

DR. SARA VIA, et al.	:	BEFORE THE
Appellants	:	HOWARD COUNTY
v.	:	BOARD OF APPEALS
HOWARD COUNTY DEPARTMENT OF	:	HEARING EXAMINER
PLANNING AND ZONING	:	Case No. BA 821D
CE-22-126		
Re: 4411 Manor Hill Lane		
Appellee		

.....
.....
DECISION AND ORDER

On October 15, 2025, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, conducted a hearing on the administrative appeal of Dr. Sara Via, Vladimir Blyukher, Anzhelika Artamoshyna, Filip Braekman, Joan Pontius, Yovonda Brooks, Christian Domerchie, Sara Domerchie, William Flanigan, Karan Flanigan, Harry Hoffman, Suzanne Hoffman, Russell Howey, Constance Reed, Honor Reed, Verity Weston-Truby, Anne D. Colburn, Samuel Ellis, Stephanie Ellis, and Virginia Valenzia ("Appellants"). Appellants are appealing the Department of Planning and Zoning's ("DPZ" or "the Appellee") May 28, 2025 decision not to issue notices of violation following a third investigation of complaints alleging that business conducted on the site called Manor Hill Brewery, and other activities and structures on the site, located at 4411 Manor Lane, Ellicott City, Maryland, in the RC (Rural Conservation) Zoning District ("Property"), violate the Howard County

Zoning Regulations (“HCZR”) and three use permits issued pursuant to the HCZR.

The Appellants certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure.

The Appellants, represented by G. Macy Nelson, Esq. and Alex Votaw, Esq., are all people who live and own property on Manor Lane. David Moore, Senior Assistant County Solicitor, Howard County Office of Law, represented DPZ.

The records of BA 794D and BA 806D, including their respective D&Os, are incorporated into the record of the instant appeal.

Appellants submitted the following Exhibits:

- Ex. 1. BA 806D D&O
- Ex. 2. DPZ May 28, 2025 investigations disposition letter
- Ex. 3. Manor Hill website
- Ex. 4. Manor Hill advertised calendar
- Ex. 5. Manor Hill Advertisement for music festival October 18, 2025
- Ex. 6. Photo of Manor Hill 2 acre dedicated crop growing area used solely as a picnic area
- Ex. 7. DPZ explanation of Zoning Violation CE-16-191, August 22, 2017
- Ex. 8. Manor Hill advertisement for political fundraiser on October 27, 2025
- Ex. 9. Advertisement for Manor Hill as a wedding forum in Official Visitor Guide for Howard County 2025
- Ex. 10. 2023 permit converting agricultural barn into an event space
- Ex. 11. 2023 permit status: completed

Ex. 12. Vehicle counts and all vehicle movements

Ex. 13. DPZ traffic counts April 19, 20, 26 and 27, 2025

I. APPLICABLE LAW

The Howard County Zoning Regulations (HCZR) are laid out in a comprehensive set of codified rules governing the use of land in Howard County. Section 100.0.A. states that the intent of the Howard County Council in enacting the HCZR is:

“To promote the most beneficial relationship between the uses of land and structures, and the road system which serves these uses, having particular regard for the potential amount and intensity of such land and structure uses in relationship to the traffic capacity of the road system, so as to avoid congestion in the streets and roadways, and to promote safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and structures throughout the County.

HCZR §100.0.A.3.

The HCZR state that any use contrary to the regulations “is . . . unlawful:”

“Any structure erected, constructed, altered, enlarged, converted, moved or used contrary to any of the provisions of these Regulations by any person taking such action, or permitting such action, and any use of any land or any structure which is conducted, operated or maintained by any person using, or permitting the use thereof, contrary to any of the provisions of these Regulations, shall be, and the same is hereby declared to be unlawful.”

HCZR §102.0.A.

The HCZR set forth named zoning districts, each of which has its own purpose and its own set of uses allowed in the district. The intent of the RC (Rural

Conservation) Zoning District is

“to conserve farmland and to encourage agricultural activities, thereby helping to ensure that commercial agriculture will continue as a long term land use and a viable economic activity within the County. . . The preferred land use in the RC District is agriculture.”

HCZR §104.0.C.A.

In the RC Zoning District, very few uses are allowed as a matter of right, and the relevant (to this case) uses allowed outright include only:

1. Farming,..... and
- ...
3. One single-family detached dwelling unit per lot.”

HCZR §104.0.C.A.

Any use other than a use allowed as a matter of right must be an Accessory Use (many of which are subject to a separate permitting process) or a Conditional Use (which is a use that must be approved by a Hearing Authority upon the finding of certain legal criteria).

The definition of Accessory Use or Accessory Structure is:

“A use or structure which is customarily *incidental* to the principal use or structure, *serving no other use or structure*, and which is *subordinate* in area, intensity and purpose to the principal use or structure. HCZR §103.0. (Emphasis Supplied.)

The following Accessory Uses are allowed in the RC Zoning District:

10. Farm stands, subject to the requirements of Section 128.0.I.

15. Agritourism enterprises and pick-your-own marketing of farm products, subject to the requirements of Section 128.0.I.

16. Farm Winery—Class 1A and Farm Brewery—

Class 1A, subject to the requirements of Section 128.0.O.

HCZR §104.0.C.

Section 128.0 of the HCZR, Supplementary Zoning District Regulations, sets forth certain uses that are allowed in specified Zoning Districts provided the requirements of §128.0 are met.

Section 128.0.A.12. outlines the restrictions on accessory structures in the RC Zoning District:

12. Regulations for detached accessory structures on residentially zoned lots developed with single-family detached dwellings

a. Size restrictions

(1) The maximum cumulative lot coverage permitted for all of the accessory structures located on any given residential lot developed with a single-family detached dwelling is:

(a) 600 square feet for a lot in the planned public water and sewer service area.

(b) 1,200 square feet for a lot in the RC or RR district which is 2 acres or less

(c) *2,200 square feet for a lot in the RC or RR district which is greater than 2 acres.*

(2) The cumulative lot coverage restrictions cited above shall apply to *all accessory structures* on any residentially zoned lot developed with a single-family detached dwelling, excepting only *legitimate farm buildings located on properties meeting the definition of "farm"*, shipping containers used as accessory storage structures, and swimming pools. Farm structures, shipping containers used as accessory storage structures, and swimming pools are not subject to size restrictions; however, they must be subordinate and incidental to the principal use.

(3) Ground-mounted accessory solar collectors shall not count toward the lot coverage requirement provided they do not cover more than 2% of the lot.

b. Restrictions for accessory structures

Full baths, full kitchens, residential habitation and *commercial uses* are not permitted in accessory structures.

HCZR §128.0.A.12

Further relevant definitions are:

Farm: A lot or parcel of land used for *farming* that is 3.0 acres or larger.

Farming: The use of land for agricultural purposes, including:

- a. Crop production, apiaries, horticulture, orchards, agricultural nurseries, viticulture, silviculture, aquaculture, and animal and poultry husbandry;
- b. The growing, harvesting and primary processing of agricultural products;
- c. The breeding, raising, training, boarding and general care of livestock for uses other than food, such as sport or show purposes, as pets or for recreation;
- d. The operation of agricultural machinery and equipment that is an accessory use to a principal farming function. Agricultural machinery and equipment may be used on farms that are not the farm on which the machinery and equipment is normally stored;
- e. The construction and maintenance of barns, silos and other similar structures subject to compliance with any applicable bulk regulations;
- f. The transportation, storage, handling and application of fertilizer, soil amendments, pesticides and manure, subject to all Federal, State and Local laws;
- g. The temporary, onsite processing of chickens or rabbits on a farm in accordance with the Agriculture Article of the Annotated Code of Maryland; and
- h. Other uses directly related to, or as an accessory use of, the premises for agricultural purposes including special farm uses permitted under Section 128.0.1.

Not included in this definition are those uses subject to Section 131.0 Conditional Use requirements.

Farm Brewery: An agricultural processing facility located on a farm with equipment, components and supplies for the processing, production and packaging of beer, ale, porter, stout and similar malt-based or grain based beverages on the premises. *Farm brewer activities may include associated cooking, fermenting, bottling, storage, aging, shipping, receiving, and may also include accessory facilities for laboratory work, maintenance, and office functions.*

Farm Brewery—Class 1A: A farm brewery which includes product tasting, product sales, site tours, and educational programs.

Importantly, Farm Brewery and Class 1A Farm Brewery activities are limited to activities relating to the brewing of beer and selling of beer, as well as product tasting, product sales, site tours, and educational programs. Notably, while the definition of Farming includes the activities of a Farm Brewery allowed under a Special Farm permit, it does not include events, festivals, concerts, political events, or other non-agricultural-related events. And, any such events at the Property would be considered lawful only if they fall under another permitted activity which in this case could include Agritourism Enterprise activities (but events are limited to four per year - or 8 days per year - and nevertheless *must remain incidental* to the primary operation on site).

An Agritourism Enterprise is defined as:

Agritourism Enterprise: Activities conducted on a farm and offered to the public or to invited groups for the purpose of recreation, education or active involvement in the farm operation. *These activities must be related to agriculture or natural resources and incidental to the primary operation on the site.* This term includes farm tours, farm stays, hay rides, corn mazes, classes related to agricultural products or skills, picnic and party facilities offered in conjunction with the above, and similar uses.

HCZR §103.0.

Section 128.0.I, Permits for Special Farm Uses, allows certain uses related to farming and agriculture, but only if and when a *permit* is approved by DPZ.

Section 128.0.I sets forth the various uses that can be allowed by a Special Farm Use permit, and the conditions under which the permit can be issued and the use maintained.

One condition that applies to all Special Farm Uses is that the use:

“shall comply with the requirement that the lot or parcel upon which the operation is located shall have frontage on and direct

access to a road classification as an arterial or collector public road, or may front on and have direct access to a local road, if:

- (1) Access to an arterial or collector public road right-of-way is not feasible;
- (2) The access to the local road is *safe based on road conditions and accident history*;
- (3) That the use of the local road for access will not unduly conflict with *other uses that access the local road*.

HCZR §128.0.I. (Emphasis Supplied.)

There are strict requirements for the application for, approval of, and continuation of, a Special Farm Use Permit:

“The [landowner desiring approval of a Special Farm Use Permit] shall submit a request for a permit in writing, either in a letter or using a form provided by the Department of Planning and Zoning. The request shall specify the proposed permit category and provide a written *description of the use and justification addressing how the proposed use compiles with the criteria applicable to the use*.

HCZR §128.0.I. (Emphasis Supplied.)

“Once a permit is approved and is issued, the permit shall be valid indefinitely *provided that the operation of the approved use remains in full conformance with all aspects of the use as it was approved*.

The permit holder shall apply for a renewal of the permit if significant changes to the operation are being proposed, including but not limited to new uses or structures, in which case the originally approved plan must be revised to indicate the proposed changes and submitted for a new approval.

HCZR §128.0.I. (Emphasis Supplied.)

What is clear from simply a glance at the regulations regarding Special Farm Use permits is that DPZ has the authority and discretion to review not only the use proposed, but the adverse impacts on the neighborhood and roads. It is also clear

that the uses must be conducted in strict accordance with the permits – any new use or structure is subject to an application for a renewal.

The three permitted uses that are relevant to this case are:

- Large Farm Stands -- §128.0.I.3.
- Agritourism Enterprises -- §128.0.I.5.
- Farm Winery—Class 1A or Farm Brewery—Class 1A - §128.0.O.1.

The specific requirements for these three permitted uses are:

3. Farm Stands

b. Large farm stands (larger than 300 square feet) are permitted as an accessory use to farming in the RC or RR District, provided that:

- (1) The use is located on a parcel of at least 50 acres or a parcel of any size if subject to an ALPP purchased or dedicated easement or other dedicated easement.
- (2) The use may include the retail sale of crops, produce, flowers, plants, livestock and poultry products and similar items grown or produced on- site or on other local farms. Items produced through value-added processing of products grown on the farm or on other local farms may also be sold.
- (3) ***The farm stand use will support the agricultural use of the property, and will not have significant adverse impacts on the neighboring properties.*** For purposes of this section, adverse impact shall not include any impact normally associated with farms following generally accepted agricultural management practices or farms operating permitted uses under this section.
- (4) The area of the farm stand does not exceed 500 square feet, plus an additional 500 square feet for each additional 25 acres of lot area beyond 50 acres, up to a maximum of 3,000 square feet of area.
- (5) Notwithstanding the front setback requirements of the applicable zoning district, the minimum front setback for farm stands is 25 feet.
- (6) Adequate off-street parking is provided, parking areas and driveways are treated as needed to control dust, and parking areas are screened from neighboring properties.
- (7) Sight distance and the design of driveway entrances are adequate to accommodate expected traffic.
- (8) Where the areas open to customers are close to the

property boundaries, boundaries are clearly marked through fencing or landscaping to protect neighboring properties from unintentional trespassing by visitors.

HCZR §128.0.1.3. (Emphasis Supplied.)

5. Agritourism Enterprises

Agritourism Enterprises are permitted as accessory uses to farming in the RC and RR Districts, provided that:

- a. The use is located on a parcel of at least 50 acres, or on a parcel of any size if subject to an ALPP purchased or dedicated easement or other dedicated easement.
- b. *The use supports the agricultural use of the property and will not have significant adverse impacts on neighboring properties.* For purposes of this section, adverse impact shall not include any impact normally associated with farms following generally accepted agricultural management practices or farms operating permitted uses under this section.
- c. Adequate off-street parking is provided, parking areas and driveways are treated as needed to control dust, and parking areas are screened from neighboring properties.
- d. Sight distance and the design of driveway entrances are adequate to accommodate expected traffic.
- e. Where the areas open to customers are close to the property boundaries, boundaries are clearly marked through fencing or landscaping to protect neighboring properties from unintentional trespassing by visitors.
- f. The use will operate only between the hours of 6 a.m. and 10 p.m. Any outdoor lighting shall comply with the requirements of Section 134.0.
- g. Agritourism uses may include festivals or similar events held for the *purpose of marketing products grown on the farm or farm- related education or recreation*, provided that festivals are limited to no more than 4 per year and no more than 8 days per year.

HCZR §128.0.1.5. (Emphasis Supplied.)

Farm Winery—Class 1A or Farm Brewery—Class 1A

1. A Farm Winery—Class 1A or a Farm Brewery—Class 1A is permitted as an accessory use to farming in the RC and RR Districts, provided that the use complies with the following criteria:

- a. The use is located on a lot or parcel of at least 5 acres. This use is permitted on any such parcel, including parcels with agricultural preservation easements and preservation parcels, excluding cluster preservation parcels in the RR District existing on July 4, 2011 for which easements have not been donated to the Agricultural Land Preservation Program.
- b. The lot or parcel upon which the use is located shall have frontage on and direct access to: (1) A road classified as an arterial or collector public road; or (2) A local road, provided that: (a) Access to an arterial or collector public road right-of-way is not feasible; (b) ***The access to the local road is safe based on road conditions and accident history.***
- c. The local road is internal to a residential cluster subdivision, the subject property adjoins an arterial or collector highway, the local road access point is within 400 feet of its intersection with the arterial or collector highway, and there are no intervening driveways between the arterial or collector highway and the access to the property along the local road;
- d. ***That the use of the local road for access to the property will not unduly conflict with other uses that access the local road.*** The driveway providing access to the proposed site shall not be shared with other properties; however the Director of Planning and Zoning may waive this criteria if the petitioner provides affidavits from all persons who also share the driveway that they do not object to the use of the driveway for the use. If the use of a shared driveway is allowed, the petitioner shall demonstrate that the use will not result in damage to or deterioration of the shared driveway or in increased hazards to other users of the driveway. The Director of Planning and Zoning shall prescribe appropriate conditions and safeguards to ensure the petitioner's responsibility for repair of any damage or deterioration of the shared driveway caused by the use.
- e. All winery or brewery related structures and uses associated with the winery or brewery, excluding cultivation areas shall be at least 75 feet from all lot lines and where possible minimize the impact on surrounding properties.
- f. For a farm winery Class 1A use, the planting of at least two acres of grapes or other fruit on the property shall be initiated upon approval and successfully established within two years of approval. ***For a farm brewery Class 1A use, the planting*** of at least two acres of a primary ingredient used in the brewing of malt-based or grain-based beverages on the premises shall be

initiated upon approval and successfully established within one year of approval.

- g. Appropriate screening of adjoining parcels shall be provided, which may include a solid fence, wall, landscaping or a combination that presents an attractive and effective buffer.
- h. ***The use shall be consistent with and support the farm and its production***, shall not interfere with the implementation of soil conservation and water quality best management practices, and shall not impact floodplains, wetlands, stream buffers, steep slopes or other environmental features on the farm winery property.
- i. ***The use shall be compatible with the rural character of the farm and the surrounding area.***
- j. A Farm Winery or Brewery may produce, serve and sell food to complement wine or beer tasting in accordance with Article 2B of Maryland State Code.
- k. In addition to the beverages produced by the use, the retail sale of promotional items identifying the same winery or brewery, such as glassware, clothing, bottle openers or similar items, is permitted as an accessory use. Plants or produce grown on-site may also be sold.
- l. Visitor hours shall be restricted to between 10:00 a.m. and 7:00 p.m., Sunday through Thursday; and 10:00 a.m. and 10:00 p.m., Friday and Saturday. DPZ may reduce the hours for visitors, but shall not increase them. The hours for winery or brewery processing and production operations are not limited.
- m. ***At any one time, the number of visitors to the winery or brewery shall not exceed 50 visitors.***
- n. The number of barrels brewed by a farm brewery may not exceed the number of barrels allowed by State law.

2. A zoning permit is required for the use. As part of the approval process, the owner shall submit a site layout, which includes acreage, screening, parking, and building locations. ***If approved, after the required two-year or one-year time period, as applicable, the owner shall provide documentation to DPZ proving compliance with the planting requirements in Section 128.0.O.1.e and that it remains in compliance with all the other approval criteria. Thereafter, permit renewal is not required unless a violation occurs.*** It is the responsibility of the winery or brewery owner to obtain any other required Federal, State and County approvals required prior to operating the use.

Also of importance is HCZR §102.0.b regarding the disposition of a zoning complaint,**If the Department of Planning and Zoning does not issue such a zoning violation notice within 60 days of receiving the written request, this shall be considered to be a final decision of the Department that the alleged violation does not exist,.....** (Emphasis Supplied.)

II. BACKGROUND AND PROCEDURAL HISTORY

A. The Property.

The Property comprises 52.67 acres and was purchased by the Marriner Family Irrevocable Trust (“Owner”)¹ in 2012. The Property’s use (and presumably its property tax status) per the State Department of Assessments and Taxation is “Agricultural.” The Property is the location of the principal offices of Manor Hill Farm, LLC, t/a Manor Hill Brewing; Manor Hill Productions, LLC, t/a Manor Hill Productions; and Victoria Restaurant Group, LLC (See, SDAT website).

B. Complaint, First DPZ Investigation and Decision, 2022 Appeal.

On or about August 18, 2022, Appellants filed a Request to Conduct Zoning Inspection (“Complaint”) with DPZ alleging that the Property was the site of multiple zoning violations. Included with the Complaint was a detailed narrative setting forth four (4) primary areas in which Appellants contend that the Owner is allowing operations of Manor Hill Farm, LLC, t/a Manor Hill Brewing to violate the HCZR:

1. By causing traffic from heavy trucks and increased traffic from the public which poses dangers to pedestrians and other motorists, damages the road, and degrades the neighbors’ beneficial use and enjoyment of their residences along Manor Lane in violation of Section 104.0 (Rural and Section 128.0.O

(Supplementary Zoning District Regulations - Farm Brewery—
Class 1A) of the HCZR, and specifically Section
128.0.O.1.b(2)d which requires “That the use of the local road
for access to the property will not unduly conflict with other
uses that access the local road”.

2. By violating the requirement that a product grown on the farm
on the Property be a primary ingredient in their beers and
brews produced on the Property under §128.0.O
(Supplementary Zoning District Regulations - Farm Brewery—
Class 1A) of the HCZR (which is referred to by both Section
104.0 (Rural Conservation) and Section 106.1 (County
Preservation Easements); Conservation), Section 106.1
(County Preservation Easements), and Section 128.0.O
(Supplementary Zoning District Regulations - Farm Brewery—
Class 1A) of the HCZR, and specifically Section
128.0.O.1.b(2)d which requires “That the use of the local road
for access to the property will not unduly conflict with other
uses that access the local road”.

¹ While the Marriner Family Irrevocable Trust is the title Owner of the Property, the owners of the entities that maintain their principal offices at the Property are not publicly known. Randy Marriner is referred to by DPZ, and shall be referred to herein, as if he is the spokesperson for the Owner and for those entities.

3. .By violating the requirement that a product grown on the farm on the Property be a primary ingredient in their beers and brews produced on the Property under §128.0.O (Supplementary Zoning District Regulations - Farm Brewery—Class 1A) of the HCZR (which is referred to by both Section 104.0 (Rural Conservation) and Section 106.1 (County Preservation Easements);
4. By violating the requirement that the Farm Brewery Accessory Use be an *accessory* use that is consistent with and supports the farm and its production, and remains compatible with the rural character of the farm and the surrounding area under Section 128.0.O (Supplementary Zoning District Regulations - Farm Brewery—Class 1A) of the HCZR (which is referred to by both Section 104.0 (Rural Conservation) and Section 106.1 (County Preservation Easements); and
5. By holding both public and private events that are outside of the allowed primary or accessory uses on the Property under Sections 104.0 - RC (Rural Conservation), Section 106.1 (County Preservation Easements), and 128.0.O (Supplementary Zoning District Regulations - Farm Brewery—Class 1A) of the HCZR.

In particular, the Complaint stated:

1. "In addition to beer tastings on weekends, MHB now hosts a variety of events such as craft fairs, yoga classes and fundraisers that fall under this definition. These events commonly attract many more than 50 people. For some of these events, participants have arrived in large tour buses."
2. "MHB is aggressively marketing the site as a venue for private events for more than 50 people. On their website, MHB advertises that their Taproom can seat 50+ guests for a private party, or manage more in a "cocktail-style setting," and that the outdoor courtyard and covered tent offer "space for an unlimited amount of guests." The website also describes "The Barn" for private parties, with room for 50+ guests to be seated or 100+ in a cocktail-style setting."
3. "MHB routinely holds both public and private events that are unrelated to the Farm Brewery Permit."
4. "None of the Marriners are involved in farming. Instead, Manor Hill is the corporate headquarters for the Marriner restaurant business. It is also the headquarters and home of a warehouse for an entirely different venture, Manor Hill Productions. This business appears to be involved in marketing and event planning and has 12 people on their leadership team, some of whom are located in offices in Dallas and Las Vegas. See <https://www.manorhill.com/who-we-are>. It is unclear how much of the traffic to and from Manor Hill involves people involved in these other businesses."
5. "In their permit application, MHB described a plan to grow hops on-site for their beer to satisfy this requirement. Although 2 acres of poles were installed to create a hops yard, there have been no hops plants at MHB for at least 5 years. . . . Instead, the MHB website states that they use corn grown on-site in their Pilsner. However, Pilsner is just one of more than 15 types of beer produced at MHB. Thus, this seems like only a token effort to satisfy the requirement for including a farm-grown "primary ingredient" in MHB beer."
6. "The MHB website claims they sell produce from their garden in a 'farm stand.'"
7. "There is no farm production at Manor Hill other than the feed corn grown in a field rented to a local farmer. The pygmy goats and Angus cattle advertised on the MHB website are little more than would be seen on a hobby farm. This property is not used for agricultural production year-round on any scale that could be considered a viable commercial venture."

8. "MHB is built on land that was a farm in the past, but it is now just a brewery, bar, event venue and corporate headquarters located in a former field."
9. "Now, large heavy trucks regularly go to and from MHB each day. During Brewery hours, traffic up and down the Lane from the vehicles of patrons is continual. Finally, the "curbside pickup" of canned beer now offered by MHB on M - Th when the tasting room is not open to the public means that Brewery traffic is a daily problem."
10. "The trucks now servicing MHB include semi-tractor trailers, private garbage trucks large sewage vehicles and heavy trucks bearing explosive canisters of pressurized carbon dioxide, all of which make at least weekly visits to MHB. This traffic is in addition to numerous trips by various box trucks, many of which exceed the 22' length described by Mr. Marriner in his permit application. During Brewery hours, traffic counts by residents reveal a steady stream of cars, SUVs and trucks of MHB patrons passing residents' homes at a rate of 30-60 vehicles/hr. This traffic is far greater than envisioned on the permit when the Farm Brewery Permit #13-002 was granted."
11. "Heavy trucks and the stream of personal vehicles endanger pedestrians on the lane."
12. "The large trucks that service MHB are also a danger for oncoming cars and other vehicles."
13. "There is clear evidence that large trucks regularly swerve off the road."
14. "This high-traffic situation is in direct contrast to the interpretation of the impact of MHB traffic in the permit granted 12/12/2013, which states (*italics added*): 'Manor Lane is not a through-road, and it ends adjacent to the Property. It does not have much traffic because it is principally used to access the residential parcels located along the road. At the maximum 50 visitors to the Property at any one time, the traffic potentially generated would be relatively low. The Petitioner explains that the use would get approximately two truck visits per week, and these trucks would be 22-foot box trucks, not tractor trailers. Trucks of this size would not conflict with other users of the road. While the vehicle trips on Manor Lane would increase the level generated by the use would not excessively conflict with the other uses along the road.'"
15. "Because of the traffic generated by MHB, residents of Manor Lane can no longer walk the Lane in peace on a weekend afternoon or evening for exercise and to enjoy the wildlife and birds."

On November 17, 2022, JJ Hartner, Zoning Supervisor, Division of Public Service and Zoning Administration, DPZ, issued a letter to Sara Via ("2022 DPZ Letter") stating:

In response to your request regarding the above-mentioned property a representative of this Division inspected the property on September 21, 2022 and October 23, 2022. There were no violations of the Howard County Zoning Regulations; Special Farm Permits SFP-13-002, SFP- 16-002 & SFP-19-004 or Subdivision and Land Development Regulations found for this property. Since there are no violations, the case is closed.

On December 19, 2022, Appellants filed an appeal of the 2022 DPZ Letter ("2022 Appeal") on the basis that DPZ conducted only a cursory inspection of the Property (and presumably that a more in-depth investigation of the detailed allegations in the Complaint would have shown that the violations do, in fact, exist) and that the decision made by DPZ that there are "no violations" is incorrect and not based on the facts.

C. The Hearing on the 2022 Appeal and the 2023 Decision and Order.

On February 22, 2023, and March 30, 2023, the hearing on the 2022 Appeal was conducted. The following Appellants testified:

- Dr. Sara Via
- Dr. Veronica Dioverti
- Christian "CJ" Domerchie
- Sara Domerchie
- Alicia Beall
- Harry Hoffman
- Russell Howey
- Suzanne Hoffman
- William Flanigan

- Yovanda Brooks
- Constance Reed
- Joan Pontius

The following witnesses testified for DPZ:

- Tamara Frank, Regulations Inspector II, Department of Planning and Zoning
- Geoff Goins, Division Chief of Public Administration and Zoning

After the hearing concluded, the Hearing Examiner issued a May 1, 2023, Decision and Order² in BA 794D that affirmed the appeal and directed that the case be “remanded to DPZ to reopen the violation case and conduct the required investigation to determine whether a violation exists or has occurred, consistent with the law, this Decision and the bulleted directives stated above; and to amend the Decision accordingly” (“2023 Decision and Order”). DPZ did not appeal the 2023 Decision and Order to the Board of Appeals. Thus the Decision and Order in BA 794D is the law in this case.

D. The Second DPZ Investigation and 2023 DPZ Letter.

DPZ, after receiving the 2023 Decision and Order, reopened its investigation into the complaints made in the August 19, 2022, complaint and, according to DPZ, “reinvestigated all allegations made in your August 18, 2023 [sic], complaint and the potential violations outlined on pages 33 through 35 of the D&O.” See, November 20, 2023, letter from DPZ to Sara Via (“2023 DPZ Letter”), attached to the Administrative Appeal Petition to The Howard County Hearing Authority dated December 19, 2023 (“Second Appeal Petition” or “2023 Appeal”).

The 2023 DPZ Letter set forth three efforts undertaken by DPZ that comprised its “reinvestigation” in response to the 2023 Decision and Order:

1. **Alcoholic Beverage Licensing Review.** DPZ requested that the Maryland Alcohol, Tobacco and Cannabis Commission’s Field Enforcement Division (“Commission”) inspect Manor Hill Brewery.

Result: The State inspector, Louis Berman, inspected the Property and “informed Ms. Frank that he did not observe any violations of Manor Hill’s *Class 8 Farm Brewery License*.”

2. **Traffic Study.** DPZ requested that the Howard County Police Department perform a traffic study of Manor Lane. DPZ then requested that the Division Chief of the Development Engineering Division of DPZ (Mr. Chad Edmondson) review the traffic study prepared by the HCPD and assess whether the “traffic on Manor Lane exceeds what the road was designed to handle.” DPZ requested that the Chief of the Bureau of Highways at Howard County’s Department of Public Works (Mr. Krishnakanth Jagarapu) review Mr. Edmondson’s analysis of the HCPD study.

Result: Chad Edmondson opined that “Given the relatively flat and straight characteristics of this road with limited number of driveways breaking access, this road should have [sic] not have *capacity issues* supporting 681 trips per day.” Mr. Jagarapu stated “I agree with Mr. Chad Edmondson’s assessment that Manor Lane should have *adequate capacity* to accommodate the average daily trips observed based on the data collected for 9 days and 5 minutes between Aug 30, 2023, and Sep 08, 2023.”

² The May 1, 2023, Decision and Order is incorporated into this decision as if fully set forth herein. In addition, at the request of the County during the hearing on March 6, 2024, the entire record from the 2022 Appeal, BA 794D, was incorporated into this case.

3. **Email to Owner.** DPZ contacted Randy Marriner via email and provided a copy of the 2023 Decision and Order and asked that Mr. Marriner demonstrate that the “property is in compliance with the approved permits” and that the Owner “provide documentation about the events held at the property and explain how they relate to agritourism.” Mr. Marriner responded in a September 25, 2023, email, which response was attached to the 2023 DPZ Letter.

Result: It does not appear that DPZ looked beyond Mr. Marriner’s self-serving response that the Property is in compliance to determine whether, in fact, the property is in compliance with the approved permits or the HCZR.

DPZ concluded in the 2023 DPZ Letter that after considering “the information detailed above, the information DPZ collected during its initial investigation, and the information presented to the Hearing Authority, DPZ has determined *that it lacks sufficient evidence to prove a violation of the Howard County Zoning Regulations*³.”

E. **The Second Appeal and Hearing.**

In the Second Appeal Petition (appealing the 2023 DPZ Letter), Appellants contended that DPZ again failed to adequately investigate the complaint that the

³ The 2022 DPZ Letter concluded that there was “no violation” but the 2023 DPZ Letter states merely that it “lacks sufficient evidence to prove” a violation.

uses on the Property violate both the HCZR and the three permits. The hearing on the Second Appeal Petition and 2023 Appeal was scheduled to commence on March 6, 2024. Prior to the first hearing date, Appellants requested the issuance of three subpoenas – to Randy Marriner, Krishnakanth Jagarapu, Chief of the Bureau of Highways at Howard County's Department of Public Works, and Lynda Eisenberg, then Director of DPZ. Mr. Jagarapu and Ms. Eisenberg appeared in response to the subpoenas to them.

The subpoena to Mr. Marriner requested that Mr. Marriner appear to testify about:

- the farming operation at Manor Hill,
- the assertion that farming is the primary use of the property,
- the agricultural nature of the events held under the agritourism permit,
- whether there are still plans to renovate an existing barn as an event space and to build a new agritourism center in what is currently used as a pasture; and that Mr. Marriner produce the following documents:
- documents supporting the statement in Mr. Marriner's letter of 9/25/23 to DPZ asserting that farming is the primary activity at Manor Hill, and copies of any permits granted for additional renovation & new buildings at Manor Hill a full list of activities by date, both public and private, held under the agritourism permit at Manor Hill during 2022 and 2023.

Mr. Marriner filed a motion to quash the subpoena directed to him. The Hearing Examiner denied Marriner's motion to quash and Marriner appealed that decision to the Board of Appeals which granted the motion. Accordingly, Mr. Marriner did not appear at the hearing on the Second Appeal Petition.

1. March 6, 2024, Hearing.

On the first hearing date in the 2023 Appeal, March 6, 2024, Sara Via, an Appellant, testified. Her testimony (which aligned with the allegations in the Second Appeal Petition) detailed the ways in which Appellants believe the Property is being

used and the ways in which Appellants believe that the second investigation was insufficient and the ways in which the use of the Property violates the HCZR, including:

- Inadequate DPZ Investigation.
 - DPZ primarily relied on a letter from Mr. Randy Marriner, the Owner, without independently verifying compliance.
 - No meaningful questions were asked to determine whether the brewery and agritourism operations are, in fact, accessory uses as required by permits.
- The investigation failed to check if Manor Hill's primary ingredient for brewing was grown on-site as required.
- Traffic Concerns.
 - A traffic study conducted in September 2023 showed that weekend traffic on Manor Lane (ADT = 1108) exceeded allowable limits.
 - The appellants argue that the DPZ and traffic engineers misclassified Manor Lane as a Residential Access Street instead of a Use-In-Common Roadway, leading to an underestimation of traffic impact.
 - The narrow, historic road (17'-21' wide) was not designed for high traffic, leading to road damage and unsafe conditions.
- Lack of Compliance with Permits.
 - The Farm Brewery Permit requires the use of farm-grown primary ingredients (e.g., hops), but Manor Hill abandoned its hops cultivation and instead claims to use feed corn.

- The Agritourism Permit requires activities to be agriculture-related, but the appellants argue that most events (e.g., corporate mixers, birthday parties, axe throwing, and a unicorn-themed festival) lack agricultural relevance.
- The farm operations (14 acres of feed corn, a few chickens, and beehives) do not constitute the principal use of the property, as required by zoning regulations.

See, Second Appeal Petition.

At the March 6, 2024, hearing, the following County employee witnesses were allowed to be questioned out of order: Krishnakanth Jagarapu, Chief of the Bureau of Highways at Howard County's Department of Public Works, and Lynda Eisenberg, Director of DPZ.

Mr. Jagarapu testified about his review of Chad Edmonson's analysis of the traffic study conducted by HCPD. The upshot of the traffic study and the DPZ analysis of the study is that the traffic on Manor Lane does not exceed the amount it was designed to handle – that is, Manor Lane has adequate *capacity* to accommodate the average daily trips measured of 681 vehicles. When Mr. Jagarapu was asked, however, what "capacity" of a roadway means, he responded by stating that it means whether or not a road, from a physical standpoint, can handle a certain number of vehicles per day. Jagarapu, March 6, 2024, 2:28:19.

Ms. Eisenberg testified that during the second investigation, DPZ [02:38:35-02:38:41] "followed the decision and order outlined by the hearings examiner and

found no violations.”⁴ Ms. Eisenberg stated, in response to the questions about specific activities at the Property, [02:39:31-02:39:36] “Agritourism is a broad definition and agriculture is broad as well.” She was unable to state whether a visit by the Baltimore Ravens, a political fundraiser, bingo, a light bulb swap, or a yoga class were related to agriculture because she did not know the contexts under which those activities took place. When asked if she believed that an investigation *should* determine if such activities are related to agriculture, she stated [02:43:04-02:43:32] “We only have one person to investigate at that particular moment in time. So to go to these particular activities would mean that we would have to use our staff resources to sit and so we don't go and look at and seek out violations. We only review complaints. So we would have to know at each time when that specific activity was occurring to send out our investigator to review whether that was within the confines of their use permit.”

Regarding the sale of alcohol at the Property, Ms. Eisenberg stated that the farm brewery permit allows the sale of alcohol. She stated that the Owner of the Property provided “sufficient evidence” that farming is the primary use of the Property – she stated that the evidence was the “different certifications,” and then the fact that the inspectors [02:46:05-02:46:07] “observed farming activities on the site.” Ms. Eisenberg stated that [02:46:46-02:47:03] “farming is the primary principal use of that particular property. And in the Howard County zoning definition, it's three acres or more, with those specific uses outlined of growing

⁴ DPZ did not, in the 2023 DPZ Letter, state that there were “no violations.” It stated that it did not have “sufficient evidence to prove” violations [in court]. See 2023 DPZ Letter.

crops, having livestock on the property, etc.” She stated [02:49:43- 02:49:56] “So we look at it as intensity. We look at it as a size. We look at it as what the general activities happening on that property. So I can't really clearly say given all of those things.” Asked how she would determine if farming was the primary activity of the Property, she stated [02:56:03-02:56:16] “I don't specifically know what criteria they used for that. Asked if selling alcohol is allowed under the Agritourism Enterprise permit, Ms. Eisenberg stated [02:59:51-02:59:53] “Not to my knowledge.”

Harry Hoffman testified about the problems on the road that he has witnessed over time, resulting from the fact that the road has become dangerous as a result of the cars and traffic going to and from events at the Property.

2. November 20, 2024, Hearing.

At this next hearing on the 2023 Appeal, the County was newly represented by David Moore, and the Appellants were newly represented by G. Macy Nelson and Alex Votaw.

The Hearing Examiner explained that at the March 6, 2024, hearing [00:04:33- 00:04:46] Mr. Yeager, who represented the county at the time, requested that the exhibits, the testimony and the Decision and Order from BA–794D adopted into become part of the record in this case. That request was approved and those documents were incorporated into this case.

Joan Pontius was called as a witness by Appellants' counsel. She has lived on Manor Lane for 25 years. Ms. Pontius testified about the website for Manor Hill Farm and the calendar entries on the website.⁵ There was discussion about the dates of the entries that would be allowed, and the following was decided. Calendar

events that took place close to the date of the DPZ investigation would be allowed to be referred to. Calendar events that took place after the date of the 2023 DPZ Letter would not be allowed.

Ms. Pontius testified about an incident on April 23, 2023. She stated:

“Well, all of the neighbors looked out and realized that there was cars backed up all the way down Manor Lane. So I walked, um, a half a mile down Manor Lane and took pictures and talked to people, and they were all waiting to get out onto 108.” [01:00:34-01:00:51] She testified that [01:15:39-01:15:46] “trucks go by at least once a week, often twice a week, a big rig. . [01:17:38-01:17:52] “And what happens when you turn into Manor Lane and there's a big rig there. Sometimes you have to wait on 108 and to get space enough to turn into Manor Lane.”

Suzanne Hoffman testified as follows:

[Since before the brewery on the Property opened} [01:46:21-01:47:28] “the number of houses on Manor Lane has not changed. I mean, maybe we've had two additional houses since that time. So the amount of people living on that road has not changed substantially since we've lived there there was a farm back at the very end of the road before that. But it was really it was used as a farm. Um, there was just a house with some people who did some maintenance back there, sort of a trailer. But anyway, it's been a very, very peaceful road. You could walk down the road and hardly see anyone on the road.

⁵ Counsel for the County objected to testimony about the Manor Hill website on the basis that only the owner of the website can authenticate it. When reminded that the Owner was subpoenaed to appear and chose to have the subpoena quashed rather than appear, Counsel persisted with this argument and stated that the Appellant has the burden to produce the witness and the Appellant has not produced the witness (which witness was served with a subpoena, hired a lawyer to file a motion to quash the subpoena, had the motion denied by the Hearing Examiner, and appealed that decision to the Board of Appeals). This argument may be effective in a civil or criminal trial, but in administrative hearing, the rules of evidence are relaxed. Importantly, Mr. Marriner, in his written response to DPZ, suggested that DPZ consult the website which is the same URL as the one presented at the hearing.

I don't know how long that was 20 years ago, maybe townhouse development, even some of those people walk on the road because it was a nice, safe place to walk so very, very peaceful. You could not see a soul or just see a car or two right now."

[After the brewery opened] [01:47:54-01:49:02] "it's gradually gotten worse. I mean, I think, can I say exactly when it's gotten worse? I can't, but, um, you know, it has it has evolved from, you know, as I said, we just see a few cars every day to, um, to the point where it is today, where you if you go out on a Friday or especially a Saturday or Sunday, most of us will not walk out on our street past 11:00 and you can look down the road. And I have not stood out and taken account of cars. I admit that I have not done that, but except for, you know, maybe we're standing there and we're feeling like it's unsafe to walk and we'll start counting for a few minutes and count, you know, 20 cars or something. So it is not unusual to look in your line of sight walking down the road. And there are places where your line of sight is certainly not more than a quarter of a mile and you might see five, six, seven cars. And then there might be a break. And then you suddenly see more. And depending on the time, it's in both directions, sometimes one direction, but it's like one car after another, and then you'll have a little bit of a break."

[01:49:18-01:49:37] "We also see trucks. If there's an event that's going to be happening, we see port-a-potty trucks, we see the food trucks. This is in addition to normal traffic, but it starts before the event opens. And even on regular days during the week."

[01:54:24-01:54:45] And I believe it says on the calendar that from 12:00 to 4:00, you can actually go and pick up, um, sort of takeout beer there. So there's even an excess of traffic during the week when the brewery itself is not open for other activities. And I don't remember when that started, but I believe it is on the calendar now.

[01:55:58-01:56:04] Right when the brewery was open, did you ever form a judgment as to whether there were more than 50 vehicles there?

[01:56:05-01:56:54]: Um, absolutely. Just from the number of cars going past and also just from looking, um, you know, as I said, I have taken a drive once or twice through probably twice through his, um, establishment back there, but you can just

stand at the street and see the one part of the you can't see the parking lot that's in the back from the street. You can see it, but you couldn't count the cars. You can see that it's filled with cars as you're walking down the street, just because of the height of the road, but you can certainly see very clearly the number of cars that are parked along that exit road. And have I counted them? No, but you certainly get the idea that there's at least that many, and surely more when they count in the back. So and then seeing the cars on the road as well.

Lawrence Green was called as the next witness by Appellants. Mr. Green is a professional traffic operations engineer. He stated:

[02:14:36-02:15:00] I have about 38 years experience in traffic engineering. Transportation planning. I've done and reviewed thousands of traffic impact studies, speed studies that are conducted, many, many speed studies, traffic operations studies. . . so I have a lot of experience in traffic engineering."Mr. green has extensive experience reviewing traffic studies with vehicular counts. He is familiar with Howard County and other counties in Maryland. He has experience in "reviewing traffic studies to determine how many vehicles are going to a particular location,. . . in analyzing whether a certain ingress and egress has adequate emergency access and analyzing, physical impacts to a road as evidence of whether there's vehicular traffic on that road that's greater than the road was designed to, uh, handle." [02:18:33-02:18:34]

Mr.Green testified:

- The HCPD traffic study was conducted at the end of the roadway where the road dead ends, which is not a good location to conduct a speed study - [02:22:18-02:22:27] "because it's more toward the end of the roadway and vehicles should be slowing down or speeding up or, you know, starting up."
- Based on the data collected, he determined that on Saturdays and Sundays, there are approximately 300 vehicles over a 2-hour period. He stated that he can use that data to estimate that there would have been at least 150 vehicles at the site at any one time during that period, which would conservatively equate to about 300 visitors at a time at the side.
- Howard County classified Manor Lane as an "access street with an open section" and the classification recommends a maximum average daily traffic volume of 500 vehicles per day. Yet, the brewery traffic on

a weekend exceeds 1100 vehicles per day, which is more than double the number that the road is classified for.

- Mr. Green also stated that the designation “access street” is not the most appropriate, because an access street is required to have 24 feet of width of pavement. An “access place” would be the better designation because the width is less – 22 feet. If Manor Lane was classified as an access place, the recommended maximum daily volume would be reduced to 200 vehicles per day. So, Manor Road generates more than 5.5 times the number of vehicles that is recommended for an access place.
- Even with the “access street” designation, the road is [02:31:57-02:32:27] “supposed to be a low speed environment with narrow pavement. . . Serving up to 50 dwelling units. . . [in which] . . . the residential environment is dominant. Normally traffic is subservient, which is a very interesting statement. And I think it's very accurate of how it used to be. And pedestrians may share the roadway. That's the specific language in the Howard County Roadway Design Manual.
- The speed data in the study showed that there was a speed clocked at 67 MPH close to the turn into the brewery, and that there were maximum speeds of 44 MPH leaving the brewery.
- Mr. Green reviewed the April 2023 video admitted into evidence and determined that the queuing of traffic would cause emergency vehicles entering onto Manor Lane to be waiting several minutes to access the community – thus the status of the road negatively impacts emergency access.
- Mr. Green testified that because of the narrowness of the road, vehicles have to [02:37:49-02:38:01] “impinge on the edge of the shoulder or probably even into the dirt area to pass one another, and certainly with trucks, um, that they're going to have to impinge on the shoulder.”
- In sum, Mr. Green concluded that:
 - [02:38:37-02:38:45] “vehicular traffic on the weekend [does not] conform with the recommended max maximum traffic for an access street pursuant to the county documents.”
 - [02:39:48-02:40:07] heavy trucks traveling down this road, um, that are causing damage. . . are not, um, typical for an access street with a residential characteristics.”

On cross examination by Mr. Moore, Mr. Green stated that the County engineers focused on whether the roadway has “capacity” to handle the traffic.

[02:43:26-02:43:48] “So they were focused primarily on the capacity of the road, um, whether it physically could handle the amount of traffic. Where, in my opinion,

I feel like they should have also assessed the roadway classification and the appropriateness of the traffic volumes on that roadway. . . [02:47:59-02:48:26] . . . and like [for] example for this particular classification, pedestrians should safely be able to share the road - that's specifically in the county's ordinance for this classification. And when you start adding thousands of extra traffic, extra truck traffic, I'm going to say that it's definitely hurting the pedestrians' ability and safety to be able to share that roadway." Id.

3. December 6, 2024 Hearing.

Deputy DPZ Director Jessica Bellah testified that she was the direct supervisor of JJ Hartner who wrote the 2023 DPZ Letter. She testified as follows: The reinvestigation addressed the [00:05:18-00:05:28] "specific request of the hearing examiner as she described in the decision and order, and we went point by point and made sure that our investigation addressed those issues."

- Because she understood that traffic was a major concern, DPZ reached out to the HCPD and DPW to determine if there were recent traffic studies of Manor Lane. Because there were not recent traffic studies, the HCPD offered to conduct another speed study. She stated [00:06:38-00:06:42] they were "typically interested in the volume of traffic and the average daily traffic load."
- After the HCPD completed the speed study, Chad Edmondson, the division chief for the development engineering division, which is part of DPZ, reviewed the report, then DPZ requested assistance from DPW which typically handles traffic concerns. Mr. Jagarapu of the Bureau of Highways also reviewed the report. DPZ concluded

that [00:09:35-00:09:46] “In general, we relied on their expertise that the Manor Lane should be able to handle the expected traffic and the measured traffic that was occurring on Manor Lane.”

- Because DPZ does not have the ability to “test the beer” to determine if a product grown on site is a primary ingredient of the beer, they reached out to the Maryland Alcohol, Tobacco and Cannabis Commission's field Enforcement division, and as a result [00:12:54-00:13:01] the “inspection that was performed by the state agency did not demonstrate sufficient evidence of any violation.”
- Ms. Bellah stated that [00:14:18-00:14:26] “our follow up investigations were ‘are those events, are the activities on the site compliant with the approved special farm permits that had been issued?’ ”
- Ms. Bellah testified [00:17:40-00:18:15] “I think we believe in firmly established that farming is the primary use on that property site. In fact, the special farm permit uses are if you look at the definition of farming in the Howard County zoning regulations, they are actually part of the definition of farming. So as long as the activities that are occurring under the special farm permits are compliant with the permits issued, then they themselves contribute to the farming use. Um, but then we also looked in general at the amount of acreage that had been planted. Um, the kind of intensity of uses. Um, and we felt that farming still remained the primary use on the property.”
- Ms. Bellah generally testified in response to questions by Mr. Moore that DPZ did not find sufficient evidence of a violation that

would allow DPZ to prevail on a district court action to enforce a citation against a violation occurring on the Property.

- On cross examination, Ms. Bellah essentially testified as follows:
 - DPZ did not investigate traffic safety or conflicts on manor lane other than reviewing the speed study prepared by HCPD.
 - Ms. Bellah acknowledged that DPZ did not evaluate whether the increased traffic from Manor Hill Brewery was unsafe or conflicted with other uses of Manor Lane. DPZ relied on the review by Mr. Edmondson and Mr. Jagarapu that the road had adequate “capacity.”
 - DPZ did not examine whether emergency vehicles or pedestrians were negatively impacted by the brewery’s operations.
 - DPZ did not investigate whether manor hill exceeded visitor limits - the brewery permit limits visitors to 50 at a time, and Bellah admitted that DPZ did not verify whether this rule was being followed.
 - No inspectors were sent to observe visitor counts during events, despite concerns raised by Appellants. DPZ Relied on the Owner’s Statements. Bellah testified that DPZ reviewed the reviewed the Manor Hill website and social media to assess compliance⁶. DPZ did not request visitor logs, sales records, or other concrete data from Manor Hill to confirm adherence to permit conditions, even through Appellants presented evidence

that Manor Hill hosted frequent large events (e.g., concerts, festivals, Ravens football team visits) that may exceed agritourism and farm brewery regulations.

- Bellah testified that DPZ did not send inspectors to observe these events firsthand.
- DPZ did not investigate whether the brewery still used farm- DPZ used overbroad interpretations of “Agritourism” and “Accessory Uses.” DPZ determined that various entertainment activities (e.g., bingo, concerts, craft fairs) that do not relate to farming could be considered agritourism if they were held in conjunction with other farm-related activities. Bellah admitted that DPZ did not use specific criteria to measure whether these activities were still “subordinate” to the farm’s primary use.
- grown ingredients as a primary ingredient.

⁶ Counsel for DPZ objected to the website printouts on the basis that it could not be verified that the website was, in fact, the website of the Owner. Yet, Ms. Bellah testified that DPZ reviewed and relied on the Owner’s statement that the website shows the events at the Property. These positions are inconsistent.

- DPZ used overbroad interpretations of “Agritourism” and “Accessory Uses.” DPZ determined that various entertainment activities (e.g., bingo, concerts, craft fairs) that do not relate to farming could be considered agritourism if they were held in conjunction with other farm-related activities. Bellah admitted that DPZ did not use specific criteria to measure whether these activities were still “subordinate” to the farm’s primary use.

At the conclusion of the December 6, 2024, hearing, the Hearing Examiner requested that counsel file written closing memoranda. Appellants filed their written closing on January 10, 2025, and DPZ filed its closing on January 30, 2025, at which time the record was closed.

After the hearing concluded, the Hearing Examiner issued a February 27, 2025, Decision and Order in BA 806D that affirmed the appeal and directed that the case be remanded to DPZ in accordance with the following:

“ORDERED, that DPZ shall reopen the violation case CE-22-126 (4411 Manor Lane) and shall, as to each of the following, under Sec. 16.1602, investigate the complaint and, as to each, determine whether a violation exists or has occurred:

1. Whether the existing operations on the Property continue to comply with the local road requirements set forth under HCZR §128.0.I.
2. Whether the existing operations on the Property continue to be “compatible with the rural character of the farm and the surrounding area” under HCZR §128.0.O.1.h. or whether the existing operations have “significant adverse Impacts on neighboring properties” under HCZR §128.0.I.5.b..

3. Whether the Special Farm Uses and all other accessory uses remain secondary, incidental and subordinate to the principal use of the Property under HCZR §103.0. and §104.0.C.
4. Whether the operations on the Subject Property comply with the Farm Brewery permit, including:
 - a. whether the use remains in full conformance with all aspects of the use as it was approved under HCZR§128.0.I;
 - b. whether truck traffic generated by the existing uses on the Property continue to conform to the intensity of the truck traffic described by the Owner when DPZ approved the farm brewery permit;
 - c. whether visitors to the brewery exceed the 50-person limit under HCZR §128.0.O.1.I. when the Owner hosted events at the Subject Property at which any alcoholic beverage from the brewery is sold, possessed or consumed; and
 - d. whether the Owner uses the corn grown on the Subject Property as a primary ingredient in its beers under HCZR §128.0.O .
5. Whether the operations on the Property comply with the Agritourism Enterprise permit, including:
 - a. whether the use remains in full conformance with all aspects of the use as it was approved under HCZR§128.0.I.;
 - b. whether the activities hosted on the Property under the Agritourism Enterprise permit are related to agriculture and/or are for the purpose of marketing products grown on the farm or farm-related education or recreation under HCZR §128.0.O.5.g.;
 - c. whether the Owner hosted more than four festivals or similar events

on the Property under HCZR §128.0.O.5.g.; and

- d. whether the use supports the agricultural use of the property and will not have significant adverse impacts on neighboring properties under HCZR §128.0.O.5.b.

- 6. Whether the operations on the Property complied with the Farm Stand permit as approved under HCZR §128.0.O.3. including whether the use remains in full conformance with all aspects of the use as it was approved under HCZR §128.0.I.

FURTHER ORDERED, that as to any use under a Special Farm Use permit (1) that is not in full conformance with all aspects of the use as it was approved, or (2) that represents a significant change to the operation (including but not limited to new uses or structures), DPZ shall require the permit holder to apply for a renewal of the permit under HCZR §128.0.I;

FURTHER ORDERED, that the initial complaint in August 2022 (CE-22-126) shall be and hereby is amended to include the violations alleged to have occurred and alleged unlawful activity up through and including November 20, 2023;

FURTHER ORDERED, that DPZ, in determining whether a violation occurred, shall consider all of the evidence available to it including all of the evidence submitted during the hearing in Case No. BA 806-D (which incorporates the record in Case No. BA 794-D);

FURTHER ORDERED, DPZ shall set forth in its decision the information reviewed and considered and as to each claimed violation, the rationale for its decision;

FURTHER ORDERED, that the "Barn" on the Property (the one identified on the Owner's website as venue called "the Barn at Manor Hill") is not a legitimate farm building and thus it, along with all other non-farm-related structures on the Property,

are subject to and in fact exceed the maximum 2,200 SF for accessory structures allowed in the RC Zoning District under HCZR §128.0.A.12, and accordingly under HCZR §102.0.A., are hereby declared to be unlawful;

FURTHER ORDERED, that DPZ shall, in its decision, state that the “Barn” on the Property (the one identified on the Owner’s website as venue called “the Barn at Manor Hill”) is not a legitimate farm building and thus it, along with all other non-farm-related structures on the Property, are subject to and in fact exceed the maximum 2,200 SF for accessory structures allowed in the RC Zoning District under HCZR §128.0.A.12, and accordingly under HCZR §102.0.A., are hereby declared to be unlawful;

FURTHER ORDERED, DPZ shall complete the items in this Order within 90 days from the date of this Order; and

FURTHER ORDERED, that DPZ is not required by this Order to issue either a Notice Of Violation or a Citation, but that the decision not to do so is not determinative as to whether a violation is deemed to have occurred in the first place.” (“2025 Decision and Order”). DPZ did not appeal the 2025 Decision and Order to the Board of Appeals.

Thus the Decision and Order in BA 806D is the law in this case.

F. The Third DPZ Investigation and Appeal Hearing.

Of a procedural note, on August 5, 2025, Appellants filed its Motion for Preliminary Determination that the Department of Planning and Zoning Failed to Comply with the Hearing Examiner’s Previous Decision and Order. On August 20, 2025, Appellee filed its Administrative Agency Response to Preliminary Motion. Appellee stated that the relief that Appellants request is for “the September 9, 2025 hearing date [to] be limited to legal argument about whether DPZ’s decision complied with the BA-806 D&O.” The Department of Planning and Zoning, the administrative agency, is not opposed to limiting the scope of the appeal to the May 28, 2025 memorandum, which is the sole administrative action as to

which the appeal is timely. However, evidence, including testimony, is necessary for a complete understanding of the scope and details of the DPZ follow-up investigation and, therefore, whether the Hearing Examiner's Order has been fulfilled. In any appeal to the Hearing Examiner of an administrative agency decision other than one contesting the issuance of a notice of violation, "the petitioner must show by substantial evidence that the action taken by the administrative agency was clearly erroneous, arbitrary and capricious, or contrary to law." Rules of Procedure of the Board of Appeals Hearing Examiner, 10.2.(c).

On September 9, 2025, oral argument was conducted on the Motion for Preliminary Determination that the Department of Planning and Zoning Failed to Comply with the Hearing Examiner's Previous Decision and Order Motion and the responses thereto. At the conclusion of the oral argument the Motion was taken under advisement.

The crux of Appellants appeal is whether DPZ's May 28, 2025 review letter is in compliance with the mandates set out by the Hearing Examiner's Decision and Order in BA-806D. Both parties agree that this Decision and Order was not appealed and stands as the law in this case. It seems that both parties also agree that an evidentiary hearing is required, at least as to some of the issues. As testimony is needed to support a finding by substantial evidence that DPZ's actions, as evidenced by its May 28, 2025 letter, were erroneous, arbitrary and capricious, or contrary to law, it would be premature at this juncture to grant a dismissal of any of the issues until further evidence is adduced. Appellants Motion for Preliminary Determination that the Department of Planning and Zoning Failed to Comply with the Hearing Examiner's Previous Decision and Order was denied October 14, 2025.

In the Third Appeal Petition (appealing the May 28, 2025 DPZ Letter), Appellants contended that DPZ again failed to adequately investigate the complaint that the uses on the Property violate both the HCZR and the three permits. The

hearing on the Third Appeal Petition was held on October 15, 2025.

**1. DPZ Investigation Results contained in Ms. Lynda Eisenberg,
Director, Department of Planning and Zonings letter of May 28, 2025:**

HCZR § 104.0.B&C: Permitted Uses

The property has two principal uses that are permitted by right; one single family detached dwelling unit, and farming. The single family detached dwelling unit use is approximately 3.5 acres. The farming use is approximately 42.9 acres and includes crop production and animal husbandry. The property is in the Agricultural Land Preservation Program and assessed as an agricultural use by the Maryland Department of Assessments and Taxation, which is indicative of a farm.

Permitted structures and uses accessory to the single family detached dwelling unit include a swimming pool and circular driveway, which are normal and customarily incidental to a single-family detached dwelling (HCZR §104.0.C.1).

Permitted uses accessory to the principal farming use include a farm stand (HCZR § 104.0.C.10), agritourism enterprise (HCZR § 104.0.C.15), and farm brewery – class 1A (HCZR § 104.0.C.16). Permitted structures accessory to the principal farming use includes a pumphouse/well house building (144 SF), farm equipment and material storage area (22,136 SF), run-in shed (780 SF), farm storage shed (600 SF), multi-use farm building containing an office for the farming use, agritourism enterprise space (900 SF), and farm brewery (2,145 SF), tent used for agritourism enterprise (1,100 SF), another brewery building

(4,300 SF), and event facility/agricultural building ("The Barn at Manor Hill", 2,300 SF of event space, 800 SF agricultural use). The area occupied by the farm accessory uses, including event parking, is 6.3 acres. The area of the farm accessory uses are 12% of the property and 15% of the area of the primary farming use. Square footages are approximate. DPZ determined the accessory uses remain secondary, incidental and subordinate to the principal farming use.

Regarding the "The Barn at Manor Hill", the Department of Planning and Zoning determined that the structure is compliant with the HCZR. The main floor of the structure is part of the agritourism enterprise, and the ground floor is used for chicken keeping. These are uses described in the HCZR definition of "farming" and can be excluded from the maximum cumulative lot coverage (HCZR § 128.0.A.12). This determination is based on the definition of Agritourism Enterprise (HCZR § 103.0), which states: *Activities conducted on a farm and offered to the public or to invited groups for the purpose of recreation, education or active involvement in the farm operation. These activities must be related to agriculture or natural resources and incidental to the primary operation on the site. This term includes farm tours, farm stays, hayrides, corn mazes, classes related to agricultural products or skills, **picnic and party facilities offered in conjunction with the above**, and similar uses.* (emphasis added).

HCZR § 128.0.I: Special Farm Permit ("SFP") Road Access and Frontage

The property has an approved SFP for a large farm stand (larger than 300 SF) and an agricultural enterprise. The property is located on and has access to a local

road (Manor Lane). A large farm stand and agritourism enterprise may front on and have direct access to a local road if:

1. Access to an arterial or collector public road right-of-way is not feasible.

Manor Lane is the only public road that provides access or frontage to the property. With no other frontage or access, direct access to a collector or arterial road is not feasible.

2. Access to the local road is safe based on road conditions and accident history.

Traffic counts were taken by camera adjacent to the property entrance for four days: Saturday April 19, 2025, Sunday April 20, 2025, Saturday April 26, 2025, Sunday April 27, 2025. The access from the commercial driveway to Manor Lane has adequate access geometry and sight distance and does not appear to block any other points of access. Based on the maximum 6 trips per minute during the peak hour created during the events of April 27, 2025, Manor Lane appears to support this volume of traffic. Accident analysis was reviewed from the Baltimore Metropolitan Council ("BMC") crash dashboard. These are crashes reported to the police. Between 2018 and 2023 there were 8 crashes at the Manor Lane/Beech Creek/MD 108 intersection. The report does not differentiate whether a vehicle was accessing or leaving Manor Lane or Beech Creek Drive. Expanding the dashboard range to other nearby intersections, this number of accidents is comparable with other intersections along MD 108 during this time frame. No accidents referenced the cause as alcohol related within the report. No accidents have occurred at this intersection in 2024 through 2025.

Saturday April 19, 2025:

Manor Lane Peak hour: 3:45-4:45 Peak

15-minute interval: 3:45-4:00

Number of trips in both directions during 15-minute interval: 40 trips (2.6 trips per minute)

Sunday April 20, 2025:

Manor Lane Peak hour: 4:30-5:30

Peak 15-minute interval: 4:30-4:45

Number of trips in both directions during 15-minute interval: 14 (1 per minute)

Saturday April 26, 2025:

Manor Lane Peak hour: 3-4

Peak 15-minute interval: 3:15-3:30 Number of trips in both directions during 15-minute interval: 27 (2 per minute)

Sunday April 27, 2025:

Manor Lane Peak hour: 2:45-3:45

Peak 15-minute interval: 2:45-3:00

Number of trips in both directions during 15-minute interval: 84 (5.6 per minute)

3. That the use of the road for access will not unduly conflict with other uses that access the local road. Inspections were conducted during advertised event and non-event days. No conflicts No violation of the regulations was observed during the DPZ inspections.

HCZR § 128.0.I.3: Farm Stand, Special Farm Permit (SFP-19-002)

The general criteria for large farm stands (over 300sf) are:

- 1. The use is located on a parcel of at least 50 acres or a parcel of any size if subject to an ALPP purchased or dedicated easement or other dedicated easement.** The property is 52.67 acres and is subject to an

ALPP easement.

2. **The use may include the retail sale of crops, produce, flowers, plants, livestock and poultry products and similar items grown or produced on-site or on other local farms. Items produced through value-added processing of products grown on the farm or on other local farms may also be sold.** No sales of products other than the beer produced on the property were observed being sold during the May 10, 2025, inspection.
3. **The farm stand use will support the agricultural use of the property, and will not have significant adverse impacts on the neighboring properties. For purposes of this section, adverse impact shall not include any impact normally associated with farms following generally accepted agricultural management practices or farms operating permitted uses under this section.** No adverse impacts were observed during the inspections. The farm stand is only operated Friday – Sunday. A farm stand selling products from the property supports the farm in at least two ways; financial profit from the sale and word of mouth advertising.
4. **The area of the farm stand does not exceed 500 square feet, plus an additional 500 square feet for each additional 25 acres of lot area beyond 50 acres, up to a maximum of 3,000 square feet of area.** The property is permitted to have 500 SF of farm stand. The inspection revealed four 10x10 farm stand stations within the interior of the property. The farm stand special farm permit shows the location of one farm stand either within the multi-use farm building or outside of the building.

5. **Notwithstanding the front setback requirements of the applicable zoning district, the minimum front setback for farm stands is 25 feet.**
The farm stand complied with the setback requirement and was at least 25 feet of any property line.
6. **Adequate off-street parking is provided, parking areas and driveways are treated as needed to control dust, and parking areas are screened from neighboring properties.** The off-street parking areas were seen in use during the May 10, 2025, inspection. No dust was observed, and screening was effective.
7. **Sight distance and the design of driveway entrances are adequate to accommodate expected traffic.** Sight distance was observed on May 23, 2025. Sight distance from the entrance to the property exceeds 700 feet. The design of the driveway entrance is advantageous to neighboring properties since a berm and natural downslope mitigate both view and sound.
8. **Where the areas open to customers are close to the property boundaries, boundaries are clearly marked through fencing or landscaping to protect neighboring properties from unintentional trespassing by visitors.** There are no areas open to customers that are close to the property boundaries, except for access to the property. Areas open to customers are 150' or more from the nearest property lines and cordoned off from casual entry. The boundaries are clearly marked through both fencing and landscaping.

DPZ determined that the permit holder shall apply for a renewal of the farm stand

special farm permit to show the location of the 10x10 farm stands, which is different than the originally approved plan.

HCZR § 128.0.1.5: Agritourism Enterprise, Special Farm Permit (SFP-16-002) The general criteria for Agritourism Enterprises:

1. **The use is located on a parcel of at least 50 acres or a parcel of any size if subject to an ALPP purchased or dedicated easement or other dedicated easement.** The property is 52.67 acres and is subject to an ALPP easement.
2. **The use supports the agricultural use of the property and will not have and will not have significant adverse impacts on neighboring properties. For purposes of this section, adverse impact shall not include any impact normally associated with farms following generally accepted agricultural management practices or farms operating permitted uses under this section.** An agritourism enterprise supports the agricultural use of the property through any profit brought in by activities and by bringing awareness of the agricultural operation to the public mind. No adverse impacts to neighboring properties were observed during the inspections.
3. **Adequate off-street parking is provided, parking areas and driveways are treated as needed to control dust, and parking areas are screened from neighboring properties.** The off-street parking areas were seen in use during the May 10, 2025, inspection. No dust was observed, and screening was effective.
4. **Sight distance and the design of driveway entrances are adequate to accommodate expected traffic.** Sight distance was observed on May 23, 2025. Sight distance from the entrance to the property exceeds 700 feet. The design of

the driveway entrance is advantageous to neighboring properties since a berm and natural downslope mitigate both view and sound.

5. **Where the areas open to customers are close to the property boundaries, boundaries are clearly marked through fencing or landscaping to protect neighboring properties from unintentional trespassing by visitors.** There are no areas open to customers that are close to the property boundaries, except for access to the property. Areas open to customers are 150' or more from the nearest property lines and cordoned off from casual entry. The boundaries are clearly marked through both fencing and landscaping.
6. **The use will operate only between the hours of 6 a.m. and 10 p.m. Any outdoor lighting shall comply with the requirements of Section 134.0.** The advertised hours of operation for the agritourism enterprise are Fridays from 4:00pm to 9:00pm, Saturdays and Sundays from 12:00pm to 7:00pm. However, the publicly available calendar of events shows a "Goat Yoga on the Farm" class from 10:30am to 12:00pm. This class is outside the advertised hours of operation, but within the hours of operation permitted by the Special Farm Permit. A pair of low intensity lights are located on two of the buildings involved in the Agritourism Enterprise (two light per building). The lights are less than 8 feet above the ground, are unshielded, and have translucent enclosures.
7. **Agritourism uses may include festivals or similar events held for the purpose of marketing products grown on the farm or farm-related education or recreation, provided that festivals are limited to no more than 4 per year and no more than 8 days per year.** The inspection on May 10,

2025, occurred during an event that counts toward the 4 events per year

limitation.

No violation of the regulations was observed during the DPZ inspections. DPZ will continue to monitor the events occurring at the farm to determine continued compliance.

HCZR § 128.0.O: Farm Brewery – Class 1A (DPZ Permit 13-002)

The criteria for a Farm Brewery:

1. The use is located on a lot or parcel of at least 5 acres. This use is permitted on any such parcel, including parcels with agricultural preservation easements and preservation parcels, excluding cluster preservation parcels in the RR District existing on July 4, 2011 for which easements have not been donated to the Agricultural Land Preservation Program. The property is 52.67 acres and is subject to an ALPP easement.

2. Access to an arterial or collector public road right-of-way is not feasible.

Manor Lane is the only public road that provides access or frontage to the property. With no other frontage or access, direct access to a collector or arterial road is not feasible.

3. Access to the local road is safe based on road conditions and accident

history. Traffic counts were taken by camera adjacent to the property entrance for four days; Saturday April 19, 2025, Sunday April 20, 2025, Saturday April 26, 2025, Sunday April 27, 2025. The access from the commercial driveway to Manor Lane has adequate access geometry and sight distance and does not appear to block any other points of access. Based on the maximum 6 trips per minute during the peak

hour created during the events of April 27, 2025, Manor Lane appears to support this volume of traffic. Accident analysis was reviewed from the Baltimore Metropolitan Council ("BMC") crash dashboard. These are crashes reported to the police. Between 2018 and 2023 there were 8 crashes at the Manor Lane/Beech Creek/MD 108 intersection. The report does not differentiate whether a vehicle was accessing or leaving Manor Lane or Beech Creek Drive. Expanding the dashboard range to other nearby intersections, this number of accidents is comparable with other intersections along MD 108 during this time frame. No accidents referenced the cause as alcohol related within the report. No accidents have occurred at this intersection in 2024 through 2025.

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Sunday April 27, 2025:

Manor Lane Peak hour: 2:45-3:45

Peak 15-minute interval: 2:45-3:00

Number of trips in both directions during 15-minute interval: 84 (5.6 per minute)

4. If the local road is internal to a residential cluster subdivision, the subject property adjoins an arterial or collector highway, the local road access point is within 400 feet of its intersection with the arterial or collector highway, and there are no intervening driveways between the arterial or collector highway and the access to the property along the local road. The local road is not internal to a residential cluster subdivision.

5. That the use of the road for access will not unduly conflict with other uses that access the local road. Inspections have been conducted both during an advertised agritourism enterprise event and non-event days. No conflict has been observed.

6. The driveway providing access to the proposed site shall not be shared with other properties; however the Director of Planning and Zoning may waive this criteria if the petitioner provides affidavits from all persons who also share the driveway that they do not object to the use of the driveway for the use. If the use of a shared driveway is allowed, the petitioner shall demonstrate that the use will not result in damage to or deterioration of the shared driveway or in increased hazards to other users of the driveway. The Director of Planning and Zoning shall prescribe appropriate conditions and safeguards to ensure the petitioner's responsibility for repair of any

damage or deterioration of the shared driveway caused by the use. The driveway providing access to the property is not shared with other properties.

7. All winery or brewery related structures and uses associated with the winery or brewery, excluding cultivation areas shall be at least 75 feet from all lot lines and where possible minimize the impact on surrounding properties. All brewery related structures are at least 150 feet from all lot lines.

8. For a farm winery Class 1A use, the planting of at least two acres of grapes or other fruit on the property shall be initiated upon approval and successfully established within two years of approval. For a farm brewery Class 1A use, the planting of at least two acres of a primary ingredient used in the brewing of malt-based or grain-based beverages on the premises shall be initiated upon approval and successfully established within one year of approval. The farm brewery plants 10 acres of a primary ingredient (corn). It is not known if the ingredient was initiated upon approval of the Farm Brewery Permit (12/12/2013) or successfully established within one year of approval (12/12/2014). Aerial photos from 2016 through 2023, and inspections conducted on May 10, 2025 and May 15, 2025, indicate successful establishment of 10 acres of a crop, which are affirmed as corn in 2025.

9. Appropriate screening of adjoining parcels shall be provided, which may include a solid fence, wall, landscaping or a combination that presents an attractive and effective buffer. Inspections indicate the property boundaries are effectively screened by a combination of fencing and landscaping.

10. The use shall be consistent with and support the farm and its production, shall not interfere with the implementation of soil conservation

and water quality best management practices, and shall not impact floodplains, wetlands, stream buffers, steep slopes or other environmental features on the farm winery property. The area of the farm brewery consists of two buildings with a combined lot coverage of approximately 6,445 SF, or 0.03% of the area of the farming use of the property. The farm brewery is located approximately 500 feet from the edge of the nearest stream buffer and 600 feet from the nearest floodplain. No steep slopes are known to exist on the property. DPZ concludes the farm brewery does not impact protected environmental features on the property.

11. The use shall be compatible with the rural character of the farm and the surrounding area. The farm brewery structures cannot be distinguished from other agricultural structures from their exteriors.

12. A Farm Winery or Brewery may produce, serve and sell food to complement wine or beer tasting in accordance with Article 2B of Maryland State Code. This criterion is permissive. It would be allowed if it occurred.

13. In addition to the beverages produced by the use, the retail sale of promotional items identifying the same winery or brewery, such as glassware, clothing, bottle openers or similar items, is permitted as an accessory use. Plants or produce grown on-site may also be sold. This criterion is permissive. It would be allowed if it occurred.

14. Visitor hours shall be restricted to between 10:00 a.m. and 7:00 p.m., Sunday through Thursday; and 10:00 a.m. and 10:00 p.m., Friday and Saturday. DPZ may reduce the hours for visitors, but shall not increase them. The hours for winery or brewery processing and production

operations are not limited. During the May 15, 2025, inspection, the permit holder, Mr. Marriner, stated the farm operation does not permit farm brewery visitation, and the brewery use is for processing and production operations. Visitation is under the farm stand and agritourism enterprise special farm permit.

15. At any one time, the number of visitors to the winery or brewery shall not exceed 50 visitors. During the May 15, 2025, inspection, the permit holder, Mr. Marriner, stated the farm operation does not permit farm brewery visitation, and the brewery use is for processing and production operations. Visitation is under the farm stand and agritourism enterprise special farm permit.

16. The number of barrels brewed by a farm brewery may not exceed the number of barrels allowed by State law. State law regulates the number of barrels allowed. The permit holder, Mr. Marriner, stated during the May 15, 2025, inspection that production is below what is permitted by State law.

17. A zoning permit is required for the use. As part of the approval process, the owner shall submit a site layout, which includes acreage, screening, parking, and building locations. If approved, after the required two-year or one-year time period, as applicable, the owner shall provide documentation to DPZ proving compliance with the planting requirements in Section 128.0.O.1.e and that it remains in compliance with all the other approval criteria. Thereafter, permit renewal is not required unless a violation occurs. It is the responsibility of the winery

or brewery owner to obtain any other required Federal, State and County

approvals required prior to operating the use. The permit holder, Mr.

Marriner, submitted a site layout which included acreage, screening, parking and building locations on June 6, 2013. DPZ finds no record that he provided documentation to DPZ proving compliance with the planting requirements or that it remained in compliance with all other approval criteria.

DPZ determined that the permit holder shall apply for a renewal of the farm brewery permit to prove compliance with the planting requirement. The D&O references “whether truck traffic generated by the existing uses on the property continue to conform to the intensity of the truck traffic described by the owner when DPZ approved the farm brewery permit.” DPZ investigated the property based on the criteria established by the HCZR, which do not provide a limitation on truck traffic. DPZ evaluated the road conditions based on the criteria in the HCZR’s.

2. Appellants testimony

A summation of Appellants testimony is the continuation of all the violations having been repeatedly testified to in the previous hearings. A third recitation of the continuing violations is merely duplicitous. Suzanne Hoffman, Joan Pontius, and Yolanda Brooks testified as to the continued violation of the cited Howard County Zoning Regulations. As Appellants are all surrounding property owners they have the advantage of seeing the uses of the Property on a daily basis while DPZ only visited the Property four times for a short period of time.

3. Testimony of Steve Rolls on behalf of DPZ

However the testimony of Mr. Steve Rolls, on behalf of DPZ was very enlightening in that even though violations were found, no violation or citations were

issued. Despite being Appellee's sole witness, Mr Rolls was surprisingly uninformed. He did not know the status of CE-16-191 or CE-22-126, complaints received regarding the subject Property. He had no knowledge of the history of the Property prior to April 15, 2025. Mr. Rolls stated that his last inspection of the Property occurred May 25, 2025. He was aware of many violations but did no follow-up. He stated that any investigation was ongoing, in violation of HCZR §102.0.b. Mr. Rolls did not read the D&Os for BA-794D and BA-821D, did not believe that they are the law in the instant appeal. He did not feel that he was required to enforce these Orders. He did not know the status of any permits for the Property nor did he feel that he had to apply the interpretations contained in the Orders that are the law in this case. Mr. Rolls opined that he could interpret the Zoning Regulations as he wanted, regardless of how the law had been previously interpreted.

III. Legal Analysis

A. Standing of Appellants.

Howard County Code §16.105(a) provides the statutory authorization for an appeal from the issuance of a violation notice: "Appeals to the Hearing Authority may be taken by any person aggrieved, or by any officer, department, Board or bureau of the County affected by any decisions of the Department of Planning and Zoning. Such appeal shall be filed not later than 30 calendar days from the date of the action of the Department of Planning and Zoning and shall state the reasons for the appeal."

Two conditions precedent must be met before a person has standing: (1) they must have been a party to the proceeding before the agency, and (2) they must be aggrieved by the agency decision. *Bryniarski v. Montgomery County*, 247 Md. 137, 230 A.2d 289 (1967). A person aggrieved is one whose personal or property rights are adversely affected by the agency decision in a way different from that suffered by the public generally. *Maryland- National Capitol Park & Planning Com'n v. Smith*, 333 Md. 3, 11, 633 A.2d 855, 859 (1993) (internal citation omitted). Appellee did not raise the standing of Appellant or dispute Appellants' standing to appeal.

At least one Appellant is the owner of land adjoining the Property, and many are confronting, or within sight and sound of, the subject Property and are thereby aggrieved. Further, because the regulations themselves, as a condition of the allowed use, require that "access to the local road is safe based on road conditions and accident history . . . and [t]hat the use of the local road for access will not unduly conflict with other uses that access the local road," any person who lives along the local road, and who is negatively affected by the use of the road for access, has standing. Because all the Appellants live along Manor Lane, they all have standing.

B. Standard of Review.

In this case, the issue that must be decided is whether DPZ's decision that it "lacks sufficient evidence to prove a violation of the Howard County Zoning Regulations" (See, 2025 DPZ Letter) was arbitrary and capricious or contrary to law. Under Rule 10.2, the burden is on the Appellants to show by substantial evidence that the action taken by DPZ was clearly erroneous, arbitrary and capricious, or contrary to law. In *Harvey v. Marshall*, 389 Md. 243, 297, 884 A.2d 1171, 1203–04 (2005), the Maryland Supreme Court stated:

A review of Maryland case law demonstrates that this "arbitrary or capricious" standard is, perhaps intentionally, less than well-defined with respect to judicial review of discretionary actions. In his Maryland Administrative Law treatise,

Professor Arnold Rochvarg examines, in the context of the APA, the “arbitrary or capricious” standard, concluding that it ... is best understood as a reasonableness standard. *If the agency has acted unreasonably or without a rational basis, it has acted in an arbitrary or capricious manner* [Unlike a court’s “substantial evidence” review of an agency’s factual determinations, *u*nder arbitrary or capricious review, the court’s reasonableness review goes beyond factual findings and goes beyond a review of the agency record. Under arbitrary or capricious reasonableness review, the court will consider any argument that the agency acted unreasonably regardless of whether it appears within the agency record. (Emphasis supplied.)

Harvey v. Marshall, 389 Md. 243, 297, 884 A.2d 1171, 1203–04 (2005).

The *Harvey* Court further stated:

Although some cases, such as *Spencer*, perceive that agency discretion, by its nature, may be well-insulated from judicial review, other cases have applied more particularized scrutiny to determine whether an agency action was “arbitrary or capricious.” An agency decision, for example, may be deemed “arbitrary or capricious” if it is contrary to or inconsistent with an enabling statute’s language or policy goals. 303 See, e.g., *Hurl*, 107 Md.App. at 306, 667 A.2d at 980 (finding an elementary school teacher’s transfer not “arbitrary or capricious” in light of standards found in the enabling statute and relevant regulations); *Rochvarg*, *supra*, at § 4.38 at 129 (stating that “[a]n agency decision that is contrary to the enabling statute’s language or policy goals is a decision that is arbitrary or capricious”)

...

Harvey v. Marshall, 389 Md. 243, 303, 884 A.2d 1171, 1207 (2005).

“An agency decision, for example, may be deemed ‘arbitrary or capricious’ if it is contrary to or inconsistent with an enabling statute’s language or policy goals” or “if it is irrationally inconsistent with previous agency decisions.” *Harvey*, 389 Md. at 303.

Moreover, when an agency “draws impermissible inferences or unreasonable inferences and conclusions . . . or where an administrative agency’s decision is based on an error of law, [the HE] owe[s] the agency’s decision no deference.” *Maryland Real Estate Commission v. Garceau*, 234 Md. App. 324, 349–50 (2017) (quoting *Bereano v. State Ethics Comm.*, 403 Md. 716, 756 (2008)). Similarly, while an agency’s factual findings may be afforded deference, “[s]tatutory construction is an

issue of law” and an agency’s legal interpretation is not afforded deference. *Single v. Cnty. Comm’rs of Frederick Cnty.*, 178 Md. App. 658, 675 (2008).

The general law regarding a review of an administrative agency decision is that “an administrative agency’s interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts.” *Oltman v. Maryland Bd. of Physicians*, 162 Md. App. 457, 494 (2005) (citations and quotations omitted). “A court’s role in reviewing an adjudicatory decision of an administrative agency is to determine whether there is substantial evidence in the agency record as a whole to support the agency’s factual findings and conclusions and whether the agency’s decision is based upon an erroneous conclusion of law.” *Singley v. Cnty. Comm’rs of Frederick Cnty.*, 178 Md. App. 658, 674–75, 943 A.2d 636, 646 (2008). An agency’s ruling on a factual matter should be affirmed “if the issue is fairly debatable and the ruling “is supported by substantial evidence, such that a reasonable mind might accept as adequate to support a conclusion, even if there is substantial evidence to the contrary.” *Id.*

While factual findings of an agency are afforded great deference, “[s]tatutory construction is an issue of law.” *Del Marr v. Montgomery County*, 397 Md. 308, 315, 916 A.2d 1002 (2007). Thus, the deference owed to the administrative agency is lessened because when interpreting the legal meaning of part of a county or local zoning code, the role is to “attempt to ascertain the intention of the drafters from the plain meaning of the words of the ordinance and we apply the canons of statutory construction when necessary to elucidate the meaning of the language.” *Id.* at 675. As the Appellate Court of Maryland stated in *Garceau*, 234 Md. App. 324 (2017), in applying the substantial evidence test, “[w]e defer to the agency’s (i) assessment of

witness credibility, (ii) resolution of conflicting evidence, and (iii) inferences drawn from the evidence.” Richardson, *supra*, sl. op. at 4 (citing Schwartz v. Md. Dep’t of Nat. Res., 385 Md. 534, 554 (2005)). Where an administrative agency, however, “draws impermissible inferences or unreasonable inferences and conclusions ... we owe the agency’s decision no deference.” Garceau, 234 Md. App. at 349-50 (quoting Bereano v. State Ethics Comm., 403 Md. 716, 756 (2008)). The Maryland Supreme Court stated, our role is “limited to determining if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.” Richardson v. Maryland Dep’t of Health, 247 Md. App. 563, 569, 239 A.3d 695, 698–99 (2020), citing, Milliman, Inc. v. Md. State Ret. and Pension Sys., 421 Md. 130, 151, 25 A.3d 988, 1001 (2011).

Based on the law above, the Hearing Examiner in this case may consider both evidence within and outside of the agency record in determining if the decision was arbitrary and capricious or contrary to law. Further, in interpreting legal questions or statutory construction, the Hearing Examiner owes less deference to the agency, and where the agency “draws impermissible inferences or unreasonable inferences and conclusions ... we owe the agency’s decision no deference.” Garceau, 234 Md. App. at 349-50 (quoting Bereano v. State Ethics Comm., 403 Md. 716, 756 (2008)).

C. Parties’ Arguments in BA-821D.

The Appellants argue:

1. DPZ erred legally when it failed to investigate further whether the existing operations on the Property comply with all of the criteria set forth under Section 128.0 of the Howard County Zoning Regulations.

2. DPZ erred legally when it failed to adequately investigate whether the uses allowed under the 3 Special Farm Use permits remain accessory to the alleged principal use of the Property.
3. DPZ erred legally when it failed to adequately investigate whether the operations on the Subject Property complied with the 3 Special Farm Use permits:
 - the farm brewery permit,
 - the Agritourism Enterprise permit, and
 - the farm stand permit.

IV. CONCLUSIONS OF LAW

The D&O in BA-806D found in favor of Appellants on all of these issues. BA-806D was not appealed and is the established law in this case. Based on the evidence presented DPZ has continued to fail to meet its burden of proof on these issues as required in BA-806D. These issues as discussed and decided in BA-806D are final and not subject to debate as they are res judicata.

Even viewing DPZs testimony and letter dated May 28, 2025 in their most favorable light, the failure to comply with the findings of fact and conclusions of law in BA-794D and BA-806D requires a finding that DPZs actions in this case are arbitrary, capricious and legally erroneous.

The following legal determinations made by in BA 806D are hereby affirmed:

- 1.a. Alcohol sales and consumption on the Subject Property are authorized only under the Farm Brewery Permit, absent additional liquor licenses. As such,

any time alcohol is sold or consumed on the Subject Property, such alcohol sales or consumption must satisfy all of the limitations applicable to the Farm Brewery Permit. The sale or consumption of alcohol on the Subject Property outside the parameters approved for the Farm Brewery Permit is a violation of the HCZR and therefore unlawful.

- b. The Barn is not a legitimate farm building, the Barn violates the HCZR because it exceeds the accessory structure limit, and the Barn is therefore unlawful.
 - c. Private events are not permitted under the Agritourism Enterprise permit.
 - d. Each agritourism activity must be related to agriculture unless the activity is offered during the course of a festival event.
 - e. When DPZ is evaluating whether the various uses on the Subject Property unduly conflict with other uses that access Manor Lane, DPZ must consider the amount of truck traffic generated by the uses and the impact of the total amount of traffic on pedestrian uses of Manor Lane.
2. Alcohol sales and consumption on the Subject Property are no longer Permitted under any of the Property Owner's current Special Farm Permits because the Farm Brewery Permit does not permit any visitation. Unless the Property Owner obtains another liquor license, the sale or consumption of alcohol on the Subject Property at any time constitutes a violation of the Farm Brewery Permit. A violation of the Farm Brewery Permit constitutes a violation of the HCZR and is therefore unlawful.
 3. The Property Owner may not offer the Taproom or the Barn spaces for private parties unless and until the Property Owner obtains approval for a Limited Social Assembly conditional use.
 4. The following events constitute festivals:
 - a. Books and Beers in the Barn
 - b. Beer and Oyster Fest
 - c. Charmed Farm Festival
 - d. Craft Fair and Makers Market
 - e. Yearly Anniversary event
 - f. Corn Fest

- g. Meowtober fest
- 5.a The Property Owner has hosted more than 4 festivals or other similar Events during the year of 2025 in violation of the HCZR.
- b. The Property Owner may not host all of the above identified events in one Calendar year—the Property Owner may only host four of these events in one calendar year.
- c. The Property Owner hosts food trucks and live music on the Subject Property on a weekly basis. Food trucks and live music are not directly related to agriculture. Therefore, food trucks and live music are not permitted under the Agritourism Enterprise Permit unless offered during the course of a festival event. Food trucks and live music on the Subject Property outside of the four festival events in violation of the HCZR.
- d. The amount and type of traffic generated by the Special Farm Permits on the Subject Property unduly conflicts with pedestrian uses that access Manor Lane.
- e. The Property Owner does not grow a primary ingredient for its beers Because Corn is not a primary ingredient in most of the beverages produced by the Property Owner. The Property Owner may not produce or sell alcoholic beverages for which the corn grown on the Subject Property is not the primary ingredient.

A third remand to DPZ for yet another additional investigation would be a waste of administrative and judicial time and money. The only path forward is to proceed with judicial review as provided in the HCZR and State law. The Order attached hereto is a final appealable order, subject to appeal by either party to the Howard County Board of Appeals, and subsequently to the Circuit Court and the Maryland Courts of Appeal. It is the only path forward from the current loop of remands.

ORDER

Based upon the foregoing, it is this 6th day of November 2025, by the Howard County Board of Appeals Hearing Examiner:

ORDERED, that the Appellants appeal of DPZ's letter dated May 28, 2025, be and is hereby **AFFIRMED**; and it is further

ORDERED, that the DPZ decision dated May 28, 2025, be and is hereby vacated in its entirety; and it is further

ORDERED, that DPZ shall open a violation case for 4411 Manor Lane and shall file the following Notices of Violations as well as any other violations that DPZ finds:

1. A Notice of Violation for the sale and consumption of alcohol on the Subject Property as that violates the current Farm Brewery Permit because the Farm Brewery Permit does not permit any visitation. Any future sale or consumption of alcohol in association with any of the Special Farm Permits on the Subject Property will constitute a violation of the HCZR and the Farm Brewery permit unless or until the Property Owner obtains additional authorization to sell alcohol.
2. A Notice of Violation that the Barn, to the extent that it is used as an event space for either private events or any other event or activity hosted under any of the Special Farm Permits is not a legitimate farm building and exceeds the accessory structure

limit. The use of the Barn for any purpose other than legitimate farming uses is a violation of the HCZR and therefore unlawful.

3. A Notice of Violation that the use of the Barn, the Taproom, or any other associated outdoor space for private events is not permitted by any Special Farm Permit because private events are not permitted under the Agritourism Enterprise Permit and the Farm Brewery Permit does not permit any visitation. The Property Owner may not use the Barn, the Taproom, or any other associated outdoor space for private events unless and until the Property Owner obtains approval for a Limited Social Assemblies conditional use.
4. A Notice of Violation that the Property Owner has violated the HCZR because the Property Owner hosted more than 4 festival events during 2025. The following events are, and will be, considered festivals unless and until the Property Owner provides sufficient evidence that the events do not constitute a festival. The Property Owner may only host four of these events in one calendar year.
 - i. Books and Beers in the Barn
 - ii. Beer and Oyster Fest
 - iii. Charmed Farm Festival
 - iv. Craft Fair and Makers Market
 - v. Yearly Anniversary event
 - vi. Corn Fest
 - vii. Meowtober Fest
5. A Notice of Violation that the Property Owner has violated the HCZR by hosting activities under the Agritourism Enterprise Permit that are not directly related to agriculture. More specifically, the Property Owner hosted food trucks and live music

which are not directly related to agriculture. The Property Owner may not host food trucks or live music on the Subject Property under the Agritourism Enterprise Permit unless during a festival event.

6. A Notice of Violation that the Property Owner has violated the HCZR by producing Alcoholic beverages for which the primary ingredients do not include the corn or any other ingredient grown on the Subject Property. The Property Owner may not produce or sell alcoholic beverages for which a primary ingredient is not the corn produced on the Subject Property.
7. DPZ must evaluate whether the traffic generated by the Special Farm Permits, including the truck traffic unduly conflicts with pedestrian's ability to safely use and access Manor Lane. DPZ must also evaluate whether that traffic unduly conflicts with other vehicular uses that access Manor Lane like horse trailers and issue a Notice of Violation if it finds any vehicular conflicts., and it is further

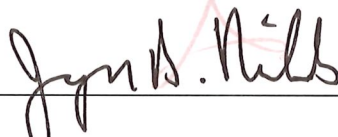
ORDERED, that as to any use under a Special Farm Use permit (1) that is not in full conformance with all aspects of the use as it was approved, or (2) that represents a significant change to the operation (including but not limited to new uses or structures), DPZ shall require the permit holder to apply for a renewal of the permit under HCZR §128.0.I; and it is further

ORDERED, that the "Barn" on the Property (the one identified on the Owner's website as venue called "the Barn at Manor Hill") is not a legitimate farm building and thus it, along with all other non-farm-related structures on the Property, are subject to and in fact exceed the maximum 2,200 SF for accessory structures allowed in the RC Zoning District under HCZR §128.0.A.12, and accordingly under HCZR §102.0.A., are hereby declared to be unlawful and DPZ shall issue a Notice of Violation for the

occupancy or use of any of these structures ; and it is further

ORDERED, that DPZ shall issue these Notices of Violation within 45 days from the date of this Order.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**

A handwritten signature in black ink, appearing to read "Joyce B. Nichols", is written over a horizontal line.

Joyce B Nichols

NOTICE: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.