

IN THE MATTER OF:  
SIDNEY H. SMITH, JR.  
8406 COVE ROAD  
BALTIMORE, MARYLAND 21222

RE: Fence Waiver request 72 inch fence in  
Front yard

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No: CBA-14-016

\* \* \* \* \*

**REMAND ORDER TO THE BUILDING ENGINEER**

This matter comes before this Board on appeal filed by Jason Vettori, Esquire on behalf of Sidney H. Smith, Jr. from a decision of the Building Engineer dated September 24, 2013, in which the requested Administrative Waiver of Building Code Fence Height Limitations requesting a 72 inch fence located in the front yard was denied.

**WHEREAS**, The Baltimore County Building Code Part 122.4 states in part:

“...Any Appeal from the decision of the Building Official or his designee will be pursuant to section 32-4-281 of the Baltimore County Code, 2003...”

**WHEREAS**, Baltimore County Code section 32-4-281(e)(1) states:

(e) *Actions by Board of Appeals.*

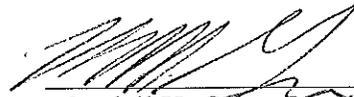
- (1) In a proceeding under this section, the Board of Appeals may:
  - (i) Remand the case to the Hearing Officer;
  - (ii) Affirm the decision of the Hearing Officer; or
  - (iii) Reverse or modify the decision of the Hearing Officer if the decision:
    1. Exceeds the statutory authority or jurisdiction of the Hearing Officer;
    2. Results from an unlawful procedure;
    3. Is affected by any other error of law;
    4. Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
    5. Is arbitrary or capricious.

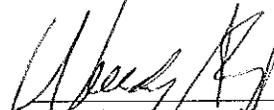
**WHEREAS**, the Board convened for a hearing on November 26, 2013. It was brought to the attention of the Board of Appeals that even though a hearing was requested, no hearing was held by the Building Engineer or his designee. Absent a record, the Board is unable to perform a record review as allowed by the above Code sections.

IT IS THEREFORE, this 23<sup>rd</sup> day of December 2013, by the Board of Appeals of Baltimore County,

**ORDERED** that the above captioned case number CBA-14-016 is hereby **REMANDED** to the Building Engineer for a hearing and written decision.

**BOARD OF APPEALS OF  
BALTIMORE COUNTY**

  
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Wendell H. Grier, Panel Chairman

  
\_\_\_\_\_  
Wendy A. Zerwitz

  
\_\_\_\_\_  
David L. Thurston



## Board of Appeals of Baltimore County

JEFFERSON BUILDING  
SECOND FLOOR, SUITE 203  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND, 21204  
410-887-3180  
FAX: 410-887-3182

December 23, 2013

Jason Vettori, Esquire  
Smith, Gildea & Schmidt, LLC  
600 Washington Avenue, Suite 200  
Towson, Maryland 21204

RE: *In the Matter of: Sidney H. Smith, Jr. – Applicant/Appellant*  
Case No.: CBA-14-016

Dear Counsel:

Enclosed please find a copy of the Order of Dismissal 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

Enclosure

c: Sidney H. Smith, Jr.  
Jack A. Schepleng, Sr.  
Wilhelmina Watnoski  
Lawrence Stahl, Managing Administrative Law Judge  
Donald Brand, Building Engineer/PAI  
Arnold Jablon, Director/PAI  
Nancy C. West, Assistant County Attorney  
Michael Field, County Attorney