

IN THE MATTER OF:  
JAMES A. WEIMER  
4116 BEACHWOOD ROAD  
BALTIMORE, MARYLAND 21222

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No: CBA-15-002

RE: Fence Waiver request for 6 foot high  
fence near left and right property lines  
running 19 feet from the front of the house  
toward the water

\* \* \* \* \*

**REMAND ORDER TO THE BUILDING ENGINEER**

This matter comes before this Board on appeal filed by Charles E. Yankovich, Esquire on behalf of William J. Titus, Appellant, from a decision of the Building Engineer dated July 16, 2014, granting an Administrative Waiver of Building Code Fence Height Limitations requesting a 6 foot high fence near left and right property line running 19 feet from the front of the house toward the water.

**WHEREAS**, Wendell H. Grier, Esquire entered his appearance on behalf of James Weimer, Applicant;

**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 §32-4-281 of the Baltimore County Code, 2003. Any Order by the Building Official granting a waiver shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

**WHEREAS**, Baltimore County Code §32-4-281(d) provides that appeals to this Board shall be heard on the record after argument:

(d) *Conduct of hearings.*

- (1) The Board of Appeals shall conduct a proceeding under this section by:
  - (i) Hearing oral argument of the parties; and
  - (ii) Receiving written briefs, if requested by any party to the proceeding.
- (2) At the Board's discretion, additional evidence and testimony may be allowed.

Further, §32-4-281(e)(1) outlines the actions that this Board may take as follows:

(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 October 15, 2014 and heard oral argument of counsel. The decision of the Building Engineer did not contain any findings of fact or reasons for his decision. In addition, there was no hearing held before the Building Engineer because no hearing was requested. Absent a record, the Board is unable to perform a record review as allowed by the above Code sections.

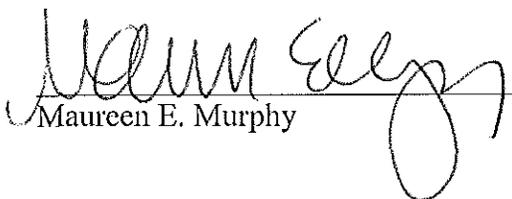
IT IS THEREFORE, this 30<sup>th</sup> day of October, 2014, by the Board of Appeals of Baltimore County,

ORDERED, that the above captioned case is hereby REMANDED to the Building Engineer for a hearing and written decision consistent with Baltimore County Building Code Part 122.4 specifying his findings of fact and reasons supporting his decision.

**BOARD OF APPEALS OF  
BALTIMORE COUNTY**

  
\_\_\_\_\_  
David L. Thurston, Chairman

  
\_\_\_\_\_  
Benfred B. Alston

  
\_\_\_\_\_  
Maureen E. Murphy



## Board of Appeals of Baltimore County

JEFFERSON BUILDING  
SECOND FLOOR, SUITE 203  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND, 21204  
410-887-3180  
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October 30, 2014

Wendell H. Grier, Esquire  
2225 St. Paul Street  
Baltimore, Maryland 21218

Charles E. Yankovich, Esquire  
600 Fairmount Avenue, #207  
Towson, Maryland 21286

RE: *In the Matter of: James A. Weimer*  
Case No.: CBA-15-002

Dear Counsel:

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  
Duplicate Original Cover Letter

c: James Allen Weimer  
William Titus  
Rondalyn Lotz  
Lawrence Stahl, Managing Administrative Law Judge  
Donald Brand, Building Engineer/PAI  
Arnold Jablon, Director/PAI  
Carl Richards, Zoning Supervisor/PAI  
Nancy C. West, Assistant County Attorney  
Michael Field, County Attorney