Circuit Court for Prince George's County
Case No: CAL19-32060

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 105

September Term, 2020

LARAY BENTON

v.

PRINCE GEORGE'S COUNTY
DISTRICT COUNCIL

Wells,
Gould,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 8, 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.

In September 2019, the Prince George's County District Council ("the District Council"), appellee, issued a final decision adopting the planning board's approval of Detailed Site Plan Application Number 18024 ("DSP-18024"). Pursuant to §4-401 and §22-407 of the Land Use Article, LaRay J. Benton, appellant, petitioned for judicial review of the District Council's final decision in the Circuit Court for Prince George's County. The District Council, thereafter, moved to dismiss Mr. Benton's petition,[1] contending, in pertinent part, that he did not have standing to seek judicial review of its final decision.[2] In response, Mr. Benton made several filings including a written opposition to the motion to dismiss, a motion for summary judgment, and a motion for default judgment. Ultimately, the circuit court granted the District Council's motion, dismissing the action on the basis that Mr. Benton lacked standing. The following day, Mr. Benton sought reconsideration of the dismissal, but his request was ultimately denied.

Mr. Benton noted a timely appeal to this Court. On appeal, he raises twenty-one questions for our consideration, which we consolidate, reorder, and rephrase for clarity:

1. Did the circuit court err in dismissing Mr. Benton's petition for judicial review for lack of standing?

[1] Woodmore Overlook, LLC ("Woodmore Overlook"), the applicant of the detailed site plan at issue in this case, participated in the circuit court proceedings, submitting the "Joint Motion to Dismiss" in tandem with the District Council.

[2] The District Council also contended that Mr. Benton had not identified any relevant issues challenging its decision in his petition for judicial review and that the Planning Board's decision was correct. These two grounds, however, would not have been an appropriate basis for dismissal pursuant to Maryland Rule 7-204(b). Moreover, pursuant to Maryland Rule 7-202, Mr. Benton was not required to explicitly address these issues in his petition for judicial review.

2. Did the circuit court err in denying Mr. Benton's motion for reconsideration of dismissal without a hearing pursuant to Maryland Rule 2-311(f)?

3. Did the circuit court err in denying Mr. Benton's "Motion for Default Judgment?'

4. Did the circuit court err in denying Mr. Benton's "Motion for Summary Judgment?"

5. Was there substantial evidence to support the District Council's final decision adopting the Plan?

6. Did the District Council err in declining to consider Mr. Benton's allegations that the applicants engaged in the "fraudulent and unauthorized use of his personal and private 'property,'" purportedly used "to secure…the Planning Board's approval" without Mr. Benton's consent?

For the following reasons, we shall affirm the judgment of the circuit court.

ARGUMENT

We will first address the issue of standing because "standing is a threshold issue; a party may proceed only if [he or she] demonstrates that he has a real and justiciable interest that is capable of being resolved through litigation." *Patel v. Bd. of License Commissioners for Somerset Cty*., 230 Md. App. 195, 205 (2016) (internal citation omitted). This issue of Mr. Benton's standing to appeal "either to this Court or to a circuit court from the decision of [an administrative agency] is a question of law, which we decide de novo." *Id.*

In this matter challenging a quasi-judicial land-use decision, the circuit court was permitted to exercise judicial review, but only if Mr. Benton satisfied the standing requirements set forth in §22-407 of the Land Use Article, which states:

> (a)(1) Judicial review of any final decision of the district council, including an individual map amendment or a sectional map amendment, may be requested by any person or entity that is aggrieved by the decision of the district council and is:

(i) a municipal corporation, governed special taxing district, or person in the county;

(ii) a civic or homeowners association representing property owners affected by the final decision;

(iii) the owner of the property that is the subject of the decision; or

(iv) the applicant.

Upon review of the record, we hold that Mr. Benton did not satisfy the aggrievement requirement necessary for establishing standing. Though he asserts that the site plan applicant, Woodmore Overlook, fraudulently used his personal and intellectual property, including his "name, liking, and several engineering documents," without his consent for the purposes of acquiring zoning approval, these assertions are not sufficient to establish the kind of aggrievement specified in §22-407 of the Land Use Article.

The statute specifies that the person seeking review must be "aggrieved by the decision of the district council." However, in its decision, the District Council explicitly declined to make any determination regarding Mr. Benton's claims of "aggrievement," specifying that "it [had] no jurisdiction to resolve state or federal allegations concerning 1) evidence of fraud by misrepresentation, 2) evidence [of] bank fraud and breach of contract, 3) evidence by fraud by conversion, and 4) failure to properly register property as a security." These kinds of claims are, indeed, tortious in nature and outside of the jurisdiction of the District Council to decide. The powers of the District Council, as set out in § 22-104 and §21-201 of the Land Use Article, do not vest the District Council with the authority to resolve issues of fraud, conversion, and/or theft of intellectual property.

To be sure, if true, Mr. Benton has cause to be disgruntled by the actions of Woodmore Overlook and the other applicants, but these types of claims are more appropriately resolved by the courts.

Moreover, Mr. Benton has failed to raise the type of "aggrievement" that this Court has recognized in the past as sufficient to confer standing in a challenge to a quasi-judicial land-use decision. The Court has previously held that "property owner standing" is vested in an individual if he or she is "[a]n adjoining, confronting or nearby property owner" (*Bryniarski v. Montgomery Cnty. Bd. of Appeals*, 247 Md. 137, 145 (1967)) or is in close proximity to the affected area and can point to related bases of aggrievement, such as increased traffic, decreased property values, or problems with lights, noise, and refuse. *See Ray v. Mayor & City Council of Baltimore*, 430 Md. 74, 83-84 (2013).

While there is "no bright-line rule for exactly how close a property must be in order to show special aggrievement," *Ray v. Mayor & City Council of Baltimore*, 430 Md. 74, 83 (2013), we are completely unable to ascertain Mr. Benton's proximity to the affected property area in this matter. In the circuit court, Mr. Benton affirmed, under the penalties of perjury, that he did not reside at the mailing address provided in the caption to his petition for judicial review. On appeal, he declines to provide his residential address as "an additional measure to protect himself and the identity of his wife and minor children." Though he contends that "he and his family still reside within the community immediately surrounding [the] Woodmore Overlook site," this information, or lack thereof, does not aid the Court in ascertaining his proximity to the affected area for the purposes of standing.

Additionally, "[t]he relevance and import of other facts tending to show aggrievement depends on how close the affected property is to the re-zoned property." *Ray v. Mayor & City Council of Baltimore*, 430 Md. 74, 83 (2013). Notwithstanding his claims of theft and fraud related to his personal and intellectual property, Mr. Benton has failed to cite a proper, proximity related basis of aggrievement, such as increased traffic or decreased property values, to satisfy the standing requirement.

In light of the foregoing, the court did not err in dismissing Mr. Benton's petition for judicial review for lack of standing. Because he could not overcome this threshold issue, the circuit court was not required to grant the relief sought in any of the subsequent motions that he filed with the court. We, therefore, decline to consider the other issues raised by Mr. Benton for appellate review.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.