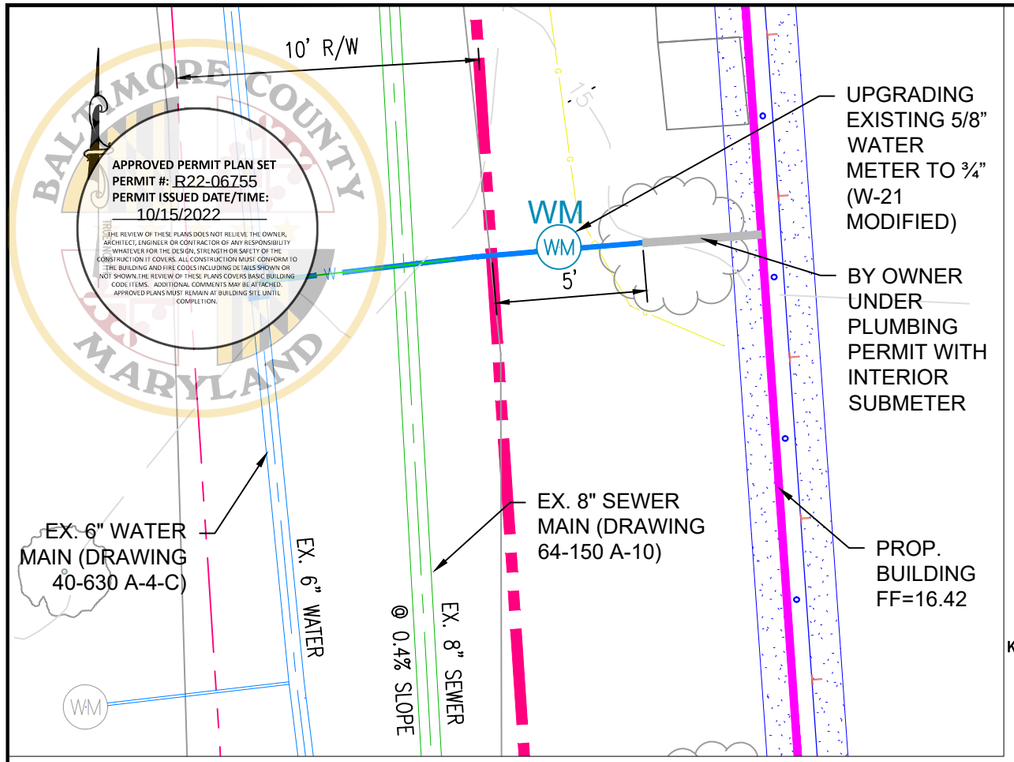
PROFESSIONAL STAMP
Digitally signed by John Rupp, PE
DN: cn=John Rupp, PE, o=Crouse Mill Engineering, email=jrupp2011@gmail.com, c=US
Date: 2022.10.03 14:17:47 -04'00'
STATE OF MARYLAND JOHN JOSEPH RUPP No. 40838 PROFESSIONAL ENGINEER

PROFESSIONAL CERTIFICATION. I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE NO. 40838, EXPIRATION DATE 06/19/2023

ENGINEER
JOHN RUPP, PE

SHEET TITLE
SITE PLAN

SHEET NUMBER
SHEET 1 OF 2

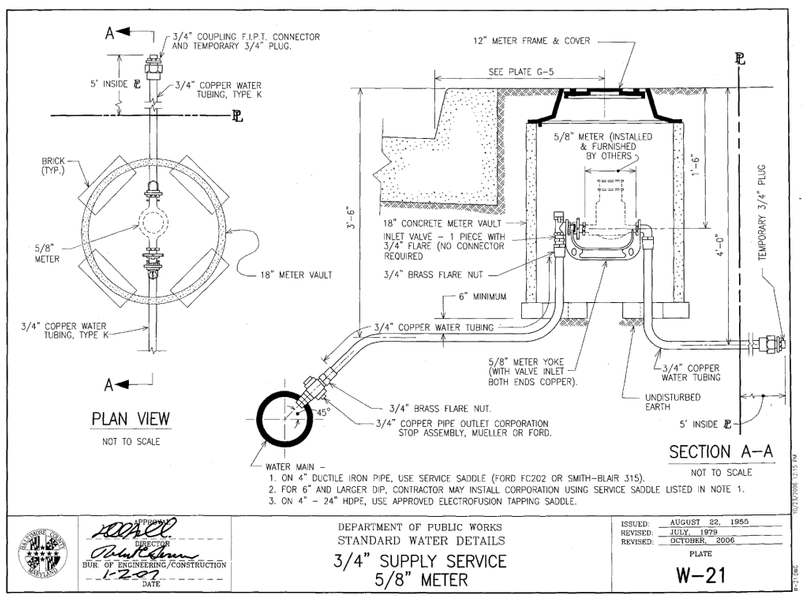


BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: R22-06755
PERMIT ISSUED DATE/TIME:
10/15/2022
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GRAPHIC SCALE

.5 0 2.5 5 10 20

1 INCH = 5 FEET (22X34)
1 INCH = 10 FEET (11X17)



APPROVED
DIRECTOR
BUR. OF ENGINEERING/CONSTRUCTION
1-20-82
DATE

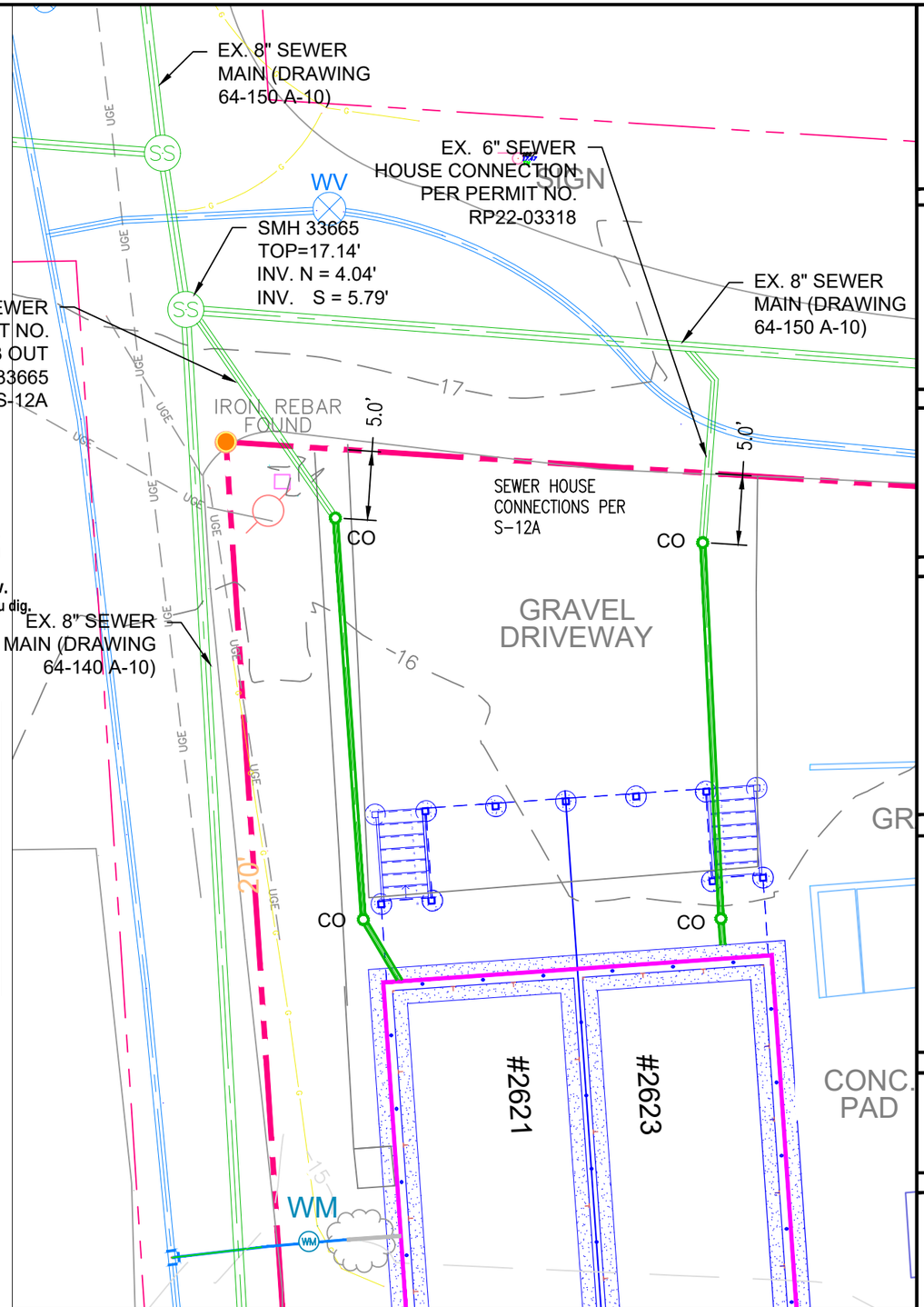
DEPARTMENT OF PUBLIC WORKS
STANDARD WATER DETAILS
3/4" SUPPLY SERVICE
5/8" METER

ISSUED: AUGUST 22, 1955
REVISED: JULY 1979
REVISED: OCTOBER 2006
PLATE
W-21

NOTE:

OWNER IS RESPONSIBLE TO MAINTAIN THE RIGHT OF WAY FROM THE METER TO THE PROPERTY LINE AS WELL AS CONNECT THE SERVICE TO THE METER FROM THE PROPERTY. THE CONNECTION FROM THE METER TO THE SERVICE SIDE SHALL BE COPPER TUBING UP TO MINIMUM OF 5 FEET FROM THE METER.

811 Know what's below. Call before you dig.



GRAPHIC SCALE

10 0 5 10 20 40

1 INCH = 10 FEET (22X34)
1 INCH = 20 FEET (11X17)

ENGINEERING FIRM

Crouse Mill Enterprises, LLC
12892 CROUSE MILL ROAD
RIDGELY, MD 21660
443-618-9143

APPLICANT

ROBERT POODLES
2206 OLD EMMORTON ROAD
BEL AIR, MD 21015

SITE INFORMATION

2621-2623 BRANNAN AVE.
EDGEMERE, MD

BALTIMORE COUNTY

DESIGN RECORD

REVISIONS

REV	DATE	DESCRIPTION	BY
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1	9-16-22	REVISED PER COMMENTS	JJR
0	9-5-22	SUBMISSION TO BALTIMORE CO	JJR

PROFESSIONAL STAMP

Digitally signed by John Rupp, PE
DN: cn=John Rupp, PE, o=Crouse Mill Engineering, ou, email=jjrupp2010@gmail.com, c=US
Date: 2022.10.04 14:18:13 -04'00'

STATE OF MARYLAND · JOHN JOSEPH RUPP · No. 40838 · PROFESSIONAL ENGINEER

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ENGINEER

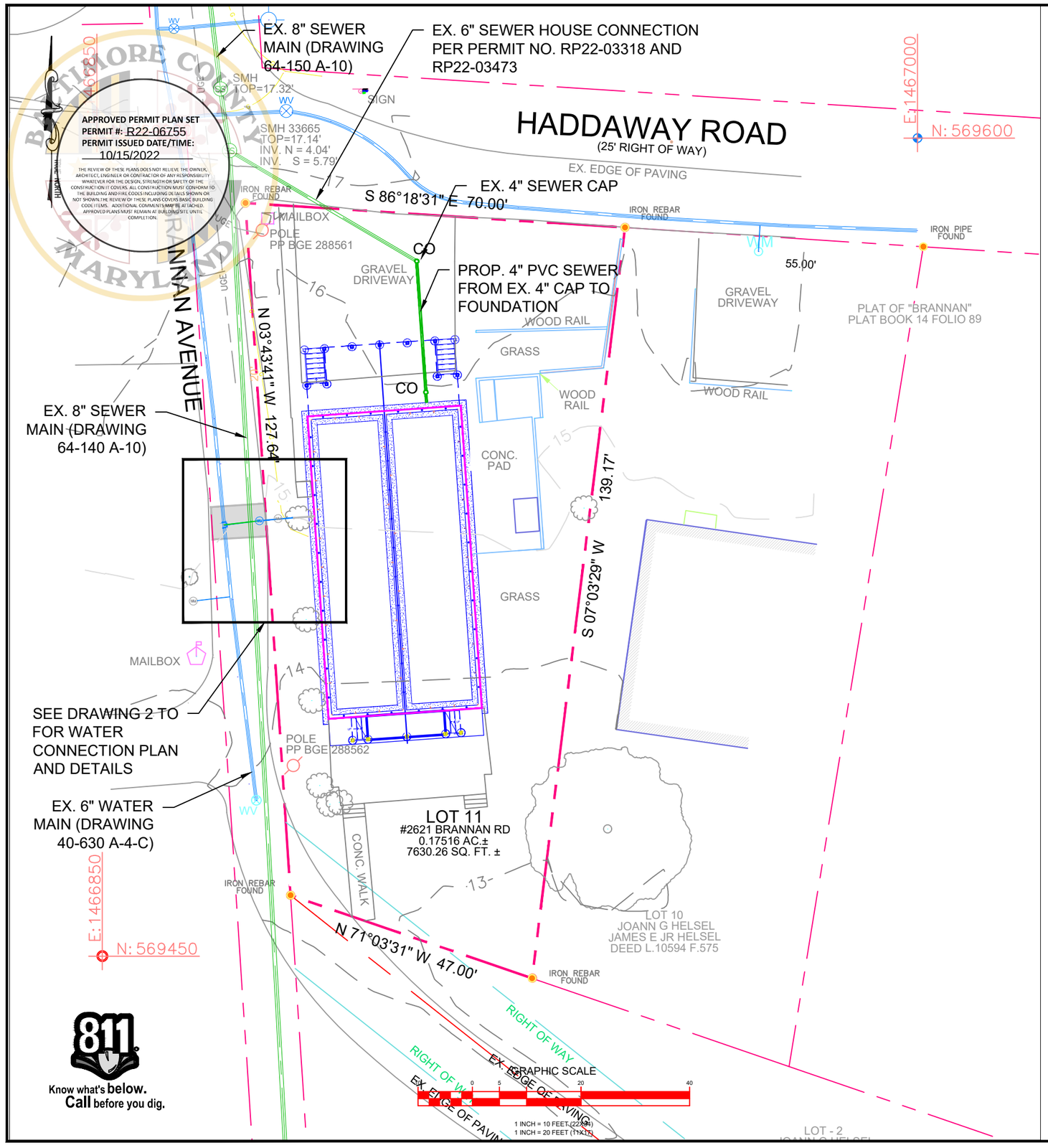
JOHN RUPP, PE

SHEET TITLE

WATER AND SEWER HOUSE CONNECTION PLAN AND DETAIL

SHEET NUMBER

SHEET 2 OF 2

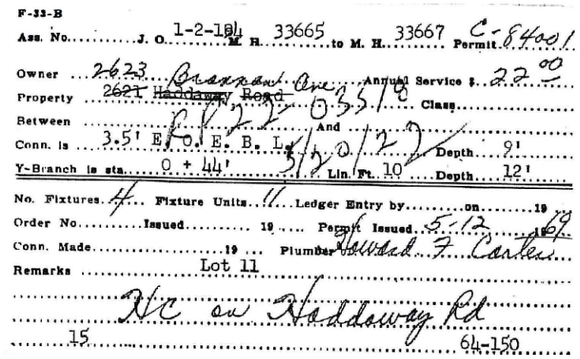


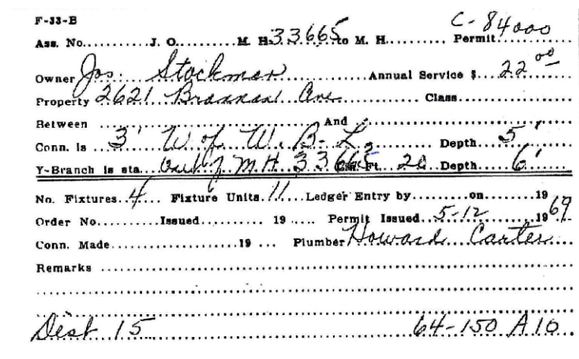


VICINITY MAP
SCALE: NONE

SITE NOTES

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F-33-B
Ass. No. ..... J. O. 1-2-10 M. H. 33665 to M. H. 33667 Permit C-84021
Owner 2623 Brannan Ave. Annual Service $ 22 00
Property 2621 Haddaway Road Class
Between ..... And
Conn. is 3.5' E. of E. B. L. 3/4 0/12 Depth 9'
Y-Branch is sta. 0 + 44' Lin. Ft. 10 Depth 12'
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Conn. Made ..... 19 Plumber Howard F. Carter
Remarks Lot 11
NC on Haddaway Rd
15 64-150


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Remarks
Desk 15 64-150 A10

ENGINEERING FIRM

Crouse Mill Enterprises, LLC
12892 CROUSE MILL ROAD
RIDGELY, MD 21660
443-618-9143

APPLICANT

ROBERT POODLES
2206 OLD EMMORTON ROAD
BEL AIR, MD 21015

SITE INFORMATION

2621-2623 BRANNAN AVE.
EDGEMERE, MD

BALTIMORE COUNTY

DESIGN RECORD

REVISIONS

REV	DATE	DESCRIPTION	BY
1	9-16-22	REVISED PER COMMENTS	JJR
0	9-5-22	SUBMISSION TO BALTIMORE CO	JJR

PROFESSIONAL STAMP

Digitally signed by John Rupp, PE
DN: cn=John Rupp, PE, o=Crouse Mill Engineering, email=jrupp201@gmail.com, c=US
Date: 2022.09.12 12:30:39 -04'00'

STATE OF MARYLAND
JOHN JOSEPH RUPP
No. 40838
PROFESSIONAL ENGINEER

PROFESSIONAL CERTIFICATION. I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE NO. 40838, EXPIRATION DATE 06/19/2023

ENGINEER

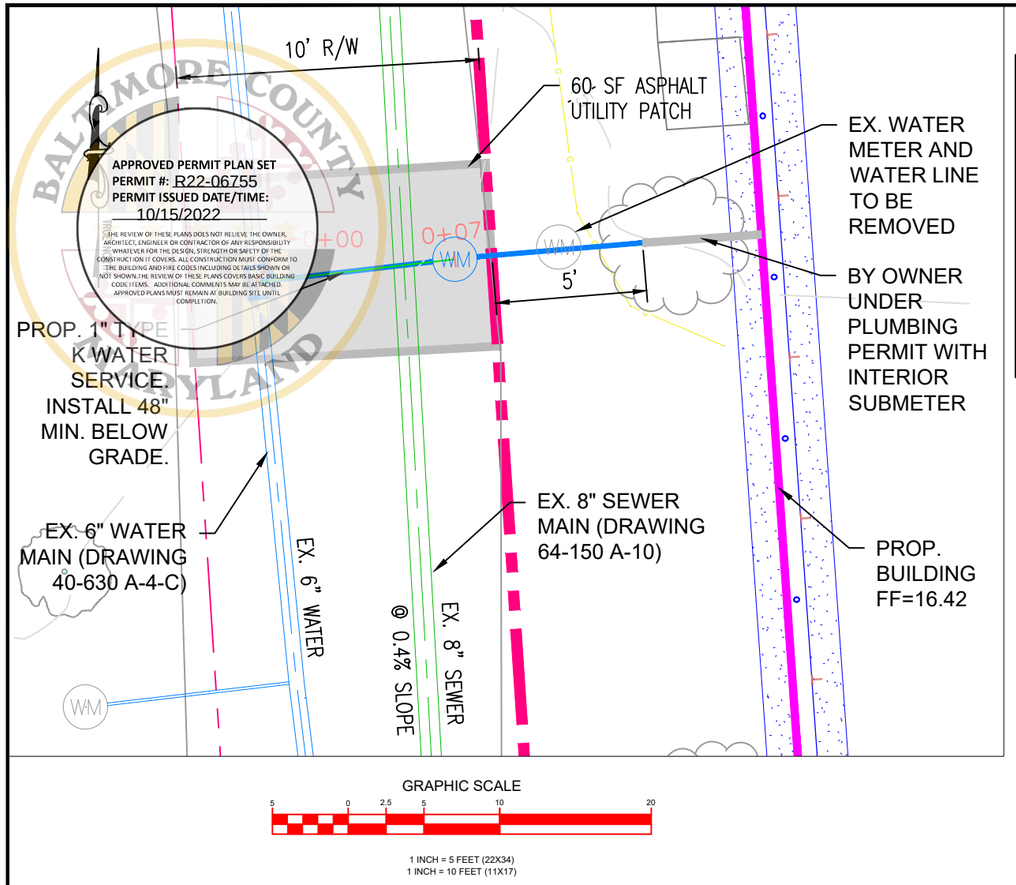
JOHN RUPP, PE

SHEET TITLE

SITE PLAN

SHEET NUMBER

SHEET 1 OF 2



GRAPHIC SCALE

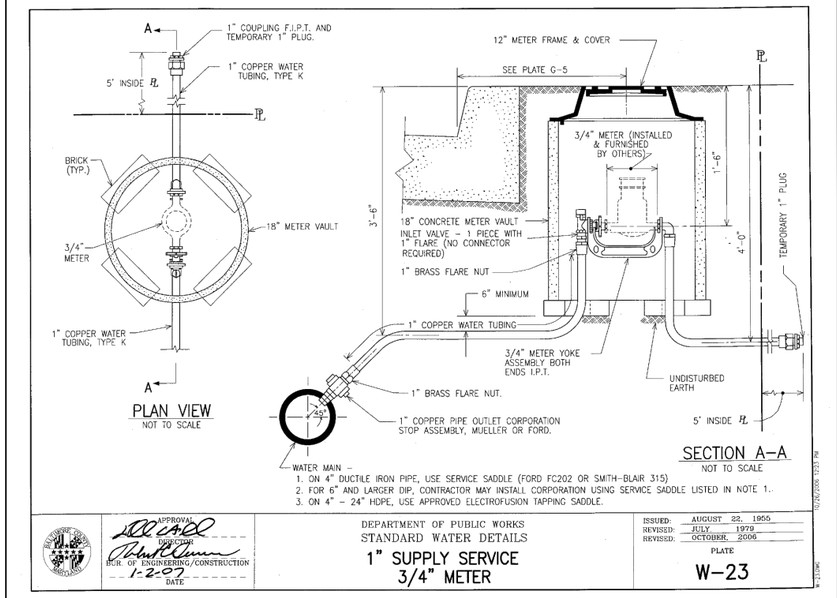
5 0 2.5 5 10 20

1 INCH = 5 FEET (22X34)
1 INCH = 10 FEET (11X17)

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811 Know what's below. Call before you dig.



ENGINEERING FIRM

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RIDGELY, MD 21660
443-618-9143

APPLICANT

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BEL AIR, MD 21015

SITE INFORMATION

2621-2623 BRANNAN AVE.
EDGEMERE, MD

BALTIMORE COUNTY

DESIGN RECORD

REVISIONS

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0	9-5-22	SUBMISSION TO BALTIMORE CO	JJR

PROFESSIONAL STAMP

Digitally signed by John Rupp
DN: cn=John Rupp, PE, o=Crouse Mill Engineering, ou, email=jrupp201 1@gmail.com, c=US
Date: 2022.09.12 12:31:49 -04'00'

STATE OF MARYLAND JOHN JOSEPH RUPP No. 40838 PROFESSIONAL ENGINEER

PROFESSIONAL CERTIFICATION. I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE NO. 40838, EXPIRATION DATE 06/19/2023

ENGINEER

JOHN RUPP, PE

SHEET TITLE

WATER HOUSE CONNECTION PLAN AND DETAIL

SHEET NUMBER

SHEET 2 OF 2

BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: B22-06755
PERMIT ISS/ED DATE/TIME:
10/15/2022
THE ISSUE OF THESE PLANS DOES NOT RELIEVE THE OWNER, CONTRACTOR OR DESIGNER OF THE RESPONSIBILITY TO COMPLY WITH ANY PROVISIONS FOR CODE, ZONING REQUIREMENTS OR OTHER LAWS OR REGULATIONS OF BALTIMORE COUNTY. THE APPROVAL OF THESE PLANS DOES NOT AUTHORIZE THE BUILDING INSPECTORS TO WAIVE ANY PROVISIONS OF THE BUILDING CODES INCLUDING BUT NOT LIMITED TO THE ACCESSIBILITY REQUIREMENTS OF CHAPTER 11 OF THE IBC AND ICC/ANSI A117.1. ANY ADDITIONAL COMMENTS MAY BE ATTACHED. APPROVED PLANS NEED TO HAVE AT EACH JOBSITE SET, VISIBLY DISPLAYED.













ISSUE	DATE	NUMBER

CLIENT:

EDGMERE WILDLIFE TRUST W/ LA CRITES TRUSTEE

DATE: 2022-05-25

PROJECT TITLE:

2623 BRANNAN AVE RENOVATION

SHEET TITLE:

EXISTING PICTURES

SHEET NUMBER:

G102

TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND
COUNTY TRANSFER TAX CR
ART 11 TITLE 3 SUBTITLE 2, 11-3-202
RECORDATION TAX CR
T.P.ART 12-108 Date 04-25-2022

APPROVED PERMIT PLAN SET
PERMIT #: R22-06755
PERMIT ISSUED DATE/TIME:
10/15/2022
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Tax ID # 15-19-711618

Baltimore County Cir Crt
IMP FD SURE $40.00
RECORDING FEE $20.00

TOTAL $60.00
JLE SG
Apr 25, 2022 11:08 am

A CONFIRMATORY DEED AND SUPPLIMENTAL INSTRUMENT FOR WHICH NO CONSIDERATION HAS BEEN PAID. THIS DEED IS TAX EXEMPT PURSUANT TO SECTION 12-108(e) OF THE ANNOTATED CODE OF MARYLAND.

DEED OF CONFIRMATION

THIS DEED OF CONFIRMATION, is made and entered into this 30 day of SEPTEMBER, **2021**, by and between **CHRISTOPHER PODLES**, Personal Representative of the Estate of John Stephen Podles, Jr., Grantor; and **L.A. CRITES, TRUSTEE**, of the Edgmere Wildlife Trust, Grantee.

W I T N E S S E T H:

WHEREAS, John Stephen Podles, Jr. died leaving an Estate, which was probated in the Circuit Court of Baltimore County, Maryland, as Estate No. 000000206454 (the "Estate");

WHEREAS, Prior to John Stephen Podles, Jr.'s death, he transferred the hereinafter describe real property, through his Attorney in Fact, Christopher Podles, unto LA Crites, Trustee of the Edgemere Wildlife Trust, by Deed dated September 19, 2019, and recorded in Liber 42157 Folio 353, among the Land Records of Baltimore County, Maryland (the "Deed");

WHEREAS, the Power of Attorney appointing Christopher Podles, was never recorded in the Land Records of Baltimore County Maryland; and

WHEREAS, it is the desire and intent of Christopher Podles, in his capacity as Personal Representative of the Estate of John Stephen Podles, Jr. to confirm and reconvey the hereinafter described real property unto L.A. Crites, Trustee of the Edgmere Wildlife Trust as provided for in the Deed.

NOW THEREFORE, That for and in consideration of the sum of **One Dollar and 00/100ths ($1.00)**, which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantor does grant and convey to the Grantee, as sole owner, 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. 11 on the plat entitled "Estate of Thomas R. Brannan", which Plat is dated August 26, 1943, and recorded among the Land Records of Baltimore County, on or about September 17, 1948.

The improvements thereon being formerly known as No. 2621-2623 Haddaway Road, and now known as no. 2621-2623 Brannan Avene.

BEING the same fee simple property which, by Deed, dated September 19, 2019, and recorded in the Land Records of Baltimore County, Maryland, in Liber 42157,

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46775, p. 0377, MSA_CE62_46632. Date available 04/27/2022. Printed 06/23/2022.

BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: R22-06755
PERMIT ISSUED DATE/TIME:
10/15/2022
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.

Folio 353, was granted and conveyed by John Stephen Podles, Jr., by Christopher Podles, his attorney in Fact unto LA Crites, Trustee of the Edgmere Wildlife Trust.

buildings and improvements thereon erected, made or being; and all and every, the 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 Grantee, as sole owner, in fee simple.

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

Witness the hand and seal of said Grantor, the day and year first above written.

WITNESS:

_____

_____(Seal)
Christopher Podles, Personal Representative of The Estate of John S. Podles, Jr.

STATE OF Maryland **;**
CITY/COUNTY OF Harford **:**

I hereby certify that on this 30 day of September, 2021, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Christopher Podles**, in his capacity as Personal Representative of the Estate of John S. Podles, Jr., 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.

Notary Public
My commission expires: 6/12/2025

ANTHONY G. JOHNSON
Notary Public-Maryland
Harford County
My Commission Expires
6/12/2025

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46775, p. 0378, MSA_CE62_46632. Date available 04/27/2022. Printed 06/23/2022.

BALTIMORE COUNTY MARYLAND
APPROVED PERMIT PLAN SET
PERMIT #: R22-06755
PERMIT ISSUED DATE/TIME:
10/15/2022
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I HEREBY 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 **SCOTT B. GOLDSCHEIN, ESQ.**

AFTER RECORDING, PLEASE RETURN TO:
THE GOLDSCHEIN LAW FIRM, PC
9711 WASHINGTONIAN BOULEVARD, SUITE 201
N. POTOMAC, MD 20878

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 46775, p. 0379, MSA_CE62_46632. Date available 04/27/2022. Printed 06/23/2022.

4109715554

E-FILED; Baltimore County District Court - Essex
Docket: 6/2/2021 11:51 AM; Submission: 6/2/2021 11:51 AM

COPY
BALTIMORE COUNTY
APPROVED PERMIT PLAN SET
PERMIT #: R22-06755
PERMIT ISSUED DATE/TIME:
10/15/2022
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.

DISTRICT COURT OF MARYLAND FOR Baltimore County-Essex
City/County

Located at 4 Kelso Drive, Baltimore, MD 21221 Case No. D-08-CV-20-034145
Address

Suite E

Zip

Victor Gonzales
Defendant

and All Unknown Occupants
Defendant

2621 Brannan Road
Address of Defendant

Baltimore, MD 21219
City State Zip

☒ EVICTED ☐ CANCELED MOVED
☐ CANCELED PAID ☐ CANCELED
☐ EXPIRED

Plaintiff/Agent

Constable/Deputy/Sheriff Constable Number 162 5/2/21 Date

FOR OFFICE USE ONLY

PETITION - FOR WARRANT OF RESTITUTION

On 4/13/2021 the Court:

☐ Determined the amount due to be $ _____, plus costs of $ _____

☒ Ordered that possession of the premises described as 2621 Brannan Road, Baltimore, MD 21219 be returned to the Plaintiff.

☒ Without right of redemption.

☐ Defendant has made the following payments (if any): $ _____ leaving a balance due as of the filing of this Petition to be $ _____ (not including court costs). ☐ Defendant remains in possession of the premises, therefore the Defendant has not complied with the judgment in this case. The Plaintiff requests possession of the premises in this case.

I do solemnly affirm under the penalties of perjury that the matters and facts set forth above are true to the best of my knowledge, information, and belief.

5/26/2021 Date

Darlyn R. McLaughlin Signature of Plaintiff/Agent/Attorney

CPF # 0906160108

621 Stemmers Run Road, Suite E, Baltimore, MD 21221 Address

443-529-9900 Telephone Number

443-524-8028 Fax

court@marylandrentcourt.com E-mail

ORDER

State of Maryland Baltimore County-Essex to wit:

To Sheriff of this County/Constable of this Court. Greetings:

The Court has determined that the Plaintiff is entitled to possession.

☐ The judgment for possession may be redeemed by payment to the Plaintiff or his agent, by cash, certified check, or money order the amount of $ _____ plus costs of $ _____, minus any payments made after _____ (date Petition is filed).

☒ The judgment for possession may not be redeemed.

Now, therefore,

☐ Unless Defendant tenders to the Plaintiff or his agent, cash, certified check or money order in the amount of $ _____ plus $ _____ costs.

☒ The judgment for possession may not be redeemed.

The Sheriff/Constable of this Court is ordered to deliver the premises to the Plaintiff (or the Plaintiff's agent or attorney) and, unless local law requires otherwise, to remove from the premises, by force if necessary, all property of the Defendant(s) and any other occupant.

06/09/2021 1:21:26 PM

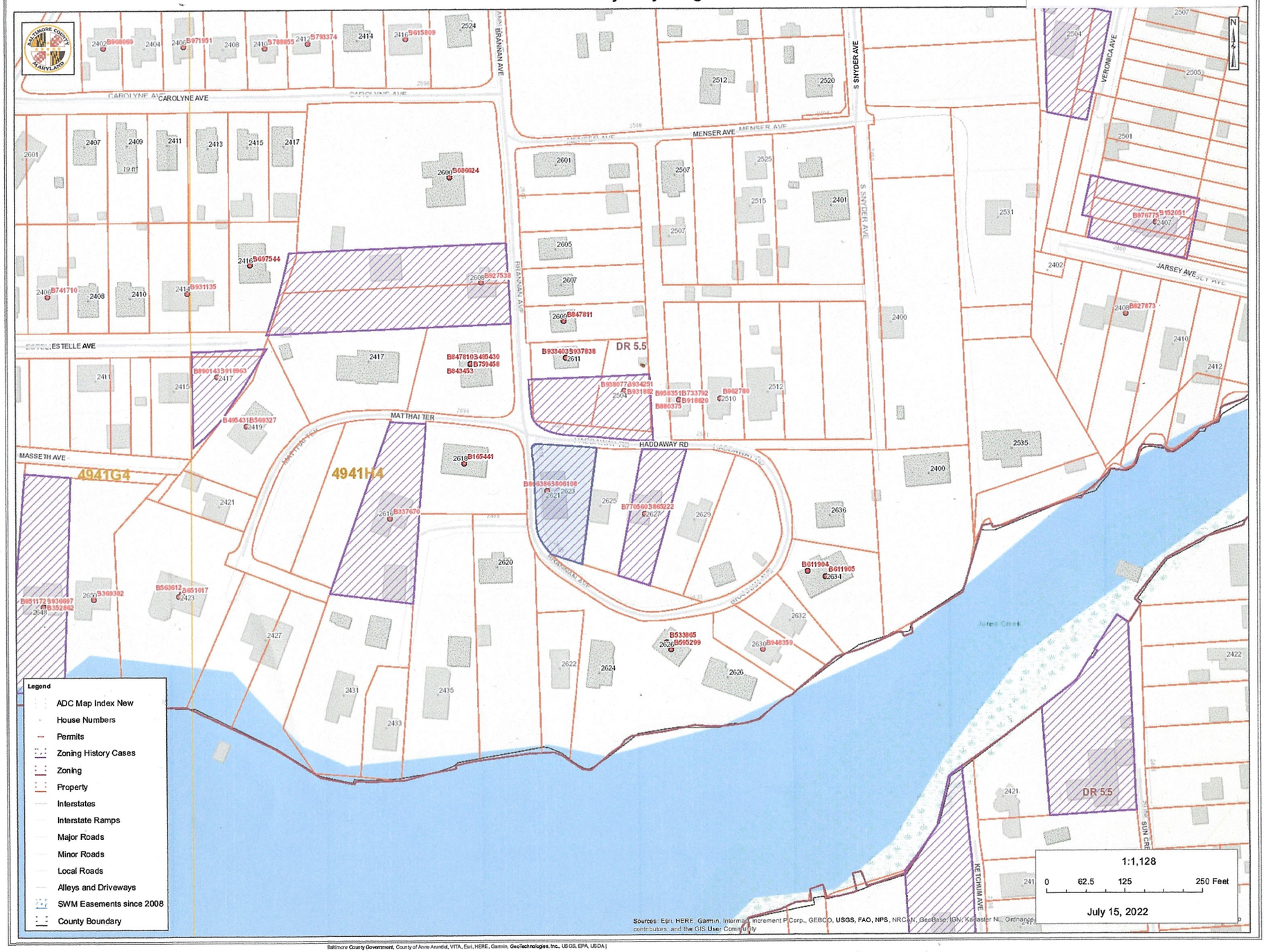
Michael T. Pate

Judge ID Number Date

NOTICE: To request a foreign language interpreter or reasonable accommodation under the Americans with Disabilities Act, please contact the court immediately. Possession and use of cell phones and other electronic devices may be limited or prohibited in designated areas of the court facility.

Pet Exh 6.

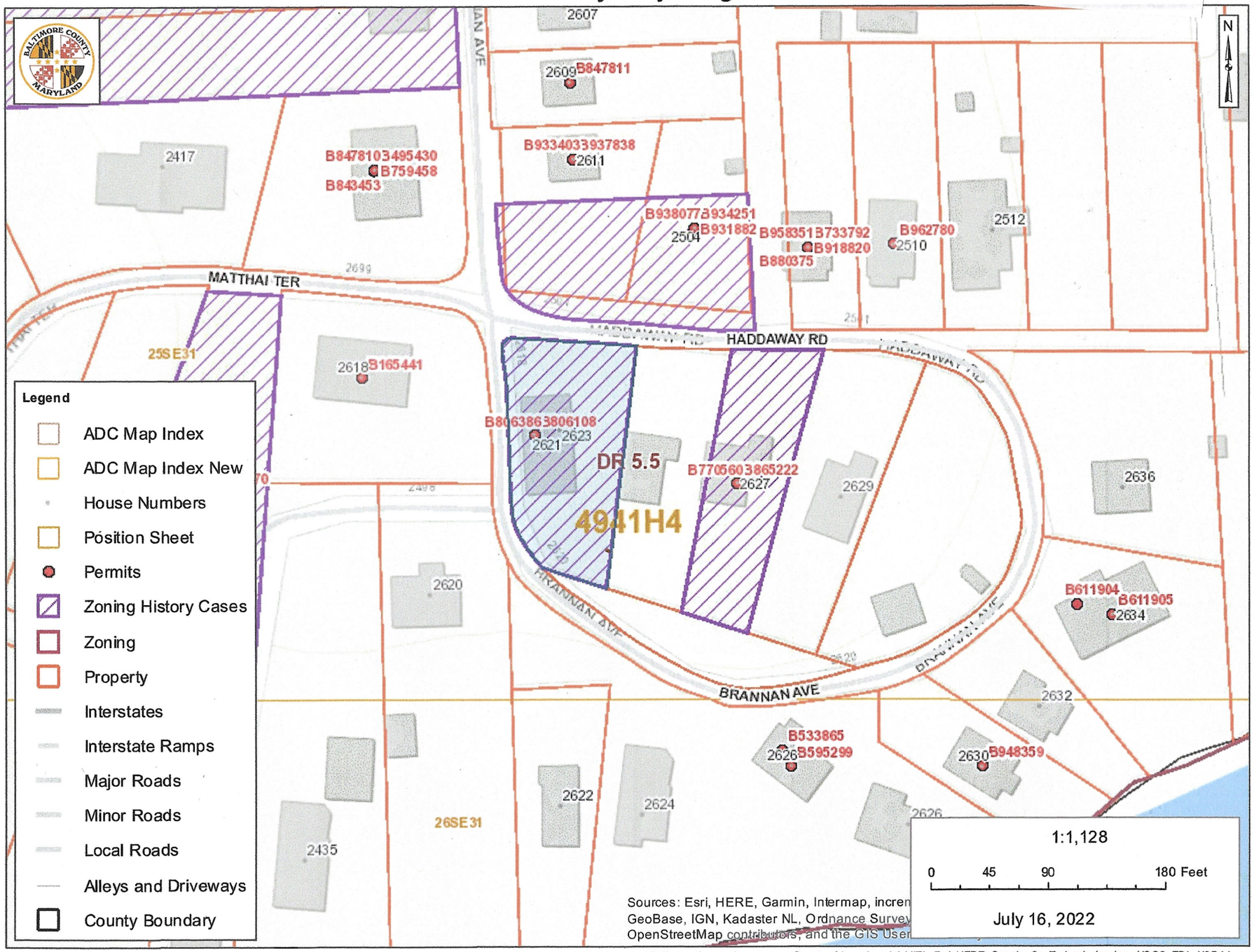
Baltimore County - My Neighborhood



Baltimore County Government, County of Anne Arundel, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA

PET EXH 7

Baltimore County - My Neighborhood



February 2023

Edgemere Wildlife Trust, the owner of 2621 & 2623 Brannan Avenue, apparently received building permits from Baltimore County to tear down the existing structure located on this property and is in the process of constructing a new multi-family dwelling. WE, the neighbors to this property, believe such new construction violates the zoning and building laws of the County. We believe that if a non-conforming use had existed for a multi-family dwelling, such non-conforming use was abandoned and thus any attempt to construct a new multi-family dwelling on this site is illegal. WE have filed a petition for a zoning hearing with the County to confirm that the construction, now on-going, violates the law and must be stopped and only a single-family dwelling permitted. Baltimore County requires after the filing of the petition for a public hearing to be held before the County Office of Administrative Hearings, where an Administrative Law Judge will conduct a hearing, take testimony, and exhibits and then issue a decision. The hearing will be held on Wednesday March 1st, 2023, in Towson at 1:30, 103 W. Chesapeake Ave., Room 104. If you agree that the construction occurring at 2621-2623 Brannan Ave. is illegal, WE are asking you to attend the hearing. It is very important for your voices to be heard. However, should you not be able to attend, WE are asking you, as a resident and/or property owner in the neighborhood and area, to show your opposition by signing this petition. Hopefully you can appear in person, but please make your voices heard.

SIGNATURE	PRINT NAME	ADDRESS
John Olszewski Sr	JOHN OLSZEWSKI SR.	2423 MATTHAI TERRACE 21219

February 2023

Edgemere Wildlife Trust, the owner of 2621 & 2623 Brannan Avenue, apparently received building permits from Baltimore County to tear down the existing structure located on this property and is in the process of constructing a new multi-family dwelling. WE, the neighbors to this property, believe such new construction violates the zoning and building laws of the County. We believe that if a non-conforming use had existed for a multi-family dwelling, such non-conforming use was abandoned and thus any attempt to construct a new multi-family dwelling on this site is illegal. WE have filed a petition for a zoning hearing with the County to confirm that the construction, now on-going, violates the law and must be stopped and only a single-family dwelling permitted. Baltimore County requires after the filing of the petition for a public hearing to be held before the County Office of Administrative Hearings, where an Administrative Law Judge will conduct a hearing, take testimony, and exhibits and then issue a decision. The hearing will be held on Wednesday March 1st, 2023, in Towson at 1:30, 103 W. Chesapeake Ave., Room 104. If you agree that the construction occurring at 2621-2623 Brannan Ave. is illegal, WE are asking you to attend the hearing. It is very important for your voices to be heard. However, should you not be able to attend, WE are asking you, as a resident and/or property owner in the neighborhood and area, to show your opposition by signing this petition. Hopefully you can appear in person, but please make your voices heard.

SIGNATURE	PRINT NAME	ADDRESS
Joseph Vrablicth	Joseph Vrablicth	2622 Brannan Ave Baltimore MD 21219
	Derek Giangano	2419 Matthai Terrace 21219
Donald Barkley	Donald Barkley	2417 Matthai Terr. 21219
	Caedan Dunnigan	2435 Brannan Ave 21219
Jeri Morgan	Jeri Morgan	2433 Brannan Ave 21219
Kevin Morgan	Kevin Morgan	2433 Brannan Ave 21219
	Dean Bullis	2630 Brannan Ave 21219
	Bryan McVey	2618 Brannan Ave. 21219
	Mario Teresi, Brandy Teresi	2431 Brannan Ave 21219
Jason Robb	Jason Robb	2628 Brannan Ave 21219
	Genine Robb	2628 Brannan Ave 21219
Juliette Garon	Juliette Garon	2636 Haddaway Rd. 21219

February 2023

Edgemere Wildlife Trust, the owner of 2621 & 2623 Brannan Avenue, apparently received building permits from Baltimore County to tear down the existing structure located on this property and is in the process of constructing a new multi-family dwelling. WE, the neighbors to this property, believe such new construction violates the zoning and building laws of the County. We believe that if a non-conforming use had existed for a multi-family dwelling, such non-conforming use was abandoned and thus any attempt to construct a new multi-family dwelling on this site is illegal. WE have filed a petition for a zoning hearing with the County to confirm that the construction, now on-going, violates the law and must be stopped and only a single-family dwelling permitted. Baltimore County requires after the filing of the petition for a public hearing to be held before the County Office of Administrative Hearings, where an Administrative Law Judge will conduct a hearing, take testimony, and exhibits and then issue a decision. The hearing will be held on Wednesday March 1st, 2023, in Towson at 1:30, 103 W. Chesapeake Ave., Room 104. If you agree that the construction occurring at 2621-2623 Brannan Ave. is illegal, WE are asking you to attend the hearing. It is very important for your voices to be heard. However, should you not be able to attend, WE are asking you, as a resident and/or property owner in the neighborhood and area, to show your opposition by signing this petition. Hopefully you can appear in person, but please make your voices heard.

SIGNATURE	PRINT NAME	ADDRESS
Michael P. McVey	Michael P. McVey	2620 Brannan Ave 21219


FIRE LINE DO NOT CROSS
FIRE LINE DO NOT CROSS


NE DO NOT CROSS FIRE LINE DO NOT CROSS FIRE LINE DO NOT CROSS FIRE LINE DO NOT CROSS FIRE
FOR RENT
413 911 744


2623
DANGER


HUSKY
CONTRACTOR PACK
50 COUNT

Pet Ex 13

Properties 2621 & 2623 Brannan Avenue, 21219

TIMELINE

John Podles died **October 1, 2019** (Owner of properties)

11-25-2019 Properties were sold to Edgemere Wildlife Trust Crites, LA Trustee

There is only one property listed (2623) on Property Search MD / MD Department of Assessments & Taxation sites

Approximately **January 2020** – 2621 Brannan Avenue was vacant
Approximately **June 2020** – 2623 Brannan Avenue was vacant

June 2020 – March 2022

- Properties were abandoned
- Grass was not cut
- Random kids, teenagers were hanging around & in the properties and sheds

January 2022 – March 1, 2022

- Water line broke in the house
- Robert Podles (son of deceased owner) was called multiple with no response
- Water line froze / broke and flooded the outside of the property and the properties around it
- The City was called, and they could not find the water meter
- Nor a record of the property
- The house was open, and a person was able to cut it off

March 2022

- Demolition began
- Rob Podles hired 3 men with saws and hammers to do this job
- It took about 3 weeks
- It was a terrible mess in the neighborhood
- They started burning treated lumber that filled nearby neighbors' homes with smoke

- They were asked to please stop multiple times
- When asked to stop, Rob Podles's brother yelled at the neighboring homeowners with inappropriate, foul language such as "Go F_ _ _! yourself"!

- The Fire Department was called, and they stopped the burning
- The property was deemed "condemned" by the authorities (Fire Marshal)

Fall 2022

- Foundation started
- Blocks being laid over old, decayed footer
- Perplexing how it could ever pass a County inspection with these inadequate building practices

Pet Exh 14

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

Permit Number: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Property Information

Property Address: 2621 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size: 3,154.00

Set Backs - Front Yard:

Set Backs - Rear Yard:

Set Backs - Right Side Yard:

Set Backs - Left Side Yard:

Owner Information

Owner: LA Crites, Trustee

Owner Address: 2206 Old Emmorton Road, Bel Air, MD, 21015

Tenant:

Applicant: Steven Podles

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: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Building Permit Contractor

Name of Contractor:

Phone Number:

Address:

City, State, Zip: , ,

Is Owner Contractor?:

Building Permit Information

Description of Work: CBCA. RAZE MAIN STRUCTURE, TO BE TORN DOWN, FOUNDATION TO REMAIN, 3154SF, BUILT IN 1924. DEBRIS TO BE HAULED TO APPROVED SANITARY LANDFILL IN ACCORDANCE WITH APPLICABLE BALTIMORE COUNTY SITE REGULATIONS. SEWER TO BE CAPPED. PERMIT EXPIRES 90 FROM DATE OF ISSUE. RAT ERADICATION STATEMENT ATTACHED. ISSUANCE OF THIS PERMIT DOES NOT COMMIT BALTIMORE COUNTY TO ISSUE ANY FURTHER PERMITS

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.

P DT EXM 15

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

Permit Number: R22-05628

Permit Type: Residential Razing

Sub Type:

Date Issued: 06/09/2022

Expiration Date: 09/07/2022

Property Information

Property Address: 2623 BRANNAN AVE

City, State, Zip: SPARROWS POINT, MD, 21219

Tax ID: 1519711618

District: 15

Existing Use:

Proposed Use:

Is this property located in a Floodplain: NO

Sprinkler to be Installed?:

Plumbing Work?:

Electrical Work?:

Lot Size and Setbacks

Size: 3,154.00

Set Backs - Front Yard:

Set Backs - Rear Yard:

Set Backs - Right Side Yard:

Set Backs - Left Side Yard:

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

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