BEFORE THE TALBOT COUNTY BOARD OF APPEALS

APPEAL OF	*	FINDINGS AND DECISION
MANGUM ENTERPRISES, INC.	*	Appeal No. 25-1750

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The Talbot County Board of Appeals (the "Board") held a hearing on June 2, 2025, in the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland to consider the Appeal of Mangum Enterprises, Inc.

The Appellant is the owner of property located at 10054 Longwoods Rd., Easton, Maryland ("Property"). Appellant challenges the decision of the Talbot County Planning and Zoning Planning Officer that the Property is not a legal nonconforming Manufactured Home Rental Community.

Voting Board Members present for this hearing were Chairman Frank Cavanaugh, Vice Chairman Louis Dorsey, Jr., Patrick Forrest, Jeff Adelman, and Keith Prettyman.

STATEMENT OF THE CASE

This matter is brought forth under Talbot County Code, §§ 190-54.6(B), which provides that a final order or decision of the Planning Officer may be appealed to the Board of Appeals. This Board's review of the Planning Officer's decision is to assure that the decision is in conformance with law and supported by substantial evidence. Talbot County Code, § 20-19; *Monkton Preservation Ass'n v. Gaylord Brooks Realty*, 107 Md. App. 573, 580 (1995).

By decision dated March 5, 2025, the Planning Officer determined that the Property would not be recognized as a legal nonconforming Manufactured Home Rental Community. The written decision was based, in part, on review of a submitted plat entitled "Preliminary Plan of Lonesome Pines," which contemplated the Property as a Manufactured Home Rental Community since 1965. The Planning Officer reviewed a decision of this Board (Appeal No. 64), dated February 6, 1964. The 1964 Board decision considered a Special Exception application for the Property to be established for the Manufactured Home Rental Community Property use. The decision denied the Special Exception request and the Planning Officer did not have any other evidence to prove that the Property was ever approved, legally, for such a use.

SUMMARY OF ARGUMENTS

The Appellant was represented by attorney Genevieve H.R. Macfarlane who submitted a Pre-Hearing Statement and provided oral argument. The Planning Officer defended his decision and was represented by attorney Andrew Meehan who submitted a Pre-Hearing Statement and provided oral argument. A summary of the respective arguments are as follows.

Appellant's Arguments

Appellant contends that the Property is legally nonconforming and that it has continued as a legal nonconforming Property since the 1960s without abandonment.

Appellant purchased the Property in March 2024 from Arthur Foster. The seller represented that the Property had been operating as a Manufactured Home Rental Community since 1965. County Planning and Zoning staff determined, after Appellant's purchase of the Property, that 8 homes on the Property had been abandoned and could not continue as nonconforming structures. Appellant subsequently asked the County for a certification of nonconforming use for the entire Property. It was, thereafter, that the County determined that the use as a Manufactured Home Rental Community was not legally nonconforming.

Appellant argues that the 1964 Board of Appeal denial should not be determinative of the Property's nonconforming status. It could have been deemed nonconforming by some means by which the County lost its record. The Appellant submitted a Public Information Act ("PIA") request to the County to better analyze the County's records as they pertain to the Property.

The PIA request revealed decades of acknowledgements and recognition, by the County, of the Property operating as a Manufactured Home Rental Community since 1965. Appellant submitted numerous exhibits at the hearing to demonstrate the County's recognition of the Property as a Manufactured Home Rental Community over the course of several decades. A summary of those exhibits and what they demonstrate is as follows:

1. There are approved Talbot County Health Department Construction Permits for Sewage System Wells for Manufactured homes in 1964. (Appellant Ex. 8).
2. There are approved Talbot County Health Department Sanitary Construction permits for Manufactured homes in 2000-2001. (Appellant Ex. 9).
3. There is an approved State of Maryland permit to drill well for Manufactured homes in 1964. (Appellant Ex. 10).
4. There is an approved Talbot County and State permit to drill well for Manufactured homes in 2008. (Appellant Ex. 11).
5. There was water appropriation and use permits by the State, with a copy to the County, in 2003. (Appellant Ex. 12).
6. There is correspondence from the Talbot County Office of Environmental Health regarding well for the Property in 2008. (Ex. 13).
7. There is an application approved by the County for "mobile home replacement" in 1990. ("Appellant Ex. 14).
8. There is correspondence from the County Health department regarding a septic violation in 1994. (Appellant Ex. 15).
9. There is correspondence from Talbot County Department of Public Works regarding relocation of a trailer without property permits in 1991. (Appellant Ex. 16).
10. There are hand written notes from a County official regarding the "Fosters Trailer Park" and its conditions in 1999. (Appellant Ex. 17).

11. The Talbot County Office of Planning and Zoning issued Minimum Livability Code violations for the Property and its Manufactured homes in 2007. (Appellant Ex. 18).
12. Maryland Department of the Environment issued safe drinking water violations for the "Fosters Mobile Home Park" in 2009. (Appellant Ex. 19).
13. The County Office of Environmental Health issued sewage violations for the "mobile home park" in 2013. (Appellant Ex. 20).
14. The Talbot County Health Department responded to septic failure complaint for a "trailer/mobile home" in 2017. (Appellant Ex. 21).
15. The Maryland Department of Environment issued violations of sanitary issues for the "mobile home park" in 2017. (Appellant Ex. 22).
16. There are pictures and notes from a County official responding to a vacant trailer in 2017. (Appellant Ex. 23).
17. The Maryland Department of Environment issued water quality violation for the "Fosters Mobile Home Park" in 2022. (Appellant Ex. 24).
18. There are records that the Property owner paid annual license fees to the County for its use as a Manufactured Home Rental Community since 2016. (Appellant Ex. 25).
19. There are records that the State assessed the property as a commercial Manufactured Home Rental Community since at least 2009 and that the Property has been taxed as such. (Appellant Ex. 26-27).
20. There are approved County building permits for manufactured homes covering several decades. (Appellant Ex. 28).
21. In 2012, Talbot County filed a civil action against the Property owners for injunctive and declaratory relief, stating that the Property is an improved "mobile home park," and requesting certain action involving a trailer on the Property. (Appellant Ex. 36).

Collectively, these County records demonstrate that the County has openly acknowledged, issued permits, issued violations, and otherwise treated the Property as a Manufactured Home Rental Community since 1965.

Appellant urges the Board to find that the Property is legally nonconforming as a Manufactured Rental property. It argues that, by a preponderance of the evidence, the vast number of documents found in County records demonstrates that the Property is permitted to operate as that use. In the alternative, Appellant requests that the Board find a legally nonconforming status for the Property on equitable grounds. Appellant argues that it would be inequitable to require the new owner to shut down the community, causing residents to lose their homes in the process, when the County has been very much involved with the Property over the course of several decades, issuing permits and violations through all those years.

Appellant's counsel argues that the ability of the Property's long-term residents to keep their homes is the most paramount issue in this appeal. She made the case that affordable housing is problematic in Talbot County. The Comprehensive Plan calls for policies that make affordable housing more available and the Appellant is making this Property a more respectable and better affordable living space.

Gary Mangum, a principal of the Appellant, testified that he did his due diligence when purchasing the property to ensure that he could continue to operate, and improve, the Property as

it is currently operated. His real estate agent contacted the County to ensure there were no issues that would prevent him from doing so, as demonstrated by Appellant Exhibit 37.

Mr. Mangum further testified that the Appellant has made many improvements since it purchased the Property in 2024, including improvements to septic systems, trash, and cleaning up of the interior and exterior of manufactured homes on the Property. Many of the homes were in disrepair. Appellant applied for electrical permits to fix electrical issues. It was this action that caused the County to state that certain structures were abandoned and could not continue as a nonconforming "structure." Subsequently, the County determined that there was no legal status that would permit the Property to be used for manufactured homes.

The tenants of the Property are low income tenants and there are some who have resided on the Property for 15-20 years. Appellant assists the tenants, some of whom have been homeless, in finding available financial assistance.

Sean Callahan, President of Lane Engineering, was admitted as an expert witness. Mr. Callahan was a former Talbot County zoning administrator. He testified about the property description. He testified that the County would not intentionally issue permits, license, tax, and issue violations for Properties that are not considered legal. It is his opinion that there must have been some approval, at some point, that the County is currently unable to find in its records. The absence of records from the 1960s and 1970s may be an indication that records for those decades may have been discarded or misplaced. Mr. Callahan opined that other County departments, such as the Health Department, would not typically issue permits to a property without first consulting with Planning and Zoning. In Mr. Callahan's opinion, the evidence tends to show that there must have been some approval for the Property after the 1964 Board of Appeals denial of the special exception use.

Respondent's Arguments

The Planning Officer, through his counsel, stated that the Planning Officer's decision was based on the following: Section 190-47 establishes the Planning Officer's responsibility in determining whether a use is legally nonconforming. A property owner must provide documentation that the lot was legally created and that it was continually maintained and not abandoned since its establishment. §190-47.2(B). The burden of establishing the nonconforming use is on the property owner. §190-47.2(C). In this case, the Property owner did not provide any specific documentation that the lot was certified as legally nonconforming, and it is the property owner's burden to provide that documentation.

The Planning Officer, Mr. Brennan Tarleton, testified that he came across the Board of Appeals decision, from 1964, which denied the special exception use on the property when the County was responding to the Appellant's PIA request. He testified that the issue came to the County's attention when the Appellants were performing work without permits and stop work orders were issued. The Planning Officer advised Appellants that a certificate of nonconformity would be required for them to be issued those permits.

FINDINGS OF FACT AND LAW

The Board makes the following findings of fact and legal conclusions based on the evidence of record and arguments made by counsel of record in this matter. To begin, this Board is mindful of the deference that is typically afforded to the Planning Officer. As stated by the Appellate Court of Maryland:

> An agency's decision must be reviewed in the light most favorable to the agency. *Courtney v. Board of Trustees*, 285 Md. 356, 362, 402 A.2d 885 (1979). A decision of an agency is *prima facie* correct and carries with it the presumption of validity. *Courtney*, 285 Md. at 362, 402 A.2d 885. A court will not reject a conclusion of an agency if "a reasoning mind reasonably could have reached the factual conclusion the agency reached." *Bulluck v. Pelham Wood Apartments*, 283 Md. 505, 512, 390 A.2d 1119 (1978), quoting *Dickinson-Tidewater v. Supervisor*, 273 Md. 245, 256, 329 A.2d 18 (1974).

Coscan Wash., Inc. v. Md-Nat'l Capital Park & Planning Comm'n, 87 Md. App. 602, 626 (1991). This Board must determine whether there was substantial evidence before the Planning Officer to support his conclusions. *Riffin v. People's Counsel for Baltimore County*, 137 Md. App. 90, 93 (2001).

The Planning Officer is not required to articulate the reasons for his findings with absolute specificity. The law requires that there be sufficient facts in the record to support the decision that was made. The Maryland Supreme Court has determined that when an agency decision "refers to evidence in the record in support of its findings, meaningful judicial review is possible." *Critical Area Comm'n v. Moreland, LLC*, 418 Md. 11 (2010).

This Board has the authority to certify a nonconforming use after a hearing and determination of facts by the Board acting in its quasi-judicial capacity. *County Comm'rs of Carroll County v. Uhler*, 78 Md. App. 140 (1989).

First, this is an appeal regarding the Property's status as a legal nonconforming use. There were previous decisions by County Planning and Zoning staff to determine that certain homes on the Property were abandoned and, therefore, could not continue as nonconforming structures. Regardless, if a Property has a nonconforming use status, abandonment of individual structures on the Property will not result in the property losing its use status. A property will maintain its nonconforming use status so long as the "nature and character of the use is unchanged and substantially the same facilities are used." *Jahnigen v. Staley*, 245 Md. 130, 137, (1967).

While some structures may have been unused for certain periods of time, the Board finds that the nature and character of the Property have remained constant since at least 1965 and that the same facilities are used to maintain the Property as a Manufactured home community. The evidence presented speaks to the Property as a whole, not its individual units and there is no evidence that the entire Property has ever abandoned its use.

The records that exist, from that time and going forward, clearly demonstrate that the County considered the use to be legal. Appellant's exhibit number 14, for example, is an approved building permit/zoning certificate for the Property. The permit is described as "mobile home replacement." That permit, from 1990, would have required zoning review of the property. A permit should not have been issued if the property had illegal mobile homes on the property for which replacement was necessary.

Curiously, there are little records regarding the Property from the 1960s or 1970s. The Board will not speculate whether any approval was lost or misplaced, although it is not outside the realm of possibility. Instead, the Board will rely on its equitable authority. As argued by the Appellant in its pre-hearing statement, Maryland law presumes that public officials perform their duties in accordance with the law. *Grant v. Cty. Council of Prince George's Cty.*, 2018 Md. App. LEXIS 1110, 8 (Md. Ct. Spec. App. Dec. 3, 2018), and *Anne Arundel County v. Halle Dev., Inc.*, 408 Md. 539, 565 (2009). The issuance of multiple permits over many decades—including septic permits, well drilling permits, building permits, and health department approvals—supports a presumption of legality with respect to the use of the Property and that all the officials who performed those acts did so in accordance with the law.

The Board holds that the County's finding that the Property is not legally nonconforming should be overturned under the doctrine of laches. Laches is an equitable remedy at law, which applies when a party unreasonably delays its assertion of rights, and the delay causes prejudice to another party. *Liddy v. Lamone*, 398 Md. 233 (2006); *Frederick Rd. Ltd. Pt'ship v. Brown & Sturm*, 360 Md. 76 (2000). The party asserting prejudice need only show that the delay has put it in a less favorable position. *Ross v. State Bd.* of *Elections*, 387 Md. 649 (2005). In this case, there is ample evidence that the County, over the course of several decades, unreasonably delayed its assertion to declare the use illegal. The Appellant and its long-term residents are unreasonably prejudiced by the delay in asserting lack of legal nonconforming status.

The Board does not find any fault on the part of the Planning Officer. The Planning Officer did, in fact, follow the letter of the ordinance and, in the opinion of this Board, could not have reached a different conclusion based on the evidence that he had available to him. The decision of this Board is based on equity and fairness. The fact that this Board can make determinations based on equity, and the Planning Officer cannot, demonstrates the necessity of the ability of property owners in Talbot County to appeal certain zoning official decisions.

EVIDENCE ON THE RECORD

The Board accepted and considered the following documents as part of the record in this appeal:

1. Application for Administrative Appeal with Attachment 1.
2. Checklist for Administrative Appeal.
3. Tax Map with subject property highlighted.
4. Notice of Public Hearing for Advertisement in local paper.
5. Newspaper Confirmation.

6. Public Notice with Adjacent Property Owner List attached.
7. Notice of Intent to Participate from Genevieve Macfarlane, Esq.
8. List of Witnesses to be summoned.
9. Sign Maintenance agreement.
10. Acknowledgement Form for Administrative Appeal.
11. Aerial Map.
12. Certificate of Service from Genevieve Macfarlane, received 4/4/25.
13. Notice of Intent to Participate from Andrew Meehan, Esq.
14. Pre-hearing Statement of Mangum Enterprises, Inc. from Genevieve Macfarlane, received 5/7/25.
15. Certificate of Service from Genevieve Macfarlane, received 5/7/25.
16. Certificate of Service from Genevieve Macfarlane received 5/8/25.
17. Motion to Accept Late Filed Prehearing Statement, received 5/8/25.
18. Talbot County's Pre-Hearing Statement, from Andrew Meehan, received 5/23/25.
19. Certificate of Service from Andrew Meehan, received 5/27/25.

Additionally, the Appellant introduced 37 exhibits at the hearing in this matter and all exhibits were admitted by the Board.

FINDINGS OF FACT AND LAW

For the reasons stated herein, the Board overrules the decision of the Planning Officer and makes the determination that the Property, located at 10054 Longwoods Rd. Easton, Maryland, is certified as legally nonconforming for the use of a Manufactured Home Rental Community.

IT IS THEREFORE, this 1ST day of July, 2025, **RESOLVED**, by a decision of 3-2, that the decision of the Planning Officer is **OVERRULED** .

Patrick Forrest

Unavailable for Signature
Keith Prettyman

Jeff Adelman

Voting to uphold the Planning Officer's decision.

Frank Cavanaugh, Chairman

Louis Dorsey, Jr., Vice-Chairman