

CROFTON CIVIC  
ASSOCIATION, et al.

Petitioner

v.

COUNTY BOARD OF APPEALS  
FOR ANNE ARUNDEL COUNTY

\* IN THE  
\*  
\* CIRCUIT COURT  
\*  
\* FOR  
\*  
\* ANNE ARUNDEL COUNTY  
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\* CASE NO. C-94-10002 AA  
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BOARD OF APPEALS

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MEMORANDUM OPINION AND ORDER

This is an appeal by the Crofton Civic Association, and several other community associations and individual property owners ("Petitioners") from a decision by the Board of Appeals for Anne Arundel County ("Board"). The Board granted certain zoning special exceptions and a variance to Chesapeake Terrace and the Halle Companies ("Respondent")<sup>1</sup> for rubble fill and mining operations on property located in Anne Arundel County, Maryland. For the reasons presented below, this Court reverses the decision of the Board.

I. Background

Respondent sought administrative approval, via certain zoning special exceptions and a variance, for landfill and mining operations on property located in Odenton, Maryland.<sup>2</sup>

<sup>1</sup> The Chesapeake Terrace Company and The Halle Company are both Halle-owned enterprises.

<sup>2</sup> The property in question consists of approximately 481 acres located nearly two miles to the northwest of the intersection of Maryland Routes 3 and 424, along Conway Road. It is bordered on the north by Little Patuxent River and to the west by the Conrail railroad tracks.

TRUE COPY,

TEST: Mary McMillan Rose, Clerk

By: *[Signature]*

Deputy

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Conway Road access and the intensity of the ancillary activities possibly to be performed thereon, the Board's decision impermissibly enlarged the substance of Respondent's application. Therefore, it is the opinion of this Court that under the circumstances, the Board, in entertaining the Conway Road issue, expanded the scope of its inquiry to such a degree that the nature of the original application was significantly altered. In so doing, the Board exceeded the bounds of its de novo authority.<sup>9</sup>

For the reasons aforementioned, this Court finds that the Board erred as a matter of law when it granted the special exceptions and variance beyond the scope of Respondent's original application.

B., C., D., E., & F.

In light of the foregoing, these additional issues are moot and will not be considered.

#### V. Order

It is, therefore, this 31<sup>ST</sup> day of August, 1994, by the Circuit Court for Anne Arundel County,

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<sup>9</sup> The County raises a question regarding whether Respondent had the right to, in essence, "modify" its application with the Conway Road alternative. Having found that the Board exceeded its authority, this issue is moot. A brief observation is noteworthy, however. There exists authority for the modification of an application for rezoning or critical area reclassification where the change is "for a more restrictive use." Anne Arundel County Code, Art. 28, § 11-105 (emphasis added). There is no express authority, however, for the modification or amendment of a special exception or variance application. And finally, a reasonable inference can be drawn that if such modifications are permitted, they must be "restrictive," rather than "expansive," as Respondent's change appears to be here.

ORDERED, that the decision of the Board of Appeals for Anne Arundel County is hereby reversed.

Martin A. Wolff  
Martin A. Wolff, Judge

Copies to:

Warren K. Rich, Esq.  
Jamie Baer Insley, Esq.  
Steven P. Resnick, Esq.  
Susan K. Henley, Esq.

TRUE COPY,

TEST: Mary McNally Rose, Clerk

M. McNally Deputy