

IN THE MATTER OF
MICHAEL C. LAM - PETITIONER
6803 Woodrow Avenue
Baltimore, MD 21224

Re: Petition for Variance

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 17-003-A

* * * * *

REMAND ORDER

This matter comes before this Board on appeal of the denial by the Administrative Law Judge (“ALJ”) as contained in the Opinion and Order dated September 19, 2016 regarding a Petition for Variance from §§1B02.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit a proposed single family dwelling to be on a parcel 50’ wide and have a front yard setback of 31’ in lieu of the required 55’ and front yard average of 37.7’, respectively, and from the denial by the ALJ of a Motion for Reconsideration dated October 12, 2016.

On or about November 22, 2016, the Petitioner, Michael C. Lam, (“Mr. Lam”) filed with this Board, *pro se*, a document styled “Amendment to Petition for Zoning Hearing” (the “Amended Petition”). In the Amended Petition, Mr. Lam sought relief under BCZR §304 entitled “Use of Undersized Single-Family Lots” (a “304 Case”).

This Board held a *de novo* hearing on December 15, 2016. Mr. Law appeared *pro se*. Peter Max Zimmerman, People’s Counsel for Baltimore County, attended the hearing. Also in attendance were Protestants David Dannenman and Frank Jording. Following the hearing, the Board publically deliberated.

Decision

Prior to the Board’s deliberation, People’s Counsel advised the Board that a 304 case involves

a process which is separate and apart from a request for variance relief under BCZR §307. People's Counsel further advised that this Board would not have jurisdiction to consider a 304 Case without the appropriate application having first been filed, and proper procedures having been followed, as set forth in BCZR §304 *et seq.* We agree.

Consistent with the Majority Opinion as written *In the Matter of Carol Lynn Morris/C.G. Homes*, Case No.: 15-302-SPHA, this Board's authority to hear a case *de novo* is an exercise of appellate jurisdiction rather than original jurisdiction. *Halle Companies v. Crofton Civic Ass'n*, 339 Md. 131, 143; 661 A.2d 682, 687-88 (1995). See also *Hardy v. State*, 279 Md. 489, 492, 369 A.2d 1043, 1046 (1977).

Mr. Lam and People's Counsel consented to this Board issuing the instant Remand Order such that this case would be remanded to the ALJ with instructions to remand this case to the appropriate County agencies as designated in BCZR §304. Mr. Lam agreed to file the application for a 304 case and to follow the proper procedures as set forth in BCZR §§304.2, 304.3, 304.4, 304.5 and if necessary, 304.6. Mr. Lam further understood and acknowledged that this Remand Order is *not* an approval to obtain a building permit under BCZR §304, but rather a procedural necessity to commence a 304 Case.

People's Counsel and the Protestants agreed that when the case is heard on the merits, they would not object to the filing of a 304 Case on any procedural grounds, including *res judicata* and *collateral estoppel*.

ORDER

Upon consideration of the arguments of the Parties at the hearing, it is this 12th day of

January, 201 7, by the Board of Appeals of Baltimore County,

ORDERED that said above-captioned case be, and it is hereby **REMANDED** to the

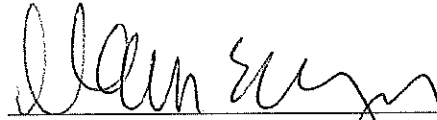
In the matter of: Michael Lam
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Administrative Law Judge with instructions to **REMAND** the case to the appropriate County agencies as set forth in BCZR §304; and it is further,

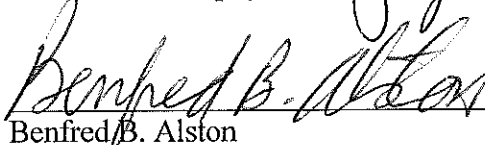
ORDERED, that Mr. Lam shall file the appropriate application and follow the proper procedures as set forth in BCZR §304.2, §304.3, §304.4, §304.5 and if necessary, §304.6 on appeal to this Board; and it is further,

ORDERED, that neither People's Counsel nor the Protestants shall oppose the 304 Case any procedural grounds, including *res judicata* and *collateral estoppel*.

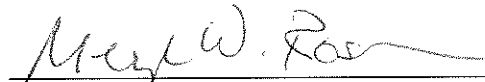
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Maureen E. Murphy, Panel Chairman



Benfred B. Alston



Meryl W. Rosen



Board of Appeals of Baltimore County

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January 12, 2017

Michael C. Lam
2709 Louise Avenue
Baltimore, Maryland 21214

RE: *In the Matter of: Michael C. Lam*
Case No.: 17-003-A

Dear Mr. Lam:

Enclosed please find a copy of the Remand 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,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure

c: David Dannenman
Frank Jording
Ebenezer Olarewaju
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Deputy Administrative Officer and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law