

Circuit Court for Baltimore County  
Case No. 03-C-18-006886

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1275

September Term, 2019

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CHARLES CASTRONOVO, ET AL.

v.

PAUL GODWIN

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Berger,  
Arthur,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Arthur, J.

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Filed: February 16, 2021

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

A couple complained that their neighbor had constructed a deck and other structures on his property, in violation of the Baltimore County Code and the Baltimore County Zoning Regulations. An administrative law judge, the Baltimore County Board of Appeals, and the Circuit Court for Baltimore County largely rejected those contentions. They appealed. We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

#### **A. The Property and Chesapeake Bay Critical Area Restrictions**

The parties in this case are next-door neighbors in Middle River, Baltimore County. Appellants Charles and Ingrid Castronovo reside at 1501 Shore Road. Appellee Paul Godwin resides at the adjacent property at 1452 Shore Road. Mr. Godwin's property is the subject matter of this litigation.

The parties' neighborhood is a waterfront community located within what has been designated a "Chesapeake Bay Critical Area." In an effort to reduce runoff into the Bay and its tributaries, these critical areas are subject to various restrictions, in addition to those in local land-use statutes and regulations.

The principal source of the additional restrictions is the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program, Maryland Code (1973, 2012 Repl. Vol., Supp. 2020), §§ 8-1801 to -1817 of the Natural Resources Article ("NR"). In accordance with that legislation, the Baltimore County Code ("BCC") and the Baltimore County Zoning Regulations ("BCZR") establish limits on "lot coverage" – impervious surface area through which rainwater cannot be absorbed – within the critical areas.

The Godwin property is in a “limited development area,” which is regulated by BCC § 33-2-603. For properties more than half an acre in size, like the Godwin property, that statute generally provides that the amount of lot coverage may not exceed 5,445 square feet. *See* BCC § 33-2-603(b)(3)(iii)(2)(B). However, under a “grandfather clause” in the BCZR, a property may exceed the lot-coverage limitations if it exceeded those limitations in 1988, before the effective date of the critical area laws. *See* BCZR § 103.5.<sup>1</sup>

The parties agree that in 1988 Mr. Godwin’s property had 5,478 square feet of lot coverage and thus exceeded the limitations by 33 square feet. Therefore, under the BCZR’s grandfathering provision, Mr. Godwin is permitted to have the 5,478 square feet of lot coverage that existed before the enactment of the critical area laws. (Appellant’s Brief at 4.)

## **B. Improvements to the Godwin Property**

### **1. 2006 Renovations**

In 2006, Mr. Godwin made various improvements to his home. The improvements increased the amount of lot coverage at the Godwin property, largely, it appears, by increasing the size of the house.

Before making these improvements, Mr. Godwin applied for and received a permit to execute his proposed plans. For reasons that no one can explain, the County issued a

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<sup>1</sup> The County’s grandfather clause is authorized by COMAR 27.01.02.07.B, which requires local jurisdictions to “establish grandfather provisions as part of their local Critical Area programs.”

permit even though the 2006 improvements caused the property to exceed the lot-coverage limitation. The Castronovos did not take any action or complain to any authority regarding these renovations and the corresponding violations at that time.

## **2. 2014-2015 Deck Construction**

In 2014, nearly a decade later, Mr. Godwin began the construction of a new deck. The deck consisted of two levels, a stairway with a landing between the two levels, and posts in the ground.

In the words of the Castronovos’ counsel, the deck “hangs over [the Castronovos’] property,” so that from the deck “you can probably throw a beer at somebody in Mr. Castronovo’s swimming pool.” Given the potential detrimental impact on the use and enjoyment of their property, the Castronovos, for the first time, took legal action against Mr. Godwin.

### **C. Initial Proceedings**

#### **1. Petition for Special Hearing**

In 2014, when the construction of the Godwin deck commenced, the Castronovos filed a petition for special hearing in the Baltimore County Office of Administrative Hearings (“OAH”). A petition for special hearing “is, in legal effect, a request for a declaratory judgment.” *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005).

The Castronovos’ petition alleged that, as a result of the 2006 renovations, the Godwin property was already in violation of the lot-coverage restrictions. The petition also alleged that the construction of the stairway and two-level deck would increase the amount of lot coverage, in violation of the BCC. Thus, the petition alleged that the

construction of the stairway and the two-level deck would violate BCZR § 102.1, which generally prohibits an “extension of a lawful nonconforming use,” and BCZR § 104.3, which generally prohibits the extension of a nonconforming use by “more than 25 percent of the ground floor area of the building so used.” The Castronovos did not expressly request a determination of the precise extent to which the Godwin property exceeded the lot-coverage limitation.<sup>2</sup>

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<sup>2</sup> The questions presented in the petition for special hearing were as follows:

1. Whether an adjoining property located at 1452 Shore Road is currently in violation of the lot coverage limitations imposed by § 33-2-603 of the Baltimore County Code, Title 17 of the Code of Maryland Regulations, and Title 8, Subtitle 18, of the Natural Resources Article of the Maryland Code;
2. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road would increase the amount of lot coverage maintained on the property in violation of § 33-2-603 of the Baltimore County Code, Title 17 of the Code of Maryland Regulations, and Title 8, Subtitle 18, of the Natural Resources Article of the Maryland Code;
3. Whether the proposed construction of a stairway and a two level deck on the property located at 1452 Shore Road violates § 102.1 of the BCZR;
4. Whether the proposed constructions of a stairway and a two level deck on the property located at 1452 Shore Road would violate the limitation on extending non-conforming structures and uses no more than 25% of the ground floor area of the existing building, as provided in § 104.3 of the BCZR;
5. Whether a plan for the proposed development of 1452 Shore Road can be approved by Baltimore County without review by all required agencies of substantial amendments alterations thereto; and

## 2. Office of Administrative Hearings

After the resolution of some procedural disputes,<sup>3</sup> the OAH considered the merits of the petition for special hearing in early 2017. The Castronovos argued that Mr. Godwin’s property was over the lot-coverage limitation and that the addition of the second level of the deck put the property even further over the limitation.

The definition of “lot coverage” is set forth in NR § 8-1802(a)(17):

- (i) “Lot coverage” means the percentage of a total lot or parcel that is:
  - 1. Occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or
  - 2. Covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material.
- (ii) “Lot coverage” includes the ground area covered or occupied by a stairway or impermeable deck.
- (iii) “Lot coverage” does not include:

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- 6. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

The Castronovos withdrew Question 5. The administrative decisionmakers did not explicitly address Question 6.

<sup>3</sup> The OAH initially dismissed the petition for special hearing on the ground that it lacked jurisdiction, because the petition requested an interpretation of the BCC, which is apparently beyond the OAH’s power. The Baltimore County Board of Appeals affirmed that decision. On the Castronovos’ petition for judicial review, however, the Circuit Court for Baltimore County reversed and remanded the petition to the Board of Appeals. The circuit court reasoned that the OAH has power to interpret the BCC insofar as the provisions of the BCC are cross-referenced in the BCZR, as they are in the applicable BCZR provision in this case. The Board of Appeals remanded the petition, in turn, to the OAH.

4. A deck with gaps to allow water to pass freely.

In the OAH, an administrative law judge (“ALJ”) found that the Godwin property had exceeded the lot-coverage limitations even before the first set of additions and renovations in 2006, but that the excess was permitted under the grandfather clause in BCZR § 103.5. Crediting the testimony of Thomas Panzarella, an employee of the Baltimore County Department of Environmental Protection and Sustainability (“DEPS”), the ALJ found that in 2013 the amount of lot coverage had increased to 6,001 square feet. Hence, the ALJ recognized that the 2006 construction had put the property in violation of the lot-coverage limitations.<sup>4</sup>

Although we do not seem to have a transcript of the proceedings before the ALJ, it appears from the opinion that the Castronovos introduced an email written by a program chief at the Maryland Critical Area Commission. She stated:

1. CAC [Critical Areas Commission] staff typically recommends that if two decks are stacked on top of each other, even if they are both built with spaces between the boards, the area of overlap should be considered lot coverage.
2. Stairs between decks were not specifically called out in the definition of lot coverage as being exempt. So I would likely recommend that they qualify as lot coverage.

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<sup>4</sup> Citing *Permanent Financial Corp. v. Montgomery County*, 308 Md. 239 (1986), the ALJ volunteered that Baltimore County “should be estopped” from taking any enforcement action to address the violation, because the 2006 permit “appears” to have been “issued in error.” The ALJ went on to recognize that “such a determination is beyond the scope of this matter.” In our view, it was inappropriate to discuss whether the County is or is not estopped from taking some action in a case in which the County itself is not even a party.

On the basis of this email, the Castronovos argued that the second level of the deck and the stairway qualified as “lot coverage” under the statute. The ALJ disagreed. He relied on Mr. Panzarella’s testimony that his agency, DEPS, does not count decking boards or stairs as “lot coverage,” because they are spaced so as to allow water to flow between the boards (and, hence, they are not impermeable). In relying on Mr. Panzarella’s testimony, the ALJ noted the “great deference” owed to DEPS in its interpretation of a statutory provision that it is charged with enforcing.

In summary, the ALJ agreed that the Godwin property was in violation of the lot-coverage limitations in BCC § 33-2-603 as a result of the 2006 additions, but disagreed that the amount of lot coverage increased as a result of the construction of the two-level deck and the stairway in 2014-2015. The ALJ concluded that because the deck and stairway did not constitute lot coverage, those structures could not cause the additional violations that the Castronovos had alleged.

#### **D. Board of Appeals of Baltimore County**

The Castronovos sought de novo review of the OAH’s decision in the Board of Appeals of Baltimore County. The Board of Appeals considered the same questions as the ALJ. The Castronovos did not ask the Board of Appeals to determine the precise amount of the alleged lot-coverage violation.

At a hearing, the Castronovos presented the testimony of Ken Wells, a registered surveyor, regarding his measurements and calculations of the Godwin property. Mr. Wells used computer-aided design software to measure the property’s lot coverage as it existed at different points in time.



Mr. Wells testified that in 1988 (the year the critical areas legislation took effect), the property's lot coverage measured 5,478 square feet (the permissible grandfathered amount). From 1988 until 2005, that figure remained unchanged.

In 2006, following the first set of improvements to Mr. Godwin's property, the lot coverage increased to 6,397 square feet, according to Mr. Wells. His calculations include the extent to which the roof of the Godwin house overhangs the ground.

The Castronovos again argued that the construction of the two-level deck and stairway further increased the lot coverage of the property. Again, the Castronovos cited the email from the regional program chief for the Maryland Critical Area Commission, saying the second level of the deck and the stairway should constitute lot coverage. Relying on the determinations made in this email, Mr. Wells calculated that the deck and stairway increased the amount of lot coverage by an additional 326 square feet, for a total of 6,723 square feet.

By contrast, Mr. Panzarella testified, again, that in 2013 the Godwin property had 6,001 square feet of lot coverage. With respect to the amount of lot coverage in 2013, the parties agree that the primary difference between Mr. Panzarella's calculation (6,001 square feet) and Mr. Wells's calculation (6,397 square feet) is that Mr. Wells included the roof overhang from the house, whereas Mr. Panzarella did not. The parties also agree that no matter which measurement is correct, the property is over the limit and that the County erred in issuing the permit for the 2006 expansion.

Mr. Panzarella testified once again that it is DEPS's practice not to count any portion of the deck as lot coverage. He explained that because Mr. Godwin's deck has

quarter-inch gaps between the boards to allow water to pass freely, the deck is exempt from the definition of “lot coverage.”

After the hearing, the Board of Appeals found the Godwin property in violation of lot-coverage limitations under BCC § 33-2-603. The Board found that the Godwin property was at its maximum allowable grandfathered amount of 5,478 square feet before the 2006 construction. Therefore, the Board stated that when Mr. Godwin made the improvements on the property in 2006, he went over the limit. The Board did not specify which expert’s measurement, if either, it accepted in making this determination. In other words, the Board made no finding as to whether the amount of lot coverage at the Godwin property was 6,001 square feet before the 2006 improvements (as Mr. Panzarella said) or 6,397 square feet (as Mr. Wells said). The Board said only that, “[a]ccording to both experts that testified at the hearing, the Godwin Property thus illegally exceeded the permissible lot coverage following the 2006 expansion of the Godwin dwelling.” The Board found that Mr. Godwin never attained a variance for the expansion in 2006.

The Board further found that the 2014-2015 deck construction did not increase lot coverage on the property. The Board noted that under NR § 8-1802(a)(17)(iii)(4) “[a] deck with gaps to allow water to pass freely” is not included in the definition of “lot coverage.” Thus, because the two-level deck is “not ‘impermeable,’” the Board concluded that it does not count as lot coverage. Citing the deference owed to an administrative agency charged with interpreting and enforcing a particular set of statutes or regulations, the Board, like the ALJ, deferred to Mr. Panzarella’s testimony about DEPS’s conclusion that the deck is excluded from lot coverage.

Because the Board concluded that the two-level deck and stairway did not increase the amount of lot coverage, it rejected the Castronovos' contention that Mr. Godwin had extended a non-conforming use in violation of BCZR § 102.1. For the same reason, the Board concluded that the new two-level deck and stairway did not intensify or expand a nonconforming use within the Chesapeake Bay Critical Area in violation of BCZR § 104.3.

**E. Circuit Court for Baltimore County**

The Castronovos sought judicial review of the Board of Appeals' decision in the Circuit Court for Baltimore County. The Castronovos asked the court to rule that the 2006 improvements and 2014-2015 construction added illegal lot coverage and to order the removal of 1,245 square feet of lot coverage, including the deck's second level.<sup>5</sup> The Castronovos did not ask the circuit court to determine whether the Board of Appeals erred in not determining the precise amount of excess lot coverage.

Mr. Godwin argued that the circuit court could not order him to remove any part of the improvements on his property, because the Castronovos had not requested any such relief in their petition for special hearing. Apparently anticipating that the Castronovos might use the court's ruling to induce the County to require him to remove

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<sup>5</sup> The Castronovos arrived at the total of 1,245 square feet by adding Mr. Wells's measurement of lot coverage in 2006 (6,397 square feet) to Mr. Wells's measurement of the additional lot coverage allegedly attributable to the construction of the two-level deck and stairway in 2014 and 2015 (326 square feet), and then subtracting the amount of lot coverage that was permissible under County law (5,478 square feet).  $6,397 + 326 - 5,478 = 1,245$ .

any excess lot coverage, Mr. Godwin also argued that the County was estopped to proceed against him because he had constructed the improvements in reliance on permits that the County had issued.

The circuit court did not order the removal of any lot coverage on Mr. Godwin's property, but it opined that the County would not be estopped in any enforcement action it choose to undertake against the 2006 improvements.<sup>6</sup> Additionally, although the Board of Appeals had made no express finding about whether the amount of lot coverage was 6,397 square feet after the 2006 improvements (as Mr. Wells testified) or only 6,001 square feet (as Mr. Panzarella testified), the circuit court rejected Mr. Wells's computation. The court reasoned that the roof overhang, which Mr. Wells had included, should not count as lot coverage, because the overhang does not prevent water from being absorbed into the soil. The court also reasoned no portion of the deck and stairway could count as lot coverage, because they are not impervious. In addition, the court reasoned that the stairs and footers did not count as lot coverage, because they were part of the deck. Finally, the circuit court agreed with the Board that because the deck and stairway do not constitute lot coverage, the construction of the deck and stairway did not cause any additional zoning violations.

The Castronovos have appealed to this Court for review.

#### **QUESTIONS PRESENTED**

The Castronovos pose three questions, which we quote:

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<sup>6</sup> As to the propriety of deciding whether the County is estopped from doing something in a case in which the County is not a party, *see supra* n.4.

1. Whether the Board erred by failing to delineate the amount of lot coverage and ordering the illegal excess to be removed when it ruled that the property is currently in violation of lot coverage limitations in BCC § 33-2-603?
2. Whether the Board erred when it ruled that the construction of a two-level deck did not increase lot coverage in violation of BCC § 33-2-603?
3. Whether the Board erred when it ruled that the improvements on the property are not in violation of BCZR §§ 102.1 & 104.3?

For the reasons stated below, we see no error. Consequently, we shall affirm the judgment of the circuit court.

#### **STANDARD OF REVIEW**

In reviewing the final decision of an administrative agency, including the Board of Appeals, this Court “looks through” the circuit court’s decision and “evaluates the decision of the agency.” *People’s Counsel for Baltimore Cty. v. Surina*, 400 Md. 662, 681 (2007); *Bd. of Trs. for the Fire & Police Employees’ Ret. Sys. v. Mitchell*, 145 Md. App. 1, 8 (2002) (stating that “[o]ur role” in reviewing an administrative decision “is precisely the same as that of the circuit court”). The Board’s decision is “presumed valid.” *Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 68 (1999) (quoting *CBS Inc. v. Comptroller*, 319 Md. 687, 698 (1990)). Thus, this Court’s review of the Board’s decision is “limited to determining if there is substantial evidence in the record as a whole to support the [Board’s] findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.” *Id.* at 67-68.

**DISCUSSION**

**I. The Amount of Excess Lot Coverage**

The Board of Appeals of Baltimore County ruled (and the parties agree) that the 2006 expansion of the property violated the lot-coverage limitations on Mr. Godwin's property. The Castronovos argue that the Board erred when it found a lot-coverage violation, but failed to define the extent of that violation. It appears that the Castronovos want to quantify the precise amount of excess lot coverage on the Godwin property because they may ask Baltimore County to require their neighbor to remove some of the impervious structures on his property and to reduce the amount of lot coverage to the maximum amount permissible under Baltimore County law.<sup>7</sup>

The parties each presented the testimony and measurements of a witness – Mr. Wells for the Castronovos and Mr. Panzarella for Mr. Godwin. In making its findings, the Board stated:

When Mr. Godwin renovated and expanded his property in 2006, the lot coverage increased to 6,397 square feet based on Mr. Wells' calculations and 6,001 square feet based on Mr. Panzarella[']s]. According to both of the experts that testified at the hearing, the Godwin Property thus illegally exceeded the permissible lot coverage [of 5,478 square feet].

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<sup>7</sup> The Castronovos must persuade the County to act, because their inaction from 2006 to 2014 may mean that they are estopped from challenging the 2006 improvements, which put the Godwin property over the lot-coverage limitations. Because the Castronovos may be estopped to challenge the 2006 improvements, both the OAH and the circuit court were induced to speculate, improperly, as to whether the County is estopped as well. *See supra* nn. 4 & 6. Although the parties continued to debate whether the County is estopped in their briefs in this Court, they agreed, at oral argument, that that question is not before us.

The Board did not expressly rule which witness's measurements, if either, it had accepted. Nor did the Board address the principal difference between the witnesses: whether the lot coverage does or does not include the amount by which the roof overhangs the ground. Instead, the Board simply determined that the Godwin property exceeds the lot-coverage limitations, without saying by how much.

In our view, the Board did not err in omitting any quantification of the precise amount of lot coverage. By the Castronovos' own admission, at no point during any prior proceeding – in the OAH, the Board of Appeals, or the circuit court – did the Castronovos ask for a finding of the amount of the violation. The Castronovos merely asked the Board, and the OAH before it, to find that Mr. Godwin's property was in violation.

The Board found a violation, as requested. In its order, the Board could have quantified the amount of excess lot coverage or given an indication as to which witness was to be believed, as the OAH did. But we cannot fault the Board for doing only what it was asked to do.

For similar reasons, we conclude that the Board did not err in not ordering Mr. Godwin to remove some specific portion of the lot coverage from his property. Just as the Castronovos failed to request a computation of the specific amount of excess lot coverage in their petition for special hearing, so too did they fail to make any specific request for an order requiring the removal of excess lot coverage. We cannot fault the Board for failing to order relief that was not requested.

## **II. Construction of the Two-Level Deck**

The Castronovos argue the Board erred in ruling that the two-level deck, the stairway, and the deck footers did not count as additional lot coverage. Again, we disagree.

In concluding that the deck and stairway did not count as additional lot coverage, the Board relied on the testimony of Mr. Panzarella, an employee of DEPS, the agency charged with administering the Chesapeake Bay critical area program in Baltimore County. When reviewing Mr. Godwin’s plans for deck construction in 2014, DEPS made a specific determination that the deck and stairway did not constitute “lot coverage” under the Baltimore County regulations pertaining to critical areas. Because “[a] degree of deference should often be accorded the position of the administrative agency charged with interpreting and enforcing a particular set of statutes or regulations” (*HNS Dev., LLC v. People’s Counsel for Baltimore County*, 425 Md. 436, 449 (2012)), the Board of Appeals did not err in crediting DEPS’s determination that the two-level deck and stairway do not constitute additional lot coverage.

Even without DEPS’s determination, we would agree with the Board’s conclusion that the two-level deck and stairway do not constitute additional lot coverage. NR § 8-1802(a)(17)(iii)(4) specifically excludes “[a] deck with gaps to allow water to pass freely” from the definition of lot coverage. Based on photographs of the deck and a sample of the decking material that was presented to the Board, it is clear that the quarter-inch gaps in the boards allow for the free passage of water. Thus, there is no reason to believe that the upper level of the deck increases the amount of runoff into the Bay or its



tributaries: the deck and stairs remain permeable even if the upper level, with the quarter-inch gaps between its boards, stands above the lower level, with its own quarter-inch gaps.

The Castronovos argue that the stairway, which connects the two levels of the deck, should nonetheless count as lot coverage. They cite NR § 8-1802(a)(17)(ii), which includes “the ground area covered or occupied by a stairway” in the definition of lot coverage.

We are unconvinced, however, that § 8-1802(a)(17)(ii) refers to a stairway that is part of “[a] deck with gaps to allow water to pass freely.” NR § 8-1802(a)(17)(iii)(4). In this case, the stairway is not impermeable: when precipitation falls onto the stairway, it runs off to the deck and, from there, to the ground below the deck. Unlike a stairway that connects with a paved sidewalk or driveway, the stairway in this case does nothing to increase the amount of runoff into the Bay or its tributaries. In fact, it appears that, like the boards in the deck, the individual stairs have gaps that allow for the passage of water to the deck, and thus to the ground. In these circumstances, the stairway should be regarded as a feature of the deck, which is excluded from lot coverage under § 8-1802(a)(17)(iii)(4).

Finally, the Castronovos contend that, at the very least, the posts or footers on which the deck sits should be considered lot coverage. For that reason, they argue that the Board of Appeals erred in concluding that those 24 square feet of footers did not increase the amount lot coverage on the Godwin property.

Although the Board did not expressly mention the footers in its ruling, we believe that the Board was within its rights to exempt them from the computation of lot coverage. Mr. Panzarella testified that, as a matter of judgment, when he calculates the amount of lot coverage on a property, he typically does not include minor features such as birdbaths, small paving or boundary stones, and the like. The Board was entitled to rely on Mr. Panzarella's testimony and thus to omit minor, miscellaneous structures like the footers in its findings concerning the amount of lot coverage. *De minimus non curat lex.*

### **III. Zoning Violations**

The Castronovos claim the Board erred when it ruled that Mr. Godwin's improvements did not extend a lawful nonconforming use, in violation of BCZR § 102.1, and did not extend a nonconforming use, building, or structure, in violation of BCZR § 104.3. The Board concluded that the alleged violations depend on whether the construction of the two-level deck and stairway created additional "lot coverage." Because the Board ruled that it did not, the Board found no corresponding zoning violations.

In this appeal, the Castronovos argue that *both* the 2006 construction and 2014-2015 deck and stairway construction violated the BCZR. At the OAH and the Board of Appeals, however, the Castronovos argued only that the deck and stairway construction violated the BCZR.

A "reviewing court, restricted to the record made before the administrative agency, may not pass upon issues presented to it for the first time on judicial review and that are not encompassed in the final decision of the administrative agency." *Dep't of*

*Health & Mental Hygiene v. Campbell*, 364 Md. 108, 123 (2001) (citation omitted).

“Stated differently, an appellate court will review an adjudicatory agency decision solely on the grounds relied upon by the agency.” *Id.* The alleged 2006 zoning violations were not mentioned in the petition for special hearing. For that reason, neither the OAH nor the Board considered them, and they did not appear in either final decision. Accordingly, we do not consider the Castronovos’ allegations regarding the 2006 construction.

BCZR § 104.3 states, “[n]o nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25 percent of the ground floor area of the building so used.” A violation of BCZR § 104.3 necessarily implicates BCZR § 102.1, which states, “[n]o land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use.”

The Board found that because the 2014-2015 deck and stairway construction did not add to the amount of lot coverage, there was no extension “of the ground floor area of the building so used” in violation of § 104.3, nor was there “any extension of a lawful nonconforming use” in violation of § 102.1. We agree with the Board’s determination that Mr. Godwin could not violate the applicable provisions of the BCZR without expanding the amount of lot coverage on his property. Because the Board found no expansion in lot coverage caused by the 2014-2015 deck and stairway construction, it did not err in finding no zoning violations.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY AFFIRMED.  
COSTS TO BE PAID BY APPELLANTS.**