

IN THE MATTER OF

* BEFORE THE BOARD OF APPEALS

DONNA GORJÓN,

* OF

Appellant

* HOWARD COUNTY, MARYLAND

* CASE NO. BA-829-D / CE-26-17

* * * * *

ADMINISTRATIVE AGENCY'S MOTION TO DISMISS

The Howard County Department of Planning and Zoning ("DPZ") moves to dismiss this appeal. Donna Gorjón, Appellant, asks the Board of Appeals (the "Board") to overturn the setback treatment that authorized an attached garage at 10450 Waterfowl Terrace, a treatment approved pursuant to a building permit issued November 12, 2025 that Appellant never timely appealed.

Building Permit B25003489 authorized a 27' × 28' attached garage, together with a dining room extension and a master suite extension, at 10450 Waterfowl Terrace. It was applied for on August 29, 2025 and issued November 12, 2025. The setback treatment Appellant challenges, that the new attached garage may project into the required 7.5-foot side-yard setback no further than the pre-existing attached structure, was the interpretive premise of that permit. Geoff Goins, DPZ's Chief of Zoning Administration, applied Howard County Zoning Regulations ("HCZR") Section 128.0.B.2.a in a November 28, 2023 email, concluding that the house is "a noncomplying structure" and that "the carport and shed ... are connected to the house," and the zoning reviewer incorporated that conclusion into the note on the approved boundary survey.

Appellant, who did not appeal this building permit filed a code-enforcement complaint (CE-26-17) in January 2026 and now appeals DPZ's March 10, 2026 letter finding "no violations" and closing that complaint. Appellant recasts her challenge, which she should have made to the building permit, as directed at a freestanding "connected" determination under Section 128.0.B.2.a. Converting what could have been an appeal of the building permit that approved the structure now

on the ground as instead a zoning violation allegation cannot manufacture jurisdiction the Board otherwise lacks. This appeal should be dismissed, as set forth below.

1. The appeal should be dismissed because it is an untimely attack on the unappealed Building Permit, and the Board therefore lacks jurisdiction.

An appeal to the Hearing Authority "shall be filed not later than 30 calendar days from the date of the action of the Department of Planning and Zoning." HCZR Section 130.0.A.3; *see also* Rules of Procedure Section 2-206 (appeal filed "within thirty days of the date of that administrative decision"). The Board "shall dismiss a petition if it lacks jurisdiction to hear the petition." Section 2-202(d).

A zoning "time for appeal" provision is not a statute of limitations. Such provisions begin on a fixed date, allow no flexibility for "late discovery" of the issue appealed, and are mandatory, such that where an appeal is not filed within the prescribed period after the final decision, the Board "ha[s] no authority to decide the case on its merits." *United Parcel Serv., Inc. v. People's Counsel for Balt. Cnty.*, 336 Md. 569, 580 (1994). The operative "appealable event" here is the issuance of the permit itself. *Id.* That event occurred on November 12, 2025, and the 30-day window closed in December 2025, well before Appellant's January 2026 complaint and months before her appeal of the March 2026 closure letter.

A later letter that merely reaffirms or defends a prior permit approval is not a new appealable "decision." Treating it as one would allow a protestant to "circumvent entirely the statutory time limits for taking appeals" through "a continuing stream of correspondence" and "appeals ad infinitum." *United Parcel Serv., Inc.*, 336 Md. at 584–85. An appeal from a later, related action "will lie only as to the validity of the subsequent action and not relate or reach back to the original action" that was not timely appealed. *Nutter v. City of Baltimore*, 230 Md. 6, 14–15

(1962). DPZ's March 10, 2026 letter did no more than find "no violations" for construction that conforms to the un-appealed building permit and close the complaint. It did not grant anything and simply reaffirmed what the permit established.

A neighbor's challenge that is, in essence, a "collateral attack" on an earlier unappealed zoning approval is barred once that approval can no longer be attacked as untimely. *Century I Condo. Ass'n, Inc. v. Plaza Condo. Joint Venture*, 64 Md. App. 107, 113–14 (1985) (dismissal where a party "failed to timely and properly exhaust their administrative remedies"). In a persuasive case, albeit not a reported and authoritative one, Maryland courts have applied this rule to a neighbor who appealed an already-issued building permit more than thirty days after issuance, holding the board "had no authority to consider the merits of the appeal." *Matter of Gothard*, No. 169, Sept. Term 2023, 2024 WL 958072 (Md. App. Mar. 6, 2024). To the extent Appellant suggests that she lacked notice of the permit, notice of a permit's issuance to neighboring owners is not required, and its absence is "not, normally, a denial of due process." *Id.*

Appellant's attempt to sever a determination that the structure is all "connected" under Section 128.0.B.2.a from the permit fails on the record, as well. The only DPZ actions embodying that interpretation are the November 28, 2023 Goins' email and the zoning reviewer's note incorporated into the approved permit drawings, both of which are a part of the permit approval, and both far outside any appeal window. There is no separate, later determination that authorized the encroachment, the authorization was the permit.

2. The Board has no original jurisdiction to revoke or revisit the final Building Permit.

The Board of Appeals is primarily an appellate tribunal, with only such original jurisdiction as the Charter and ordinances expressly grant; absent such a grant, the board "should have

dismissed the appeal." *United Parcel*, 336 Md. at 590–91. The Howard County Charter authorizes a *de novo* hearing only on matters within the Board's original jurisdiction. No provision vests the Board with the jurisdiction to entertain, as a fresh matter, a challenge to a final building permit or the setback interpretation on which it rests. Appellant's remedy, if any, was to timely appeal the building permit.

CONCLUSION

For these reasons, and as may be further addressed in any hearing before this Board, the Petition should be denied and the appeal dismissed.

Respectfully submitted,

HOWARD COUNTY OFFICE OF LAW

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/s/ David R. Moore

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of August, 2026, a copy of the foregoing Administrative Agency's Motion to Dismiss and the accompanying Certification Pursuant to Board Rule 2.207(e) was served by electronic mail, to:

Donna Gorjón, Appellant, Pro Se, gorjondo@att.net; Lawrence Schoen, Property Owner, larryschoen@gmail.com; and Marcie Karen Weil, Property Owner, Hikingboots6@aol.com.

/s/ David R. Moore
David R. Moore

CERTIFICATION PURSUANT TO BOARD RULE 2.207(e)

I hereby certify that a copy of the accompanying Administrative Agency's Motion to Dismiss was provided to all persons known to have an interest in the case, including but not limited to the petitioner, the property owner, the Administrative Agency, and any person entitled to written notification under Rule 2.203(e) and (f), as the case may be.

PLEASE NOTE: Any person interested in responding to the motion shall file a written response with the Board within 15 days of the date that the motion was filed.

/s/ David R. Moore
David R. Moore