

IN THE MATTER OF
RUSHLEY ROAD PROPERTY
(aka Cromwell Ridge)
1907 Rushley Road
Baltimore, MD 21234

RE: DEPS Tracking No: 05-11-1404 for Forest
Buffer Variance per § 33-3-106 of the Baltimore
County Code; and
DEPS Tracking No: 05-11-1408 regarding
Protection of Water Quality Etc. per
§ 33-3-101 to § 33-3-120 of the Baltimore
County Code

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: CBA-12-031 and
* CBA-12-032
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OPINION

These cases are before the Board on appeal from letters issued by the Department of Environmental Protection and Sustainability (DEPS) with respect to various environmental issues concerning the property. The Applicant, Craftsman Developers, LLC proposes to develop the property to be known as Cromwell Ridge.

Oral Argument was held before the Board on February 22, 2012. John B. Gontrum, Esquire and Whiteford, Taylor & Preston, LLP represented Craftsman Developers, LLC. J. Carroll Holzer, Esquire, represented Cromwood Coventry Community Association and various other property owners. The Board held a public deliberation and issued an oral opinion at the conclusion of the hearing and indicated that a written opinion would follow.

Decision

Appellants contended that the appeal was not perfected because of the failure of the Appellees to submit the fee required to be paid at the time of filing of the appeal with DEPS.

Testimony proffered by the Appellees indicated that at the time the appeal was filed, the employees at DEPS refused to take the filing fee, indicating that they did not feel that an appeal was authorized under the County Code. Subsequently the required fee was paid approximately 10 days after the filing of the appeal. At the time of the filing of the appeal Mr. Holzer was not representing the Appellees.

In addition to the issue with respect to the filing of the fee, the Appellants indicated that it was their position that the letters, with the exception of the ruling of by the Director of DEPS on the Forest Buffer issue, were not final decisions of the Department and therefore were not appealable to the Board. It was determined that a hearing was being conducted before an Administrative Law Judge of the County with respect to the development plan proposed by the Appellants and that this matter would be litigated before the ALJ. The question of the Forest Buffer approval was an issue that could be appealed to the Board. The Appellees argued that the Board could hold the case sub curia until such time as a decision was issued by the Administrative Law Judge with respect to the approval of the development plan and the environmental issues with the exception of the forest buffer issue. Whether the development plan is approved or not approved, an appeal could be taken to this Board. The Board could then hear argument on the development plan, and then hear the forest buffer issue de novo.

The Board determined that it would hold this matter sub curia. It felt that the citizens made a good faith attempt to file the appeals in a timely manner even though they were without counsel. They did present a check to DEPS who refused to accept the appeal and check at that time.

ORDER

THEREFORE, IT IS THIS 29th day of February, 2012 by the Board of Appeals of Baltimore County it is hereby

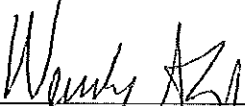
ORDERED that the appeals in case numbers CBA-12-031 and CBA-12-032 will be held sub curia by the Board until such time as an appeal may be taken this Board with respect to any development plan and environmental issues that are final in nature from the Department of Environmental Protection and Sustainability or the disposition of the matter is made.

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*.

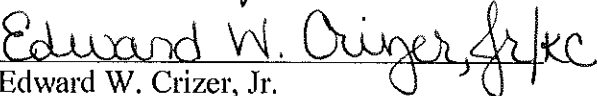
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Panel Chair



Wendy A. Zerwitz



Edward W. Crizer, Jr.