



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

September 30, 2024

Jennifer Busse, Esquire – jbusse@rosenbergmartin.com
Rosenberg Martin Greenberg, LLP
25 S. Charles Street, 21st Floor
Baltimore, MD 21201

RE: **MOTION FOR RECONSIDERATION**
Case No. 2024-0164-XA
Property: 8914 Hinton Avenue

Dear Ms. Busse:

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,

A handwritten signature in blue ink, appearing to read "A. M. Belt", is written over a horizontal line.

ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dln
Enclosure

c: Patrick Richardson – rick@richardsonengineering.net
Francis Lamka – fk5115@gmail.com
Christina Nichols - christina.f.nichols@gmail.com
Monica Rovecamp- mrovecamp@gmail.com
Robert Hart - rhart424@yahoo.com
Code Enforcement – paenforce@baltimorecountymd.gov

IN RE: PETITIONS FOR SPECIAL EXCEPTION *	BEFORE THE
AND VARIANCE	
(8914 Hinton Avenue) *	THE OFFICE
15 th Election District	
7 th Council District *	ADMINISTRATIVE HEARINGS
Frances Lamka	
<i>Legal Owner</i> *	FOR BALTIMORE COUNTY
Petitioner *	Case No: 2024-0164-XA

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

Now pending is a Motion for Reconsideration filed by Petitioner, Frances Lamka on September 9, 2024 and the responses filed by various Protestants.

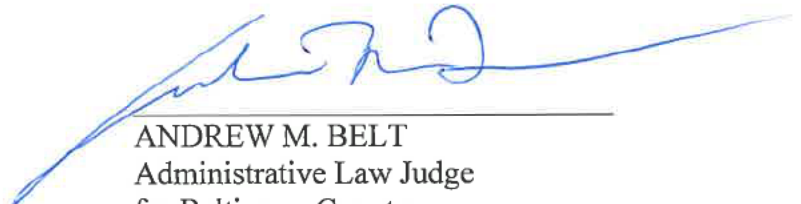
A Motion for Reconsideration does not allow for the re-litigation of a case's merits. During a hearing on the merits, it is the duty of the Administrative Law Judge ("ALJ") to consider the testimony of witnesses and make a determination as to the persuasiveness and credibility of these witnesses when contradictory evidence is presented. The purpose of a Motion for Reconsideration does not allow for the rehashing of previously presented testimony in the hopes the fact finder will come to an alternate conclusion.

The Petitioner's Motion contends that the Petitioner's Request for Special Exception filed pursuant to Baltimore County Zoning Regulations ("BCZR") § 1B01.1.C.8, to approve a Class I, Shoreline, Fishing and Shell Fishing Facility should be granted due to the fact that the Petitioner is unable to make alternative arrangements for the storage of crab pots and proposes that he be allowed to store the crab pots at issue in the rear of the property. The issue of crab pot storage was only one of several reasons that Special Exception relief was denied. After hearing the testimony in this case, it was determined that the requirements of BCZR §502.1 had not been met. No new evidence that could not have been presented at the time of the hearing on the merits has been produced that alters that fact finding determination. For these reasons, the Motion for

Reconsideration is denied.

THEREFORE, IT IS ORDERED this 30th day of **September 2024**, by this Administrative Law Judge that the Motion for Reconsideration is hereby **DENIED**.

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



ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlm



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

August 22, 2024

Jennifer Busse, Esquire – jbusse@rosenbergmartin.com
Rosenberg Martin Greenberg, LLP
25 S. Charles Street, 21st Floor
Baltimore, MD 21201

RE: Petitions for Special Exception and Variance
Case No. 2024-0164-XA
Property: 8914 Hinton Avenue

Dear Ms. Busse:

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,

A handwritten signature in blue ink, appearing to read "Andrew M. Belt", is written over the typed name and title.

ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlm
Enclosure

c: Patrick Richardson – rick@richardsonengineering.net
Francis Lamka – fk5115@gmail.com
Christina Nichols – christina.f.nichols@gmail.com
Monica Rovecamp – mrovecamp@gmail.com
Robert Hart – rhart424@yahoo.com
Code Enforcement – paenforce@baltimorecountymd.gov

IN RE: PETITIONS FOR SPECIAL EXCEPTION *	BEFORE THE
AND VARIANCE	
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Legal Owner *	FOR BALTIMORE COUNTY
Petitioner *	Case No: 2024-0164-XA
* * * * *	

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Exception and Variance filed on behalf of the legal owner, Frances Lamka (“Petitioner”), for the property known as 8914 Hinton Avenue, Sparrows Point (“the property”). A Petition for Special Exception was filed from the Baltimore County Zoning Regulations (“BCZR”) § 1B01.1.C.8, to approve a Class I, Shoreline, Fishing and Shell Fishing Facility. Variance relief was also filed from the BCZR §§ 417.3, 417.4 and Appendix J, to approve an existing pier with a 2 ft. setback from the established division line in lieu of the required 10 ft. setback.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing on August 12, 2024. The Petitions were properly advertised and posted.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), Department of Environmental Protection and Sustainability (“DEPS”), the Bureau of Plans Review (“DPR”), the Department of Public Works and Transportation (“DPWT”) and the State Highway Administration (“SHA”).

The Petitioner, Francis Lamka, and Mike Adams, the owner/operator of the crabbing operation at issue, were present at the hearing along with Patrick Richardson of Richardson

Engineering, a certified professional engineer who prepared the Site Plan and is marked as Exhibit 4. Jennifer Busse, Esquire of Rosenberg, Martin and Greenberg, LLP represented the Petitioner. Nearby residents, Terry McCreary, Karen Wolfe, Robert Hart, Monica Rovecamp and Christina Nichols, as well as the owner of 8916 Hinton, Lorraine Smith, appeared in opposition to the proposed relief.

First to testify on behalf of the Petitioner was Frances Lamka, the owner of 8914 Hinton Avenue. Mr. Lamka testified that he has resided at the subject property for 29 years and that his son-in-law, Mike Adams, resides at the address with his wife and daughter and has operated a commercial crabbing business from the subject property for the past nine years. Mr. Lamka explained that the home was built in 1924 and believes that the portion of the pier that existed prior to the pier's recent extension is original to the property. He further testified that before starting a commercial crabbing business at the subject property, he had conversations with County agencies that informed him that he was permitted to operate a such a business at that location. He further explained that after receiving Code Enforcement Correction Notices in March of 2023, he was under the impression that obtaining a Special Exception was merely a "suggestion." He explained after the May 29, 2024 Code Enforcement Order, he obtained counsel and filed for a Special Exception. He clarified that all commercial crabbing has ceased at the subject property pending approval of the Special Exception request.

Next to testify was Michael Adams. Mr. Adams testified that he has operated a commercial crabbing business from the subject property for the past nine years. He explained that he has expanded the business since purchasing a crabbing license that allowed a maximum of 600 crab pots. He had previously used trotlines before obtaining a crab pot license. He explained that he currently has 400 crab pots as part of his operation. He noted that since the May 29, 2024 Code

Enforcement Order (Case No. CC2302485) prohibiting the operation of his business at the subject property, he has been using a commercial location nearby on 9024 Cuckhold Point Road. Prior to this order, Mr. Adams admitted that he operated one boat from the subject property and employed one to two individuals to assist him. Mr. Adams also confirmed that he conducted retail sales of crabs from the subject property. He explained that the crabbing season occurs between April 1st and December 15th, but noted this year the season will end on Nov. 30th. He described starting his work day between 5 and 6 am and finishing between 1 and 2 pm. He noted that he uses razor clams as bait and keeps both his bait and crabs in a cool box that reduces the escape of related odors into the surrounding neighborhood. He explained that retail sales primarily took place during the weekends and that customers were able to park in the property's driveway or at the end of 9th Street. He noted that the majority of his customers live in the surrounding community and many travel to the property by golf cart. He explained that his retail sales were usually done by 4 to 5 pm. When asked about the power washing of crab pots at the subject site, Mr. Adams explained that his boat was equipped with a power washer that he used while the boat was in the bay. He later clarified that prior to moving his operation, he did power wash crab pots on site, but did so as far out on his pier as possible to avoid impact to the surrounding property. He further testified that the painting of the crab pots is usually done in the driveway of the subject property and is restricted to the beginning and end of the crabbing season. Mr. Adams confirmed that a separate commercial crabbing operation exists at 8412 Hinton Avenue and he attributes many of the neighbors' complaints regarding the power washing of pots, foul odors and dead crabs washing ashore to that operation.

Petitioner's expert, Patrick Richardson, P.E., was last to testify in the Petitioner's case. He testified that the subject property is approximately 7,400 sq. ft., and is zoned DR 5.5 in the Miller's

Island area of Baltimore County. He described that the subject property sits alongside a public access at the end of 9th Street (also referred to as “Road End” or Paper Road”) that allows for public access to the river by smaller watercraft.

Mr. Richardson explained that he assisted the Petitioner in obtaining a permit to extend his existing pier by 50 feet. The existing portion of the pier is not in compliance with current 10 ft. set back requirements and is the subject of the Petitioner’s variance request. Mr. Richardson reiterated Mr. Lamka’s opinion that the previously existing pier was original to the property and may have been placed in its present location to assist with boats using the 9th street water access.

Mr. Richardson explained that the neighborhood consists of 50 ft. wide undersized lots that were originally part of the Swan Point development. (Pet. Ex. 3). He further explained that the subject property is DR 5.5 and has the same zoning as the other waterfront properties in the area. He described Hinton Avenue as a narrow road and opined that the Petitioner’s driveway was sufficient to provide parking for retail customers visiting the property. Finally, Mr. Richardson opined that the Petitioner’s request for Special Exception was in keeping with the requirements of BCZR, §502.1.

PROTESTANT WITNESSES

Nearby residents, Terry McCreary, Karen Wolfe, Robert Hart, Monica Rovecamp and Christina Nichols, as well as the owner of 8916 Hinton, Lorraine Smith, appeared in opposition to the proposed Special Exception. The testimony of these witnesses can be summarized as expressing concerns with customer’s cars parking on Hinton Avenue, the noise and smell generated by the power washing of crab pots as well as dead crabs and debris washing up on the shoreline of neighboring properties. These witnesses all agreed that their main concern was the power washing and the parking issue. There was also agreement that the impacts of Mr. Adams

crabbing operation were not as extreme in the early years of its existence, but have intensified as Mr. Adams has expanded his operation in the number of crab pots. Mr. Hart noted that 9th Street paper road is owned by Baltimore County Recreation and Parks (“R&P”) and is intended for the use of the general public for access to the waterfront.

VARIANCE

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Based on the evidence presented, the Petitioner has met this test. In that no new development has been proposed, the variance relief at issue has been requested to bring the status quo into compliance with current zoning set back requirements. The existing pier is original to the 50 ft. wide lot of the subject property and the recent extension has been built in compliance with the current 10 ft. set back requirements. Consequently, the Petitioner’s request for variance relief is granted.

SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1, 11 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances

showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

The special exception test is codified in BCZR, § 502.1 which reads as follows:

§502.1 Conditions determining granting of special exception.

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

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air;
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

Fishing and Shell Fishing Facilities are defined in BCZR, § 101.1 as follows:

FISHING AND SHELL FISHING FACILITY, SHORELINE

A principal use that consists of the buildings, equipment or other facilities necessary to accommodate the onshore activities of a fishing and shell fishing business (including retailing or wholesaling of the catches) and that is situated on a lot on the shoreline of tidal waters.

FISHING AND SHELL FISHING FACILITY, SHORELINE, CLASS I

A shoreline fishing and shell fishing facility that can accommodate a fishing business no larger than that entailing the use of not more than two commercial fishing boats and that is situated on a lot also occupied by the primary residence of its operator, who is a person required to have a license by any of the provisions of

Title 4 of the Natural Resources Article of the Annotated Code of Maryland. For the purposes of these regulations, a "commercial fishing boat" does not include a boat more than 45 feet long.

The Court of Appeals in *People's Counsel for Baltimore County v. Loyola*, 406 Md. 54, 62 (2008) explained that some adverse effects are inherent in all conditional or Special Exception uses. As applied here, a fishing and shell fishing facility is presumed proper as a Special Exception use unless the Protestants can show that the use produces effects that are more adverse at this property than at other locations within the DR 5.5 zone. Thus, the adverse effects inherent to a crabbing operation include: storage of pots; number of people coming and going at the Property; noise; fuel or bait deliveries; power washing, repairing, painting of crab pots and/or smell.

In the instant case, a balance must be struck between the lawful continuation of commercial crabbing historically tied to the waterfront community and the concerns of neighboring property owners who are most effected by such a commercial crabbing enterprise. While as noted by Protestants, the area at issue has seen an evolution from modest shore properties to more luxury dwellings, commercial crabbing operations are still permitted by Special Exception in this predominantly residential area. Although such operations are still permitted by Special Exception in this DR. 5.5 waterfront community, whether such a Special Exception should be granted rests on the individual facts and circumstances of each case.

The testimony in the instant case is clear that surrounding neighbors are adversely impacted by the noise, smell, and traffic associated with the proposed crabbing operation. In that a commercial crabbing business operated at the subject property for several years without a required Special Exception, conjecture is not required to determine the possible effects of such an operation, as the neighbors have witnessed them firsthand. While Mr. Richardson has opined that the Petitioner's request for Special Exception meets the requirements of BCZR, § 502.1 and is in

keeping with the holdings of the *Schultz* and *Loyola* cases, the surrounding neighbors have a different opinion.

While Mr. Richardson opines that potential retail customers will be able to park in the Petitioner's driveway, neighbors provided testimony that the Petitioner's driveway is usually full of vehicles and that customers often block traffic on Hinton Avenue, a narrow road, where two cars cannot easily pass. Additionally, testimony was presented that both customers and Petitioner's employees often park on the 9th Street paper road, or park on the neighboring vacant property owned by Ms. Smith.

As to the power washing of crab pots and the resulting noise, debris and smell, it is true that such impacts are inherent to the use, however, in the instant case, it is the intensity of such a use that is at issue. Testimony was presented by several neighbors that when the Petitioner first started his crabbing business at the subject property, there were few negative impacts. It was noted that when Mr. Adams ran a less intensive operation from the property, there was less crab pot painting and power washing, but after Mr. Adams has intensified his use of the property including the use of 400 crab pots the negative impacts reached a critical point.

Mr. Hart raised the point that the 9th Street paper road is owned by Baltimore County R&P and is meant to be an access point to the waterfront for the general public. Testimony has been offered evidencing that the Petitioner often uses this paper road for his private business purposes.

In reviewing the impacts outlined above, it is clear that a retail operation at the subject property would have adverse traffic impacts above and beyond a similar location in the DR 5.5 zone due to the extremely narrow nature of Hinton Avenue and the lack of designated customer parking. Additionally, the subject property's direct proximity to the 9th Street paper road creates an adverse impact that is unique to this location and operation. Finally, while commercial crabbing

facilities are allowed in the DR. 5.5 zone, not all such facilities are the similar in scope, nor all such properties the similar in size. The subject property is a 50 ft. wide, narrow lot in a primarily residential neighborhood. As demonstrated by Mr. Adams' initial crabbing operation at the subject property, a commercial crabbing facility can be operated at this location without drawing the ire of the adjacent neighbors. However, the use of 400 crab pots (600 pots are permitted by license), at this specific location causes the resulting adverse impacts to be above and beyond those normally associated with such a use. In situations such as this, the concerns of surrounding neighbors can sometimes be addressed by imposing conditions on the granting of a Special Exception, such as prohibiting retail sales, and requiring off-site storage of crab pots, or off-site power washing and painting. Through the testimony of the Mr. Adams, it was communicated that he would not be amenable to such conditions, consequently, I must deny the request for Special Exception.

THEREFORE, IT IS ORDERED this 22nd day of **August, 2024**, by this Administrative Law Judge, that the Petition for Special Exception filed pursuant to BCZR § 1B01.1.C8, to approve a Class I, Shoreline, Fishing and Shell Fishing Facility, be and is hereby **DENIED** and;

IT IS FURTHER ORDERED, that a Petition for Variance filed from the BCZR, §§ 417.3, 417.4 and Appendix J, to approve an existing pier with a 2 ft. setback from the established divisional line in lieu of the required 10 ft. setback, be is hereby **GRANTED**.

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

AMB:dlm


ANDREW M. BELT
Administrative Law Judge
for Baltimore County



PETITION FOR ZONING HEARING(S)

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

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

Address 8914 Hinton Avenue

which is presently zoned DR 5.5

Deed References: 11152/00159

10 Digit Tax Account # 1 5 0 4 8 7 0 0 5 0

Property Owner(s) Printed Name(s) Francis Lamka

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

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

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

2. XX a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
BCZR 1B01.1.C.8 To approve a Class I, Shoreline, Fishing and Shellfishing Facility

3. X a **Variance** from Section(s)
BCZR 417.3, 417.4 and Appendix J To approve an existing pier with a 2 ft setback from the established divisional line in lieu of the required 10 setback

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).

Contract Purchaser/Lessee:

Name- Type or Print N/A

Signature

Mailing Address City State

Zip Code / Telephone # / Email Address

Attorney for Petitioner:

Jennifer Busse - Rosenberg Martin Greenberg LLP

Name- Type or Print

Signature

25 S. Charles Street, 21st FL Baltimore MD
Mailing Address City State

21201 / 410-727-8647 / jbusse@rosenbergmartin.com
Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Francis Lamka

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

8914 Hinton Avenue Baltimore MD
Mailing Address City State

21219 / 443-865-4559 / fkb5115@gmail.com
Zip Code Telephone # Email Address

Representative to be contacted:

Jennifer Busse - Rosenberg Martin Greenberg LLP

Name - Type or Print

Signature

25 S. Charles Street, 21st FL Baltimore MD
Mailing Address City State

21201 / 410-727-8647 / jbusse@rosenbergmartin.com
Zip Code Telephone # Email Address

CASE NUMBER 2024-0164-XA

Filing Date 6/27/2024

Do Not Schedule Dates: _____

Reviewer CF



Richardson
ENGINEERING

CIVIL | COMMERCIAL
RESIDENTIAL
INDUSTRIAL

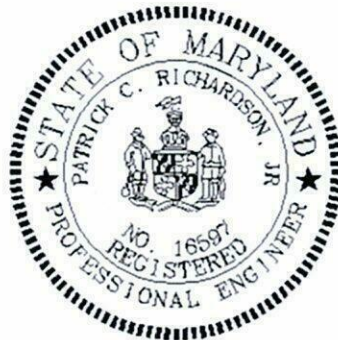
RICHARDSON ENGINEERING, LLC.
7 DENEISON ST. | TIMONIUM, MD 21093
410-560-1502 | RICHARDSONENGINEERING.NET

**ZONING PROPERTY DESCRIPTION FOR
8914 HINTON AVENUE
15th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND**

Located on the North side of Hinton Avenue, on the East side of the intersection of Hinton Avenue, 15' right of way and 9th Avenue, 30' right of way.

Being Lot #136 as shown on the plat of "Swan Point", which is recorded among the land records of Baltimore County in Plat Book W.P.C. No. 7, Folio 162.

Containing a net area of 7,400 square feet or 0.17 acres +/-.



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 NUMBER 16597,
EXPIRATION DATE: 08-15-2025

2024-0164-XA

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge
Office of Administrative Hearings

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

DATE: July 17, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0164-XA
Address: 8914 HINTON AVE
Legal Owner: Frances Lamka

Zoning Advisory Committee Meeting of July 8, 2024.

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) and is subject to Critical Area requirements. The applicant is proposing to permit a Class I, Shoreline, Fishing, and Shell-fishing Facility as well as an existing pier with a 2-foot setback from the established divisional line in lieu of the required 10-foot setback. The lot is waterfront and is within a Modified Buffer Area (MBA). Any proposed development must meet all LDA and MBA requirements, including lot coverage limits, MBA mitigation, and afforestation requirements. Lot coverage is limited to a maximum of 2,350 square feet, with mitigation required for any new lot coverage between 25% and 2,350 square feet. Lot coverage information was not provided. 15% afforestation (2 trees) is required on the property. Mitigation for any new impacts to the MBA will be required. The

proposed pier setback will not add additional impact to the MBA. 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 waterfront and is within a Modified Buffer Area (MBA). The property must meet all lot coverage, afforestation requirements, and any MBA mitigation requirements. If lot coverage, afforestation, and MBA mitigation requirements are met, this request will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

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

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

Reviewer: Libby Errickson

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 7/17/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

INFORMATION: Case Number: 2024-0164-XA
Property Address: 8914 Hinton Avenue
Petitioner: Francis Lamka
Zoning: DR 5.5
Requested Action: Special Exception and Variance

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

Special Exception - From 1B01.1.C8 to allow a Class 1, Shoreline, Fishing and Shellfish Facility in a DR 5.5 zone (1B01.1.C.8 (7) Such uses shall be governed by the provisions of Sections 500.4, 1A01.2.C.9, 1A02.2.B.10, 1A04.2.B.7 and 1B01.1.C.8.).

Variance - To approve an existing pier with a 2' setback from the divisional line in lieu of the required 10' setback

The subject site is a 7,400 square foot lot with a three-story single-family home facing the Back River in Sparrows Point. The property sits alongside a public access area known as Ninth Street Park that allows for access to the river by smaller watercraft.

The site is improved with an existing 6' x 45' pier which has a 2' side set back directly adjacent to the forementioned public access area. The owner of the property would like to extend the pier from the 12' x 15' platform of the existing pier by 50' and add a boat lift as shown on the site plan provided. The current side setback at the point of the current platform is 4'. The proposed 50' pier extension starting from the opposite side of this platform would meet the required 10' setback from the mean division line from that point on.

There are currently two open code enforcement complaints associated with this property. The first was on 03/23/2023, complaint number CC2302485, where a number of residents have complained to their association related to commercial crabbing, retail sales, dead crabs and debris along the water's edge and beaches, and use of a county road ending for personal storage related to their commercial crabbing business. The second complaint was taken on 4/9/2024 taken by 311 (Id: 206212) where the caller stated the resident has a large number of crab pots piled up on the property in open view.

In the past there have been other code complaints regarding the crabbing business dating back to 2018. The complaints site “junk, debris, boat trailers, crab traps and boats stored on the property, or stored within the property boundaries of the county’s public boat ramp”. These complaints appear to have been closed but all cite the same reoccurring issues in relation the fishing and crabbing business.

A site visit was made to the subject property at 8914 Hinton Avenue by Department of Planning on July 16, 2024. Upon arrival there were no crab pots visible at the subject site and the yard and pier were well kept, free of any “junk, debris, trailers or boats in the yard”. The waterfront under the pier was clean and free of any dead crabs or debris as previously cited in the code complaints. However, during the site visit, it was noticed that the adjacent property on the opposite side of “Ninth Street Park” had many crab pots stacked high all along the side of the property and pier in plain view. There were crab debris under the pier and in the water as well as equipment or junk in the yard, pier and beach front. The adjacent property seemed to fit more with the described code complaints as previously mentioned.

The subject site is within the boundaries of the Eastern Baltimore County Revitalization Strategy and the Greater Dundalk-Edgemere Community Conservation Plan. Both plans emphasize economic development, community conservation and waterfront enhancement. The spirit and intent of the requested special exception does seem to support the community plan as long as the business is operated with respect and consideration to its waterfront residential community.

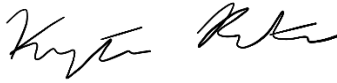
The Department of Planning would support the requested special exception under 1B01.1.C.8 for a Shoreline fishing and shellfish facilities with the following stipulations:

1. Provide a privacy fence along each side of the property. The fence should be wood or chain link with mesh screening and comply with current zoning standards by way of permit review and approval.
2. The county owned public right-of-way side of the property known as “Ninth Street Park” should not be used for any storage, parking, or to support any commercial activities associated with the special exception commercial use.
3. The commercial fishing business is a “water dependent” business and therefore subject to Maryland State COMAR regulations and any associated Baltimore County Environmental regulations.
4. Confirm with the Baltimore County Department of Environmental Protection and Sustainability if any environmental regulations would apply and if a site plan review is required. EPS can be reached at 410-887-3733 for comment.
5. Any open code complaints and issues cited by the neighborhood association should be resolved prior to any special exception use or granted relief for a commercial business.

The Department of Planning would approve of the requested variance for a 2’ setback from the divisional line in lieu of the required 10’ setback for the existing pier. In addition, Planning would support the proposed 50’ pier extension as shown on the submitted site plan which does meet the 10’ minimum mean line of division setback.

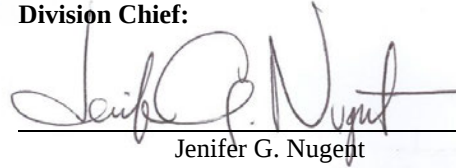
For further information concerning the matters stated herein, please contact Shawn Frankton at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Francis Lamka, Petitioner and Owner
Jennifer Busse – Rosenberg Martin Greenberg, LLP, Attorney for the Petitioner
Maria Mougridis, Community Planner, Department of Planning
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: July 3, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0164-XA

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPR: In a 100-year FEMA floodplain AE Zone BFE 5/6 NAVD88, BC AE Zone BF 5 NAVD88.

DPW-T: A) The property is within the Tidal Special Flood Hazard Area Zone AE (BFE=7.7) per panel FIRM 2400100560F dated 9/26/08. Must comply with Flood Plain Ordinance, See County Bill 6-24, 40-15 (the latest edition of the Baltimore County Code) and Bill 42-15, and Section 32-4-414 of Article 32, Title 4 of the Baltimore County Code, 2003, as amended. The LiMWA is not on the property.

Landscaping: No comment.

Recreations & Parks: No comment LOS & No Greenways affected.



Certificate of Posting

Case# 2024-0164-XA

Petitioner/Developer

Rosenberg Martin Greenberg

Jennifer Busse

Date of Hearing/Closing

August 12, 2024

Baltimore County Department of Permits and Management

County Office Building Room 111; 111 West Chesapeake Ave. Towson Md. 21204

Attention:

Ladies and Gentlemen:

This is to certify under penalties of perjury that the necessary sign/signs required by law were posted conspicuously on the property located at

8914 Hinton Avenue on July 19, 2024. Signs 2A & 2B

Sincerely, Martin Ogle

Martin Ogle

9912 Maidbrook Road

Parkville, Md. 21234

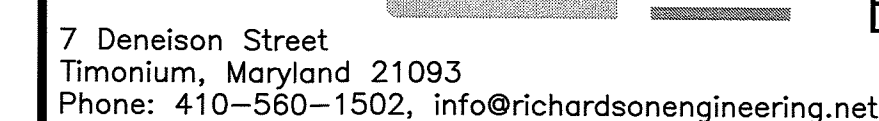
443-629-3411



SCALE: 1" = 1000'

1. OWNER: FRANCIS LAMKA
JOANNE V. LAMKA
8914 HINTON AVENUE
BALTIMORE, MD 21219-1859
2. SITE AREA: 7.400 SQ. FT. OR 0.17 AC.±
3. USES:
EXISTING: RESIDENCE
PROPOSED: RESIDENCE
4. UTILITIES:
PUBLIC WATER & SEWER
5. DEED REF: 11152/159
6. TAX ACCOUNT: #1504870050
7. COUNCILMANIC DISTRICT: 7TH
8. ZONING: DR--5.5
(PER 1"=200' ZONING MAP 112B2)
9. TAX MAP: 112, GRID 15 PARCEL: 4, LOT 136
PLAT OF 'SWAN POINT' 7/162
10. SITE LIES WITHIN ZONE "AE--5" AND "AE--6" OF FLOOD INSURANCE RATE MAP
(FIRM) PANEL #2400100560F DATED MAY 5, 2014.
11. THERE ARE NO KNOWN PREVIOUS ZONING CASES.
12. PREVIOUS PERMITS: B8412474 TO CONSTRUCT A 20' PIER EXTENSION AND BOAT
LIFT
13. B877384 TO CONSTRUCT A 3RD STORY ADDITION AND DECK OVER EX SUNROOM
14. SITE LIES WITHIN THE CHESAPEAKE BAY CRITICAL AREA. (LDA)
15. THE PROPERTY AND THE STRUCTURES ARE NOT HISTORIC.
15. SETBACKS: (WATER SIDE IS FRONT)

	REQUIRED	PROVIDED
FRONT	30'	37'±
SIDE	10'	7'±
REAR	30'	59'±



8914 HINTON AVENUE
BALTIMORE COUNTY MARYLAND
15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT

REVISIONS	DRAWN BY: LNR	CHECKED BY: PCR	SCALE: 1" = 20'
	DATE: 06/21/24	JOB NO.: 24088	SHEET NO.: 1 OF 1



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
NUMBER 16597, EXPIRATION DATE: 08-15-2025

2024-0164-XA



112A2
SE 6-J

DR 5.5
15 ED

7 CD

112B2

HINTON AVE

9TH ST

1507581320
Lot # 132

Pt. Bk. 0000007, Folio 0162
1512591010
Lot # 133

1504001180
Lot # 134

Pt. Bk./Folio # 007163
1513208790
Lot # 135

1504870050
Lot # 136

Pt. Bk. 0000007, Folio 0163
PAI # 15032525
PAI # 150325

1987-012

8912
1504750980
Lot # 154

Lot # 155
1510452740
1990-0245-A

8908
1519390681
Lot # 156
Pt. Bk./Folio # 007162

Lot # 137 1504750981

2809

Lot # 138 1508303212
Pt. Bk./Folio # 009004

2805

1508303211
Lot # 139

1522450060
Lot # 157

Pt. Bk. 0000009, Folio 0005

Lot # 152
8942
15001009

2100010097
Lot # 152

Pt. Bk./Folio # 078018
Pt. Bk. 0000078, Folio 0018

2024-0164-XA

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: 2024-01641-A
Property Address: 8914 Hinton Ave.
Legal Owners (Petitioners): Frances Lamka
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Jennifer Busse - Rosenberg Martin
Address: 25 S. Charles St.
21st Floor
Balto. MD 21201
Telephone Number: 410-727-8647

*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.

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

No. 231823

Date: 6-27-2024

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		0150				1,000.00

Total: 1,000.00

Rec From: 8914 Hinton Ave

For: 2024-0164-XA

DISTRIBUTION

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

CASHIER'S
VALIDATION



Rosenberg
Martin
Greenberg LLP

ATTORNEY OPERATING ACCOUNT
25 SOUTH CHARLES STREET, 21ST FLOOR
BALTIMORE, MARYLAND 21201
(410) 727-6600



60-1809/433

90405

PAY: Five Hundred Dollars and 00/100

NUMBER

DATE

AMOUNT

90405

6/25/2024

500.00

TO THE
ORDER
OF

Baltimore County

VOID AFTER 90 DAYS



Francis Lamka

⑈090405⑈ ⑆043318092⑆ 60⑈1521⑈0⑈

JOANNE V LAMKA
FRANCIS LAMKA
8914 HINTON AVE
BALTIMORE, MD 21219-1659

2289

7-7115/2520
00008

CHECK ARMOR

Pay to the
Order of Baltimore County
Five hundred

\$ 500.00

Dollars



BayVanguard Bank

Built on Tradition Focused on Community

For Petition for zoning

Francis Lamka

Photo
Safe
Deposit
Details on back

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 - 1504870050

Owner Information

Owner Name: LAMKA FRANCIS
LAMKA JOANNE V

Mailing Address: 8914 HINTON AVE
BALTIMORE MD 21219-1659

Use: RESIDENTIAL
Principal Residence: YES
Deed Reference: /11152/ 00159

Location & Structure Information

Premises Address: 8914 HINTON AVE
BALTIMORE 21219-1659
Waterfront

Legal Description: 8914 HINTON AVE
SWAN POINT

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0112 0015 0004 15140131.04 0000 136 2024 Plat Ref: 0007/ 0162

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1923 2,016 SF 7,400 SF 34

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements
2 YES STANDARD UNITSIDING/4 2 full/ 1 half 2021

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2024	07/01/2023	07/01/2024
Land:	227,900	384,000		
Improvements	261,200	250,000		
Total:	489,100	634,000	489,100	537,400
Preferential Land:	0	0		

Transfer Information

Seller: DYMOWSKI LEO JOHN/ANN J	Date: 08/03/1995	Price: \$170,000
Type: ARMS LENGTH IMPROVED	Deed1: /11152/ 00159	Deed2:
Seller: DYMOWSKI LEO JOHN	Date: 12/23/1992	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /09522/ 00005	Deed2:
Seller: DYMOWSKI LEO J	Date: 09/30/1980	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /06211/ 00312	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: Approved 03/22/2017

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2024-0164-XA