

IN THE MATTER OF:	*	BEFORE THE
CANTERBURY PROPERTY, LLC -	*	BOARD OF APPEALS
LEGAL OWNER	*	
RIGGS, LLC – CONTRACT PURCAHSER	*	OF
(Hyde Park Overlook, 4 th Amended CRG	*	
15 th Election District	*	BALTIMORE COUNTY
7 th Councilmanic District	*	
	*	Case No. 18-319-A and CBA 19-011

* * * * *

CONSENT ORDER

This matter comes before the Board of Appeals of Baltimore County as an appeal filed by Protestant, The Rockaway Beach Improvement Association, Inc., from decisions of the Hearing Officer for Baltimore County, dated September 19, 2018 and October 24, 2018, in which the Hearing Officer approved a red-lined County Review Group (“CRG”) Plan (the “Red-lined CRG Plan”), as well as five variances that were requested to facilitate the improvements depicted on the CRG Plan.

The Developer, Riggs, LLC, is the contract purchaser of several adjoining parcels of land located south and east of the intersection of Back River Neck Road and Middleborough Road, in the Middle River area of Baltimore County. The original CRG plan (the “Original CRG Plan”), was filed for 125 townhomes and four single-family dwellings on the subject property, which is zoned BM (Business, Major). The Petition for Variance that accompanied the Original CRG Plan requested: (1) for the single family house on Lot 127, a variance to permit a 6-foot side-yard setback in lieu of the required 15 feet; (2) for townhouse Lots 75 through 113, a variance to permit a 25-foot rear yard setback, in lieu of the required 30 feet; (3) for Lots 70 & 71, a variance to permit a side building face to side building face setback of 21 feet, in lieu of the required 25 feet; (4) for Lots 22 through 28 and Lots 29 through 35, a variance to permit seven units in a row, in

lieu of the maximum permitted six; and (5) for all townhouse Lots to have an 8 foot deep deck to extend into the rear yard, which would exceed the 25% maximum projection into the yard.

The Hearing Officer approved the Red-lined CRG Plan, which included a handful of changes depicted in red on the plan (made to accommodate comments of County reviewing agencies), and the Hearing Officer likewise approved the variances. The Protestant appealed the Hearing Officer's decision to this Board.

At the outset of the hearing, the parties announced that they had reached a settlement. In short, the parties agreed as follows: (i) the Developer would withdraw its petition for three of the five variances; (ii) the parties would jointly request approval by the Board of a revised CRG plan that made a handful of minor adjustments necessary to accommodate the withdrawal of the variances, including the elimination of three lots/units; and (iii) the Protestant would withdraw its appeal of the remaining two variances, such that the Hearing Officer's approval of those variances would be final. The parties then introduced, as Joint Exhibit 1, a copy of a settlement agreement and requested that it be incorporated into the Board's order on this matter, which the Board will do.

Next, the Board permitted counsel for the Developer to provide a little more detail regarding the parties' settlement, including the introduction of a Red-lined/Green-lined CRG Plan (as Joint Exhibit 2, the "Green-lined CRG Plan") and an explanation of the modest changes to the Red-lined CRG Plan necessary to accommodate the Developer's withdrawal of the three variances. Specifically, counsel explained that the Developer's engineer used the Red-lined Plan approved by the Hearing Officer as the base plan, then implemented a handful of changes shown in green (on the Red-lined/Green-lined CRG Plan) in substance as follows: (i) former Lots 22 through 129 have been renumbered in green, to reflect the removal of the three lots/units, as described in greater

detail below; (ii) the variance identified on the Red-lined CRG Plan as “V-1” has been stricken and adjustments have been made to former Lot 127 (new Lot 124) to respect the required 15-foot setback on that lot; (iii) the variance identified on the Red-lined CRG Plan as “V-3” has been stricken and adjustments have been made to eliminate former Lot 71 and to expand the size of former Lot 70 (new Lot 68); (iv) the variance identified on the Red-lined CRG Plan as “V-4” has been stricken and adjustments have been made to eliminate former Lots 22 and 35 and to expand the size of former Lots 23 and 34 (new Lots 22 and 33, respectively); and (v) Notes 6, 9, and 10 have been updated to reflect the elimination of the three lots and the corresponding parking and open space computations.

Counsel for the Protestant confirmed that the contents of the Red-lined/Green-lined CRG Plan and the proffer provided by counsel for the Developer were accurate and consistent with the agreement of the parties. Counsel for the Protestant further formally withdrew the Protestant’s appeal of the remaining variances (shown on the Green-lined CRG Plan as “V-2” and “V-5,” which results in the Hearing Officer’s decision on those two variances being final). Finally, Counsel for both parties jointly requested that the Board of Appeals facilitate the agreement of the parties and the disposition of the appeal of the Hearing Officer’s approval of the Red-lined CRG Plan by accepting the Joint Exhibits into evidence and formally approving the Red-lined/Green-lined CRG Plan.

Upon review of the record before the Hearing Officer, the additional evidence and proffered testimony presented to the Board, and in consideration of the parties’ settlement agreement and their mutual desire to facilitate the development of the Property in accordance with the Red-lined/Green-lined CRG Plan, the Board will approve that plan. The Board recognizes that County reviewing agencies each recommended approval of the Red-lined CRG Plan, and the

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Hearing Officer, as finder of fact, credited that testimony together with that of the Developer's witness regarding the Red-lined CRG Plan when approving that plan as being in conformance with all applicable County laws, policies, rules, and regulations. Further, the Red-lined/Green-lined CRG Plan was prepared by Developer's engineers with D.S. Thaler and Associates, and Mr. David Thaler appeared at the hearing before the Board and his proffered testimony supported the fact that the modest changes depicted on the Red-lined/Green-lined CRG Plan were consistent with applicable County laws, policies, rules, and regulations. Therefore, the Board shall approve the Red-lined/Green-lined CRG Plan, accepted as Joint Exhibit 2, as being in conformance with applicable County laws, policies, rules, and regulations.

THEREFORE, IT IS this 26th day of February, 2019, by the Board of Appeals of Baltimore County

ORDERED, that the Red-lined/Green-lined CRG Plan, marked and accepted into evidence as Joint Exhibit 2, be and is hereby APPROVED; and it is further

ORDERED that the Petition for Variance in case number 18-319-A, as shown and indicated as "V-1," "V-3," and "V-4" on the Red-lined/Green-lined CRG Plan be and are hereby DISMISSED AS MOOT; and it is further

ORDERED that Protestant's appeal of the Petition for Variance as shown and indicated as "V-2" and "V-5" on the Red-lined/Green-lined CRG Plan, be and is hereby DISMISSED; and it is further

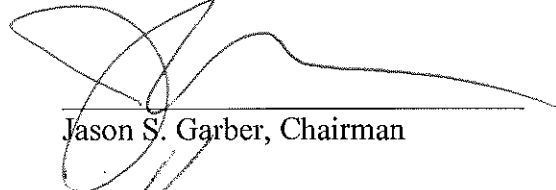
ORDERED that the settlement agreement between the parties, which was marked and accepted into evidence as Joint Exhibit 1, be and is hereby incorporated into this Order by reference; however, notwithstanding the incorporation of this agreement, the Developer or future owners of the Property may seek to amend the approved CRG Plan without obtaining the prior

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permission of the Protestant, and Protestant or any other person or entity may protest any such amendment to the approved CRG Plan that seeks to increase density, without breaching said settlement agreement.

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*.

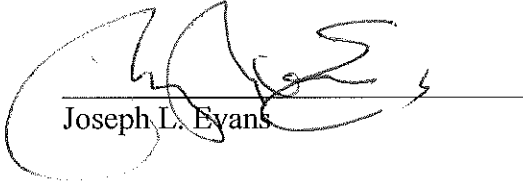
**BOARD OF APPEALS OF
BALTIMORE COUNTY**



Jason S. Garber, Chairman



Kendra Randall Jolivet



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Board of Appeals of Baltimore County

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February 26, 2019

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RE: In the Matter of: *Canterbury Property, LLC – Legal Owner*
Riggs, LLC – Contract Purchaser
Case Nos.: 18-319-A and CBA-19-011

Dear Counsel:

Enclosed please find a copy of the Consent 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 Hay".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Pamela F. Newland/Canterbury Property, LLC
Edward W. Gold, Managing Member/Riggs, LLC
Kim Goodwin-Maigetter, President/Rockaway Beach Improvement Association, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Lloyd Moxley, Planner/Department of Planning
Jeff Mayhew, Acting Director/Department of Planning
Jan Cook, Development Manager/PAI
Michael Mohler, Acting Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law