

CERTIFICATE OF SERVICE

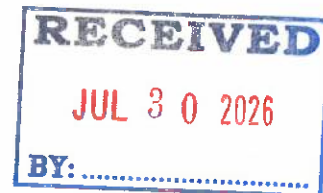
BA-829D / CE-26-17 Donna Gorjón v. Howard County Department of Planning and Zoning

I HEREBY CERTIFY that on this 30 day of July, 2026, a copy of the foregoing Appellant's Memorandum of Points and Authorities was served upon the Howard County Department of Planning and Zoning by delivering a copy directly to Hannah Weber, Department of Planning and Zoning, on the date of filing.

I further certify that on July 15, 2026, Hannah Weber received the hearing documents and record transcript on behalf of the Department of Planning and Zoning, confirming an established point of contact for service in this matter. The Memorandum of Points and Authorities is the only additional document required to complete service of the current filing.

Donna Gorjón, Appellant, Pro Se gorjondo@att.net 240-417-1046

Date: July 30, 2026



OFFICIAL FILE COPY

Donna Gorjón

Appellant,

v.

Howard County Department of Planning and Zoning,

Appellee.

Before the Howard County Board of Appeals

BA Case No. 829D / CE-26-17

APPELLANT'S MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Appellant Donna Gorjón, a resident of 10454 Waterfowl Terrace, Columbia, Maryland, respectfully submits this Memorandum in support of her Petition of Appeal of the Hearing Examiner's Decision and Order dated June 15, 2026.

The central question in this appeal is whether DPZ's “connected” determination under §128.0.B.2.a of the Howard County Zoning Regulations — the sole predicate that authorized a 27×28 fully enclosed attached garage to encroach into the required 7.5-foot side yard setback at 10450 Waterfowl Terrace — was supported by substantial evidence. That question was raised repeatedly at the June 11, 2026 hearing. The Hearing Examiner never answered it. Instead, she dismissed the appeal on procedural grounds by misidentifying the legal basis of the appeal, mischaracterizing the evidentiary record, and granting a Motion to Dismiss that conflated a building permit appeal with a challenge to a zoning determination. Each of these constitutes independent reversible error.

This Memorandum further identifies material defects in the integrity of the administrative record itself — undisclosed photographic evidence introduced at hearing, a documented Accela record

contradicting the Hearing Examiner's own dismissal rationale, an unproduced determination letter, and a substantive DPZ determination email that was never entered into the record below — and demonstrates that DPZ's underlying setback and height measurements do not meet the standard of substantial evidence required to sustain a zoning determination.

II. STATEMENT OF THE CASE

Appellant's grievance is directed at DPZ's substantive zoning determination under §128.0.B.2.a — specifically, DPZ's finding that an existing shed at 10450 Waterfowl Terrace was “connected” to the principal structure. That finding was the sole legal predicate that permitted the garage encroachment into the required setback. Without a valid “connected” determination, the encroachment authorization fails entirely.

On January 21, 2026, Appellant filed a written Complaint with DPZ through the Accela permitting and code enforcement system (Complaint No. CS0083539), challenging DPZ's authorization of the setback encroachment on the ground that the “connected” determination was factually unsupported and contradicted by every independent documentary source. (Exhibit 1.) The Complaint was filed, logged, and assigned within DPZ's own Accela system, which constitutes the official administrative record for such matters in Howard County.

Appellant engaged DPZ in writing well before any determination issued, corresponding from the same email address she shares with her husband, Mario Gorjón. On January 29, 2026, Appellant corresponded with Inspector Blanding requesting a site-visit date and posing specific setback questions supported by photographs. (Exhibit 26.) On February 27, 2026, Appellant requested, in advance of a scheduled meeting, a Zoning Verification Letter, the approved site or sketch plan for the relevant NT district section, and the applicable accessory-structure height standards for

10450 Waterfowl Terrace specifically. (Exhibit 27.) DPZ did not substantively respond to either request before issuing its determination.

On March 10, 2026, at 2:51 p.m., Inspector Blanding emailed Appellant directly (with Supervisor Everett James copied) stating that the setback complaint would be listed as unfounded based on a 4.8-foot measurement, and that a height inspection — characterized as a courtesy inspection outside the original Complaint — found that the garage “does not supersede the height of the actual house.” (Exhibit 28.) That same day, DPZ separately issued a formal closeout letter, signed by Supervisor Everett James and addressed to Appellant, memorializing a finding of no zoning violations. (Exhibit 20.) These are two distinct documents: Exhibit 28 is the operational email containing the actual measurements and findings; Exhibit 20 is the formal notice later admitted into the hearing record as Appellee's Exhibit 2. Only Exhibit 20 was introduced at the June 11, 2026 hearing. Exhibit 28 — the document containing the substantive basis for the determination — was never made part of the record below.

Appellant timely appealed the March 10, 2026 determination. In the interim, Appellant made repeated written efforts to obtain the methodology behind that determination. On March 12, 2026, Appellant wrote to Inspector Blanding requesting supervisory review and specifically identifying the missing methodology, reference points, and supporting data for both the setback and height findings. (Exhibit 29.) On March 18, 2026, following a returned phone call from Inspector Blanding on March 17, 2026, Appellant again wrote to DPZ, identifying discrepancies between the Final Development Plan's massing, scale, and architectural-harmony standards and the approved construction, and further identifying conflicting survey representations attributed to the same licensed surveyor on the same date. (Exhibit 18; underlying conflicting survey documents at Exhibit 30.) The following day, March 19, 2026, at 2:16 a.m., Appellant sent a

formal, seven-section letter — captioned "Formal Request for Reconsideration and Notice of Pending Appeal" — to Inspector Blanding, Supervisor James, and DPZ Director Lynda Eisenberg, directly challenging DPZ's application of §128.0.B.2.a, identifying the absence of any field verification of the property line or the shed's measured encroachment, raising the unaddressed relationship between the proposed garage and Appellant's own dwelling — situated approximately five to six feet from the shared property line — and formally noticing DPZ that an appeal to this Board was being prepared. (Exhibit 31.) On March 26, 2026, Inspector Blanding responded, maintaining the original finding of no violations without addressing the methodology questions raised in Exhibits 29, 18, and 31. (Exhibit 19.)

A hearing was conducted on June 11, 2026 before Hearing Examiner Joyce B. Nichols.

Appellant's entire evidentiary case — all exhibits, testimony, and argument — addressed the §128.0.B.2.a “connected” determination. At the conclusion of Appellant's case, DPZ orally moved to dismiss. The Hearing Examiner granted the motion and dismissed the appeal by Decision and Order dated June 15, 2026, without reaching the merits.

At the outset of the hearing, Appellant produced Building Permit B25003489 immediately upon request, with copies for all parties. (Exhibit 5.) The permit was in the record from the hearing's first exchange. DPZ's later characterization of Appellant's case as lacking foundational documentation, and the Decision and Order's conclusion that Appellant's claims were “subsumed” into an unappealed Building Permit, does not reflect any deficiency in producing the permit itself — the permit was never in dispute as a document. The actual legal question, addressed in Section III.C below, is whether a zoning determination under §128.0.B.2.a is legally distinct from, and independent of, the Building Permit's own 30-day appeal deadline.

III. ERRORS OF LAW

A. The Hearing Examiner Misidentified the Legal Basis of Appellant's Appeal.

The Decision and Order frames Appellant's appeal as a code enforcement complaint under §130.0.B.4. That framing is incorrect. Appellant was not filing a generalized neighborhood complaint. Appellant was challenging a specific zoning determination — DPZ's “connected” finding under §128.0.B.2.a — which served as the legal predicate for the setback encroachment authorization.

The distinction matters because the applicable legal standard, the scope of review, and the evidentiary framework all turn on correctly identifying what is being appealed. By applying the wrong framework, the Hearing Examiner never examined whether the “connected” determination itself was legally supportable. This error infected every subsequent conclusion in the Decision and Order.

B. The Hearing Examiner Erred in Finding That the Complaint Was Absent from the Record, and the Record Below Omitted DPZ's Own Pre-Determination Correspondence.

The Decision and Order states that Appellant “failed to provide a copy of her Complaint” and that “the basis of her Complaint is unknown.” This finding is factually and legally erroneous. Appellant filed her Complaint through Accela, which is DPZ's own official permitting and code enforcement system. (Exhibit 1.) The Complaint was logged, assigned, and processed within that system from the date of filing. It was in DPZ's possession at all relevant times.

The administrative record in a zoning determination appeal is not limited to documents physically presented at the hearing. It includes all agency records generated in the underlying proceeding. DPZ cannot simultaneously rely on the Complaint as the basis for its investigation and closure determination, and then argue that the Complaint is not in the record. The Hearing Examiner's dismissal on this ground was clearly erroneous.

This error is not merely a matter of interpretation. Accela system records confirm that Appellant's Complaint was received and uploaded to the case file on January 22, 2026 by DPZ staff member Tamara Frank. (Exhibit 2.) — directly contradicting the Hearing Examiner's finding that the Complaint's contents were unknown to the agency. The record DPZ itself maintained establishes the very fact the Decision and Order says is absent.

To the extent Appellant's March 18, 2026 letter (Exhibit 18), Inspector Blanding's March 26, 2026 response (Exhibit 19), and related correspondence were not included in Appellant's hearing exhibits, that omission was a curable evidentiary gap, not a jurisdictional defect. Appellant possessed these documents at all relevant times; their absence from the June 11 packet reflects an organizational oversight in a pro se filing, not their non-existence or unavailability. Dismissal without reaching the merits — rather than affording Appellant the opportunity to supply the omitted documents — was disproportionate to a curable defect and inconsistent with the de novo review this Board now provides.

Separately, the record before the Hearing Examiner omitted an entire category of DPZ's own correspondence that predates the determination and bears directly on its reliability. Appellant's January 29, 2026 and February 27, 2026 written requests (Exhibits 26 and 27) sought the applicable bulk standards, approved site plan, and height standards for the subject property before any determination issued. DPZ's failure to respond to those requests, and the absence of that correspondence from the record considered below, further undermines the completeness of the record on which the Hearing Examiner's findings were based.

C. The Hearing Examiner Wrongly Granted DPZ's Motion to Dismiss Based on the Building Permit Deadline.

DPZ moved to dismiss on the ground that Building Permit B25003489 was issued November 12, 2025 and was not timely appealed. The Hearing Examiner accepted this argument. This was error.

Appellant's evidentiary case was not an appeal of the building permit. It was a challenge to DPZ's "connected" determination under §128.0.B.2.a — a substantive zoning question that is entirely independent of the building permit and its appeal deadline. The permit appeal deadline is irrelevant to a challenge directed at the legal sufficiency of a zoning determination. DPZ conflated two legally distinct administrative actions. The Hearing Examiner accepted that conflation without analysis and dismissed on a jurisdictional ground that does not apply to this appeal.

D. The Hearing Examiner Failed to Reach the Controlling Question Under §128.0.B.2.a.

Having dismissed on procedural grounds, the Hearing Examiner never addressed the merits. The controlling question — raised repeatedly at the June 11 hearing — is whether DPZ's "connected" determination was supported by substantial evidence.

It was not. Every independent documentary source contradicts DPZ's finding: the 1969 original plot plan shows no shed at original construction (Exhibit 6); the 2023 Dietz boundary survey contains no notation of a connected structure (Exhibit 7); three sets of architectural plans show physical separation between the house and shed (Exhibit 10); a Wilde Lake Architectural Committee file review found no application for shed construction (Exhibit 11); 1974 MLS photographs corroborate the separation (Exhibit 12); and the relocation of the BGE electrical panel to the side wall adjacent to the shed — an independent, permitted act by a third-party utility subcontractor — further corroborates that the shed stood apart from the dwelling (Exhibit

17). DPZ's "connected" finding was undocumented, unsupported, and contrary to the weight of the available evidence.

This Board, hearing the matter de novo, should reach this question directly and find that the "connected" determination was clearly erroneous, arbitrary and capricious, and contrary to law. The BGE panel relocation independently corroborates this conclusion and warrants separate emphasis. In connection with the permitted work at 10450 Waterfowl Terrace, a BGE subcontractor relocated the electrical service panel from the front wall of the house to the side wall of the dwelling — the wall immediately adjacent to the shed. The relocation is documented in the electrical permit for the property, which states that the panel was relocated to the side wall. (Exhibit 17.) This work was performed by an independent utility subcontractor with no stake in this dispute, for a purpose unrelated to the zoning question presented here, and it required physical access to the gap between the house and the shed to complete the relocation. That an electrician could access and work in the space between the two structures, and that the permit record documents this relocation to a wall standing apart from the shed, is physical corroboration — independent of Appellant's own documentary sources — that the shed was not integrated into the dwelling's structure.

Appellant additionally possesses multiple historic and contemporaneous photographs, beyond those already cited above, depicting the shed as a structure physically and visually separate from the dwelling across different time periods. (Exhibit 25.) These images are available as supplemental exhibits corroborating the documentary record described in this section.

E. DPZ's Setback Measurement Independently Fails the Substantial Evidence Standard.

Even apart from the “connected” determination, DPZ's field measurement of the setback — the factual basis on which DPZ rested its finding of no violation — does not meet the substantial evidence standard required to sustain an administrative zoning determination.

The 4.8-foot compliance finding originates in Inspector Blanding's March 10, 2026 email to Appellant. (Exhibit 28.) The measurement was taken using a Rolatape Measure Master measuring wheel, a product line manufactured by Robert Bosch Tool Corporation. Bosch's own published specifications state that even under ideal conditions the tool carries a tolerance of ± 1 inch per 100 feet for larger-diameter units and up to ± 4 inches per 100 feet for smaller units, and that “actual performance depends on field conditions and user application.” (Exhibit 22.) Applied to the 90-inch (7.5-foot) setback distance at issue, that tolerance alone represents an error range of approximately 1.1% to 4.4% — before accounting for the field conditions documented on video during Inspector Blanding's inspection.

That video evidence, Exhibit 21, documents five independent deviations from the manufacturer's own required measurement procedure: (1) the wheel was deployed on visibly wet, uneven terrain, conditions Bosch expressly identifies as degrading accuracy; (2) no certified survey markers or established property line markers were used as a fixed reference point; (3) the inspector rolled the wheel both forward and backward, a technique that adds cumulative rotational error rather than the single unidirectional pass the tool requires; (4) the terrain's elevation changes caused the wheel to travel a longer path than the true horizontal distance being measured; and (5) the inspector consulted with the property owner before announcing the result, rather than reporting an independently derived reading.

Appellant repeatedly sought the methodology underlying this measurement in writing.

Appellant's March 12, 2026 letter specifically requested the reference points used, the applicable

technical standard, and whether the measurement was based on a recorded survey, as-built plan, or field measurement. (Exhibit 29.) Appellant's March 18, 2026 letter further identified conflicting survey representations attributed to the same licensed surveyor on the same date, and requested independent verification. (Exhibit 18; underlying conflicting survey documents at Exhibit 30.) Inspector Blanding responded on March 26, 2026, maintaining the original finding of no violations and providing, for the first time, a point-by-point written response addressing the measurement methodology. (Exhibit 19.) As set forth below, that response confirmed the absence of any property line markers and rested on a misapplication of the Zoning Regulations' eave-exception provision.

An administrative determination that a structure complies with a precise, legally defined setback cannot rest on a measurement that violates the manufacturer's own operating standards, that was taken under the exact field conditions the manufacturer warns will degrade accuracy, and that was announced only after consultation with the interested property owner. The 4.8-foot compliance finding is accordingly not supported by substantial evidence and cannot independently sustain DPZ's determination, regardless of how the “connected” question is resolved.

The unreliability of DPZ's measurement is not merely a paperwork defect; it bears directly on Appellant's own property. Appellant's dwelling sits approximately five to six feet from the shared property line with 10450 Waterfowl Terrace, an already constrained spatial condition that Appellant identified in writing to DPZ, Supervisor James, and Director Eisenberg on March 19, 2026 — before the appeal period expired and before this litigation began. (Exhibit 31.) An agency evaluating whether a garage's encroachment is lawful cannot properly disregard the real-

world proximity of the structure it is approving to the neighboring dwelling it will most directly affect.

The reliability of DPZ's measurement is further undermined by DPZ's own stated treatment of the garage's roof overhang. In its March 26, 2026 written response, DPZ asserted that “[b]uilding eaves which do not contain any floor area or extension of interior living space are permitted to encroach 3 feet into any setbacks,” and that measurements were taken from the foundation of the addition rather than the eave line. (Exhibit 19.) That assertion misstates the applicable regulation as to this property. Section 128.0.A.1 of the Howard County Zoning Regulations sets forth a table of supplementary setback exceptions for building features including cornices, eaves, and cantilevered projections, permitting encroachment of up to three feet into an otherwise-applicable setback — but every category in that table, without exception, excludes the NT (New Town) zoning district. Because 10450 Waterfowl Terrace is located in the NT district, no eave or overhang encroachment allowance applies to this property as a matter of law. DPZ's own stated basis for measuring from the foundation rather than the furthest-projecting point of the structure rests on a regulatory exception that does not exist for this property. A measurement methodology built on a misapplied exception cannot constitute substantial evidence that the 7.5-foot setback requirement was satisfied, and the true extent of the garage's encroachment — measured, as the regulation requires for an NT property, to the full extent of the structure including any roof overhang — has never been determined.

F. The Administrative Record Presented to the Hearing Examiner Was Materially Incomplete.

Several further defects in the record before the Hearing Examiner bear directly on the reliability of the proceeding below and should inform this Board's de novo review.

First, county counsel presented photographs at the June 11, 2026 hearing that Appellant has never received in any form. Appellant submitted multiple MPIA requests seeking, among other things, all photographic records related to this matter. On each occasion, DPZ represented to Appellant that responsive records had been sent, most recently in a written statement dated July 1, 2026 representing that all records responsive to Appellant's MPIA requests had been produced. (Exhibit 23.) Notwithstanding those repeated representations, the specific photographs DPZ's own counsel presented and relied upon at the June 11 hearing do not appear among the materials Appellant has received. Appellant has since followed up directly with DPZ seeking production of these photographs and any other outstanding responsive records; that request remains outstanding. DPZ cannot represent on repeated occasions that production is complete while simultaneously relying at hearing on photographic evidence outside that production. This discrepancy calls into question the completeness of DPZ's document production and, by extension, the completeness of the record on which the Hearing Examiner's findings were based.

Second, DPZ Inspector Maurice Blanding represented by telephone that a determination letter had been mailed to Appellant. That letter was never received, and it does not appear in any MPIA production to date, including the pending fourth MPIA request submitted June 15, 2026. This is distinct from both the formal March 10, 2026 closeout letter signed by Supervisor Everett James (Exhibit 20) and Inspector Blanding's March 10, 2026 operational email to Appellant (Exhibit 28); its absence from the official record leaves unresolved whether Appellant was afforded proper notice of the underlying determination. DPZ's own March 26, 2026 correspondence corroborates this notice failure: Inspector Blanding's cover email attached a copy of the "Unfounded letter" and stated that it "was returned to our office as undeliverable."

(Exhibit 19.) DPZ's own record accordingly confirms that a determination letter failed to reach Appellant through the mail, independent of Appellant's own account.

Third, and independently, Exhibit 28 — Inspector Blanding's March 10, 2026 email containing the actual measurements and findings underlying the determination — was never introduced or admitted at the June 11, 2026 hearing. Only the formal closeout letter (Exhibit 20) was admitted, as Appellee's Exhibit 2. The document containing the substantive basis for the challenged determination was accordingly never part of the record the Hearing Examiner reviewed, even though it was in DPZ's own possession throughout the proceeding.

Taken together with the Complaint discrepancy addressed in Section III.B above, these record defects establish a pattern: the record relied upon below did not reliably reflect the agency's own files. This Board, sitting *de novo*, is not bound by a record with these demonstrated gaps and should permit Appellant to present the complete evidentiary record, including materials responsive to Appellant's outstanding MPIA request.

G. Roof Continuity in the New Construction Does Not Establish Historical Attachment, and the Goins Authorization Fails on Its Own Terms.

DPZ may argue that the current roofline is physically continuous between the dwelling and the new garage, and that this continuity supports the “connected” characterization. That argument does not withstand scrutiny and should be rejected.

The roofline DPZ would point to belongs to the new garage — construction completed in 2025, after the prior carport and shed were demolished. A design choice made in new construction cannot retroactively characterize the historical status of a structure that no longer exists to be measured or compared. The relevant inquiry is not whether the new garage's roof is continuous with the house; it is whether the shed, as it stood before demolition, was ever attached to the

dwelling. Each of the five independent sources addressing that historical period — the 1969 plot plan (Exhibit 6), the 2023 Dietz survey (Exhibit 7), the Johnston architectural plans (Exhibit 10), the WLAC file review (Exhibit 11), and the 1974 MLS photographs (Exhibit 12) — is either silent on attachment or affirmatively documents separation. None shows the shed as a component of the dwelling at any point in its history. An argument built on the new structure's roofline reasons backward from the permitted construction to justify the permit that authorized it, assuming the very conclusion it must prove.

This defect is compounded by the plain language of the provision DPZ itself invoked. The Goins email of November 28, 2023 quotes Howard County Zoning Regulations §128.0.B.2.a as authority: an addition to a single-family detached dwelling may encroach into a setback without a variance, “provided that the addition encroaches no further into the setback than the existing dwelling.” (Exhibit 4.) By its own terms, this provision measures the permissible encroachment against the existing dwelling — not against a shed, and not against any other accessory structure. If the shed was never part of the dwelling, as the complete historical record establishes, then §128.0.B.2.a supplies no authority to measure the new garage's encroachment against the shed's former footprint. The provision Goins cited, applied as written, does not reach the result his email reached. The authorization at the root of this entire approval chain fails on the text of its own cited authority. This defect is independently reinforced by the Final Development Plan's massing, scale, and architectural-harmony standards for the Village of Wilde Lake, which Appellant raised with DPZ in writing on March 18, 2026 and which do not appear to have been evaluated as part of DPZ's review. (Exhibits 24, 18.) Appellant raised this precise legal defect with DPZ directly, and before this appeal was filed: Appellant's March 19, 2026 letter to Inspector Blanding, Supervisor James, and Director Eisenberg expressly challenged DPZ's

reliance on an unverified nonconforming baseline and its application of §128.0.B.2.a, and requested that DPZ confirm the methodology used to evaluate setback compliance and reevaluate whether the garage increased the degree of nonconformity. (Exhibit 31.) DPZ never substantively responded to that request.

H. DPZ's Height Determination Independently Fails the Substantial Evidence Standard.

Separate from the setback and “connected” determinations, DPZ's height finding — that the garage “does not supersede the height of the actual house” — was never supported by any documented methodology and cannot sustain an administrative determination.

The finding originates entirely in Inspector Blanding's March 10, 2026 email, which describes the height review as a “courtesy inspection” conducted outside the scope of Appellant's original Complaint. (Exhibit 28.) The email identifies no zoning code section governing garage height, no measured height for either the garage or the principal dwelling, no grade reference point, and no indication of whether the comparison was made to the midpoint or peak of either roofline. The determination rests on Inspector Blanding's unaided visual observation alone.

Appellant sought this missing information in writing on two occasions before the appeal period expired. On March 12, 2026, Appellant specifically requested the zoning code standard used to calculate height, the measured height of both structures, and the reference grade and measurement points applied. (Exhibit 29.) On March 18, 2026, Appellant renewed that request in the context of the broader FDP massing and scale concerns. (Exhibit 18.) DPZ first disclosed an applicable height standard in Inspector Blanding's March 26, 2026 written response, which stated that the Final Development Plan sets a maximum height of 34 feet, measured from the highest adjoining ground elevation. (Exhibit 19.) DPZ has never disclosed a measured height for either the garage or the principal dwelling, nor identified the specific grade point used as the “highest

adjoining ground elevation” for this property. Inspector Blanding's March 10, 2026 email finding that the garage “does not supersede the height of the actual house” remains, even in light of the later-disclosed 34-foot standard, an unaided visual comparison unsupported by any measurement against that standard.

An administrative determination of compliance with a height standard cannot rest on an unaided visual comparison, unaccompanied by any measurement, reference point, or documented methodology, particularly where the agency was specifically and repeatedly asked in writing to produce that methodology and declined to do so. DPZ's height determination is accordingly not supported by substantial evidence and cannot independently sustain the encroachment authorization, regardless of how the setback and “connected” questions are resolved.

I. Section 129.0 of the Howard County Zoning Regulations Independently Forecloses Reliance on the Demolished Shed.

Section 129.0 of the Howard County Zoning Regulations supplies two independent, mutually reinforcing reasons why the demolished shed cannot serve as the legal predicate for the garage's setback encroachment.

First, by its own terms, §129.0.A defines “nonconforming” for purposes of that section as a matter of use, not bulk: “A structure that is conforming in use but which does not conform to the height, setback, land coverage, parking, loading space or other bulk requirements of these Regulations, shall not be considered to be nonconforming within the meaning of these Regulations.” The shed's asserted noncompliance was a setback issue, not a use issue. Section 129.0's continuation-of-use and destruction provisions accordingly never applied to the shed's setback encroachment in the first instance. The only authority capable of extending any encroachment allowance forward to the new garage is §128.0.B.2.a, which, as set forth in

Section III.G above, permits encroachment no further than the existing dwelling — not a demolished accessory structure.

Second, even if the shed's setback encroachment were treated as a nonconforming structure within the meaning of §129.0, that provision affords no benefit here. Section 129.0.C permits automatic restoration of a nonconforming structure only where it “is destroyed by fire, flood or other calamity,” and expressly conditions that limited right on a building permit for restoration issuing within one year of the destruction. The same subsection is explicit that “nothing contained herein shall be deemed to permit the intentional demolition and reconstruction of any building containing a nonconforming use by owner or occupant.” The shed and carport at 10450 Waterfowl Terrace were not destroyed by fire, flood, or calamity; they were intentionally demolished as part of the property owner's own construction project. Section 129.0.C's automatic-continuation protection accordingly does not apply, and any reconstruction was required to independently conform to the setback requirements currently in effect for the zoning district.

Either ground is independently sufficient. Whether the shed's setback condition is properly characterized as outside §129.0's scope entirely, or as a nonconforming structure whose intentional demolition forfeited any right of automatic continuation, the result is the same: the demolished shed supplies no lawful basis for the garage's encroachment into the required setback.

IV. STANDARD OF REVIEW

This appeal is heard *de novo* by the Howard County Board of Appeals, as confirmed on the face of the Hearing Examiner's Decision and Order and in DPZ correspondence dated June 15, 2026. The Board considers the matter fresh, without deference to the Hearing Examiner's findings or

conclusions. Appellant bears the burden of showing by substantial evidence that DPZ's action was clearly erroneous, arbitrary and capricious, or contrary to law. Hearing Examiner Rule of Procedure 10.2(c).

Because the proceeding is de novo, Appellant is entitled to present the complete evidentiary record — including the Accela Complaint, all documentary exhibits, the Exhibit 21 video recording, and the correspondence with DPZ — without being limited to what was formally admitted at the June 11 hearing.

V. CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Board: (1) reverse the Hearing Examiner's dismissal; (2) find that Appellant's appeal is properly directed at DPZ's “connected” determination under §128.0.B.2.a, not a building permit appeal; (3) find that the Complaint and Appellant's pre-determination correspondence were part of the administrative record; (4) find that DPZ's setback measurement does not meet the substantial evidence standard; (5) find that roof continuity in the new construction does not establish historical attachment of the demolished shed, and that §128.0.B.2.a, applied as written, supplies no authority to measure the garage's encroachment against the shed's former footprint; (6) find that DPZ's height determination does not meet the substantial evidence standard; (7) find that §129.0 of the Zoning Regulations independently forecloses reliance on the demolished shed as a basis for the garage's encroachment; and (8) reach the merits and find that DPZ's “connected” determination was clearly erroneous, arbitrary and capricious, and contrary to law, and that the setback encroachment authorization therefore lacks a valid legal predicate.

Respectfully submitted,

Donna Gorjón, Appellant, Pro Se

gorjondo@att.net | 240-417-1046

Date: _____

Donna Gorjón

Appellant,

v.

Howard County Department of Planning and Zoning,

Appellee.

Before the Howard County Board of Appeals

BA Case No. 829D / CE-26-17**TABLE OF EXHIBITS**

The following exhibits are cited by number in Appellant's Memorandum of Points and Authorities, filed concurrently. Exhibit numbers not listed below (e.g., Exhibits 3, 8, 9, 13–16) are reserved from the broader case exhibit set and are not cited in the Memorandum.

NOTE ON CORRESPONDENCE ATTRIBUTION: Appellant Donna Gorjón and her husband, Mario Gorjón, share the same email address. Donna Gorjón, as Appellant, was the primary correspondent with DPZ throughout this matter. For clarity and consistency, all correspondence exhibits are attributed to Appellant Donna Gorjón in the Memorandum and this Table of Exhibits.

Exhibit	Description	Cited In Memorandum
1	Accela Complaint (CS0083539) — Appellant's zoning complaint filed January 21, 2026	§II
2	Accela system records confirming Complaint received/uploaded January 22, 2026 by Tamara Frank	§III.B
4	Howard County Zoning Regulations §128.0.B.2.a (regulation text)	§III.G
5	Building Permit B25003489, produced at outset of June 11, 2026 hearing	§II
6	1969 original plot plan — no shed at original construction	§III.D; §III.G
7	2023 Dietz boundary survey — no notation of connected structure	§III.D; §III.G
10	Johnston architectural plans — physical separation, house and shed	§III.D; §III.G
11	WLAC file review — no application for shed construction	§III.D; §III.G
12	1974 MLS photographs — original open carport, no shed visible	§III.D; §III.G
17	Electrical permit — BGE panel relocation to side wall adjacent to shed	§III.D (RESERVED — supplemental filing, due Aug. 18, 2026)
18	Appellant's March 18, 2026 letter to DPZ — FDP discrepancies; conflicting survey representations	§III.B; §III.E; §III.G; §III.H
19	Inspector Blanding's March 26, 2026 written response	§III.B; §III.E; §III.F; §III.H
20	DPZ formal closeout letter, March 10, 2026, signed by Supervisor Everett James (admitted at hearing as Appellee's Exhibit 2)	§II; §III.F
21	Video evidence — five deviations from measurement tool manufacturer's required procedure	§III.E; §IV
22	Bosch/Rolatape tolerance specifications	§III.E
23	DPZ's July 1, 2026 written statement re: MPIA production completeness	§III.F
24	Final Development Plan — massing, scale, and architectural-harmony standards for the Village of Wilde Lake	§III.G (RESERVED — supplemental filing, due Aug. 18, 2026)
25	Supplemental photographs — shed as physically/visually separate structure across time periods	§III.D
26	Jan. 29, 2026 correspondence — Donna Gorjón to Inspector Blanding, site-visit request	§II
27	Feb. 27, 2026 correspondence — request for Zoning Verification Letter, sketch plan, height standards	§II

28	Inspector Blanding's March 10, 2026 operational email — actual setback/height measurements and findings	§II; §III.E; §III.F; §III.H
29	Appellant's March 12, 2026 letter requesting measurement methodology, reference points, supporting data	§II; §III.E; §III.H
30	Underlying conflicting survey documents referenced in Exhibit 18	§III.E
31	Appellant's March 19, 2026 (2:16 a.m.) letter — Formal Request for Reconsideration and Notice of Pending Appeal	§II; §III.E; §III.G

NOTE ON RESERVED EXHIBITS 17 AND 24: Exhibit 17 (electrical permit documenting the BGE panel relocation) and Exhibit 24 (the Final Development Plan document cited in §III.G for massing, scale, and architectural-harmony standards) are both being reserved for supplemental filing. Per Section 2.207(a) of the Rules of Procedure, both must be filed with the Clerk no later than August 18, 2026 (30 days before the September 17, 2026 hearing).

Total exhibits cited in Memorandum: 24