

IN THE MATTER OF

Jerry Phillips  
*Property Owner*

19735 Graystone Road  
White Hall, MD 21161

7th Election District  
3<sup>rd</sup> Councilmanic District

\* BEFORE THE  
\* BOARD OF  
\* APPEALS OF  
\* BALTIMORE COUNTY  
\* **Case No.: 2018-072-X**  
\*

\* \* \* \* \*

**ORDER OF REMAND**

This matter comes before the Baltimore County Board of Appeals as a *de novo* appeal of the January 3, 2018 decision of Administrative Law Judge John E. Beverungen of the Office of Administrative Hearings related to the above captioned matter. In his Opinion and Order, ALJ Beverungen granted a Petition for Special Exception, with conditions, for development of an 840 kilowatt (kW) A/C ground-mounted solar facility filed herein by Jerry Phillips, purported legal owner, and Forefront Power, LLC, lessee (collectively the “Petitioners”). The subject property is approximately 50.54 acres in size and zoned RC-2. The special exception petition was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 4f.101, et seq. to approve a solar facility.

**WHEREAS**, the Petition for Special Exception, filed September 1, 2017, identified Jerry Phillips as legal owner of the subject property; and

**WHEREAS**, Jerry Phillips is the principal of Phillips Development LLC; and

**WHEREAS**, Phillips Development LLC is the actual legal owner in title of the subject property; and

**WHEREAS**, Phillips Development LLC, as owner of the subject property, intends to lease a portion thereof to Forefront Power, LLC for the purpose of constructing a solar facility; and

**WHEREAS**, Forefront Power, LLC (Co-Petitioner/Lessee) was a Maryland LLC in good standing at the time the Petition for Special Exception was filed; and

**WHEREAS**, during proceedings before the County Board of Appeals, certain Protestants, through their counsel, H. Barnes Mowell, Esquire, provided evidence indicating that Forefront Power, LLC's charter was or is about to be, forfeited with Maryland State Department of Assessment and Taxation ("SDAT"); and

**WHEREAS**, while a business entity is required to maintain its good standing, Petitioners submit a failure in that regard was not deliberate and will be corrected by the filing of the appropriate paperwork with SDAT; and

**WHEREAS**, the parties herein, to wit, Jerry Phillips, Phillips Development, LLC, Forefront Power LLC, all by and through their attorney, Lawrence E. Schmidt, as well as the Office of People's Counsel of Baltimore County, and the Protestants hereinabove referenced, hereby agree that the matter should be remanded to the Administrative Law Judge for the filing of an amended Petition for Special Exception and for further proceedings thereon as are appropriate and necessary, including a public hearing; and

**WHEREAS**, by remand and amendment, the amended petition shall be considered as part of and a continuation of the proceedings in Case No. 2018-0072-X, and not considered a new filing and/or different matter; and

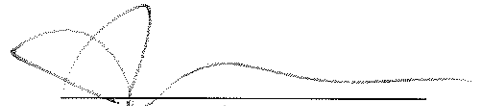
**THEREFORE, IT IS THIS** 16<sup>th</sup> day of <sup>January, 2019</sup> ~~December, 2018~~ by the County Board of Appeals,

**ORDERED** that pursuant to the agreement of the parties, the above captioned case number 2018-0072-X is hereby REMANDED to the Administrative Law Judge for Baltimore County for further proceedings, including the refiling of an amended Petition for Special Exception correcting the identification of the proper Petitioners; and


**ORDERED** that after such filing, the amended Petition for Special Exception be concluded at a public hearing before the Administrative Law Judge for Baltimore County within 45 days of the date of this Order.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS  
OF BALTIMORE COUNTY**

  
\_\_\_\_\_  
Jason S. Garber, Panel Chairman

  
\_\_\_\_\_  
Deborah C. Dopkin

  
\_\_\_\_\_  
Kendra Randall Jolivet

APPROVED as to substance and form.

  
\_\_\_\_\_  
Lawrence E. Schmidt

  
\_\_\_\_\_  
H. Barnes Mowell

  
\_\_\_\_\_  
Carole DeMilio



## Board of Appeals of Baltimore County

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SECOND FLOOR, SUITE 203  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND, 21204  
410-887-3180  
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January 16, 2019

Lawrence E. Schmidt, Esquire  
Smith, Gildea & Schmidt, LLC  
600 Washington Avenue, Suite 200  
Towson, Maryland 21204

Carole S. Demilio, Esquire  
Office of People's Counsel  
The Jefferson Building, Suite 204  
105 W. Chesapeake Avenue  
Towson, Maryland 21204

H. Barnes Mowell, Esquire  
H. Barnes Mowell, P.A.  
16925 York Road  
Monkton, Maryland 21111

RE: In the Matter of: *Jerry Phillips – Property Owner*  
Case No.: 18-072-X

Dear Messrs. Schmidt, Mowell and Demilio:

Enclosed please find a copy of the Order on Remand to the Administrative Law Judge 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.

Very truly yours,

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

Krysundra "Sunny" Cannington  
Administrator

KLC/taz  
Enclosure  
Multiple Original Cover Letters

c: See Attached Distribution List

Jerry Phillips -- Property Owner  
Distribution List  
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Jerry Phillips  
Brian Maliszewski/ForeFront Power, LLC  
Lisa Arthur  
Emma Arthur  
Lynne Jones  
James Baseman  
Nancy Clark Vitek  
Donna Saucier  
Tammy Roth  
Kenneth Thompson  
Theodore and Joyce Goloboski  
Dennis Roth  
Cody Roth  
Donald F. Dill, Jr.  
Jen McGuire  
Michael and Marsha Chilcoat  
Donna Warren  
Jim and Nancy Palm  
Richard and Linda Boyce  
Donald and Diane Kincaid  
Wayne and Harriet McGinnis  
Brett McGinnis  
Anne Jones  
Jay McGinnis  
Douglas Shepperd, Sr.  
Douglas Shepperd, Jr.  
Cindy and David Buschman  
Ellie and Doug Price  
Lawrence M. Stahl, Managing Administrative Law Judge  
Jeff Mayhew, Acting Director/Department of Planning  
David Lykens, Acting Director/DEPS  
Vishnu Desai, Supervisor/Bureau of Development Plans Review  
Michael Mohler, Acting Director/PAI  
Nancy C. West, Assistant County Attorney/Office of Law  
Michael E. Field, County Attorney/Office of Law