

From:  
Laura Blackwelder  
3256 Cannoncade Ct.  
Chesapeake Beach, MD 20732

9/19/2023

Dear Chairman Hoon-Starr and Members of the Town of Chesapeake Beach Board of Appeals,

Please consider my public comments, submitted with my request that they be made part of the public record for today's hearing on case #2023-03 below:

I do not know what the Town Attorney will advise regarding the appeal before you, but I do know that your board should not be in the position where it is expected to determine whether or not a moratorium was put in place and continued legally. Likewise, the Planning and Zoning Commission should not be asked to review site plans based on a zoning ordinance that may conflict with the recently adopted Comprehensive Plan and the subsequently updated zoning ordinance, unless this is ordered by a judge who has considered all the legal aspects relevant to the situation.

It would be unfortunate if alleged errors by Town Staff or elected leaders could result in any level of ambiguity regarding the legal disposition of 5 site plans submitted in January, 2021 by Rod & Reel, Inc. However, regardless of any administrative errors that may or may not have occurred, the foundational claim of this appeal, that the Rod & Reel/Donovan Estates, LLC were denied due process, is not accurate. The Donovans' and other agents of the Rod & Reel/Donovan Estates, LLC have been engaged throughout the process of Comprehensive Planning, Comprehensive Rezoning, and other zoning ordinance updates, as is evidenced by the many letters that they have sent, and the many comments that they and their agents have made during public meetings. On many occasions, their requests were honored.

While I understand that the Donovans' would like to see additional compromises through this appeal, the request that the Town overturn years of planning undertaken in consideration of very legitimate climate, infrastructure, and health and welfare concerns should not be entertained. This is a legal matter, and denial of this appeal will put this situation exactly where it belongs- in court.

Everyone involved with implementing the moratorium was aware of the potential for a legal challenge. It should be the case that the Town has ensured that there are no legal grounds for the Rod & Reel/Donovan Estates, LLC to circumvent the intent of Comprehensive Planning, or Comprehensive Rezoning.

In any case, the Board of Appeals is not an adequate or appropriate venue for considering an appeal of this scope. Instead, the appropriate process to determine legal grounds for the relief sought in this case is through civil litigation.

290-32 E (1) confines the powers and duties of the Board of Appeals regarding interpretation to questions "involving interpretation of any provision of this chapter." R-21-3, R-21-8, and the Town

Charter are not contained within Chapter 290 of the Town Code, and therefore are not subject to decisions by the Board of Appeals.

290-32 E (2) confines the powers and duties of the Board of Appeals regarding interpretation to questions where it is alleged that there is an error made "in the enforcement of this chapter." Chapter 290, and specifically Article VI Site Plans, which includes 290-23, 290-24, and 290-25 prescribes a process, but not a time period by which site plans must be taken up by the Planning Commission. As the relief sought in this appeal focuses on matters of timing, there is no basis within 290 A (1) or 290 A (6) for the Board of Appeals to grant the relief sought in this case.

Please deny this appeal based on the reasoning outlined above, which would route this appeal in a manner that is consistent with 290-7 A (1).

Thank you,

Laura R. Blackwelder

From:  
Laura Blackwelder  
3256 Cannoncade Ct.  
Chesapeake Beach, MD 20732

9/25/2023

Dear Chairman Hoon-Starr and Members of the Town of Chesapeake Beach Board of Appeals,

Please consider my public comments submitted for inclusion in the public record of the Board of Appeals hearing on case #2023-03 below. Following the presentation by Mr. Blitz, I would like to comment on the three topics listed below:

1. Interpretation of 290, Article VI
2. Reference to correspondence from Mr. Jakubiak
3. The introduction of a large volume of material that has not been provided in advance

I will do my best to be concise, considering the large volume of information that you have just received from Mr. Blitz, but unfortunately, item 1 requires an explanation and supporting details.

#### **1. Interpretation of 290, Article VI**

Mr. Blitz has asserted that the Planning and Zoning Commission is required to “approve, conditionally approve, or reject” site plans for multifamily dwellings “within 60 days from the filing of applications.”

I find this to be an erroneous interpretation of Chapter 290 for many reasons: (1) It is unlikely that our zoning ordinance would impose a demanding, inflexible timeline on the review of Category 1 site plans; (2) it is easy to imagine a variety of circumstances under which this simply could not be achieved; and (3) the text of Chapter 290 does not appear to suggest that the Planning and Zoning Commission is “required to approve, conditionally approve, or reject” site plans for multifamily dwellings “within 60 days from the filing of applications” at all.

Please evaluate an interpretation of Chapter 290, Article VI as it relates to the word “herein.”

#### **A.**

Please, consider section 290-25 A (2), where the word “herein” is critically important to the interpretation of the text:

(2) Approving authority.

#### **(a)**

Site plans for multifamily dwellings, senior housing projects, industrial and commercial buildings and developments, and mobile home parks shall be approved by the Planning and Zoning Commission as herein set forth.

#### **(b)**

Site plans for developments other than those referred to above, where required in this chapter, shall be prepared and submitted as described below and approved by the Planning and Zoning Commission.

Note that the heading **for 290-25 A (2)** is Approving authority, and that both subsections under this heading, 290-25 A (2)(a) and 290-25 A (2)(b), contain verbiage pertaining to the manner in which plans will be approved.

Now consider that the two subsections are distinct from each other first by a difference in the content of their subjects, and then by a difference in how each subject shall be approved.

1. In 290-25 A (2)(a), the subject is “Site plans for multifamily dwellings, senior housing projects, industrial and commercial buildings and developments, and mobile home parks.” The manner in which the subject identified in 290-25 A (2)(a) shall be approved is “as herein set forth.”
2. In 290-25 A (2)(b), the subject is “Site plans for developments other than those referred to above.” The manner in which the subject identified in 290-25 A (2)(b) shall be approved is “as described below.”

Logic dictates that because a clear distinction is made between the two types of site plans, and different language is used to describe the manner in which each of the two distinct types of site plans shall be approved, it follows that the manner in which each of the two distinct types of site plans shall be approved must be different.

While the meaning of the word “below,” in the phrase, “as described below,” is clear, the word “herein,” in the phrase, “as herein set forth” is more ambiguous. Because the word “herein” is ambiguous, it must be taken in context.

Using the context of 290-25 A (2), one would naturally conclude that, the more ambiguous word, “herein,” must have a meaning that equates to something different than the meaning of the clearly definable word, “below.” In short, “herein,” taken in context, would refer to something “not below.”

To lend further support to this interpretation, the first known use of the word “herein,” according to the Merriam-Webster.com Dictionary is “defined above.” (The citation for this information and screenshots from additional online sources that define the word “herein” are included at the end of this document).

When substituting the contextual meaning for the word “herein,” paragraph 290-25 A (2) should be read as follows:

- (2) Approving authority.  
**(a)**

Site plans for multifamily dwellings, senior housing projects, industrial and commercial buildings and developments, and mobile home parks shall be approved by the Planning and Zoning Commission as ~~herein set forth~~ defined above.

**(b)**

Site plans for developments other than those referred to above, where required in this chapter, shall be prepared and submitted as described below and approved by the Planning and Zoning Commission.

Interpreting 290-25 A (2) as suggested above would indicate that only site plans referenced in 290-25 A (2) (b) would be subject to the requirement found in 290-25 A (5), stating that “The Planning Commission shall approve, conditionally approve, or reject a site plan within 60 days from the filing of the application.” The site plan approval process for multifamily dwellings would be subject to the requirements of 290-23 C, which do not include a time requirement related to the filing of the application.

**B.**

For additional context, please consider 290, Article VI in its entirety.

The subtitle of Article VI is Site Plans. It includes 290-23, 290-24, and 290-25.

**290-23 Summary:** Subsection 290-23 is titled General Requirements, and outlines the process for approving site plans. An important distinction made in 290-23 is that site plans are separated into two categories, Category 1 and Category 2. 290-23 further outlines that Category 1 site plans require more information and are more impactful than Category 2 site plans, and that the review process for Category 1 site plans includes the Planning Commission, but the review process for Category 2 site plans does not. 290-23 states that Category 2 site plans are for “projects with minor impact,” and projects that “can be reviewed and approved in a shorter time period.” In 290-23, there are no specific time requirements imposed on the Planning Commission or the Zoning Administrator for initiating the site plan approval process, except that written notice must be provided to certain parties 10 days before the day of the meeting to discuss a Category 1 site plan.

As an aside, 290-23 F, states that “any person aggrieved by any decision made under this article may, **within 5 days** of such decision, appeal and have a determination made by the Board of Appeals.”

**290-24 Summary:** Subsection 290-24 is titled Site plan preparation. 290-24 details the information that is required on and with site plans. 290-24 outlines the requirements for Category 1 site plans in 290-24 (B) (1-19), and then outlines the requirements for Category 2 site plans in 290-24 (C) (1-7). 290-24 (B) (11) states of Category 1 site plans, “If the project is in the Critical Area, the project must also meet Critical Area **plan** requirements.” 290-24 does not indicate that an alternative review process for Category 1 site plans is required in the Critical Area.

**290-25 Summary:** Subsection 290-25 is titled Critical Area site plan preparation. 290-25 outlines both process requirements and information requirements specifically related to site plans for development in

the Critical Area. 290-25 puts additional requirements on site plan preparation, and like 290-23 and 290-24, 290-25 separates site plans into two categories. This separation is outlined in section 290-25 A (2) titled Approving Authority, which speaks to processing. In this section, 290-25 A (2) (a) includes plan types that are defined as Category 1 site plans in 290-23; and 290-25 A (2) (b) includes “site plans for development **other than** those referenced above.” Site plans referenced in 290-25 A (2) (b) would include plan types that would fall into Category 2 in 290-23. 290-25 A (5) requires that the Planning Commission review and approve certain site plans in the Critical Area, whereas those same plans could be approved by the Zoning Administrator, without Planning Commission review or approval if they were not in the Critical Area.

Following the consistent pattern of each subsection within Article VI, 290-23, 290-24, and 290-25, it can be summarized that each subsection identifies two categories of site plans; that those two categories must be treated differently due to differences in complexity and potential impact; that of those two categories, Category 1 site plans require a more rigorous review; and that 290-25 directs that both types of site plans will require more information if the proposed development is in the Critical Area than they would if the proposed development were not in the Critical Area.

When considering the internal logic of Article VI, you can find that Mr. Blitz’s assertion that the Planning and Zoning Commission is required to “approve, conditionally approve, or reject” site plans for multifamily dwellings “within 60 days from the filing of applications,” relies on an interpretation of 290-25 that is not consistent with the internal logic of Article VI.

In order to accept Mr. Blitz’s assertion, one must accept the following premises:

1. 290-25 requires that the Town would be expected to complete a Category 1 site plan review more expeditiously if it were in Critical Area than the Town would be expected complete a Category 1 site plan review if it were outside of the Critical Area.
2. 290-25 requires that site plans for Category 1 development and site plans for Category 2 development must be processed in the same manner and on the same timeline if the projects fall within the Critical Area

As Mr. Blitz’s premises conflict with common sense and with logical patterns established in 290-23 and 290-24, it is probable that an alternative reading of 290-25- one that is more consistent with the whole of Article VI, would be the correct interpretation.

From the discussion outlined above, it follows that the correct interpretation of 290 Article VI is as follows:

**290-25 A (2) is organized such that: section 290-25 A (2) (a) requires that site plans for more complex development in the Critical Area shall be approved in the manner outlined in 290-23 and 290-24 (above), and 290-25 A (2) (b) requires that site plans for less complex development in the Critical Area shall be approved in the manner defined (below) in 290-25 (5), titled Procedure for processing, which adds the additional requirement of Planning Commission review and approval and requires that this be completed within 60 days.**

Interpreting 290-25 A (2) as described above would be consistent with common sense and with the pattern of logic established throughout the whole of Article VI. For example, common sense would suggest that the Town would not reduce the available time to review Category 1 site plans in the Critical Area because the Critical Area adds complexity to development projects; instead, it makes common sense that Category 1 site plans in the Critical Area would follow the approval process outlined in 290-23, which provides for the necessary flexibility to accommodate a longer approval process. Additionally, interpreting 290-25 as described above follows the general pattern of logic established throughout the whole of Article VI, which recognizes that requirements for review and approval of projects that fall into Category 1 and review and approval of projects that fall into Category 2 must be different and those requirements must be reflective of the potential impact and complexity of the project type, and of the additional challenges associated with the Critical Area.

**C.**

For additional context, please consider 290-2. Purpose.

The first statement in section 290-2 states, "This chapter is intended to promote the health, safety and general welfare of the public."

With this statement and others that follow, it is made clear that the intent for the Zoning Ordinance for the Town of Chesapeake Beach in Calvert County, Maryland is that it be interpreted in such a way that it puts the "health, safety and general welfare of the public" above all other considerations that the ordinance strives to address.

Please ask yourselves if Mr. Blitz's interpretation, that 290, Article VI requires that Category 1, Critical Area site plans are hurried through the approval process within 60 days of application, is consistent with the purpose and intent of the Zoning Ordinance.

In summary, there are a number of reasons why a municipality would not and should not bind itself to complete the Planning Commission review and approval process for Category 1 site plans within 60 days of application if in the Critical Area, and this does not appear to be what the Zoning Ordinance for the Town of Chesapeake Beach in Calvert County Maryland intends or requires.

The relief sought by this appeal is far-reaching. A decision in favor of the applicant would be extremely impactful. Essentially, it would derail the Town's ability to implement the vision of the adopted 2040 Comprehensive Plan.

As with any legal challenge, there is always some case to be made by both parties. In this appeal, the burden of proof in demonstrating that an error of interpretation has, without doubt, been made and that the relief sought is the appropriate remedy for the alleged error is on The Rod & Reel/Donovan Estates, LLC. Absent clear and undisputable proof that Mr. Blitz has interpreted the Zoning Ordinance for the Town of Chesapeake Beach in Calvert County, Maryland correctly, this appeal should be denied.

## **2. Reference to correspondence from Mr. Jakubiak**

When considering correspondence from Mr. Jakubiak that was presented by Mr. Blitz (or when considering any accounts of what Mr. Jakubiak did, thought, or wrote), please remember that Mr. Jakubiak has not yet been available for cross-examination during this appeal.

It is likely that Mr. Jakubiak has exchanged numerous emails and has had many conversations with The Rod & Reel/Donovan Estates, LLC about their site plans. For example, at the May 24, 2023 Planning and Zoning Meeting, he recounted to the Planning Commission, a conversation in which he expressed concerns to The Rod & Reel/Donovan Estates, LLC about one of their five site plans during a technical meeting that he had with their agents and lawyers. You can find his conversation with the Planning Commission at the 31-minute mark of the May 24, 2023 meeting.

Relying solely on information provided by Mr. Blitz to assess anything attributed to Mr. Jakubiak would be faulty, as this would likely result in an incomplete or inaccurate understanding of the situation.

Granting the relief sought by The Rod & Reel/Donovan Estates, LLC in the absence of Mr. Jakubiak's first-hand account of the situation would be highly irresponsible.

## **3. The introduction of a large volume of material that has not been provided in advance**

At the Board of Appeals meeting on September 19, 2023, I watched Mr. Blitz pass out large black binders to board members for their review and then state that the contents within them "was not necessarily for the record." It appeared that board members were receiving these binders for the first time.

Some time later during the appeal, Mr. Blitz stated that he *would send* the complete file of site plans that are the subject of this case via a PDF file. It did not appear that the board members had received site plans.

After one hour of presenting, Mr. Blitz passed out large white binders to board members.

While Mr. Blitz's decision not to provide his prepared appeal to board members in advance may be inconsiderate of your time, the Town's time, and the time of interested parties to this case, I have not found a clear requirement that Mr. Blitz must present his supporting materials in any particular manner.

I do see that 290-32 J (2) states that "Appeals concerning the interpretation of any provision of this chapter shall exactly set forth the interpretation that is claimed." I hope that your board will insist that this is done.

I also see that 290-32 (L) requires that "Decisions by the Board of Appeals on special exceptions, variances, and interpretation appeals shall be rendered within 120 days of the hearing on said exception, variance, or interpretation, unless a later date is mutually agreed on by the Board and applicant." I hope that your board will work with your council, the Town Attorney, and Mr. Blitz to obtain a mutually agreed-upon document to govern the processes and time-management of this case, and a mutually agreed-upon date by which a decision will be rendered.



In closing, I would like to restate my closing paragraph submitted for the record on 9/19/2023, with the highlighted corrections below, correcting my oversight in omitting a necessary modifier and a "2":

*In any case, the Board of Appeals is not an adequate or appropriate venue for considering an appeal of this scope. Instead, the appropriate process to determine legal grounds for the relief sought in this case is through civil litigation.*

*290-32 E (1) confines the powers and duties of the Board of Appeals regarding interpretation to questions "involving interpretation of any provision of this chapter." R-21-3, R-21-8, and the Town Charter are not contained within Chapter 290 of the Town Code, and therefore are not subject to decisions by the Board of Appeals.*

*290-32 E (2) confines the powers and duties of the Board of Appeals regarding interpretation to questions where it is alleged that there is an error made "in the enforcement of this chapter." Chapter 290, and specifically Article VI Site Plans, which includes 290-23, 290-24, and 290-25 prescribes a process, but not a time period, by which multifamily dwelling site plans must be taken up by the Planning Commission. As the relief sought in this appeal focuses on matters of timing, there is no basis within 290-31 A (1) or 290-31 A (6) for the Board of Appeals to grant the relief sought in this case.*

*Please deny this appeal based on the reasoning outlined above, which would route this appeal in a manner that is consistent with 290-27 A (1).*

Sincerely,

Laura Blackwelder

## Definition of 'herein'

# herein

Collins COBUILD

Word Frequency ●●●●●



(hiːrɪn)

**1. ADVERB** [ADVERB after verb, noun ADVERB]

**Herein** means in this document, text, or book.

[*formal, written*]

*The statements and views expressed herein are those of the author and are not necessarily those of the Wilson Centre.*

*The argument contained herein takes exactly the opposite point of view.*

**2. ADVERB**

You can use **herein** to refer back to the situation or fact you have just mentioned, when saying it is something such as a problem or reason for something.

[*formal, written*]

*I felt overwhelmed by feelings of loneliness. And herein lies the problem.*

*Collins COBUILD Advanced Learner's Dictionary. Copyright © HarperCollins Publishers*

## Dictionary

Data from Oxford Languages

Enter a word

Look it up

## here·in

[ˌhɪrˈɪn]

ADVERB FORMAL

in this document or book:

*"the author herein recounts his travel adventures"*

- used to introduce something that depends on or arises from what has just been mentioned:  
*"the statues are sensual to the point of erotic and herein lies their interest"*

"Herein." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/herein>. Accessed 22 Sep. 2023

Laura Blackwelder  
3256 Cannoncade Ct.  
Chesapeake Beach, MD 20732

December 6, 2023

Dear Chairman Hoon-Starr and Members of the Board of Appeals,

Thank you for your service to the Town by serving on the Board of Appeals. I am writing to ensure that my comments to date are entered into the public record and to provide additional comments following the latest public hearing sessions on case #2023-03.

You should have already received two letters from me containing my public comments on this hearing.

The first letter is a two-page letter dated September 19, 2023, and it points out that Chapter 290-32 confines the powers and duties of the Board of Appeals to deciding questions related to Chapter 290 of the Town Code. It also points out that the powers and duties of the Board of Appeals do not include determining whether or not the elected body and Town staff implemented or continued a moratorium on Category I site plan review legally.

The second letter is a seven-page letter with an additional page of supporting documentation, dated September 25, 2023, and it disputes Mr. Blitz's stated interpretation of Chapter 290, the Zoning Ordinance, and other aspects of Mr. Blitz's presentation on September 19, 2023. In this letter, I explain that the Zoning Ordinance does not identify a time requirement for the review of Category 1 site plans. Notably, during the November 15, 2023 Planning and Zoning meeting, at the 3-hour and 3-minute mark, the current Town Planner confirmed that the Zoning Ordinance does not contain a time requirement for the review of Category 1 site plans.

I request that both of these letters along with my comments provided in this letter, dated December 6, 2023, be entered in full into the public record. Please let me know if you have any questions regarding these letters or any issues with including them in the public record. If necessary, I will be happy to resubmit any item.

There are over 6000 residents in this Town who all have a right to benefit from zoning regulations, policies, and practices that protect the health, safety, and general welfare of the Town. Current conditions that affect development must always be considered.

The idea that a municipality should be forced to ignore the projected impacts of recently approved development and also disregard growing environmental concerns to allow a property owner to develop according to zoning regulations that do not address these realities is absurd. Even if the Planning Commission were to review these plans against the old code, it would still need to review them against existing and expected conditions, taking into consideration the health and welfare of the Town.

It is important to note that the Rod and Reel expansion project, at its approved intensity, was not listed in any previous Comprehensive Plans as a “known development,” and that the traffic implications of this project and other implications of this project had not been assessed comprehensively before work on the recently approved Comprehensive Plan: 2021 Update.

The five site plans that are the subject of this appeal have expired. The Planning Commission and Town leaders have determined that the best way for the Town to move forward with development will be to require that development proceed according to the updated Comprehensive Plan and the updated Zoning Ordinance. Granting the relief sought in this case would not be in the best interests of the Town and could lead to many more appeals from Donvan Estates, LLC.

It is time for Chesapeake Beach to leave these expired site plans in the past. When faced with a variety of options to address the development challenges ahead for Chesapeake Beach, your elected leaders chose to implement a moratorium on Category I site plan review and to approve new regulations on development. Please show your support for their decisions and respect for their competency in passing legislation related to their decisions by denying this appeal and letting the courts settle the matter.

Additionally, please do not complicate a future legal case by including a finding related to R-21-3, R-21-8, or the Town Charter. This would not be within the scope of your board and should not be arrived at in the absence of complete and proper litigation.

Sincerely,

Laura Blackwelder

**Appeal 10/30/23**

To CHERYL Emery <theemerys@comcast.net>

**Good Evening.**

**My name is Cheryl Emery. I live at 9082 Mary Ann Dr. Owings, Md. - less than 2 miles from here. I have lived in this area for over 38 years.**

**Though I am a resident of neither town, I have always considered Chesapeake Beach and North Beach MY TOWNS!**

**When I moved here, this area was lacking in many, many things. Gerald Donovan was a smart businessman and a smart Mayor of Chesapeake Beach. I truly believe, though he also personally benefited from his efforts, his strongest desire was to make this area the best ever. His family legacy was to make it the very best! His continued support of families, children especially, and local businesses was why we are so successful and such a desired family-oriented "small town" atmosphere. We all went from Beach Trash to a well-respected area full of promise!**

**What is now being proposed by the Donovan Family is, I believe, contrary to his, this community, as well as my desires and our vision for the future...OUR FUTURE, OUR CHILDREN'S and local businesses desires...that have SUPPORTED the Donovans' businesses for tens of years are hoping that this appeal is WITHDRAWN tonight. I understand their personal property rights. I want them to reconsider what five additional residential projects, and all that would entail, and the disastrous effect it would have for these small towns and it's local people. Those people that have supported them in their monetary growth and local, though not always agreed to, ways.**

**This area is comprised of many critical environmentally challenged areas. In addition, the fire department, schools, medical care, shopping, infrastructure, etc. would be greatly, and most likely unsuccessfully challenged. Then THEY LOSE...WE ALL LOSE!**

**This area's sewage, drainage, and so on was NOT built to deal with what is being proposed.**

**The Donovan Family helped to make this awesome area what it is. Don't be the Donovan Family that DESTROYS it.**

**There are surely alternatives as where to build - besides in a ONE MILE radius for 5 building projects - that we don't want!**

**Consider that your success to be able to have the wealth to propose these projects, was gained from the area citizens.**

**WITHDRAW YOUR PROPOSALS TONIGHT!**

**Don't stab us in the backs for the COMMUNITY SUPPORT YOU HAVE RECEIVED FROM EACH AND EVERYONE OF US!**

**Thank you.**

*Cheryl Emery*

## Sharon Humm

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**From:** Dan Duvall [REDACTED]  
**Sent:** Thursday, January 4, 2024 8:59 AM  
**To:** Sharon Humm  
**Subject:** Board of Appeals\_ Circuit Court \_ Town of Chesapeake Beach

Good morning Ms. Humm,

Would you please provide me with a confirmation that this email has both been received and provided to the Board of Appeals?

Your Honorable Judge Chandlee and  
Chair Jody Hoon-Starr

Town of Chesapeake Beach, Md  
Board of Appeals  
Appeals Case number  
2023-03  
Chair and board of appeals

Calvert County Circuit Court- Civil  
Case number  
C-04-CV-22-000486  
Honorable Judge Chandlee

- I would like to submit the information within this email including addressing the need for both the Circuit Court and Board of Appeals to review the entire series of case files and documents that are located with Maryland State archives in Annapolis, Md

The series of cases that are somewhat of similar issue (dispute between The applicant and Town of Chesapeake Beach, Md)  
Case number L-76-33, L-76-34, E-76-20, E-76-33

## BOARD OF APPEALS

- I attended the first public hearing at town hall on September 19, 2023 signed in and swore an oath with my hand raised. The below information is submitted under the oath and to the best of my knowledge.

- link to 9/19/2023 public hearing

[https://www.youtube.com/live/dk5A5uNYy90?si=OBhq\\_fqkstFqa1zK](https://www.youtube.com/live/dk5A5uNYy90?si=OBhq_fqkstFqa1zK)

-As seen in live video of the meeting at minute 8 the applicant's attorney engages with an elderly gentleman of the public who had a hard time hearing.

- At approximately minute 12:40 of the same meeting/ video I spoke up for the public and asked that the applicant attorney speak closer and into the microphone as it can be heard by the speakers for those in attendance
- I followed up after the Board of Appeals meeting on September 19, 2023 with several emails objecting that the public as a party to the public hearing was not provided an equal acknowledgement in regards to the documents submitted by the applicant to the board of appeals and town of Chesapeake Beach attorney
- The public was/ has not been given the opportunity to question witnesses that were called and questioned by applicant
- What did not get addressed by either the Board of Appeals or the Town of Chesapeake Beach, Md was providing any accommodation for persons with disabilities as required by law under the American Disability Act.
- The need for such accommodation under Americans with Disability Act can be witnessed
- please provide and make available to the public the steps needed to have accommodation available to persons protected under the ADA

## CALVERT COUNTY CIRCUIT COURT

### REQUEST TO ALLOW A MOTION TO FROM THE PUBLIC IF NOT SUBMITTED BY THE TOWN

- I ask this Court to consider the following actions from, an actively involved member of the general public grounds to establish a precedent that the Public must have its own equal opportunity throughout a public hearing.
- To provide the following to the public in the event a Public Hearing and a Civil Court case overlap each other or if they filed within 13 months of each other
  - Allow for an equal time for Public to speak and question
  - Give proper notice to the public of hearing of related cases
  - provided transparency such as any documentation submitted to the board be available to the public 30 days prior and available at public hearing for the general public in printed and electronic forms.
- I further believe that the public should be provided an equal amount of time at each meeting to voice their concerns.
- One of the reason I am requesting this equal time be provided to the public because if by some unfortunate chance a member of the public who came to speak were to pass away, become ill or



provide notice to the board of appeals that they are unable to attend a certain public hearing that is entering its 6 months (public notice given in August)

I further request that all meetings by the board of appeals be no closer than 30 days apart to provide the public proper time to reschedule conflicts within their personal schedule.

I have located multiple items of public records that I believe are relevant and show a clear conflict of interest and raise the question that if all of these actions have been carefully planned in order to have the court rule on the matter at hand.

One item of concern is within the deed liber 286 page 547-549 where the Town of Chesapeake Beach subject, however, to the following restrictions:

(To protect Kellam Field)

This is not the first time that the Rod and reel (Chesapeake Beach Park, Union vending, Chesapeake Beach Hotel, Chesapeake Beach incorporated)

There is a series of court cases in which this court provided a summary judgment in favor of the applicant but disqualified this court from future cases between the two parties.

I ask this court to look at this as a similar issue that were in cases L-76-33, L-76-34, E-76-20, E-76-33 along with the above mentioned deed

Reading the case file with the transcript of case number L-76-33 filed on March 23, 1976 is an important part of understanding how the current case number C-04-CV-22-000486 in front of this court could be seen using the power of this Court to provide a protection against the clear conflict of interest that are interwoven between the Rod & Reel and the Town of Chesapeake Beach, Md.

I can see a perspective when taking all the items as a whole that the applicant and Town have established over the past 90 years that the Honorable Judge Bowen gave his summary judgment that if accepted would disqualify this Court from future cases between these two parties.

Respectfully,  
Daniel Duvall  
3610 Chesapeake Beach Rd  
Chesapeake Beach, MD 20732

4 January 2024

Mr. Jody Noon-Starr,  
Chair, Board of Appeals

With this note, I would like to offer my observations regarding the Board of Appeals Case #2023-03 Hearing Rod N Reel. My remarks are offered as a private citizen and resident of the Town of Chesapeake Beach for over two (2) decades.

In July, 2020 I was approved and appointed to the Planning and Zoning Commission by the Mayor and Town Council. I was excited and honored to serve as a Commission Member, a volunteer. At the time of my joining the Commission they were well into review of the 2010 Comprehensive Plan. This plan would impact the Town of Chesapeake Beach infrastructure and other matters of growth and development for the next 40 years. Needless to say this was a major undertaking.

I was surprised and shocked to learn that each month I would be reading, researching and reviewing a document of more than 120 pages. It was quite illuminating to learn the work and dedication that the members of the Planning Commission gave. My point is that I had no hidden or personal agenda when I voted to support a Moratorium on all Category I developments for a year. It was my feeling that I needed the single focus on the Comprehensive Plan due especially to the long term significance and import of the document.

Secondly, I believe all site plan applications need to be reviewed in compliance with the current Comprehensive Plan, not previous ones. The topography, geography and environmental concerns are dynamic and relevant to any current project. They should be addressed with regard to development and relevant to the current status of these factors not reviewed in concert with former standards and zoning regulations.

Thank you for the opportunity to submit my observations and your consideration of them. I appreciate your work.

Respectfully,

Kathleen Berault  
7409 B Street  
Chesapeake Beach, Maryland 20732

Laura Blackwelder  
3256 Cannoncade Ct.  
Chesapeake Beach, MD 20732

January 4, 2023

Dear Chairman Hoon-Starr and Members of the Board of Appeals,

Thank you for your service to the Town by serving on the Board of Appeals. I am writing to ensure that my comments to date are entered into the public record and to provide additional comments following the latest public hearing sessions on case #2023-03.

You should have already received three letters from me containing my public comments on this hearing.

The first letter is a two-page letter dated September 19, 2023, and it points out that Chapter 290-32 confines the powers and duties of the Board of Appeals to deciding questions related to Chapter 290 of the Town Code. It also points out that the powers and duties of the Board of Appeals do not include determining whether or not the elected body and Town staff implemented or continued a moratorium on Category I site plan review legally.

The second letter is a seven-page letter with an additional page of supporting documentation, dated September 25, 2023, and it disputes Mr. Blitz's stated interpretation of Chapter 290, the Zoning Ordinance, and other aspects of Mr. Blitz's presentation on September 19, 2023. In this letter, I explain that the Zoning Ordinance does not identify a time requirement for the review of Category 1 site plans. (Notably, during the November 15, 2023 Planning and Zoning meeting, at the 3-hour and 3-minute mark, the current Town Planner confirmed that the Zoning Ordinance does not contain a time requirement for the review of Category 1 site plans).

The third letter is a two-page letter dated December 6, 2023, explaining why deciding this appeal in favor of the applicant would not be in the best interest of the Town, and that the Board of Appeals should not decide on matters that are outside of their scope because this could potentially complicate a future legal challenge.

I request that these three letters along with my comments provided in this letter, dated January 4, 2024 be entered in full into the public record. Please let me know if you have any questions regarding these letters or any issues with including them in the public record. If necessary, I will be happy to resubmit any item.

You have spent many hours, over multiple days, listening to a case that has not been properly litigated. The only place where this case can be properly litigated is in a court of law.

It would be a disservice to the residents of this Town, who deserve the protection of responsible development policies, if the Board of Appeals were to decide in favor of the applicant in the

absence of full litigation of this issue. Please deny this appeal and allow for the matter to be addressed in a court of law.

Sincerely,

Laura Blackwelder